Prepared by

The Office of Civil Rights and Diversity

**United States**

**Department of the Treasury**

**No FEAR Act Annual Report**

**Fiscal Year (FY) 2021**

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**United States Department of the Treasury**

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**Fiscal Year (FY) 2021**

###### Section I. Summary of District Court Cases (FY 2017 to FY 2021)

Data was provided by the Department of the Treasury’s (the Department or Treasury) Office of General Counsel, derived from reports submitted by each bureau. These charts show all cases and payments to the Judgment Fund in FY 2017 to FY 2021, regardless of when the case was filed. Because the charts show cases filed under multiple statutes, numbers will not total. The total number of cases settled, pending, and adjudicated will not equal the total number filed due to cases filed prior to the five-year reporting period.

1. *The number of cases arising under each of the respective provisions of law covered by paragraphs (1) and (2) of section 201(a) in which discrimination on the part of the agency was alleged.*

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | **TOTAL FILED: 118 cases** | | | | |
|  | **FY 17** | **FY 18** | **FY 19** | **FY 20** | **FY 21** |
| Title VII (race, color, religion, sex, national origin) | 20 | 17 | 20 | 8 | 21 |
| Age | 6 | 9 | 8 | 3 | 3 |
| Sex (Equal Pay Act) | 1 | 1 | 0 | 1 | 0 |
| Disability (Section 501 of the Rehabilitation Act of 1973) | 6 | 10 | 11 | 5 | 10 |
| Whistleblower protection laws, 5 U.S.C. §§ 2302(b)(1)-(9) | 1 | 0 | 0 | 0 | 0 |

1. *The status or disposition of cases described in paragraph (1).*

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | **TOTAL SETTLED: 30 cases** | | | | |
|  | **FY 17** | **FY 18** | **FY 19** | **FY 20** | **FY 21** |
| Title VII (race, color, religion, sex, national origin) | 6 | 2 | 5 | 4 | 4 |
| Age | 4 | 0 | 1 | 0 | 0 |
| Sex (Equal Pay Act) | 1 | 0 | 0 | 0 | 0 |
| Disability (Section 501 of the Rehabilitation Act of 1973) | 0 | 1 | 4 | 1 | 1 |
| Whistleblower protection laws, 5 U.S.C. §§ 2302(b)(1)-(9) | 0 | 0 | 0 | 0 | 0 |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | **PENDING: 40 cases\*** | | | | |
|  | **FY 17** | **FY 18** | **FY 19** | **FY 20** | **FY 21** |
| Title VII (race, color, religion, sex, national origin) | 33 | 39 | 42 | 46 | 38 |
| Age | 11 | 17 | 21 | 14 | 6 |
| Sex (Equal Pay Act) | 0 | 1 | 1 | 1 | 1 |
| Disability (Section 501 of the Rehabilitation Act of 1973) | 13 | 18 | 24 | 22 | 15 |
| Whistleblower protection laws, 5 U.S.C. §§ 2302(b)(1)-(9) | 1 | 0 | 0 | 0 | 0 |

\* Figure reflects total number of cases pending at the end of FY 2021 regardless of the year in which it was filed.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | **JUDGMENT FOR AGENCY: 84** | | | | |
|  | **FY 17** | **FY 18** | **FY 19** | **FY 20** | **FY 21** |
| Title VII (race, color, religion, sex, national origin) | 18 | 14 | 11 | 12 | 24 |
| Age | 5 | 5 | 4 | 6 | 5 |
| Sex (Equal Pay Act) | 0 | 0 | 0 | 1 | 1 |
| Disability (Section 501 of the Rehabilitation Act of 1973) | 5 | 3 | 2 | 4 | 7 |
| Whistleblower protection laws, 5 U.S.C. §§ 2302(b)(1)-(9) | 0 | 1 | 0 | 1 | 0 |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | **JUDGMENT FOR PLAINTIFF: 1** | | | | |
|  | **FY 17** | **FY 18** | **FY 19** | **FY 20** | **FY 21** |
| Title VII (race, color, religion, sex, national origin) | 0 | 0 | 1 | 0 | 0 |
| Age | 0 | 0 | 0 | 0 | 0 |
| Sex (Equal Pay Act) | 0 | 0 | 0 | 0 | 0 |
| Disability (Section 501 of the Rehabilitation Act of 1973) | 0 | 0 | 0 | 0 | 0 |
| Whistleblower protection laws, 5 U.S.C. §§ 2302(b)(1)-(9) | 0 | 0 | 0 | 0 | 0 |

1. *The amount of money required to be reimbursed by such agency under section 201 in connection with each of such cases, separately identifying the aggregate amount of such reimbursements attributable to the payment of attorneys' fees, if any.*

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **FY Totals** | **TOTAL AMOUNT PAID (SETTLEMENTS AND JUDGMENTS FOR PLAINTIFFS): $1,699,221** | | | | |
| **FY 17** | **FY 18** | **FY 19** | **FY 20** | **FY 21** |
| $404,150 | $52,500 | $915,348 | $256,363 | $70,860 |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **FY Totals** | **TOTAL ATTORNEY'S FEES PAID (SETTLEMENTS AND JUDGMENTS FOR PLAINTIFFS): $555,239** | | | | |
| **FY 17** | **FY 18** | **FY 19** | **FY 20** | **FY 21** |
| $50,000 | $ 0 | $ 355,000 | $ 80,000 | $70,239 |

1. *The number of employees disciplined for discrimination, retaliation, harassment, or any other infraction of any provision of law referred to in paragraph (1).*

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **FY Totals** | **TOTAL NUMBER EMPLOYEES DISCIPLINED: 3** | | | | |
| **FY 17** | **FY 18** | **FY 19** | **FY 20** | **FY 21** |
| 0 | 2 | 0 | 1 | 0 |

1. *The final year-end data posted under section 301(c)(1)(B) for such fiscal year (without regard to section 301(c)(2)).*

See Attachment A.

6. *A detailed description of the policy implemented by that agency relating to appropriate disciplinary actions against a Federal employee who-*

* 1. *discriminated against any individual in violation of any of the laws cited under section 201(a)(1) or (2), or*
  2. *committed another prohibited personnel practice that was revealed in the investigation of a complaint alleging a violation of any of the laws cited under section 201(a)(1) or (2), and with respect to each of such laws, the number of employees who are disciplined in accordance with such policy and the specific nature of the disciplinary action taken.*

The Department’s policy, *Disciplinary Action for Employees who Violate Antidiscrimination and Whistleblower Protection Laws*, requires bureaus to establish a disciplinary policy and/or table of penalties providing for appropriate disciplinary actions for employees who have intentionally engaged in discrimination or retaliatory actions, including retaliation for whistleblowing activities. Bureaus are asked to provide a copy of their disciplinary policy and/or table of penalties as part of a program audit review the Department conducts at each bureau. In addition, the Department of the Treasury’s Rules of Conduct (31 CFR §0.217) state that: “(a) Employees shall not discriminate against or harass any other employee, applicant for employment, contractor, or person dealing with the Department on official business on the basis of race, color, religion, national origin, sex, sexual orientation, age, disability, political affiliation, marital status, parental status, veterans status, or genetic information. (b) Supervisors shall not retaliate against an employee for complaining about suspected unlawful discrimination or harassment, seeking accommodation for a disability, or otherwise exercising their right to be free from unlawful discrimination. (c) An employee who engages in discriminatory or retaliatory conduct may be disciplined under these regulations, as well as other applicable laws[…].”

For FY 2021, the Department had three findings of discrimination in the EEO administrative process. Two findings were issued by the agency and one finding was issued by an administrative judge. For two cases, no corrective actions were taken due to settlements being reached. For one case corrective actions were implemented, which included training for, and disciplinary action taken against the manager of the complainant. See Attachment C.

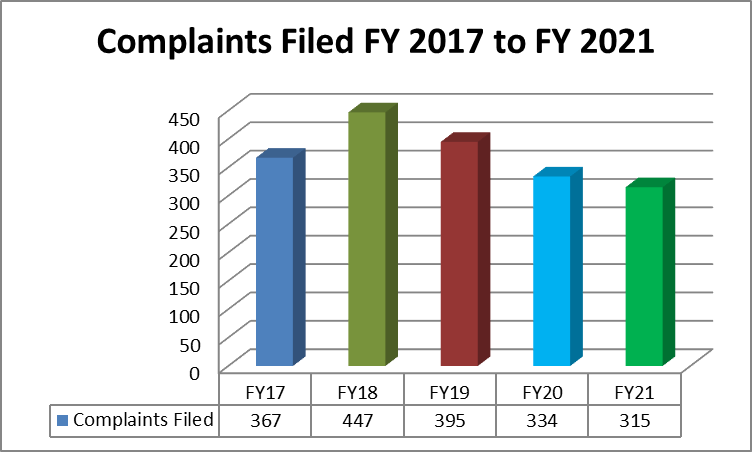
Section II. Analysis of Administrative Complaints\*

7. *An analysis of the information described under paragraphs (1) through (6) (in conjunction with data provided to the Equal Employment Opportunity Commission in compliance with part 1614 of title 29 of the Code of Federal Regulations) including:*

1. *an examination of trends;*
2. *causal analysis;*
3. *practical knowledge gained through experience; and*
4. *any actions planned or taken to improve complaint or civil rights programs of the agency.*

**A. Examination of Trends, Causal Analysis, and Practical Knowledge Gained Through Experience**

Treasury’s complaint activity data demonstrated a 5.7% decrease in formal equal employment opportunity (EEO) complaints filed from FY 2020 (334 complaints filed) to FY 2021 (315 complaints filed). The per capita rate of formal EEO complaints filed in FY 2021 saw a decrease as well, from 0.33% in FY 2020 (312 unique complainants) to 0.29% in FY 2021 (281 unique complainants).



\* Administrative complaint data by fiscal year is based on the annual Equal Employment Opportunity Commission’s 462 Report. Federal agencies are required to submit their administrative complaint data annually no later than October 31st. The 462 Report figures include EEO “mixed case” complaints but do not include class complaints.

For the last five fiscal years of complaints filed, the top basis was reprisal, and the top issue was harassment (non-sexual). To deter harassment and reprisal in the workplace, the Department provides multiple training courses through its Integrated Talent Management System (ITM) dealing with the prevention of harassment in the workplace for employees and supervisors. Treasury has updated its policy titled, *Procedures for Addressing Allegations of Discriminatory Harassment*,which instructs bureaus to establish and publicize procedures for reporting allegations of discriminatory harassment, conducting an inquiry, and making appropriate determinations based on the results of the inquiry. It also requires bureaus to report all allegations of sexual harassment to their respective Inspector General office.Treasury has a brochure titled, *Workplace Harassment: Your Rights and Responsibilities*, to educate Treasury employees on their rights and responsibilities as well as about the prevention of harassment in the workplace, which employees can access through the Department’s intranet site. In addition, the Department developed a sexual harassment training module, available on ITM, for use throughout the Department. As part of ongoing EEO training conducted by Treasury bureaus, managers receive information on the EEO complaint process, prohibited discrimination, retaliation, and agency liability when discrimination or retaliation is found. The topic of reprisal is addressed in the Secretary’s annual EEO policy statement, as well as in No FEAR Act training provided to new hires and biennially to all employees.



During FY 2021, the Department completed 94.4% of all investigations of EEO complaints in a timely manner, a slight decrease from the timely completion rate of 96.8% in FY 2020. The Department continued to utilize a contract with the United States Postal Service to provide EEO investigative services, as well as a secondary contract with Martin-Miser, Inc. to supplement investigative services on an as needed basis. The Office of Civil Rights and Diversity (OCRD) continued to maintain the acceptance/dismissal and final agency decision functions for the Department.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Fiscal Year** | **Complaints Filed** | **Completed Investigations** | **Average Days** | **% Timely** |
| FY 2021 | 315 | 232 | 152 | 94.4% |
| FY 2020 | 334 | 342 | 154 | 96.8% |
| FY 2019 | 395 | 344 | 165 | 93.6% |
| FY 2018 | 447 | 385 | 167 | 95.6% |
| FY 2017 | 367 | 314 | 187 | 90.4% |

In FY 2021, the Department completed 650 informal counselings, of which 98.9% were timely processed and 52.1% reached resolution through settlement or withdrawal. The Department’s 52.1% resolution rate of informal counselings demonstrates the Department’s commitment to minimize the effect of conflict that detracts from employee satisfaction and undermines organizational efficiency.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | **FY 2017** | **FY 2018** | **FY 2019** | **FY 2020** | **FY 2021** |
| Total # Completed Counselings | 722 | 823 | 711 | 680 | 650 |
| # Timely | 680 | 790 | 631 | 658 | 643 |
| % Timely | 94.1% | 95.9% | 88.7% | 96.7% | 98.9% |
| % of Completed Counselings Resolved (Settlement/Withdrawal) | 50.2% | 46.9% | 47.5% | 51.9% | 52.1% |

The Department also provides information to managers and supervisors on alternative dispute resolution (ADR) techniques and encourages employees to consider this avenue when a complaint has been filed. The Department has a policy titled, *Management Participation in Alternative Dispute Resolution (ADR) During the Equal Employment Opportunity (EEO) Process*, which requires management participation in ADR if the issue is suitable for ADR and ADR is elected by the complainant. For FY 2021, the Department established a goal of 45% ADR participation rate in the informal and 20% in the formal complaint process. For ADR in the informal process, the Department had a 50.5% participation rate, and in the formal process had an 14.3% participation rate.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Fiscal Year** | **Counselings/ Complaints** | **ADR Offers** | | **ADR Participation** | |
|  | **#** | **#** | **%** | **#** | **%** |
| FY 2020 Completed Pre-Complaint Counselings | 680 | 618 | 90.8% | 387 | 56.9% |
| FY 2021 Completed Pre-Complaint Counselings | 650 | 600 | 92.3% | 328 | 50.5% |
| % Change FY 2020 to FY 2021 | -4.4% | -2.9% |  | -15.2% |  |
| FY 2020 Formal Complaints Closures | 459 | 417 | 90.8% | 41 | 8.9% |
| FY 2021 Formal Complaints Closures | 398 | 354 | 88.9% | 57 | 14.3% |
| % Change FY 2020 to FY 2021 | -13.3% | -15.1% |  | +39.0% |  |

Through the Treasury Shared Neutrals (TSN) Program, Treasury maintains a nationwide cadre of certified and highly trained neutrals (also known as mediators). TSN mediators are employees from various Treasury bureaus trained in the art of mediation who voluntarily serve on a collateral-duty basis. Their objective is to assist bureaus in resolving all types of workplace disputes at the earliest stages of the conflict and to provide a resolution through mediation, facilitation, and coaching. In FY 2021, the TSN program completed 189 mediations and had a 35% resolution rate. Due to the COVID-19 pandemic, we were not able to hold planned lunch and learn seminars to educate Treasury employees on various tools to deal with conflicts in the workplace in FY 2021.

Lastly, during FY 2021, there were one (1) class complaint filed against the Department.

|  |  |  |  |
| --- | --- | --- | --- |
| **Department of the Treasury Class Complaints Filed in FY 2021** | | | |
| **Date Class Case Filed** | **Summary of Class Allegation** | **Total Number of Plaintiffs (if known)** | **Current Status of Case** |
| 5/5/2021 | Management repeatedly denied African American employees the access to justice by ensuring complaints from this disenfranchised group of employees receive the benefit of an investigation into their claims of harassment and hostile work environment. | Not Known | Complainant withdrew class case in FY 2022. |

**B. Actions Taken to Improve Agency Complaint or Civil Rights Program**

The Department continually reviews all aspects of its workforce demographics to ensure we are putting in place the right human capital and EEO initiatives, policies, and training programs to meet the needs of our workforce to accomplish our mission. Through this ongoing analysis, the Department gains practical knowledge and makes determinations on how best to address any shortcomings identified and how to advance the needs of the workforce.

In FY 2021, the Department conducted the following activities based on its analysis of workforce demographics, training needs, and human capital initiatives:

* Conducted a review of the Departmental Offices’ (DO) diversity and inclusion (D&I), external civil rights, ADR, reasonable accommodation, anti-harassment, and EEO complaint programs.
* Assisted the Office of the Deputy Assistant Secretary of Human Resources/Chief Human Capital Officer (DASHR/CHCO) with the Human Capital Evaluation of the U.S. Mint’s and Internal Revenue Services’ EEO and D&I programs.
* Worked to implement the requirements to ensure compliance with Administration priorities in the following Executive Orders (EOs): 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*; 13950, *Combating Race and Sex Stereotyping* (until it was revoked in January 2021), 13988, *Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation*; and 14035, *Advancing Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce.*
* Continued quarterly EEO Directors meetings with the Bureau EEO Officers to discuss EEO emerging issues, best practices, and concerns, and the various EEO programs and activities conducted by the Bureau EEO Offices.
* Worked with Enterprise Data Management (EDM) to prepare the FY 2022 transition from Monster Analytics to USAStaffing for applicant flow data.
* Hired the Department’s first ever Counselor for Racial Equity, who is located within the Office of the Deputy Secretary.
* Issued the Secretary’s annual EEO policy statement for FY 2021.
* Continued to provide personal assistance services (PAS) for the Department’s severely disabled employees through the PAS program.
* Distributed Treasury’s D&I and EEO Strategic Plan (FY 2021-2024) to Treasury Bureau EEO and D&I Officers.
* Continued to support all five Treasury-wide ERGs through regular meetings, training events, and other outreach opportunities.
* Maintained secondary EEO investigation services contract with Martin-Miser & Associates.
* Conducted one 8-hour refresher mediator training for current mediators as well as two 8-hour EEO counselor refresher trainings.
* Continued the use of the Treasury-wide Reasonable Accommodation (RA) Tracking System to improve the timeliness and efficiency of providing reasonable accommodations for persons with disabilities (PWD).
* Exceeded EEOC’s goal that 12% of all new permanent hires be PWD (13.9%) and exceeded the subgoal that 2% of those hires be persons with targeted disabilities (PWTD) (3.4%).
* Maintained a cadre of certified trainers to assist the Department in providing Civil Treatment Training to the workforce.
* Published OCRD Advisory Newsletters and Manager’s Alerts to provide information on relevant EEO complaint program matters, changes to policy and/or procedures, workforce statistics, and important upcoming agency events/activities.
* Started the process to transition to a new EEO Complaint Tracking System (ETK), which is on track to be fully implemented in FY 2022.

**Attachment A**

**Administrative Equal Employment Opportunity (EEO) Complaint Data**

#### (FY 2017 to FY 2021)

Data provided through Treasury’s iComplaints system. The report reflects case data in iComplaints as of 10/31/2021 for the current and past five fiscal years. **Mixed cases are included in this report. Class cases are not included.**

| **Complaint Activity** | **Comparative Data** | | | | | |
| --- | --- | --- | --- | --- | --- | --- |
| **Previous Fiscal Year Data** | | | | | **2021** |
|  | **2017** | **2018** | **2019** | **2020** |
| Number of Complaints Filed |  | 367 | 447 | 395 | 334 | 315 |
| Number of Complainants |  | 348 | 411 | 363 | 318 | 281 |
| Repeat Filers |  | 18 | 32 | 28 | 13 | 27 |

| **Complaints by Basis** | **Comparative Data** | | | | | |
| --- | --- | --- | --- | --- | --- | --- |
| **Previous Fiscal Year Data** | | | | | **2021** |
| ***Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.*** |  | **2017** | **2018** | **2019** | **2020** |
| Race |  | 170 | 177 | 151 | 138 | 151 |
| Color |  | 61 | 56 | 47 | 51 | 61 |
| Religion |  | 26 | 18 | 18 | 19 | 24 |
| Reprisal |  | 200 | 231 | 211 | 195 | 200 |
| Sex |  | 134 | 147 | 149 | 108 | 98 |
| Pregnancy Discrimination Act (PDA) |  | 2 | 2 | 0 | 0 | 1 |
| National Origin |  | 42 | 54 | 47 | 42 | 37 |
| Equal Pay Act |  | 2 | 3 | 1 | 1 | 0 |
| Age |  | 114 | 102 | 118 | 105 | 90 |
| Disability |  | 141 | 177 | 151 | 140 | 123 |
| Genetic Information Nondiscrimination Act (GINA) |  | 1 | 3 | 5 | 5 | 4 |
| Non-EEO |  | 20 | 27 | 33 | 18 | 31 |

| **Complaints by Issue** | **Comparative Data** | | | | | |
| --- | --- | --- | --- | --- | --- | --- |
| **Previous Fiscal Year Data** | | | | | **2021** |
| ***Note: Complaints can be filed regarding multiple issues. The sum of the issues may not equal total complaints filed.*** |  | **2017** | **2018** | **2019** | **2020** |
| Appointment/Hire |  | 33 | 18 | 25 | 22 | 12 |
| Assignment of Duties |  | 61 | 80 | 40 | 26 | 32 |
| Awards |  | 16 | 8 | 7 | 7 | 7 |
| Conversion to Full-time |  | 1 | 1 | 2 | 1 | 0 |
| Disciplinary Action | | | | | | |
| * + Demotion |  | 4 | 6 | 2 | 1 | 6 |
| * + Reprimand |  | 16 | 23 | 17 | 21 | 11 |
| * + Suspension |  | 19 | 25 | 12 | 11 | 21 |
| * + Removal |  | 4 | 3 | 6 | 9 | 2 |
| * + Other |  | 26 | 18 | 14 | 0 | 0 |
| Duty Hours |  | 11 | 19 | 13 | 4 | 4 |
| Performance Appraisal |  | 81 | 96 | 71 | 50 | 61 |
| Examination/Test |  | 1 | 0 | 0 | 2 | 0 |
| Harassment | | | | | | |
| * + Non-Sexual |  | 151 | 189 | 160 | 153 | 141 |
| * + Sexual |  | 12 | 12 | 15 | 9 | 3 |
| Medical Examination |  | 4 | 2 | 0 | 0 | 0 |
| Pay (Including Overtime) |  | 16 | 13 | 11 | 16 | 13 |
| Promotion/Non-Selection |  | 72 | 68 | 57 | 56 | 57 |
| Reassignment | | | | | | |
| * + Denied |  | 6 | 4 | 4 | 2 | 4 |
| * + Directed |  | 5 | 15 | 16 | 7 | 3 |
| Reasonable Accommodation (Disability) |  | 53 | 71 | 55 | 47 | 32 |
| Reinstatement |  | 1 | 0 | 0 | 0 | 0 |
| Religious Accommodation |  | 0 | 1 | 0 | 0 | 0 |
| Retirement |  | 3 | 3 | 3 | 3 | 4 |
| Sex-Stereotyping |  | 3 | 1 | 1 | 0 | 1 |
| Telework |  | 14 | 11 | 20 | 8 | 4 |
| Termination |  | 28 | 40 | 27 | 22 | 26 |
| Terms/Conditions of Employment |  | 62 | 78 | 59 | 43 | 56 |
| Time and Attendance |  | 58 | 63 | 62 | 40 | 48 |
| Training |  | 17 | 22 | 7 | 13 | 12 |
| Other |  | 0 | 0 | 0 | 0 | 0 |

| **Processing Time** | **Comparative Data** | | | | | |
| --- | --- | --- | --- | --- | --- | --- |
| **Previous Fiscal Year Data** | | | | | **2021** |
|  | **2017** | **2018** | **2019** | **2020** |
| Complaints pending during fiscal year | | | | | | |
| Average number of days in investigation |  | 187.25 | 167.62 | 169.46 | 154.77 | 149.82 |
| Average number of days in final action |  | 33.86 | 36.08 | 33.16 | 40.35 | 28.39 |
| Complaints pending during fiscal year where hearing was requested | | | | | | |
| Average number of days in investigation |  | 191.22 | 167.55 | 172.25 | 158.81 | 148.56 |
| Average number of days in final action |  | 23.83 | 27.46 | 29.59 | 37.77 | 22.51 |
| Complaints pending during fiscal year where hearing was not requested | | | | | | |
| Average number of days in investigation |  | 186.39 | 172.42 | 170.78 | 151.10 | 139.47 |
| Average number of days in final action |  | 45.56 | 47.04 | 40.45 | 43.93 | 39.99 |

| **Complaints Dismissed by Agency** | **Comparative Data** | | | | | |
| --- | --- | --- | --- | --- | --- | --- |
| **Previous Fiscal Year Data** | | | | | **2021** |
|  | **2017** | **2018** | **2019** | **2020** |
| Total Complaints Dismissed by Agency |  | 47 | 51 | 53 | 35 | 43 |
| Average days pending prior to dismissal |  | 52.47 | 52.3 | 55.92 | 40.06 | 32.84 |
| **Complaints Withdrawn by Complainants** | | | | | | |
| Total Complaints Withdrawn by Complainants |  | 21 | 23 | 30 | 39 | 39 |

| **Total Final Agency Actions Finding Discrimination** | **Comparative Data** | | | | | | | | | | | |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Previous Fiscal Year Data** | | | | | | | | | | **2021** | |
|  | | **2017** | | **2018** | | **2019** | | **2020** | |
|  |  | **#** | **%** | **#** | **%** | **#** | **%** | **#** | **%** | **#** | **%** |
| Total Number Findings |  |  | 13 |  | 7 |  | 11 |  | 5 |  | 3 |  |
| Without Hearing |  |  | 12 | 92 | 6 | 86 | 1 | 9 | 4 | 80 | 2 | 67 |
| With Hearing |  |  | 1 | 8 | 1 | 14 | 10 | 91 | 1 | 20 | 1 | 33 |

| **Findings of Discrimination Rendered by Basis** | **Comparative Data** | | | | | | | | | | | |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Previous Fiscal Year Data** | | | | | | | | | | **2021** | |
| ***Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings.*** |  | | **2017** | | **2018** | | **2019** | | **2020** | |
|  |  | **#** | **%** | **#** | **%** | **#** | **%** | **#** | **%** | **#** | **%** |
| **Total Number Findings** |  |  | 8 |  | 5 |  | 11 |  | 5 |  | 3 |  |
| Race |  |  | 1 | 13 | 1 | 20 | 7 | 64 | 2 | 40 | 2 | 67 |
| Color |  |  | 1 | 13 | 1 | 20 | 2 | 18 | 2 | 40 | 0 | 0 |
| Religion |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 33 |
| Reprisal |  |  | 5 | 63 | 2 | 40 | 7 | 64 | 1 | 20 | 1 | 33 |
| Sex |  |  | 4 | 50 | 0 | 0 | 2 | 18 | 1 | 20 | 1 | 33 |
| PDA |  |  | 1 | 13 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| National Origin |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 40 | 0 | 0 |
| Equal Pay Act |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Age |  |  | 0 | 0 | 0 | 0 | 3 | 27 | 0 | 0 | 0 | 0 |
| Disability |  |  | 6 | 75 | 4 | 80 | 4 | 36 | 3 | 60 | 3 | 100 |
| GINA |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Non-EEO |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 20 | 1 | 33 |
|  | | | | | | | | | | | | |
| **Findings After Hearing** |  |  | 1 |  | 1 |  | 10 |  | 1 |  | 1 |  |
| Race |  |  | 0 | 0 | 0 | 0 | 7 | 70 | 1 | 100 | 0 | 0 |
| Color |  |  | 0 | 0 | 0 | 0 | 2 | 20 | 1 | 100 | 0 | 0 |
| Religion |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Reprisal |  |  | 1 | 100 | 1 | 100 | 6 | 60 | 0 | 0 | 1 | 100 |
| Sex |  |  | 0 | 0 | 0 | 0 | 2 | 20 | 0 | 0 | 0 | 0 |
| PDA |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| National Origin |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 100 | 0 | 0 |
| Equal Pay Act |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Age |  |  | 0 | 0 | 0 | 0 | 3 | 30 | 0 | 0 | 0 | 0 |
| Disability |  |  | 1 | 100 | 0 | 0 | 4 | 40 | 0 | 0 | 1 | 100 |
| GINA |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Non-EEO |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
|  | | | | | | | | | | | | |
| **Findings Without Hearing** |  |  | 7 |  | 4 |  | 1 |  | 4 |  | 2 |  |
| Race |  |  | 1 | 14 | 1 | 25 | 0 | 0 | 1 | 25 | 2 | 100 |
| Color |  |  | 1 | 14 | 1 | 25 | 0 | 0 | 1 | 25 | 0 | 0 |
| Religion |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 50 |
| Reprisal |  |  | 4 | 57 | 1 | 25 | 1 | 100 | 1 | 25 | 0 | 0 |
| Sex |  |  | 4 | 57 | 0 | 0 | 0 | 0 | 1 | 25 | 1 | 50 |
| PDA |  |  | 1 | 14 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| National Origin |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 25 | 0 | 0 |
| Equal Pay Act |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Age |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Disability |  |  | 5 | 71 | 4 | 100 | 0 | 0 | 3 | 75 | 2 | 100 |
| GINA |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Non-EEO |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 25 | 1 | 50 |

| **Findings of Discrimination Rendered by Issue** | **Comparative Data** | | | | | | | | | | | |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Previous Fiscal Year Data** | | | | | | | | | | **2021** | |
|  | | **2017** | | **2018** | | **2019** | | **2020** | |
|  |  | **#** | **%** | **#** | **%** | **#** | **%** | **#** | **%** | **#** | **%** |
| **Total Number Findings** |  |  | 8 |  | 5 |  | 11 |  | 5 |  | 3 |  |
| Appointment/Hire |  |  | 0 | 0 | 0 | 0 | 1 | 9 | 0 | 0 | 0 | 0 |
| Assignment of Duties |  |  | 0 | 0 | 0 | 0 | 1 | 9 | 0 | 0 | 0 | 0 |
| Awards |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Conversion to Full-time |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Disciplinary Action | | | | | | | | | | | | |
| * + Demotion |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| * + Reprimand |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| * + Suspension |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| * + Removal |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| * + Other |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Duty Hours |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Evaluation Appraisal |  |  | 0 | 0 | 0 | 0 | 1 | 9 | 1 | 20 | 0 | 0 |
| Examination/Test |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Harassment | | | | | | | | | | | | |
| * + Non-Sexual |  |  | 2 | 25 | 1 | 20 | 4 | 36 | 3 | 60 | 0 | 0 |
| * + Sexual |  |  | 2 | 25 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Medical Examination |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Pay (Including Overtime) |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Promotion/Non-Selection |  |  | 0 | 0 | 0 | 0 | 5 | 45 | 0 | 0 | 0 | 0 |
| Reassignment | | | | | | | | | | | | |
| * + Denied |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| * + Directed |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Reasonable Accommodation Disability |  |  | 5 | 63 | 3 | 60 | 1 | 9 | 2 | 40 | 2 | 67 |
| Reinstatement |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Religious Accommodation |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Retirement |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Sex-Stereotyping |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Telework |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 20 | 0 | 0 |
| Termination |  |  | 1 | 13 | 0 | 0 | 0 | 0 | 1 | 20 | 0 | 0 |
| Terms/Conditions of Employment |  |  | 1 | 13 | 0 | 0 | 2 | 18 | 0 | 0 | 0 | 0 |
| Time and Attendance |  |  | 0 | 0 | 1 | 20 | 0 | 0 | 0 | 0 | 1 | 33 |
| Training |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Other |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
|  | | | | | | | | | | | | |
| **Findings After Hearing** |  |  | 1 |  | 1 |  | 10 |  | 1 |  | 1 |  |
| Appointment/Hire |  |  | 0 | 0 | 0 | 0 | 1 | 10 | 0 | 0 | 0 | 0 |
| Assignment of Duties |  |  | 0 | 0 | 0 | 0 | 1 | 10 | 0 | 0 | 0 | 0 |
| Awards |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Conversion to Full-time |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Disciplinary Action | | | | | | | | | | | | |
| * + Demotion |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| * + Reprimand |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| * + Suspension |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| * + Removal |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| * + Other |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Duty Hours |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Evaluation Appraisal |  |  | 0 | 0 | 0 | 0 | 1 | 10 | 1 | 100 | 0 | 0 |
| Examination/Test |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Harassment | | | | | | | | | | | | |
| * + Non-Sexual |  |  | 0 | 0 | 1 | 100 | 4 | 40 | 1 | 100 | 0 | 0 |
| * + Sexual |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Medical Examination |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Pay (Including Overtime) |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Promotion/Non-Selection |  |  | 0 | 0 | 0 | 0 | 5 | 50 | 0 | 0 | 0 | 0 |
| Reassignment | | | | | | | | | | | | |
| * Denied |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| * Directed |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Reasonable Accommodation Disability |  |  | 0 | 0 | 0 | 0 | 1 | 10 | 0 | 0 | 1 | 100 |
| Reinstatement |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Sex-Stereotyping |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Retirement |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Religious Accommodation |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Telework |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Termination |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Terms/Conditions of Employment |  |  | 1 | 100 | 0 | 0 | 1 | 10 | 0 | 0 | 0 | 0 |
| Time and Attendance |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Training |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Other |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
|  | | | | | | | | | | | | |
| **Findings Without Hearing** |  |  | 7 |  | 4 |  | 1 |  | 4 |  | 2 |  |
| Appointment/Hire |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Assignment of Duties |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Awards |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Conversion to Full-time |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Disciplinary Action | | | | | | | | | | | | |
| * Demotion |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| * Reprimand |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| * Suspension |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| * Removal |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| * Other |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Duty Hours |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Evaluation Appraisal |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Examination/Test |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Harassment | | | | | | | | | | | | |
| * Non-Sexual |  |  | 2 | 29 | 0 | 0 | 0 | 0 | 2 | 50 | 0 | 0 |
| * Sexual |  |  | 2 | 29 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Medical Examination |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Pay (Including Overtime) |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Promotion/Non-Selection |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Reassignment | | | | | | | | | | | | |
| * Denied |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| * Directed |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Reasonable Accommodation Disability |  |  | 5 | 71 | 3 | 75 | 0 | 0 | 2 | 50 | 1 | 50 |
| Reinstatement |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Sex-Stereotyping |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Retirement |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Religious Accommodation |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Telework |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 25 | 0 | 0 |
| Termination |  |  | 1 | 14 | 0 | 0 | 0 | 0 | 1 | 25 | 0 | 0 |
| Terms/Conditions of Employment |  |  | 0 | 0 | 0 | 0 | 1 | 100 | 0 | 0 | 0 | 0 |
| Time and Attendance |  |  | 0 | 0 | 1 | 25 | 0 | 0 | 0 | 0 | 1 | 50 |
| Training |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Other |  |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

| **Pending Complaints Filed in Previous Fiscal Years by Status** | **Comparative Data** | | | | | |
| --- | --- | --- | --- | --- | --- | --- |
| **Previous Fiscal Year Data** | | | | | **2021** |
|  | **2017** | **2018** | **2019** | **2020** |
| Total complaints from previous Fiscal Years |  | 411 | 391 | 329 | 267 | 183 |
| Total Complainants |  | 354 | 344 | 312 | 235 | 167 |
| **Number complaints pending** | | | | | | |
| Investigation |  | 1 | 1 | 0 | 0 | 1 |
| ROI issued, pending Complainant's action |  | 0 | 0 | 0 | 0 | 0 |
| Hearing |  | 401 | 382 | 299 | 240 | 173 |
| Final Agency Action |  | 9 | 8 | 31 | 26 | 10 |

| **Complaint Investigations** | **Comparative Data** | | | | | |
| --- | --- | --- | --- | --- | --- | --- |
| **Previous Fiscal Year Data** | | | | | **2021** |
|  | **2017** | **2018** | **2019** | **2020** |
| Pending Complaints Where Investigations Exceed Required Time Frames |  | 3 | 0 | 0 | 0 | 0 |

##### Attachment B

**Department of the Treasury No FEAR Act Training Plan**

The Department of the Treasury’s bureaus determine the training and tracking methods and timeframe to conduct biennial No FEAR Act, as amended, training. In FY 2020, the Department offered two No FEAR Act training modules, one a refresher training for current employees and the other for new hires. Both training modules’ content contains information on the Whistleblower Protection Enhancement Act (WPEA), as amended.

|  |  |  |  |
| --- | --- | --- | --- |
| **Bureau** | **Delivery of Training** | **Training Schedule** | **Training Completion Date** |
| Office of the Special Inspector General for Troubled Asset Relief Program (SigTARP)  Office of the Inspector General (OIG)  Departmental Offices (DO)  Office of the Comptroller of the Currency (OCC)  Bureau of Engraving and Printing (BEP)  Bureau of Fiscal Service (BFS)  Alcohol and Tobacco Trade and Tax Bureau (TTB)  Office of the Special Inspector General for Pandemic Recovery (SigPR)  United States Mint (Mint)\* | Treasury’s Integrated Talent Management System (ITM).  Training records in ITM were used to demonstrate employees received the No FEAR Act training. ITM automatically updated the training records of employees who completed the training. When employees receive the No FEAR Act training via a method other than ITM, EEO Office worked with their ITM POCs to update the employee’s training record. Bureau EEO Offices cross-checked their current list of employees against the ITM training records to verify how many current employees completed the training. | EEO Office and Training Office notified their workforce of this mandatory training requirement and provided alternative means of training delivery when needed. | Training will be conducted by the end of FY 2022. |
| Treasury Inspector General for Tax Administration (TIGTA)  Financial Crimes Enforcement Network (FinCEN)  Internal Revenue Service (IRS)  Internal Revenue Service Office of the Chief Counsel (IRSCC) | Treasury’s ITM.  Training records in ITM will be used to demonstrate employees received the No FEAR Act training. ITM will automatically update the training records of employees who complete the training. When employees receive the No FEAR Act training via a method other than ITM, the EEO Office will work with their ITM POCs to update the employee’s training record. Bureau EEO Offices will cross-check the current list of all employees against the ITM training records to verify how many current employees have in fact completed the training. | Bureau EEO Offices are responsible for notifying their workforce of this mandatory training requirement and providing alternative means of training delivery when needed. | Biennial training was completed in FY 2021.  The percentage of employees who completed No FEAR refresher training in FY 2021 by bureau:  IRS: 94.4%  TIGTA: 100.0%  FINCEN: 97.1%  IRSCC: 99.0% |

\*The U.S. Mint was due to conduct biennial training in FY 2021. However, the U.S. Mint did not and will conduct its required biennial training by the end of FY 2022.

##### Attachment C

**Department of the Treasury**

**FY 2021 Administrative EEO Complaints Findings of Discrimination**

**and Corrective Actions**

The No FEAR Act, as amended, requires the Department to publicly post as well as report on the following information regarding administrative complaints findings of discrimination: the date of the finding; the affected Federal agency; the law violated; and whether a decision has been made regarding disciplinary action because of the finding.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Department of the Treasury Administrative EEO Findings of Discrimination for FY 2021** | | | | | |
| **Finding of Discrimination Made By** | **Date of Finding** | **Date On Which Each Discriminatory Act Occurred** | **Law Violated by Each Discriminatory Act** | **Employee(s) Disciplined** | **Corrective Actions Due to Finding** |
| Agency | 11/5/2020 | 2/6/2019 | Rehabilitation Act | 1 | * Compensatory Damages * Attorney Fees * Post Notice for 30 days   Manager Actions:   * 4 hours of training with respect to elimination of discrimination in the workplace * Take appropriate disciplinary action within 30 days of final decision. |
| Agency | 6/30/2021 | 3/21/2019 | Rehabilitation Act & Title VII | 0 | None. Settlement reached. |
| EEOC Office of Federal Operations (OFO) | 9/13/2021 | 5/29/2019; 7/1/2019 | Title VII | 0 | None. Settlement reached. |

1. Elijah E. Cummings Federal Employee Antidiscrimination Act (CFEA Act) of 2020 amends the No FEAR Act to include additional reporting and posting requirements when discrimination has been found in EEO administrative and District Court cases. [↑](#footnote-ref-2)