

**FARM PRODUCTION AND CONSERVATION  
CIVIL RIGHTS AND EQUAL EMPLOYMENT OPPORTUNITY DIVISION  
FARM SERVICE AGENCY  
FY2020 ANNUAL NO FEAR ACT TRENDS AND ANALYSIS  
(Review Period: October 1, 2020 - September 30, 2021)**

The data for the Farm Service Agency (FSA) Fiscal Year (FY) 2021 No FEAR Act Annual Report follows.

**I. Number of Complaints Filed**

**Trends**

Farm Service Agency (FSA) increased in the number of formal complaints filed in FY2021 by 30%. In FY2021, 22 formal complaints were filed compared to 17 in FY2020. In FY2021, FSA closed 37 formal complaints compared to 40 in FY2020, a decrease of 8%.

**Causal Analysis**

The number of complaints filed increased by 30% 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 FSA 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 well attended "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 FSA employees and supervisors to understand USDA policy, and when, how or if one should file an EEO complaint.

**Knowledge Gained**

FSA 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). FSA 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. FSA 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 22; compared to 17 in FY2020. This is a decrease of 8%.

**Causal Analysis**

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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 FSA data for FY2021 shows one repeat filer for FY2021 compared to no repeat filers during FY2020.

**Causal Analysis**

FSA will continue to take a proactive approach to resolving workplace issues.

**Knowledge Gained**

FSA 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, of the nine federally protected EEO categories (bases), all nine bases were alleged in FSA complaints compared to seven alleged in FY2020. Of the nine alleged bases, the three most cited in formal EEO complaints in FY2021 were: Sex -8, Age -8, and Race -6 compared to Sex -7, Age -7, and Reprisal -5 in FY2020.

**Causal Analysis**

Sex and Age 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 Commission,

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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 Sex, Age, and Race may help reduce the number of claims citing such bases.

**V. Number of Issues Alleged Complaints**

**Trends**

The total number of issues alleged in complaints for FY2021 decreased from those reported in FY2020. Of the 22 formal complaints filed in FY2021, there were 12 different issues alleged compared to FY2020, 17 formal complaints were filed with 11 different issues. The most commonly alleged issues were Termination, Promotion /Nonselection, and 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, FSA 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

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regarding possible requests for reasonable accommodations for eligible employees.

**VI. Findings of Discrimination**

**Trends**

During FY2021, there were no finding of discrimination compared to one reported in FY2020.

**Causal Analysis**

FSA 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 FSA identifies, unprofessional, inappropriate, or potentially discriminatory behavior, FSA senior leadership works quickly to end this action and suitably discipline responsible parties.

**Knowledge Gained**

FSA 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**

| <b>Category</b>                        | <b>FY 2021</b> | <b>Average No. Days</b> |
|--|----------------|-------------------------|
| Total Complaints Pending               | 34             | 483                     |
| Investigation Completed                | 13             | 127                     |
| Final Agency Decision - Merit          | 20             | 59                      |
| EEOC Hearing                           | 16             | 843                     |
| Complaints Pending Final Agency Action | 2              | 396                     |

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, FSA had 13 investigations completed compared to 27 in FY2020. Of the 13 investigations completed in FY2021, 12 were completed within the regulatory time frame. In FY2021, one investigation was completed untimely, compared to seven 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.

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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 FADs are completed within the regulatory requirement mandated by EEOC. There were 20 FADs processed in FY2021, and 23 FADs processed in FY2020. The average processing days for FADs completion was 59 days. Of the 20 FADs processed, seven were processed outside the regulatory timeframe.

**VIII. No FEAR Reporting Requirements**

FSA 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 – FSA 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 FSA employees was implemented accordingly and requires all employees to take comprehensive training via AgLearn.

| <b>FY 2021 No FEAR Training</b> | <b>Assigned #</b> | <b># Completed</b> | <b>% Completed</b> |
|---------------------------------|-------------------|--------------------|--------------------|
| Farm Service Agency             | 247               | 223                | 90%                |