

No FEAR Act Report for fiscal year (FY) 2023

Pursuant to Notification and Federal Employee
Antidiscrimination and Retaliation Act of 2002

Table of contents

Table of contents	1
1. Purpose of report.....	3
2. Background.....	5
2.1 The CFPB Mission.....	5
2.2 The CFPB EEO Program.....	5
3. Data and Analysis	11
3.1 EEO complaint activity in federal court and status/disposition.....	11
3.2 Judgment fund reimbursements and budget adjustments.....	12
3.3 Discipline-related policies and number of employees disciplined	13
3.4 Analysis of complaints	19
3.5 No FEAR Act training.....	32
Appendix A:.....	33
Legislative and regulatory language.....	33
Appendix B:.....	38
FY 2023 EEO and anti-harassment policy statement	38
Appendix C:.....	39
FY 2023 Notice on the No FEAR Act and whistleblower protection laws/prohibited personnel practices	39
Appendix D:.....	40
Summary of complaint data	40
1. Complaint activity	41

1.1	Complaints by basis.....	42
1.2	Complaints by issue.....	43
2.	Complaint processing times	45
3.	Complaint dismissals and withdrawals.....	47
4.	Findings of discrimination	48
4.1	Findings by basis*	48
4.2	Findings by issue.....	51
5.	Pending complaints	57
6.	Investigation timeframes.....	58
7.	Class complaints	59

1. Purpose of report

Congress passed the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 – the “No FEAR Act” – to hold Federal agencies more accountable for violations of antidiscrimination and whistleblower protection laws.¹ Congress found that “requiring annual reports to Congress on the number and severity of discrimination and whistleblower cases brought against each Federal agency should enable Congress to improve its oversight over compliance by agencies with the law.”²

Accordingly, the No FEAR Act requires each agency, no later than 180 days after the end of each fiscal year, to submit a report to the Speaker of the U.S. House of Representatives, the President pro tempore of the U.S. Senate, the Committee on Governmental Affairs of the Senate,³ the Committee on Government Reform of the House of Representatives,⁴ each committee of Congress with jurisdiction relating to the agency, the Chair of the Equal Employment Opportunity Commission (EEOC), and the Attorney General of the United States.⁵ Regulations from the Office of Personnel Management (OPM) implementing the No FEAR Act, 5 Code of Federal Regulations (C.F.R.) Part 724, Subpart C, also require the submission of this annual report to the Director of OPM.⁶

The annual report must provide the following information:

- The number of federal court cases, pending or resolved, arising under the No FEAR Act laws and the status and disposition of the cases;
- Judgment Fund reimbursements and adjustments to agency budgets to meet reimbursement requirements;
- The number and type of disciplinary actions related to discrimination, retaliation, or harassment and the agency’s policy relating to appropriate disciplinary action;

¹See Pub. L. No. 107-174, 116 Stat. 566 (2002).

² Pub. L. No. 107-174, § 101(7).

³ This Committee is now named the U.S. Senate Committee on Homeland Security and Governmental Affairs.

⁴ This Committee is now named the U.S. House of Representatives Committee on Oversight and Reform.

⁵ Pub. L. No. 107-174, § 203(a).

⁶ 5 C.F.R. § 724.302(c)(8).

- Year-end summary data related to federal-sector EEO complaint activity;
- An analysis of trends, causation, and practical knowledge gained through experience, and actions planned or taken to improve complaint or civil rights programs; and
- The agency's plan for No FEAR Act-related training.⁷

The Consumer Financial Protection Bureau (CFPB) prepares and submits this report to comply with these statutory and regulatory requirements.

The CFPB's No FEAR Act data – including No FEAR Act annual reports, the CFPB's most recent No FEAR Act Notice, and quarterly data – can be accessed from the homepage of the CFPB's website (www.consumerfinance.gov), or directly at <https://www.consumerfinance.gov/office-civil-rights/no-fear-act-cummings-act/>.

⁷ See Pub. L. No. 107-174, § 203(a)(1); see also 5 C.F.R. § 724.302(a). Appendix A to this report sets forth these requirements in full.

2. Background

2.1 The CFPB Mission

Congress established the CFPB was created by the Dodd-Frank Act to provide a single point of accountability for enforcing federal consumer financial laws and protecting consumers in the financial marketplace. The CFPB's focus is to ensure that all consumers have access to markets for consumer financial products and services that are fair, transparent, and competitive.

2.2 The CFPB EEO Program

Two independent offices within the Office of the Director are responsible for workforce-related EEO and workplace inclusion efforts, the Office of Civil Rights and the Office of Minority and Women Inclusion. While the offices collaborate on many projects, they each have a distinct role based on statute, EEOC regulations, and other authorities.

The Office of Civil Rights (OCR) carries out functions required by Title VII of the Civil Rights Act of 1964 (and related EEO laws) and the EEOC's federal-sector regulations at 29 C.F.R. Part 1614 (Part 1614),⁸ as well as EEOC Management Directives 110 (MD-110) and MD-715.⁹ OCR, the CFPB's Equal Employment Opportunity (EEO) office, has operated since February 2013.¹⁰ The OCR Director reports to the CFPB Director.¹¹ OCR, as the CFPB's EEO office, safeguards employment-related civil rights throughout the agency. Given this legal mandate, OCR champions CFPB efforts to foster a fair and equitable workplace – one where employment decisions are based on individual merit, and where all staff are valued and have an opportunity contribute to our mission.

⁸ See generally 42 U.S.C. § 2000e-16; Exec. Order No. 11478, 34 Fed. Reg. 12985 (Aug. 8, 1969), as amended; see also 29 C.F.R. Part 1614.

⁹ See EEOC Management Directive 110 for 29 C.F.R. Part 1614 (Aug. 5, 2015) (MD-110), available at <https://www.eeoc.gov/federal/directives/md110.cfm>.

¹⁰ Prior to this, the Department of Treasury processed EEO complaints while the CFPB was being stood up.

¹¹ OCR is led by the OCR Director who reports to the CFPB Director per 29 C.F.R. § 1614.102(b)(4) and the Elijah E. Cummings Federal Employee Antidiscrimination Act of 2020, Public Law 116-283.

The Office of Minority and Women Inclusion (OMWI), required under the Dodd-Frank Act, is responsible for all matters relating to diversity and inclusion at the CFPB and among the CFPB's contractors and regulated entities.¹² The OMWI Director reports to the CFPB Director.¹³ The Disability and Accessibility Program Section (DAPS) is under OMWI and coordinates the CFPB's responsibilities under the Rehabilitation Act of 1973.

2.2.1 Mission, Vision, and Values of CFPB's Office of Civil Rights (OCR)

- Mission: To support the CFPB in complying with civil rights laws and in applying best practices to achieve equal opportunity in the workplace.
- Vision: The CFPB serves as a model, fair, and discrimination-free workplace – with an engaged and empowered workforce energized to carry out CFPB leadership's priorities.
- How OCR works: With independence, integrity, competence, collaboration, and a commitment to quality and excellence.

OCR works to integrate EEO into the CFPB's everyday business by:

- Proactively identifying and removing potential physical, institutional, or attitudinal barriers¹⁴ to EEO within the CFPB;
- Helping to de-escalate and resolve specific workplace conflicts, including through robust alternative dispute prevention and resolution;
- Contributing subject-matter expertise to aid the CFPB pragmatically with strategic thinking, problem-solving, policy development, and workforce planning;
- Providing a neutral and fair forum (outside the CFPB's Legal Division and Office of Human Capital (OHC)) for the discussion, investigation, adjudication, and resolution of EEO matters under Part 1614 and related Executive Orders; and
- Requiring the CFPB to remedy violations of civil rights laws, including targeted steps to prevent repeat violations, recommending disciplinary action to hold individuals accountable,

¹² See 12 U.S.C. §§ 5452(a)(1)(B), (b)(2)(A).

¹³ OMWI is led by the OMWI Director who reports to the CFPB Director per the Dodd-Frank Act, Section 342 (b)(1).

¹⁴ See <https://www.eeoc.gov/federal-sector/management-directive/instructions-federal-agencies-eeo-md-715-1>.

and making individual discrimination victims “whole” with appropriate damages.

In addition, OCR provides technical assistance to internal stakeholders, such as to the CFPB’s leadership, employees and applicants, OMWI (including DAPS), OHC, the National Treasury Employees Union (NTEU),¹⁵ the Diversity and Inclusion Council of Employees (DICE), and Employee Resource Groups (ERGs) to achieve a model workplace. OCR partners with these stakeholders to carry out CFPB leadership priorities and implement the DEIA and EEO aspects of the CFPB’s five-year Strategic Plan for FY 2022-2026, and also CFPB’s Diversity, Equity, Inclusion and Accessibility (DEIA) Strategic Plan for 2022-2026. These plans provide the strategic framework for driving the Agency’s approach to EEO, DEIA, and affirmative employment (including barrier-analysis efforts) under MD-715.

2.2.2 OCR Leadership and EEO Program

The OCR Director is an Assistant Director of CFPB and reports directly to the CFPB Director on all issues related to the CFPB’s EEO Program. The CFPB Director provides direction, feedback and coaching, as needed, to the OCR Director. Furthermore, the CFPB Director is responsible for other OCR supervisory functions, including serving as the final approving official for mid-year and annual performance evaluations for the OCR Director, assigning work to the OCR Director, and approving the OCR operating budget and staffing to effectively operate a model EEO program. The OCR Director acts with the greatest degree of independence and is the final decisionmaker over EEO complaint matters. The reporting structure of the OCR Director was compliant with the Elijah E. Cummings Federal Employee Antidiscrimination Act of 2020¹⁶ during FY 2023.

The OCR Director is firewalled from the Disability Accessibility Program Section (DAPS) and any involvement in disability reasonable accommodation requests. This mitigates actual and perceived conflicts between OCR and DAPS.

The OCR Director leads a team of diverse professionals, including civil rights attorneys, non-attorney experts, dispute prevention and resolution practitioners, and data and administrative support specialists. The OCR team has significant subject matter expertise and extensive experience in civil rights, labor and employment laws, conflict management, investigative

¹⁵ NTEU is the exclusive representative of CFPB employees in the bargaining unit.

¹⁶ On January 1, 2021, Congress enacted the Elijah E Cummings Federal Employee Antidiscrimination Act of 2020, Public Law 116-283, which is part of the National Defense Authorization Act (NDAA) for Fiscal Year 2021.

techniques, workforce data analyses, and federal-sector rules and processes. The EEOC itself has often pointed to OCR-created policies, reports, practices, and templates as models for the rest of the federal-sector EEO community.

To comply with Part 1614 and MD-715 requirements, OCR remains neutral and impartial, and (as required under EEOC regulations and guidance) safeguards its organizational autonomy. This helps to prevent institutional conflicts of interest that otherwise could arise, and to instill confidence in the integrity of the CFPB's EEO program. For example, the OCR Director exercises full authority to carry out OCR's Part 1614 functions without Legal Division (*i.e.*, General Counsel) involvement. The Legal Division defends the CFPB in EEO matters, and thus is firewalled from all activities within OCR. The Legal Division only participates during adversarial portions of the EEO process (hearings and appeals), during settlement negotiations (to include discussions occurring as a result of a request for mediation made through the OCR's Alternative Dispute Resolution (ADR) Program), and/or to provide appropriate legal advice or assistance when a manager or supervisor requests it during the course of an EEO investigation (consistent with EEOC guidance and case law setting forth parameters for agency counsel involvement and professional responsibility rules governing attorney conduct).¹⁷ Other CFPB offices (such as OHC) are similarly firewalled and kept separate as necessary and appropriate to avoid conflicting or competing interests.

OCR staff conducts legal-sufficiency reviews of EEO matters.¹⁸ Such reviews include, for example, preparing and issuing "Accept/Dismiss" determinations addressing jurisdiction over, and scope of, claims set forth in formal complaints;¹⁹ conducting an impartial and appropriate investigation of accepted formal complaints; conducting substantive reviews of the Reports of

¹⁷ See, e.g., *Annalee D. v. Gen. Servs. Admin.*, EEOC Request No. 2019000778 (Nov. 27, 2019).

¹⁸ Legal resources within OCR make this possible. The Bureau and OCR have adopted the EEOC's recommended best practice and OCR and the Legal Division signed an MOU to solidify the agreement. See EEOC Management Directive for 29 C.F.R. Part 1614 (rev. Aug. 5, 2015) (MD-110), Chapter 1, at Section IV.D., available at https://www.eeoc.gov/federal/directives/md-110_chapter_1.cfm#_Toc425745116 ("It is important for the EEO Director to be provided with sufficient legal resources . . . so that the legal analyses necessary for reaching final agency decisions can be made within the autonomous EEO office. . . . The optimal situation is for the EEO office to have sufficient internal legal resources.").

¹⁹ Under 29 C.F.R. Part 1614, the EEO process consists of two main parts: the "informal" or pre-complaint phase, and the "formal" complaint phase. Employees who wish to pursue an EEO matter under Part 1614 generally must complete the informal/pre-complaint stage before they may file a formal EEO complaint seeking redress for alleged workplace discrimination. The informal/pre-complaint stage consists of attempts to resolve the matter informally, typically through traditional "EEO counseling" or Alternative Dispute Resolution.

Investigations (ROIs) to ensure compliance with laws and regulations; and drafting of Final Agency Decisions (FADs) and Final Agency Orders (FAOs) (as required by 29 C.F.R. § 1614.110).

At the same time, while OCR maintains the primary responsibility for the Agency's overall EEO program, it collaborates, as appropriate, with OMWI (including DAPS), and the CFPB's OHC and Legal Division to ensure fairness and equality under the law for all employees and applicants for employment. Under the Dodd-Frank Act, the OMWI Director must develop certain diversity, equity, inclusion and accessibility (DEIA) standards for the CFPB,²⁰ which is incorporated into CFPB Human Capital Management.

OCR, OMWI (including DAPS), and OHC monitor the impacts and results of these standards, cultivate successful policies and practices to reinforce them, and develop enhancement strategies to strengthen all EEO and diversity, equity, inclusion, and accessibility (DEIA) programs CFPB-wide. OCR consults as appropriate with DAPS and OHC in promoting the recruitment, hiring, development, advancement, and retention of individuals with disabilities and targeted disabilities, as required under the Rehabilitation Act of 1973 and related regulations, including EEOC's disability affirmative action regulations.²¹ OCR also coordinates with OHC on the harassment-prevention program, which OHC administers, as well as on other matters. In addition, OCR collaborates as appropriate with the Legal Division, which trains and advises the CFPB managers and supervisors on merit system principles, prohibited personnel practices, and whistleblower protections under applicable civil service laws.

The EEOC highlighted the outstanding work of the CFPB to hire and retain persons with a disability. Consistent with CFPB's best practices in ensuring LGBTQ+ equality, in January 2023, the Office of Civil Rights piloted a voluntary and anonymous survey to collect feedback to sexual orientation and gender identity (SOGI) questions at the request of the U.S. Office of Personnel Management (OPM) to help inform the coordinated government-wide approach to data collection. Aggregate data and summaries of responses were shared with OPM and survey methodologists in the OPM-led federal workgroup. The survey had a 26 percent participation rate with over 400 employees submitting the survey. 90 percent of participants were not opposed to the federal government providing an option for federal employees to update information about their gender identity and 84 percent of participants were not opposed to the

²⁰ The OMWI Director is an Assistant Director and serves as the CFPB's Chief Diversity Officer. This role develops standards for equal employment opportunity and the racial, ethnic, and gender diversity of the workforce and senior management of the Bureau, as well as standards to increase participation of minority-owned and women-owned businesses, and assesses the diversity policies and practices of entities regulated by the Bureau. See 12 U.S.C. § 5452(b)(2).

²¹ See 29 U.S.C. § 791 *et seq.*; see also 29 C.F.R. § 1614.203.

federal government providing an option for federal employees to provide information about their sexual orientation.

3. Data and Analysis

The information in this section meets the reporting requirements of the No FEAR Act and its implementing regulations. The information presented includes:

- Subsection 3.1 – EEO Complaint Activity in Federal Court and Status/Disposition
- Subsection 3.2 – Judgment Fund Reimbursements and Budget Adjustments
- Subsection 3.3 – Discipline-Related Policies and Number of Employees Disciplined
- Subsection 3.4 – Analysis of Complaints
- Subsection 3.5 – No FEAR Act Training

3.1 EEO complaint activity in federal court and status/disposition

The laws covered by the No FEAR Act include:²²

- Title VII of the Civil Rights Act of 1964, *as amended*, 42 U.S.C. § 2000e-16 (race, color, religion, sex (including pregnancy, gender identity, and sexual orientation), national origin, and reprisal) (Title VII);
- The Age Discrimination in Employment Act of 1967, *as amended*, 29 U.S.C. §§ 631, 633a (age (40 and over) and reprisal) (ADEA);
- The Equal Pay Act of 1963, *as amended*, 29 U.S.C. § 206(d) (sex-based wage differentials and reprisal) (EPA);

²² On January 1, 2021, Congress enacted the Elijah E. Cummings Federal Employee Anti-Discrimination Act of 2020, Public Law 116-283, which is part of the National Defense Authorization Act (NDAA) for Fiscal Year 2021. In FY 2023, the CFPB had one finding of discrimination and submitted a disciplinary action report to the EEOC as a result of the finding of discrimination.

- Section 501 of the Rehabilitation Act of 1973, *as amended*, 29 U.S.C. § 791 (physical and mental disabilities and reprisal) (Rehabilitation Act);
- The Genetic Information Nondiscrimination Act of 2008, 42 U.S.C. § 2000ff *et seq.* (genetic information about an individual or individual's family members and reprisal) (GINA);²³ and
- The Civil Service Reform Act of 1978, 5 U.S.C. §§ 2302(b)(1), (b)(8), (b)(9) (race, color, religion, sex, national origin, age, disability, marital status, political affiliation, and whistleblowing and related reprisal) (CSRA).

During FY 2023, the CFPB had one civil action pending in the federal court(s) related to one or more of these civil rights laws. The case involved alleged violations of Title VII. At the end of FY 2023, this case was still pending with the D.C. District Court. There have been no civil actions in which discrimination has been found.

3.2 Judgment fund reimbursements and budget adjustments

The Judgment Fund is a permanent, indefinite appropriation available to pay final money judgments and awards against the United States. The Judgment Fund Branch in the Bureau of the Fiscal Service of the U.S. Department of the Treasury administers the Judgment Fund.²⁴

The No FEAR Act requires Federal agencies to reimburse the Judgment Fund for payments to an employee, former employee, or applicant for Federal employment, in accordance with 28 U.S.C. §§ 2414, 2517, 2672, 2677, or with 31 U.S.C. § 1304, that involves alleged discriminatory or retaliatory conduct described in 5 U.S.C. §§ 2302(b)(1) and (b)(8) or (b)(9) as applied to

²³ Neither the No FEAR Act (enacted in 2002) nor implementing regulations (finalized and published in the Federal Register in 2006) have been amended to include reference to the Genetic Information Nondiscrimination Act of 2008 (GINA). To date, The Bureau has not had any cases or complaints filed under GINA. Nonetheless, in the interests of completeness and should such cases or complaints be filed in the future, the CFPB will include relevant data here on any federal court cases or EEO complaints alleging violations of GINA.

²⁴ See <https://www.fiscal.treasury.gov/judgment-fund/faqs.html>.

conduct described in 5 U.S.C. §§ 2302(b)(1) and/or (b)(8), or conduct described in 29 U.S.C. § 206(d), 29 U.S.C. §§ 631 and 633a, 29 U.S.C. § 791, and 42 U.S.C. § 2000e-16.²⁵

In FY 2023, the CFPB neither made reimbursements to the Judgment Fund nor needed to adjust its budget to comply with No FEAR Act reimbursement requirements.²⁶

3.3 Discipline-related policies and number of employees disciplined

The CFPB has promulgated various policies and procedures to advance the CFPB's EEO and whistleblower protection programs. These and other personnel-related policies and procedures aid in the proactive prevention of discrimination and increase management and program accountability.

The CFPB holds supervisory and management officials accountable for complying with the policies and procedures listed in Table 2 below.

TABLE 1: CFPB POLICIES GOVERNING EEO AND PERSONNEL ISSUES

CFPB policies governing EEO, DEIA, and personnel Issues
CFPB-NTEU Collective Bargaining Agreement (including the Equal Employment Opportunity Article)
Affirmative Action Plan for Individuals with Disabilities and Targeted Disabilities
Alternative Dispute Resolution Policy
Administrative Grievance Policy
Employee Resource Group (ERG) Policy
Equal Employment Opportunity and Non-Discrimination Policy

²⁵ See Pub. L. No. 107-174, § 201(b); see also 5 C.F.R. §§ 724.102, 103.

²⁶ See Pub. L. No. 111-203, § 1017.

CFPB policies governing EEO, DEIA, and personnel Issues

Policy Prohibiting Harassment and Bullying (and related enforcement procedures)

Disability Reasonable Accommodation/Personal Assistance Services Policy, Procedures, and Forms

Standard Operating Procedures Related to Disability Reasonable Accommodation/PAS Requests

Directive on Schedule A(u) Appointing Authority for Persons with Disabilities

Procedures for Processing Complaints Based on Sexual Orientation and Parental Status

Non-Discrimination and Inclusion Policy for Transgender Applicants and Employees

Religious Accommodation Policy and Procedures

Cooperation with the Office of Inspector General Policy

Hiring, Promotion, and Internal Personnel Movements Policy

Attorney Hiring and Promotion Policy

Disciplinary and Adverse Action Policy

Policy and Procedures for Addressing Misconduct

The CFPB-NTEU collective bargaining agreement (CBA), which became effective October 10, 2017, contains 47 articles, including an article addressing Equal Employment Opportunity, which affirms the parties' commitment to the principles of EEO and workplace fairness. The CBA also includes articles on Performance Management, Probationary/Trial Period Employees, Unacceptable Performance, Adverse Actions, Disciplinary Actions, and Grievance and Arbitration Procedures. As a matter of policy, the CFPB considers certain CBA articles to be the operative policy for both bargaining and non-bargaining unit employees.

Disciplinary Action Article

The CBA's "Disciplinary Action" Article provides that disciplinary action will be taken "for such cause as will promote the efficiency of the federal service." The Article also states that:

In effecting disciplinary actions, the [CFPB] endorses the use of like penalties for like offenses and progressive discipline. The [CFPB] will consider the existence of any mitigating and/or aggravating circumstances, the nature of the position occupied by the employee at issue, and any other factors bearing upon the incident(s) or act(s) underlying the action. The degree of discipline administered will be proportionate to the offense and will be determined on a case-by-case basis.

Adverse Action Article

The CBA also includes an "Adverse Action" Article for matters potentially appealable to the Merit Systems Protection Board (*e.g.*, suspensions of more than 14 days, reductions in pay, removals). This Article again expresses support for progressive discipline, but also states that the CFPB "will evaluate each situation warranting adverse action individually and, in instances involving serious offenses, progressive discipline may not be appropriate." This Article incorporates penalty mitigation/aggravation factors from *Douglas v. Veterans Administration*, 5 M.S.P.R. 280 (1981).

Disciplinary and Adverse Action Policy

Similarly, as noted in Table 2, the CFPB has a detailed policy for taking disciplinary action against CFPB employees, including for conduct that is inconsistent with Federal antidiscrimination laws and whistleblower protection laws. The CFPB's *Disciplinary and Adverse Action Policy* outlines our commitment to:

- Foster positive and effective supervisor-employee relations through frequent, constructive communication, including a clear statement of organizational and office work rules and expectations;
- Equitably employ discipline, and, whenever appropriate, utilize progressive discipline to discourage employee misconduct;
- Identify problems early and constructively counsel employees to effect a positive change in behavior;

- Ensure that the corrective action is commensurate with the seriousness of the misconduct and that similar offenses under like circumstances are treated uniformly; and
- Take or not take actions without regard to race, color, religion, national origin, disability, protected genetic information, marital status, age, sex (including pregnancy, sexual orientation, gender identity, and gender nonconformity), reprisal, parental status, political affiliation, or any other non-merit factor prohibited by 5 U.S.C. § 2302, except as required by law.

This policy also explains that:

To ensure that all employees are working in a safe and productive environment and that the CFPB is able to operate at optimum efficiency, [the] CFPB has established certain expectations for the personal conduct of its employees. These expectations are uniform throughout the CFPB. Employees are expected to be professional, courteous and respectful at all times while on duty. [The] CFPB also may consider an employee's off-duty conduct to constitute misconduct if there is a nexus between the off-duty conduct and the efficiency of the service. While it is anticipated that most problems will be resolved informally through the cooperation of employees with their supervisors, misconduct may result in disciplinary or adverse action. Appropriate action may include a reprimand, suspension, demotion, or other actions, up to and including removal from CFPB, depending on the offense and circumstances. [The] CFPB is committed to complying with all federal laws governing the discipline of its employees, including applicable due process and appeal rights.

This policy provides examples of actions deemed unacceptable and that may result in disciplinary or adverse action, including removal from the CFPB. The list includes "Engaging in discrimination, harassment, or other inappropriate conduct." Like the CBA Adverse Action Article, the CFPB policy incorporates the *Douglas* factors for arriving at appropriate penalties for infractions.

Policy Prohibiting Harassment and Bullying

During FY 2023, CFPB's Anti-Harassment Policy and related procedures were updated to include bullying. It is called the Policy Prohibiting Harassment and Bullying (and related

enforcement procedures). They were modeled on the EEOC's own policy/procedures and meet all the criteria established in EEOC's federal-sector anti-harassment enforcement guidance.²⁷

Misconduct Policy

The Policy and Procedures for Addressing Misconduct defines examples of misconduct, explains the difference between performance deficiencies and misconduct, describes various routes that allegations of misconduct may be identified, recognizes the role of the Office of the Inspector General, defines procedures for what managers/supervisors should do versus what employees should do if they experience, witness, or learn of alleged misconduct, what to do if there is fear of reprisal or inadequate supervisory response and the appropriate points of contact.

The purpose of the Policy and Procedures for Addressing Misconduct is to ensure that:

all investigations into allegations of misconduct will be handled quickly, fairly, vigorously by the appropriate Office or Division and in accordance with applicable law, regulation, and policy, and in accordance with the procedures set forth herein, to include, but not limited to, the Collective Bargaining Agreement and the Cooperation with the Office of Inspector General Policy.

This policy provides some examples of alleged misconduct, which include:

- Insubordination or failure to follow instructions
- Tardiness or leave abuse
- Disrespectful and/or bullying language or behavior
- Reckless or willful disregard for information security protocols, including mishandling of non-public (CFPB-origin and other) information
- Misuse of government property including government travel cards
- Falsification or false official statement
- Negligence in performing duties
- Harassment which does not fall under the CFPB's Anti-Harassment Policy
- Violation of Federal regulation, policy or statute, including the criminal conflict of interest statutes and the Standards of Conduct

²⁷ See EEOC Guidance, *Model EEO Programs Must Have an Effective Anti-Harassment Program*, available at https://www.eeoc.gov/federal/model_eeo_programs.cfm.

Furthermore, the policy explains what an employee should do if they fear reprisal or believe there has been an inadequate supervisory response:

An employee should contact the Office of Inspector General [OIG] if the employee fears reprisal, or believes he/she has been retaliated against, as a result of reporting to the OIG or participating in whistleblowing activities; and the employee has reported the matter to supervisory officials, but believes that the matter has not been adequately resolved.

Ethics Regulations

The CFPB requires all employees to follow the CFPB's Ethics Regulations. Those ethics regulations require that all of the CFPB's employees abide by the Standards of Ethical Conduct for Employees of the Executive Branch.²⁸ The General Principles of Ethical Conduct require that employees adhere to all laws and regulations that provide equal opportunity for all regardless of race, color, religion, sex, national origin, age, or disability.²⁹ Employees are notified of this ethical requirement in mandatory ethics training, via posters, and through the CFPB's intranet.

EEO Complaints

In addition, the CFPB's Part 1614 complaints process (administered by OCR), safeguards employee civil rights and provides appropriate relief for statutory violations.³⁰ In FY 2023, OCR issued one finding of discrimination related to conduct that occurred in 2018. When there is a finding of discrimination, OCR encourages the CFPB's officials to impose the maximum discipline supportable under the law and facts as relevant under the circumstances.³¹ Where conduct was found to be inappropriate but not unlawful, the OCR Director may recommend particular improvements or corrections, including remedial or disciplinary actions, for managers and supervisors who have failed in their EEO responsibilities through an After Action memoranda. With the finding of discrimination, OCR submitted a disciplinary action report to the EEOC, which is required by the Elijah E. Cummings Act. There was no management

²⁸ See 5 C.F.R. § 9401.101(b).

²⁹ See 5 C.F.R. § 2635.101(b)(13).

³⁰ When OCR finds discrimination has occurred, OCR coordinates with the OMWI Director regarding the design and implementation of any remedies resulting from violations of civil rights statutes, regulations, or Executive orders (as required by the Dodd-Frank Act). See 12 U.S.C. § 5452(a)(3).

³¹ See 29 C.F.R. § 1614.102(a)(6) (providing that, in supporting its EEO program, agencies shall “[t]ake appropriate disciplinary action against employees who engage in discriminatory practices”).

initiated formal disciplinary action for any employees as defined in 5 C.F.R. § 724.102³² in connection with cases pending or resolved in U.S. district court or for violating the CFPB's policies related to conduct that is inconsistent with whistleblower protection laws.³³

3.4 Analysis of complaints

Under the No FEAR Act, agencies in their annual reports must analyze certain complaint-related data, providing: (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 with the goal of eliminating discrimination and retaliation in the workplace.³⁴ This analysis is provided below.

Trends and causal analysis

Pending Complaints

At the end of FY 2023, the CFPB had five formal EEO complaints from four complainants pending with the EEOC in hearing or appeal from a previous fiscal year, which is a downward trend since FY 2018. At the end of FY 2023, there were zero formal EEO complaints filed in previous fiscal years (FY 2022 or prior) remaining in the investigation phase or the election phase for a complainant to choose either a Final Agency Decision (FAD) or EEOC hearing. As of the end of FY 2023, there were zero formal EEO complaints pending in the Final Agency Action phase. Two complaints³⁵ were pending at the EEOC hearing phase, compared to five in FY 2022

³² Under 5 C.F.R. § 724.102, “discipline” means any one or a combination of the following actions: reprimand, suspension without pay, reduction in grade or pay, or removal. Counseling is not a form of discipline.

³³ See 5 C.F.R. §§ 724.302(a)(5), (a)(6).

³⁴ See Pub. L. No. 107-174, Section 203(a)(7); see also 5 C.F.R. § 724.302(a)(7).

³⁵ This total does not include one case that was at Hearing but has been remanded because it is pending district court class action, and one pending MSPB proceedings and are now being held in abeyance. However, this total includes two cases filed by the same filer, bifurcated by the U.S. Equal Employment Opportunity Commission (EEOC).

and seven in FY 2021. Five complaints³⁶ were pending at the EEOC appeal phase, compared to six in FY 2022 and three in FY 2021.³⁷

Figure 1 and Figure 2 present this data and related data for other previous fiscal years.

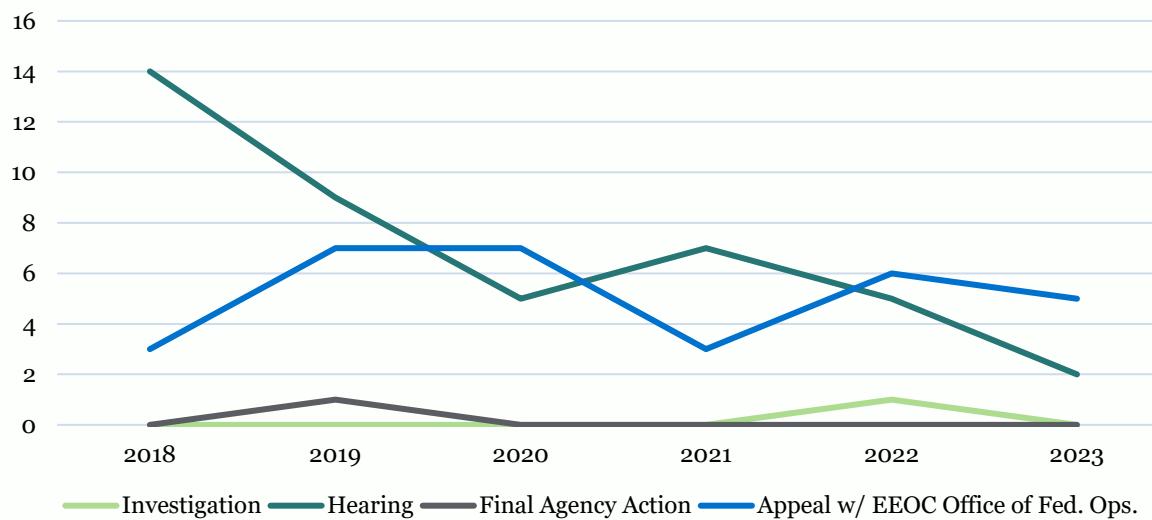
FIGURE 1: PENDING COMPLAINTS AND INDIVIDUALS FILING COMPLAINTS FY 2018 – FY 2023



³⁶ This total includes four cases that are pending Request for Reconsideration from the EEOC.

³⁷ Hearings and appeal stages of the Part 1614 EEO complaint process are managed by the EEOC and not within the control of OCR. If a complainant requests an EEOC hearing the matter becomes adversarial and the CFPB's Legal Division represents the CFPB as a party in the proceeding, including on any administrative appeal filed with EEOC's Office of Federal Operations.

FIGURE 2: PENDING COMPLAINT STATUSES³⁸ FY 2018 – FY 2023



Total New Complaint Filings and Number of Complainants

During FY 2023, the CFPB experienced an increase in the number of formal EEO complaints filed compared with FY 2022 (18 v. 13). The 14 complainants who filed formal complaints in FY 2023 represent 0.84 percent of the CFPB's total workforce of 1,675 individuals.³⁹ This represents an increase of 0.10 percent compared to FY 2022, when the ratio (of 12 complainants as a percentage of the total workforce of 1,631 individuals) was 0.74 percent.

³⁸ At the end of FY 2018 through FY 2023, there were zero pending complaints at the ROI issued, pending complainant's action stage.

³⁹ Total workforce encompasses employees on permanent and temporary appointments, including interns (if any).

TABLE 2: FORMAL EEO COMPLAINANTS, FORMAL EEO COMPLAINTS, AND TOTAL WORKFORCE FIGURES AND RATIOS FOR THE CFPB FOR THE PAST SIX FISCAL YEARS

	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
CFPB Formal EEO Complaints	21 ⁴⁰	17 ⁴¹	18	19	13	18 ⁴²
CFPB Complainants	19	14	17	16	12	14
CFPB Total Workforce ⁴³	1502	1424	1503	1593	1631	1675
CFPB Formal Complaints as Percentage of Total Workforce	1.40	1.19	1.20	1.19	0.80	1.07
CFPB Complainants as Percentage of Total Workforce	1.26	0.98	1.13	1.00	0.74	0.84
All Similarly Sized (Medium-Size) ⁴⁴ Agencies (Complainants as Percentage of Total Workforce)	0.55	0.50	0.48	Not yet reported	Not yet reported	Not yet reported
Government-wide (Complainants as	0.52	0.48	0.36	Not yet reported	Not yet reported	Not yet reported

⁴⁰ One of these complaints alleged a violation of Executive Order 11478 (as amended) only. The CFPB processed this complaint pursuant to a policy the Bureau has established to address such allegations. In FY 2018 the CFPB received 20 new formal complaints filed (in whole or in part) under 29 C.F.R. Part 1614.

⁴¹ Two of these reported matters involve alleged violations of Executive Order 11478 (as amended) only. In FY 2019 the CFPB received 15 new formal complaints filed (in whole or in part) under 29 C.F.R. Part 1614.

⁴² Three of these complaints are class complaints. All three filed individual complaints, which are also reflected in this total.

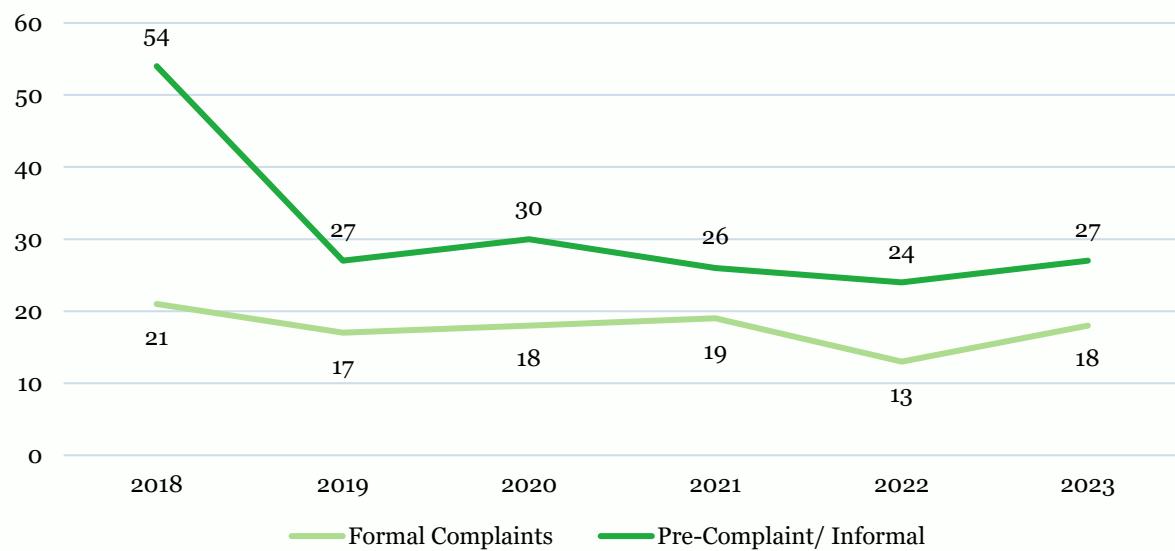
⁴³ Workforce numbers for previous fiscal year No FEAR Act reports may differ slightly from corresponding data reported in this FY 2023 Report. This is due to retroactive processing of personnel actions, late processing of personnel actions, or other changes made in applicable data systems since those reports were published.

⁴⁴ For this purpose, EEOC classifies “medium” agencies as those with 1,000 to 14,999 employees.

	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Percentage of Total Workforce) ⁴⁵						

Figure 3 presents two graphs showing trends in informal and formal complaint activity from FY 2018 through FY 2023, along with corresponding figures for the total workforce at the end of each fiscal year (FYE). These graphs allow a visual comparison of complaint volume for the past six fiscal years and data on changes in the CFPB's workforce over the same period.

FIGURE 3: THE CFPB'S INFORMAL AND FORMAL EEO COMPLAINT ACTIVITY AND TOTAL WORKFORCE FY 2018 - FY 2023



⁴⁵ The EEOC's website contains the most recent available government-wide statistics on this topic. See <https://www.eeoc.gov/federal-sector/reports>.

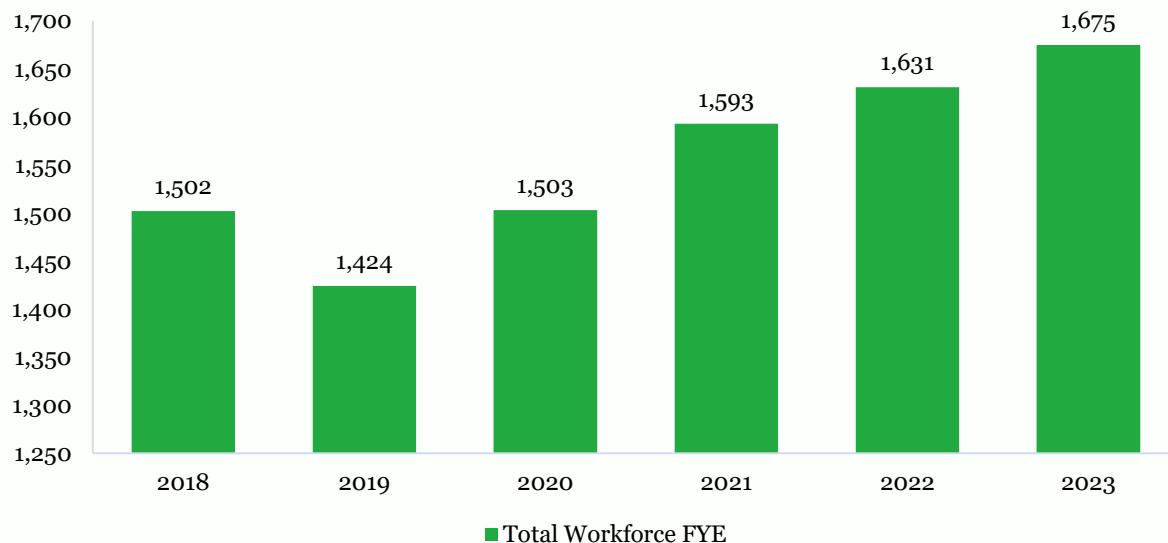
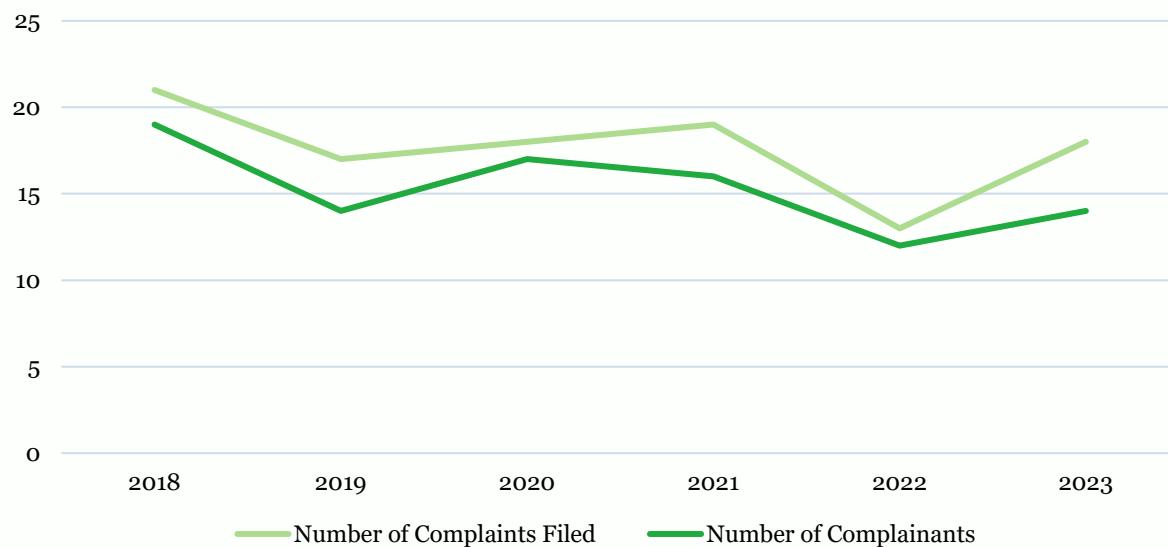


Figure 4 provides a graphical representation of formal EEO complaint activity and individual complainant figures since FY 2018.

FIGURE 4: THE CFPB'S FORMAL EEO COMPLAINT ACTIVITY FY 2018 – FY 2023

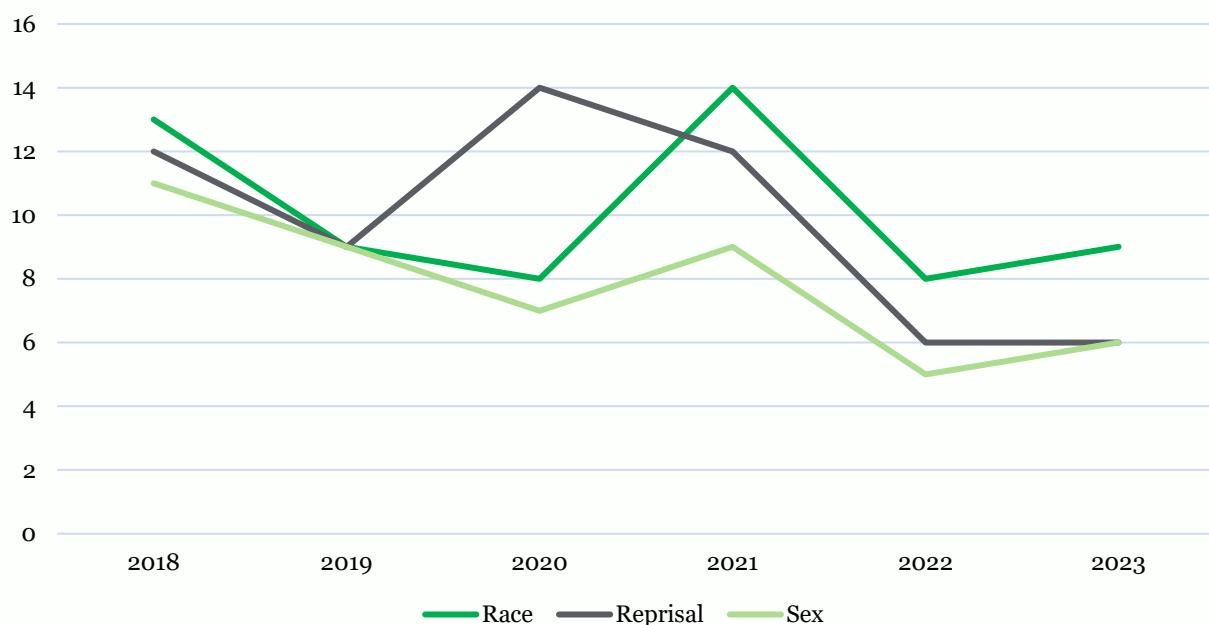


Bases and Issues

In FY 2023, the most frequently cited bases of discrimination in the 18 formal EEO complaints filed were Race (9), Reprisal (6), and Sex (6).⁴⁶ In FY 2022, the most common bases alleged in the 13 formal EEO complaints were Race (8), Reprisal (6), and Sex (5). The other bases alleged in FY 2023 formal EEO complaints are detailed in Appendix D, 1.1.

Figure 5 presents frequencies of bases appearing in the top three for any year from FY 2018 - FY 2023. Race, Reprisal and Sex were the top three bases for all six fiscal years.

FIGURE 5: FORMAL EEO COMPLAINT ACTIVITY BY BASIS FY 2018 – FY 2023

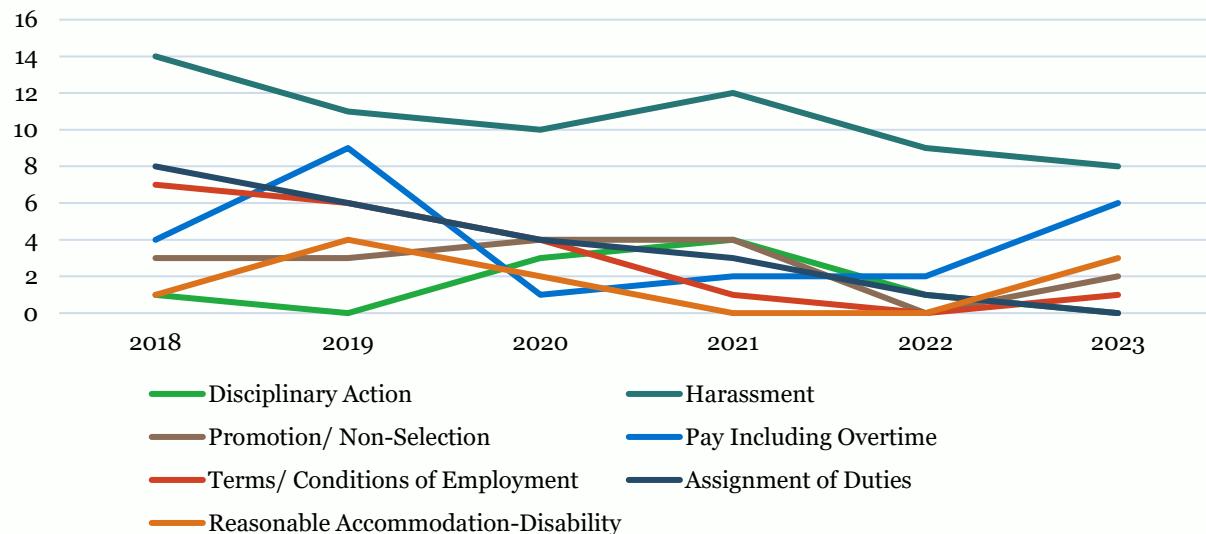


The most frequently raised issues in formal EEO complaints in FY 2023 were Harassment-Non Sexual (8), Pay Including Overtime (6), and Reasonable Accommodation-Disability (3). In comparison, FY 2022's most frequently alleged issues were Harassment-Non Sexual (8) and Pay Including Overtime (2). The other issues raised in FY 2023 formal EEO complaints are detailed in Appendix D, 1.2.

⁴⁶ Although there were 18 formal complaints filed in FY 2023, there are more than 18 total bases of discrimination alleged because a complainant may assert more than one basis per complaint.

Figure 6 presents frequencies of issues appearing in the top three for any year from FY 2018 – FY 2023.

FIGURE 6: FORMAL EEO COMPLAINT ACTIVITY BY ISSUE FY 2018 – FY 2023



Bases and issues in the CFPB's formal EEO complaint filings in FY 2023 were somewhat consistent with government-wide and comparable agency statistics. According to the EEOC, across the Federal government in FY 2020, Reprisal was the most frequently cited basis, followed by Race, Age, and Disability (physical).⁴⁷ Additionally, in FY 2023, Reprisal, Race, Sex, Age, and Disability (physical) were among the most common complaint bases among other medium-sized financial regulatory agencies with at least 10 complaints.⁴⁸ Reprisal was a top three basis alleged for CFPB, FDIC, OCC, and SEC.

The EEOC tables for FY 2020 formal EEO complaint data indicate the most frequently alleged issue in formal complaints government-wide was Non-Sexual Harassment, followed by Disciplinary Action and then Promotion/Non-Selection.⁴⁹ In FY 2023, Non-Sexual Harassment,

⁴⁷ See EEOC FY 2020 Table B-8, available at <https://www.eeoc.gov/sites/default/files/2023-02/FY%202020%20Annual%20Report%20Complaint%20Tables.zip>.

⁴⁸ FDIC data is located at <https://www.fdic.gov/about/diversity/nofear/nfreport.html>. OCC data is located at <https://home.treasury.gov/footer/no-fear-act>. SEC data is located at <https://www.sec.gov/eeoinfo/nofeardata.htm>.

⁴⁹ See EEOC FY 2020 Table B-8, available at <https://www.eeoc.gov/sites/default/files/2023-02/FY%202020%20Annual%20Report%20Complaint%20Tables.zip>.

Pay including Overtime, Terms/Conditions of Employment, Promotion/Non-Selection, and Reasonable Accommodation-Disability were all among the most common issues for medium-sized financial regulatory agencies that have had more than 10 formal EEO complaints filed.

Processing Times

In FY 2023, OCR completed 26 EEO counselings under 29 C.F.R. Part 1614. OCR received a total of 27 new informal complaints/requests for EEO counseling during FY 2023 (not all were completed before the end of FY 2023); this compares with 24 new counseling requests in FY 2022. All counselings completed in FY 2023 qualified as timely under 29 C.F.R. § 1614.105. Seven counselings were timely completed within 30 days; eleven traditional counselings were completed timely with written extensions of no longer than 60 days. Eight counselings were processed through the CFPB's ADR program and were timely completed within 90 days.⁵⁰ In each of these counselings, the CFPB provided the required notification to individuals on their various rights and responsibilities in the EEO process. This information was provided during the initial counseling session verbally and later in writing.⁵¹

As noted above, in FY 2023, 15 new formal EEO complaints were filed under 29 C.F.R. Part 1614 and/or Executive Order 11478 (as amended), compared with 13 in FY 2022. In all new formal EEO complaints, the CFPB issued acknowledgement letters immediately upon receipt of a formal complaint.⁵² Of the 15 new formal EEO complaints that were filed in FY 2023, the average length of time for issuing the acknowledgement letter was two days. In addition, OCR issued all Acceptance letter/Dismissal decisions within a reasonable time (e.g., 30 days) after receipt of the formal complaint.⁵³ Specifically, of the 15 new formal EEO complaints that were filed in FY 2023, the average length of time for issuing the Accept/Dismiss communication was 16 days. In FY 2023, the CFPB dismissed two formal complaints; the average days such complaints were pending before dismissal was 25 days. This was an improvement over FY 2022, when the average days such complaints were pending before dismissal was 39 days.

In FY 2023, OCR conducted all investigations of formal EEO complaints within the regulatory timeframes, and in some cases decreasing the timeframes from the previous fiscal year.⁵⁴ The

⁵⁰ See 29 C.F.R. §§ 1614.105(d), (f).

⁵¹ See 29 C.F.R. § 1614.105(b)(1).

⁵² See MD-110, Chapter 5, at Section I.

⁵³ Id.

⁵⁴ See 29 C.F.R. § 1614.108(f).

four investigations completed during FY 2023 were completed in an average of 160.5 days. With respect to formal complaint processing, in FY 2023:

- The average number of days in investigation for complaints pending for any length of time during the fiscal year (for which investigations were completed during the fiscal year) was 160.50 days, a decrease from an average of 224.82 days in FY 2022 and 218.91 days in FY 2021;
- The average number of days in investigation for complaints pending for any length of time during the fiscal year where a hearing was requested was 177.00 days, a decrease from an average of 218.55 days in FY 2022, and lower than the average of 191.50 days in FY 2021;
- The average number of days in investigation for complaints pending for any length of time during FY 2023 where a hearing was not requested was 111.00 days, a decrease from an average of 204.00 days in FY 2022, and lower than the average of 276.75 days in FY 2021;
- OCR provides complainants with the regulatorily required “180-day letter” if an investigation is expected to go over 180 days. This letter notifies complainants of the date by which OCR expects to complete the investigation and informs complainants of their immediate right to request a hearing before an EEOC Administrative Judge or to file a lawsuit. None of the four investigations completed during FY 2023 exceeded 180 days due to amendments that extended processing timelines under applicable regulations; in cases where ROIs are issued beyond 180 days, a “180-day letter” would be issued;⁵⁵
- As of the end of FY 2023, the CFPB had zero pending complaints where investigations exceeded the required time frames;
- The average number of days in final-action status for complaints pending for any length of time during FY 2023 was 31.16 days, which was less than FY 2022 at 34.56 days, and which was lower than FY 2021 at 42.83 days. All FADS and Final Agency Orders (FAOs) were issued on time. During FY 2023, OCR issued one FAD and four FAOs (one of which had a finding of discrimination related to conduct that occurred in 2018);

⁵⁵ See 29 C.F.R. §1614.108(g).

- In FY 2023, OCR issued one FAD on the merits. The average length of time for issuing this FAD was 52.00 days, which is under the regulatory requirement of 60 days;⁵⁶ and
- As soon as OCR receives notice that a complainant has requested an EEOC hearing before an Administrative Judge (AJ) or has filed an appeal of a final agency action with EEOC’s OFO, OCR uploads all documents to FedSEP (the EEOC’s online (password-protected) federal-sector EEO portal).⁵⁷

Practical knowledge gained

The CFPB has worked to create a best-in-class EEO program. Lessons learned include:

- To sustain a viable EEO program, the EEO office must be authorized and empowered to drive a whole-of-CFPB strategy, by collaborating with the CFPB’s leaders, the diversity, equity, inclusion and accessibility office (OMWI, including DAPS), OHC, and related stakeholders, such as the union (National Treasury Employees Union), diversity councils (*e.g.*, DICE), and Employee Resource Groups.
- A commitment from top-level leadership to EEO – including a commitment to proactive employment efforts (*e.g.*, barrier analysis)– shapes workplace culture, inspires employee confidence, and aids legal compliance. This commitment is best manifested through tangible actions by the CFPB Director and Senior Leaders to support EEO and visibly and actively incorporate the EEO program as a valued partner.
- Many substantive EEO concepts are complex, and new supervisors may sometimes struggle to apply complicated rules (*e.g.*, those involving disability and anti-retaliation laws). Consistent proactive prevention of discrimination, harassment, retaliation (including whistleblower retaliation), and other prohibited personnel practices – through repeated training, targeted technical assistance, and year-round EEOC-required barrier analysis – remains vital to guaranteeing workplace civil rights and upholding merit system principles.
- The federal-sector EEO process itself can seem confusing to new Executive branch employees, and often even to career civil servants. There are numerous, sometimes-overlapping sources of legal protection (*e.g.*, statutes, regulations, and Executive Orders)

⁵⁶ See 29 C.F.R. § 1614.110(b).

⁵⁷ See 29 C.F.R. § 1614.403(g).

and various related enforcement processes (*e.g.*, the 29 C.F.R. Part 1614 process, intra-agency harassment procedures, union grievances, Office of Special Counsel/Merit Systems Protection Board complaints). Accordingly, regular messaging reinforced through outreach can aid understanding and minimize confusion. In particular, explaining the differences between filing an EEO complaint alleging violations of federal law (through OCR) and reporting harassment under the CFPB's updated Anti-Harassment/Anti-Bullying Policy and Related Procedures (enforced by OHC) is important.

- Maintaining EEO office independence – *i.e.*, preserving organizational autonomy from the Legal Division, the Office of Human Capital, and other offices that have different roles – is indispensable to safeguarding the statutory enforcement mechanisms Federal law and the EEOC require agencies to establish and maintain to remedy civil rights violations. This independence also is vital to fostering trust that the EEO program both remains and appears impartial and separate from the CFPB's other offices. So, too, is vigorous enforcement of anti-retaliation rules designed to protect individuals who oppose discrimination, participate in EEO proceedings, or engage in protected whistleblowing activity.
- All organizational leaders must consider EEO and civil service protections before and while implementing new or changed policies, practices, procedures, and organizational matters that could affect the workforce; reaching out to the EEO Director early and often to obtain crucial input and feedback on personnel, budget, technology, and other workforce issues can help prevent potential equity and EEO missteps and ensure EEO best practices are adopted.
- Resolving issues early and expeditiously helps maintain a work environment that fosters open communication, trust, and engagement. Used properly in appropriate circumstances, Alternative Dispute Resolution (*e.g.*, mediation, conflict coaching program) can provide faster, less expensive and contentious, and more productive results in eliminating workplace disputes, including claims of discrimination, harassment, and retaliation and workstyle or personality conflicts that may arise. The CFPB must be open to and make reasonable efforts to settle complaints of discrimination as early as possible in, and throughout, the administrative processing of complaints.

EEO Program Action Plans

OCR has applied – and will continue to apply – the above experience and insights gained as the CFPB's EEO program evolves. The CFPB's FY 2023 EEO Program Status (Management

Directive 715) Report will provide a detailed review of the CFPB's EEO program efforts and outline activities planned for FY 2024 and beyond.⁵⁸

In FY 2024 the CFPB's OCR will continue enhancing the EEO program and intends to:

- Continue promoting and increasing use of the CFPB's Conflict Coaching Program to de-escalate workplace conflict, resolve conflicts at the earliest stage, and enhance CFPB-wide proficiency in conflict resolution tools.
- Further enhance the ADR Program by focusing on preserving, rebuilding or repairing relationships, updating and expanding the ADR policy, and filling the vacant position that supports the program.
- Complete the action items in the MD-715 Part H-2 in order to meet the EEOC's goal of 50 percent for the pre-complaint ADR participation rate and eliminate this deficiency.
- Collaborate with OHC, as needed, to ensure the action items in the MD-715 Part H-1 and Part H-3 in order to eliminate these deficiencies.
- Conduct a Program Evaluation into harassment for a division. Hire an Industrial Organizational Psychologist using the STEM term hiring authority to support the Program Evaluation, barrier analysis, and other priority projects.
- Update existing policies as needed, such as the EEO policy and the Non-Discrimination and Inclusion Policy for Transgender Applicants and Employees.
- Collaborate with OHC on the roll out of any new demographics forms by OPM.
- Continue monitoring progress on the barrier analysis action items outlined in Part I of this report and corresponding Affirmative Action Plan for Persons with Disabilities. Progress was made on both action plans during FY 2023.

⁵⁸ When finalized, this program status report will be posted on <https://www.consumerfinance.gov/office-civil-rights/eeo-policy-and-reports/>. (MD-715 reports for previous fiscal years also are currently available on this external website.)

- Continue working with OHC and our third-party service provider to collect interview data in USAStaffing, which is the applicant system the CFPB switched to during FY 2021.

3.5 No FEAR Act training

The No FEAR Act requires each Federal agency to train all employees regarding the rights and remedies applicable to them under the relevant antidiscrimination and whistleblower protection laws.⁵⁹

Each year, all of the CFPB's employees must take a one-hour, web-based training on the No FEAR Act. Approximately 95 percent of employees completed this mandatory No FEAR Act training in FY 2023.

During FY 2023, the CFPB utilized the online No FEAR Act training for all CFPB employees. OCR, in partnership with the Legal Division, developed one version of an online module for supervisors and a separate version for non-supervisory employees. It is an interactive training that is administered annually alongside other mandatory compliance training. This training also meets requirements adopted in the Dr. Chris Kirkpatrick Act of 2017, requiring agencies to provide training to supervisors on how to respond to complaints alleging violations of whistleblower protection laws.

Throughout FY 2023, OCR, in partnership with the CFPB's other offices such as OHC and the Legal Division, worked to ensure the CFPB's managers, supervisors, and all employees are aware of, have physical or electronic copies of, and/or know where to access all EEO policies and procedures and related information. The CFPB made use of virtually all the ideas suggested by the EEOC in its publication entitled *Preserving Access to the Legal System: A Practical Guide to Providing Employees with Adequate Information about Their Rights under Federal Equal Employment Opportunity (EEO) Laws and Regulations*.⁶⁰ The Legal Division, OCR, OHC and OMWI (including DAPS) continued to share a one-page Management Guide for Common Workplace Issues that indicates which office handles particular issues and which office(s) may also serve as a resource along with current contact information.

⁵⁹ See Pub. L. No. 107-174, Section 202(c); see also 5 C.F.R. § 724.203.

⁶⁰ This guidance is available at http://www.eeoc.gov/federal/preserving_access.cfm.

APPENDIX A:

Legislative and regulatory language

Section 203 of the No FEAR Act (Pub. L. No. 107-174) requires:

(a) Annual Report. — Subject to subsection (b), not later than 180 days after the end of each fiscal year, each Federal agency shall submit to the Speaker of the House of Representatives, the President pro tempore of the Senate, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, each committee of Congress with jurisdiction relating to the agency, the Equal Employment Opportunity Commission, and the Attorney General an annual report which shall include, with respect to the fiscal year —

- (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 such agency was alleged;
- (2) The status or disposition of cases described in paragraph (1);
- (3) 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;
- (4) The number of employees disciplined for discrimination, retaliation, harassment, or any other infraction of any provision of law referred to in paragraph (1);
- (5) The final year-end data posted under section 301(c)(1)(B) for such fiscal year (without regard to section 301(c)(2));
- (6) A detailed description of —
 - (A) The policy implemented by that agency relating to appropriate disciplinary actions against a Federal employee who —

- (i) Discriminated against any individual in violation of any of the laws cited under section 201(a)(1) or (2); or
 - (ii) 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
- (B) 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;
- (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 –
- (A) An examination of trends;
 - (B) Causal analysis;
 - (C) Practical knowledge gained through experience;
 - (D) Any actions planned or taken to improve complaint or civil rights programs of the agency; and
- (8) Any adjustment (to the extent the adjustment can be ascertained in the budget of the agency) to comply with the requirements under section 201.

Subpart C of 5 C.F.R. Part 724 requires:

§ 724.302 Reporting obligations.

(a) Except as provided in paragraph (b) of this section, each agency must report no later than 180 calendar days after the end of each fiscal year the following items:

- (1) The number of cases in Federal court pending or resolved in each fiscal year and arising under each of the respective provisions of the Federal Antidiscrimination Laws and Whistleblower Protection Laws applicable to them as defined in § 724.102 of subpart A of this part in which an employee, former Federal employee, or applicant alleged a violation(s) of these laws, separating data by the provision(s) of law involved;
- (2) In the aggregate, for the cases identified in paragraph (a)(1) of this section and separated by provision(s) of law involved:
 - (i) The status or disposition (including settlement);

- (ii) The amount of money required to be reimbursed to the Judgment Fund by the agency for payments as defined in § 724.102 of subpart A of this part;
 - (iii) The amount of reimbursement to the Fund for attorney's fees where such fees have been separately designated;
- (3) In connection with cases identified in paragraph (a)(1) of this section, the total number of employees in each fiscal year disciplined as defined in § 724.102 of subpart A of this part and the specific nature, e.g., reprimand, etc., of the disciplinary actions taken, separated by the provision(s) of law involved;
- (4) The final year-end data about discrimination complaints for each fiscal year that was posted in accordance with Equal Employment Opportunity Regulations at subpart G of title 29 of the Code of Federal Regulations (implementing section 301(c)(1)(B) of the No FEAR Act);
- (5) Whether or not in connection with cases in Federal court, the number of employees in each fiscal year disciplined as defined in § 724.102 of subpart A of this part in accordance with any agency policy described in paragraph (a)(6) of this section. The specific nature, e.g., reprimand, etc., of the disciplinary actions taken must be identified.
- (6) A detailed description of the agency's policy for taking disciplinary action against Federal employees for conduct that is inconsistent with Federal Antidiscrimination Laws and Whistleblower Protection Laws or for conduct that constitutes another prohibited personnel practice revealed in connection with agency investigations of alleged violations of these laws;
- (7) An analysis of the information provided in paragraphs (a)(1) through (6) of this section in conjunction with data provided to the Equal Employment Opportunity Commission in compliance with 29 CFR part 1614 subpart F of the Code of Federal Regulations. Such analysis must include:
- (i) An examination of trends;
 - (ii) Causal analysis;
 - (iii) Practical knowledge gained through experience; and
 - (iv) Any actions planned or taken to improve complaint or civil rights programs of the agency with the goal of eliminating discrimination and retaliation in the workplace;

- (8) For each fiscal year, any adjustment needed or made to the budget of the agency to comply with its Judgment Fund reimbursement obligation(s) incurred under § 724.103 of subpart A of this part; and
 - (9) The agency's written plan developed under § 724.203(a) of subpart B of this part to train its employees.
- (b) The first report also must provide information for the data elements in paragraph (a) of this section for each of the five fiscal years preceding the fiscal year on which the first report is based to the extent that such data is available. Under the provisions of the No FEAR Act, the first report was due March 30, 2005 without regard to the status of the regulations. Thereafter, under the provisions of the No FEAR Act, agency reports are due annually on March 30th. Agencies that have submitted their reports before these regulations became final must ensure that they contain data elements 1 through 8 of paragraph (a) of this section and provide any necessary supplemental reports by April 25, 2007. Future reports must include data elements 1 through 9 of paragraph (a) of this section.
- (c) Agencies must provide copies of each report to the following:
- (1) Speaker of the U.S. House of Representatives;
 - (2) President Pro Tempore of the U.S. Senate;
 - (3) Committee on Governmental Affairs, U.S. Senate;
 - (4) Committee on Government Reform, U.S. House of Representatives;
 - (5) Each Committee of Congress with jurisdiction relating to the agency;
 - (6) Chair, Equal Employment Opportunity Commission;
 - (7) Attorney General; and
 - (8) Director, U.S. Office of Personnel Management.

Elijah E. Cummings Federal Employee Antidiscrimination Act of 2020, H.R. 6395, Title XI, Subtitle B (Sections 1131-1138) requires:

SEC. 1135. DATA TO BE POSTED BY EMPLOYING FEDERAL AGENCIES.

In the annual Notification and Federal Employee Antidiscrimination and Retaliation report, with respect to each finding of discrimination, the report must include:

- the date of the finding,
- the affected Federal agency,
- the law violated, and
- whether a decision has been made regarding disciplinary action as a result of the finding.

Further, the report must include data regarding each class action complaint filed against the agency alleging discrimination (including retaliation), including—

- information regarding the date on which each complaint was filed,
- a general summary of the allegations alleged in the complaint,
- an estimate of the total number of plaintiffs joined in the complaint, if known,
- the current status of the complaint, including whether the class has been certified, and
- the case numbers for the civil actions in which discrimination (including retaliation) has been found.

APPENDIX B:

FY 2023 EEO and anti-harassment policy statement

The CFPB's latest version is available here, <https://www.consumerfinance.gov/office-civil-rights/eeo-policy-and-reports/>.

APPENDIX C:

FY 2023 Notice on the No FEAR Act and whistleblower protection laws/prohibited personnel practices

The CFPB's latest version is available here, <https://www.consumerfinance.gov/office-civil-rights/whistleblowers/>.

APPENDIX D:

Summary of complaint data

Equal Employment Opportunity Data Posted Pursuant to Title III of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Pub. L. 107-174, for the Consumer Financial Protection Bureau (CFPB or Bureau).

For the period ending September 30, 2023.

- Mixed-case complaints are included in this report.
- Calculations begin day after triggering event but include the last day of event per 29 C.F.R. § 1614.604.

1. Complaint activity

TABLE 3: COMPLAINT ACTIVITY

Complaint Activity	2018	2019	2020	2021	2022	2023
Number of complaints filed	21*	17**	18	19	13	18***
Number of complainants	19	14	17	16	12	14
Repeat filers ⁶¹	2	3	1	3	1	3

* One of these complaints alleged a violation of Executive Order 11478 (as amended) only. The OCR processed this complaint pursuant to a policy the Agency has established to address such allegations. In FY 2018 the CFPB received 20 new formal complaints filed (in whole or in part) under 29 C.F.R. Part 1614.

** Two of these reported matters involve alleged violations of Executive Order 11478 (as amended) only. In FY 2019 the CFPB received 15 new formal complaints filed (in whole or in part) under 29 C.F.R. Part 1614.

*** Three of the these complaints are class complaints. All three filed individual complaints, which are also reflected in this total.

⁶¹ For this purpose, “repeat filers” include only individuals who have filed more than one complaint during the relevant fiscal year. This data does not include individuals who may have filed more than one formal complaint but who have never filed more than one complaint in any single fiscal year.

1.1 Complaints by basis

TABLE 4: COMPLAINTS BY BASIS*

Complaints by Basis	2018	2019	2020	2021	2022	2023
Race	13	9	8	14	8	9
Color	5	4	5	4	2	3
Religion	2	0	2	1	1	0
Reprisal	12	9	14	12	6	6
Sex	11	9	7	9	5	6
Pregnancy (PDA)	0	0	1	0	0	0
National Origin	0	2	3	3	2	5
Equal Pay (EPA)	0	1	0	1	1	0
Age	5	7	5	8	2	4
Disability	5	4	6	4	2	4
Genetic Information	0	0	0	0	0	0
Non-EEO	2	3	1	0	1	0

* Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.

1.2 Complaints by issue

TABLE 5: COMPLAINTS BY ISSUE

Complaints by Issue	2018	2019	2020	2021	2022	2023
Appointment/Hire	0	1	0	1	0	0
Assignment of Duties	8	6	4	3	1	0
Awards	2	0	0	0	0	0
Conversion to Full Time/Permanent Status	0	1	0	0	0	0
Disciplinary Action – Demotion	0	0	0	0	0	0
Disciplinary Action – Reprimand	0	0	3	2	0	0
Disciplinary Action – Suspension	0	0	0	0	0	0
Disciplinary Action – Removal	1	0	0	2	1	0
Disciplinary Action – Other	0	0	0	0	0	0
Duty Hours	3	4	1	0	0	0
Performance Evaluation/Appraisal	2	1	2	0	1	1
Examination/Test	0	0	0	0	0	1
Harassment – Non-Sexual	12	11	10	11	8	8
Harassment – Sexual	2	0	0	1	1	0
Medical Examination	0	1	0	0	0	0
Pay (Including Overtime)	4	9	1	2	2	6
Promotion/Non-Selection	3	3	4	4	0	2

Complaints by Issue	2018	2019	2020	2021	2022	2023
Reassignment – Denied	0	0	0	0	0	0
Reassignment – Directed	3	1	0	2	0	0
Reasonable Accommodation – Disability	1	4	2	0	0	3
Reinstatement	0	0	0	0	0	0
Reasonable Accommodation – Religion	0	0	0	0	0	0
Retirement	0	0	0	1	0	0
Sex Stereotyping	0	0	0	0	0	0
Telework	0	0	1	0	0	0
Termination	0	1	0	2	1	0
Terms/Conditions of Employment	7	6	4	1	0	1
Time and Attendance	2	3	2	0	0	0
Training	2	0	1	0	0	0
Other	0	0	0	0	0	0

2. Complaint processing times

TABLE 6: PROCESSING TIMES FOR COMPLAINTS PENDING (FOR ANY LENGTH OF TIME) DURING FISCAL YEAR

Type of Processing Time	2018	2019	2020	2021	2022	2023
Average number of days in investigation	142.86	227.24	253.56	218.91	224.82	160.50
Average number of days in final action	133.00*	39.94	47.27	42.83	34.56	31.60

* This processing time resulted in part from the CFPB's Office of Civil Rights (OCR) holding one matter in abeyance while the parties engaged in settlement negotiations. The matter was not resolved, and the CFPB ultimately issued the FAD in FY 2018.

TABLE 7:

TABLE 8: PROCESSING TIMES FOR COMPLAINTS PENDING (FOR ANY LENGTH OF TIME) DURING FISCAL YEAR WHERE HEARING WAS REQUESTED

Type of Processing Time	2018	2019	2020	2021	2022	2023
Average number of days in investigation	190.33	229.00	277.33	191.50	218.55	177.00
Average number of days in final action	35.00	24.33	44.80	0.00	32.29	26.50

TABLE 9: PROCESSING TIMES FOR COMPLAINTS PENDING (FOR ANY LENGTH OF TIME) DURING FISCAL YEAR WHERE HEARING WAS NOT REQUESTED

Type of Processing Time	2018	2019	2020	2021	2022	2023
Average number of days in investigation	107.25	225.92	241.67	276.75	204.00	111.00
Average number of days in final action	165.67*	49.30	49.33	44.20	42.50	52.00

* This processing time resulted in part from the CFPB's Office of Civil Rights (OCR) holding one matter in abeyance while the parties engaged in settlement negotiations. The matter was not resolved, and the CFPB ultimately issued the FAD in FY 2018.

3. Complaint dismissals and withdrawals

TABLE 10: COMPLAINTS DISMISSED BY AGENCY

Agency Dismissal Information	2018	2019	2020	2021	2022	2023
Total complaints dismissed by agency	4	4	2	5	4	2
Average days pending prior to dismissal	13	15	21	24	39	25.50

TABLE 11: COMPLAINTS WITHDRAWN BY COMPLAINANTS

Complaints Withdrawn	2018	2019	2020	2021	2022	2023
Total complaints withdrawn by complainants	0	1	4	3	1	2

4. Findings of discrimination

TABLE 12: TOTAL FINAL AGENCY ACTIONS FINDING DISCRIMINATION

Type of Findings	2018 #	2018 %	2019 #	2019 %	2020 #	2020 %	2021 #	2021 %	2022 #	2022 %	2023 #	2023 %
Total findings	1	100	0	0	0	0	0	0	0	0	1 ⁶²	100
Without hearing	1	100	0	0	0	0	0	0	0	0	0	0
With hearing	0	0	0	0	0	0	0	0	0	0	1	100

4.1 Findings by basis*

TABLE 13: TOTAL FINDINGS OF DISCRIMINATION RENDERED BY BASIS

Basis	2018 #	2018 %	2019 #	2019 %	2020 #	2020 %	2021 #	2021 %	2022 #	2022 %	2023 #	2023 %
Total findings	1	100	0	0	0	0	0	0	0	0	1	100
Race	0	0	0	0	0	0	0	0	0	0	1	100
Color	0	0	0	0	0	0	0	0	0	0	0	0
Religion	0	0	0	0	0	0	0	0	0	0	0	0
Reprisal	0	0	0	0	0	0	0	0	0	0	0	0

⁶²Section 301(b) of the No FEAR Act (as amended by the Cummings Act) requires federal agencies to provide additional data regarding any findings of discrimination. Per this requirement CFPB notes with respect to the one (1) finding of discrimination reported here: (i) The date of the finding of discrimination was January 26, 2023. (ii) The affected Federal agency is CFPB. (iii) The laws violated were Title VII of the Civil Rights Act of 1964 as amended, and the Age Discrimination in Employment Act of 1967 as amended. (iv) The CFPB has made a decision regarding disciplinary action as a result of the finding, the details of which have been provided to the EEOC in a Disciplinary Action Report.

Basis	2018 #	2018 %	2019 #	2019 %	2020 #	2020 %	2021 #	2021 %	2022 #	2022 %	2023 #	2023 %
Sex	0	0	0	0	0	0	0	0	0	0	1	100
Pregnancy (PDA)	0	0	0	0	0	0	0	0	0	0	0	0
National Origin	0	0	0	0	0	0	0	0	0	0	0	0
Equal Pay (EPA)	0	0	0	0	0	0	0	0	0	0	0	0
Age	0	0	0	0	0	0	0	0	0	0	1	100
Disability	1	100	0	0	0	0	0	0	0	0	0	0
Genetic Information	0	0	0	0	0	0	0	0	0	0	0	0
Non-EEO	0	0	0	0	0	0	0	0	0	0	0	0

TABLE 14: FINDINGS OF DISCRIMINATION RENDERED AFTER HEARING BY BASIS

Basis	2018 #	2018 %	2019 #	2019 %	2020 #	2020 %	2021 #	2021 %	2022 #	2022 %	2023 #	2023 %
Total findings	0	0	0	0	0	0	0	0	0	0	1	100
Race	0	0	0	0	0	0	0	0	0	0	1	100
Color	0	0	0	0	0	0	0	0	0	0	0	0
Religion	0	0	0	0	0	0	0	0	0	0	0	0
Reprisal	0	0	0	0	0	0	0	0	0	0	0	0
Sex	0	0	0	0	0	0	0	0	0	0	1	100
Pregnancy (PDA)	0	0	0	0	0	0	0	0	0	0	0	0
National Origin	0	0	0	0	0	0	0	0	0	0	0	0
Equal Pay (EPA)	0	0	0	0	0	0	0	0	0	0	0	0

Basis	2018 #	2018 %	2019 #	2019 %	2020 #	2020 %	2021 #	2021 %	2022 #	2022 %	2023 #	2023 %
Age	0	0	0	0	0	0	0	0	0	0	1	100
Disability	0	0	0	0	0	0	0	0	0	0	0	0
Genetic Information	0	0	0	0	0	0	0	0	0	0	0	0
Non-EEO	0	0	0	0	0	0	0	0	0	0	0	0

TABLE 15: FINDINGS OF DISCRIMINATION RENDERED WITHOUT HEARING BY BASIS

Basis	2018 #	2018 %	2019 #	2019 %	2020 #	2020 %	2021 #	2021 %	2022 #	2022 %	2023 #	2023 %
Total findings	1	100	0	0	0	0	0	0	0	0	0	0
Race	0	0	0	0	0	0	0	0	0	0	0	0
Color	0	0	0	0	0	0	0	0	0	0	0	0
Religion	0	0	0	0	0	0	0	0	0	0	0	0
Reprisal	0	0	0	0	0	0	0	0	0	0	0	0
Sex	0	0	0	0	0	0	0	0	0	0	0	0
Pregnancy (PDA)	0	0	0	0	0	0	0	0	0	0	0	0
National Origin	0	0	0	0	0	0	0	0	0	0	0	0
Equal Pay (EPA)	0	0	0	0	0	0	0	0	0	0	0	0
Age	0	0	0	0	0	0	0	0	0	0	0	0
Disability	1	100	0	0	0	0	0	0	0	0	0	0
Genetic Information	0	0	0	0	0	0	0	0	0	0	0	0
Non-EEO	0	0	0	0	0	0	0	0	0	0	0	0

* Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings.

4.2 Findings by issue

TABLE 16: TOTAL FINDINGS OF DISCRIMINATION RENDERED BY ISSUE

Issue	2018 #	2018 %	2019 #	2019 %	2020 #	2020 %	2021 #	2021 %	2022 #	2022 %	2023 #	2023 %
Total findings	1	100	0	0	0	0	0	0	0	0	1	100
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	0	0	0	0	0	0	0	0	0	0
Awards	0	0	0	0	0	0	0	0	0	0	0	0
Conversion to Full Time/Permanent Status	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action – Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action – Reprimand	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action – Suspension	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action – Removal	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action – Other	0	0	0	0	0	0	0	0	0	0	0	0
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0
Performance Evaluation/Appraisal	0	0	0	0	0	0	0	0	0	0	0	0
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0

Issue	2018 #	2018 %	2019 #	2019 %	2020 #	2020 %	2021 #	2021 %	2022 #	2022 %	2023 #	2023 %
Harassment – Non-Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Harassment – Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0
Pay (Including Overtime)	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	0	0	0	0	0	0	0	0	0	0	1	100
Reassignment – Denied	0	0	0	0	0	0	0	0	0	0	0	0
Reassignment – Directed	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation – Disability	1	100	0	0	0	0	0	0	0	0	0	0
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation – Religion	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Sex Stereotyping	0	0	0	0	0	0	0	0	0	0	0	0
Telework	0	0	0	0	0	0	0	0	0	0	0	0
Termination	0	0	0	0	0	0	0	0	0	0	0	0
Terms/Conditions of Employment	0	0	0	0	0	0	0	0	0	0	0	0
Time and Attendance	0	0	0	0	0	0	0	0	0	0	0	0
Training	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0

TABLE 17: FINDINGS OF DISCRIMINATION RENDERED AFTER HEARING BY ISSUE

Issue	2018 #	2018 %	2019 #	2019 %	2020 #	2020 %	2021 #	2021 %	2022 #	2022 %	2023 #	2023 %
Total findings	0	0	0	0	0	0	0	0	0	0	1	100
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	0	0	0	0	0	0	0	0	0	0
Awards	0	0	0	0	0	0	0	0	0	0	0	0
Conversion to Full Time/Permanent Status	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action – Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action – Reprimand	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action – Suspension	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action – Removal	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action – Other	0	0	0	0	0	0	0	0	0	0	0	0
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0
Performance Evaluation/Appraisal	0	0	0	0	0	0	0	0	0	0	0	0
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Harassment – Non-Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Harassment – Sexual	0	0	0	0	0	0	0	0	0	0	0	0

Issue	2018 #	2018 %	2019 #	2019 %	2020 #	2020 %	2021 #	2021 %	2022 #	2022 %	2023 #	2023 %
Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0
Pay (Including Overtime)	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	0	0	0	0	0	0	0	0	0	0	1	100
Reassignment – Denied	0	0	0	0	0	0	0	0	0	0	0	0
Reassignment – Directed	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation – Disability	0	0	0	0	0	0	0	0	0	0	0	0
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation – Religion	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Sex Stereotyping	0	0	0	0	0	0	0	0	0	0	0	0
Telework	0	0	0	0	0	0	0	0	0	0	0	0
Termination	0	0	0	0	0	0	0	0	0	0	0	0
Terms/Conditions of Employment	0	0	0	0	0	0	0	0	0	0	0	0
Time and Attendance	0	0	0	0	0	0	0	0	0	0	0	0
Training	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0

TABLE 18:

TABLE 19: FINDINGS OF DISCRIMINATION RENDERED WITHOUT HEARING BY ISSUE

Issue	2018 #	2018 %	2019 #	2019 %	2020 #	2020 %	2021 #	2021 %	2022 #	2022 %	2023 #	2023 %
Total findings	1	100	0	0	0	0	0	0	0	0	0	0
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	0	0	0	0	0	0	0	0	0	0
Awards	0	0	0	0	0	0	0	0	0	0	0	0
Conversion to Full Time/Permanent Status	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action – Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action – Reprimand	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action – Suspension	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action – Removal	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action – Other	0	0	0	0	0	0	0	0	0	0	0	0
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0
Performance Evaluation/Appraisal	0	0	0	0	0	0	0	0	0	0	0	0
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Harassment – Non-Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Harassment – Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0

Issue	2018 #	2018 %	2019 #	2019 %	2020 #	2020 %	2021 #	2021 %	2022 #	2022 %	2023 #	2023 %
Pay (Including Overtime)	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	0	0	0	0	0	0	0	0	0	0	0	0
Reassignment – Denied	0	0	0	0	0	0	0	0	0	0	0	0
Reassignment – Directed	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation – Disability	1	100	0	0	0	0	0	0	0	0	0	0
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation – Religion	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Sex Stereotyping	0	0	0	0	0	0	0	0	0	0	0	0
Telework	0	0	0	0	0	0	0	0	0	0	0	0
Termination	0	0	0	0	0	0	0	0	0	0	0	0
Terms/Conditions of Employment	0	0	0	0	0	0	0	0	0	0	0	0
Time and Attendance	0	0	0	0	0	0	0	0	0	0	0	0
Training	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0

5. Pending complaints

TABLE 20: PENDING COMPLAINTS FILED IN PREVIOUS FISCAL YEARS BY STATUS

Pending Complaints and Complainants	2018	2019	2020	2021	2022	2023
Total complaints from previous fiscal years	14	10	5	7	7	5
Total complainants	12	10	5	7	7	4

TABLE 21: PENDING COMPLAINTS FILED IN PREVIOUS FISCAL YEARS BY STATUS

Where in EEO Process Complaints Are Pending	2018	2019	2020	2021	2022	2023
Investigation	0	0	0	0	1	0
ROI issued, pending complainant's action	0	0	0	0	0	0
Hearing	14	9	5	7	5*	2**
Final Agency Action	0	1	0	0	0	0
Appeal with EEOC Office of Federal Operations	3	7	7	3	6	5***

* This total does not include one case that was at Hearing but has been remanded pending district court class action proceedings and is now being held in abeyance.

** This total does not include one case that was at Hearing but has been remanded because it is pending district court class action, and one pending MSPB proceedings and are now being held in abeyance. However, this total includes two cases filed by the same filer, bifurcated by the U.S. Equal Employment Opportunity Commission (EEOC).

*** This total includes four cases that are pending Request for Reconsideration (RFR) from the EEOC.

6. Investigation timeframes

TABLE 22: INVESTIGATIONS THAT EXCEED TIME FRAMES

Investigations	2018	2019	2020	2021	2022	2023
Pending complaints where investigations exceed required time frames	0	0	0	0	0	0

7. Class complaints

In FY2023, three class complaints were filed, which are described in the following three tables.⁶³

- Information regarding the date on which each complaint was filed;
- a general summary of the allegations alleged in the complaint;
- an estimate of the total number of plaintiffs joined in the complaint, if known;
- the current status of the complaint, including whether the class has been certified; and
- the case numbers for the civil actions in which discrimination (including retaliation) has been found.

TABLE 23: CLASS COMPLAINT 1

Class Complaints	FY 2023 - Class Complaint 1
Date complaint filed	8/14/2023
Allegations alleged (including bases)	CFPB violated Title VII by discriminating against minority (non-white) NTEU Bargaining Unit employees in terms of their compensation based on the class members' race and, for female minority (non-white) NTEU Bargaining Unit employees, on the basis of their race and sex. a) Assigning minorities to a lower pay band and/or pay grade at time of their transfer into CFPB from other federal agencies, or at the time of their hire, than white employees. b) Denying promotions to qualified minority employees while promoting less or equally qualified white employees. c) Utilizing subjective criteria to qualify employees for positions and promotions to the disadvantage of minority employees. d) Failing to credit minorities and, in particular, minority women, for their work experience on the same basis as white or white male employees. e) Systematically paying minorities, and in particular minority women, lower wages and denying minority employees' requests to

⁶³ This information is provided in accordance with § 301(b) of the Notification and Federal Employee Anti-discrimination and Retaliation Act of 2002, 5 U.S.C. 2301 note, Pub. L. 107-174 (No FEAR Act), as amended by the Elijah E. Cummings Federal Employee Antidiscrimination Act of 2020. See H.R. 6395, The National Defense Authorization Act for Fiscal Year 2021, Pub. L. 116-283 (Cummings Act), at Subtitle B § 1135, 134 Stat. 3902.

Class Complaints	FY 2023 - Class Complaint 1
	adjust their pay to make it commiserate with their white counterparts.
	f) Employing bureau-wide performance evaluation policies that disproportionately resulted in higher performance ratings for white employees and lower performance ratings for minority employees, which in turn negatively impacted compensation for minority employees and, in particular, minority women.
	g) In conjunction with the 2023 Pay Resetting Process, failing to adjust minority employees' pay bands to place them in the same pay bands as white employees with the same level of direct and indirect job experience.
Estimate of total Class	Unknown
Current status	Pending a determination on EEOC class certification
Case number(s) for civil actions where discrimination was found	N/A

TABLE 24: CLASS COMPLAINT 2

Class Complaints	FY 2023 - Class Complaint 2
Date complaint filed	9/11/2023
Allegations alleged (including bases)	<p>CFPB violated Title VII by discriminating against minority (non-white) NTEU Bargaining Unit employees in terms of their compensation based on the class members' race and, for female minority (non-white) NTEU Bargaining Unit employees, on the basis of their race and sex.</p> <ul style="list-style-type: none"> a) Assigning minorities to a lower pay band and/or pay grade at time of their transfer into CFPB from other federal agencies, or at the time of their hire, than white employees. b) Denying promotions to qualified minority employees while promoting less or equally qualified white employees. c) Utilizing subjective criteria to qualify employees for positions and promotions to the disadvantage of minority employees. d) Failing to credit minorities and, in particular, minority women, for their work experience on the same basis as white or white male employees.

Class Complaints	FY 2023 - Class Complaint 2
	e) Systematically paying minorities, and in particular minority women, lower wages and denying minority employees' requests to adjust their pay to make it commiserate with their white counterparts. f) Employing bureau-wide performance evaluation policies that disproportionately resulted in higher performance ratings for white employees and lower performance ratings for minority employees, which in turn negatively impacted compensation for minority employees and, in particular, minority women. g) In conjunction with the 2023 Pay Resetting Process, failing to adjust minority employees' pay bands to place them in the same pay bands as white employees with the same level of direct and indirect job experience.
Estimate of total Class	Unknown
Current status	Pending a determination on EEOC class certification
Case number(s) for civil actions where discrimination was found	N/A

TABLE 25: CLASS COMPLAINT 3

Class Complaints	FY 2023 - Class Complaint 3
Date complaint filed	9/29/2023
Allegations alleged (including bases)	<p>CFPB violated Title VII by discriminating against minority (non-white) NTEU Bargaining Unit employees in terms of their compensation based on the class members' race and, for female minority (non-white) NTEU Bargaining Unit employees, on the basis of their race and sex.</p> <p>a) Assigning minorities to a lower pay band and/or pay grade at time of their transfer into CFPB from other federal agencies, or at the time of their hire, than white employees.</p> <p>b) Denying promotions to qualified minority employees while promoting less or equally qualified white employees.</p> <p>c) Utilizing subjective criteria to qualify employees for positions and promotions to the disadvantage of minority employees.</p>

Class Complaints	FY 2023 - Class Complaint 3
	<p>d) Failing to credit minorities and, in particular, minority women, for their work experience on the same basis as white or white male employees.</p> <p>e) Systematically paying minorities, and in particular minority women, lower wages and denying minority employees' requests to adjust their pay to make it commiserate with their white counterparts.</p> <p>f) Employing bureau-wide performance evaluation policies that disproportionately resulted in higher performance ratings for white employees and lower performance ratings for minority employees, which in turn negatively impacted compensation for minority employees and, in particular, minority women.</p> <p>g) In conjunction with the 2023 Pay Resetting Process, failing to adjust minority employees' pay bands to place them in the same pay bands as white employees with the same level of direct and indirect job experience.</p>
Estimate of total Class	Unknown
Current status	Pending a determination on EEOC class certification
Case number(s) for civil actions where discrimination was found	N/A