

FARM SERVICE AGENCY, OFFICE OF CIVIL RIGHTS
FY15 ANNUAL NO FEAR ACT TRENDS AND ANALYSIS
(October 1, 2013 - September 30, 2015)

A. Trends Examination

Number of Complaints Filed:

- FY13 – 22
- FY14 – 15
- FY15 - 22

Number of Filers:

- FY13 – 22
- FY14 – 15
- FY15 - 22

Number of Repeat Filers:

- FY13 – 02
- FY14 – 00
- FY15 - 00

Number of Bases Alleged in Complaints:

- FY13 – 87
- FY14 – 59
- FY15 - 41

Number of Issues Alleged in Complaints:

- FY13 – 52
- FY14 – 48
- FY15 - 66

B. Average Length of Time to Complete Each Stage of the Complaint Process:

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| <p><u>• FY13</u></p> <ul style="list-style-type: none"> ↪ Informal Stage – 35 Days ↪ Formal Stage – 184.7 Days | <p><u>• FY14</u></p> <ul style="list-style-type: none"> ↪ Informal Stage 18.67 Days ↪ Formal Stage 189.25 Days |
| <p><u>• FY15</u></p> <ul style="list-style-type: none"> ↪ Informal Stage – 27.3 Days ↪ Formal Stage – 170.7 Days | |

{Formal Stage = Filing Formal to ROI Issued}

Findings of Discrimination:

- FY13 – 1
- FY14 – 0
- FY15 - 0

C. Total of Pending Complaints Filed in Previous Fiscal Years:

- FY13 – 71
- FY14 – 64
- FY15 - 55

Total Number of Pending Complaints Where Investigations Exceeded Required Time Frames.

• FY13 – 6

• FY14 – 4

• FY15- 3

In FY2013, FSA had 77 EEO Complaints on-hand at the beginning of the year and 22 EEO Complaints filed during FY2013, totaling 99 EEO Complaints for FY2013.

In FY2014, FSA had 64 EEO Complaints on-hand at the beginning of the year and 15 EEO complaints filed during FY2014, totaling 79 EEO Complaints for FY2014.

In FY2015, FSA had 47 EEO Complaints on-hand at the beginning of the year and 22 EEO complaints filed during FY2015, totaling 69 EEO Complaints for FY2015.

There was an increase of 7 EEO Complaints filed in FY2015.

The average number of EEO Complaints filed formal by FSA employees prior to FY2015 (FY2013 – FY2014) was 18.5 complaints per year. A decline in EEO cases has taken place as the Agency's efforts to ensure participation in mandatory Civil Rights Training. The decline in EEO complaints is also attributable to the Agency's efforts to ensure employees receive EEO Policy Letters, EEO Notices and other EEO publications. There has also been a slightly greater efficiency rate in processing timeframes due to the move of the investigation component from the Agency's Office of Civil Rights to the Office of the Assistant Secretary of Civil Rights (OASCR) Employment Investigation Division (EID). However, there continues to be department level impediments that have impacted the Agency's ability to process complaints within the 180-day statutory timeframe.

Causal Analysis

Since FY1998, in accordance with DR 4120-001 FSA implemented Annual EEO Civil Rights Training, educating employees about the EEO complaint process.

Prior to FY2011, roughly 50% of the federal employees participated in mandatory annual EEO Civil Rights Training. Since that time, 79% of FSA employees have received annual EEO Civil Rights Training. The Agency has seen a 46.6% increase in EEO complaint filings which is possibly related to the percentage of personnel who failed or could not participate in training coupled with a lack of funding to support training in the field.

Over the last two years, FSA has identified the following bases: reprisal, race, age, national origin and gender, and the following claims/issues: harassment, promotion selection and directed reassignments. FSA has used the EEO complaint data to focus our "Civil Rights Desired Learning Objectives."

FSA OCR has laid the cornerstone for achieving the best Model EEO Program despite some loss of Full Time Employees (FTEs). The agency strives to provide training (contingent upon availability of funds) to employees to greater enhance EEO knowledge, skills, and abilities to execute all facets of a Model EEO Program in accordance with Management Directive-715 (MD-715).

Knowledge Gained

FSA is committed to comply with the EEOC guidelines that an agency should incorporate a structure for effective management, accountability and self-analysis which will ensure program success and compliance with EEO MD-715, (i.e., the Model EEO Program).

A model EEO program, as required under both Title VII of the Civil Rights Act of 1964 (Title VII), as amended, 42 U.S.C. § 2000e *et seq.*, and Section 501 of the Rehabilitation Act of 1973 (Rehabilitation Act), as amended, 29 U.S.C. § 791 *et seq.*, effectively considers and addresses concerns arising under both Title VII and Section 501 of the Rehabilitation Act.

Model EEO Program requires:

- (1) Demonstrated commitment from agency leadership;
- (2) Integration of EEO into the agency's strategic mission;
- (3) Management and program accountability;
- (4) Proactive prevention of unlawful discrimination;
- (5) Efficiency; and
- (6) Responsiveness and legal compliance.

FSA continues to review areas that have improved in addition to those needing improvement. Subsequent to FSA enhanced steps in the formal EEO investigation process, complaint tracking, and conducting annual EEO and Civil Rights Training, there continues to be challenges at various levels of management exhibiting alleged practices of discrimination that largely emerge from the non-federal arena (County Employees). The absence of travel to field offices due to budget constraints greatly hinders the most effective mediation processes within the state and county offices.

In order to sustain a positive equal employment opportunity diverse workforce, the total engagement of the Human Resource Division is required to assist in all aspects of employment, accommodation and employee development.

Releasing the full potential of employees—those who want to give their best but cannot due to organizational barriers and constraints leads to a need to increase the level of FTE support as well as leadership support providing a sufficient budget for FSA Office of Civil Rights to execute the Model EEO Program requirements.

Actions Taken or Planned

In support of Secretary Vilsack's priority to build a new era for civil rights at USDA, FSA will demonstrate measurable progress in championing and providing protection from prohibited personnel practices, and promoting enhanced accountability.

FSA OCR will continue and/or implement:

- a. Internal compliance reviews of FSA Offices to evaluate their civil rights and equal employment opportunity policies, procedures and practices;
- b. Awareness of Cultural Transformation, Diversity and Inclusion throughout FSA in setting the foundation for a change in our current practices;
- c. Trend analysis of FSA EEO systemic bases, claims and barriers, to develop desired learning objectives for FSA Mandatory Annual Civil Rights Training.
 - c.1. develop desired learning objectives and collectively present training as a "Human Capital Team" (both FSA Human Resources Division and FSA Office of Civil Rights).
 - c.2. display solidarity on what FSA personnel policies, practices and procedures contain and how they are implemented, inspected and enforced.
- d. Request from Senior Management the appropriate number of FTEs (if feasible) to conduct FSA's EEO Complaint Processing, Informal/Formal ADR/Mediation/Settlements Agreements, EEOC Hearing Preparations, Special Emphasis Observances/Programs and Quarterly/Annual Mandatory Civil Rights Reporting;
- e. Request Senior Management assistance in ensuring all units involved in EEO Complaint processing, from the "Pre-Complaint Stage" throughout the final closure (regardless of the method of closure), implement performance standards on all EEO practitioners to meet the standards as outlined in 29 CFR 1614 and MD-110;
- f. Our foundation for measuring "Real Performance" improvements (each quarter) that is directly tied to strategic goal achievement
- g. Distributing Civil Rights information regularly to all employees via email messages to ensure the latest awareness of prohibited personnel practices and/or procedures.
- h. Staff coordination conducted to improve effectiveness of partnership with the OASCR Staff to ensure inventory of Formal EEO Complaint data is correct.