

**From:** [Chopra, Rohit \(CFPB\)](#)  
**To:** [DL\\_CFPB\\_AllHands](#)  
**Subject:** Please Read CFPB's Updated EEO & Non-Discrimination Policy  
**Date:** Monday, September 30, 2024 12:05:48 PM  
**Attachments:** [FY 24 EEO & Non-Discrimination Policy + Appendices Final Signed 09-25-24.pdf](#)  
[FY 24 No FEAR Act Notice Final 09-25-24.pdf](#)

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Dear Team:

I am pleased to announce that we have made updates to our CFPB-wide Equal Employment Opportunity (EEO) & Non-discrimination Policy. The updated policy is attached. Please take the time to read it now to better understand CFPB's commitment to your workplace civil rights and to learn more about our Office of Civil Rights (OCR) and overall EEO program.

This updated policy reflects the following principles:

1. The CFPB is committed to EEO for all employees and applicants for employment, regardless of their race, religion, color, sex (including pregnancy, gender identity and sexual orientation), national origin, age, genetic information, or disability (among other legally protected traits as outlined in the policy).
2. All CFPB employees have the freedom to compete on a fair and level playing field with regard to the terms, conditions, and benefits of employment.
3. Equal employment opportunity covers all personnel/employment programs, management practices, and decisions, including recruitment/hiring, merit promotion, transfer, reassignments, training and career development, benefits, and separation.
4. Workplace harassment will not be tolerated, and the CFPB will correct the harassing conduct before it becomes severe or pervasive or otherwise violates federal law.
5. Reprisal against anyone who engaged in protected activity will not be tolerated, and the CFPB supports the rights of all employees to exercise their rights under the civil rights statutes.

Revisions to our CFPB-wide EEO policy complement other workforce initiatives we recently have implemented, including rolling out a revised policy [Prohibiting Harassment and Bullying at CFPB](#); promulgating a policy requiring [Disclosure of Covered Workplace Personal Relationships](#); and issuing a directive aimed at [curbing inappropriate use of alcohol](#) in connection with CFPB work. All these efforts aim to strengthen our workplace, improve morale and inclusion, advance EEO, avoid prohibited personnel practices such as harassment and retaliation, ensure your safety, and promote productivity, respect, and dignity for all CFPB employees.

In addition, to ensure you understand your workplace protections and how to exercise them, I am also today issuing the CFPB's annual No FEAR Act notice. This annual reminder meets our obligations under the law to provide you with specifics on your workplace rights and related remedies and processes.

Later this fiscal year, during Mandatory Compliance Training season, you will be asked to

complete mandatory online No FEAR Act training. You also will be asked to certify that you have read and understand the contents of our revised EEO Policy and the No Fear Act Notice. Please take these obligations seriously.

As always, thank you for helping create a workplace where everyone is valued, respected, and has the opportunity to contribute.

Rohit Chopra  
Director

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Core Policy Number  
DO-OCR-2024-12

Effective Date  
June 2013

Issuing Team  
Office of Civil Rights

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## **Equal Employment Opportunity & Non-Discrimination**

### **I. Overview**

This Consumer Financial Protection Bureau (“CFPB” or “Bureau”) policy outlines requirements and responsibilities related to Equal Employment Opportunity and Non-Discrimination at CFPB and the Bureau’s EEO program.

### **II. Purpose**

The purpose of this policy is to:

1. Establish and underscore CFPB’s commitment to Equal Employment Opportunity (EEO);
2. As required by law, establish and maintain a model EEO program;
3. Outline CFPB’s EEO program requirements and responsibilities under applicable federal workplace civil rights/anti-discrimination laws, merit system principles, Presidential Executive Orders, related Equal Employment Opportunity Commission (EEOC) regulations and management directives, and EEOC and Office of Personnel Management (OPM) policies or instructions;
4. Specify certain EEO-related responsibilities for CFPB employees; and
5. Explain the potential consequences for violations of applicable federal workplace anti-discrimination laws, CFPB’s EEO-related policies, and/or related EEO program requirements and responsibilities.

### **III. Delegations of Authority**

- Designation of Assistant Director for the Office of Civil Rights as Equal Employment Opportunity Director, Decision Memo (July 3, 2019) (superseding Bureau Order 02-2012, Delegation of Authority Concerning Equal Employment Opportunity and Civil Rights Compliance, and Feb. 25, 2019 temporary delegation of authority to the EEO Program Manager for certain functions)
- Bureau Order 002C-21, Operations Division Delegated Authorities and Responsibilities (Jan. 20, 2022), at ¶¶ 13, 14, 15.
- Bureau Order 001-2022, Settlement Authority for Defensive Litigation (Jan. 20, 2022)

### **IV. Definitions**

The following list of alphabetized terms are defined for this policy only:

- **Alternative Dispute Resolution (ADR)** – a voluntary program for employees, supervisors, managers, and contractors (when appropriate) who are seeking to address workplace disputes, repair tensions, restore relationships, and improve communication. When the ADR program offers ADR services to an employee or contractor who agrees to participate in ADR, an appropriate designated agency official (e.g., an appropriate CFPB supervisor or manager) will be required to participate on behalf of CFPB as well.

- **Applicants** – individuals applying for CFPB employment (including current CFPB employees applying for any position for employment at the Bureau).
- **CFPB (or Bureau) Employees** – individuals employed by CFPB that have an official position description provided by the Office of Human Capital (OHC) regardless of occupational series, pay band, pay plan, or work location. This includes interns, internal detailees, fellows, Director’s Financial Analysts (DFAs), and volunteers. This excludes contractors, consultants, and external detailees. (Applicable anti-discrimination statutes may include or apply different definitions of “employee.”)
- **Discrimination** – treating an individual (or a group) differently (and usually less favorably or adversely). *Unlawful* discrimination can occur when an employer intentionally treats one employee differently from another when the two employees are similarly situated and the treatment is based on a legally protected basis. This is called ***disparate treatment***. Unlawful discrimination can also occur when an employer uses a policy or practice that appears neutral on its face but has an adverse impact on a protected group and cannot be justified by a business necessity. This is called ***disparate impact***. Other forms of discrimination include harassment; retaliation or interference with the exercise of protected rights; failure to provide reasonable accommodation absent undue hardship (for disability, religion, and pregnancy-related conditions); and conducting impermissible disability-related exams and inquiries or failing to keep an employee’s medical information confidential.
- **Equal Employment Opportunity** – fair and equitable treatment in employment, promotion, training, and other personnel actions without regard to legally protected bases (as defined below) except where permitted by law.
- **EEO Director** – a CFPB Executive who reports directly to the CFPB Director and who under delegation from the CFPB Director has been designated to oversee the day-to-day supervision of the Bureau’s model EEO program.
- **Former Employees** – CFPB employees who are no longer employed by the CFPB. This includes those who have maintained employment in the federal government and those who have left federal service.
- **Harassment** – a form of discrimination. Sexual harassment (including unwelcome sexual advances, requests for sexual favors, and other conduct of a sexual nature) is prohibited under Bureau policy and may be unlawful. But it also is illegal to harass an employee based on **any** legally protected basis.
  - Although the law does not prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal if it is so frequent or severe that it creates a hostile or offensive work environment and/or if it results in an adverse employment decision (such as the victim being fired or demoted).
  - Harassment can take many forms, including but not limited to slurs, graffiti, offensive or derogatory comments, or other verbal or physical conduct. The harasser can be the victim’s supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a contractor or client or customer.
  - Harassment that takes place outside of the workplace may be illegal if there is a link with the workplace (for example, if a supervisor harasses an employee while driving

- the employee to a meeting, at a conference, or at an after-hours event with co-workers).
- Victims of harassment can include any direct target of the behavior, or others who have witnessed or are otherwise negatively impacted by the behavior.
  - *Harassment and/or bullying behavior can violate CFPB Policy even if the misconduct would not violate federal law.* (See Policy Prohibiting Harassment and Bullying at CFPB.)
- **Individual** – any person (e.g., an applicant for Bureau employment, current or former CFPB employee, or contractor/consultant).
  - **Interference** – a form of discrimination. It includes coercing, intimidating, threatening, or interfering with any individual in the exercise or enjoyment of, or on account of such individual having exercised or enjoyed, or on account of such individual having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by any civil rights statute (such as the Rehabilitation Act of 1973 as amended and the Pregnant Workers Fairness Act of 2022).
  - **Retaliation (or Reprisal)** – a form of discrimination that involves taking any materially adverse action against an individual because of their prior participation in the EEO process or reasonable and good-faith opposition to alleged unlawful discriminatory practices. Unlawful retaliation is very broadly defined; any action likely to deter a reasonable person from engaging in EEO activity (e.g., that might exert a chilling effect on an individual's willingness to engage in protected EEO activity) may be retaliatory and unlawful.
  - **Legally Protected Bases** – for purposes of this policy, legally protected bases are: race; color; religion; sex (including sexual orientation, gender identity, and pregnancy); national origin (including accent); age (40 or over); disability; genetic information (including family medical history); parental status; marital status; political affiliation; union activity; military service/uniformed status; prior protected EEO activity or whistleblower activity (i.e., retaliation/reprisal); and/or conduct which does not adversely affect an individual's job performance. These traits or characteristics generally may not be considered in the making or taking of any employment action or decision, although exceptions may apply such as to meet disability-related affirmative action legal requirements. Applicable law also requires employers like CFPB to make reasonable accommodations (absent undue hardship) for disability, religion, and pregnancy/childbirth/related medical conditions.

## V. **Policy Statements**

### 1. **Commitment to Equal Employment Opportunity (EEO)**

- 1.1. CFPB shall provide equal employment opportunity – “EEO” – to all applicants for employment at CFPB and to all Bureau employees (including former employees). This includes (but is not limited to):
  - 1.1.1. Providing equal employment opportunities for all, without regard to legally protected bases (as defined above), with respect to all personnel/employment programs and related management practices and decisions, including personnel actions.

- 1.1.1.1. Providing EEO for all includes ensuring all Bureau employees and applicants have the freedom to compete on a fair and level playing field with equal opportunity for competition.
- 1.1.1.2. Providing EEO includes ensuring non-discrimination in the terms, conditions and privileges of employment. This encompasses all personnel/employment programs, and related management practices and decisions regarding recruitment; hiring; compensation; promotion; transfer; assignments; reassessments; training, mentoring, and career development; benefits; discipline; separation; and all other terms, conditions, or privileges of employment.
- 1.1.2. Prohibiting any and all act(s) of unlawful discrimination on legally protected bases (as defined above), including unlawful harassment, in Bureau employment, and preventing and correcting harassing conduct *before* it becomes severe or pervasive or otherwise unlawful.
- 1.1.3. Prohibiting any and all act(s) of unlawful retaliation and/or interference with civil rights and supporting the rights of all CFPB employees, applicants, and former employees to exercise their rights under applicable civil rights statutes, regulations, Executive Orders, and other similar authorities.
- 1.2. CFPB shall seek to resolve any workplace conflicts promptly and appropriately – informally, if possible, and at the earliest practicable opportunity whenever feasible – consistent with related rights and applicable law.
  - 1.2.1. CFPB shall make reasonable efforts to voluntarily settle allegations of discrimination as early as possible in, and throughout, the administrative EEO process, including the informal/pre-complaint (EEO counseling) stage.
  - 1.2.2. Any settlement reached shall be in writing, identify the claims resolved, and be signed by all parties.
- 1.3. CFPB shall take affirmative action as required by law or regulation to recruit, hire, and retain qualified individuals with disabilities (and targeted disabilities) and to ensure all Bureau programs, activities, facilities, and information and communication technology are accessible to and useable by individual with disabilities.
- 1.4. CFPB shall take timely and effective action to correct barriers identified through analysis or findings to ensure a workplace that grants EEO to all.

## **2. EEO Program Requirements, Management, and Responsibilities**

- 2.1. CFPB shall establish and maintain a model EEO program as required and defined under federal civil rights and civil service/merit system laws, related regulations (e.g., 29 C.F.R. Part 1614 (including 29 C.F.R. § 1614.102)), and applicable Management Directives and related instructions issued by the EEOC.
  - 2.1.1. Minimum EEO Program requirements. The Bureau shall maintain a continuing affirmative program to promote EEO and to identify and eliminate discriminatory practices and policies at CFPB. As required in 29 C.F.R. Part 1614, at a minimum, in support of its EEO program CFPB shall:

- Provide sufficient resources to its EEO program to ensure efficient and successful operation;
- Be responsible for the fair and impartial processing and resolution of complaints of employment discrimination (including retaliation) as required by law, and provide a timely, fair, and impartial EEO administrative process in accordance with 29 C.F.R. Part 1614 and the instructions contained in the EEOC's Management Directives;
- Conduct a continuing campaign to eradicate every form of prejudice or discrimination from the Bureau's personnel policies, practices, and working conditions;
- Communicate the Bureau's EEO policy and program and its employment needs to all sources of job candidates, and as permitted by law solicit recruitment assistance from all appropriate candidate sources and stakeholders (internal and external) on a continuing basis;
- Review, evaluate, and control managerial and supervisory performance in such a manner as to insure a continuing affirmative application and vigorous enforcement of this EEO policy, and provide orientation, training, and advice to managers and supervisors to assure their understanding and implementation of the EEO policy and program;
- Take appropriate disciplinary action against employees who engage in discriminatory practices;
- As defined and required by applicable law or regulation, make reasonable accommodations absent undue hardship for applicants and employees for religious observances, practices, and beliefs; disabilities; and pregnancy, childbirth, or related medical conditions;
- Provide recognition to employees, supervisors, managers, and/or Bureau Divisions, offices, and/or teams for demonstrating superior accomplishment in EEO;
- Establish a system for periodically evaluating the effectiveness of the Bureau's overall EEO effort;
- Provide the maximum feasible opportunity to employees to enhance their skills through on-the-job training, work-study programs, and other training measures so that they may perform at their highest potential and advance in accordance with their abilities;
- Inform Bureau employees and recognized labor organizations of the EEO policy and program and enlist their cooperation; and
- Participate at the community level with other employers, with schools and universities, and with other public and private groups in cooperative action to improve employment opportunities and community conditions that affect employability.

2.1.2. EEO Program Management and Office of Civil Rights. The EEO program shall be managed by the Bureau’s Office of Civil Rights (OCR).

- 2.1.2.1. As required by law and to maintain its neutrality, credibility, integrity, and effectiveness, OCR as the CFPB’s EEO program office must be established and maintained as an independent office that is not under the control, either structurally or practically, of the Bureau’s Legal Division or Office of Human Capital (or their equivalent).
- 2.1.2.2. As required by EEOC regulations and directives, OCR shall ensure that the Bureau’s EEO program is devoid of internal conflicts of interest and that it provides for the efficient and fair resolution of complaints alleging discrimination (including retaliation or interference).
- 2.1.2.3. As required by law, the CFPB’s EEO Director (Assistant Director for OCR) shall report directly to the CFPB Director (head of the agency).
- 2.1.2.4. As required by EEOC directives, to demonstrate CFPB leadership’s commitment to EEO the EEO Director shall submit this policy to the CFPB Director for reissuance each year.
- 2.1.2.5. As required in 29 C.F.R. Part 1614, the EEO Director shall, at a minimum:
  - Advise the head of the Bureau with respect to the preparation of national and regional EEO plans, procedures, regulations, reports, and other matters pertaining to this EEO policy and program.
  - Evaluate from time to time the sufficiency of the total EEO program and report to the head of the Bureau recommendations as to any improvement or correction needed, including remedial or disciplinary action with respect to managerial, supervisory, or other employees who have failed in their responsibilities.
  - When authorized by the head of CFPB, make changes in programs and procedures designed to eliminate discriminatory practices and improve the Bureau’s EEO program.
  - Provide for counseling of aggrieved individuals (e.g., applicants, employees, former employees, and contractors) and for the receipt and processing of individual and class complaints of discrimination.
  - Assure that individual complaints under 29 C.F.R. Part 1614 are fairly and thoroughly investigated and that final action is taken in a timely manner in accordance with established regulatory requirements.<sup>1</sup>
- 2.1.2.6. The EEO Director may in their discretion determine that OCR processing of a particular complaint would pose an actual or apparent

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<sup>1</sup> OCR also processes and adjudicates complaints alleging violations of Executive Order 11478 as amended. These may include complaints alleging workplace discrimination based on parental status, sexual orientation, and gender identity. Information regarding procedures, timeframes, and potential remedies for such complaints are contained in Appendix B.

conflict of interest. In such a case, the EEO Director shall secure necessary and appropriate assistance from a neutral, impartial, qualified alternative entity who can process the complaint consistent with the rights and obligations of the parties involved and in a manner that eliminates the actual or apparent conflict.

- 2.1.2.7. The EEO Director, in consultation with the CFPB Director or their designee, may conduct an official program evaluation of any aspect of CFPB operations, Divisions, offices, and/or teams to ensure compliance with all applicable EEO requirements.
- 2.1.2.8. The EEO Director may, in their discretion, draft and disseminate “after-action” memoranda to relevant individuals (including Executives, managers, and supervisors, as well as other pertinent agency personnel) with a strict need-to-know summarizing details regarding specific EEO complaints, related investigations, or trends and recommending follow-up remedial actions deemed necessary in the EEO Director’s view to secure specific EEO rights and/or advance the Bureau’s overall EEO program. As determined necessary, the EEO Director shall report to the CFPB Director or their designee on such after-action memoranda and related implementation efforts.
- 2.1.3. Training. As part of the EEO Program, CFPB shall require all Bureau employees to take any EEO-related trainings required under applicable law, regulation, or policy (e.g., as required by the No FEAR Act, EEOC directives, OPM regulations, or other authorities), or as otherwise deemed advisable by the CFPB Director or their designee. Such trainings may include in-person or online/virtual presentations or modules. Bureau contractors/consultants may likewise be required to take EEO-related trainings as specified under relevant blanket purchase agreements, contracts, or call/task orders.
- 2.1.4. Representation. Individuals engaging in the EEO administrative process generally shall have the right to be accompanied, represented, and advised by a representative of the complainant’s choice at any stage in the processing of the complaint, including the counseling stage. A complainant shall, at all times, be responsible for proceeding with the EEO complaint whether or not they have designated a representative.
  - 2.1.4.1. No OCR employee (or contractor) may serve as a complainant’s or CFPB’s representative. Therefore, in choosing a representative, a complainant must choose another individual or attorney.
  - 2.1.4.2. If the representation of a complainant (or CFPB) would present an actual or apparent conflict with the official or collateral duties of the representative, OCR or the EEOC may, after giving the representative an opportunity to respond, disqualify the representative due to the conflict.
  - 2.1.4.3. The EEO Director shall have the authority to determine whether to disqualify a representative in an EEO matter for an actual or apparent conflict.

- 2.1.4.4. CFPB shall not be obligated to change work schedules, incur overtime wages, or pay travel expenses to facilitate the choice of a specific representative or to allow the complainant and representative to confer.
- 2.1.5. Official Time. Participants in the EEO administrative process and their representatives who are CFPB employees and otherwise in a pay status are entitled to receive official time, regardless of their typical tour of duty/duty status (i.e., the complainant's or representative's normal approved hours of work), when their presence is authorized or required by the EEOC or CFPB (e.g., OCR) during any phase of the EEO administrative process.<sup>2</sup>
- 2.1.5.1. CFPB employees are entitled to a “reasonable” amount of official time, if otherwise in duty status, to prepare the complaint and respond to EEOC and CFPB requests for information. A “reasonable amount” of official time is generally considered in terms of hours, not days or weeks. A CFPB employee who is designated as a representative by a complainant is entitled to a reasonable amount of official time, if otherwise in duty status, to prepare the complaint and respond to EEOC and CFPB requests for information.
- 2.1.5.2. CFPB shall grant employees, including alleged responsible management officials and other Bureau witnesses participating in the EEO process, a reasonable amount of official time for time spent cooperating with or participating in the EEO process.
- 2.1.5.3. Witnesses who are employed by the Bureau or any other federal agency shall be considered to be in duty status when their presence is authorized or required by the EEOC or CFPB (e.g., OCR) in connection with the complaint, regardless of whether the hours coincide with their normal work schedule.
- 2.1.5.4. CFPB Employees who require official time to participate in the EEO administrative process shall request to use official time from their first-line supervisor before making use of official time for this purpose:
- Requests for official time must be submitted in writing to the CFPB employee's supervisor before the time is requested and must be approved or denied in a timely manner.
  - The relevant first-line supervisor shall make the ultimate decision on whether to grant EEO-related official time (and/or how much to grant).

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<sup>2</sup> Witnesses who are federal employees, regardless of their tour of duty and whether they are employed by the Bureau or another federal agency, must be in a duty status when their presence is authorized or required by the EEOC or CFPB in connection with an administrative EEO complaint. To the extent practical, the CFPB (or its contractors) will schedule EEO-related meetings or proceedings during the generally accepted business hours of 8:00 a.m. to 5:00 p.m. local time. If meetings, conferences, and hearings must be scheduled outside of these hours and an employee's work schedule cannot be temporarily changed under relevant Bureau policies and/or applicable Collective Bargaining Agreement, CFPB shall grant credit time, compensatory time, or overtime as applicable and permissible.

Such decisions may be subject to appeal to the EEOC as prescribed under 29 C.F.R. Part 1614 and/or related management directives.

- The written request for official time must include: the date, number of hours requested, and a general description of the activities (e.g., attending a mediation or deposition, preparing documents, meeting with a representative, etc.). Although the actual number of official time hours will vary in each case, the EEOC has established as a general guideline that an individual with authority to grant leave must approve as official time:
  - all time spent in meetings with an EEO counselor, ADR professional, and investigator;
  - all time spent attending a deposition where the CFPB employee's presence is required, hearings where the CFPB employee's presence is required, or trial where the CFPB employee's presence is required related to a complaint pending before the EEOC, or in meetings or status conferences with the Administrative Judge where the individual's presence is necessary;
  - up to 8 hours during the informal/pre-complaint process and up to 8 hours during the formal complaint process at the administrative level to prepare for any of these events/meetings, or to otherwise prepare the complaint, related documents, and any appeals that may be filed or to prepare for attendance at and participation in any other ("preparation time").
- Supervisors may request advice from the Legal Division regarding official time (e.g., how much official time to grant).
  - The Legal Division may ask the OCR Director (or designee) for technical assistance about EEO-related official time that does not reveal confidential EEO information. However, to avoid creating a possible conflict of interest, the OCR Director will not provide specific recommendations in any particular matter regarding the appropriate amount of EEO-related official time.
  - Supervisors shall confer with the Legal Division before denying any request for official time, either in whole or in part, for an EEO matter.
  - If a supervisor denies a request for official time, either in whole or in part, the supervisor (or other deciding official) shall document the reasons for the denial in writing and provide such documentation to the CFPB employee requesting official time.
- Managers and supervisors shall verify that any official time granted is coded as normal "duty hours worked" in WebTA, and not as credit time, overtime, or any other designation.

2.1.6. Use of Official Resources. CFPB shall authorize an EEO complainant's (or their representative's) use of government property (e.g., computers/laptops, mobile

phones, internet access/networks, email/messaging/virtual meetings systems, printers, copiers, scanners, fax machines, etc.) for purposes of participating in the EEO administrative process when that use is consistent with CFPB's Acceptable Use Policy and any other applicable and relevant Bureau Policy.

- 2.1.6.1. An individual's use of government property shall not cause undue disruption of CFPB operations.
- 2.1.7. Travel Expenses. CFPB shall pay travel expenses (i.e., transportation, lodging, meals, and/or incidental expenses incurred) related to official travel for EEO administrative matters in accordance with law and CFPB travel policies, if approved in advance by the EEO Director.

### **3. CFPB Employee Responsibilities**

- 3.1. All CFPB Employees shall:
  - 3.1.1. Annually, review CFPB's most currently issued No FEAR Act Notice, which provides critical information regarding procedures, timeframes, and potential remedies for various types of workplace-related discrimination complaints/grievances under 29 C.F.R. Part 1614, other federal workplace civil rights/anti-discrimination laws, and Executive Order 11478 as amended.<sup>3</sup>
  - 3.1.2. Treat all individuals who work at or with CFPB in any capacity with respect and in a manner consistent with this policy and all other Bureau policies governing conduct and misconduct of CFPB employees.
  - 3.1.3. Comply with all CFPB EEO-related policies. These include policies regarding:
    - EEO & Non-Discrimination (this policy)
    - Alternative Dispute Resolution
    - Prohibiting Harassment and Bullying at CFPB
    - Covered Workplace Personal Relationships
    - Disability and Pregnancy-Related Reasonable Accommodations
    - Religious Reasonable Accommodations
    - Non-Discrimination and Inclusion for Transgender Applicants and Employees
    - Disciplinary and Adverse Action
  - 3.1.4. Adhere to EEO-related performance standards applicable to the employee's CFPB position.
  - 3.1.5. Timely complete any mandatory EEO-related trainings as prescribed by the head of the Bureau, EEO Director, or other CFPB official with authority to assign such training(s) or related requirements.
  - 3.1.6. Timely participate and cooperate during all stages of the EEO administrative process including, EEO counseling, Alternative Dispute Resolution (ADR) sessions, and EEO complaint investigations and other related proceedings (such as EEOC administrative judge hearings). This may require providing information

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<sup>3</sup> The most recently issued No FEAR Act notice is available on consumerfinance.gov and the Bureau's intranet, as well as included here as Appendix A.

upon request in an interview or by written responses about matters pertaining to a complaint and providing access to files and documents, as requested, to allow others to investigate the complaint.

- 3.1.6.1. Any current federal employee, including former CFPB employees currently working at a different federal agency, must timely participate and cooperate during all stages of the EEO process in any CFPB-processed matter if OCR determines the former CFPB employee is a necessary witness to such matter.
- 3.1.7. Report suspected or alleged harassment, bullying, or other inappropriate conduct to the appropriate management officials in accordance with CFPB's Policy Prohibiting Harassment and Bullying.

#### **4. Enforcement of Violations of Law & EEO-Related Policies**

- 4.1 CFPB shall hold any Bureau employee who engages in conduct found to violate applicable civil rights/anti-discrimination laws or related Bureau policies accountable for such violations.
  - 4.1.1. Any CFPB employee who violates any provision of this policy shall be subject to possible counseling and/or discipline, up to and including removal from federal service, consistent with any applicable CFPB Collective Bargaining Agreement, the CFPB Disciplinary and Adverse Action Policy, and the CFPB Misconduct Policy.
  - 4.1.2. Any CFPB employee may be required to take appropriate remedial training when warranted under the circumstances.

#### **VI. Exceptions**

- Not applicable.

#### **VII. Roles and Responsibilities**

The following table identifies the approving official, division lead, process owner, program team, and required reviewers and provides a brief description of respective responsibilities concerning this policy.

<b>Position Title / Team Name (Include the Division/Office, as appropriate)</b>	<b>Control Role</b>	<b>Brief Description of Control Responsibility</b>
CFPB Director or Delegee	Approving Official	Responsible for approving this policy and reissuing it each year.
EEO Director / Office of Civil Rights (OCR) / Office of the Director	Division Executive	Responsible for reviewing the policy proposals and revisions and providing feedback.
EEO Director / Office of Civil Rights (OCR) / Office of the Director	Process Owner & Issuing	Responsible for the day-to-day management of the Bureau's EEO program and following the standard operating procedures associated with the policy on the Management of Internal Policies.

<b>Position Title / Team Name (Include the Division/Office, as appropriate)</b>	<b>Control Role</b>	<b>Brief Description of Control Responsibility</b>
Chief Risk Officer (CRO) / Operations Division / Operations Front Office	Required Reviewer	Responsible for determining whether: (1) the proposed content meets the criteria for a Bureau-wide Core Policy, or other; and (2) changes are material or minor.
Legal Division (Legal), Office of Civil Rights (OCR), Office of Minority and Women Inclusion (OMWI), the Senior Agency Official for Privacy (SAOP), and the Chief Privacy Officer (CPO)	Required Reviewers	Responsible for reviewing policy proposals and revisions and providing targeted feedback.
Operations Division / Office of Human Capital (OHC), Labor Relations	Required Reviewers	Responsible for reviewing policy proposals and revisions and providing targeted feedback; communicates and coordinates with the National Treasury Employees Union (NTEU), as necessary.
Office of the Chief Data Officer (OCDO), Records and Information Management (RIM) Program	Preservation and Accessioning	Responsible for receiving signed policy and transferring physical and legal custody to the National Archives and Records Administration (NARA) 15 years after the policy is finalized.

### **VIII. Legal Authorities**

- Statutes: 5 U.S.C. § 2302(b); 5 U.S.C. § 2301 note (Pub. L. No. 107-174, 116 Stat. 566, as amended by Pub. L. 116-283, §§ 1131-1138); 5 U.S.C. §§ 7101-7135; 29 U.S.C. § 206(d); 29 U.S.C. § 633a; 29 U.S.C. §§ 791, 794, 794a, 794d; 38 U.S.C. §§ 4301-35; 42 U.S.C. § 1981a; 42 U.S.C. § 2000e-16; 42 U.S.C. § 2000ff et seq.; 42 U.S.C. § 2000gg et seq.
- Regulations: 29 C.F.R. Part 1614; 5 C.F.R. Part 720; 5 C.F.R. Part 724; 5 C.F.R. §§ 1201.151 through 1201.175
- EEOC Management Directives: No. 110 (Aug. 2015); No. 715 (Oct. 2003)
- Presidential Executive Orders: No. 11478 (1969); No. 13087 (1998); No. 13145 (2000); No. 13152 (2000); No. 13163 (2000); No. 13164 (2000); No. 13171 (2000); No. 13548 (2010); No. 13583 (2011); No. 13672 (2014); No. 13985 (2021); No. 13988 (2021); No. 14035 (2021); No. 14075 (2022)

### **IX. References**

- Alternative Dispute Resolution Policy
- Administrative Grievance Policy
- Collective Bargaining Agreement EEO Article
- Prohibiting Harassment and Bullying at CFPB Policy
- Disability Reasonable Accommodation Policy
- Standard Operating Procedures Related to Disability Reasonable Accommodation Requests
- Religious Reasonable Accommodation Policy and Procedures

- Non-discrimination and Inclusion Policy for Transgender Applicants and Employees
- Policy on Disclosure of Covered Workplace Personal Relationships

#### **X. Document History**

Action	Approval Date	Approving Official
Initial Policy Approved	June 2013	CFPB Director Richard Cordray
Reissuance Approved (Material Revisions)	September 2024	CFPB Director Rohit Chopra

#### **XI. Electronic Signature**

*Rohit Chopra*

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Rohit Chopra  
Director  
Consumer Financial Protection Bureau

September 25, 2024

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Date

#### **XII. Effective and Expiration Dates**

There is no expiration date associated with this policy. This policy is effective as of the date of first approval for Version 1.0 and shall continue in effect when reauthorized or reissued. This policy shall continue in effect until it is rescinded.

#### **XIII. Appendices**

- Appendix A – Annual No FEAR Act Notice
- Appendix B – Standard Operating Procedures (SOPs) and Potential Remedies for Complaints Alleging Violations of Executive Order 11478 as amended

Consumer Financial Protection Bureau  
1700 G Street NW  
Washington, D.C. 20552



September 2024

**MEMORANDUM TO:** All CFPB Employees, Former Employees, and Applicants for Employment at CFPB

**FROM:** Rohit Chopra  
Director

**SUBJECT:** FY 2024 Notice on the No FEAR Act and Whistleblower Protection Laws/Prohibited Personnel Practices

The “[Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002](#),” as amended by the Elijah E. Cummings Federal Employee Antidiscrimination Act of 2020, also known as the “No FEAR Act,” requires Federal agencies to “be accountable for violations of antidiscrimination and whistleblower protection laws.” (Pub. L. 107-174, Summary.) Congress found in passing the No FEAR Act that “agencies cannot be run effectively if those agencies practice or tolerate discrimination.” (Pub. L. 107-174, Title I, General Provisions, § 101(1).)

The No FEAR Act also requires Federal agencies, including the Bureau, to provide this Notice to Federal employees, former Federal employees, and applicants for Federal employment. This Notice is intended to inform you of the rights and protections available to you under Federal antidiscrimination, civil service, whistleblower protection, and antiretaliation laws.

### **Antidiscrimination Laws**

A federal agency cannot unlawfully discriminate for or against any employee or applicant for employment on the basis of **race, color, religion, sex (including pregnancy, childbirth, or related medical conditions; sexual orientation; and/or gender identity), national origin, age (40 and above), disability, genetic information (including family medical history), marital status, parental status, political affiliation, military service, union activities, protected equal employment opportunity (EEO) activity, whistleblower activity, or conduct that does not adversely affect an individual's performance**.

Discrimination on these bases – including harassment – is prohibited by Federal statutes and Executive Orders. See 5 U.S.C. § 2301 note (Pub. L. No. 107-174, 116 Stat. 566, as amended by Pub. L. 116-283, §§ 1131-1138); 5 U.S.C. § 2302(b); 5 U.S.C. §§ 7101-7135; 29 U.S.C. § 206(d); 29 U.S.C. § 633a; 29 U.S.C. §§ 791,

794, 794a, 794d; 38 U.S.C. §§ 4301-35; 42 U.S.C. § 1981a; 42 U.S.C. § 2000e-16; 42 U.S.C. § 2000ff et seq.; 42 U.S.C. § 2000gg et seq.; E.O. 11478; E.O. 13087; E.O. 13145; E.O. 13152; E.O. 13672.<sup>1</sup>

Individuals must follow specific rules and meet certain deadlines to pursue rights guaranteed in applicable federal workplace antidiscrimination laws, Presidential Executive Orders, and CFPB policy. The applicable complaint process, associated rules, and timelines, depend on the nature of the matter:

- *If you believe that you have been the victim of unlawful employment discrimination at CFPB and wish to pursue a discrimination claim on the basis of **race, color, religion, sex (including pregnancy, childbirth, or related medical conditions; sexual orientation; and/or gender identity), national origin, disability, genetic information (including family medical history), parental status, and/or protected EEO activity**:*

You may file an administrative complaint of discrimination with the CFPB’s Office of Civil Rights (OCR), which will process the complaint consistent with EEOC regulations at 29 C.F.R. Part 1614, EEOC Management Directive 110, applicable Executive Orders, CFPB Policy, and/or related official guidance. This administrative complaint process is sometimes referred to as the “EEO process” or “Part 1614 process.”

- To begin the process of filing a complaint with OCR to allege unlawful employment discrimination on the above protected bases, you first must contact OCR to request to speak with an EEO counselor ***within 45 calendar days of the alleged discriminatory action, or, in the case of a personnel action, within 45 calendar days of the effective date of the action.*** Failure to meet these timeframes could result in the forfeiture of your legal right to redress the discrimination.
- Any individual can contact OCR to request EEO counseling by emailing [CFPB\\_EEO@cfpb.gov](mailto:CFPB_EEO@cfpb.gov). This is the preferred method of contacting OCR to request EEO counseling. However, you can also request EEO counseling by contacting OCR using any of the methods listed at the end of this Notice. Once you have made contact with OCR, an OCR representative will provide additional information related to processing your allegations. If you file a formal administrative EEO complaint, the matter is against CFPB itself as an organization – not against any specific individual(s).

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<sup>1</sup> Under some of these federal statutes, agencies such as CFPB are also prohibited from failing to provide work-connected reasonable accommodations (absent “undue hardship”) for religious observances, practices, or beliefs; limitations relating to covered disabilities; and known limitations relating to pregnancy, childbirth, or related medical conditions.

- *If you are a bargaining unit employee and you believe that you have been the victim of prohibited employment discrimination at CFPB on the basis of race, color, religion, sex (including pregnancy, childbirth, or related medical conditions; sexual orientation; and/or gender identity), national origin, age (40 and above), disability, genetic information (including family medical history), protected EEO activity, marital status, and/or political affiliation:*
  - You may file a grievance alleging discrimination on any of the above bases using CFPB's [negotiated grievance procedures](#).
  - *You may not file both a timely written grievance under the negotiated grievance procedures and a formal complaint of discrimination with OCR on the same matter. If you file a timely written grievance over an issue but fail to include a related discrimination allegation, you still could be precluded from filing a formal EEO complaint of discrimination with OCR over the same matter.*
  - For more information, read the [Equal Employment Opportunity Article](#) in the CFPB-NTEU collective bargaining agreement. If you have additional questions you may also contact OCR using any of the methods listed at the end of this Notice, or the [Employee and Labor Relations team](#) in the [Office of Human Capital](#) (OHC).
- *If you believe that you have been the victim of unlawful employment discrimination at CFPB on the basis of age (40 and above):*
  - You may proceed through the administrative EEO process by contacting OCR to request EEO counseling within 45 calendar days. (This is the same process as for an allegation of discrimination based on race, color, religion, sex, national origin, disability, genetic information, parental status, and/or protected EEO activity, as noted above.)
  - *Alternatively, you may file an age-discrimination lawsuit in an appropriate United States district court. If you choose this “direct-suit” option, you must first give the EEOC – **not** CFPB’s OCR – notice that you intend to sue CFPB. You must give the EEOC this notice at least 30 days before you file your lawsuit in court. This notice-of-intent-to-sue may be filed in writing with the EEOC, at P.O. Box 77960, Washington, D.C. 20013. You may also file the notice by facsimile (if the fax is 10 pages or less), at (202) 663-7022. Finally, you may file this notice by personal delivery to the EEOC’s Office of Federal Operations/Federal Sector Programs Branch at 131 M Street, NE, Washington, D.C. 20507. If you pursue this direct-suit option **you must file this notice of intent to sue with the EEOC within 180 calendar days of the alleged discriminatory action. See [29 C.F.R. § 1614.201\(a\)](#).***

- *If you believe that you have been the victim of unlawful sex-based compensation (“pay”) discrimination specifically:*
  - You may proceed through the administrative EEO process by contacting OCR to request EEO counseling within 45 calendar days. (This is the same as for an allegation of other bases of discrimination, as noted above.)
  - *Alternatively, if your claim alleges a violation of the Equal Pay Act of 1963, you may file a civil action in a court of competent jurisdiction *within two years (or, if you believe the violation is willful, three years) of the date of the alleged Equal Pay Act violation. Contacting an EEO Counselor in the Bureau’s OCR does not suspend or toll the two- or three-year deadline for filing a civil action under the Equal Pay Act. See 29 C.F.R. § 1614.408.**
  - Sex-based pay disparities also may violate Title VII of the Civil Rights Act of 1964, and individuals may challenge sex-based pay discrimination simultaneously under both the Equal Pay Act and Title VII. However, if you wish to allege that a pay disparity violates Title VII, you *must* raise the Title VII allegation in the administrative EEO process by contacting OCR to request EEO counseling within 45 calendar days of an alleged discriminatory act – even if you also file an Equal Pay Act civil action over the same alleged pay disparity.
- *If you are alleging discrimination based on marital status, political affiliation, or conduct that does not adversely affect an individual’s job performance:*
  - You may file a written complaint with the U.S. [Office of Special Counsel](#) (OSC).
- *If you are alleging discrimination based on military service/uniformed status (or denied reemployment rights after completing a period of military service):*
  - You may request assistance from the [Veterans’ Employment and Training Service](#) (VETS) at the U.S. Department of Labor (DOL), the U.S. [Merit Systems Protection Board](#) (MSPB), or OSC, depending on the circumstances. There is no time limit for filing a complaint, although individuals are encouraged to promptly report any concerns.
- *If you are alleging discrimination based on membership or non-membership in a union or for union activities:*
  - You may request assistance from the National Treasury Employees Union (NTEU) (if applicable) or the U.S. [Federal Labor Relations Authority](#) (FLRA).

## **Whistleblower Protection Laws & Prohibited Personnel Practices (including Retaliation for Whistleblowing or Exercising Appeal/Complaint/Grievance Rights)**

The Bureau is committed to making sure that all employees are aware of their rights, as well as the safeguards that are in place to protect them.

Federal employees have the right to be free from “[Prohibited Personnel Practices](#)” (“PPPs”), including retaliation for whistleblowing and exercising certain grievance, complaint, and appeal rights (and other protected activities). Please review this [fact sheet summarizing the prohibited personnel practices](#). Please also review this pamphlet, “[Your Rights as a Federal Employee](#),” which provides more detailed information on PPPs. You can learn more about federal civil service merit systems principles and PPPs in this [brief guide from the Merit Systems Protection Board \(MSPB\)](#).

The Whistleblower Protection Act of 1989, the Whistleblower Protection Enhancement Act of 2012, the Dr. Chris Kirkpatrick Whistleblower Protection Act of 2017, and other laws collectively provide rights for all covered federal employees to make whistleblower disclosures and ensure that employees are protected from whistleblower retaliation. For these purposes, [whistleblowing](#) is defined as the disclosure of information that an employee or applicant reasonably believes evidences (1) a violation of any law, rule, or regulation; (2) gross mismanagement; (3) a gross waste of funds; (4) an abuse of authority; (5) a substantial and specific danger to public health or safety; and/or (6) censorship related to research, analysis, or technical information, if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

Employees may make lawful disclosures to anyone, including, for example, management officials, the Inspector General of an agency, Congress and committees of Congress and/or the [U.S. Office of Special Counsel](#) (OSC). OSC, an independent Executive branch agency, provides an independent, secure channel for disclosing and resolving wrongdoing in federal agencies. OSC also generally protects federal employees from prohibited personnel practices, including whistleblower retaliation.

Please review this poster on “[Disclosure of Wrongdoing](#)” and this handout on “[Your Rights When Reporting Wrongs](#)” – OSC materials that describe avenues for making whistleblower disclosures and OSC’s role in accepting complaints from federal employees, including how to make disclosures of information protected from public release by law.

Under 5 U.S.C. § 2302(b)(8), agency officials are prohibited from retaliating against an employee or applicant for making a protected disclosure. A Federal employee with authority to take, direct others to take, recommend, or approve any personnel action must not use that authority to take or fail to take, or threaten to take or fail to take, a personnel action against an employee or applicant because that individual has engaged in whistleblowing. Information on the

prohibition on retaliation for whistleblowing is available [from this OSC fact sheet](#) and [this OSC video](#). You can find even more information on whistleblower retaliation [on the MSPB's website](#).

Under 5 U.S.C. § 2302(b)(9), agency officials also are prohibited from retaliating against any covered employee because the employee (1) filed a lawful complaint, grievance or appeal; (2) testified for or helped someone else with one of these activities; (3) cooperated with or disclosed information to the Special Counsel or an Inspector General; or (4) refused to obey an order that would require the employee to violate a law, rule, or regulation. You can review more detailed information about this type of retaliation [on the MSPB's website](#).

If you believe that you have been the victim of a prohibited personnel practice, including whistleblower or other retaliation under 5 U.S.C. §§ 2302(b)(8) or (b)(9), you may file a written complaint ([OSC Form-14](#)) with OSC [online](#) through the OSC website. (Please consult OSC's site for the most up-to-date guidance as paper filings still are not currently being accepted due to the COVID-19 pandemic.)

*If you believe a prohibited personnel practice has occurred, please note there is a three-year time limitation/filing period about which you should be aware. See 5 U.S.C. § 1214 (a)(6)(A)(iii).*

### **Retaliation for Engaging in Protected EEO-Related Activity**

A Federal agency cannot retaliate against an employee or applicant because that individual exercises their rights under any of the Federal antidiscrimination laws listed and as discussed above. If you believe that you are the victim or target of retaliation for engaging in protected activity and wish to pursue a legal remedy, you must follow, as appropriate, the procedures and timeframes described in the sections of this notice above entitled “Antidiscrimination Laws” and “Whistleblower Protection Laws/Prohibited Personnel Practices” – or, if applicable, relevant negotiated grievance procedures.

Read this [brief guide from the EEOC](#) on some of the causes of, and manager tips for avoiding, [EEO-related retaliation](#).<sup>2</sup>

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<sup>2</sup> Similarly, it is unlawful for any individual to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of their having exercised or enjoyed, or on account of their having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by the Rehabilitation Act of 1973 or the Pregnant Workers Fairness Act of 2023. Such “interference” or “coercion” is a prohibited form of discrimination that can be challenged through the 29 C.F.R. Part 1614 (EEO) process described in the sections of this Notice above entitled “Antidiscrimination Laws.”

## **Disciplinary Actions**

Under the existing laws, each agency retains the right, where appropriate, to discipline a Federal employee who has engaged in discriminatory or retaliatory conduct, up to and including removal from federal service. If OSC has initiated an investigation under 5 U.S.C. § 1214, however, according to 5 U.S.C. § 1214(f), agencies must seek approval from the Special Counsel during any investigation to discipline employees for, among other activities, engaging in prohibited retaliation. Nothing in the No FEAR Act alters existing laws or permits an agency to take unfounded disciplinary action against a Federal employee or to violate the procedural rights of a Federal employee who has been accused of discrimination. With the passage of the Elijah E. Cummings Act Federal Employee Antidiscrimination Act of 2020, there are reporting requirements related to disciplinary action when there is a finding of discrimination.

However, under the Dr. Chris Kirkpatrick Whistleblower Protection Act of 2017, an agency *must* propose certain disciplinary actions against supervisors who have engaged in certain specified acts of whistleblower retaliation or other forms of retaliation and prohibited personnel practices under civil service laws. For more information on these mandatory discipline requirements, contact OCR or the Bureau's Legal Division.

## **Additional Information**

For further information regarding the No FEAR Act rules, see [5 C.F.R. Part 724](#) or contact the Bureau's [Office of Civil Rights](#). (See complete contact information for OCR at the bottom of this Notice.) You can find additional information about the No FEAR Act on the CFPB's intranet at [http://team.cfpb.local/wiki/index.php/No\\_FEAR\\_Act\\_Note](http://team.cfpb.local/wiki/index.php/No_FEAR_Act_Note). The CFPB's No FEAR Act statistics can be found on the Bureau's external website at <http://www.consumerfinance.gov/no-fear-act/>.

You can find more information regarding Federal antidiscrimination, whistleblower protection, and retaliation laws on:

- the CFPB's intranet at <http://team.cfpb.local/wiki/index.php/EEO>
- the Office of Civil Rights's blog ([Civil Writes](#))
- the U.S. Equal Employment Opportunity Commission website at <http://www.eeoc.gov>
- the U.S. Office of Special Counsel website at <http://www.osc.gov>
- the U.S. Department of Labor Veterans' Employment and Training Service website at <https://www.dol.gov/vets/>
- the U.S. Merit Systems Protection Board website at <http://www.mspb.gov>
- the U.S. Federal Labor Relations Authority website at <http://www.flra.gov>

## **Existing Rights Unchanged**

Pursuant to section 205 of the No FEAR Act, neither the Act nor this Notice creates, expands, or reduces any rights otherwise available to any employee, former employee or applicant under the laws of the United States, including the provisions of law specified in 5 U.S.C. § 2302(d).

## **Contact Information for the CFPB's Office of Civil Rights**

**E-mail (preferred method):**

[CFPB\\_EEO@cfpb.gov](mailto:CFPB_EEO@cfpb.gov)

**U.S. Postal Service Mail:**

Office of Civil Rights  
Consumer Financial Protection Bureau  
1700 G Street, NW  
Washington, D.C., 20552

**Hand-Delivery:**

Office of Civil Rights  
Consumer Financial Protection Bureau  
1700 G Street, NW  
Fourth Floor  
Washington, D.C., 20552

**Phone:**

202-435-9EEO  
1-855-233-0362  
202-435-9742 (TTY)

**Fax:**

202-435-9598

**Office of the Director/Office of Civil Rights**

# Workplace Complaints Alleging Violations of Executive Order 11478 (as amended)

Standard Operating Procedures

These SOPs accompany the CFPB Equal Employment Opportunity & Nondiscrimination Policy

September 2024





# Table of Contents

<b>Table of Contents .....</b>	<b>1</b>
<b>Revision History.....</b>	<b>3</b>
<b>1   Introduction .....</b>	<b>4</b>
1.1   Purpose.....	5
1.2   Intended Audience.....	5
1.3   Roles and Responsibilities .....	5
1.4   Primary Points of Contact.....	5
1.5   Related Documents .....	6
<b>2   Procedures.....</b>	<b>7</b>
2.1   Precomplaint Processing .....	7
2.2   Formal Complaints .....	9
2.3   Dismissals of Formal Complaints .....	10
2.4   Investigation of Complaints.....	11
2.5   Final Decisions .....	12
2.6   Remedies and Relief.....	13
2.7   Settlement Agreements.....	14
2.8   Relationship to Other Procedures .....	16
2.9   Filing and Computation of Time.....	18
2.10   Representation, Use of Official Time and Resources, Travel, and Cooperation During EEO Process.....	18
2.11   Roles and Responsibilities .....	19
<b>3   Approvals .....</b>	<b>20</b>

**Appendix A: Key Terms and Acronyms ..... 21**

## Revision History

Table 1: Revision History

Effective	Version	Change Summary	Point of Contact
September 2024	1.0	Initial Release	Melissa Brand

## 1 Introduction

This set of Standard Operating Procedures (SOP) accompanies the CFPB's Equal Employment Opportunity & Non-discrimination Policy. This SOP describes the procedures for processing workplace-related discrimination complaints filed by applicants and/or employees of the CFPB specifically alleging violations of Executive Order 11478, as amended (E.O.).

This E.O. states that it is the policy of the Government of the United States to provide equal opportunity in Federal employment (EEO) for all persons, to prohibit discrimination in employment because of race, color, religion, sex, sexual orientation, gender identity, parental status, national origin, disability, or age, and to promote the full realization of EEO through a continuing affirmative program in each executive department and agency. This policy of equal opportunity applies to and must be an integral part of every aspect of personnel policy and practice in the employment, development, advancement, and treatment of civilian employees of the Federal Government, including here at CFPB.

Most complaints against CFPB alleging workplace discrimination based on race, color, religion, sex, sexual orientation, gender identity, national origin, disability, genetic information, and age ordinarily will be processed under procedures established by the U.S. Equal Employment Opportunity Commission at 29 C.F.R. Part 1614 (Part 1614). However, individuals alleging workplace discrimination based on any of the bases covered by the E.O. may also be processed under the procedures outlined here. Thus, for instance, where an individual raises allegations of workplace discrimination by CFPB based on sexual orientation and/or gender identity, the individual may request the CFPB's Office of Civil Rights (OCR) to process their allegations simultaneously under both Part 1614 and the E.O. Further, any complaint alleging workplace discrimination based on parental status specifically *must* be filed and OCR must process such complaint under the procedures in this SOP. (Part 1614 does not provide authority for the CFPB's OCR to process complaints specifically alleging parental-status discrimination.)

As a general matter, OCR will process complaints of discrimination that contain claims based on race, color, religion, national origin, sex, age, genetic information, or disability pursuant to 29 C.F.R. Part 1614. When complaints of discrimination contain claims based on sexual

orientation, gender identity, and/or parental status as well as claims based on race, color, religion, national origin, sex, age, genetic information or disability, dual processing may occur under this policy and the procedures set forth in 29 C.F.R. Part 1614,

The process described in this document applies to all employees and applicants for employment.

## 1.1 Purpose

This SOP will assist individual applicants and employees at CFPB seeking to better understand their rights under (and possible remedies for violations of) E.O. 11478 as amended. This SOP also outlines procedures OCR will use to process complaints alleging violations of E.O. 11478.

## 1.2 Intended Audience

This SOP is intended to be used by any individual seeking to understand their workplace rights and possible remedies and related processes for violations of those rights under the E.O. This SOP also is intended to be used by OCR staff to ensure proper processing of complaints alleging violations of the E.O.

## 1.3 Roles and Responsibilities

Table 2: Roles and Responsibilities Summary

Role	Responsibility
Office of Civil Rights	Process complaints alleging violations of E.O. 11478 as amended

## 1.4 Primary Points of Contact

Table 3: Document Points of Contact Summary

Role	Point of Contact	Contact Topics
Document Owner	Melissa Brand Assistant Director Office: <Insert Office>	<ul style="list-style-type: none"><li>Request for document updates</li><li>&lt;add additional topics as appropriate&gt;</li></ul>

## 1.5 Related Documents

Table 4: Related Documents Summary

Document Name	Brief Description	Location or Link
EEO & Non-Discrimination Policy	CFPB's General EEO policy	

## 2 Procedures

### 2.1 Precomplaint Processing

Individuals who believe they have been discriminated against or harassed on the basis of sexual orientation, gender identity, and/or parental status in violation of the E.O. must consult with a Counselor in the OCR prior to filing a Formal Complaint in order to try to resolve the matter informally.

An individual must contact the OCR within 45 days of the matter alleged to be discriminatory or, in the case of a personnel action, within 45 days of the effective date of the action.

The Director of the OCR may extend the 45-day time limit when the individual shows that they were not notified of the time limit and were not otherwise aware of it, or that they did not know and reasonably would not have known that the discriminatory matter or personnel action occurred, or that despite due diligence they were prevented by circumstances beyond their control from contacting the OCR within the time limit, or for other reasons considered sufficient by the OCR Director.

The Counselor must advise the individual in writing of their rights and responsibilities including the duty to minimize damages, that only matter(s) raised in pre-complaint counseling may be alleged in a Formal Complaint, the duty to keep the OCR informed of the individual's current address, and the election of forums for raising employment issues that may or may not address discrimination based on sexual orientation, gender identity, or parental status including:

- Filing a grievance under the negotiated grievance procedure in the applicable collective bargaining agreement (where permitted);
- Filing a complaint under the procedures in this SOP;
- Filing a complaint under 29 C.F.R. Part 1614;
- Filing a complaint with the Office of Special Counsel (OSC); or
- Filing an appeal with the Merit Systems Protection Board (MSPB) if the action complained of is otherwise appealable to the MSPB.

The Counselor should provide appropriate counseling and attempt to resolve the matter informally, utilizing traditional methods as well as possibly offering to allow the individual to use alternative dispute resolution (ADR), which when used will extend the pre-complaint counseling period to a maximum of 90 days.

Counselors should inform individuals who have sought counseling that their rights regarding initiating a complaint of discrimination based on sexual orientation, gender identity, or parental status under these procedures derive from CFPB policy and not from EEOC regulations that govern the processing of discrimination complaints in the federal sector (29 C.F.R. Part 1614). Counselors should advise individuals of the relevant distinctions between complaints based on sexual orientation, gender identity, and parental status processed solely under these procedures and those processed under 29 C.F.R. Part 1614, *including that under these procedures, an individual is not entitled to a hearing or appeal and remedies are more limited.*

Counselors should also advise individuals that they may remain anonymous (unless waived) during counseling and that they may have representation throughout the complaint process, including the counseling stage.

The Counselor will conduct a final interview with the individual within 30 days of the date the individual brought the matter to the EEO Counselor's attention. If the counseling period is extended for an additional 60 days by the CFPB to facilitate resolution, or the individual elects to participate in the ADR process, the pre-complaint process is extended to 90 days. If the matter has not been resolved, counseling has not been extended, or the individual did not elect ADR, the Counselor will notify the individual in writing, no later than 30 days after initial EEO contact, of the right to file a Formal Complaint. If the individual elected to participate in the ADR process, or pre-complaint filing was extended and no resolution is reached, the Counselor will, no later than 90 days after initial contact with the OCR, issue a Notice of Right to File a Formal Complaint.

The Notice of Right to File a Formal Complaint informs the individual of the right to file within 15 days of receipt of the notice, of the appropriate official with whom to file the Formal Complaint, and of the individual's duty to notify the OCR immediately, in writing, if they retain legal counsel or another representative. The Notice of Right to File a Formal Complaint will

also advise the individual that a Formal Complaint that is not filed within the 15-day period may be dismissed as untimely. The Counselor should generally obtain the signature of the individual on the Notice of Right to File a Formal Complaint with the date of receipt unless the notice was sent by email and certified mail, return receipt requested.

When advised that a Formal Complaint has been filed, the Counselor will provide a written report within 15 days to the Director of the OCR and the individual concerning the issues discussed and actions taken during counseling.

## 2.2 Formal Complaints

Formal Complaints of discrimination based on sexual orientation, gender identity, and/or parental status in violation of the E.O. must be filed with OCR.

Such Formal Complaints must be in writing and must be filed within 15 days of receipt of the Notice of Right to File a Formal Complaint.

The Formal Complaint must contain a signed statement from the individual or that individual's representative. The statement must be sufficiently precise to identify the individual, responsible management official and the relevant Office or Division involved, and to describe generally the action(s) or practice(s) that form the basis of the complaint. The Formal Complaint must also contain a telephone number, mailing address, and email address where the individual and any representative can be contacted.

An individual may amend a Formal Complaint at any time prior to the conclusion of the investigation to include issues or claims like or related to those raised in the Formal Complaint. Like or related claims or issues are those that add to or clarify the original claim(s) and/or could have reasonably been expected to grow out of the investigation of the original claim(s). An amendment must be in writing and contain the same specificity as stated in paragraph 3 above.

The OCR will acknowledge, in writing, receipt of a Formal Complaint or amendment and inform the individual of the date on which the complaint or amendment was filed (“Acknowledgement Letter”). The OCR will also issue an “Acceptance Letter” setting forth the

specific accepted and/or dismissed claims. These letters will also advise that the CFPB will generally conduct an impartial and appropriate investigation of the Formal Complaint within the earlier of 180 days after the last amendment to the complaint or 360 days after the filing of the original Formal Complaint.

## 2.3 Dismissals of Formal Complaints

OCR may not dismiss a Formal Complaint alleging violations of the E.O. solely because such claims are also being processed under 29 C.F.R. Part 1614. However, the OCR will dismiss a Formal Complaint or a portion of a Formal Complaint alleging a violation of the E.O.:

- That fails to state a claim covered under the E.O. or states a claim by the same individual that is pending before or has been decided by the CFPB or other appropriate entity.;
- That fails to comply with the applicable time limits contained in this SOP unless the Director of the OCR extends the time limits, or that raises a matter that has not been brought to the attention of a Counselor;
- Where the individual has raised the matter in a negotiated grievance procedure that permits claims of discrimination based on sexual orientation, gender identity, or parental status to be raised or where the individual indicates that s/he has elected to pursue a non-EEO process (e.g., OSC, MSPB);
- That is moot or alleges that a proposal to take a personnel action, or other preliminary step to taking a personnel action, is discriminatory, unless the complaint alleges that the proposal or preliminary step is retaliatory;
- Where the individual cannot be located provided that reasonable efforts have been made to locate the individual and the individual has not responded within 15 days to a notice of proposed dismissal sent to his or her last known address;
- Where the Director of the OCR has provided the individual with a written request to provide relevant information or to otherwise proceed with the Formal Complaint, and the individual has failed to respond to the request within 15 days of receipt, or the response does not address the request, provided that the request included a notice of the proposed dismissal;
- That alleges dissatisfaction with the processing of a previously filed complaint; or

- Where the CFPB finds that the complaint is part of a clear pattern of misuse of the EEO process for a purpose other than the prevention and elimination of employment discrimination. A clear pattern of misuse of the EEO process requires:
  - Evidence of multiple complaint filings; and
  - Claims that are similar to or identical, lack specificity or involve matters previously resolved; or
  - Evidence of circumventing other administrative processes, retaliating against the CFPB's in-house administrative processes or overburdening the EEO complaint system.

## 2.4 Investigation of Complaints

The investigation of complaints alleging violations of the E.O. will be managed by the OCR. Any investigation conducted by an investigator will be performed by a person with appropriate security clearances, as needed.

The investigator will develop an impartial and appropriate factual record upon which to make findings on the claims raised in the Formal Complaint. An appropriate factual record is one that allows a reasonable fact-finder to draw conclusions as to whether or not discrimination occurred.

The investigator may use an exchange of letters or memoranda, interrogatories, investigations, fact-finding conferences or any other fact-finding methods that efficiently address the matters at issue.

The following procedures apply to investigations of complaints:

- The individual, CFPB officials, and any CFPB employee must produce documentary and testimonial evidence as the investigator deems necessary.
- Investigators are authorized to administer oaths. Statements of witnesses must be made under oath or affirmation or, alternatively, by written statement under penalty of perjury.
- When the individual or CFPB employees fail, without good cause, to respond fully and in timely fashion to requests for documents, records, affidavits, or meetings, the

investigator may note in the investigative record that the Director of the OCR may in appropriate circumstances:

- Draw an adverse inference that the requested information or testimony of the requested witness would have reflected unfavorably on the party refusing to provide the requested information;
- Consider the matters to which the requested information or testimony pertains to be established in favor of the opposing party;
- Exclude other evidence offered by the party failing to produce the requested information or witness;
- Issue a decision fully or partially in favor of the opposing party; or
- Take such other actions as s/he deems appropriate.

OCR will ensure that the investigation is generally completed within 180 days of the date of filing the Formal Complaint, or where a complaint was amended, within the earlier of 180 days after the last amendment to the complaint or 360 days after the filing of the original Formal Complaint. The parties may agree to extend the time period not more than 90 days to ensure complete development of the investigative record or Report of Investigation (ROI).

Within 180 days of the filing of the Formal Complaint, or where a complaint was amended, within the earlier of 180 days after the last amendment to the complaint or 360 days after the filing of the original Formal Complaint, the OCR will provide the individual and any representative and CFPB's Legal Division with a copy of the ROI.

## 2.5 Final Decisions

Within 60 days after receipt of the ROI, the Director of the OCR will issue a Final Agency Decision (FAD) on the merits regarding each issue in the Formal Complaint alleging violations of the E.O..

A copy of the FAD will be provided to the individual, the individual's representative, and to the CFPB's Legal Division.

The legal standards for proving discrimination, harassment, or retaliation on the basis of sexual orientation, gender identity, or parental status under these procedures will be the same standards used for assessing the merits of complaints based on race, color, sex, national origin, religion, age, genetic information, or disability processed under Part 1614.

There is no avenue to request a hearing or to appeal, and the FAD of the OCR is the CFPB's final decision.

## 2.6 Remedies and Relief

When the Director of the OCR in an individual case of discrimination finds that an applicant or an employee has been discriminated against, the CFPB will provide relief to the fullest extent permitted by existing laws and regulations. This may include any or all of the following in appropriate circumstances:

- Notification to all employees in the affected Office or Division that the CFPB engaged in discrimination, harassment, or retaliation based on sexual orientation, gender identity, and/or parental status, that employees have a right to be free from such discrimination, harassment or retaliation, and that the CFPB is committed to taking corrective or preventive action to ensure that violations similar to those found will not recur.
- An offer of placement in the position the person would have occupied absent the discrimination (or a substantially equivalent position) provided:
  - If the position has not been filled, the CFPB may extend an offer of employment to that position unless clear and convincing evidence indicates that the individual would not have been selected in the absence of discrimination.
  - If the position has been filled, the CFPB may extend an offer of employment to a substantially equivalent position if such a position exists unless clear and convincing evidence indicates that the individual would not have been selected in the absence of discrimination.
  - If there are no substantially equivalent positions, then the CFPB may grant the individual priority consideration rights. Priority consideration means that the individual will receive bona fide consideration by the selecting official for any position for which the individual is qualified before any other candidate is referred

for consideration and that the individual will not be considered in competition with other candidates and will not be compared with them. Although priority consideration does not mean that the individual must be selected, it does mean that once the CFPB determines that the individual meets the qualifications for the position, it must refer the individual to the selecting official for consideration. All requests for priority consideration will be consistent with legal requirements for the position.

- Monetary awards, subject to the following:
  - Compensatory damages are not available to employees or applicants for employment for discrimination based on sexual orientation, gender identity, or parental status processed solely under these procedures.
  - Employees may be awarded back pay and benefits computed pursuant to 5 U.S.C. § 5596 (5 C.F.R. Part 550 Subpart H).
  - Employees may be awarded reasonable attorney's fees, where back pay is at issue, as authorized by 5 U.S.C. § 5596. In all other situations, attorney's fees are not authorized.

*Applicants for employment are not authorized awards of back pay or attorney's fees.*

- Cancellation of an unwarranted personnel action.
- Expungement from the CFPB records of any adverse materials pertaining to the individual that relate to the discriminatory employment practice.
- Full opportunity to participate in the employee benefit that was denied (e.g., training, preferential work assignments, overtime scheduling).
- Commitment that the CFPB will cease from engaging in the specific discriminatory employment practice.

## 2.7 Settlement Agreements

The CFPB will make reasonable efforts to settle complaints of discrimination voluntarily and as early as possible in and throughout the administrative processing of the complaint, including the pre-complaint counseling stage and subsequent to the completion of the investigation. Any Settlement Agreement reached at any time in the process will be in writing and signed by both parties and will identify the claims resolved. The agreement does not become effective until approved by the Legal Division. A copy of the Settlement Agreement will be provided to the individual, the individual's representative, if any, the manager responsible for implementing the settlement agreement, and the Director of OCR. All terms of the Settlement Agreement must be consistent with the remedies described in Section 2.6 above and otherwise comply with all CFPB policies, requirements, and legal authorities.

Any Settlement Agreement knowingly and voluntarily agreed to by the parties, reached at any stage of the complaint process described in these procedures, will be binding on all parties. If the individual believes that the CFPB has failed to comply with the terms of the Settlement Agreement, the individual will notify the Director of the OCR in writing of the alleged noncompliance within 30 days of when the individual knew or should have known of the alleged noncompliance. The individual may request that the terms of the Settlement Agreement be specifically implemented or, alternatively, that the complaint be reinstated for further processing, pursuant to these procedures, from the point where processing ceased.

Within 60 days of receipt of the claim and after an appropriate investigation, the Director of OCR will issue a final decision. If the Director determines that the Settlement Agreement has been breached and the noncompliance is not attributable to acts or conduct of the individual, the CFPB may order such compliance or order that the complaint be reinstated for further processing from the point where processing ceased. *There are no appeals from the final decision issued by the Director of the OCR.*

The final decision will be binding on the CFPB and the individual. CFPB officials must inform the Director of OCR that compliance has occurred and submit documentation supporting compliance with the final decision. If the individual believes that CFPB officials have failed to comply with the final decision, the individual shall notify the Director of the OCR in writing of the alleged noncompliance consistent.

## 2.8 Relationship to Other Procedures

Nothing in this SOP alters the right of any employee or applicant to file a complaint of discrimination within the purview of 29 C.F.R. Part 1614, or in an appropriate U.S. District Court. If an employee or applicant files a civil action in a U.S. District Court on the same matter pending before the CFPB, the CFPB will dismiss the administrative complaint.

By electing to pursue a complaint via an applicable negotiated grievance procedure, the Office of Special Counsel (OSC), or an appeal with the Merit Systems Protection Board (MSPB), an individual is deemed to have waived their right to seek redress of the alleged discriminatory actions in violation of the E.O.

The election to proceed pursuant to the E.O. under this SOP is indicated by the timely filing of a Formal Complaint; use of the pre-complaint process does not constitute an election for purposes of this section. The determination as to which forum an individual has elected is made based upon whichever Formal Complaint/appeal/grievance is filed first.

Some specific considerations regarding elections are addressed below:

- *Negotiated grievance procedure.* When an individual is covered by a collective bargaining agreement that permits claims of discrimination based on sexual orientation, gender identity, or parental status to be raised in the negotiated grievance procedure, a person wishing to file a complaint must elect to raise the matter either under the E.O. as outlined in this SOP or the negotiated grievance procedure but not both. An election to proceed under the negotiated grievance procedure is indicated by the filing of a written grievance.
- *U.S. Office of Special Counsel (OSC).* An individual may initially file a complaint based on sexual orientation, gender identity, or parental status discrimination with the CFPB pursuant to this E.O. or with the OSC pursuant to 5 U.S.C. § 2302 (b)(10) but not both. If a complainant initially files with the OSC within 45 days of the matter alleged to be discriminatory, or in the case of a personnel action, within 45 days of the effective date of the action, and the OSC decides it does not have jurisdiction to investigate the complaint containing the claims of sexual orientation, gender identity, or parental status discrimination, the individual may pursue the claim pursuant to the E.O. However, the

individual must initiate pre-complaint counseling within 15 days of receipt of the OSC's denial of jurisdiction. The date on which the individual filed their complaint with the OSC is considered the date of initial contact with the Counselor, but the 30-day time period in which counseling must generally be completed will not begin to run until the date on which the individual actually initiates pre-complaint counseling.

- *U.S. Merit Systems Protection Board.* An individual may initially file a complaint of sexual orientation, gender identity, or parental status discrimination with the CFPB pursuant to the E.O. or an appeal of an adverse personnel action with the MSPB pursuant to 5 U.S.C. § 7701 but not both. If an individual initially files with the MSPB within 45 days of the matter alleged to be discriminatory, or in the case of a personnel action, within 45 days of the effective date of the action, and the MSPB decides it does not have jurisdiction to investigate the complaint containing the claims of sexual orientation, gender identity, or parental status discrimination, the individual may pursue the claim under the E.O. However, the individual must initiate pre-complaint counseling within 15 days of receipt of the MSPB's denial of jurisdiction as long as the MSPB's dismissal of the appeal was not based upon the appeal having been untimely filed. The date on which the individual filed their appeal with the MSPB is considered the date of initial contact with the Counselor, but the 30-day time period in which counseling must generally be completed will not begin to run until the date on which the individual actually initiates pre-complaint counseling.

*Where an individual has elected to pursue a complaint based on sexual orientation, gender identity, or parental status discrimination in any of the above mentioned venues, OCR shall dismiss a complaint filed pursuant to the E.O.*

If an individual reports harassment based on sexual orientation, gender identity, or parental status in accordance with CFPB's [Policy Prohibiting Harassment and Bullying](#) and then pursues a claim of harassment pursuant to the E.O., the Office of Human Capital (OHC) still may conduct an appropriate investigation of the matter under the Bureau's policy. Reporting a matter to OHC does not toll the 45-day deadline for filing a claim under the E.O. as outlined in this SOP.

## 2.9 Filing and Computation of Time

All time periods in this SOP stated in terms of days are calendar days unless otherwise stated.

A document will be deemed timely if it is received or postmarked before the expiration of the applicable filing period, or in the absence of a legible postmark, if it is received within 5 days of the expiration of the applicable filing period.

The time limits in this SOP are subject to waiver, estoppel and equitable tolling.

The first day counted will be the day after the event from which the time period begins to run and the last day of the period shall be included, unless it falls on a Saturday, Sunday or Federal holiday, in which case the period shall be extended to include the next business day.

## 2.10 Representation, Use of Official Time and Resources, Travel, and Cooperation During EEO Process

Individuals are entitled to a representative of their choosing when filing a complaint under the E.O.

Both the individual and their representative (if employees of the CFPB) will have a reasonable amount of official time, if otherwise on duty, to prepare the complaint and respond to requests for information as set forth in the CFPB's Equal Employment Opportunity (EEO) and Non-Discrimination Policy.

Employees may use official resources related to an EEO complaint filed under the E.O. in accordance with the CFPB's Equal Employment Opportunity (EEO) and Non-Discrimination Policy.

Travel costs related to processing a complaint filed under the E.O. will be paid for as set forth in the CFPB's Equal Employment Opportunity (EEO) and Non-Discrimination Policy.

Individuals participating in the processing of a complaint filed pursuant to the E.O., including the individual filing the complaint, responsible management officials, and witnesses, must cooperate as set forth in the CFPB's Equal Employment Opportunity (EEO) and Non-Discrimination Policy.

## 2.11 Roles and Responsibilities

OCR is responsible for enforcing and making available the E.O. as amended and this SOP and for the roles and responsibilities set forth in the Equal Employment Opportunity (EEO) and Non-Discrimination Policy and the Policy on Alternative Dispute Resolution for Workplace Disputes.

Managers and supervisors must ensure that all personnel actions, policies and practices, and the work environment are free from discrimination and harassment on the basis of sexual orientation, gender identity, and parental status and are responsible for the roles and responsibilities set forth in the Equal Employment Opportunity (EEO) and Non-Discrimination Policy and the Policy on Alternative Dispute Resolution for Workplace Disputes.

Employees are responsible for treating all persons with respect and understanding their rights and responsibilities under the policy and are responsible for the roles and responsibilities set forth in the Equal Employment Opportunity (EEO) and Non-Discrimination Policy and the Policy on Alternative Dispute Resolution for Workplace Disputes.

## 3 Approvals

The signatures below imply that the issuing team followed their Division/Office procedures for content approval.

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Document Owner Date

## APPENDIX A: KEY TERMS AND ACRONYMS

Table 5: Key Terms and Acronyms

Term/Acronym	Definition
Parent/Parental Status	As defined in E.O. 13152
Sexual orientation	As defined in any applicable guidance issued by the Office of Personnel Management or the U.S. Equal Employment Opportunity Commission
Gender Identity	As defined in any applicable guidance issued by the Office of Personnel Management or the U.S. Equal Employment Opportunity Commission