The data for the Natural Resources Conservation Service (NRCS) Fiscal Year (FY) 2021 No FEAR Act Annual Report follows.

I. Number of Complaints Filed

Trends

Natural Resource Conservation Service (NRCS) increased the number of Equal Employment Opportunity (EEO) complaints filed in FY2021 by 24%. In FY2021, 21 formal complaints were filed compared to 17 in FY2020. NRCS closed 25 formal complaints compared to 28 in FY2020, a decrease of 11%.

Causal Analysis

The number of complaints filed increased by 24% from FY2020 to FY2021. Although there is no definitive contributing factor(s) to which this increase may be attributed, NRCS attributes the increase in the number of complaints filed to its efforts in educating employees on EEO and civil rights policies and their rights to participated in the EEO process without reprisal or retaliation. This education and information sharing has educated employees on EEO issues, concerns, and the opportunity to come to Civil Rights Divisions to discuss their issues and concerns.

Knowledge Gained

NRCS is committed to complying with EEOC guidelines and continues to incorporate a structure for effective management, accountability, and self-analysis which will ensure program success and compliance with Management Directive 715 (i.e. the Model EEO Program). NRCS fully recognize that whether the number of complaints filed with the Civil Rights Division increases or decreases in any year, we must not become complacent. NRCS remains committed to ongoing system improvement and implementing best practices for reducing and eventually eliminating EEO complaints.

II. Number of Filers

Trends

The number of filers in FY2021 was 21; compared to 17 in FY2020. This is a decrease of 24%.

Causal Analysis

NRCS can attribute the increase in the number of filers to its efforts in educating employees on EEO and civil rights policies and their right to participate in the EEO process.

Knowledge Gained
The willingness of supervisors and managers to engage in addressing workplace challenges and issues at the earliest stages, namely via the Alternative Dispute Resolution Program has been instrumental in reducing the number of pre-complaints progressing to the formal complaint phase.

III. Number of Repeat Filers

Trends

A review of NRCS data for FY2021 shows one repeat filer for FY2021, same number for FY2020.

Causal Analysis

NRCS will continue to take a proactive approach to resolving workplace issues.

Knowledge Gained

NRCS is committed to raising awareness of practices and policies that contribute to perceptions of bias or unfairness.

IV. Number of Bases Alleged in Complaints

Trends

During FY2021, of the nine federally protected EEO categories (bases), all nine bases were alleged in NRCS complaints compared to eight alleged in FY2020. Of the nine alleged bases, the three most cited in formal EEO complaints in FY2021 were: Disability -9, Reprisal -9, and Sex -8 compared to Reprisal -19, Race -14, and Color -10 in FY2020.

Causal Analysis

Reprisal has consecutively been alleged in the top three. It should be noted that reprisal (participation in previous EEO activity) may continue to be among the top three because most formal complaints filed within the fiscal year are filed by employee’s who filed previous EEO complaints. According to the Equal Employment Opportunity Commission, reprisal is the most frequently alleged basis of discrimination in the federal sector and the most common discrimination finding in Federal sector cases.

It is perceived that negative reactions and cultural insensitivity between managers and employees can play a part in the bases alleged. Organization cultural differences, communication, and
misunderstanding among the Business Center employees may also play a prominent role in bases alleged.

Knowledge Gained

Periodic reviews of formal EEO complaint monitoring and tracking data during the fiscal year is crucial to identify the bases alleged in EEO complaints, and provide management and supervisors with appropriate Civil Rights, EEO, and HR training to address such areas of concern. Providing managers and supervisors with training on how to preclude discrimination and harassment on the most commonly alleged bases, which include Disability, Reprisal, and Sex may help reduce the number of claims citing such bases.

V. Number of Issues Alleged Complaints

Trends

The total number of issues alleged in complaints for FY2021 increased from those reported in FY2020. Of the 21 formal complaints filed in FY2021, there were 14 different issues alleged compared to FY2020, 17 formal complaints were filed with 10 different issues. The most commonly alleged issues were Termination, Promotion /Nonselection, and Harassment (Non-Sexual).

Causal Analysis

Allegations dealing with HR personnel practices are generally cited in federal EEO complaints. The organizational restructure and combining of workplace cultures of the mission agencies (FPAC-BC, FSA, NRCS, and RMA) may pose difficulties in understanding and implementation of policies, processes, and procedures (i.e. work-place communication style as in top down vs group consensus).

Knowledge Gained

It is imperative to seek out and reaffirm best practices to prevent misunderstanding that occurs in the workplace and to reaffirm and uphold Federal and USDA principles, policies, and procedures. As employees begin to return to the workplace after working from home/remotely during the Covid-19 pandemic, NRCS can expect to receive an increased number of requests for reasonable accommodations. As such, CREEOD will work closely with HR to ensure that supervisors and managers are trained on ADA compliance obligations and the interactive process regarding possible requests for reasonable accommodations for eligible employees.

VI. Findings of Discrimination

Trends
During FY2021, there were no finding of discrimination compared to one reported in FY2020.

Causal Analysis

NRCS continues to partner with CREEOD to provide Civil Rights and EEO training that includes guidance on discrimination, retaliation, harassment and how to avoid these actions. When allegations of discrimination, harassment, or reprisal are reported to the Civil Rights Program, a thorough inquiry into the allegations are conducted, and prompt and efficient measure(s) are taken if needed. When NRCS identifies, unprofessional, inappropriate, or potentially discriminatory behavior, NRCS senior leadership works quickly to end this action and suitably discipline responsible parties.

Knowledge Gained

NRCS remains committed to educating managers, supervisors, and employees on EEO and Civil Rights laws in its efforts to avoid harassment and discriminatory practices.

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

<table>
<thead>
<tr>
<th>Category</th>
<th>FY 2021</th>
<th>Average No. Days</th>
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</thead>
<tbody>
<tr>
<td>Total Complaints Pending</td>
<td>32</td>
<td>563</td>
</tr>
<tr>
<td>Investigation Completed</td>
<td>16</td>
<td>128</td>
</tr>
<tr>
<td>Final Agency Decision - Merit</td>
<td>14</td>
<td>56</td>
</tr>
<tr>
<td>EEOC Hearing</td>
<td>20</td>
<td>845</td>
</tr>
<tr>
<td>Complaints Pending Final Agency Action</td>
<td>3</td>
<td>167</td>
</tr>
</tbody>
</table>

USDA, Employment Investigation Division (EID) in the Office of the Assistant Secretary for Civil Rights (OASCR), has oversight for completing CREEOD’s formal EEO investigations. During FY2021, NRCS had 16 investigations completed compared to 21 in FY2020. Of the 16 investigations completed in FY2021, all were completed within the regulatory time frame. In FY2021, no investigation was completed untimely, compared to four untimely investigation reported in FY2020. CREEOD will continue to work with EID and their contracted investigators to ensure they continue to complete timely and thorough investigations. CREEOD conducts regular meetings with EID to discuss issues concerning the quality and timeliness of investigations, including those that could potentially exceed the 180-day time frame.

USDA, Employment Adjudication Division (EAD) in OASCR, has oversight for processing CREEOD’s Final Agency Decisions (FADs). CREEOD monitors the process to ensure that the FADs are completed within the regulatory requirement mandated by EEOC. There were 14 FADs processed in FY2021, and 15 FADs processed in FY2020. The average processing days for FADs completion was 56 days. Of the 14 FADs processed, four were processed outside the regulatory timeframe.
VIII. No FEAR Reporting Requirements

NRCS leadership ensures access availability to agency employees, former employees, and applicants for Federal employment concerning the rights and remedies applicable to them under the employment discrimination and whistleblower protection laws (e.g., No FEAR Act). USDA posts individual agency summary statistical EEO complaint data quarterly under Title III, "Equal Employment Opportunity Complaint Data Disclosure," of the No FEAR Act on its public facing website. No FEAR Act Refresher training is required of all USDA personnel, partners, and technical service providers during FY2021.

Training of Employees – NRCS provides an annual notice to its employees concerning the rights and remedies applicable to them under the employment discrimination and whistleblower protection laws.

Process of Providing Annual No FEAR Notice to Employees - Per Title II of the No FEAR Act, each employee is required to complete the initial training and every 2 years thereafter.

Training for NRCS employees was implemented accordingly and requires all employees to take comprehensive training via AgLearn.

<table>
<thead>
<tr>
<th>FY 2021 No FEAR Training</th>
<th>Assigned #</th>
<th># Completed</th>
<th>% Completed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Natural Resources Conservation Service</td>
<td>1,772</td>
<td>1,531</td>
<td>86%</td>
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