

Fiscal Year 2020

Annual Report on the Federal Workforce

Part I: EEO Complaint Processing Activity



U.S. Equal Employment Opportunity Commission
Research, Evaluation, & Applied Data Division | Office of Federal Operations

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Executive Summary

The Federal Government is the largest employer in the United States, with over 2.1 million employees.¹ Despite significant progress in promoting equal employment opportunity (EEO), Federal workforce data suggests that inequities persist. During fiscal year (FY) 2020, about 14,000 Federal sector complaints of discrimination were filed.

This report offers an overview of the underlying trends in Federal sector complaint processing. The information presented can help Congress, stakeholder agencies, and EEOC leadership monitor governmentwide EEO activity and provide benchmarks for measuring the progress of Federal agencies.

Main Findings

The report's analysis relied on EEO complaint data from 277 Federal agencies and subcomponents that filed FY 2020 Federal Equal Employment Opportunity Statistical Report of Discrimination Complaints reports (Form 462). The main findings from FY 2020 include:

- A total of 36,356 counselings were completed, with 38.5% resulting in a formal complaint filing.
- Of the 14,003 formal complaints filed, the basis most frequently alleged was reprisal/retaliation (7,506), followed by age (4,221) and physical disability (4,214).
- An alternative dispute resolution (ADR) was offered for 85.6% of completed counselings, with 53.3% accepting. ADR led to a resolution 67.0% of the time.
- EEOC investigators spent an average of 204 days to complete investigations, down 10% from the previous year. The average cost of an investigation was \$4,379, up 2% since 2019.
- The number of completed investigations has continued to decrease, down from 12,248 completed investigations at the peak in 2018 to 11,786 in 2020.
- The average monetary pre-complaint settlement was \$5,207 per settlement, with a total governmentwide settlement pay-out of roughly \$3.6 million—up from \$3.1 million in FY 2019.
- The total number of findings of discrimination, including AJ decisions and final agency decisions, have continued to increase from 175 in FY 2019 to 244 in FY 2020.
- In FY 2020, the monetary benefits obtained through settlements and awarded for findings of discrimination at the complaint stage, including AJ decisions and final agency decisions, amounted to over \$66 million, a 25% increase since FY 2019.

¹ Governmentwide estimates based on December 2020 FedScope Status Data Employment Cube sourced from the Office of Personnel Management's Enterprise Human Resources Integration-Statistical Data Mart (EHRI-SDM) located at <https://www.fedscope.opm.gov/employment.asp>.

The data above suggests increased efficiencies in the governmentwide complaint process. While the number of counselings have remained consistent from the previous year, agencies timely complete counselings at a rate of 95.0%, with almost 60% of these counselings being resolved before the formal complaint stage. Merit final agency decisions (FADs) to close a complaint are at its highest level since 2015, while the average processing days for merit closures are at its lowest level. Likewise, the number of final agency actions without an AJ merit decision has increased by 35% since 2019, while the average processing time has decreased by 4 days.

Despite these efficiencies, much work is needed in other areas. The average processing days for formal complaint closures has continued to increase, as have the costs of investigations. Reprisal, age, physical disability, race-Black/African American, and sex-female continue to lead all other bases in discrimination. Complaints based on Title VII protections continue to be identified in 85% of all EEO complaints. ADR at the complaint stage is not as successful as ADR at the counseling stage, with ADR FAD closures accounting for only 7.1% of all closures. Finally, findings of discrimination have increased 39% since 2019, while the total money awarded during formal complaint closures increased 25%.

Introduction

The Federal Government is the largest employer in the United States, with over 2.1 million² employees. The Federal Government strives to serve as a model employer by promoting equal employment opportunity (EEO) and an inclusive work culture. Despite significant progress, Federal workforce data suggests that inequities persist.

During fiscal year (FY) 2020, 14,003 Federal sector complaints of discrimination were filed. Complaints have steadily declined since 2010 (down from 15,070), but discrimination complaints have remained costly. In FY 2020, Federal agencies spent \$3.7 million on pre-complaint settlements, \$51.6 million on EEO complaint investigations, and \$66.5 million in monetary benefits for findings of discrimination and complaint-stage settlements.

This report summarizes the state of Federal sector EEO while providing trend analyses of key EEO indicators. The information presented can assist Congress, stakeholder agencies, and EEOC leadership to monitor governmentwide EEO activity and provide benchmarks for measuring the progress of Federal agencies. Those interested in proactive prevention should find this report a valuable resource for identifying existing and emerging challenges in Federal sector EEO.

Scope

This report offers an overview of Federal sector complaint activity and benchmarks against which individual Federal agencies can gauge their performance. The report uses EEO complaint data from 277 Federal agencies and subcomponents that filed FY 2020 Federal Equal Employment Opportunity Statistical Report of Discrimination Complaints reports (Form 462). The report provides all data in governmentwide aggregate form, with five-year trends shown where appropriate. Detailed data for individual agencies can be found in the online appendices at <https://eeoc.gov/Federal/reports/index.cfm>.

This report describes activity at different stages of the complaint process, including pre-complaint activity, complaint activity, and findings. Key findings in this report and their implications are discussed.

Complaint Processing

This section compiles governmentwide data on complaints, investigations, hearings, and findings³ of discrimination. It also provides five-year trends in complaint activity (where available), governmentwide benchmarks, and highlights of some of the top performing

² Governmentwide estimates based on December 2020 FedScope Status Data Employment Cube sourced from the Office of Personnel Management's Enterprise Human Resources Integration-Statistical Data Mart (EHRI-SDM) located at <https://www.fedscope.opm.gov/employment.asp>.

³ This report relies on Form 462 data. As such, findings are those reported by agencies due to either final agency decisions, or EEOC AJ Decisions. These numbers do not include findings on appeal due to this data not being reported on Form 462.

agencies in Federal sector EEO.

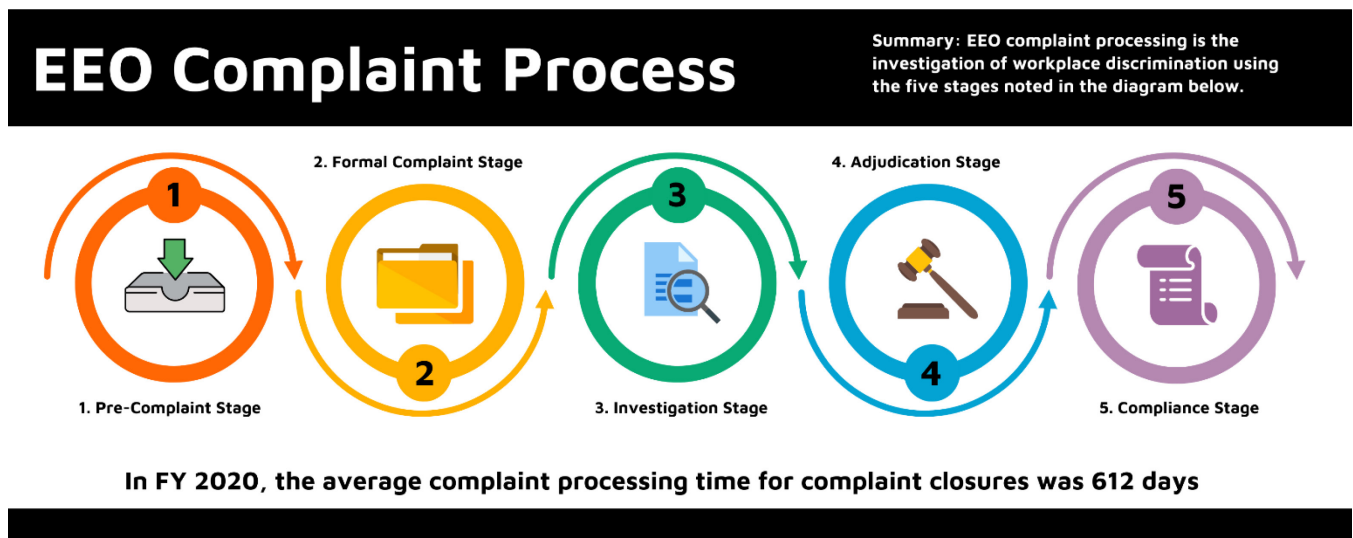
Since Form 462 is self-reported, all data pertaining to complaints, investigations, and findings are reported "as submitted" to the EEOC's Office of Federal Operations by agency stakeholders. Agency-specific details for all aggregate results can be found in the Appendix.

Overview

EEOC Regulations in 29 C.F.R. Part 1614 prohibit discrimination in employment because of race, color, religion, sex, sexual orientation, gender identity, pregnancy, national origin, age, disability, or genetic information. They also prohibit retaliation against an individual for participating in administrative or judicial proceedings involving employment discrimination or otherwise acting in reasonable opposition to unlawful discrimination.

Part 1614 establishes the process for filing a complaint of discrimination in the Federal sector. Infographic 1 shows the stages of the EEO complaint process.

Infographic 1. Federal EEO Complaint Process



Source: U.S. Equal Employment Opportunity Commission.

Pre-Complaints and Informal Complaints

When individuals believe that they have experienced discrimination, they first must contact an EEO counselor prior to filing a formal complaint [29 C.F.R. Section 1614.105 (a)]. The aggrieved has 45 days after the alleged incident occurs to establish contact with an agency counselor. The EEO Counselor has 30 days to complete a timely counseling, unless the aggrieved agrees to an extension of no more than 60 days. Both counselings completed within 30 days and those completed within 60 days with a written extension are considered timely. If the aggrieved's concerns are not resolved in counseling, the counselor must issue a "Notice of Final Interview," which includes information about the aggrieved's right to file a formal complaint at the conclusion of counseling.

Table 1 shows the governmentwide rate of timely EEO counselings in FY 2020. Of the 36,356 counselings completed, the rate of timely completed counselings among all agencies was 95.0%. A full list of agency timely counseling rates can be found in the Appendix, Table B2.

Table 1. Timely Completed Counselings, FY 2020

Total Completed/Ended Counselings	Completed/Ended Counselings (Excluding Remands)	Timely Completed/Ended Counselings (Excluding Remands)	Percent of Timely Completed/Ended Counselings (Excluding Remands)
36,356	36,350	34,548	95.0%

Note: A remand is a counseling or complaint that has been reinstated after being previously dismissed.

Source: U.S. Equal Employment Opportunity Commission, Statistical Report of Discrimination Complaints Data (Form 462), Table B-2.

Any time during the complaint process, the aggrieved may enter into an Alternative Dispute Resolution (ADR) forum designed to remedy the situation quickly and effectively to the satisfaction of both parties. Examples of common ADR techniques include mediation, settlement conferences, and facilitation.⁴ All agencies are required to establish or make available an ADR program during both the pre-complaint and formal complaint processes.⁵ ADR should always be offered at the beginning of counseling.⁶ If chosen, then the agency has 90 days to conduct the ADR and complete counseling.⁷ If not chosen, then the agency has 30 days, which may be extended by agreement, to complete traditional counseling.⁸

Table 2 shows the rate of ADR acceptances among individuals receiving pre-complaint counseling. A total of 36,356 pre-complaint counselings were completed during FY 2020, with an ADR offer rate of 85.6% and 53.3% acceptance rate. ADR data for each agency can be found in the Appendix, Table B4.

Table 2. Alternative Dispute Resolution (ADR) outcomes, FY 2020

	Completed/Ended Counselings	Offered ADR	Participated in ADR
Count (%)	36,356	31,070 (85.5%)	19,381 (62.0%)

Source: U.S. Equal Employment Opportunity Commission, Statistical Report of Discrimination Complaints Data (Form 462), Table B-4.

Not every ADR accepted results in a resolution. In FY 2020, there were a total of 19,407 pre-

⁴ MD-110 Ch. 3 § VI.

⁵ 29 C.F.R. § 1614.102(b)(2).

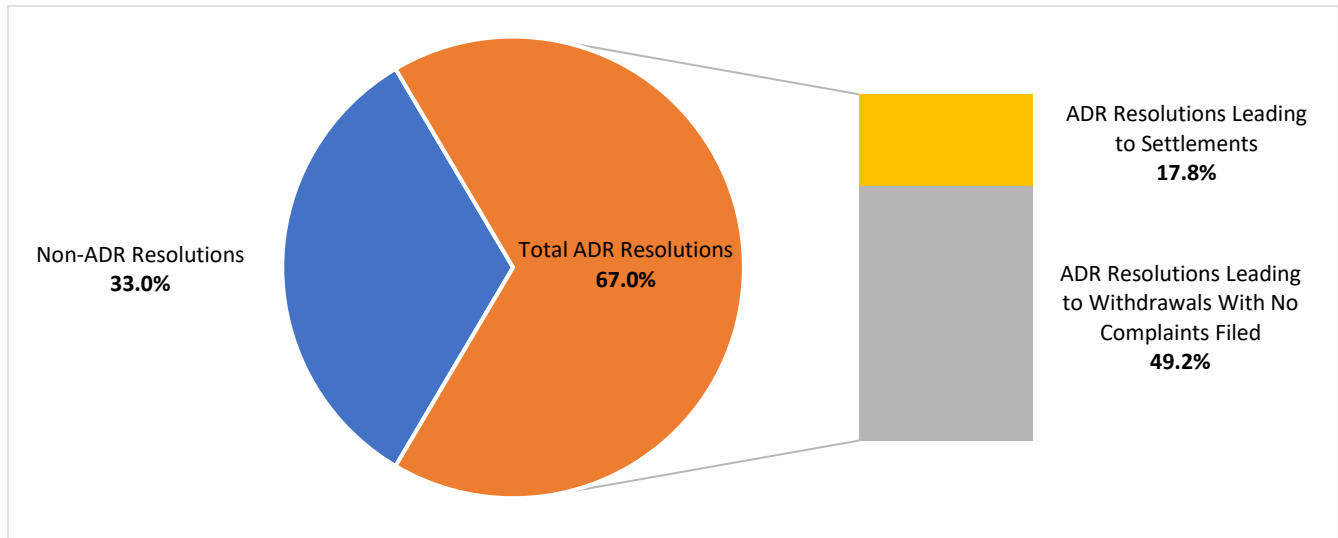
⁶ MD-110 Ch. 2 § VII.A.

⁷ 29 C.F.R. § 1614.105(f).

⁸ 29 C.F.R. § 1614.105(e).

complaint ADR closures, with a resolution rate of 67.0% (figure 1). Approximately 17.8% of all pre-complaint ADR closures led to settlements, while 46.2% resulted in a withdrawal with no formal complaint filed. Appendix, Table B5 provides the distribution of pre-complaint ADR resolutions by agency.

Figure 1. Alternative Dispute Resolutions (ADR) During Pre-Complaint Stage, FY 2020



	ADR Closures	Non-ADR Resolutions	ADR Resolutions	ADR Resolutions Leading to Settlements	ADR Resolutions Leading to Withdrawals With No Complaints Filed
Count (%)	19,407	6,402 (33.0%)	13,005 (67.0%)	3,454 (17.8%)	9,551 (49.2%)

Source: U.S. Equal Employment Opportunity Commission, Statistical Report of Discrimination Complaints Data (Form 462), Table B-5.

During FY 2020, there were a total of 21,510 pre-complaint resolutions—i.e., resolutions with no formal complaint filed (Table 3). This accounted for 59.2% of all completed counselings. Among these resolutions, 10.7% resulted in a settlement. A total of 704 resolutions resulted in a monetary settlement, with an average monetary settlement of \$5,207. Governmentwide, the settlement payout amounted to nearly \$3.7 million. Appendix, Table B6 shows the settlement rate and monetary benefits awarded by each Federal agency.

Table 3. Distribution of Benefits Provided in Pre-Complaint Settlements, FY 2014–20

FY	Completed Counselings	Resolution Rate	Settlement Rate	Settlements With Monetary Benefits	Total Monetary Benefits	Average Monetary Benefits
2014	33,210	54.4%	14.6%	742	\$3,773,943	\$5,086
2015	35,001	55.3%	14.7%	708	\$5,647,171	\$7,976

2016	35,566	54.9%	14.4%	847	\$3,363,982	\$3,972
2017	34,840	55.2%	14.9%	925	\$5,103,338	\$5,517
2018	37,042	55.6%	12.7%	899	\$3,592,162	\$3,996
2019	36,348	58.7%	11.6%	768	\$3,089,717	\$4,023
2020	36,356	59.2%	10.7%	704	\$3,665,376	\$5,207

Notes: A resolution occurs when all charges are closed in the administrative process. This includes charges with no cause findings, administrative closures, and merit resolutions. A pre-complaint settlement occurs when the charge is settled without the filing of a formal complaint and with benefits to the charging party. Monetary benefits are secured through administrative enforcement. Benefits can include actual cash awards (such as restored pay and compensatory damages), attorney's fees, and training or tuition costs.

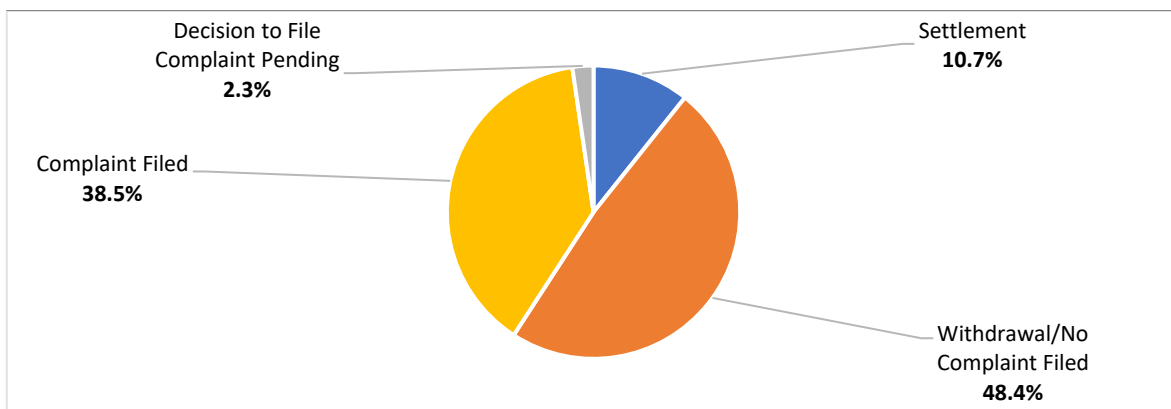
Source: U.S. Equal Employment Opportunity Commission, Statistical Report of Discrimination Complaints Data (Form 462), Tables B-5 and B-6.

Formal Complaints

If the matter is not resolved through either traditional counseling or pre-complaint ADR, individuals have the option to enter the formal complaint process within 15 days of receiving a notice of final interview (NFI).⁹ The formal complaint must be a signed statement from the complainant or the complainant's attorney that sufficiently identifies the complainant, the charged agency, the basis of discrimination (such as race or sex), and the action or practice that is the basis of the complaint.¹⁰

Among the 36,356 counselings initiated governmentwide in FY 2020, 10.7% ended in a settlement, 48.5% ended with a withdrawal from the complaint process, and 38.5% resulted in a formal complaint filing (figure 2). Approximately 2.3% of all counselings were pending the aggrieved's decision on whether to file a formal complaint at the end of FY 2020.

Figure 2. Outcomes of Counselings Completed/Ended, FY 2020



⁹ 29 C.F.R. § 1614.105(d).

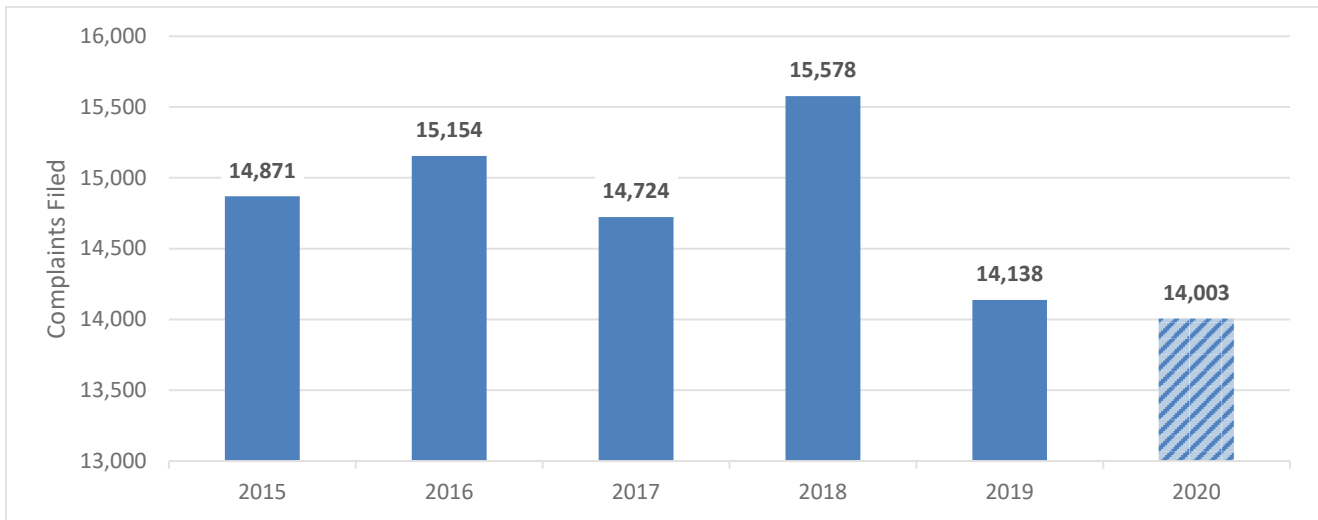
¹⁰ 29 C.F.R. § 1614.106.

	Completed /Ended Counselings	Settlement	Withdrawal/No Complaint Filed	Complaint Filed	Decision to File Complaint Pending
Count (%)	36,356 (100.0%)	3,896 (10.7%)	17,614 (48.5%)	14,003 (38.5%)	843 (2.3%)

Source: U.S. Equal Employment Opportunity Commission, Statistical Report of Discrimination Complaints Data (Form 462), Table B-3.

The number of counselings that ended by filing complaints has fluctuated since FY 2015 and peaked at 15,578 in FY 2018. That number decreased to 14,003 in FY 2020 (figure 3).

Figure 3. Governmentwide Number of Complaints Filed, FY 2015–20



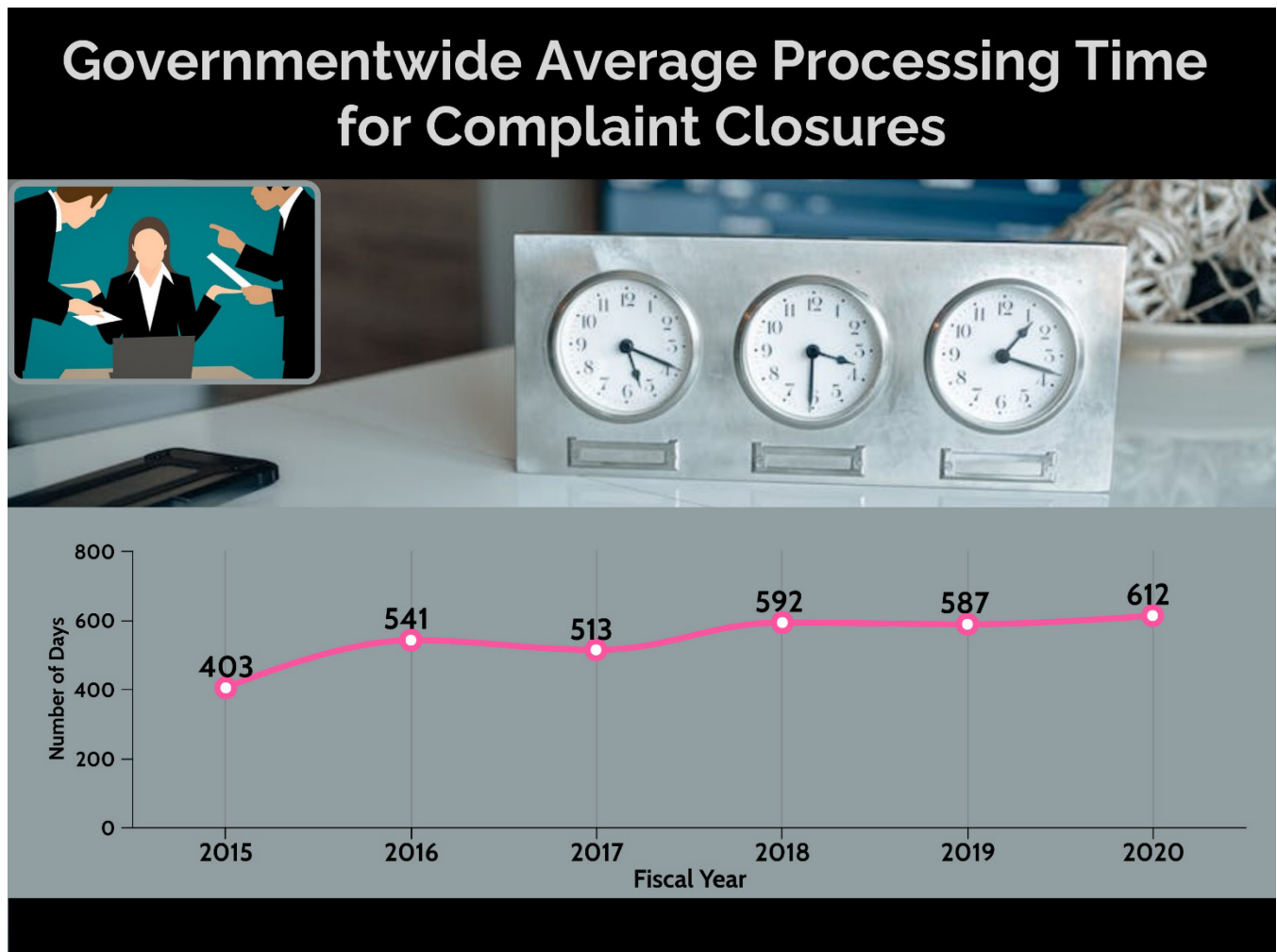
FY	2015	2016	2017	2018	2019	2020
Completed/Ended by Filing Complaint	14,871	15,154	14,724	15,578	14,138	14,003

Source: U.S. Equal Employment Opportunity Commission, Statistical Report of Discrimination Complaints Data (Form 462), Table B-3.

To assess the efficiency of EEO programs, the EEOC calculated the average number of days needed to close complaints after filing.¹¹ Since FY 2015, the average processing time governmentwide for complaint closures has generally trended upwards. Infographic 2 shows that the average processing time was 403 days in FY 2015, compared to 587 days in FY 2019 and 612 days in FY 2020.

¹¹ While efficiency is important, it does not take precedence over effectiveness.

Infographic 2. Governmentwide Average Processing Time for Complaint Closures, FY 2015–20



Source: U.S. Equal Employment Opportunity Commission, Statistical Report of Discrimination Complaints Data (Form 462), Table B-10.

Of the 14,003 complaints filed in FY 2020, the basis most frequently alleged was reprisal/retaliation (7,506), followed by age (4,221) and physical disability (4,214). Infographic 3 shows that top five bases in complaint allegations in FY 2020.

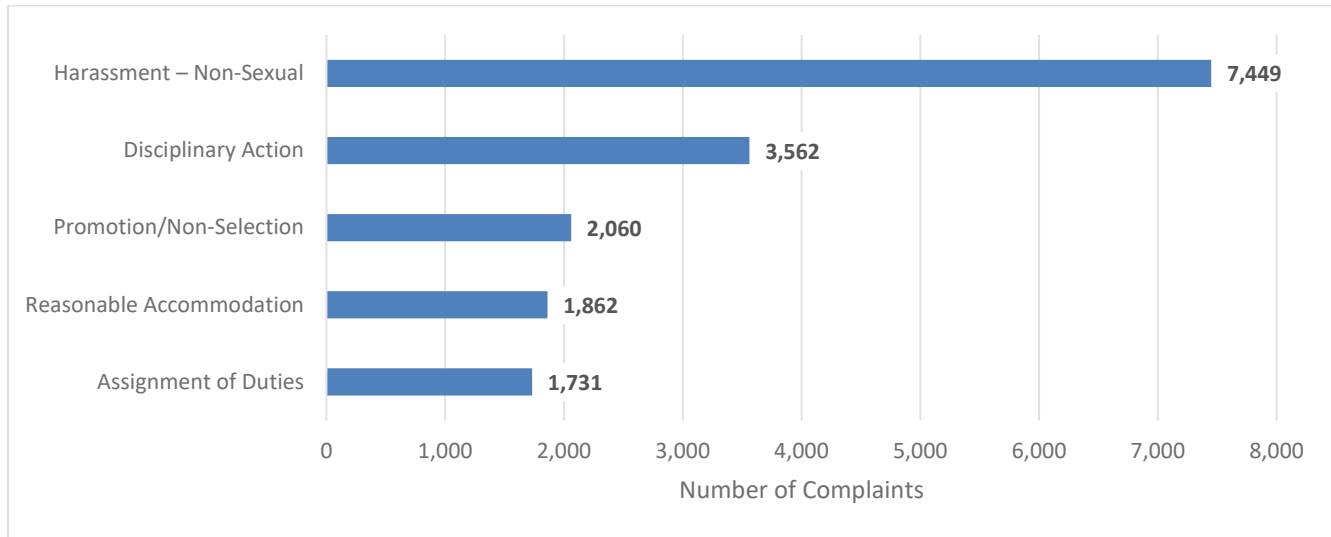
Infographic 3. Top Five Bases in Complaint Allegations, FY 2020



Source: U.S. Equal Employment Opportunity Commission, Statistical Report of Discrimination Complaints Data (Form 462), Table B-8.

Figure 4 shows that the issue alleged most frequently in complaints was non-sexual harassment (7,449), followed by disciplinary action (3,562) and promotions/non-selection (2,060).

Figure 4. Top Five Issues in Complaint Allegations, FY 2020



Issue	Number of Complaints
Harassment – Non-Sexual	7,449
Disciplinary Action	3,562
Promotion/Non-Selection	2,060
Reasonable Accommodation	1,862
Assignment of Duties	1,731

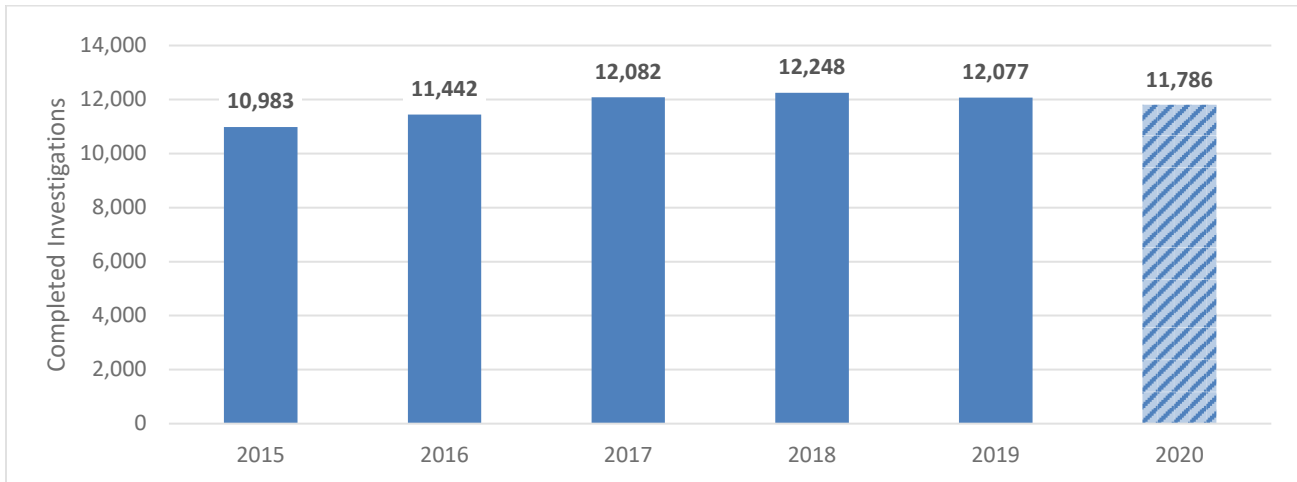
Source: U.S. Equal Employment Opportunity Commission, Statistical Report of Discrimination Complaints Data (Form 462), Table B-8.

Investigations

After the complainant files a formal complaint, the agency typically decides whether to investigate or dismiss the case. Investigations are conducted by the agency, but the complainant can appeal a dismissal to the EEOC's Office of Federal Operations. The agency has 180 days from the formal complaint filing to complete the investigation, unless an extension of up to 360 days from the original filing is warranted due to complaint amendments. At the conclusion of the investigation, the agency provides the complainant with a Report of Investigation and notifies them of the right to request a hearing with an EEOC Administrative Judge or a final agency decision within 30 days.

Figure 5 shows the total completed investigations for FY 2020. Overall, the number of completed investigations has decreased from a peak of 12,248 in FY 2018 to 11,786 completed investigations in 2020.

Figure 5. Total Completed Investigations, FY 2015–20

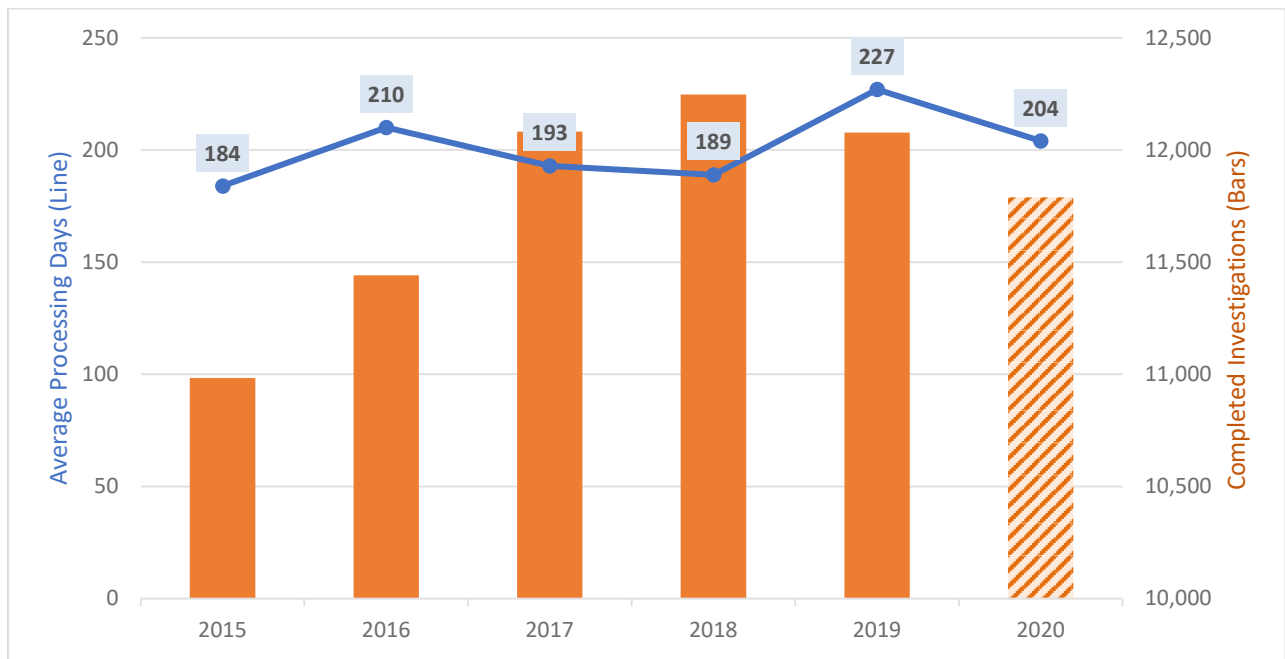


FY	Total Completed Investigations
2015	10,983
2016	11,442
2017	12,082
2018	12,248
2019	12,077
2020	11,786

Source: U.S. Equal Employment Opportunity Commission, Statistical Report of Discrimination Complaints Data (Form 462), Table B-9.

Investigators required an average of 204 days to complete investigations during FY 2020, down 10% from the previous year (figure 6). However, the average processing days for investigations have increased by 11% since FY 2015, when investigations took an average of 184 days to complete.

Figure 6. Average Processing Days for All Completed Investigations, FY 2015–20

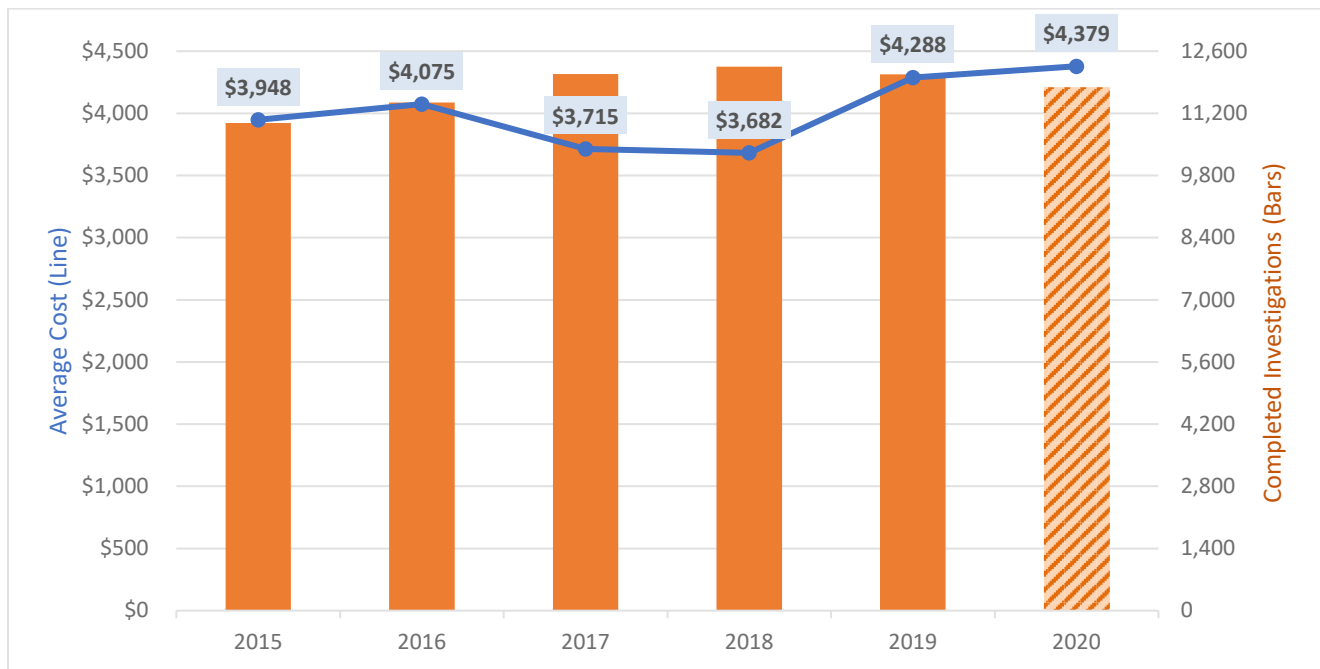


FY	Total Completed Investigations	Average Processing Days
2015	10,983	184
2016	11,442	210
2017	12,082	193
2018	12,248	189
2019	12,077	227
2020	11,786	204

Source: U.S. Equal Employment Opportunity Commission, Statistical Report of Discrimination Complaints Data (Form 462), Table B-9.

Figure 7 shows that the average costs of investigations have increased 15.9% in recent years, from a low of \$3,682 in FY 2018 to a peak of \$4,379 in FY 2020. By comparison, in FY 2015, the average cost of investigations was \$3,948. The total cost to complete investigations governmentwide was about \$51.6 million in FY 2020.

Figure 7. Costs of Completed Investigations, FY 2015–20



FY	Total Completed Investigations	Total Cost	Average Cost
2015	10,983	\$43,355,343	\$3,948
2016	11,442	\$46,621,870	\$4,075
2017	12,082	\$44,890,792	\$3,715
2018	12,248	\$45,107,940	\$3,682
2019	12,077	\$51,794,544	\$4,288
2020	11,786	\$51,607,719	\$4,379

Source: U.S. Equal Employment Opportunity Commission, Statistical Report of Discrimination Complaints Data (Form 462), Table B-9.

Table 4 shows the governmentwide rate of timely investigations for FY 2020. Of the 11,786 completed investigations, 85.1% (10,026) were completed on time. A full listing of timely completed investigation rates for all agencies can be found in Appendix, Table B7.

Table 4. Timely Completed Investigations, FY 2020

Total Completed Investigations	Timely Completed Investigations	Percent of Investigations Completed on Time
11,786	10,026	85.1%

Source: U.S. Equal Employment Opportunity Commission, Statistical Report of Discrimination Complaints Data (Form 462), Table B-7.

Formal Complaint Closures and Compliance

A formal complaint is considered “closed” when an agency has taken a final action on the complaint. Final agency actions include:

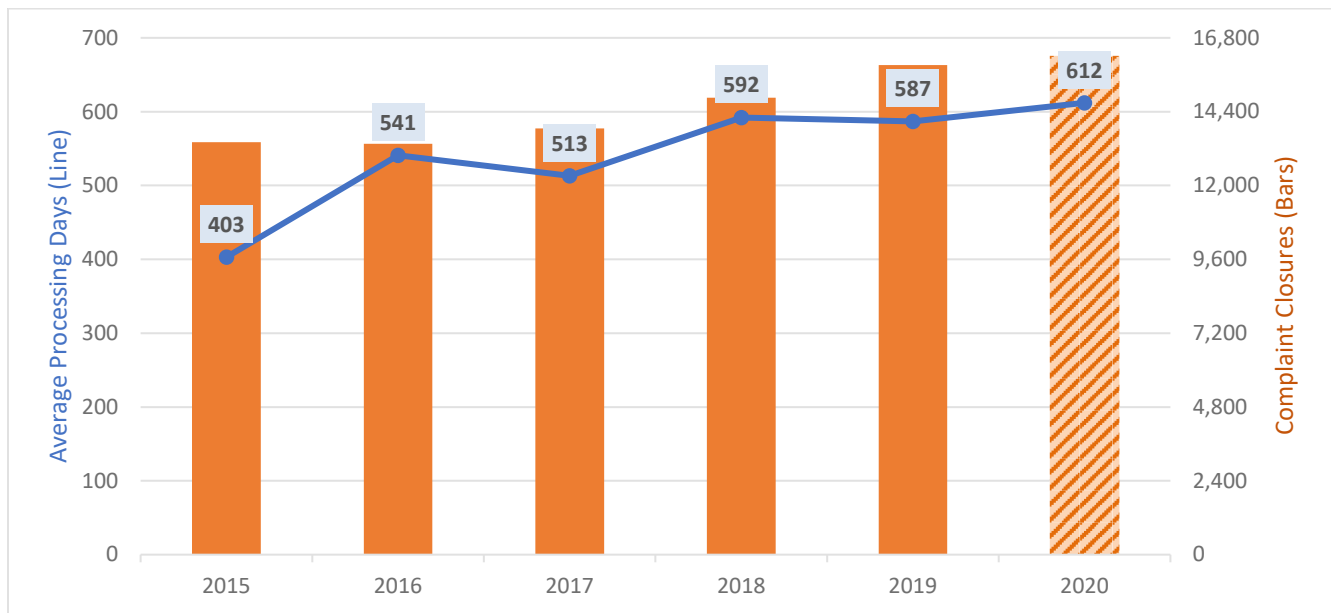
- Final agency decisions (FADs) to dismiss an entire complaint.
- FADs at the conclusion of the investigation where the complainant did not request a hearing.
- Final orders after a decision from an EEOC AJ to either fully implement or reject and appeal the AJ's decision.¹²

Figure 8 shows the total number of formal complaint closures (AJ Decisions and FADs) and the average processing days for FY 2020. The average processing time for complaint closures increased by 25 days between FY 2019 (587 days) and FY 2020 (612 days). By comparison, the average processing time was 403 days in FY 2015. A full list of the average processing days for complaint closures by agency can be found in the Appendix, Table B10.

Infographic 4 shows the total complaint closures by statute for FY 2020. Among all complaint closures, 84.0% were based on Title VII complaints, while the Rehabilitation Act and ADEA accounted for 34.9% and 29.8%, respectively. Both EPA and GINA accounted for less than 1% of all complaint closures.

¹² 29 C.F.R. § 1614.110. If the agency fails to issue a final action within 40 days of the AJ's decision, it is considered to have adopted the AJ's decision. 29 C.F.R. § 1614.109(i).

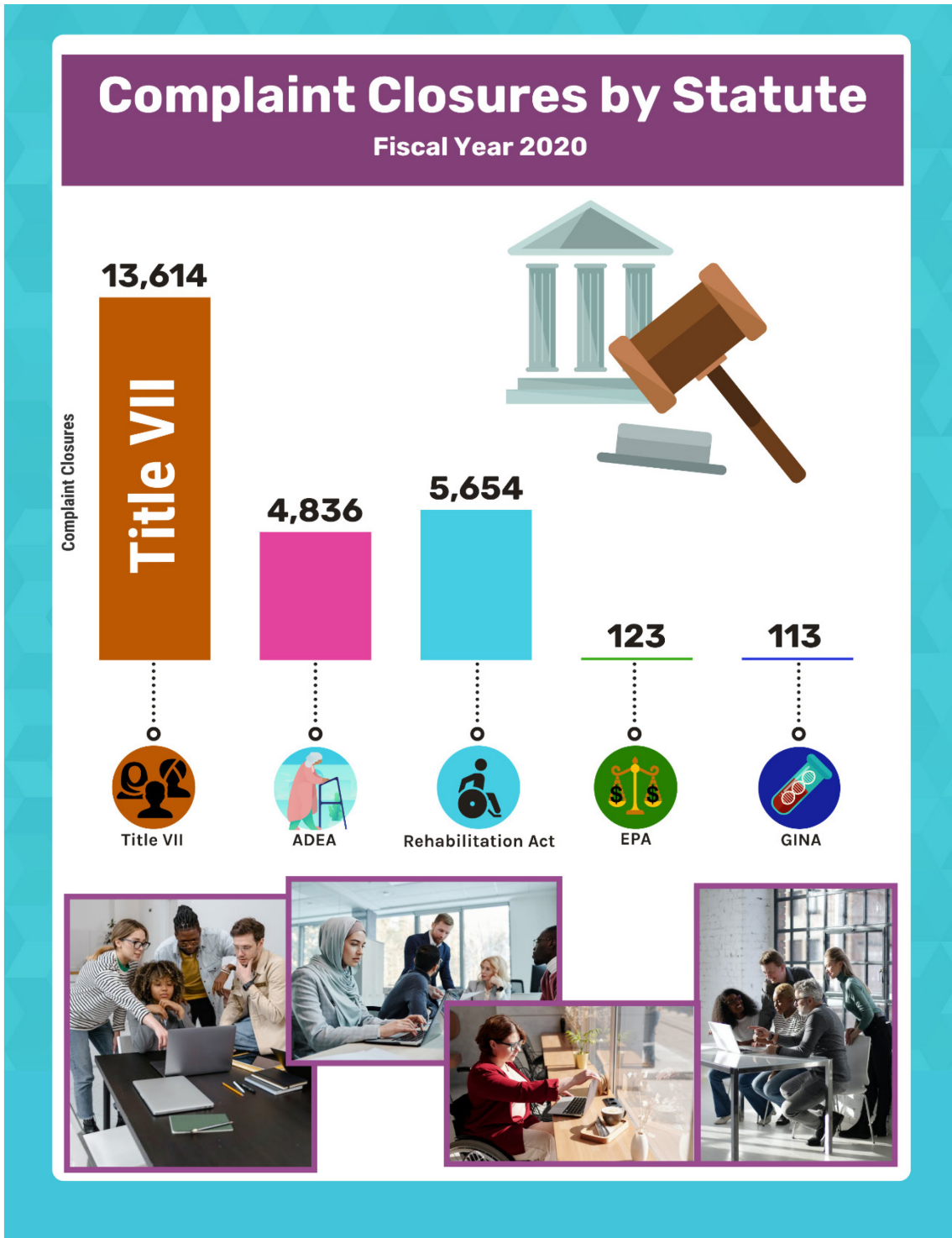
Figure 2. Average Processing Days for All Complaint Closures, FY 2015–20



FY	Total Closures	Average Processing Time
2015	13,412	403
2016	13,355	541
2017	13,851	513
2018	14,852	592
2019	15,911	587
2020	16,207	612

Source: U.S. Equal Employment Opportunity Commission, Statistical Report of Discrimination Complaints Data (Form 462), Table B-7.

Infographic 4. Complaint Closures by Statute, FY 2020

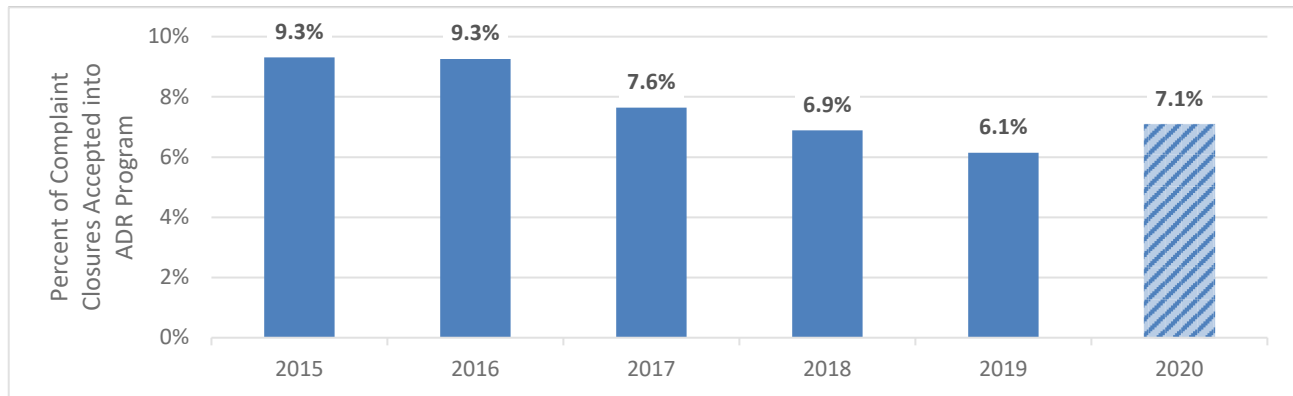


Notes: The reported total complaint closures by statute is higher than the total complaints filed due to individuals alleging multiple statutory bases within a single complaint. ADEA = Age Discrimination in Employment Act. EPA = Equal Pay Act. GINA = Genetic Information Non-Discrimination Act.

Source: U.S. Equal Employment Opportunity Commission, Statistical Report of Discrimination Complaints Data (Form 462), Table B-22.

The EEOC encourages Federal agencies to offer ADR to complainants both during pre-complaint counseling and after filing a formal complaint.¹³ Of the 16,207 formal complaint closures in FY 2020, 7.1% were accepted into ADR during the formal complaint stage, up from 6.1% in FY 2019 (figure 9). Overall, 1,148 formal complaints accepted into ADR were closed during FY 2020, compared to 977 in FY 2019.

Figure 9. Share of Complaint Closures Accepted into ADR Program, FY 2015–20



FY	Total Complaint Closures	Complaint Closures Offered ADR	ADR Offer Rate	ADR Offers Rejected by Complainant	Closures Accepted into ADR Program	ADR Participation Rate
2015	13,412	2,782	20.7%	1,534	1,248	9.3%
2016	13,355	3,043	22.8%	1,806	1,237	9.3%
2017	13,851	2,670	19.4%	1,612	1,058	7.6%
2018	14,852	2,610	17.7%	1,587	1,023	6.9%
2019	15,911	2,727	17.1%	1,750	977	6.1%
2020	16,207	2,780	17.2%	1,632	1,148	7.1%

Notes: During an alternative dispute resolution (ADR), a neutral third party assists the disputants in reaching an amicable resolution. Using ADR may resolve conflict while avoiding the cost, delay, and unpredictability of traditional adjudicatory processes.

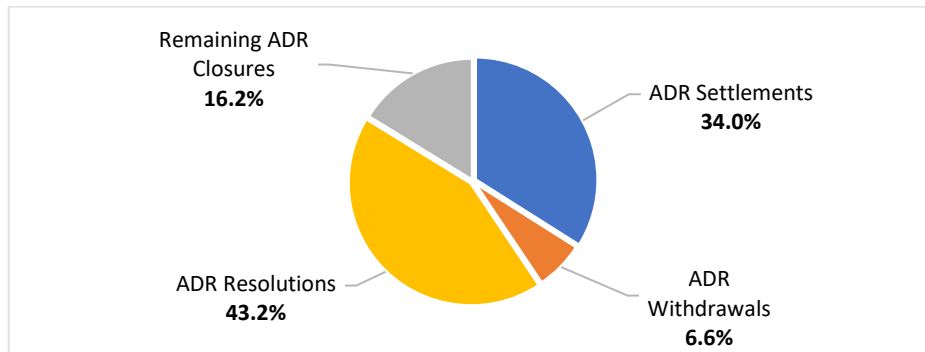
Source: U.S. Equal Employment Opportunity Commission, Statistical Report of Discrimination Complaints Data (Form 462), Table B-19.

A formal complaint ADR resolution occurs when the charges of a formal complaint are closed in the administrative process. ADR resolutions may take the form of a settlement with benefits to the charging party, or a withdrawal in which the charging party voluntarily

¹³ ADR data reported here include ADR at any stage of the formal complaint process, including after the request for a hearing.

withdraws their complaint without receiving benefits. Among the 1,054 formal complaints closed as a result of ADR, about 43.2% were resolved/closed, with 34.0% being closed with a settlement. Another 6.6% resulted in a withdrawal (figure 10).

Figure 10. Outcomes of ADR Complaint Closures, FY 2020



Total ADR Closures	ADR Settlements	ADR Settlement Rate	ADR Withdrawals	ADR Withdrawal Rate	ADR Resolutions	ADR Resolution Rate
1,054	358	34.0%	70	6.6%	455	43.2%

Source: U.S. Equal Employment Opportunity Commission, Statistical Report of Discrimination Complaints Data (Form 462), Table B-20.

Merit Decisions and Processing Time

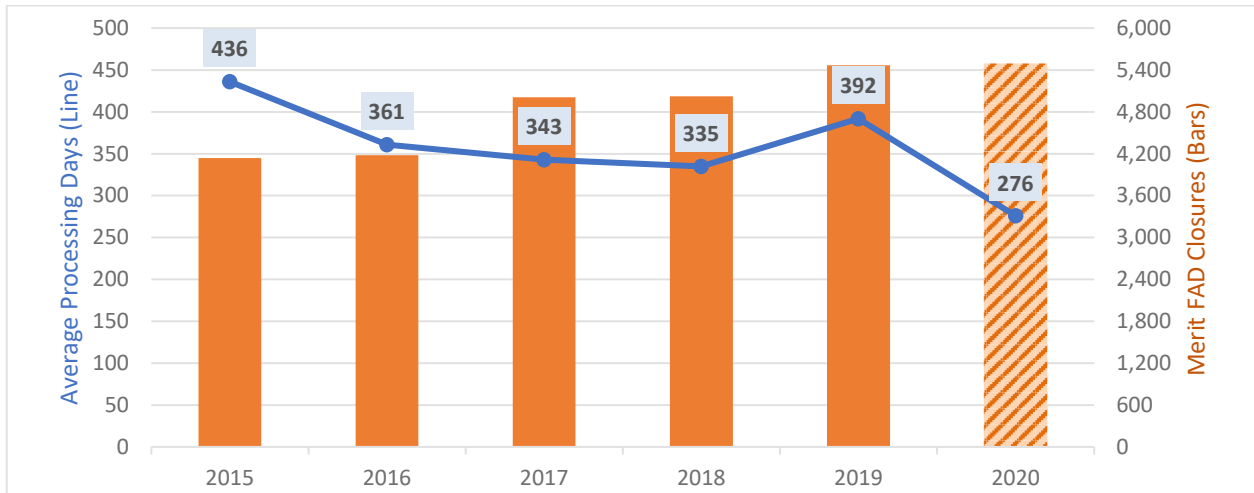
Final agency decisions (FADs) are made by the agency after a complaint has been made. FADs can have the following outcomes:

- 1) Dismissal of the complaint for a procedural reason (e.g., the claim was filed too late).
- 2) Finding no discrimination.
- 3) Finding discrimination.

A merit FAD is made by the agency to determine whether or not unlawful discrimination occurred. Merit FADs exclude procedural dismissals. A merit FAD may implement or appeal an EEOC AJ's decision on the merits of the claim.

Figure 11 shows the total number of merit FAD closures and the average days needed to process the complaint (from when it was filed to when the agency issues a final decision). Although the number of merit FADs was similar between FY 2019 and FY 2020, the average processing days decreased significantly—from 392 days in FY 2019 to 276 days in FY 2020.

Figure 11. Average Processing Days for Merit FADs, FY 2015–20



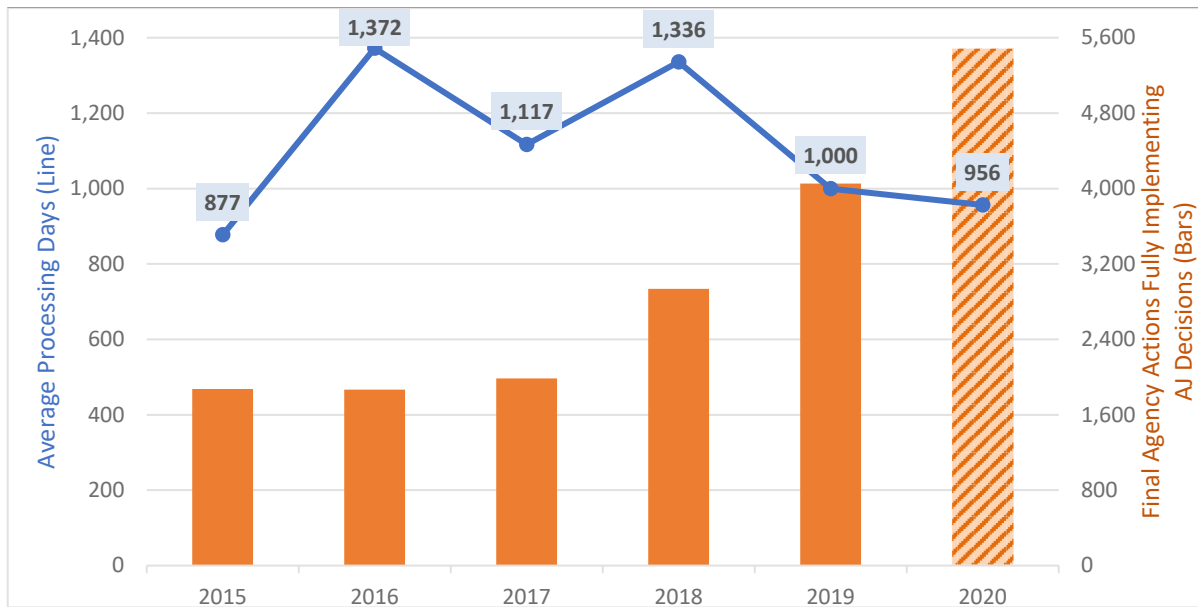
FY	Total Merit FAD Closures	Average Processing Time
2015	4,137	436
2016	4,178	361
2017	5,011	343
2018	5,024	335
2019	5,466	392
2020	5,482	276

Notes: A merit final agency decision (FAD) is made by the agency to determine whether or not unlawful discrimination occurred. A merit FAD may implement or appeal an EEOC AJ's decision on the merits of the claim.

Source: U.S. Equal Employment Opportunity Commission, Statistical Report of Discrimination Complaints Data (Form 462), Tables B-16, B-17.

Final agency actions on a complaint of discrimination include a final agency decision, a final order implementing the decision of an EEOC Administrative Judge (AJ), or a final determination on a breach of settlement agreement claim. The number of final agency actions fully implementing AJ decisions increased from 4,054 in FY 2019 to 5,482 in FY 2020 (figure 12). This increase may be due in part to the increase in administrative judges hired by the Equal Employment Opportunity Commission in recent years. The average processing time decreased from 1,000 in FY 2019 to 956 days in FY 2020.

Figure 12. Average Processing Days for Final Agency Actions Fully Implementing AJ Decisions, FY 2015–20



FY	Final Agency Actions Fully Implementing AJ Decisions	Average Processing Time
2015	1,872	877
2016	1,868	1,372
2017	1,986	1,117
2018	2,936	1,336
2019	4,054	1,000
2020	5,482	956

Notes: Final agency actions on a complaint of discrimination include a final agency decision, a final order implementing the decision of an EEOC Administrative Judge (AJ), or a final determination on a breach of settlement agreement claim.

Source: U.S. Equal Employment Opportunity Commission, Statistical Report of Discrimination Complaints Data (Form 462), Tables B-15, B-17.

The total number of findings of discrimination increased from 175 in FY 2019 to 244 in FY 2020 (table 5). In FY 2020, 135 final orders and 109 merit FADs found discrimination, compared to 100 final orders and 75 merit FADs in FY 2019.

Table 5. Findings of Discrimination, FY 2015–20

FY	Total Merit Complaint Closures	Total Findings	Merit FADs (No AJ)	Merit FADs Finding Discrimination	Final Orders (FOs) of AJ Merit Decisions	FOs of AJ Merit Decisions Finding Discrimination
2015	6,009	168	4,137	60	1,872	108
2016	6,046	159	4,178	71	1,868	88
2017	6,997	158	5,011	64	1,986	94
2018	7,960	139	5,024	48	2,936	91
2019	9,520	175	5,466	75	4,054	100
2020	9,607	244	5,482	109	4,125	135

Notes: A merit final agency decision (FAD) is made by the agency to determine whether or not unlawful discrimination occurred. A merit FAD may implement or appeal the decision of an EEOC Administrative Judge (AJ) on the merits of the claim. A final order is a statement of whether the agency agrees with the AJ and if it will grant any relief the judge ordered.

Source: U.S. Equal Employment Opportunity Commission, Statistical Report of Discrimination Complaints Data (Form 462), Table B-15.

Monetary Benefits Awarded (Formal Complaint Closures)

Table 6 shows data for formal complaint closures with monetary benefits, governmentwide. Monetary benefits can include back pay/front pay, lump sum payments, compensatory damages, and attorney's fees. Lump sum payments have accounted for the largest share of payments since FY 2015. In FY 2020, the total monetary benefits¹⁴ awarded during the complaint stage amounted to over \$66.5 million—25.1% more than in FY 2019, when nearly \$53.2 million in benefits were awarded.

Table 6. Monetary benefits awarded during complaint process, FY 2015–20

FY	Total Monetary Benefits	Back Pay / Front Pay	Lump Sum Payments	Compensatory Damages	Attorney's Fees and Costs
2015	\$61,858,231	\$4,256,668	\$32,955,785	\$8,987,545	\$15,658,232
2016	\$68,571,164	\$3,168,105	\$33,452,738	\$12,028,412	\$19,921,158
2017	\$54,937,983	\$3,765,882	\$29,002,290	\$8,715,838	\$13,428,470
2018	\$52,289,373	\$1,823,723	\$28,349,768	\$8,911,160	\$13,185,549
2019	\$53,174,888	\$1,237,600	\$26,372,341	\$10,527,052	\$14,956,098

¹⁴ Monetary benefits include awards provided by agencies due to an agency decision or a fully implemented EEOC AJ decision. This does not include awards due to findings on appeal.

2020	\$66,535,286	\$2,998,947	\$35,998,209	\$10,768,783	\$16,715,410
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Source: U.S. Equal Employment Opportunity Commission, Statistical Report of Discrimination Complaints Data (Form 462), Table B-21.

Conclusion

On October 1, 2003, the EEOC issued Management Directive 110 (MD-110) to provide agencies with guidance and standards for effective EEO and affirmative action programs. As part of the Commission’s commitment to proactive prevention through the use of data, MD-110 specified that each covered agency is to use EEOC Form 462, Annual Federal Equal Employment Opportunity Statistical Report of Discrimination Complaints, to provide an annual report of the status of all pre-complaints and formal complaints processed under its EEO complaints program in accordance with 29 C.F.R. § 1614.602(a). The EEOC believed that robust reporting requirement would lead to improvements in EEO across Federal agencies. The results of this report suggest that Federal agencies have increased efficiency in complaint processing in many areas, but several challenges persist.

In FY 2020, the vast majority of counselings were completed on time (95.0%) and offered ADR (85.6%). About half of counselings participated in ADR (53.3%), which led to a resolution 67.0% of the time. Completed investigations were down by 2.4% from FY 2019, lower than it has been since FY 2017. The average processing days for completed investigations is also down by 23 days compared to FY 2019. About 85.1% of investigations were completed on time. And the total number of formal complaint closures has consistently increased since FY 2015, with FY 2020 reaching a six-year high (16,207 formal complaint closures).

Merit FAD closures also reached at a six-year high in FY 2020 (5,482 merit FADs closed), with an average processing time at a six-year low. The number of final agency actions are also at a six-year high, with agencies taking final action on 5,482 decisions during FY 2020, 34.9% more than the previous year. The average processing time for final agency actions in FY 2020 was at its lowest level since FY 2016. While the number of counselings are fairly consistent with the previous year, formal complaints are down from 15,578 in FY 2019 to 14,003 in FY 2020. It must be noted that the pandemic may have impacted complaint activity during FY2020.

Despite these efficiencies, the Federal sector faces several EEO challenges. In FY 2020, reprisal continued to lead all other bases and non-sexual harassment continued to lead all other issues in EEO complaint allegations. Age, physical disability, race-Black/African-American, and sex-Female have also remained leading bases of discrimination complaints year to year. In addition, ADR participation at the formal complaint stage (7.1%) remained significantly lower than participation at the pre-complaint stage (67.0%).

Findings of discrimination also reached a six-year high, with 244 findings in FY 2020—39.4% higher than the previous year. Monetary benefits from complaint closures in FY 2020 were also higher than at any year since FY 2016, with overall costs of \$66.5 million in FY 2020—25.1% higher than in FY 2019.

The Office of Federal Operations (OFO) is committed to its mission of eliminating unlawful discrimination in the federal sector. Federal agencies show progress over previous years in several key areas. Counselings and investigations are generally timely, ADR is consistently offered, complaints are down, and complaint closures are up. The average processing days for investigations are down from the previous year, while the average processing days for FADs and fully implemented AJ decisions are both at a four year low. Additional work is needed to address retaliation and harassment—the leading basis and issue, respectively, alleged in federal sector complaints. While the APD for investigations are down, the overall costs of investigations are higher than in previous years.

The information provided in this report will be used by OFO to proactively prevent employment discrimination through training, barrier analysis, and engaging with agency leadership to promote positive workplace cultures. The EEOC and its Federal partners will continue to work towards the goal of becoming model employers.

Appendix. Complaint Processing Tables

The full data tables used in this report are available at <https://www.eeoc.gov/Federal-sector/reports>.

- Table B-1: FY 2020 Total Work Force, Counselings, and Complaints
- Table B-1a: FY 2020 Total Work Force, Counselings, and Complaints - Sub-Component Data
- Table B-2: FY 2020 All Timely Completed Counselings
- Table B-2a: FY 2020 All Timely Completed Counselings - Sub-Component Data
- Table B-3: FY 2020 Outcomes of All Pre-Complaint Closures
- Table B-3a: FY 2020 Outcomes of All Pre-Complaint Closures - Sub-Component Data
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- Table B-7: FY 2020 Profile Agency Timeliness Indicators (totals with and without USPS data)
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- Table B-8a: FY 2020 Complaints Filed Basis and Issues - Cabinet Level Agencies
- Table B-8b: FY 2020 Complaints Filed Basis and Issues - Medium Sized Agencies
- Table B-8c: FY 2020 Complaints Filed Basis and Issues - Small Agencies
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- Table B-10: FY 2020 Total Number and Average Processing Days for All Complaint Closures
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- Table B-12: FY 2020 Average Processing Days (APD) All Complaint Closures
- Table B-13: FY 2020 Complaints Closed with Dismissals

- Table B-14: FY 2020 Timeliness of Merit Final Agency Decisions (FAD) (No AJ Decision)
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- Table B-24: FY 2020 Agency Staff Resources
- Table B-24a: FY 2020 Contract Staff Resources
- Table B-25: FY 2020 Agency New Staff Training
- Table B-26: FY 2020 Agency Experienced Staff Training
- Table B-27: FY 2020 Contractor New Staff Training
- Table B-28: FY 2020 Contractor Experienced Staff Training