

**FARM PRODUCTION AND CONSERVATION
CIVIL RIGHTS AND EQUAL EMPLOYMENT OPPORTUNITY DIVISION
FPAC BUSINESS CENTER
FY2021 ANNUAL NO FEAR ACT TRENDS AND ANALYSIS
(Review Period: October 1, 2020 - September 30, 2021)**

The data for the Farm Production and Conservation – Business Center (FPAC-BC) Fiscal Year (FY) 2021 No FEAR Act Annual Report follows.

I. Number of Complaints Filed

Trends

Farm Production and Conservation – Business Center (FPAC-BC) decreased its number of formal complaints filed in FY2021 by 33%. In FY2021, four formal complaints were filed compared to six in FY2020. In FY2021, FPAC-BC closed nine formal complaints compare to five in FY2020, an increase of 80%.

Causal Analysis

The number of complaints filed decreased by 33% from FY2020 to FY2021. This may have resulted from the general maximum telework/remote workplace status due to Covid-19 restrictions across the nation. Work-life balance, daily work activities and relationships were likely positively affected by distance. Other explanations for the decrease may include FPAC-BC leadership emphasis on early intervention practices and the streamlining case management within FPAC’s Civil Rights and EEO Division (CREEOD).

The EEO Complaints Processing and Resolution Branch provided “EEO 101” training quarterly during the fiscal year. This fundamental course outlines the definition of an EEO complaint, describing bases and issues while walking the participant through the EEO complaint process. This type of training is instrumental in educating FPAC-BC employees and supervisors to understand USDA policy, and when, how, or if one should file an EEO complaint.

Knowledge Gained

FPAC-BC is committed to complying with EEOC guidelines and continues to incorporate a structure for effective management, accountability, and self-analysis which will ensure program success and compliance with Management Directive 715 (i.e. the Model EEO Program). FPAC-BC fully recognize that whether the number of complaints filed with the Civil Rights Division increases or decreases in any year, we must not become complacent. FPAC-BC remains committed to ongoing system improvement and implementing best practices for reducing and eventually eliminating EEO complaints.

II. Number of Filers

Trends

The number of filers in FY2021 was four; compared to six in FY2020. This is a decrease of 33%.

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Causal Analysis

The continued refreshed implementation and improvements in case management provides consistency in managing administrative case processing. Improved customer service to our external customers played a major role with this diminishing trend.

Knowledge Gained

The willingness of supervisors and managers to engage in addressing workplace challenges and issues at the earliest stages, namely via the Alternative Dispute Resolution Program has been instrumental in reducing the number of pre-complaints progressing to the formal complaint phase.

III. Number of Repeat Filers

Trends

A review of FPAC-BC data for FY2020 through the end of FY2021 shows no repeat filers.

Causal Analysis

FPAC-BC will continue to take a proactive approach to resolving workplace issues.

Knowledge Gained

FPAC-BC is committed to raising awareness of practices and policies that contribute to perceptions of bias or unfairness.

IV. Number of Bases Alleged in Complaints

Trends

During FY2021 and FY2020, of the nine federally protected EEO categories (bases), there were a total of six different bases alleged in FPAC-BC complaints: Race, Color, Reprisal, Sex, Age, and Disability. Of the alleged bases, the three most cited in formal EEO complaints during FY2021 were: Race -2, Reprisal -2, and Sex -2 compared to Disability -3, Race -2, and Reprisal -3 in FY2020.

Causal Analysis

Race and Reprisal has consecutively been alleged in the top three. It should be noted that reprisal (participation in previous EEO activity) may continue to be among the top three because most formal complaints filed within the fiscal year are filed by employee's who filed previous EEO complaints. According to the Equal Employment Opportunity

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Commission, reprisal is the most frequently alleged basis of discrimination in the federal sector and the most common discrimination finding in Federal sector cases.

It is perceived that negative reactions and cultural insensitivity between managers and employees can play a part in the bases alleged. Organization cultural differences, communication, and misunderstanding among the Business Center employees may also play a prominent role in bases alleged.

Knowledge Gained

Periodic reviews of formal EEO complaint monitoring and tracking data during the fiscal year is crucial to identify the bases alleged in EEO complaints, and provide management and supervisors with appropriate Civil Rights, EEO, and HR training to address such areas of concern. Providing managers and supervisors with training on how to preclude discrimination and harassment on the most commonly alleged bases, which include Race, Reprisal, and Sex may help reduce the number of claims citing such bases.

V. Number of Issues Alleged in Complaints

Trends

The total number of issues alleged in complaints for FY2021 increased from those reported in FY2020. Of the four formal complaints filed in FY2021, there were seven different issues alleged compared to FY2020, six formal complaints were filed with six different issues. The most commonly alleged issue was Harassment (Non-Sexual).

Causal Analysis

Allegations dealing with HR personnel practices are generally cited in federal EEO complaints. The organizational restructure and combining of workplace cultures of the mission agencies (FPAC-BC, FSA, NRCS, and RMA) may pose difficulties in understanding and implementation of policies, processes, and procedures (i.e. work-place communication style as in top down vs group consensus).

Knowledge Gained

It is imperative to seek out and reaffirm best practices to prevent misunderstanding that occurs in the workplace and to reaffirm and uphold Federal and USDA principles, policies, and procedures. As employees begin to return to the workplace after working from home/remotely during the Covid-19 pandemic, FPAC-BC can expect to receive an increased number of requests for reasonable accommodations. As such, CREEOD will work closely with HR to ensure that supervisors and managers are trained on ADA compliance obligations and the interactive process regarding possible requests for reasonable accommodations for eligible employees.

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VI. Findings of Discrimination

Trends

Over the two-year analysis review period there were no findings of discrimination.

Causal Analysis

FPAC-BC continues to partner with CREEOD to provide Civil Rights and EEO training that includes guidance on discrimination, retaliation, harassment and how to avoid these actions. When allegations of discrimination, harassment, or reprisal are reported to the Civil Rights Program, a thorough inquiry into the allegations are conducted, and prompt and efficient measure(s) are taken if needed. When FPAC-BC identifies, unprofessional, inappropriate, or potentially discriminatory behavior, FPAC-BC senior leadership works quickly to end this action and suitably discipline responsible parties.

Knowledge Gained

FPAC-BC remains committed to educating managers, supervisors, and employees on EEO and Civil Rights laws in its efforts to avoid harassment and discriminatory practices.

VII. Average Length of Time to Complete Each Stage of the Complaint Process

Category	FY2021	Average No. Days
Total Complaints Pending	8	511
Investigation Completed	4	220
Final Agency Decision - Merit	5	81
EEOC Hearing	8	556
Complaints Pending Final Agency Action	0	0

USDA, Employment Investigation Division (EID) in the Office of the Assistant Secretary for Civil Rights (OASCR), has oversight for completing CREEOD’s formal EEO investigations. During FY2021, FPAC-BC had four investigations completed compared to nine in FY2020. Of the four investigations completed in FY2021, all four were completed within the regulatory time frame. In FY2021, no investigation was completed untimely, compared to one untimely investigation reported in FY2020. CREEOD will continue to work with EID and their contracted investigators to ensure they continue to complete timely and thorough investigations. CREEOD conducts regular meetings with EID to discuss issues concerning the quality and timeliness of investigations, including those that could potentially exceed the 180-day time frame.

USDA, Employment Adjudication Division (EAD) in OASCR, has oversight for processing CREEOD’s Final Agency Decisions (FADs). CREEOD monitors the process to ensure that the

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FADs are completed within the regulatory requirement mandated by EEOC. There were five FADs processed in FY2021, and five FADs processed in FY2020. The average processing days for FADs completion was 81 days. Of the five FADs processed, two were processed outside the regulatory timeframe.

VIII. No FEAR Reporting Requirements

FPAC-BC leadership ensures access availability to agency employees, former employees, and applicants for Federal employment concerning the rights and remedies applicable to them under the employment discrimination and whistleblower protection laws (e.g., No FEAR Act). USDA posts individual agency summary statistical EEO complaint data quarterly under Title III, "Equal Employment Opportunity Complaint Data Disclosure," of the No FEAR Act on its public facing website. No FEAR Act Refresher training is required of all USDA personnel, partners, and technical service providers during FY2021.

Training of Employees – FPAC-BC provides an annual notice to its employees concerning the rights and remedies applicable to them under the employment discrimination and whistleblower protection laws.

Process of Providing Annual No FEAR Notice to Employees - Per Title II of the No FEAR Act, each employee is required to complete the initial training and every 2 years thereafter.

Training for FPAC-BC employees was implemented accordingly and requires all employees to take comprehensive training via AgLearn.

FY2021 No FEAR Training	Assigned #	# Completed	% Completed
FPAC-BC	300	284	95%