

U.S. Department of Housing and Development Equal Employment Opportunity Data Posted Pursuant to the No Fear Act for the Period 10/1/2003 through 6/30/2004

Background

Pursuant to the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (the No Fear Act), Pub. L. 107-174, HUD is posting statistical data pertaining to complaints of employment discrimination filed by employees, former employees, and applicants for employment under 29 CFR Part 1614.

EEO Complaint Filings

During the period 10/1/2003 through 6/30/2004, 85 formal complaints were filed by 84 individuals. Of the individuals filing complaints during the period, no complainant filed more than one complaint.

The following counts of complaints were alleged by basis in the complaints filed during the period (please note that the total of complaints filed by bases may be larger than the total of complaints filed because complainants may file complaints under multiple bases):

- Race (32 complaints filed)
- Color (7 complaints filed)
- Religion (4 complaints filed)
- National Origin (7 complaints filed)
- Sex (34 complaints filed)
- Disability (23 complaints filed)
- Age (29 complaints filed)
- Retaliation (21 complaints filed)
- Non-EEO Basis (0 complaints filed)

The following counts of complaints were alleged by issue in the complaints filed during the period (please note that the total of complaints filed by issue may be larger than the total of complaints filed because complainants may file complaints under multiple issue categories):

- Appointment/Hire (0 complaints filed)
- Assignment of Duties (7 complaints filed)
- Awards (0 complaints filed)
- Conversion to Full-Time (0 complaints filed)
- Demotion (0 complaints filed)
- Reprimand (4 complaints filed)
- Suspension (4 complaints filed)
- Removal (0 complaints filed)
- Disciplinary Action-Other (1 complaint filed)
- Duty Hours (0 complaints filed)
- Evaluation/Appraisal (12 complaints filed)
- Examination/Test (0 complaints filed)
- Harassment (Non-Sexual) (18 complaints filed)

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Harassment (Sexual) (3 complaints filed)
Medical Examination (0 complaints filed)
Pay Including Overtime (5 complaints filed)
Promotion/Non-Selection (27 complaints filed)
Reassignment Denied (1 complaints filed)
Reassignment Directed (7 complaints filed)
Reasonable Accommodations (5 complaints filed)
Reinstatement (0 complaints filed)
Retirement (0 complaints filed)
Termination (4 complaints filed)
Terms/Conditions of Employment (2 complaints filed)
Time & Attendance (3 complaints filed)
Training (1 complaint filed)
Other (9 complaints filed)

**Average Processing Days in the EEO Complaint Processing Steps Completed
During the Period**

Agencies are required to report the average number of processing days for two stages in the complaint process: the Investigation stage and the Final Decision stage. The EEOC will report on the average length of days in the EEOC Hearing stage and the EEOC Appeals stage.

The Investigation stage spans from the date of initial filing of the complaint by the complainant through the date the complainant is sent the Report of Investigation and the Notice of Right to a Hearing Before an EEOC Administrative Judge (AJ) or a Final Decision Without an EEOC AJ Hearing. The complaint filing date may be adjusted for reporting purposes in two cases: the filing of an amended complaint and the remanding of the complaint by the EEOC for investigation of complaint claims that were previously dismissed by the agency. Amended complaints occur when complainants request that their complaint(s) be amended to reflect additional claims. In this case, the number of processing days will begin with the date the complainant requested the amendment and end when the complainant is furnished the Notice of Right to an EEOC AJ Hearing concerning the total complaint (original and amended claims). In the case of remanded complaints the initial filing date is adjusted to reflect the date the EEOC notified the agency of the required remand and extend until the agency's Notice of Right to an EEOC AJ Hearing on the remanded claim(s).

The EEOC has directed that agencies shall report the number of days until the issuance of a Final Decision by counting the days from the initial filing (or amendment/remand) until the date the agency issues the Final Decision less the number of days the complaint was in the EEOC AJ Hearing stage. The No Fear Act requires that reporting be separated into two categories: complaints where the complainant requested an EEOC AJ Hearing and complaints where the complainant

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requested a Final Decision without an EEOC AJ Hearing. Further, the EEOC requires that agencies report on processing days separately for complaints where all claims are dismissed by agencies under rules established in 29 CFR Part 1614.

During the period 10/1/2003 through 6/30/2004, 42 complaints completed the Investigation stage for an average of 475.2 days in processing. A total of 62 Final Decisions were issued during the period. The average days to process the Final Agency Decision, when an EEOC AJ Hearing was elected, was 344.8. The average days to process, when a Final Decision was issued without an EEOC AJ Hearing, was 972.2. There were 18 complaints where all claims were dismissed in accordance with procedures outlined in 29 CFR Part 1614.

Final Decisions Involving a Finding of Discrimination

Under the No Fear Act, agencies are required to report on complaints where a Finding of Discrimination was made during the reporting period. The EEOC has defined a Finding of Discrimination as a Final Decision without an EEOC AJ Hearing decision where discrimination was found to have occurred or a Finding of Discrimination by an EEOC AJ either summarily or as a result of an EEOC AJ Hearing. These findings may or may not be upheld by the EEOC on an appeal or by a Federal Court. Findings of Discrimination must be reported separately for agency decisions as a result of a decision without a hearing or with a hearing. Further, agencies are required to report Findings of Discrimination by bases (i.e. Race, Color, Religion, Sex, etc.) and by issues (i.e. Appointment/Hire, Assignment of Duties, Awards, etc.). Bases and issues refer to the actual Finding of Discrimination and not the total of the original or amended claims filed by the complainant. In other words, a complainant may file a claim based on race, sex, and disability concerning Promotion/Non-Selection, Training, and Assignment of Duties; yet, in the Finding of Discrimination the agency may have discriminated based on Race in Promotion/Non-Selection - the other bases and issues claims may not have been upheld. In this case, the statistics will reflect a finding of Race (basis) discrimination in Promotion/Non Selection (issue).

There were a total of 3 Findings of Discrimination during the period 10/1/2003 through 6/30/2004. Of these, 3 (or 100.0%) were determined as a result of EEOC AJ Hearings and none were decided without an EEOC AJ Hearing. The following Findings of Discrimination were made by the various bases of discrimination:

Race (1 Finding)
Color (0 Findings)
Religion (0 Findings)
National Origin (1 Finding)
Sex (3 Findings)
Disability (2 Findings)
Age (1 Finding)
Retaliation (2 Findings)

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The following Findings of Discrimination were made by the various issues of discrimination:

Appointment/Hire (0 Findings)
Assignment of Duties (1 Finding)
Awards (0 Findings)
Conversion to Full-Time (0 Findings)
Demotion (0 Findings)
Reprimand (0 Findings)
Suspension (0 Findings)
Removal (0 Findings)
Disciplinary Action-Other (0 Findings)
Duty Hours (0 Findings)
Evaluation/Appraisal (0 Findings)
Examination/Test (0 Findings)
Harassment (Non-Sexual) (0 Findings)
Harassment (Sexual) (0 Findings)
Medical Examination (0 Findings)
Pay Including Overtime (0 Findings)
Promotion/Non-Selection (2 Findings)
Reassignment Denied (0 Findings)
Reassignment Directed (0 Findings)
Reasonable Accommodations (0 Findings)
Reinstatement (0 Findings) Retirement (0 Findings)
Termination (0 Findings)
Terms/Conditions of Employment (0 Findings)
Time & Attendance (0 Findings)
Training (0 Findings) Other (0 Findings)

Pending EEO Complaints

Of the 214 complaints pending as of the end of the reporting period, 129 were filed prior to the beginning of the reporting period. The number of complaints pending at the end of the reporting period in the Investigation stage was 101. The number of complaints pending at the end of the reporting period in the Final Decision stage was 34. Of the 214 complaints pending as of the ending date of this reporting period, 42 completed the Investigation stage and 41 were completed in more than 180 days. Of the 101 complaints pending in the Investigation stage at the end of the period, 59 have exceeded 180 days.