

ANNUAL  
**NOTIFICATION AND FEDERAL  
EMPLOYEE ANTIDISCRIMINATION  
AND RETALIATION ACT OF 2002  
(NO FEAR) REPORT TO CONGRESS**



**FY 2019**

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
REPORTED BY THE OFFICE OF  
DEPARTMENTAL EQUAL EMPLOYMENT OPPORTUNITY

## Executive Summary

The U.S. Department of Housing and Urban Development (HUD) hereby submits their “*Annual Notification and Federal Employee Antidiscrimination and Retaliation Act (No FEAR Act) Report to Congress for Fiscal Year 2019*,” in accordance with the requirements of title II, section 203, of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002, and section 5, part 724 of the Code of Federal Regulations (5 CFR § 724).

HUD is committed to having a workplace where all employees, as well as applicants seeking employment with our organization, are given equal employment opportunity and are free from discrimination. This is reflected in HUD’s current EEO Policy Statement, signed by Secretary Benjamin S. Carson, Sr. on July 19, 2018, which states that, the Department will:

*. . . continue its commitment to achieving a highly qualified, diverse workforce through application of its Equal opportunity and nondiscrimination policy in all aspects of employment. All employment decisions at HUD are based on business needs, job requirements, and individual qualifications,...*

In addition, HUD is also committed to maintaining a work environment that is free from *all* forms of harassing conduct and inappropriate behavior, and to correcting any harassing conduct before it becomes severe or pervasive. This is reflected in HUD’s current Unlawful Harassment Policy Statement, also signed by Secretary Carson on July 19, 2018, which states that the Department:

*. . . has a zero-tolerance standard in addressing and eliminating all forms of harassing behavior and misconduct and/or discrimination. This policy also provides protection from retaliation against any employee for making a good faith report of workplace harassment under this or any other policy or procedure, and/or for assisting an investigation or fact-finding inquiry into such allegation of harassment.*

During Fiscal Year (FY) 2019, HUD employed 7,447 (7,256 permanent and 191 temporary) employees. There were 86 formal equal employment opportunity (EEO) complaints filed against the Department. This represents an 8.6 percent decrease in complaint activity

compared to the number of complaints (93) filed in FY 2018. The most frequent bases identified in complaints of discrimination during FY 2019 were, in descending order: (1) race, (2) reprisal, (3) disability, (4) sex and (5) age. Simultaneously, the most frequent issues raised in complaints of discrimination) during FY 2019 were, in descending order: 1) harassment (non-sexual)<sup>1</sup>, (2 & 3) performance evaluation/appraisal and reasonable accommodation disability (4 & 5) terms/conditions of employment<sup>2</sup> and time and attendance.

HUD's complaint activity fluctuated from FY 2015 through FY 2019. The number of complaints filed and number of individuals filing complaints decreased within that span. In FY 2019, HUD reported eight Federal court cases pending and three Federal court cases filed. During FY 2019, there were three cases resolved under the various provisions in the No FEAR Act.

In FY 2019, no HUD employees were disciplined for cases involved in Federal court for violating its policies of discrimination, retaliation, harassment, or other violations of the Antidiscrimination and Whistleblower Protection laws of the No FEAR Act. HUD continues to place strong emphasis on No FEAR Act training. HUD trains its employees on the No FEAR Act on a biannual basis, and 80 percent of employees completed the training in this fiscal year.

The Office of Departmental Equal Employment Opportunity (ODEEO) assists HUD's leadership in shaping policies to protect the personal liberties of all employees by working interdependently to develop policies and plans; generating reports; conducting annual multiyear studies; forecasting trends; assessing demographics against various arbiters; delivering training and briefings; conducting oversight; adjudicating EEO complaints; integrating civil rights, diversity, and inclusion into HUD initiatives and activities; and submitting annual reports to internal and external customers, constituents, and stakeholders.

To foster continuous improvement, HUD fully engages the talents and competencies of employees through its HUD-wide Diversity Council, which operates under the leadership of the Deputy Secretary, who is appointed by the Secretary in support of Executive Order 13583. HUD's Diversity Council is committed to benchmarking and adopting best practices to promote

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<sup>1</sup> HUD received only one allegation of sexual harassment in FY 2019, this is a decrease from FY 2018 by 80 percent.

<sup>2</sup> "Terms of employment" refers to an employees job responsibilities, to include workdays, hours, breaks, dress code, vacation and sick days, and pay.

a diverse and inclusive workforce by identifying and removing barriers to equal employment opportunities, consistent with merit system principles and other applicable laws and regulations.

This report is prepared in accordance with section 203(a)(1) of the No FEAR Act, which requires Federal agencies to include in their annual report to Congress “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.” Office of Personnel Management (OPM) final regulations at 5 CFR 724.302 on reporting and best practices, issued on December 28, 2006, clarifies section 203(a)(1) of the No FEAR Act requiring that Federal agencies report on “the number of cases in Federal Court [district or appellate] pending or resolved . . . arising under each of the respective provisions of the Federal Antidiscrimination and Whistleblower Protection laws applicable to them . . . 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.”

## **Introduction**

The overall mission of HUD is “to create strong, sustainable, inclusive communities and quality affordable homes for all.” HUD, a cabinet-level agency created in 1965, is tasked to engage new local and Federal partners, adjust policies and programs to better serve the American people, address common problems across a broader metropolitan geography and transform the way we do business. HUD has been committed to accomplishing its mission in part by: preventing foreclosures, enhancing access to affordable housing, revitalizing distressed communities, working to strengthen the housing market to bolster the economy and protect consumers, meeting the needs for quality affordable rental homes, utilizing housing as a platform for improving the quality of life and building inclusive and sustainable communities free from discrimination.

To ensure that employment decisions are free from discrimination, HUD conducts periodic self-assessments as to the effectiveness of its EEO programs. These self-assessments are conducted through ODEEO’s Affirmative Employment Division (AED). In a continuous effort to achieve a model EEO program, HUD continues to make great strides and improvements in addressing the six essential elements as defined by the Equal Employment Opportunity Commission (EEOC) and the removal of barriers to free and open workplace competition. To

maximize this effectiveness, HUD seeks to achieve an exemplary EEO program, through its national scope and program office organizations, by eradicating discrimination, retaliation, and unconscious biases and misconduct in the workplace through the cultivation and execution of a proactive and robust affirmative employment program.

To establish the implementation and enforcement of the No FEAR Act, Federal agencies are required to report, annually, on the following:

**Payment of settlements and judgments.**

Federal agencies must reimburse the Judgment Fund for payments made to employees, former employees, or applicants for Federal employment because of actual or alleged violations of Federal employment discrimination laws, Federal whistleblower protection laws, and retaliation claims arising from the assertion of rights under those laws.

**Employee information and education.**

Federal agencies must provide annual written notification to their employees, former employees, and job applicants for employment concerning the rights and remedies available to them under the employment discrimination and whistleblower protection laws.

**Training for managers/supervisors and employees.**

Federal agencies must ensure that at least every 2 years, managers/supervisors and all other employees receive and complete the training requirements regarding their rights and remedies available under the employment discrimination and whistleblower protection laws. In addition, all new employees should receive the applicable training as part of the agency's new-employee orientation program. However, if an agency does not have a new-employee orientation program, all new employees must receive the applicable training within 90 days of their entry on duty.

Additionally, HUD offered Civility Training to its entire workforce during FY 2019.

Opportunity for improvement continues to exist, which HUD will embrace by continuing to capture and report on it as part of HUD's commitment to merit systems principles, and to provide protection from prohibited personnel practices for all employees, under the law

### **Annual Report to Congress.**

Federal agencies must submit an annual report to Congress, the EEOC, the Department of Justice (Attorney General), and OPM, setting forth information about the agency's efforts to improve compliance with employment discrimination and whistleblower protection laws, and detailing the status of complaints brought against the agency, and how cases were resolved and any disciplinary actions taken resulting from violations of discrimination and whistleblower protection laws.

### **Posting of EEO Complaint Data on the Internet.**

Federal agencies must post on the agency's public website summary statistical data relating to equal opportunity complaints filed against the agency. Information to be posted by the agency includes, among other things: the number of complaints filed; the number of persons filing those complaints; the number of persons filing multiple complaints; the bases and issues alleged in the complaints; the average length of time it takes an agency to complete certain stages of the complaint process; the number of final agency actions in which discrimination is found, broken down by issue, basis, and whether a hearing was held; the number of pending complaints that were filed in previous fiscal years, including the number of persons who filed those complaints; and the number of complaints in which an investigation was not completed in a timely manner. In addition, Federal agencies must post year-end data from previous fiscal years for comparison purposes and to assess whether and to what extent the Federal agencies are living up to their EEO responsibilities.

Pursuant to congressional and statutory requirements, HUD is providing copies of this report to the following:

- The Speaker of the U.S. House of Representatives;
- The President pro tempore of the U.S. Senate;
  - The Committee on Homeland Security and Governmental Affairs, U.S. Senate;
- The Committee on Oversight and Government Reform, U.S. House of Representatives;
- Each committee of Congress with jurisdiction relating to the agency;
- The Chair of the Equal Employment Opportunity Commission;
- The U.S. Attorney General; and
- The Director of the U.S. Office of Personnel Management.

## **Accomplishments**

Since June of 2019 the ODEEO lost access to our EEO complaints tracking system and our eFile complaints filing system. Despite the challenges encountered during FY 2019, the HUD EEO office has accomplished several goals successfully implementing the HUD's vision for a robust Departmental Equal Employment Opportunity Division and a model program to be emulated by civil rights programs throughout the Federal government. Provided are several accomplishments we have achieved in FY 2019:

### **Reasonable Accommodations**

HUD received final EEOC approval of its Reasonable Accommodation Program policies and procedures, which include responses to previously received EEOC guidance.

HUD completed user acceptance testing of the Reasonable Accommodation Portal to monitor, track, and report on the reasonable accommodation process. HUD's Reasonable Accommodation Portal is an automated record-keeping system that provides secure storage of reasonable accommodation request information, supporting documentation, decisions and justifications for decisions, appeals, and implementation. Implementation of the new Portal is targeted for FY 2020.

### **Workforce Development**

Leadership Development. As part of its FY 2019 leadership development strategy, HUD executed a blended learning solution to assist department leaders fulfill the regulatory requirements (5 C.F.R. §412.401, Continuing Executive Development) and comply with HUD policy guidance. HUD implemented an on-demand portal that provides Franklin Covey's award-winning training solutions and purchased 1200 licenses of the All Access Pass Plus for its leaders. To date, 612 learners have completed 233 training courses. In addition, 271 HUD employees completed the Franklin Covey Leadership Journey Program, which offered three structured series of learning opportunities tailored to varying levels of leadership experience and responsibility.

Employee Development. In FY 19, HUD conducted 162 training events for over 3,131 employees, in addition to the mandatory Harmony and Respect at HUD: Civility Matters mandatory training for all HUD employees. In addition, HUD conducted training in six Regional Offices and Organization Development training to seven Headquarters Program Offices and two Field Offices.

**Inclusive and Engaging Work Environment**

HUD launched the *Harmony and Respect at HUD: Civility Matters* initiative. The Initiative began with a mandatory training for HUD employees that fostered inclusion by discussing HUD’s culture, identifying inappropriate behaviors and raising awareness of techniques to promote positive interactions and resolve conflict.

HUD conducted three EEO site visits to the Regional and Field Offices. The purpose of the visits was not only to assess the workplace and its compliance to EEO principles, but also to give employees an overview of the Secretary’s *Harmony and Respect at HUD: Civility Matters* initiative. Employees were also given the opportunity to raise concerns in-person with HQ EEO personnel.

HUD launched a mandatory diversity and inclusion (D&I) training model titled *The New Inclusion Quotient (IQ)*. This in-person training is aimed at cultivating an environment throughout HUD that fosters innovation and inspires creative solutions to D&I challenges. Upon completion of the New IQ training, HUD will draft and implement a D&I performance element for all employees and senior executives.

HUD continues to support its Diversity Council, which serves as an independent executive level think-tank providing advice and recommendations to the Secretary on D&I related areas. The Council is comprised of SES representatives, ERG and affinity group leaders, and representatives from both HUD Unions.

HUD reviewed and analyzed the results of the Federal Employee Viewpoint Survey (FEVS), as indicated by the Employee Engagement Index (EEI) and the New IQ responses, to update its



employee engagement action plans. Each quarter, HUD monitors progress against its action plans and holds an annual Secretary’s Award Ceremony to recognize the outstanding contributions of its employees.

Employee Resource Groups. HUD has seven established ERGs that offer employees an opportunity to network, address common issues and concerns, and receive support from those who share similar backgrounds, experiences, or interests. Some highlights of the important work done by HUD’s ERGs in FY 19 include:

- HUD’s Widening Opportunities for Women (W.O.W.) Chapter developed a Federally Employed Women (FEW) National Training Program (NTP) scholarship and paid for the registration of a chapter member to attend NTP and facilitated the HUD Agency Forum at the FEW NTP, providing an opportunity for HUD employees from across the nation to meet, network and encourage cross-program collaboration;
- HUD’s Veterans Affinity Group (VAG) engaged HUD’s veterans to conduct and support numerous opportunities, including VAG STEM Innovation Networks, Memorial and Veterans Day events, Breast Cancer Awareness, internal leadership opportunities, and boots and shoes, food, and school supply collections; and
- HUD’s Advocates for HUD Employees with Disabilities (AHED) reestablished their charter, created an Interim Steering Committee aimed on improving information sharing with the HUD workforce and disability community, and redesigned their internal website page and ListServ.

**Planned Activities**

HUD has identified strategic activities it will take to address the hiring, professional development and advancement, and retention of groups with low participation rates. The goals, objectives, and strategic activities are aligned to HUD’s MD-715, Inclusive Diversity Strategic Plan (IDSP), other Federal Equal Employment Reports and Plans, and Federal Workforce EOs. Some of HUD’s planned activities are listed below:

- HUD will publish the new Reasonable Accommodation Program policies and procedures to provide increased transparency in the process and clearly articulate roles and responsibilities, upon execution of the Collective Bargaining Agreement currently being bargained with one HUD union.
- HUD will implement a Reasonable Accommodation Portal to monitor, track, and report on the reasonable accommodations process. HUD's Reasonable Accommodation Portal is an automated record-keeping system that provides secure storage of reasonable accommodation request information, supporting documentation, decisions and justifications for decisions, appeals, and implementation. It will allow for increased accountability across the Department for timely and appropriate responses to reasonable accommodations requests.
- HUD is redrafting its Anti-Harassment Program policies and procedures.

Though we have made great strides and accomplishments in addressing and eradicating violations of employment antidiscrimination and whistleblower protection laws within HUD during FY 2019, HUD has much more work to do. The Department looks forward to continuing its support of these efforts in the years to come.

John P. Benison,  
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## **Background**

The ODEEO is responsible for administering and ensuring agency compliance with Federal EEO laws, regulations, policies, and guidance that prohibit discrimination in the Federal workplace based on race, color, national origin, religion, gender, age, disability, genetic information, or reprisal. The ODEEO is also responsible for preparing the agency's annual No FEAR Act report. The Office of Inspector General (OIG), Office of the Chief Human Capital Officer (OCHCO), and the Office of General Counsel (OGC) also play a role in implementing the No FEAR Act for HUD employees.

## **Complaint Activity and Disposition**

With respect to Federal court cases, during FY 2019, HUD had a total of eight cases pending, four new cases filed, and three cases resolved ensuing from antidiscrimination statutes listed in the No FEAR Act. Among the five cases resolved, two was settled and three were dismissed in favor of HUD.

## **Disciplinary Actions**

Section 203(a)(4) of the No FEAR Act requires that agencies include in the annual report to Congress "the number of employees disciplined for discrimination, retaliation, harassment, or any other infraction of any provision of law referred to in paragraph (1)." For Federal court cases involving allegations of a violation of Antidiscrimination or Whistleblower Protection laws, 5 CFR 724.302 (a)(3) requires the agency to report the number of employees disciplined. The 5 CFR 724.102 defines discipline to include anyone, or a combination, of the following actions: reprimand, suspension without pay, reduction in grade or pay, or removal.

HUD reprimand no employees involved in FY 2019 Federal court cases. Employees can be disciplined for violating HUD policies for discrimination, retaliation, harassment, and/or other violations of the Antidiscrimination and Whistleblower Protection laws included in the No FEAR Act. HUD did not remove any employees from Federal service (*see* Appendix 1).

On March 2, 2017, Benjamin S. Carson, Sr. was sworn in as the 17th Secretary of HUD. On July 26, 2017, he issued his first EEO policy statement, which mandates "a zero-tolerance standard in addressing and eliminating all forms of harassing behavior, misconduct, discrimination and retaliation." Secretary Carson also issued a prevention of harassment policy

statement, which defines harassing behavior; mandates “zero tolerance” for harassing behavior; and instructs that “immediate correction action will be taken if it is determine that harassment has occurred.” These policies are intended to: (1) provide for a workplace where all HUD employees, and applicants for employment with the Department, are given equal employment opportunity and are free from discrimination; (2) require immediate and appropriate corrective action when violations occur; (3) provide points of contact for reporting and filing a complaint; (4) require training for the workforce; (5) and protect employees from retaliation. These statements have been posted on employee bulletin boards and on HUD’s intranet and public websites.

### **Trend Analysis for EEO Complaint Data**

Year-end summary data for FY 2019 EEO complaint activity is included in Appendix 2.

This section includes a 6-year (FY 2014 to FY 2019) trend analysis for EEO complaint data, pursuant to the No FEAR Act, section 1614.704. Overall, HUD’s 6-year data snapshot shows that complaint activity fluctuated, with no specific trend line in either a positive or negative direction.

### **Complaint Activity**

During FY 2019, individuals filed 86 complaints, with four (4) repeat filers. HUD’s complaint activity fluctuated from FY 2014 through FY 2019; however, the 86 complaints in FY 2019 reflect a 7.5 percent decrease from the 93 complaints filed in FY 2018.

### **Complaints by Bases and Issues**

The most frequent bases of discrimination during FY 2019 were, in descending order: (1) race, (2) reprisal, (3) disability, (4) sex and (5) age. The number of complaints claiming these bases of discrimination remained the same but fluctuated in order during the 6-year period.

The most frequent issues raised in complaints during FY 2019 were, in descending order: 1) harassment (non-sexual), (2 & 3) performance evaluation/appraisal and reasonable accommodation disability and (4 & 5) terms/conditions of employment and time and attendance. The number of complaints claiming these issues of discrimination fluctuated slightly during the 6-year period.

In summary, HUD's complaints by issues during the 6-year period were, generally, consistent, with nonsexual harassment, reasonable accommodation disability and terms/conditions of employment issues appearing in the top five each year, respectively. In addition, the issues of performance evaluation/appraisal and promotion/nonselection appeared in the top five at least four times during FY 2014 – FY 2019.

### **Processing Time**

HUD's average investigation times during FY 2019 averaged over the 180-calendar day timeframe but did not exceed the timeframes allotted under the 29 CFR 1614. Specifically, HUD's investigation processing times for complaints pending during the fiscal year, pending where a hearing was requested, and pending where a hearing was not requested all exceeded the proscribed regulatory time frames.

In FY 2019, the average time for final actions was greater than the regulatory time frames. Specifically, the average time for a final action where a hearing was not requested was beyond the regulatory time frame.

### **Final Agency Actions Finding Discrimination**

In FY 2019, HUD issued two final agency decisions with a finding of discrimination (with a hearing).

### **Pending Complaints**

In FY 2019, there were 104 pending complaints from previous fiscal years, filed by 100 complainants. Of the number of complaints pending, 1 was pending investigation; 1 was awaiting the complainant to exercise the option of a hearing or a final agency decision; 94 were pending a hearing before the EEOC; 6 were awaiting final agency actions. In addition, HUD had 170 appeals before EEOC's Office of Federal Operations.

### **Complaint Investigations**

The ODEEO continues working proactively to curtail all potential negative trends. In the 6-year period, the number of pending complaints where the investigation time exceeded the

required time frames has steadily decreased, with an overall reduction from 31 in FY 2014 to 0 in FY 2019.

### **Judgment Fund Reimbursements and Budget Adjustments**

During FY 2019, HUD reimbursed a total amount of \$60,000 to the Judgment Fund. The total reimbursement amount was derived from one case filed under Title VII. The Department reimbursed within the prescribed period all monies owed the Judgment Fund for FY 2019, and no adjustments were made to the agency's budget for FY 2019.

### **No Fear Act Training**

Section 202(c) of the No FEAR Act requires Federal agencies to provide training for employees on the rights and remedies under Antidiscrimination or Whistleblower Protection laws. Under 5 CFR 724.203, Federal agencies were required to develop a written training plan and to have trained their employees by December 17, 2006, and every 2 years thereafter. Under implementing regulations, new employees are to receive No FEAR Act training within 90 days of appointment through either the Department's orientation program or some other No FEAR Act training program.

HUD requires employees to complete No FEAR Act training every 2 years. No FEAR Act training is available through the HUD Learning Portal. The Portal is HUD's primary electronic platform to capture training data. During FY 2019, HUD continued placing a strong emphasis on the No FEAR Act by offering training on the topic to its entire workforce.

### **Practical Knowledge Gained Through Experience and Actions Planned or Taken to Improve Complaint or Civil Rights Programs**

To maximize effectiveness, HUD seeks an exemplary EEO and Diversity and Inclusion Program. The ODEEO resides within the Office of the Secretary, with a direct reporting line to the Secretary through the Deputy Secretary of HUD, and works independently in developing policies, procedures, and plans; generating reports; conducting annual and multiyear studies; forecasting trends; assessing workforce demographics against various arbiters; delivering training and briefings; conducting oversight; adjudicating EEO complaints; integrating civil

rights and diversity and inclusion into HUD's initiatives and activities; and submitting annual reports to internal and external customers, constituents, and stakeholders.

The ODEEO also ensures collaboration with HUD's program offices (nationwide), to help increase employees' awareness of their responsibilities in EEO and diversity and inclusion program activities. HUD continues to obtain critical information through such sources as its annual Federal Employee Viewpoint Survey, to assess the state of EEO and diversity and inclusion throughout the Department.

During FY 2019, HUD was unable to main a complaint tracking system (iComplaints) for the entire year, a web-based application for processing, managing, and reporting on EEO complaints. This automated system allowed HUD to track complaint status to ensure responsiveness and legal compliance. This system also allowed HUD EEO program officials to retrieve data and generate reports, including No FEAR Act data and the EEOC 462 Report. Additionally, HUD was unable to implement a 462 Quarterly Reporting system as a strategy to review and assess the EEO complaint process throughout the fiscal year. Through these ongoing reporting and auditing processes, HUD's EEO offices were challenged to analyze their data and gain knowledge to make determinations on how best to address shortcomings on EEO complaint data and the compliance and timeliness of EEO complaint activities.

HUD will continue to develop and implement improvements in the recruitment, hiring, retention, and development of underutilized groups of people in the workforce, such as Hispanics, veterans, and persons with disabilities. HUD continues to participate in various career fairs and outreach venues to increase recruitment and hiring of underrepresented and underserved communities.

HUD has a cornerstone responsibility for promoting the welfare and well-being of all Americans. The deference and dignity with which HUD treats employees are critical to the successful completion of the mission. To foster continuous improvement, HUD fully engages the talents and competencies of employees through the formation of a HUD-wide Diversity Council, under the leadership of the Deputy Secretary, who is appointed by the Secretary in support of Executive Order 13583. The purpose of the Diversity Council is to develop and implement a more comprehensive and integrated EEO and Diversity and Inclusion Strategic Plan. The Diversity Council is committed to identifying and adopting best practices to promote a

diverse and inclusive workforce to identify and remove barriers to equal employment opportunities, consistent with merit system principles and other applicable laws and regulations.

HUD recognizes the critical role that training plays in raising awareness and fostering behaviors. In addition to the No FEAR Act training, HUD offers employees and managers training courses on the prevention of harassment in the workplace and on labor relations.

## **Conclusion**

HUD's meaningful and measurable accomplishments highlighted in this report are due in part to the No FEAR Act and strong and clear policy statements on EEO, ADR, unlawful harassment, whistleblower rights, and No FEAR Act training. HUD continues to hold management officials accountable for compliance with EEO principles and policies by the placement of EEO critical elements in all senior executive service (SES) performance standards.



# APPENDICES

**APPENDIX 1:  
SUMMARY OF FEDERAL COURT CASES**

### Summary of Complaint Activity in Federal Court

1. The number of Federal court cases pending or resolved arising under each of the respective provisions of law covered by 5 CFR part 724.302(a)(1)

- a. Total Cases Pending: 8
- b. Total Cases Filed: 4
- c. Total Cases Resolved: 5
  - i. Dismissed in Favor of the Department: 3
  - ii. Settled in Favor of the Complainants: 2
  - iii. Withdrawn: 0

2. 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 attributed to the payment of attorney's fees, if any.

- a. \$0 (Title VII/Rehab. Act)
- b. \$0 (Title VII/ADEA)
- c. \$0 (Title VII/ADEA)
- d. \$0 (Title VII)

3. Total Reimbursement to the Judgment Fund

- a. \$0 (Title VII/Rehab. Act)
- b. \$0 (Title VII/ADEA)
- c. \$0 (Title VII/ADEA)
- d. \$60,000.00 (Title VII)

4. Attorney Fees (separately designated)

- a. \$0 (Title VII/Rehab. Act)
- b. \$0 (Title VII/ADEA)
- c. \$0 (Title VII/ADEA)
- d. \$175,000.00 (Title VII)

5. There were five employees disciplined for discrimination, retaliation, harassment, or any other provision of the law referred to in Paragraph 1.

6. There were no disciplinary actions taken against any employee in connection with Federal court cases during FY 2019.

7. There were no employees disciplined because of violating departmental policy.

8. There were two letters of reprimand issued.

# **APPENDIX 2: COMPLAINT ACTIVITY**

# Equal Employment Opportunity Data Posted Pursuant to the No Fear Act: HUD (and below)

For 4th Quarter 2019 for period ending September 30, 2019

Complaint Activity	Comparative Data					
	Previous Fiscal Year Data					2019 Thru 30-Sep
	2014	2015	2016	2017	2018	
Number of Complaints Filed	82	81	55	83	93	86
Number of Complainants	81	81	55	81	90	82
Repeat Filers	1	0	0	2	3	4
Complaints by Basis	Comparative Data					
	Previous Fiscal Year Data					2019 Thru 30-Sep
	2014	2015	2016	2017	2018	
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i>	2014	2015	2016	2017	2018	30-Sep
Race	40	47	27	37	50	49
Color	9	17	13	27	28	19
Religion	3	1	2	4	10	8
Reprisal	50	41	30	41	44	46
Sex	31	33	24	37	46	40
PDA	0	0	0	0	0	0
National Origin	8	15	5	23	17	16
Equal Pay Act	0	1	2	7	5	5
Age	30	36	20	30	31	33
Disability	22	26	23	30	38	45
Genetics	0	0	1	1	0	2
Non-EEO	0	0	0	0	0	0

Complaints by Issue	Comparative Data					
	Previous Fiscal Year Data					2019 Thru 30-Sep
<i>Note: Complaints can be filed alleging multiple bases.</i>						
<i>The sum of the bases may not equal total complaints filed.</i>						
	2014	2015	2016	2017	2018	
Appointment/Hire	7	6	0	6	3	6
Assignment of Duties	15	6	7	6	3	9
Awards	0	0	0	2	1	3
Conversion to Full Time/Perm Status	0	0	0	0	0	0
<b>Disciplinary Action</b>						
Demotion	1	1	1	0	0	0
Reprimand	1	4	3	2	3	3
Suspension	2	1	0	3	3	2
Removal	0	1	1	4	2	2
Other	0	0	0	1	5	0
Duty Hours	0	0	0	1	0	1
Perf. Eval./ Appraisal	12	8	9	21	6	19
Examination/Test	0	0	0	0	0	0
<b>Harassment</b>						
Non-Sexual	42	35	24	45	51	56
Sexual	2	1	2	1	3	1
Medical Examination	0	0	0	0	0	0
Pay including overtime	1	1	1	0	1	5
Promotion/Non-Selection	5	27	19	10	17	14
<b>Reassignment</b>						
Denied	2	2	0	2	4	0
Directed	1	4	0	0	2	7
Reasonable Accommodation Disability	9	10	10	15	18	19
Reinstatement	0	0	1	0	0	0
Religious Accommodation	0	0	0	0	1	1
Retirement	1	2	0	0	2	0
Sex-Stereotyping	0	0	0	0	1	1
Telework	0	0	0	9	4	13
Termination	1	0	3	2	5	2
Terms/Conditions of Employment	22	8	15	10	14	15
Time and Attendance	2	7	5	7	7	15
Training	0	2	2	0	4	9

<b>Other</b>						
User Defined - Other 1	0	0	0	0	0	0
User Defined - Other 2	0	0	0	0	0	0
User Defined - Other 3	0	0	0	0	0	0
User Defined - Other 4	0	0	0	0	0	0

<b>Processing Time</b>	<b>Comparative Data</b>						<b>2019 Thru 30-Sep</b>
	<b>Previous Fiscal Year Data</b>						
	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>		
<b>Complaints pending during fiscal year</b>							
Average number of days in investigation	316.8	303.4	386.6	418.9	278.2	300.18	
Average number of days in final action	148.1	116.1	113.6	180.3	47.11	27.68	
<b>Complaint pending during fiscal year where hearing was requested</b>							
Average number of days in investigation	319	314.3	378.9	323.4	286	324.71	
Average number of days in final action	134.6	74.9	93.12	137.3	48.92	15.12	
<b>Complaint pending during fiscal year where hearing was not requested</b>							
Average number of days in investigation	313.4	284.4	401.3	518.7	210.3	256.52	
Average number of days in final action	175.3	167.5	157.1	163.1	46.56	77.22	
<b>Complaints Dismissed by Agency</b>	<b>Comparative Data</b>						<b>2019 Thru 30-Sep</b>
	<b>Previous Fiscal Year Data</b>						
	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>		
Total Complaints Dismissed by Agency	5	6	5	13	18	8	
Average days pending prior to dismissal	354.4	101.8	165.6	328.5	261.8	40.13	
<b>Complaints Withdrawn by Complainants</b>							
Total Complaints Withdrawn by Complainants	7	1	8	6	5	8	

<b>Total Final Agency Actions Finding Discrimination</b>	<b>Comparative Data</b>											
	<b>Previous Fiscal Year Data</b>										<b>2019 Thru 30-Sep</b>	
	<b>2014</b>		<b>2015</b>		<b>2016</b>		<b>2017</b>		<b>2018</b>			
	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>		
Total Number Findings	1		1		3		1		2		2	
Without Hearing	0	0	0	0	0	0	1	100	1	50	0	0
With Hearing	1	100	1	100	3	100	0	0	1	50	2	100

	Previous Fiscal Year Data											2019 Thru	
	2014		2015		2016		2017		2018		30-Sep		
	#	%	#	%	#	%	#	%	#	%	#	%	
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings.</i>													
<b>Total Number Findings</b>	0		1		3		0		1		2		
Race	0	0	0	0	1	33	0	0	1	100	1	50	
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	1	100	1	33	0	0	0	0	2	100	
Sex	0	0	0	0	0	0	0	0	0	0	1	50	
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 Act	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	0	0	0	0	2	67	0	0	0	0	0	0	
Genetics	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	
<b>Findings After Hearing</b>	0												
Race	0	0	0	0	1	33	0	0	1	100	1	50	
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	1	100	1	33	0	0	0	0	2	100	
Sex	0	0	0	0	0	0	0	0	0	0	1	50	
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 Act	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	0	0	0	0	2	67	0	0	0	0	0	0	
Genetics	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	



<b>Findings Without Hearing</b>	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
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 Act	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	0	0	0	0	0	0	0	0	0	0	0	0
Genetics	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

	Previous Fiscal Year Data											2019 Thru 30-Sep	
	2014		2015		2016		2017		2018		#	%	
	#	%	#	%	#	%	#	%	#	%			
<b>Total Number Findings</b>	0		1		0		0		1		2		
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	1	50	
Awards	0	0	0	0	0	0	0	0	0	0	0	0	
Conversion to Full Time/Perm Status	0	0	0	0	0	0	0	0	0	0	0	0	
<b>Disciplinary Action</b>													
Demotion	0	0	0	0	0	0	0	0	0	0	0	0	
Reprimand	0	0	0	0	0	0	0	0	0	0	0	0	
Suspension	0	0	0	0	0	0	0	0	0	0	0	0	
Removal	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	
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0	
Perf. Eval./ 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	
<b>Harassment</b>													
Non-Sexual	0	0	0	0	0	0	0	0	0	0	0	0	
Sexual	0	0	0	0	0	0	0	0	0	0	1	50	
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	1	100	2	100	
<b>Reassignment</b>													
Denied	0	0	0	0	0	0	0	0	0	0	0	0	
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	
Religious Accommodation	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	1	100	0	0	0	0	0	0	1	50	
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	

<b>Other - User Define</b>												
User Defined - Other 1	0	0	0	0	0	0	0	0	0	0	0	0
User Defined - Other 2	0	0	0	0	0	0	0	0	0	0	0	0
User Defined - Other 3	0	0	0	0	0	0	0	0	0	0	0	0
User Defined - Other 4	0	0	0	0	0	0	0	0	0	0	0	0
<b>Findings After Hearing</b>												
Findings After Hearing	0		1		0		0		1		2	
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	1	50
Awards	0	0	0	0	0	0	0	0	0	0	0	0
Conversion to Full Time/Perm Status	0	0	0	0	0	0	0	0	0	0	0	0
<b>Disciplinary Action</b>												
Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Reprimand	0	0	0	0	0	0	0	0	0	0	0	0
Suspension	0	0	0	0	0	0	0	0	0	0	0	0
Removal	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
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0
Perf. Eval./ 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
<b>Harassment</b>												
Non-Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Sexual	0	0	0	0	0	0	0	0	0	0	1	50
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	1	100	2	100
<b>Reassignment</b>												
Denied	0	0	0	0	0	0	0	0	0	0	0	0
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
Religious Accommodation	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	1	100	0	0	0	0	0	0	1	50
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

<b>Other - User Define</b>												
User Defined - Other 1	0	0	0	0	0	0	0	0	0	0	0	0
User Defined - Other 2	0	0	0	0	0	0	0	0	0	0	0	0
User Defined - Other 3	0	0	0	0	0	0	0	0	0	0	0	0
User Defined - Other 4	0	0	0	0	0	0	0	0	0	0	0	0
<b>Findings Without Hearing</b>												
Findings Without Hearing	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/Perm Status	0	0	0	0	0	0	0	0	0	0	0	0
<b>Disciplinary Action</b>												
Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Reprimand	0	0	0	0	0	0	0	0	0	0	0	0
Suspension	0	0	0	0	0	0	0	0	0	0	0	0
Removal	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
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0
Perf. Eval./ 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
<b>Harassment</b>												
Non-Sexual	0	0	0	0	0	0	0	0	0	0	0	0
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	0	0
<b>Reassignment</b>												
Denied	0	0	0	0	0	0	0	0	0	0	0	0
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
Religious Accommodation	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

<b>Other - User Define</b>												
User Defined - Other 1	0	0	0	0	0	0	0	0	0	0	0	0
User Defined - Other 2	0	0	0	0	0	0	0	0	0	0	0	0
User Defined - Other 3	0	0	0	0	0	0	0	0	0	0	0	0
User Defined - Other 4	0	0	0	0	0	0	0	0	0	0	0	0

<b>Pending Complaints Filed in Previous Fiscal Years by Status</b>	<b>Comparative Data</b>					
	<b>Previous Fiscal Year Data</b>					<b>2019 Thru 30-Sep</b>
	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	
Total complaints from previous Fiscal Years	110	137	146	98	102	102
Total Complainants	109	136	138	96	100	98
<b>Number complaints pending</b>						
Investigation	9	22	20	2	2	1
ROI issued, pending Complainant's action	3	1	1	6	0	1
Hearing	84	96	97	84	98	92
Final Agency Action	12	16	24	4	3	6
Appeal with EEOC Office of Federal Operations	78	71	122	152	164	170
<b>Complaint Investigations</b>	<b>Comparative Data</b>					
	<b>Previous Fiscal Year Data</b>					<b>2019 Thru 30-Sep</b>
	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	
Pending Complaints Where Investigations Exceed Required Time Frames	31	35	27	7	1	0

**APPENDIX 3:  
HUD'S TABLE OF OFFENSES AND  
PENALTIES**

# HUD's Table of Offenses and Penalties

## 4-1. Introduction and Purpose

- A. The purpose of the Table of Offenses and Penalties (the Table) is to recommend to supervisors and managers appropriate penalties for offenses listed herein and in the Standards of Ethical Conduct and to provide a framework for constructive and rehabilitative discipline. The use of this Table as a guide will help to ensure appropriateness of penalty in relation to the charge, as well as relative consistency in discipline throughout the Department. A disciplinary action is intended as a constructive device and, as such, should:
1. Correct offending conduct, attitude, or work habits;
  2. Help to maintain discipline and morale; and
  3. Be reasonable in its degree of severity.
- B. Progressively stronger disciplinary actions are to be applied when an employee commits repeated offenses. When an employee received corrective action for an offense that falls under one range of penalties, and later commits a different offense under the same or another Nature of Offense, the latter is considered a **second** offense and not the first offense. For example, if an employee is charged with disruptive behavior and is given an official reprimand (first offense) and is subsequently charged with insubordination (second offense), the appropriate penalty range for an insubordination charge is a 30-day suspension to removal.
- C. The Table does not cover every possible offense, but it does list the more common types of offenses and the range of penalties normally assessed for those offenses. Examples of additional offenses are discussed in the Standards of Ethical Conduct. The fact that an offense is not listed in the Table does not mean that a penalty cannot be imposed when an offense is committed. In such instances, a reasonable penalty can be determined by comparison with those listed.
- D. HUD employees may be subject to criminal prosecution when there is evidence of a possible statutory violation. It is the policy of HUD that an employee who has been arrested and held for further legal action by a magistrate court or indicted by a grand jury for an offense that is job-related should be indefinitely suspended without pay pending the outcome of the judicial process, so as not to prejudice the employee's right to the due process in the criminal case. If the employee pleads guilty or is convicted, HUD may then proceed with a removal or other appropriate action. When evidence has been developed by HUD that indicates a possible statutory violation, the Office of Inspector General will refer the matter to the Department of Justice for further investigation and possible prosecution. If the Department of Justice declines to prosecute, the employee

involved in the alleged wrongdoing may then be subject to an appropriate administrative action consistent with the penalties contained in the Table.

- E. The range of penalties described in the Table is intended to serve as a guide. Greater or lesser penalties than suggested may be imposed as circumstances warrant. Any determination that the offense is “more serious” or “less serious” should be based upon the factors described in paragraph 4-2 below and must be justified in at least the decision notice.
- F. The servicing human resources office must be consulted for advice and assistance regarding the procedural requirements that must be followed when applying penalties, formal or informal. This consultation requirement includes securing advice on the merits of the charge(s), the appropriateness of the penalty being proposed, as well as consistency of penalty throughout the Department. In this connection, users of the Table should review Handbook 0752.02 REV-3, *Adverse Actions*.

#### **4-2. Application of the Table of Offenses and Penalties**

- A. In selecting the appropriate penalty for a specific offense, responsible judgment must be exercised so that an employee will not be penalized out of proportion to the offense. Supervisors and managers must be as consistent as possible when proposing and imposing disciplinary or adverse actions and must not make arbitrary or capricious decisions. In more egregious situations, removal might be the appropriate penalty for the first offense of misconduct.
- B. The Douglas Factors should be considered in selecting a penalty. These factors are the following:
  - 1. The nature and seriousness of the offense, and its relationship to the employee’s duties, position, and responsibilities, including whether the offense was intentional or technical or inadvertent, or was committed maliciously or for gain, or was frequently repeated.
  - 2. The employee’s job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position.
  - 3. The employee’s disciplinary record (within the past 3 years, or longer in more serious cases).
  - 4. The employee’s past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability.
  - 5. The effect of the offense upon the employee’s ability to perform at a satisfactory level and its effect upon the supervisor’s confidence in the employee’s ability to perform assigned duties.



6. Consistency of the penalty with those imposed upon other employees for the same or similar offense.
7. Consistency of the penalty with any applicable agency table of penalties.
8. The notoriety of the offense or its impact upon the reputation of the agency.
9. The clarity with which the employee was on notice of any rules that were violated in committing the offense or had been warned about the conduct in question.
10. Potential for the employee's rehabilitation.
11. Mitigating circumstances surrounding the offense, such as unusual job tensions, personality problems, mental impairment, harassment, or bad faith, malice or provocation on the part of others involved in the matter.
12. The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.

#### **4.3 Administrative Guidance**

- A. One of the goals of personnel management is the early identification of problems so that they can be corrected with a minimum of adversity. When a situation does require correction, supervisors and managers have a wide range of options. Minor misconduct, for example, may be corrected if the supervisor or manager talks to the employee promptly about the misbehavior after the first instance. In some cases, it may be helpful to refer the employee to a trained counselor from the Employee Assistance Program, who can help the employee identify and resolve the problem underlying the misconduct.

When a more formal or severe remedy is appropriate, measures such as an official reprimand will often convince the employee to change the undesirable behavior. These actions are less severe than short suspensions or adverse actions described in Handbook 0752.02 REV-3, *Adverse Actions*, and do not attach the permanent stigma to an employee's record that short suspensions or an adverse action would.

The more common forms of traditional discipline, short of short suspension or adverse action, fall into the following major categories. These remedial corrective actions are most effective if they are taken as soon as possible after the misconduct occurs.

1. An oral warning or admonishment. This is nothing more than a face-to-face meeting where the supervisor or manager tells the employee about the misconduct and puts the employee on notice of the behavior that management expects. When this is done in a prompt, direct, and non-adversarial way, it is often all that is required.
2. A written letter of caution, warning, counseling, admonishment, requirements, etc. Agencies refer to this disciplinary remedy by various names. It is essentially a

written equivalent of the oral warning/admonishment described above and is often used to follow up on such a face-to-face meeting. It is not put in the Official Personnel Folder (OPF), but it often warns the employee that more formal and severe action will result if the employee does not correct the behavior. Such letters must notify the employee whether it will be used when assessing a penalty for any future misconduct.

3. An official reprimand. This is a written warning to an employee, usually issued when prior, more informal discipline has not corrected the misconduct, or when the misconduct is considered too serious for informal remedies. A copy of the official reprimand is placed in the employee's OPF for a period not to exceed 2 years. The official reprimand may be removed from the OPF in less than 2 years if it appears to have had the desired effect up on the employee; i.e., no recurrences, improvement in situation, etc. If there are no longer supervisors in the chain of command who are familiar with the situation or the employee is reassigned to a different organization, the employee may appeal to the current first-level supervisor for removal of the official reprimand from the employee's OPF after 1 year, under the same criteria described above. The official reprimand will normally warn the employee that failure to correct the offending behavior will result in more serious action.
- B. Suspension penalties are without pay. Annual leave, sick leave, or leave without pay cannot be substitute for a period of suspension.
  - C. Depending on the circumstances involved, consideration may be given to a reduction-in-grade action (demotion) or reduction in pay in lieu of removal.
  - D. Proposed disciplinary actions resulting from violations of the Standards of Ethical Conduct may require consultation, in some instances, with an agency ethics official (Office of General Counsel)

#### **4-4. Alcoholism and Drug Abuse**

When proposing an action based on alcohol- or drug-related misconduct, refer to HUD's Drug-Free Workplace Plan; HUD Handbook 792.2 REV-2, Employee Assistance Program (EAP), dated August 12, 1997, and research current case law for guidance.


NOTE: The case law on alcohol- and drug-related misconduct is ever changing. Therefore, it is imperative that the current case law be researched before taking an action when alcohol- or drug-related misconduct is involved.

**APPENDIX 4:  
SECRETARY CARSON'S POLICY STATEMENTS**



**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
**THE SECRETARY**  
WASHINGTON, DC 20410-0001

JUL 19 2018

MEMORANDUM FOR: All HUD Employees  
FROM: Benjamin S. Carson Sr.   
SUBJECT: Equal Employment Opportunity Policy Statement

As Secretary of the U.S. Department of Housing and Urban Development, I am reaffirming my unwavering commitment to the principles of equal employment opportunity (EEO) and eliminating unlawful discrimination in the workplace.

At HUD we value diversity and have zero tolerance for harassment or discrimination. The Department continues its commitment to achieving a highly qualified, diverse workforce through application of its equal opportunity and nondiscrimination policy in all aspects of employment. All employment decisions at HUD are based on business needs, job requirements, and individual qualifications, without regard to race, color, religion, sex (including sexual orientation, gender identity and expressions, and pregnancy), national origin, age (40 and over), disability, marital status, parental status, veteran status, genetic information, and reprisal.


All HUD employees must accept full responsibility and accountability for ensuring compliance with all nondiscrimination laws and policies. Failure to do so may result in disciplinary action up to and including removal from Federal service. In addition, managers and supervisors bear a greater responsibility in safeguarding equal employment opportunity by taking prompt and appropriate action to enforce this policy when incidents involving workplace harassment and discrimination are brought to their attention.

I want to thank you for your long-standing commitment and valued support in behalf of the American people. Together, our optimum efforts to act with integrity, perform ethically and professionally, and treat others the way we would like to be treated will allow the Department to meet compliance requirements in all that it does and sustain HUD as a model employer.



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
THE SECRETARY  
WASHINGTON, DC 20410-0001

JUL 19 2018

MEMORANDUM FOR: All HUD Employees  
FROM: Benjamin S. Carson Sr.   
SUBJECT: Anti-Harassment Policy Statement

As Secretary of the U.S. Department of Housing and Urban Development, I am reaffirming my commitment to ensuring that HUD continues to promote an organizational culture free from all forms of harassing behavior and misconduct, including sexual harassment, and that reflects the leadership's values of promoting fairness and respect, dignity, and civility in the workplace. All HUD employees, contractors, external stakeholders, and anyone performing official work for the Department must fully support this policy and refrain from engaging in harassing behaviors and misconduct in the workplace.


The Department has a zero-tolerance standard in addressing and eliminating all forms of harassing behavior and misconduct and/or discrimination. This policy also provides protection from retaliation against any employee for making a good faith report of workplace harassment under this or any other policy or procedure, and/or for assisting with an investigation or fact-finding inquiry into such allegation of harassment. In addition, anti-discrimination laws prohibit workplace harassment against individuals in retaliation for filing an equal employment opportunity complaint of discrimination, testifying or participating in any way during an investigation or proceeding, and/or a lawsuit under these laws, or opposing employment practices that they reasonably believe discriminate against individuals in violation of these laws.

Workplace harassment is defined as any unwelcome or offensive treatment or conduct (verbal, physical, psychological, or visual) that a reasonable person would find intimidating, hostile, or abusive and that unreasonably interferes with and is detrimental to an employee's work performance, professional advancement, and mental and physical health, causes economic harm, and/or creates an intimidating, hostile, and offensive work environment. Harassing behavior and misconduct on the bases of race, color, religion, sex (including sexual orientation, gender identity and expressions, and pregnancy), national origin, age, disability, marital status, parental status, veteran status, genetic information and/or reprisal is prohibited. It is illegal to harass an applicant or employee because the person has a disability, had a disability in the past, or is believed to have a physical or mental impairment that is not transitory and minor. Prohibited harassing behavior and misconduct includes, but is not limited to, offensive jokes, slurs, epithets or name calling, undue attention, physical assaults or threats, unwelcome touching or contact, intimidation, bullying, ridicule or mockery, insults or put-downs, constant or unwelcome questions about an individual's identity, mistreatment on social media, and offensive objects or pictures.



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
THE SECRETARY  
WASHINGTON, DC 20410-0001

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MEMORANDUM FOR: All HUD Employees  
FROM: Benjamin S. Carson Sr.   
SUBJECT: Alternative Dispute Resolution Policy Statement

As Secretary of the U.S. Department of Housing and Urban Development, I am reaffirming my commitment to sustaining a harmonious and productive work environment where all employees are treated with dignity and respect.

Under the Administrative Dispute Resolution Act of 1996, agencies are authorized and strongly encouraged to use alternative dispute resolution as a preferred option to traditional forms of dispute resolution. Alternative Dispute Resolution (ADR), which encompasses a variety of problem-solving processes, is designed to assist employees in resolving their workplace disputes collaboratively, fairly, and in an efficient and cost-effective manner. ADR is a valuable tool that can be used to resolve a wide range of workplace disputes, including equal employment opportunity complaints, grievances, and team conflicts.

Executives, supervisors, and managers have a duty to use and participate in ADR to resolve workplace disputes and should consider such ADR techniques as mediation (most commonly used in the Department), facilitation, coaching, conciliation, negotiation, and settlements for the benefit of resolving all disputes. The benefits of using ADR may include decreased time, cost, and other resources expended in resolving workplace disputes and increased customer satisfaction; avoided prolonged litigation; increased productivity; and improved employee morale.

I encourage the use of ADR to resolve workplace disputes between HUD employees. By helping parties identify their interests, communicate more effectively, and explore creative solutions, ADR will often lead to durable outcomes that will address everyone's interest and rebuild workplace relationships.

Civil and professional management feedback regarding an employee's performance does not constitute harassment. Further, valid work performance instructions from a supervisor or other management official to an employee does not constitute harassment.

Executives, managers and supervisors bear the leadership and accountability for taking swift, effective, and proportionate action to enforce this policy when they become aware of incidents involving workplace harassment. Preventing workplace harassment is everyone's responsibility, and all reports of harassing behavior and misconduct will be taken seriously and handled appropriately.

HUD employees who experience or witness harassing behavior or misconduct are encouraged to immediately report the incident to their first-line manager/supervisor (unless their first-line manager/supervisor is the alleged perpetrator) and/or the appropriate management official, the Office of Departmental Equal Employment Opportunity (ODEEO), and/or the Office of the Chief Human Capital Officer. Once the Department is aware of the claims of harassment, management will immediately conduct a prompt, thorough, and impartial investigation of the claims.

The Department, to the greatest extent possible, will take every step to protect the confidentiality of individuals alleging harassment. Immediate and appropriate corrective action will be taken if it is determined that harassment has occurred. Employees who believe they have been harassed may also initiate a complaint with ODEEO by calling (202) 708-5921 or by using the E-file system on ODEEO's [hud@work](mailto:hud@work) page.