



Annual Report on the Federal Workforce

US Equal Employment Opportunity Commission

Office of Federal Operations

Fiscal Year 2019

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Part I: Preface

Laws

The U.S. Equal Employment Opportunity Commission (EEOC) enforces Federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex, national origin, age (40 or older), disability, or genetic information. It is also illegal to discriminate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit. The EEOC's responsibilities extend not only to private employers, but also to agencies in the Federal Government. The Federal anti-discrimination laws applicable to Federal employment are as follows:

The Equal Pay Act of 1963 (EPA), as amended, which prohibits employment discrimination on the basis of gender in compensation for substantially similar work performed under similar conditions;

Title VII of the Civil Rights Act of 1964 (Title VII), as amended, which prohibits employment discrimination based on race, color, religion, sex, and national origin;

The Age Discrimination in Employment Act of 1967 (ADEA), as amended, which prohibits employment discrimination on the basis of age (40 years and older);

The Rehabilitation Act of 1973 (Rehabilitation Act), as amended, which prohibits employment discrimination against Federal employees and applicants with disabilities and requires that reasonable accommodations be provided. The Rehabilitation Act applies the same standards as the Americans with Disabilities Act, which prohibits discrimination based on disability by private and state or local government employers;

The Pregnancy Discrimination Act (1978 Amendment to Title VII of Civil Rights Act), which prohibits treating a woman unfavorably because of pregnancy, childbirth, or a medical condition related to pregnancy or childbirth; and

The Genetic Information Nondiscrimination Act of 2008 (GINA), which prohibits employment discrimination based on genetic information, including family medical history.

Guidance for the Process

Title VII grants the EEOC authority to issue rules, regulations, and instructions, as necessary, to enforce the above-listed EEO laws within the Federal Government. Title VII also requires the EEOC to annually review Federal agency EEO plans and report on their progress. The EEOC provides leadership and guidance to Federal agencies on all aspects of the Federal Government's equal employment opportunity program. The EEOC ensures that Federal agencies and departments comply with EEOC regulations, provides technical assistance to Federal agencies concerning EEO complaint adjudication, monitors and evaluates Federal agencies' affirmative employment programs, develops and distributes Federal sector educational materials, and conducts training for stakeholders. Furthermore, the EEOC provides guidance and assistance to its Administrative Judges (AJs), who conduct hearings on Federal sector EEO complaints, and adjudicates appeals from administrative decisions made by Federal agencies on EEO complaints. The objective of this report is to promote equal employment

opportunity by providing Federal agencies and Congress with an overview of the state of Federal sector EEO.

Goal

This fiscal year (FY) 2019 report on Federal sector EEO, submitted to the President and Congress, presents a summary of select EEO program activities of 271 Federal agencies and subcomponents. Specifically, the EEOC intends this report to serve as a resource for agencies' proactive prevention of employment discrimination by reporting data that contributes to such a discussion. This report provides vital information to agencies as they strive to become model employers. Increasing awareness of challenges in the Federal Government may better equip the EEOC and Federal agencies to successfully prevent EEO violations from occurring.

Report Overview

The Federal Government operates on an October 1 to September 30 fiscal year, and so this report on FY 2019 activities covers the period from October 1, 2018 through September 30, 2019. The report contains selected information to measure agencies' progress toward achieving a model EEO program, including an analysis of both workforce demographics and statistics about EEO complaint processing. Federal agencies contributed to the content of this report. The EEOC thanks all agencies that provided comments and suggestions, and those that submitted timely and accurate EEO program analysis and complaint processing data. Finally, the EEOC extends a special thanks to the Office of Personnel Management for sharing workforce data from its Enterprise Human Resources Integration.

Part II: Executive Summary

This report offers an informative overview of underlying trends across three broad areas of opportunities for proactive prevention of unlawful employment discrimination: *EEO commitment indicators, workforce characteristics, and complaint processing*. Below are highlights from the fiscal year (FY) 2019 Annual Report within each of these components:

Equal Employment Opportunity Commitment Indicators

- In FY 2019, 89.0% of agencies evaluated managers and supervisors on commitment to EEO.
- 85.2% of agencies prominently posted their reasonable accommodation procedures for individuals with disabilities.
- 75.7% of agencies reported that their senior managers participate in the barrier analysis process.
- 61.4% of agencies reported that the immediate supervisor of the EEO Director was the agency head.

Workforce Characteristics

- Governmentwide, participation rates for 9 out of the 14 race-by-sex groups were higher than their rates in the 2018 civilian labor force (CLF). The exceptions were Hispanic/Latino males (6.2% vs. 6.8% in the CLF), Hispanic/Latina females (4.4% vs. 6.2% in the CLF), White females (22.5% vs. 31.8% in the CLF), men of Two or More Races (0.6% vs. 1.0% in the CLF), and women of Two or More Races (0.5% vs. 1.1% in the CLF).
- White males continued to comprise most of the Senior Executive Service (52.7% of those in Senior Executive Service positions in 2019).
- In the General Schedule (GS) pay system, most race-by-sex groups participated at higher rates in the lower pay grades relative to their participation in the higher pay grades. The exceptions to this are White males and Asians of both sexes.
- The overall participation rate of individuals with targeted disabilities increased from 1.05% in FY 2003¹ to 1.80% in FY 2019. This was driven by increases in the participation rates of individuals with serious difficulty hearing, serious difficulty seeing, and significant psychiatric disorders.
- More Federal agencies are meeting the 2% goal for the participation rate of individuals with targeted disabilities, with 12 out of 28 independent agencies, 11 out of 17 cabinet departments, and 34 out of 98 subcomponents of cabinet departments meeting the 2% goal.² Only three years prior, in FY 2016, only 10 independent agencies and subcomponents reached that goal.

Processing of Employment Discrimination Complaints

¹ FY 2003 is used as a comparator due to the introduction of EEOC Management Directive 715 in that year.

² Among independent agencies and subcomponents with 500 employees or more.

- There were 36,348 counselings completed during FY 2019, with an alternative dispute resolution (ADR) offer rate of 87.06%, an ADR acceptance rate of 54.10%, and an ADR resolution rate of 66.50%.
- 38.90% of completed counselings resulted in a formal complaint filing.
- Of the 15,070 formal complaints filed in FY 2019, the basis most frequently alleged was reprisal/retaliation (7,487), followed by age (4,382) and physical disability (4,252).
- EEOC investigators spent, on average, 227 days to complete investigations during FY 2019, up 20% from the previous year. The average cost of an investigation was \$4,288.
- Overall, the number of completed investigations has decreased since last year, down from 12,248 completed investigations in 2018 to 12,077 completed investigations in 2019. The highest number of completed investigations over the last five fiscal years were in 2018.
- The average monetary pre-complaint settlement was \$4,023 per settlement, with a total governmentwide settlement pay-out of roughly \$3.1 million, down from \$3.6 million in FY 2018.
- The total number of findings of discrimination, including AJ decisions and final agency decisions, have increased from 139 in FY 2018 to 175 in FY 2019.
- In FY 2019, 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 \$53 million, a 1.7% increase since FY 2018.

Overall, Federal agencies have demonstrated commitment to equal employment opportunity. In preparing this report, the EEOC observed high levels of compliance with Management Directive 715 (MD-715) requirements; subtle but consistently higher racial, ethnic, gender, and disability status diversity; and an increase in discrimination complaints. Furthermore, the monetary benefits paid out for complaint-stage settlements and findings of discrimination declined. More work is needed to promote diversity at the upper levels.

Part III: Introduction

Overview

The Federal Government is the largest employer in the United States. With over 2.1 million³ employees, the Federal Government strives to serve as a model employer by promoting equal employment opportunity (EEO) and an inclusive work culture. Despite the significant progress in all areas of EEO, workforce data suggests that some inequities persist in the Federal sector.

Complaint data also provides insight into the state of the Federal Government. During fiscal year (FY) 2019, 15,070 Federal sector complaints of discrimination were filed. While complaints have steadily declined since 2010 (down from 17,583), discrimination complaints have remained costly, with Federal agencies spending \$3.1 million on pre-complaint settlements, \$45.1 million on EEO complaint investigations, and \$53.2 million in monetary benefits for findings of discrimination and complaint-stage settlements. Furthermore, while the Federal Government has experienced increased diversity since the introduction of Management Directive 715 (MD-175) in 2003, diverse representation at higher General Schedule (GS) levels remains unrealized.

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

The data presented in this report was drawn from the following sources:

- Workforce and EEO Commitment data from 201 Federal agencies and subcomponents filing FY 2019 Federal Agency Annual Equal Employment Opportunity Program Status Reports (MD-715).
- EEO complaint data from 271 Federal agencies and subcomponents filing FY 2019 Federal Equal Employment Opportunity Statistical Report of Discrimination Complaints reports (Form 462).

Scope

The goal of this report is to promote awareness of the accomplishments and challenges in Federal sector EEO while providing benchmarks against which individual agencies can gauge their performance. As such, data is reported in the following manner:

- Governmentwide aggregate data are reported. Detailed data for individual agencies can be found in the online appendices at <https://www.eeoc.gov/Federal/reports/index.cfm>.
- Five-year trends are presented where appropriate.
- As is often done in reports on EEO, Federal workforce data is compared to the 2018 civilian labor force (CLF) to see how the Federal Government compares to other

³ Based on certified fiscal year 2019 Federal Agency Annual Equal Employment Opportunity Program Status Reports (MD-715). Includes U.S. Postal Service. This value fluctuates annually due to changes to which agencies submit and certify the report.

employers.

- Because 2003 was a pivotal milestone year due to the introduction of Management Directive 715, governmentwide changes in EEO since 2003 are highlighted.
- Top performing agencies are recognized on select EEO indicators.

Using this data, Part IV reports on agencies' demonstrated commitment to EEO, including governmentwide compliance with MD-715 guidance. Part V reports on workforce characteristics, describing the governmentwide participation rates of EEO groups. Part VI reports on EEO complaint activity, describing activity at different stages of the complaint process, including pre-complaint activity, complaint activity, and findings. We conclude by highlighting key findings in this report and their implications.

Limitations

Readers should exercise caution when comparing current data to data from prior years. Effective January 1, 2006, OPM required Federal agencies to collect ethnicity and race information for accessions on a revised version of Standard Form 181 (Ethnicity and Race Identification). Accordingly, since 2006, the Central Personnel Data File (CPDF) has contained data on persons who are Native Hawaiian or Other Pacific Islander (NHOPI) or who are of Two or More Races. Thus, separate data on these groups is contained in this report for recent years. Before 2006, however, data on Asians included Native Hawaiian or Other Pacific Islanders, and there was no data reported on persons of Two or More Races.

Part IV: Demonstrated Commitment to Equal Employment Opportunities

There is reason to believe that organizational commitment to EEO may prevent employment discrimination. The 2019 report, like other recent Annual Reports, assesses compliance with MD-715 and 29 CFR § 1614, focusing on aspects that directly affect Federal employees.

To assess the Federal Government's commitment to EEO, this report examined four measures related to the prevention of discrimination found in Part G of EEOC Form 715-02, the Federal Agency Annual EEO Program Status Report. Agencies that were required to complete that form answered yes, no, or not applicable to the following questions related to agencies' commitment to EEO:⁴

- Do all managers and supervisors have an element in their performance appraisal that evaluates their commitment to agency EEO policies and principles and their participation in the EEO program? (Question C.3.a)
- Does the agency prominently post the following information throughout the workplace and on its public website: Reasonable accommodation procedures? (Question A.2.b.3)
- Do senior managers participate in the barrier analysis process? (Question B.6.b)
- Is the agency head the immediate supervisor of the person ("EEO Director") who has day-to-day control over the EEO office? (Question B.1.a)

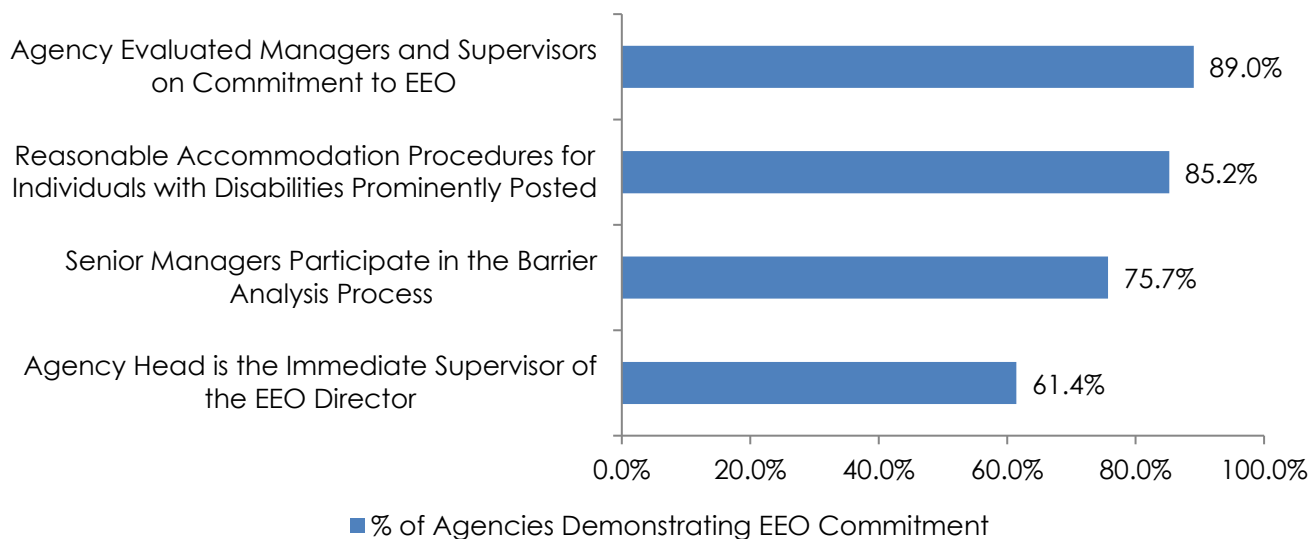
Agencies answering yes were considered to be demonstrating commitment to EEO. As seen in Figure 4.1, most reporting agencies and subcomponents demonstrated commitment on these measures to varying degrees. However, the percentage of agencies demonstrating commitment on most of these measures decreased from that reported the previous year.⁵ The sole exception was evaluating managers and supervisors on their commitment to EEO. In FY 2019, 89.0% of agencies evaluated managers and supervisors on their commitment to EEO, compared to 88.6% of agencies in FY 2018.

At 85.2% of agencies, reasonable accommodations procedures were readily available and accessible. This measure is crucial to attract and retain persons with disabilities within the Federal workforce. The rate of compliance slightly dropped from 86.6% the previous year.

At 75.7% of agencies, senior managers participated in the barrier analysis process in FY 2019. Leadership's involvement in promoting EEO is crucial to creating a workplace culture that does not tolerate discrimination. Despite this being a drop from the FY 2018 value of 77.6%, we commend the majority of agencies who reported succeeding in this measure.

⁴ For FY 2019, all executive agencies and military departments (except uniformed members) as defined in Sections 102 and 105 of Title 5, U.S.C. (including those with employees and applicants for employment who are paid from non-appropriated funds), the United States Postal Service, the Postal Rate Commission, the Tennessee Valley Authority, the Smithsonian Institution, and those units of the judicial branch of the Federal government having positions in the competitive service were required to file EEOC Form 715-02 with EEOC. In addition, Second Level Reporting Components with 1,000 or more employees were required to file EEOC Form 715-02 to EEOC.

⁵ See the FY 2018 Annual Report on the Federal Workforce (Found at <https://www.eeoc.gov/Federal-sector/reports>). This decrease could be due to a variety of factors including changes in which agencies reported and actual changes in agency practices. The specific cause for this decrease falls outside the scope of this report.



EEO Commitment Indicators	% of Agencies Demonstrating EEO Commitment
Agency Evaluated Managers and Supervisors on Commitment to EEO	89.0%
Reasonable Accommodation Procedures for Individuals with Disabilities Prominently Posted	85.2%
Senior Managers Participate in the Barrier Analysis Process	75.7%
Agency Head is the Immediate Supervisor of the EEO Director	61.4%

Figure 4. 1 Federal agencies' demonstrated commitment to equal employment opportunities

Although agencies commonly demonstrated EEO commitment on the measures mentioned above, they did not score as highly on one: having the agency head be the immediate supervisor of the EEO Director. At over one-third (38.6%) of reporting agencies, the agency head was not the EEO Director's immediate supervisor. This deficiency in terms of organizational structure is troubling. Regulations found in 29 C.F.R. § 1614.102(b)(4) and further described in MD-110 mandate that the EEO Director report directly to the agency head.⁶ Not including the EEO Director among senior management implies that the agency does not consider EEO a priority. Furthermore, in technical assistance visits and program evaluations, the EEOC has found that EEO Directors sometimes report to the heads of Human Resources, who often participated in the agency's defense to claims of discrimination. The resulting conflict of interest may cause employees to doubt the neutrality of the EEO process, and they may hesitate to seek EEO counseling. This can result in unchecked discriminatory conduct. With the enactment of the Elijah J. Cummings Federal Employee Antidiscrimination Act of 2020, the requirement that the head of each Federal agency's EEO Program report to the head of the agency is now law. All non-compliant agencies must remedy this issue.

⁶ See EEOC, MANAGEMENT DIRECTIVE FOR 29 C.F.R. PART 1614 (EEO MD-110), at Chap. 1 § III.B (rev. Aug. 5, 2015).

Part V: Composition of the Federal Workforce

Equality of opportunity to participate and advance in the Federal workforce is paramount to achieving the Federal Government's goal of becoming a model employer. Below, this report describes participation rates in the Federal Government by race/national origin (RNO), gender, and targeted disability⁷ for the government overall, for General Schedule (GS) pay grade bands, and for senior level pay positions. Comparing overall participation rates to their availability in the civilian labor force provides one means of evaluating the government's progress toward equal opportunity. To approximate opportunities to participate in higher ranks, the report compares participation rates in more senior grades to participation rates governmentwide and to participation rates in lower grades within the Federal Government. Targeted disability numbers are compared to goals for their participation in the Federal workforce. While some areas reveal improvement since the implementation of MD-715 in FY 2003, work remains before the Federal Government may be considered a model employer.

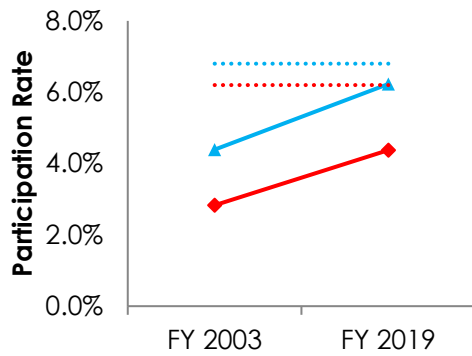
Participation in the Federal Workforce by Race/National Origin and Sex. In the Federal Government in FY 2019, participation rates for 9 out of 14 RNO by sex groups were higher than their rates in the 2018 civilian labor force (CLF; see Figures 5.1 through 5.7 and Appendix II). The exceptions were Hispanic/Latino males (6.2% vs. 6.8% in the CLF), Hispanic/Latina females (4.4% vs. 6.2% in the CLF), White females (22.5% vs. 31.8% in the CLF), men of Two or More Races (0.6% vs. 1.0% in the CLF), and women of Two or More Races (0.5% vs. 1.1% in the CLF).⁸ Although the Hispanic/Latino male and female participation rates were lower than the CLF, these participation rates increased from 2003 when Hispanic/Latino men held 4.4% of Federal jobs and Hispanic/Latina women held 2.8% of Federal jobs.

Conversely, the participation rates of Whites of both genders decreased between 2003 and 2019, with the White male participation rate dropping 4.6% and the White female participation rate dropping 3.6%. For all other racial and gender groups for which we have data from 2003 (African American/Black males and females, Asian males and females, and American Indian/Alaska Native males and females), participation rates increased between 2003 and 2019. For these groups, this maintained the trend of participating in the Federal Government at rates above their 2018 CLF participation rate.

Participation data specific to Native Hawaiians/Pacific Islanders and people of Two or More Races were not available in 2003. However, when compared to their 2018 CLF participation, Native Hawaiian/Pacific Islander males and females had higher than expected participation rates in the Federal Government in 2019.

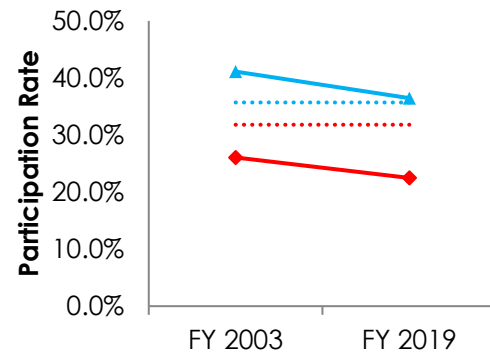
⁷ Targeted disabilities are severe disabilities and are associated with high rates of unemployment and underemployment. See the section titled, "Participation of Individuals with Targeted Disabilities in the Federal Workforce" in this part of the report for further information.

⁸ In accordance with OMB Bulletin No. 00-02 - Guidance on Aggregation and Allocation of Data on Race for Use in Civil Rights Monitoring and Enforcement Persons (https://obamawhitehouse.archives.gov/omb/bulletins_b00-02/), on MD-715, this report's source for federal workforce participation data, when a respondent reports being of one minority race and white, their data is allocated to the minority race. However, in the 2014-2018 EEO Tabulation, the source of the CLF, such multiple race responses are allocated to the "Balance of not Hispanic or Latino" category. On the 2014-2018 EEO Tabulation, specific racial categories are only specified for not Hispanic or Latino individuals who reported only one race.



Hispanic/Latino Participation	FY 2003	FY 2019	2018 CLF
Hispanic Male	4.4%	6.2%	6.8%
Hispanic Female	2.8%	4.4%	6.2%

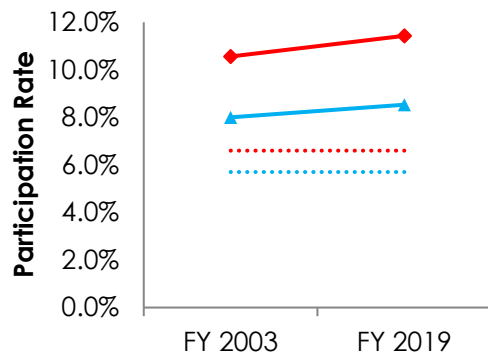
Figure 5. 1. Hispanic/Latino governmentwide participation, FY 2003 and FY 2019



White Participation	FY 2003	FY 2019	2018 CLF
White Male	41.1%	36.5%	35.7%
White Female	26.1%	22.5%	31.8%

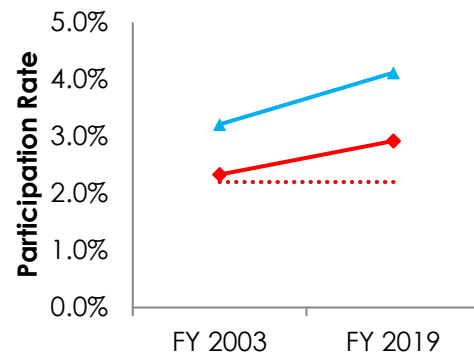
Figure 5. 2. White governmentwide participation, FY 2003 and FY 2019

—▲— Male
 ····· Male 2018 CLF
 —◆— Female
 ····· Female 2018 CLF



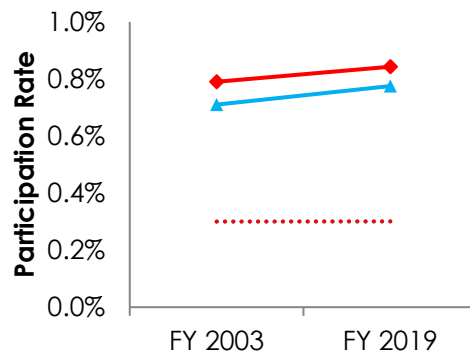
Black/African American Participation	FY 2003	FY 2019	2018 CLF
Black Male	8.0%	8.5%	5.7%
Black Female	10.6%	11.4%	6.6%

Figure 5. 3. Black/African American governmentwide participation, FY 2003 and FY 2019



Asian Participation	FY 2003	FY 2019	2018 CLF
Asian Male	3.2%	4.1%	2.2%
Asian Female	2.3%	2.9%	2.2%

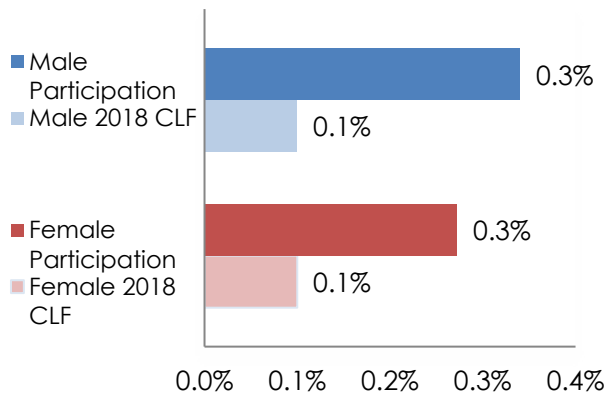
Figure 5. 4. Asian governmentwide participation, FY 2003 and FY 2019



AIAN Participation	FY 2003	FY 2019	2018 CLF
AIAN Male	0.7%	0.8%	0.3%
AIAN Female	0.8%	0.8%	0.3%

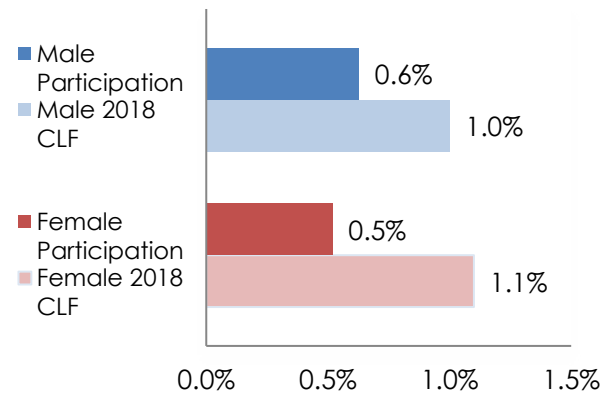
Figure 5. 5. American Indian/Alaska Native (AIAN) governmentwide participation, FY 2003 and FY 2019

—▲— Male
 Male 2018 CLF
 —◆— Female
 Female 2018 CLF



NHOPI Participation	FY 2019	2018 CLF
NHOPI Male	0.3%	0.1%
NHOPI Female	0.3%	0.1%

Figure 5. 6. Native Hawaiian/Other Pacific Islander (NHOPI) governmentwide participation, FY 2019



Two or More Races Participation	FY 2019	2018 CLF
Two or More Races Male	0.6%	1.0%
Two or More Races Female	0.5%	1.1%

Figure 5. 7. Two or More Races governmentwide participation, FY 2019

Participation in Senior Positions by Race/National Origin and Sex. Senior leaders in the workplace not only receive higher pay but have the power to make business decisions such as hiring, promotions, and firing that affect the diversity of the workforce. A premier category of senior leaders in the Federal Government is the Senior Executive Service (SES), which was created to "...ensure that the executive management of the Government of the United States is responsive to the needs, policies, and goals of the Nation and otherwise is of the highest quality."⁹ This section highlights FY 2019 participation in the SES compared to FY 2003 participation in senior level pay positions.¹⁰

Senior level pay positions in the Federal Government, specifically SES positions continued to be dominated by White males (52.7% of those in the SES in 2019). Only White males and White females (25.0% of the SES) participated in the SES at rates higher than their governmentwide participation rates. All other RNO by sex groups participated in the SES at rates lower than their governmentwide participation rates. However, except for White males, all RNO by sex groups for which there is 2003 data made gains in 2019 relative to their 2003 senior level participation rates (See Figures 5.8 through 5.14 and Appendix II).

Overall, women have made great gains in senior level positions. In 2003, females held approximately one-fourth of senior pay level jobs (25.2%). By 2019, women held 34.9% of SES positions. In FY 2019, SES participation rates for Black women (5.6% vs. 2.6%), Asian women (1.8% vs. 0.8%), and American Indian/Alaska Native women (0.47% vs. 0.21%) were more than double their 2003 senior level pay participation rates. For Hispanic/Latina women (1.8% vs. 0.9%), their 2019 SES participation rate was nearly twice their 2003 senior level participation rate. White women (25.0% vs. 20.7%) also increased their participation in senior positions.

However, most women participated in SES at levels far below their governmentwide participation rates in 2019. This applied to Hispanic/Latina women (1.8% of those in SES vs. 4.4% of the entire government), Black women (5.6% vs. 11.4%), Asian women (1.8% vs. 2.9%), Native Hawaiian/Pacific Islander women (0.09% vs. 0.27%), American Indian/Alaska Native women (0.47% vs. 0.84%), and women of Two or More Races (0.10% vs. 0.52%).

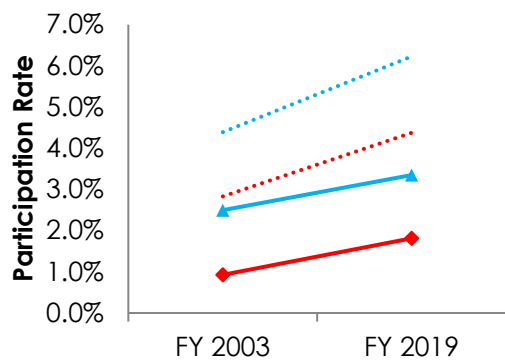
Although in 2019, White men participated in SES at a lower rate than they did in senior level pay positions in 2003, men of other races saw increases between 2003 and 2019. These increases,

⁹ <https://www.opm.gov/policy-data-oversight/senior-executive-service/>.

¹⁰ This comparison is used with caution due to the changes in the sources and measurement of the data. Until 2017, Annual Reports focused on employees in senior pay levels including SES, Executive Schedule, Senior Foreign Service, and other employees earning salaries above Grade 15, step 10 of the General Schedule (https://www.eeoc.gov/Federal/reports/fsp2013_2/index.cfm). This report focuses on FY 2019 participation in SES because SES employees by definition have managerial duties, and the data on SES is directly available from EEOC's MD-715 Reports. The 2003 comparison data comes from EEOC's FY 2005 Annual Report on the Federal Workforce, Appendix Table A-2a, which was based on the Civilian Personnel Data File (CPDF) provided to EEOC by the Office of Personnel Management (OPM); that file did not include data on the Army and Air Force Exchange Service, Tennessee Valley Authority, United States Postal Service, or intelligence gathering agencies. For the data sources for other years of the Annual Reports on the Federal Workforce, see the individual reports at <https://www.eeoc.gov/Federal-sector/reports>. Note that the FY 2019 data in the Participation in Senior Level Pay Positions by Race/National Origin and Sex and the Participation of Individuals with Targeted Disabilities in General Schedule Pay Bands and in Senior Level Pay Positions subsections of this Part only include SES. Other Senior Pay values are reported in the Appendix. Other Senior Pay is not included in these subsections because those positions often do not have the same managerial responsibilities, they far outnumber the SES, the Departments of the Air Force and Commerce disproportionately have personnel in Other Senior Pay, and if SES and Other Senior Pay were combined for a single Senior Level Pay category, the values predominantly would reflect non-executive positions. Using caution in analyses over time is advised.

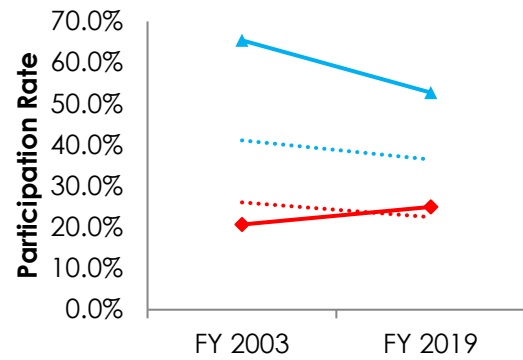
however, were often smaller than those of the women of those races. The 2019 SES participation rate of American Indian/Alaska Native men increased to 0.70% in 2019, compared to 0.54% of senior pay positions in 2003. Black men's SES rate increased to 5.3% in 2019, compared to 4.2% of senior pay positions in 2003. For Asian men, the rate increased from 2.2% of senior pay positions in 2003 to 2.7% of SES in 2019. Hispanic/Latino men's rate slightly increased as well (2.5% of senior level pay in 2003 vs. 3.3% of SES in 2019).

The SES participation rates of Native Hawaiian/Pacific Islanders and people of Two or More Races were far below their governmentwide participation rates in FY 2019 (Senior level pay participation data specific to Native Hawaiians/Pacific Islanders and people of Two or More Races were not available in 2003). For example, male Native Hawaiian/Pacific Islanders participated governmentwide at 0.34%, but only represented 0.10% of people in the SES. Males of Two or More Races made up 0.16% of those in the SES, but they composed 0.63% of the Federal workforce. Efforts should be made to increase the SES participation of groups with lower than expected participation based on their participation rates governmentwide.



Hispanic/ Latino Participation	FY 2003 Gov't Wide	FY 2003 SLP	FY 2019 Gov't Wide	FY 2019 SES
Hispanic Male	4.4%	2.5%	6.2%	3.3%
Hispanic Female	2.8%	0.9%	4.4%	1.8%

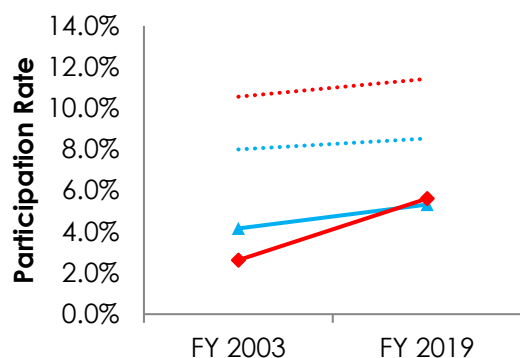
Figure 5. 8. Hispanic/Latino governmentwide and senior level pay (SLP) or Senior Executive Service (SES) participation, FY 2003 and 2019



White Participation	FY 2003 Gov't Wide	FY 2003 SLP	FY 2019 Gov't Wide	FY 2019 SES
White Male	41.1%	65.4%	36.5%	52.7%
White Female	26.1%	20.7%	22.5%	25.0%

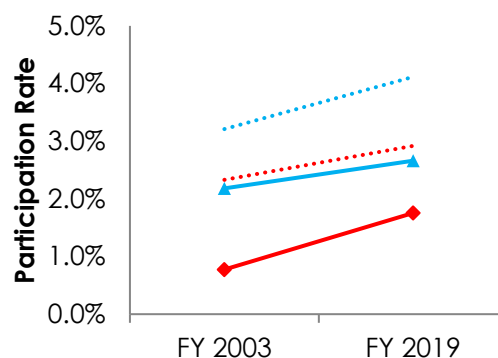
Figure 5. 9. White governmentwide and senior level pay (SLP) or Senior Executive Service (SES) participation, FY 2003 and 2019

—▲ Male SLP/SES
 ····· Male Gov't Wide
 —◆ Female SLP/SES
 ····· Female Gov't Wide



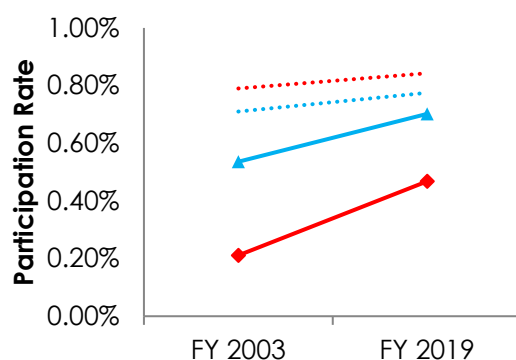
Black/African American Participation	FY 2003 Gov't Wide	FY 2003 SLP	FY 2019 Gov't Wide	FY 2019 SES
Black Male	8.0%	4.2%	8.5%	5.3%
Black Female	10.6%	2.6%	11.4%	5.6%

Figure 5. 10. Black/African American governmentwide senior level pay (SLP) or Senior Executive Service (SES) participation, FY 2003 and 2019



Asian Participation	FY 2003 Gov't Wide	FY 2003 SLP	FY 2019 Gov't Wide	FY 2019 SES
Asian Male	3.2%	2.2%	4.1%	2.7%
Asian Female	2.3%	0.8%	2.9%	1.8%

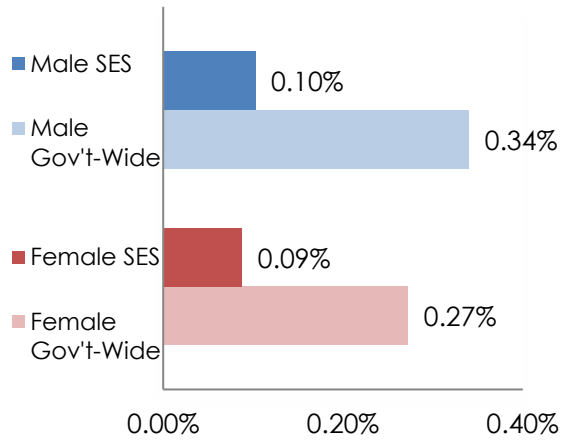
Figure 5. 11. Asian governmentwide and senior level pay (SLP) or Senior Executive Service (SES) participation, FY 2003 and 2019



AIAN Participation	FY 2003 Gov't Wide	FY 2003 SLP	FY 2019 Gov't Wide	FY 2019 SES
AIAN Male	0.71%	0.54%	0.78%	0.70%
AIAN Female	0.79%	0.21%	0.84%	0.47%

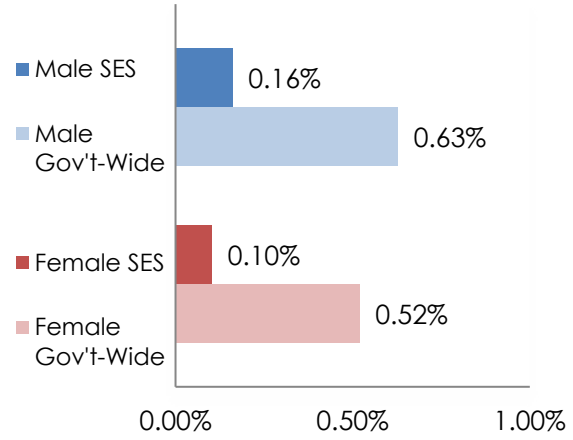
Figure 5. 12. American Indian/Alaska Native (AIAN) governmentwide and senior level pay (SLP) or Senior Executive Service (SES) participation, FY 2003 and 2019

—▲— Male SLP/SES
 ····· Male Gov't Wide
 —◆— Female SLP/SES
 ····· Female Gov't Wide



NHOPI Participation	FY 2019 Gov't Wide	FY 2019 SES
NHOPI Male	0.34%	0.10%
NHOPI Female	0.27%	0.09%

Figure 5. 13. Native Hawaiian/Other Pacific Islander (NHOPI) governmentwide and Senior Executive Service (SES) participation, FY 2019



Two or More Races Participation	FY 2019 Gov't Wide	FY 2019 SES
Two or More Races Male	0.63%	0.16%
Two or More Races Female	0.52%	0.10%

Figure 5. 14. Two or More Races governmentwide and Senior Executive Service (SES) participation, FY 2019

Participation across General Schedule (GS) Pay Bands by Race/National Origin (RNO) and Sex.

To examine disparities in rank, this report compares participation rates between higher and lower GS pay bands and notes participation rate differences within RNO by sex groups. If a group's participation rate in higher GS pay bands is below their participation rate in lower GS pay bands or their overall GS participation, there is a trigger (or red flag) that barriers to EEO may exist. Agencies should conduct similar analyses using these comparators, governmentwide participation, and/or pay bands within another pay system, where appropriate. Where disparities exist, agencies should determine whether barriers prevent these groups from being hired into or advancing to higher grade levels. And where barriers exist, agencies should act to address the barriers.

In the GS pay system, most RNO by sex groups participated at higher rates in lower pay grades (See Table 5.1 and Appendix II). The primary exceptions to this were White males and Asians of both sexes. In 2019, White males made up 21.9% of employees in GS Grades 1 through 6, but 45.3% of employees in GS Grades 14 and 15. Asian males had a 2.1% participation rate in GS Grades 1 through 6, but their GS Grades 14 and 15 participation rate was 5.1%. Asian females also had a higher participation rate in GS Grades 14 and 15 (3.7%) than they did in GS Grades 1 through 6 (3.1%), GS Grades 7 through 11 (2.6%), and GS Grade 12 and 13 (3.0%). In 2019, White males had lower participation rates in the higher GS Grades than they did in 2003. Asians, however, had great increases in their higher GS Grade participation rates between 2003 and 2019, most notably in the higher GS pay bands.

Since 2003, Hispanic/Latino males have greatly increased their participation governmentwide, particularly in GS Grades 12 and 13. Hispanic/Latino males had their highest participation rates in the GS Grades 12 through 13 category (7.2%) and the GS 7 through 11 categories (5.0%). However, they experienced a sharp drop-off in participation at GS Grades 14 and 15 (3.3%).

Black/African American males had their highest participation rate in GS Grades 7 through 11 (7.5%), In contrast, their lowest participation rate was in GS Grades 14 and 15 (5.8%). Males of Two or More Races showed a similar pattern, with their highest participation rate in GS Grades 7 through 11 (0.47%) and their lowest participation rate in GS Grades 14 and 15 (0.21%). White females had their highest participation rate in GS Grades 1 through 6 (30.2%), while their lowest participation rate was in the GS Grades 12 and 13 (21.6%).

In 2019, all other RNO by sex groups' participation rates were lower in higher GS pay bands. This general pattern was consistent with the 2003 data for Hispanic/Latina women, Black/African American women, and American Indians/Alaska Natives of both sexes. No 2003 data was available for Native Hawaiians/Other Pacific Islanders or people of Two or More Races.

Hispanics/Latinos, Blacks/African Americans, and American Indians/Alaska Natives of both sexes increased their participation rates in the GS system between 2003 and 2019 in almost all pay-bands. Their participation rates at the highest GS grades also improved but remained below their overall GS participation levels.

For the two racial groups that do not have FY 2003 comparators (Native Hawaiians/Other Pacific Islanders and people of Two or More Races), participation rates still appeared to go down when moving up the pay scale. Finally, an analysis of gender alone shows that the gender gap in lower participation rates for women at higher GS pay bands is decreasing, but still present.

Table 5.1. Participation across GS Pay Bands by Race/National Origin and Sex, FY 2003 and FY 2019¹¹

	2003 GS 1-6	2019 GS 1-6	2003 GS 7-11	2019 GS 7-11	2003 GS 12-13	2019 GS 12-13	2003 GS 14-15	2019 GS 14-15	2003 GS Total	2019 GS Total
Total Male	34.3%	38.0%	45.3%	49.6%	61.4%	61.2%	69.7%	60.5%	50.7%	55.6%
Total Female	65.7%	62.0%	54.7%	50.4%	38.6%	38.8%	30.3%	39.4%	49.4%	44.4%
Hispanic/Latino Male	3.5%	4.5%	4.5%	5.0%	3.3%	7.2%	2.6%	3.3%	3.7%	5.6%
Hispanic/Latino Female	5.1%	7.1%	4.1%	5.8%	2.0%	3.4%	1.1%	2.1%	3.3%	4.3%
White Male	21.6%	21.9%	32.7%	32.1%	49.5%	41.9%	58.9%	45.3%	38.4%	37.8%
White Female	36.3%	30.2%	33.7%	25.7%	26.1%	21.6%	22.5%	24.2%	30.7%	24.0%
Black/African American Male	6.7%	6.8%	5.5%	7.5%	4.9%	6.6%	4.0%	5.8%	5.4%	6.8%
Black/African American Female	18.4%	15.0%	13.4%	13.8%	8.2%	9.6%	4.7%	8.7%	11.9%	11.2%
Asian Male	1.6%	2.1%	1.9%	3.1%	3.1%	4.1%	3.6%	5.1%	2.4%	3.8%
Asian Female	3.2%	3.0%	2.2%	2.6%	1.8%	3.0%	1.7%	3.7%	2.2%	3.0%
Native Hawaiian / Other Pacific Islander Male	-	0.44%	-	0.33%	-	0.27%	-	0.12%	-	0.28%
Native Hawaiian / Other Pacific Islander Female	-	0.40%	-	0.25%	-	0.15%	-	0.07%	-	0.19%
American Indian/Alaska Native Male	0.97%	1.82%	0.81%	1.09%	0.65%	0.74%	0.63%	0.53%	0.77%	0.90%
American Indian/Alaska Native Female	2.78%	5.79%	1.21%	1.77%	0.50%	0.60%	0.32%	0.37%	1.22%	1.35%
Two or More Races Male	-	0.41%	-	0.47%	-	0.35%	-	0.21%	-	0.37%
Two or More Races Female	-	0.51%	-	0.44%	-	0.27%	-	0.20%	-	0.33%
Permanent GS Workforce	289,422	77,615	536,608	316,009	429,986	426,807	155,595	165,222	1,411,611	985,653

Participation of Individuals with Targeted Disabilities in the Federal Workforce. EEOC has long required the Federal Government to set hiring and workforce goals for people with targeted

¹¹ FY 2019 data come from FY 2019 MD-715 reports submitted by Federal agencies. Only includes permanent employees in GS Grades 1 through 15. Data from agencies that do not report General Schedule Pay Plan Participation Rates are excluded. FY 2003 data come from the 2005 Annual Report on the Federal Workforce Table A-3a. In FY 2003, the Asian category included Native Hawaiians and Other Pacific Islanders. Notably, Asian participation rates have increased despite the reduction in scope. Separate data for Native Hawaiians/Other Pacific Islanders and people of Two or More Races were not collected in 2003.

disabilities. Targeted disabilities are severe disabilities and are associated with high rates of unemployment and underemployment.¹² In October 2016, the United States Office of Personnel Management modified the SF-256, Self-Identification of Disability Form. This changed the terms used to describe targeted disabilities and allowed respondents to identify that they have a serious health condition without specifying the diagnosis.¹³ The EEOC introduced these new terms to its workforce data collection in the FY 2018 reporting period, and the new terms are used in this report. The comparisons made to FY 2003 data in this section should be interpreted with caution due to this modification (See the footnote to Figure 5.15).

On January 3, 2017, the EEOC amended the regulations implementing Section 501 of the Rehabilitation Act of 1973, formalizing the requirement that Federal agencies adopt a 2% goal for the participation rate of individuals with targeted disabilities.¹⁴ The overall participation rate of individuals with targeted disabilities in the Federal workforce substantially increased between 2003 and 2019, from 1.05% to 1.80% (See Figure 5.15). This is still below the goal, but the trends are encouraging. In FY 2016, only 10 independent agencies and subcomponents reached that goal. Since then, this has increased. In FY 2019, 12 out of 28 independent agencies, 11 out of 17 cabinet departments, and 34 out of 98 subcomponents of cabinet departments with 500 employees or more met the 2% goal (See Table 5.2 and Appendix II).

Table 5. 2. Participation of Individuals with Targeted Disabilities: Top Five Independent Agencies and Subcomponents (500+ Employees), FY 2019¹⁵

Agency Name	Permanent Workforce (#)	Individuals with Targeted Disabilities (#)	Targeted Disability Participation Rate
Equal Employment Opportunity Commission	2,038	119	5.84%
Office of the Chief Financial Officer - Department of Agriculture (USDA)	1,267	54	4.26%
U.S. Mint - Department of Treasury (DTR)	1,553	66	4.25%
Bureau of Fiscal Service - DTR	3,305	140	4.24%
USDA Headquarters	2,915	117	4.01%

¹² The EEOC describes the history of its efforts on behalf of people with targeted disabilities in the preamble for its regulation on Section 501 of the Rehabilitation Act. See Affirmative Action for Individuals with Disabilities in Federal Employment, 82 Fed. Reg. 654, 655 (Jan. 3, 2017), available at <https://www.federalregister.gov/documents/2017/01/03/2016-31397/affirmative-action-for-individuals-with-disabilities-in-federal-employment>. A list of conditions that met the FY 2019 definition of a "targeted disability" is available in Table 5.3 below. An updated list of targeted disabilities is available on the Office of Personnel Management's Standard Form 256 (updated October 2016). See Office of Personnel Management, SF-256 "Self-Identification of Disability" <https://www.opm.gov/forms/standard-forms/>.

¹³ Memorandum from Margaret M. Weichert, OPM Acting Director & Victoria A. Lipnic, EEOC Acting Chair, to CHCOs EEO Directors and Diversity and Inclusion Directors, (October 23, 2018), <https://chcoc.gov/content/resources-disability-self-identification-efforts>.

¹⁴ *Questions and Answers: The EEOC's Final Rule on Affirmative Action for People with Disabilities in Federal Employment*, U.S. Equal Employment Commission, <https://www.eeoc.gov/laws/regulations/qanda-ada-disabilities-final-rule.cfm> (last visited July 6, 2021).

¹⁵ FY 2019 MD-715 data as reported by agencies. Includes only permanent employees reported on Table B1 – Total Workforce – Distribution by Disability of the MD-715 Report.

As shown in Figure 15.5 and Table 5.3, three groups of individuals with targeted disabilities saw notable increases in their participation rates between 2003 and 2019: individuals who were deaf or had serious difficulty hearing (0.20% in 2003 vs. 0.58% in 2019), individuals who were blind or had serious difficulty seeing (0.11% vs. 0.28%), and individuals with significant psychiatric disorders (0.23% vs. 0.36%). In 2003, significant psychiatric disorder was the most common type of targeted disability within the Federal Government, but this shifted to deafness or serious difficulty hearing in 2019.

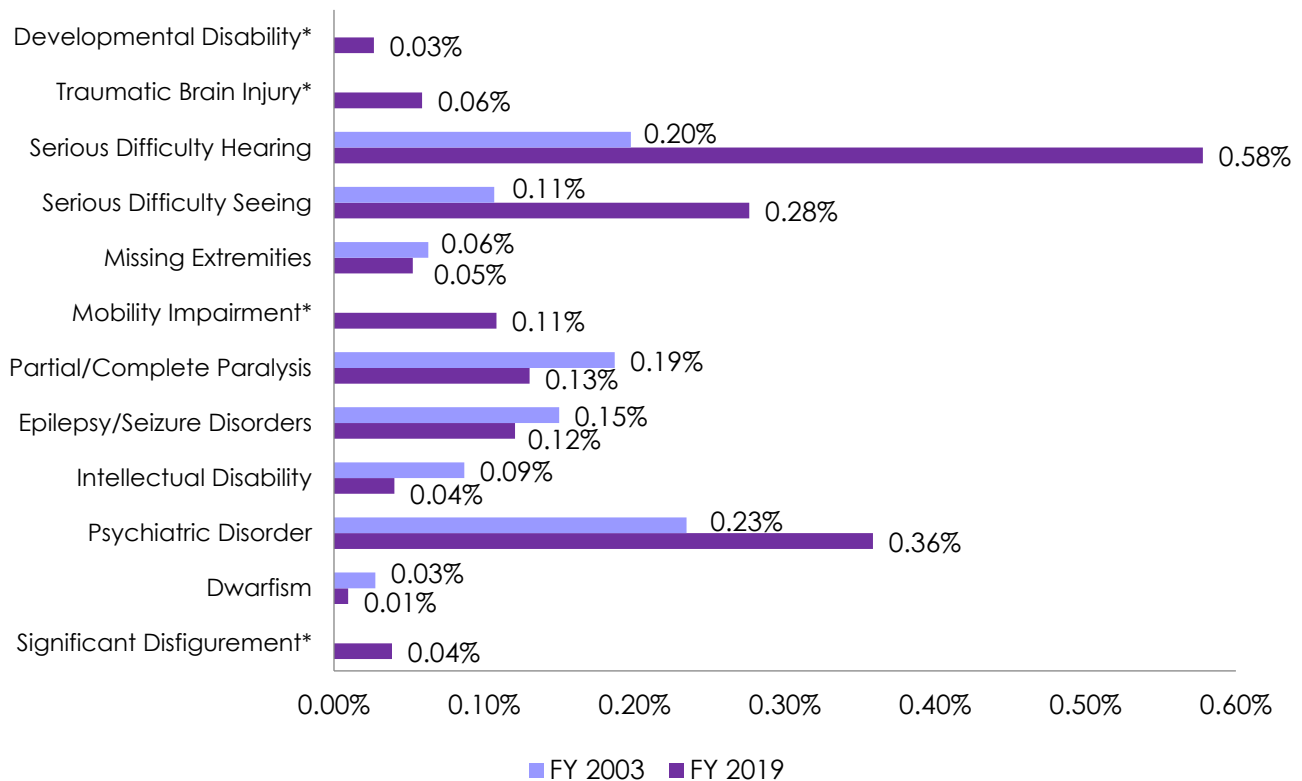


Figure 5. 15. Participation of individuals with targeted disabilities governmentwide by disability type (Percentage of total workforce), FY 2003 and FY 2019¹⁶

¹⁶ FY 2003 data came from the Annual Report on the Federal Work Force Fiscal Year 2005, Table A-6. That report did not provide data on categories marked with an asterisk (*). FY 2019 data comes from MD-715 reports as certified by Federal agencies. Where parent agencies and their subcomponents both certified FY 2019 MD-715 reports, this table uses data from parent agencies. FY 2019 data only include permanent employees. Names for other disability types have changed over time. For the sake of consistency, this report used the FY 2019 categories for targeted disabilities. Categories with different names in FY 2003 were Deafness (now Deaf or Serious Difficulty Hearing), Blindness (now Blind or Serious Difficulty Seeing), Convulsive Disorders (now Epilepsy or Other Seizure Disorders), Mental Retardation (now Intellectual Disability), Mental Illness (now Significant Psychiatric Disorder), and Distortion of Limb and/or Spine (now Dwarfism). In FY 2003, Partial and Complete Paralysis were separate categories, which were summed to get a single number here. The names for some categories are shortened in this graph for presentation purposes. Totals may not equal 100% due to rounding and misreporting by agencies.

Table 5. 1. Participation of Individuals with Targeted Disabilities in the Permanent Workforce by Disability Type, FY 2003 and FY 2019¹⁷

	FY 2003 (#)	FY 2019 (#)	FY 2003 % of Permanent Workforce	FY 2019 % of Permanent Workforce	FY 2003 % of Individuals with Targeted Disabilities	FY 2019 % of Individuals with Targeted Disabilities
No Disability	-	1,592,913	-	84.83%	-	-
Not Identified	-	113,307	-	6.03%	-	-
Disability	-	171,529	-	9.13%	-	-
Targeted Disability	25,551	33,740	1.05%	1.80%	-	-
Developmental Disability	-	498	-	0.03%	-	1.48%
Traumatic Brain Injury	-	1,101	-	0.06%	-	3.26%
Deaf or Serious Difficulty Hearing	4,796	10,854	0.20%	0.58%	18.77%	32.17%
Blind or Serious Difficulty Seeing	2,588	5,188	0.11%	0.28%	10.13%	15.38%
Missing Extremities	1,525	984	0.06%	0.05%	5.97%	2.92%
Significant Mobility Impairment	-	2,029	-	0.11%	-	6.01%
Partial or Complete Paralysis	4,535	2,444	0.19%	0.13%	17.75%	7.24%
Epilepsy or Other Seizure Disorders	3,637	2,261	0.15%	0.12%	14.23%	6.70%
Intellectual Disability	2,106	754	0.09%	0.04%	8.24%	2.23%
Significant Psychiatric Disorder	5,695	6,732	0.23%	0.36%	22.29%	19.95%
Dwarfism	669	178	0.03%	0.01%	2.62%	0.53%
Significant Disfigurement	-	724	-	0.04%	-	2.15%
Permanent Workforce	2,428,330	1,877,767	-	-	-	-

Participation of Individuals with Targeted Disabilities in General Schedule Pay Bands and in the Senior Executive Service. As seen in Table 5.4 and Figure 5.16, individuals with targeted disabilities tended to participate in the lowest GS Grades at much higher rates than their participation rates in higher grades. Figure 5.16 illustrates this decrease at higher grade levels, which was particularly notable for people with intellectual disabilities, significant psychiatric disorders, and traumatic brain injury. Individuals with missing extremities or significant

¹⁷ FY 2003 data came from the Annual Report on the Federal Work Force Fiscal Year 2005, Table A-6. That report did not provide data on categories marked with an asterisk (*). FY 2019 data comes from MD-715 reports as certified by Federal agencies. Where parent agencies and their subcomponents both certified FY 2019 MD-715 reports, this table uses data from parent agencies. FY 2019 data only include permanent employees. Names for disability types have changed over time. For the sake of consistency, this report used the FY 2019 names for targeted disabilities. Categories with different names in FY 2003 were Deafness (now Deaf or Serious Difficulty Hearing), Blindness (now Blind or Serious Difficulty Seeing), Convulsive Disorders (now Epilepsy or Other Seizure Disorders), Mental Retardation (now Intellectual Disability), Mental Illness (now Significant Psychiatric Disorder), and Distortion of Limb and/or Spine (now Dwarfism). In FY 2003, Partial and Complete Paralysis were separate categories, which were summed to produce a single number here. Totals may not equal 100% due to rounding and misreporting by agencies.

Federal agencies can classify an employee as an individual with a disability based on (1) self-identification in the SF-256 form; (2) appointment under a hiring authority that takes disability into account; and/or (2) a request for a reasonable accommodation. See 29 C.F.R. § 1614.203(d)(6)(ii). The October 2016 Revision of the SF-256 includes the option for applicants and employees to self-report having a disability or serious health condition, not having a disability or serious health condition, or to select "I do not wish to identify my disability or serious health condition." The previous version of the SF-256, revised July 2010, had an option, "I do not wish to identify my disability status." Employees who most recently selected "I do not wish to identify my disability or serious health condition" or "I do not wish to identify my disability status" are to be included in the "Not Identified" category, unless other information (e.g., the use of a disability-related hiring authority or a request for a reasonable accommodation) is available.

disfigurement had less notable participation rate declines in the higher graded bands. Federal agencies must ensure that barriers are not leading to lower participation at higher grade levels.

Table 5. 2. Participation of Individuals with Targeted Disabilities in GS-Grade Ranges and the Senior Executive Service, FY 2019¹⁸

	GS 1-6 (#)	GS 1-6 (%)	GS 7-11 (#)	GS 7-11 (%)	GS 12-13 (#)	GS 12-13 (%)	GS 14-15 (#)	GS 14-15 (%)	SES (#)	SES (%)	Total GS & SES (#)
No Disability	59,403	76.44	252,604	80.39	361,023	84.70	144,640	87.76	6,871	88.33	824,541
Not Identified	6,764	8.70	20,284	6.45	18,646	4.37	5,931	3.60	309	3.97	51,934
Disability	11,545	14.86	41,342	13.16	46,520	10.91	14,228	8.63	596	7.66	114,231
Targeted Disability	2,910	3.74	8,457	2.69	8,035	1.89	2,530	1.54	108	1.39	22,040
Developmental Disability	65	0.08	156	0.05	76	0.02	20	0.01	3	0.04	320
Traumatic Brain Injury	131	0.17	363	0.12	307	0.07	63	0.04	*	*	864
Deaf or Serious Difficulty Hearing	864	1.11	2,332	0.74	2,711	0.64	899	0.55	42	0.54	6,848
Blind or Serious Difficulty Seeing	305	0.39	1,263	0.40	1,052	0.25	413	0.25	*	*	3,033
Missing Extremities	64	0.08	225	0.07	252	0.06	77	0.05	5	0.06	623
Significant Mobility Impairment	189	0.24	599	0.19	642	0.15	222	0.13	12	0.15	1,664
Partial or Complete Paralysis	240	0.31	769	0.24	641	0.15	216	0.13	*	*	1,866
Epilepsy or Other Seizure Disorders	212	0.27	540	0.17	530	0.12	178	0.11	*	*	1,460
Intellectual Disability	181	0.23	94	0.03	41	0.01	12	0.01	*	*	328
Significant Psychiatric Disorder	616	0.79	1,925	0.61	1,551	0.36	363	0.22	*	*	4,455
Dwarfism	12	0.02	50	0.02	43	0.01	11	0.01	*	*	116
Significant Disfigurement	31	0.04	138	0.04	186	0.04	61	0.04	4	0.05	420
Permanent GS or SES Workforce	77,707		314,240		426,214		164,805		7,779		990,745

¹⁸ Data comes from FY 2019 MD-715 reports as certified by Federal agencies. Includes only permanent employees reported on Table B4 - Participation Rates for General Schedule (GS) Grades (Permanent) of the MD-715 Report. Where parent agencies and their subcomponents both certified MD-715 reports, this graph uses data from parent agencies. Totals may not equal 100% due to rounding and misreporting by agencies. Percentages were calculated using the Total GS Workforce within each grade band (or SES). Small values were suppressed to prevent individual disclosure and were excluded from totals. See Appendix Tables A4-1, A4-2, A4-3 and A4-4 for more details.

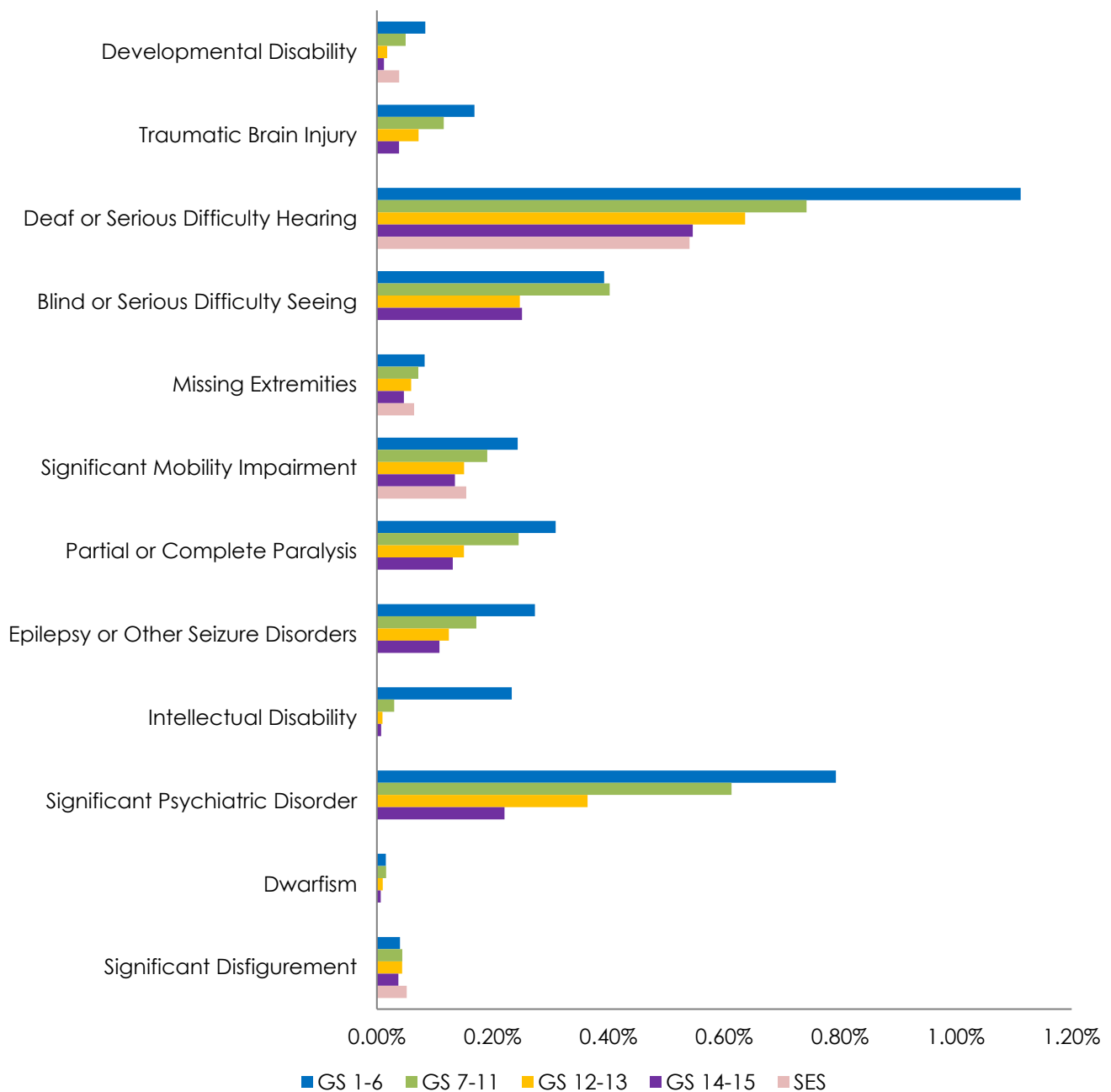


Figure 5. 16. Participation of individuals with disabilities as a percentage of General Schedule (GS) pay bands and Senior Executive Service (SES), FY 2019¹⁹

¹⁹ Data comes from FY 2019 MD-715 reports as certified by Federal agencies. Includes only permanent employees reported on Table B4 - Participation Rates for General Schedule (GS) Grades (Permanent) of the MD-715 Report. Where parent agencies and their subcomponents both certified MD-715 reports, this graph uses data from parent agencies. Totals may not equal 100% due to rounding and misreporting by agencies. Percentages were calculated using the Total GS Workforce within each grade band (or SES). Small values were suppressed to prevent individual disclosure and were excluded from totals. See Appendix Tables A4-1, A4-2, A4-3 and A4-4 for more details.

Part VI: Complaint Processing

This section summarizes Federal sector EEO complaint activity for FY 2019. Using data from the *Annual Federal Equal Employment Opportunity Statistical Reports of Discrimination Complaints (Form 462)*, this section compiles governmentwide data on complaints, investigations, hearings, and findings²⁰ of discrimination. It also provides five-year trends in complaint activity (where trend data is available), governmentwide benchmarks, and highlights of some of the top performing agencies in Federal sector EEO. Our database consisted of 270 Federal agencies and subcomponents submitting Form 462 for fiscal year 2019. Since Form 462 is self-reported data, all data pertaining to complaints, investigations, and findings are reported “as submitted” to the Office of Federal Operations (OFO) by agency stakeholders. Agency-specific details for all aggregate results can be found in Appendix III.

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. The EEO complaint process encompasses the following stages:

- *The pre-complaint stage*: Individuals initiate contact with an agency EEO counselor and are informed of their right to file a complaint, their legal options, and timeframes.
- *The formal complaint stage*: Individuals file a formal complaint with the agency's EEO office (not the EEOC) by documenting, with sufficient detail, the nature of the offense and the accused parties.
- *The investigation stage*: An EEO investigator is assigned to the case by the agency EEO Office and gathers specifics by interviewing the conflicting parties, speaking to witnesses, and reviewing documents relevant to the complaint.
- *The adjudication stage*: The complaint and report of investigation are reviewed by either the agency or an EEOC adjudicating judge, a final decision is made on the discrimination claim, and remedy is recommended, when appropriate.
- *The compliance stage*: The complaint is closed and the AJ or agency order, if issued, is fully implemented.

Below are select Federal sector statistics from each stage of the complaint process.

Pre-Complaints/Informal Complaints

Timely Completed Counselings. 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

²⁰ 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.

counselings completed within 30 days and those completed within 60 days with a written extension are considered timely. Where the aggrieved's concerns are not resolved in counseling, the counselor must issue a "Notice of Final Interview", including information about the aggrieved's right to file a formal complaint, at the conclusion of counseling.

Table 6.1 is a list of the agencies with the highest rate of timely completed EEO counselings by agency size. Among large agencies, the Tennessee Valley Authority had the highest rate of timely completed counselings at 100%, followed closely by the Department of Labor at 99.13%. Among medium agencies, the Bureau of Consumer Financial Protection, DOD Defense Contract Audit Agency, DOD Office of the Secretary/Washington Headquarters Services, Nuclear Regulatory Commission, Office of Personnel Management, and the Smithsonian Institute all had timely completed counseling rates of 100%. A full list of agency timely counseling rates can be found in Appendix III, Table B2.

Table 6. 1. Agencies with the highest rate of timely completed counselings* (B2)

Agency or Department	Total Workforce	Agency Size	Total Completed / Ended Counselings	Total Timely Completed / Ended Counselings	% Timely Completed/ Ended Counselings (excluding remands)
Tennessee Valley Authority	23,713	Large	59	59	100.00%
Department of Labor	13,959	Large	229	227	99.13%
Department of Energy	13,078	Large	109	108	99.08%
Social Security Administration	62,204	Large	1,003	992	98.90%
U.S. Postal Service	632,701	Large	15,403	14,810	98.45%
Bureau of Consumer Financial Protection	1,422	Medium	30	30	100.00%
DOD Defense Contract Audit Agency	4,510	Medium	104	104	100.00%
DOD Office of the Secretary/Washington Headquarters Services	6,027	Medium	75	75	100.00%
Nuclear Regulatory Commission	2,938	Medium	26	26	100.00%
Office of Personnel Management	5,385	Medium	41	41	100.00%
Smithsonian Institute	6,702	Medium	44	44	100.00%

Note. Agencies with 25 or more completed counselings. Agency Size: Large= Large Agencies (15,000 or more employees)
Medium= Medium Agencies (1,000 to 14,999 employees).

Pre-Complaint ADR Acceptances and Resolutions. Anytime 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.²¹ All agencies are required to establish or make available an ADR program during both the pre-complaint and

²¹ MD-110 Ch. 3 § VI.

formal complaint processes.²² ADR should be offered at the beginning of counseling.²³ If chosen, then the agency has 90 days to conduct the ADR and complete counseling.²⁴ If not chosen, then the agency has 30 days, which may be extended by agreement, to complete traditional counseling.²⁵

Figure 6.1 displays the rate of ADR acceptances among individuals receiving pre-complaint counseling. There were 36,348 pre-complaint counselings completed during FY 2019, with an ADR offer rate of 87.06%. Among the 36,348 completed counselings, approximately 54.10% accepted ADR.²⁶ The ADR offer rate for each agency can be found in Appendix III, Table B4.

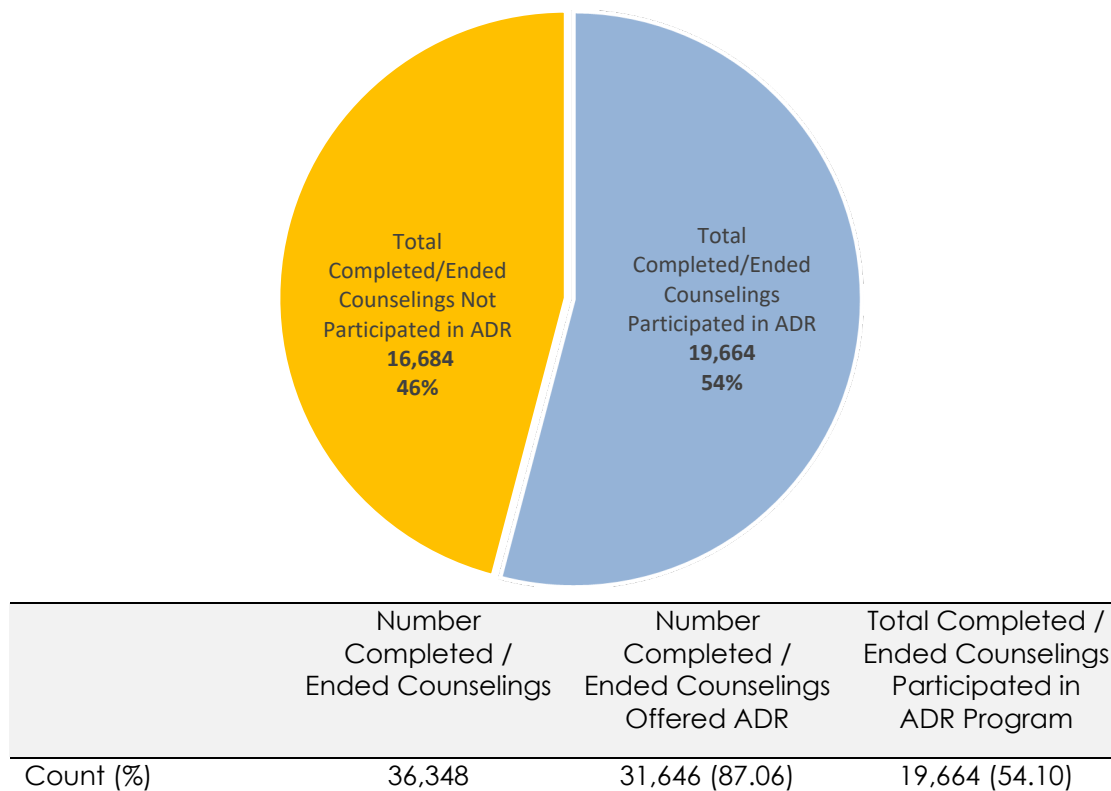


Figure 6. 1. Distribution of ADR outcomes: Offers, rejections, and acceptances (B4)

In FY 2019, there were a total of 19,664 pre-complaint ADR closures (Figure 6.2), with a resolution rate of 66.50%. Approximately 19.80% of all pre-complaint ADR Closures led to settlements while 46.70% resulted in a withdrawal with no formal complaint filed. Appendix III, Table B5 provides the distribution of pre-complaint ADR resolutions by agency.

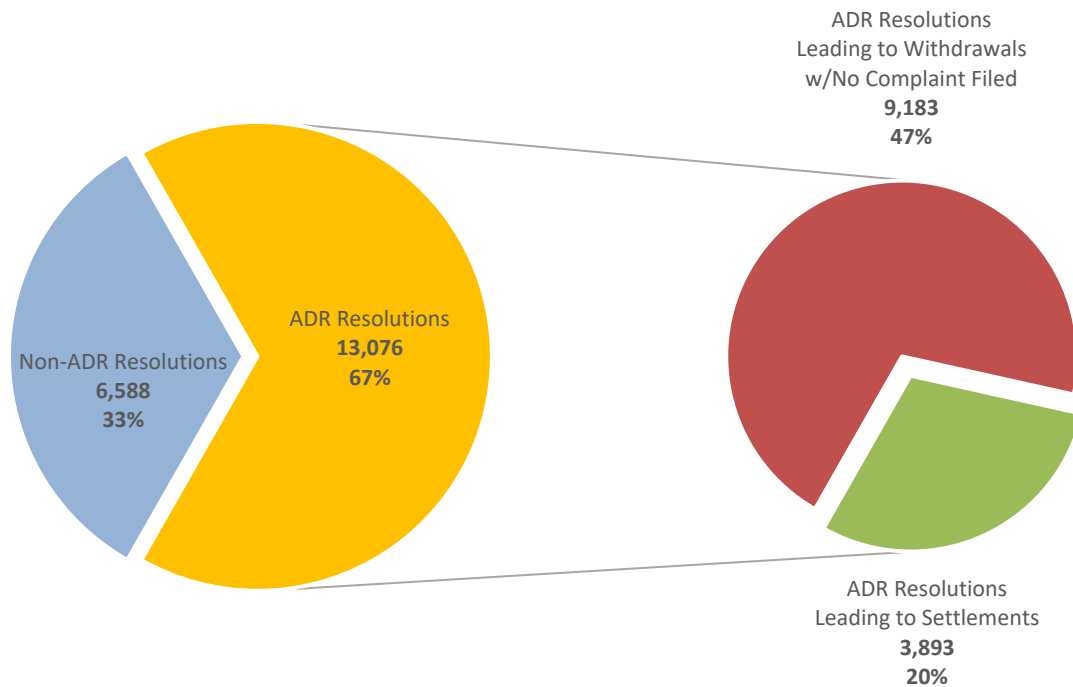
²² 29 C.F.R. § 1614.102(b)(2).

²³ MD-110 Ch. 2 § VII.A.

²⁴ 29 C.F.R. § 1614.105(f).

²⁵ 29 C.F.R. § 1614.105(e).

²⁶ Please note that not all ADR acceptances result in a resolution.



	ADR Closures	Non-ADR Resolutions	ADR Resolutions	% ADR Resolutions Leading to Settlements	% ADR Resolutions Leading to Withdrawals w/No Complaints Filed
Count (%)	19,664	7,012 (35.50)	13,076 (66.50)	3,893 (19.80)	9,183 (46.70)

Figure 6. 2. Distribution of ADR pre-complaint resolutions (informal phase) (B5)

FY 2019 saw a total of 21,324 pre-complaint resolutions—i.e., resolutions with no formal complaint filed (Table 6.2)—more than 58% of all completed counselings. Among the 21,324 resolutions, 11.6% resulted in a settlement, with 768 of these resolutions resulting in a monetary settlement. The average monetary settlement was \$4,023, for a total governmentwide pay out of over \$3.1 million. Appendix III, Table B6 displays the settlement rate and monetary benefits awarded by agency.

Table 6. 2. Distribution of benefits provided in all pre-complaint settlements, FY 2014 - FY 2019 (B3, B6)

FY	Completed Counselings	Total Resolutions		Total Settlements		Total Settlements with Monetary Benefits		Total Amount of Monetary Benefits	Average Award Per Resolution with Monetary Benefits
2014	33,210	18,064	54.4%	4,860	14.6%	742	15.3%	\$3,773,943	\$5,086
2015	35,001	19,348	55.3%	5,137	14.7%	708	13.8%	\$5,647,171	\$7,976
2016	35,566	19,509	54.9%	5,129	14.4%	847	16.5%	\$3,363,982	\$3,972
2017	34,840	19,228	55.2%	5,179	14.9%	925	17.9%	\$5,103,338	\$5,517
2018	37,042	20,592	55.6%	4,704	12.7%	899	19.1%	\$3,592,162	\$3,996
2019	36,348	21,324	58.7%	4,211	11.6%	768	18.2%	\$3,089,717	\$4,023

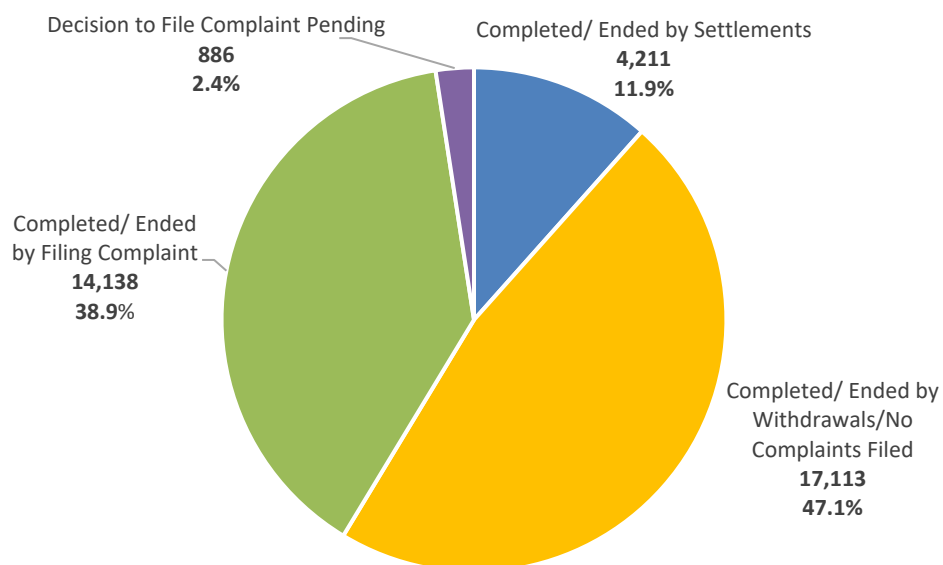
Formal Complaints

Formal Complaints Filed. 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).²⁷ 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 (e.g., race, color, etc.), and the action or practice that is the basis of the complaint.²⁸

Figure 6.3 displays the number of counselings resulting in a formal complaint filing. Among the 36,348 counselings initiated governmentwide, 11.60% ended in a settlement, 47.10% ended with a withdrawal from the complaint process, and 38.90% resulted in a formal complaint filing. Approximately 2.40% of all counselings were pending the aggrieved's decision of whether to file a formal complaint at the end of FY 2019.

²⁷ 29 C.F.R. § 1614.105(d).

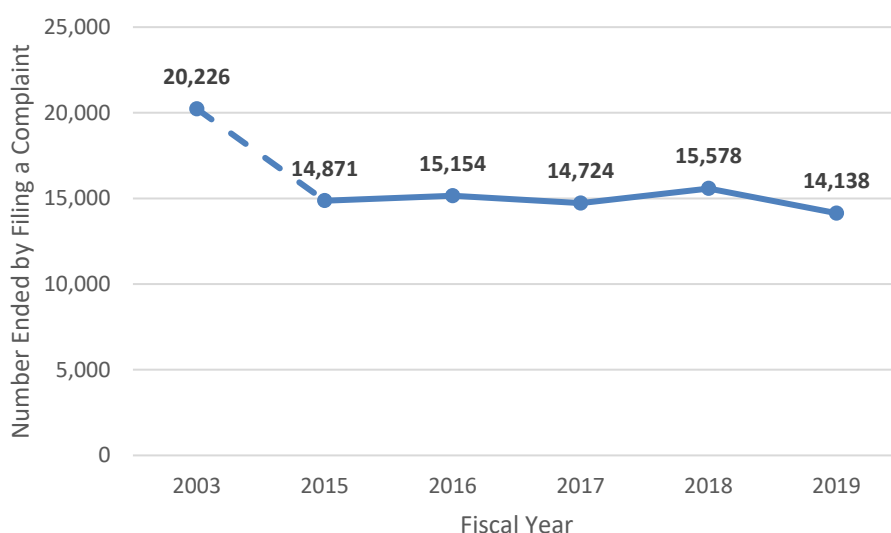
²⁸ 29 C.F.R. § 1614.106.



	Completed / Ended Counselings	Completed/ Ended by Settlements	Completed/ Ended by Withdrawals/No Complaints Filed	Completed/ Ended by Filing Complaint	Decision to File Complaint Pending
Count (%)	36,348	4,211 (11.6)	17,113 (47.1)	14,138 (38.9)	886 (2.4)

Figure 6. 3. Distribution of pre-complaint outcomes (B3)

Thirty-eight point nine percent of completed counseling cases eventually led to formal complaints filed in all government agencies in FY 2019, a decrease from 42.10% in FY 2018 (Figure 6.3). Further, the total number of counselings that ended by filing complaints decreased from 15,578 in FY 2018 to 14,138 in FY 2019 (Figure 6.4).



FY	2003	2015	2016	2017	2018	2019
Number Completed/Ended by Filing Complaint	20,226	14,871	15,154	14,724	15,578	14,138

Figure 6. 4. Governmentwide Five-Year Trend for Number of Complaints Filed with 2003 Trendline (B3)

Among large agencies with 25 or more completed counselings in FY 2019, the DOD National Guard Bureau had the lowest rate of complaints filed at 16.88% (Table 6.3). The Smithsonian Institution had the lowest rate of complaints filed among medium agencies with a rate of 22.73%.

Table 6. 3. Agencies with the Lowest Rates of Complaints Filed for FY 2019 (B3)

Agencies	Size	Total Workforce*	# Completed Counseling	Filed Complaints as % of Completed Counseling
DOD National Guard Bureau	Large	50,266	77	16.88%
DOD Army and Air Force Exchange Service	Large	28,963	289	21.11%
U.S. Postal Service	Large	632,701	15,043	22.95%
DOD Department of Navy	Large	265,697	677	44.54%
DOD Department of the Air Force	Large	181,780	615	44.72%
Smithsonian Institution	Medium	6,702	44	22.73%
DOD Finance and Accounting Service	Medium	12,000	103	35.92%
DOD Defense Contract Audit Agency	Medium	4,510	73	36.99%
General Services Administration	Medium	11,326	138	42.20%
Agency for International Development	Medium	9,475	54	46.30%

*Work force numbers as reported by the agency in its FY 2019 462 report.

To gain some insight into the frequency of complaint filings, the EEOC calculated what percentage of Federal employees file formal complaints—that is, become “complainants”—at each agency. Table 6.4 displays the agencies with the lowest rate of complainants by agency size, and the total number of complaints (a complainant may file multiple complaints). Governmentwide, the rate of complainants was 0.48% (Appendix III, Table B1). The Tennessee

Valley Authority, Department of the Air Force, NASA, DOD Army and Air Force Exchange Service, and the Department of State had the lowest rates of complainants among large agencies. Among medium agencies, the Agency for International Development, DOD Finance and Accounting Service, DOD Defense Information Systems Agency, Environmental Protection Agency, and the Department of Energy had the lowest rate of complainants. A full list of rates of complainants by agency can be found in Appendix III, Table B1.

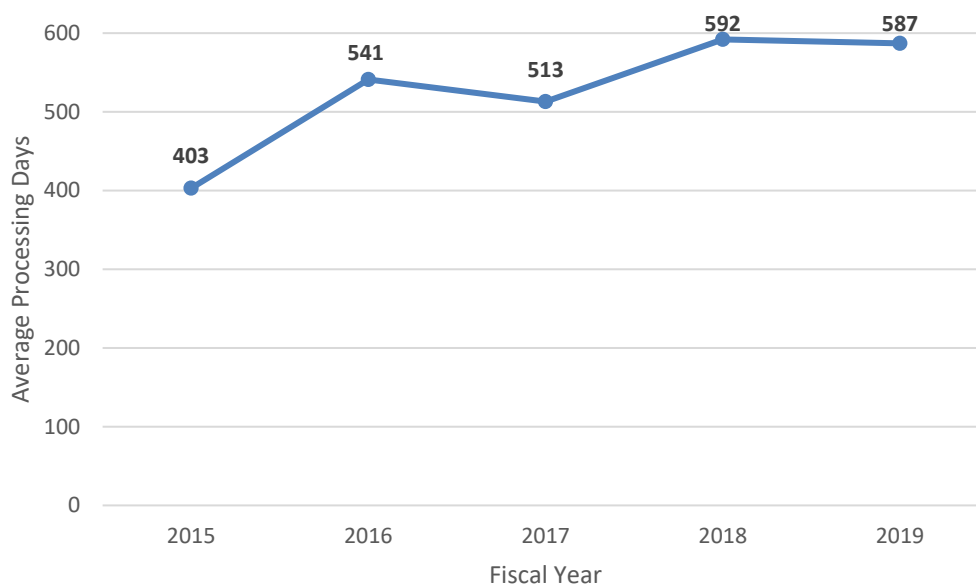
Table 6. 4. Agencies with the Lowest Rate of Complainants* for FY2019 (B1)

Agency or Department	Total Work Force	Agency Size	Complaints Filed	Complainants	Percent Complainants
Tennessee Valley Authority	23,713	Large	32	31	0.13%
DOD Department of the Air Force	181,780	Large	337	334	0.18%
National Aeronautics and Space Administration	17,575	Large	35	33	0.19%
DOD Army and Air Force Exchange Service	28,963	Large	61	61	0.29%
Department of State	77,012	Large	203	191	0.25%
Agency for International Development	9,475	Medium	25	25	0.26%
DOD Finance and Accounting Service	12,000	Medium	39	39	0.33%
DOD Defense Information Systems Agency	5,953	Medium	25	25	0.42%
Environmental Protection Agency	14,571	Medium	63	62	0.43%
Department of Energy	13,087	Medium	58	58	0.44%

Note: Agencies with 25 or more complaints filed. Agency Size: Large= Large Agencies (15,000 or more employees) Medium= Medium Agencies (1,000 to 14,999 employees)

Processing Time for Complaint Closures. As one potential gauge of efficiency in EEO programs, the EEOC calculated the number of days on average needed to close complaints after filing.²⁹ In FY 2019, the governmentwide average processing time from complaint filing to closure was 587 days, down from 592 days in FY 2018 (Figure 6.5). At 293 days, the National Guard Bureau needed the least amount of time among cabinet agencies (Table 6.5). Among medium-sized agencies, the U.S. Agency for Global Media required the least time with an average of 168 days.

²⁹ While efficiency is important, it cannot take precedence over effectiveness.



FY	2015	2016	2017	2018	2019
Number of Days	403	541	513	592	587

Figure 6. 5. Governmentwide Average Processing Time for Complaint Closures(B7)

Table 6. 5. Agencies with the Shortest Processing Days for FY 2019 (B7)

Agencies	Total Workforce	Agency Size	# Days from Complaint Filed to Closure
DOD National Guard Bureau	50,266	Large	293
Department of Commerce	67,015	Large	334.69
Department of State	77,012	Large	337.94
U.S. Postal Service	632,701	Large	407.57
DOD Army and Air Force Exchange	28,963	Large	496.31
U.S. Agency for Global Media	1,317	Medium	168
Office of Personnel Management	5,385	Medium	303.46
Nuclear Regulatory Commission	2,938	Medium	358.13
National Archives and Records Administration	2,584	Medium	478.08
Equal Employment Opportunity Commission	2,053	Medium	506

Note: Agencies with 25 or more Counselings. Agency Size: Large= Large Agencies (15,000 or more employees) Medium= Medium Agencies (1,000 to 14,999 employees).

Top Bases and Issues (Formal Complaints). Of the 15,070 complaints filed in FY 2019, the basis most frequently alleged was reprisal/retaliation (7,487), followed by age (4,382) and physical disability (4,252) (Table 6.6 and see Appendix VII). The issue alleged most frequently in complaints was non-sexual harassment (7,193), followed by disciplinary action (3,808), and terms/conditions (2,044) (Table 6.7 and see Appendix VIII).

Table 6. 6. Top Five Bases in Complaint Allegations Filed for FY 2019 (B8)

Basis	# of Complaints
Reprisal/Retaliation	7,487
Age	4,382
Disability – Physical	4,252
Race - Black/African American	3,909
Sex - Female	3,696

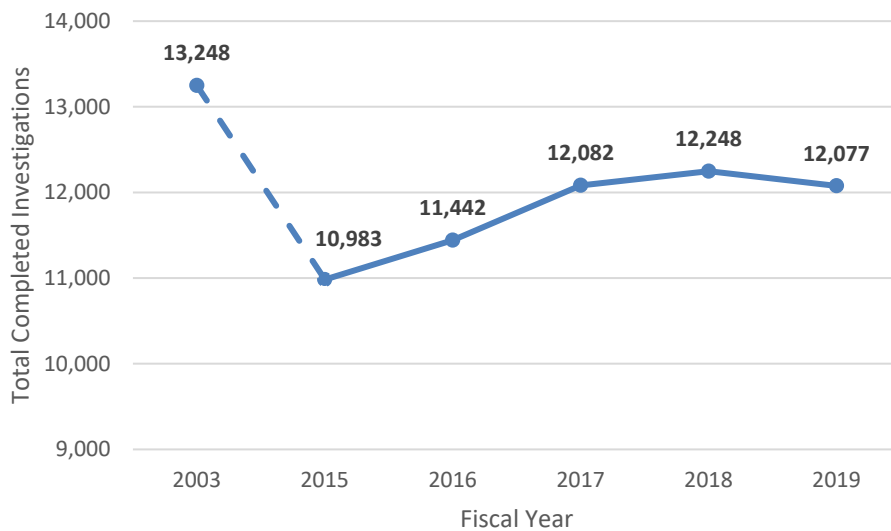
Table 6. 7. Top Five Issues in Complaint Allegations Filed for FY 2019 (B8)

Issue	# of Complaints
Harassment - Non-Sexual	7,193
Disciplinary Action	3,808
Terms/Conditions	2,044
Promotion/Non-Selection	2,035
Reasonable Accommodation	1,852

Investigations

Completed Investigations. After the complainant files a formal complaint, the agency typically decides whether to investigate or dismiss the case. Dismissal decisions are appealable to the EEOC Office of Federal Operations (OFO), but investigations are conducted by the agency. 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 6.6 displays the total completed investigations for FY 2019. Overall, the number of completed investigations has decreased, down from 12,248 completed investigations in 2018 to 12,077 completed investigations in 2019.

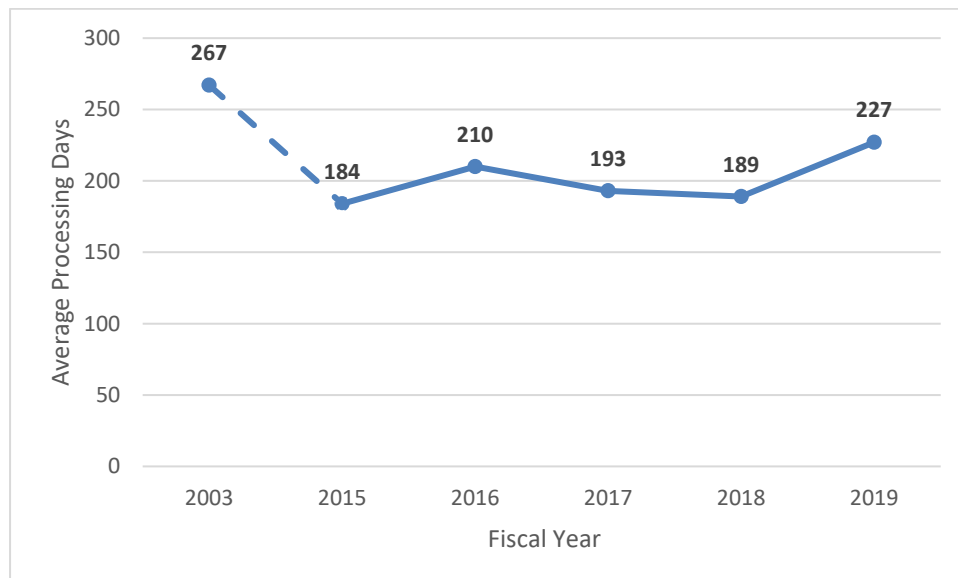


FY	Total Completed Investigations
2003	13,248
2015	10,983
2016	11,442
2017	12,082
2018	12,248
2019	12,077

Note. Dotted line represents a gap between fiscal year 2003 and 2014.

Figure 6. 6. Total Completed Investigations, FY 2015-FY 2019 (B9)

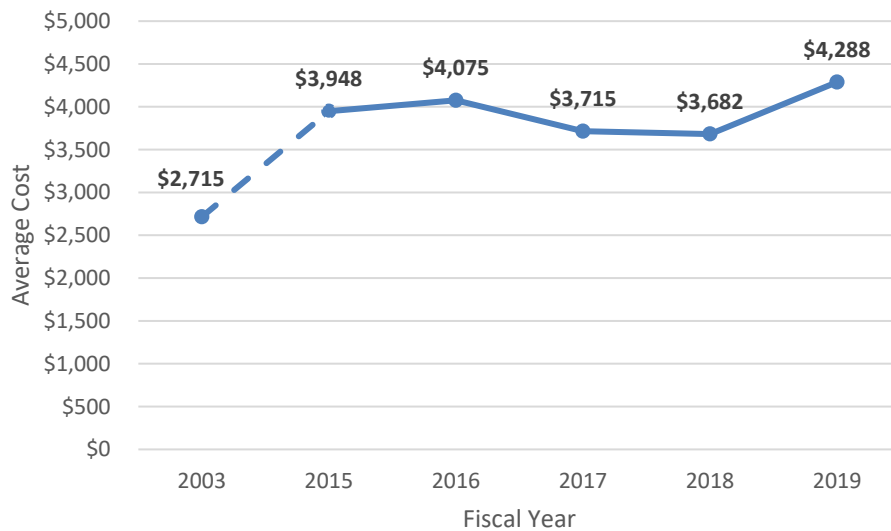
Completed Investigations: Costs and Timeliness. Investigators required, on average, 227 days to complete investigations during FY 2019, up 16.7% from the previous year (Figure 6.7). Overall, average processing days for investigations have decreased by 15% since the introduction of MD-715 in 2003. The average costs of investigations increased from \$3,682 in 2018 to \$4,288 in 2019 (a 16% increase) (Figure 6.8).



FY	Total Agencies	Total Completed Investigations	Average Processing Days
2003	97	13,248	267
2015	118	10,983	184
2016	118	11,442	210
2017	118	12,082	193
2018	116	12,248	189
2019	123	12,077	227

Note. Dotted line represents a gap between fiscal year 2003 and 2015.

Figure 6. 7. Average Processing Days of all completed investigations, FY 2015-FY 2019 (B9)



FY	Total Completed Investigations	Total Cost	Average Cost
2003	13,248	\$37,221,230	\$2,715
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

Figure 6. 8. Total and Average Cost of Completed Investigations, FY 2015-FY2019 (B9)

Table 6.8 displays the agencies with the highest rates of timely completed investigations by agency size. Among large agencies, NASA timely completed 100% of their investigations, followed closely by the U.S. Postal Service at 99.9% and the Department of Commerce at 99.1%. Rounding out the top five large agencies, the Department of Agriculture timely completed 96% of its investigations, followed by Social Security Administration at 94%. (See Appendix IX.) Among medium agencies, Office of Personnel Management, Securities and Exchange Commission, General Services Administration, Government Publishing Office, Pension Benefit Guarantee Corporation, and the DOD Threat Reduction Agency all timely completed investigations at a rate of 100%. A full listing of timely completed investigation rates for all agencies can be found in Appendix III, Table B7.

Table 6. 8. Top agencies for timely completed investigations* (B7)

Agency or Department	Agency Size	Completed/ Ended Counselings (excluding remands)	Completed Investigations	Timely Completed Investigations	% Timely Investigations
National Aeronautics and Space Administration	Large	74	37	37	100.00%
U.S. Postal Service	Large	15,043	2,941	2,940	99.99%
Department of Commerce	Large	434	221	219	99.10%
Department of Agriculture	Large	737	383	368	96.08%
Social Security Administration	Large	1003	467	440	94.22%
Office of Personnel Management	Medium	41	29	29	100.00%
Securities and Exchange Commission	Medium	37	9	9	100.00%
General Services Administration	Medium	138	55	55	100.00%
Government Publishing Office	Medium	46	12	12	100.00%
Pension Benefit Guarantee Corporation	Medium	23	7	7	100.00%
DOD Threat Reduction Agency	Medium	20	16	16	100.00%

*Agencies with 20 or more completed investigations. Agency Size: Large= Large Agencies (15,000 or more employees) Medium= Medium Agencies (1,000 to 14,999 employees)

Formal Complaint Closures and Compliance

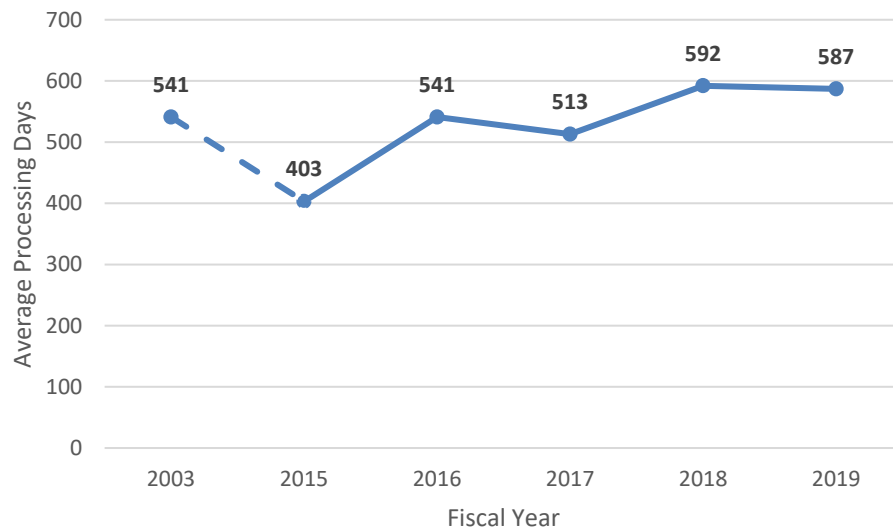
Formal Complaint Closures and Processing Time. A formal complaint is considered "closed" when an agency has taken a final action on the complaint. Final agency actions include:

- Final agency decisions (FADs) to dismiss an entire complaint.
- FADs at the conclusion of the investigation where the complainant did not request a hearing.
- And final orders after a decision from an EEOC AJ to either fully implement or reject and appeal the AJ's decision.³⁰

Figure 6.9 displays the total number of formal complaint closures (AJ Decisions and Final Agency Decisions) and the average processing days for FY 2019. The number of formal complaint closures were up in 2019, from 14,852 in the previous year to 15,911. Average processing time for

³⁰ 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 deemed to have adopted the AJ's decision. 29 C.F.R. § 1614.109(i).

complaint closures decreased between 2018 and 2019 by 6 days. A full list of the average processing days for complaint closures by agency can be found in Appendix III, Table B10.

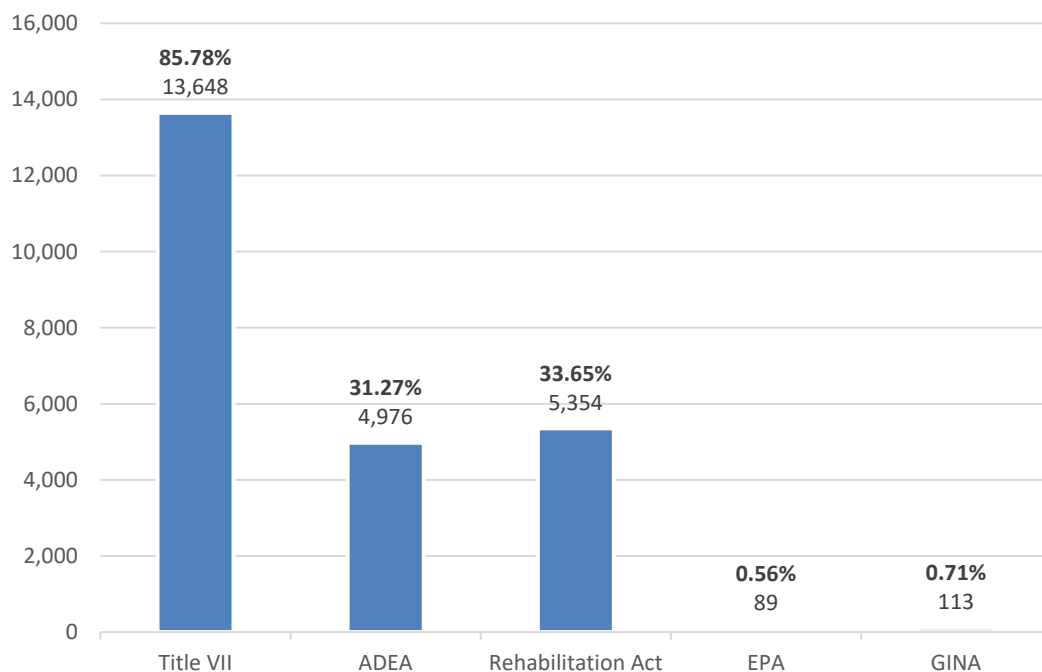


FY	Total Closures	Average Processing Time
2003	19,772	541
2015	13,412	403
2016	13,355	541
2017	13,851	513
2018	14,852	592
2019	15,911	587

Note. Dotted line represents a gap between fiscal year 2003 and 2015.

Figure 6. 9. Average Processing Days for all complaint closures, FY 2015-FY 2019 (B10)

Complaint Closures by Statute. Figure 6.10 displays the total complaint closures by statute for FY 2019.³¹ Among all complaint closures, 85.78% were based on Title VII complaints, while the Rehabilitation Act and ADEA accounted for 33.65% and 31.27%, respectively. EPA and GINA both accounted for less than 1% of all complaint closures each, consistent with their occurrence.



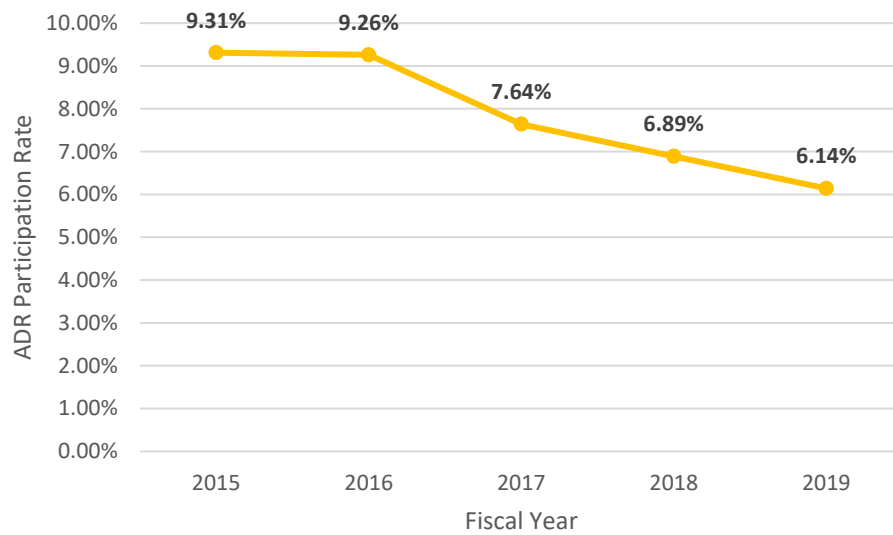
Total by Statute	Title VII	ADEA	Rehabilitation Act	EPA	GINA
15,911 (100%)	13,648 (86)	4,976 (31)	5,354 (34)	89 (.56)	113 (.71)

Figure 6. 10. Complaint closures by statute, FY 2019 (B22)

ADR (Formal Complaint Stage). Agencies also are encouraged to offer ADR to complainants after the formal complaint has been filed – not just in pre-complaint counseling.³² Of the 15,911 formal complaint closures in FY 2019, 6.14% were accepted into ADR during the formal complaint stage, down from the FY 2018 rate (Figure 6.11). Overall, 977 formal complaints accepted into ADR were closed during FY 2019, down from FY 2017. Among the 977 formal complaints closed as a result of ADR, approximately 34% were settled while another 3.2% resulted in a withdrawal (Figure 6.12).

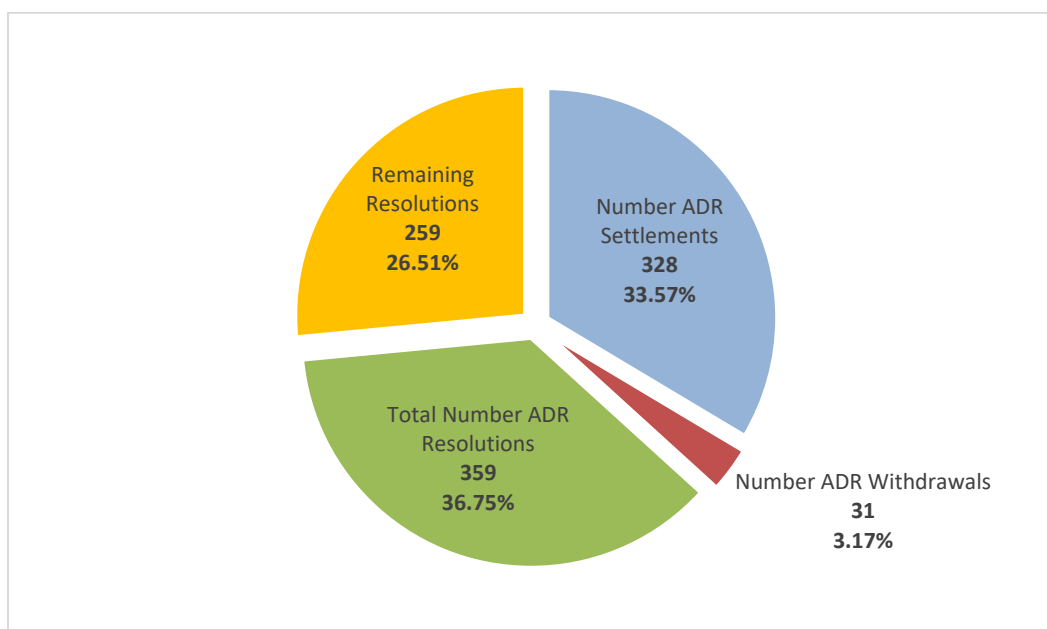
³¹ Total complaint closures by statute reported is higher than the total complaints filed due to individuals alleging multiple statutory bases within a single complaint.

³² ADR data reported here include ADR at any stage of the formal complaint process, including after the request for a hearing.



FY	Total Complaint Closures	Number Complaint Closures Offered ADR	% Complaints Closures Offered ADR (Offer Rate)	Number Offers Rejected by Complainant	Number Complaint Closures Accepted / Participated in ADR Program	% Complaint Closures Accepted into ADR Program (Participation Rate)
2015	13,412	2,782	20.74%	1,534	1,248	9.31%
2016	13,355	3,043	22.79%	1,806	1,237	9.26%
2017	13,851	2,670	19.28%	1,612	1,058	7.64%
2018	14,852	2,610	17.57%	1,587	1,023	6.89%
2019	15,911	2,727	17.14%	1,750	977	6.14%

Figure 6. 11. ADR complaint closures acceptance/participation rate, FY 2013-FY 2019 (B19)

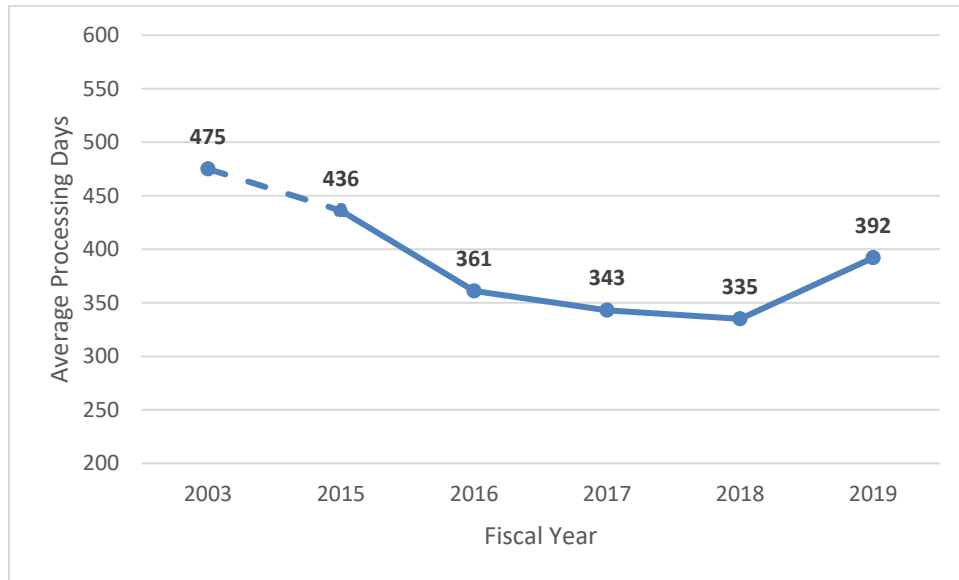


Number ADR Closures	Number ADR Settlements	% ADR Settlements	Number ADR Withdrawals	% ADR Withdrawals	Total Number ADR Resolutions	% ADR Resolutions (Resolution Rate)
977	328	33.57%	31	3.17%	359	36.75%

Figure 6. 12. ADR complaint resolutions by type (B20)

Merit Decisions and Processing Time. Merit final agency decisions are the decisions made by an agency regarding a formal discrimination complaint, excluding procedural dismissals. They include agency final orders to implement or reject and appeal an EEOC AJ's decision on the merits of a claim.

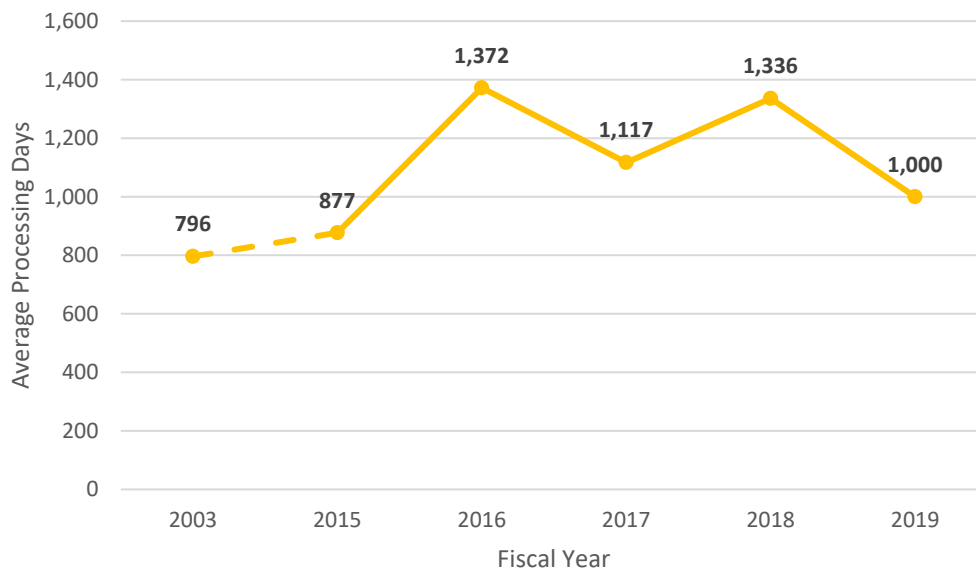
Figure 6.13 displays the total number of final agency decisions that reached the merits of the underlying complaint (merit FADS) issued and the average processing days (APD) (from the day a complaint is filed to the day when the agency issues a final decision) for all such merit FADS for FY 2019. Merit FADS increased by 8.8% between 2018 and 2019. The APD for FADS was up from 335 days in 2018 to 392 days in 2019.



FY	Total Merit FAD Closures	Average Processing Time
2003	7,716	475
2015	4,137	436
2016	4,178	361
2017	5,011	343
2018	5,024	335
2019	5,466	392

Figure 6. 13. Average Processing Days for all final agency decisions, FY 2015-FY 2019 (B16, B17)

The number of final agency actions issued after an AJ decision has increased since 2018, from 2,936 in 2018 to 4,054 in 2019 (Figure 6.14). The average processing time for final orders after AJ decisions has decreased since 2018, from 1,336 days to 1,000 days. The total number of findings of discrimination among these FADs and final orders have increased from FY 2018, from 139 to 175 (Table 6.9).



FY	Total Final Agency Actions w/AJ Merit Decisions	Average Processing Time
2003	4,187	796
2015	1,872	877
2016	1,868	1,372
2017	1,986	1,117
2018	2,936	1,336
2019	4,054	1,000

Figure 6. 14. Average Processing Days for final orders fully implementing AJ decisions, FY 2015-
FY 2019 (B15, B17)

Table 6. 9. Rate of findings of discrimination, FY 2015-FY 2019 (B15)

FY	Total Number Merit Complaint Closures	Total Findings	Number Merit Final Agency Decisions (FADs) (no AJ)	Number Merit FADs Finding Discrimination	Number Final Orders (FOs) of AJ Merit Decisions	Number 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

Monetary Benefits Awarded (Formal Complaint Closures). The chart below (Table 6.10) reveals the formal complaint closures with monetary benefits, governmentwide with FY 2003 as a comparison year. The monetary benefits are categorized as follows: back pay/front pay, lump sum payments, compensatory damages, and attorney's fees.

In FY 2019, the monetary benefits³³ awarded during the complaint stage amount to over 53 million dollars, a 1.7% increase from FY 2018.

Table 6. 10. Monetary benefits awarded during complaint process, FY 2012-FY 2019 (B21)

FY	Total Amount Back Pay / Front Pay	Total Amount Lump Sum Payments	Total Amount Compensatory Damages	Total Amount Attorney's Fees and Costs	Total Amount All Monetary Benefits
2014	\$2,441,350	\$23,171,795	\$7,819,306	\$11,447,634	\$44,880,089
2015	\$4,256,668	\$32,955,785	\$8,987,545	\$15,658,232	\$61,858,231
2016	\$3,168,105	\$33,452,738	\$12,028,412	\$19,921,158	\$68,571,164
2017	\$3,765,882	\$29,002,290	\$8,715,838	\$13,428,470	\$54,937,983
2018	\$1,823,723	\$28,349,768	\$8,911,160	\$13,185,549	\$52,289,373
2019	\$1,237,600	\$26,372,341	\$10,527,052	\$14,956,098	\$53,174,888

³³ 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.

Part VII: Summary & Conclusions

On October 1, 2003, the Equal Employment Opportunity Commission (EEOC) issued Management Directive 715 (MD-715) to provide agencies with guidance and standards for effective equal employment opportunity (EEO) and affirmative action programs. The EEOC believed that this additional guidance, and its robust reporting requirements, would lead to improvements in EEO at Federal agencies. The results of this report, which focused on the progress made since the issuance of MD-715 and the prevention of discrimination, provide support for this belief; however, there is more work to be done. A decrease in counselings and complaints compared to the previous year do not necessarily indicate that discrimination within the Federal government is decreasing, especially in light of our enhanced recognition of the role of systemic discrimination in the workplace. Other factors, such as disengagement with the process or fear of retaliation, could also contribute to such a decline.

Data reveals that 89% of reporting agencies evaluated managers and supervisors on their commitment to EEO, over 85% had prominently posted their reasonable accommodations procedures, and almost 76% had senior managers participate in barrier analysis. However, the agency head was the immediate supervisor of the EEO Director at only 61.4% of agencies. This deficiency violates EEOC regulations (29 C.F.R. § 1614.102(b)(4)) and limits the effectiveness of the EEO Directors.³⁴ When the agency head is supportive of and actively engaged with the EEO program, this conveys to employees that the agency takes EEO seriously. Federal agencies should take steps to remedy this deficiency and demonstrate their intentions to prevent employment discrimination.

The composition of the Federal workforce has shifted over the years. Most race/national origin by gender groups participated at rates above their representation in the 2018 civilian labor force (CLF). The exceptions were Hispanic/Latino men, Hispanic/Latina women, men and women of two or more races, and white women. Hispanics, African Americans/Blacks, Asians, and American Indians/Alaska Natives increased their participation rates between 2003 and 2019. Whites of both sexes, however, had decreasing participation rates. White men's participation rate dropped almost 5%, and White females' participation rate was more than 9% below their CLF participation rate.

To become model employers, Federal agencies must record more than agencywide participation rates. They also must identify and strive to remedy the root causes of unbalanced participation within occupations, offices, and grade levels. White males still held higher GS grade level and senior level pay positions at rates far above their representation in the CLF and the governmentwide workforce.

For most other RNO by sex groups for which we have 2003 data, participation in the higher GS grades (GS 12 through 15) and in senior level positions had increased by 2019. The increase in higher GS grade participation was particularly notable for Blacks, Asians, and Hispanics/Latinos of both sexes. Within the senior level positions, Black females, Hispanic/Latina females, Asians females, and American Indian/Alaska Native females saw substantial participation increases – approximately doubling their SES participation rates in 2019 relative to their senior pay participation rates in 2003. Despite these increases, most groups still hold these positions at rates lower than their governmentwide participation rates. Broader outreach and more inclusive

³⁴ This would also violate the Elijah E. Cummings Federal Employee Antidiscrimination Act of 2020 which will address this issue going forward.

recruitment methods, as well as training and development programs, may help to remedy this issue.

For people with targeted disabilities, participation rates increased in 2019 in comparison to 2003, and far more agencies met the 2% benchmark in FY 2019 than did in FY 2016. Notably, there were increased participation rates of workers who were deaf or had serious difficulty hearing, workers who were blind or had serious difficulty seeing, and workers with significant psychiatric disorders. It is possible that EEOC's amendments to Section 501 of the Rehabilitation Act of 1973, issued January 3, 2017, contributed to the improved participation rates of individuals with targeted disabilities. However, people with targeted disabilities generally had lower participation rates in higher GS grades and senior level pay positions than they did in lower level positions. Governmentwide, people with targeted disabilities (1.80% of the Federal workforce) participated at levels far below the 2% benchmark.

Regarding complaints, further action is required to prevent reprisal and non-sexual harassment, which continue to be the top basis and issue in EEO complaint allegations. On the positive side, data shows a decrease in the total number of complaints, from 20,226 in 2003 to 15,578 in 2019. In addition, a smaller proportion of counselings resulted in formal complaints, which could reflect better pre-complaint processes. The number of merit complaint closures resulting in findings of discrimination increased from 168 in 2014 to 175 in 2019.

Despite declines in complaints and findings, EEO conflicts are still costly for Federal agencies. Pre-complaint resolutions that included monetary benefits resulted in an average award of \$4,023, up \$27 from the previous year. Moreover, in FY 2019, the total monetary benefits awarded during the complaint stage amounted to roughly \$53 million, up 1.6% from FY 2018. Almost half of that spending resulted from lump sum payments. The average costs of investigations also increased from the previous year to \$4,288, an increase of 16%.

A review of efficiency in the Federal sector pre-complaint and complaint processes leaves reason for optimism. In pre-complaints, ADR—which has a higher pre-complaint resolution success rate relative to traditional counseling—is widely offered (offer rate of 87.06%) and accepted most times when offered (54.10%). Furthermore, since 2015, while average processing days for completed investigations are up 23%, average processing days for final agency decisions are down by 17.47%.³⁵ However, the average processing time for complaint closures has continued to remain high compared to FY2015, with the average processing time increasing by 8.5% since 2015.

With the information available in this report, the EEOC looks to build on the gains in EEO in the Federal Government since the implementation of MD-715 in 2003. The EEOC's Office of Federal Operations (OFO) and Federal EEO programs will continue to work proactively to prevent employment discrimination through training, barrier analysis, and engaging with agency leadership to promote positive workplace cultures. To address suspected discrimination that has already occurred, EEO staff and OFO will take individuals' concerns seriously, and work to process their claims efficiently. While further progress is imperative to eradicate employment discrimination in the Federal Government, the EEOC, in cooperation with its Federal partners, will continue to work towards that goal.

³⁵ Although timely processing of complaints is clearly important, this does not necessarily guarantee the quality of review.

APPENDIX I. Glossary

Administrative Judge (AJ) – An official assigned by the EEOC to hold hearings on formal complaints of discrimination and to otherwise process individual and class complaints for the EEOC.

Agency - Military departments as defined in Section 102 of Title 5, U.S. Code and executive agencies as defined in Section 105 of Title 5, U.S. Code, the United States Postal Service, the Postal Regulatory Commission, the Tennessee Valley Authority, those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, the National Oceanic and Atmospheric Administration Commissioned Corps, the Government Printing Office and the Smithsonian Institution (including those with employees and applicants for employment who are paid from non-appropriated funds).

Alternative Dispute Resolution (ADR) Closures - The number of counselings or complaints that completed the ADR process during the fiscal year.

Alternative Dispute Resolution (ADR) Offer Rate - The percentage of completed/ended counselings or the complaint closures that received an ADR offer.

Alternative Dispute Resolution (ADR) Participation Rate - The percentage of completed/ended counseling or the complaint closures where both parties agreed to participate in ADR.

Alternative Dispute Resolution (ADR) Resolution Rate - The percentage of ADR closures that were resolved by either settlement or withdrawal from the EEO process.

Average Processing Days (APD) - The total number of days divided by the number of investigations, complaint closures, final agency decisions (FADs), or administrative judge (AJ) decisions.

Central Personnel Data File (CPDF) System – An automated information system containing individuals records for most Federal civilian employees. It includes a status file with an individual record of the status of each active employee and a dynamics file with a record of all personnel actions. The files are updated quarterly. For the purpose of creating reports, the EEOC receives these data from the Office of Personnel Management (OPM).

Civilian Labor Force (CLF) - Data from the Equal Employment Opportunity (EEO) Tabulation reflecting persons, 16 years of age or older who were employed or seeking employment, excluding those in the Armed Services. CLF data used in this report is based on 2014-2018 5-year American Community Survey (ACS) data.

Complainant Rate - The percentage of individuals in an agency's total workforce who filed a complaint.

Complainants - Individuals, either employees or applicants, who filed a formal complaint against a Federal agency during the fiscal year.

Complaint Closures - The number of complaints that were completed in the formal complaint process during the fiscal year.

Complaints Filed - The number of complaints that were filed against the Federal Government during the fiscal year.

Completed/Ended Counselings - The number of counselings which were concluded/closed, either by a written settlement agreement, a written withdrawal from the counseling process, the issuance of a notice of right to file a formal complaint, the forwarding of a counseling to an Administrative Judge when requested/ordered by the Administrative Judge, or the filing of a complaint after the regulatory counseling period has expired even though not all counseling duties have been performed during the fiscal year.

Counseling – The initial step in the Federal sector EEO complaint process in which an employee, former employee, or applicant discusses the case with an EEO counselor from his or her agency.

Counseling Rate - The percentage of individuals who completed counseling per the total workforce.

Counselings Initiated - The number of new counselings that began during the current fiscal year.

Decision to File Complaint Pending - The number of completed counselings in which (1) the agency did not receive a complaint, and (2) the 15-day period for filing a complaint had not expired at the end of the fiscal year.

Disability - A physical or mental impairment that substantially limits one or more major life activities.

Dismissals - An agency's final action on a complaint of discrimination which meets the criteria set forth in 29 C.F.R. § 1614.107(a).

EEO Commitment Indicators - Measures that indicate whether a Federal agency is committed to equal employment opportunities (EEO) and the prevention of employment discrimination. For this report, they come from Part G of EEOC Form 715-01, the Federal Agency Annual EEO Program Status Report.

EEOC Form 462 Report – The Annual Federal Equal Employment Opportunity Statistical Report of Discrimination Complaints, the document in which Federal agencies report their discrimination complaint process statistics for the prior fiscal year (October 1st through September 30th) to EEOC.

Final Agency Actions - An agency's final action on a complaint of discrimination, which includes a final agency decision, a final order implementing an EEOC Administrative Judge's decision, or a final determination on a breach of settlement agreement claim.

Final Agency Decision – A decision made by the agency after a complaint has been made with one of the following outcomes: 1) Dismissal of the complaint for a procedural reason (e.g., the claim was filed too late); 2) Finding no discrimination; or 3) Finding discrimination.

General Schedule Positions - Positions OPM classifies as those whose primary duty requires

knowledge or experience of an administrative, clerical, scientific, artistic, or technical nature.

Investigations - The number of agency reviews or inquiries into claims of discrimination raised in an EEO complaint, resulting in a report of investigation.

Lump Sum Payment - A single payment made in a settlement which does not identify the portion of the amount paid for back pay, compensatory damages, attorney fees, etc.

Major Occupations - Agency occupations that are mission-related and heavily populated, relative to other occupations within the agency.

MD-110 - EEO Management Directive 110 provides policies, procedures, and guidance relating to the processing of employment discrimination complaints governed by the Commission's regulations in 29 CFR Part 1614.

MD-715 - EEO Management Directive 715 describes program responsibilities and reporting requirements relating to agencies' EEO programs.

MD-715 Report - The document which agencies use to annually report the status of their activities undertaken pursuant to their EEO program under Title VII of the Civil Rights Act of 1964 and their activities undertaken pursuant to affirmative action obligations under the Rehabilitation Act of 1973. This is formally known as The Federal Agency Annual EEO Program Status Report or EEOC Form 715-02.

Merit Decisions - Decisions that determine whether or not discrimination was proven (issued by either a Federal agency or an EEOC administrative judge).

Monetary Benefits - A payment that an agency agreed to provide in a settlement agreement, a final agency decision finding discrimination, or a final order agreeing to fully implement an EEOC Administrative Judge's decision containing a payment award.

No Complaint Filed - Occurs when: (1) agency issues a Notice of Right to File Letter and does not receive a formal complaint within 15 days; or (2) the individual notifies the agency in writing that s/he is withdrawing from counseling.

Not Identified Disability Status - Refers to the disability status of a Federal employee or applicant who selected "I do not wish to identify my disability or serious health condition" on OPM's SF-256 (Revised October 2016), who selected "I do not wish to identify my disability status" on OPM's SF-256 (Revised July 2010), or who was otherwise coded as such by a Federal personnel officer or OPM.

Other Pay System Positions - Those positions in alternative pay plans based on performance, like pay-banding, and market-based pay systems that are not easily converted to General Schedule and Related.

Participation Rate - The extent to which members of a specific demographic group are represented in an agency's workforce or a subset of an agency's workforce, such as a grade band.

Permanent Workforce - Full-time, part-time, and intermittent employees of a particular agency. For purposes of this Report, those persons employed as of September 30, 2019.

Race/Ethnicity – See https://www.opm.gov/forms/pdf_fill/sf181.pdf (U.S. Office of Personnel Management Standard Form 181) -

- **American Indian or Alaska Native** - All persons having origins in any of the original peoples of North and South America (including Central America), and who maintain cultural identification through tribal affiliation or community recognition.
- **Asian** - All persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
- **Black or African American** (Not of Hispanic Origin) - All persons having origins in any of the Black racial groups of Africa.
- **Hispanic or Latino** - All persons of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.
- **Native Hawaiian or Other Pacific Islander** - All persons having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
- **White** (Not of Hispanic Origin) - All persons having origins in any of the original peoples of Europe, the Middle East, or North Africa.
- **Persons of Two or More Races** - All persons who identify with two or more of the above race categories.

Reportable Disability - Any self-identified disability reported by an employee to the employing agency.

Second Level Reporting Component - A subcomponent of a larger Federal agency which has 1,000 or more employees and which is required to file an EEOC MD-715 report with the EEOC. While many Federal agencies have subordinate components, not every subordinate component is a Second Level Reporting Component for purposes of filing MD-715 reports. A list of Federal agencies and departments covered by MD-715 and Second Level Reporting Components is posted on the EEOC's website at <https://www.eeoc.gov/Federal-sector/management-directive/department-or-agency-list-second-level-reporting-components>.

Senior Executive Service (SES) - A premier category of senior leaders in the Federal Government which was created to "...ensure that the executive management of the Government of the United States is responsive to the needs, policies, and goals of the Nation and otherwise is of the highest quality."³⁶

Senior Pay Level Positions - Positions which include the career Senior Executive Service, Executive Schedule, Senior Foreign Service, and other employees earning salaries above grade 15 in the General Schedule in leadership positions.

³⁶ <https://www.opm.gov/policy-data-oversight/senior-executive-service/>.

Settlements - Where an agency agrees to award monetary or non-monetary benefits to an individual who agreed either to not file a formal complaint or to withdraw a formal complaint.

SLP – Senior Level Pay. See “Senior Pay Level Positions.”

Subcomponent – A subordinate component of a larger Federal agency or department.

Targeted Disabilities - Those disabilities that the Federal Government, as a matter of policy, has identified for special emphasis. The targeted disabilities are developmental disability, traumatic brain injury (TBI), deaf or serious difficulty hearing, blind or serious difficulty seeing, missing extremities, significant mobility impairment, partial or complete paralysis, epilepsy or other seizure disorders, intellectual disability, significant psychiatric disability, dwarfism, and significant disfigurement.

Temporary Workforce -Employees in positions established for a limited time period, usually for less than a year.

Total Workforce - All employees of an agency subject to 29 C.F.R. Part 1614 regulations, including temporary, seasonal, and permanent employees.

Training - The process of educating managers and employees on the laws enforced by the EEOC and how to prevent and correct discrimination in the workplace and educating EEO professionals in carrying out the agency's equal opportunity responsibilities.

Withdrawals - An election to end the EEO process during the formal complaint stage.

APPENDIX II. Workforce (A) Tables

Available at <https://www.eeoc.gov/Federal-sector/reports>.

Table A-1a: FY 2019 Federal Workforce Participation Rates by Race/National Origin, Sex, and Agency (Cabinet-Level Departments and Subcomponents)

Table A-1b: FY 2019 Federal Workforce Participation Numbers by Race/National Origin, Sex, and Agency (Cabinet-Level Departments and Subcomponents)

Table A-1c: FY 2019 Federal Workforce Participation Rates by Race/National Origin, Sex, and Agency (Independent Agencies)

Table A-1d: FY 2019 Federal Workforce Participation Numbers by Race/National Origin, Sex, and Agency (Independent Agencies)

Table A-2a: FY 2019 Federal Workforce Participation Rates by Race/National Origin, Sex, GS-Grade, Senior Level Pay, and Agency (Cabinet-Level Departments and Subcomponents)

Table A-2b: FY 2019 Federal Workforce Participation Numbers by Race/National Origin, Sex, GS-Grade, Senior Level Pay, and Agency (Cabinet-Level Departments and Subcomponents)

Table A-2c: FY 2019 Federal Workforce Participation Rates by Race/National Origin, Sex, GS-Grade, Senior Level Pay, and Agency (Independent Agencies)

Table A-2d: FY 2019 Federal Workforce Participation Numbers by Race/National Origin, Sex, GS-Grade, Senior Level Pay, and Agency (Independent Agencies)

Table A-3a: FY 2019 Federal Workforce Participation Rates by Disability Type and Agency (Cabinet-Level Departments and Subcomponents)

Table A-3b: FY 2019 Federal Workforce Participation Numbers by Disability Type and Agency (Cabinet-Level Departments and Subcomponents)

Table A-3c: FY 2019 Federal Workforce Participation Rates by Disability Type and Agency (Independent Agencies)

Table A-3d: FY 2019 Federal Workforce Participation Numbers by Disability Type and Agency (Independent Agencies)

Table A-4a: FY 2019 Federal Workforce Participation Rates by Disability Status, GS-Grade, Senior Level Pay, and Agency (Cabinet-Level Departments and Subcomponents)

Table A-4b: FY 2019 Federal Workforce Participation Numbers by Disability Status, GS-Grade, Senior Level Pay, and Agency (Cabinet-Level Departments and Subcomponents)

Table A-4c: FY 2019 Federal Workforce Participation Rates by Disability Status, GS-Grade, Senior Level Pay, and Agency (Independent Agencies)

Table A-4d: FY 2019 Federal Workforce Participation Numbers by Disability Status, GS-Grade, Senior Level Pay, and Agency (Independent Agencies)

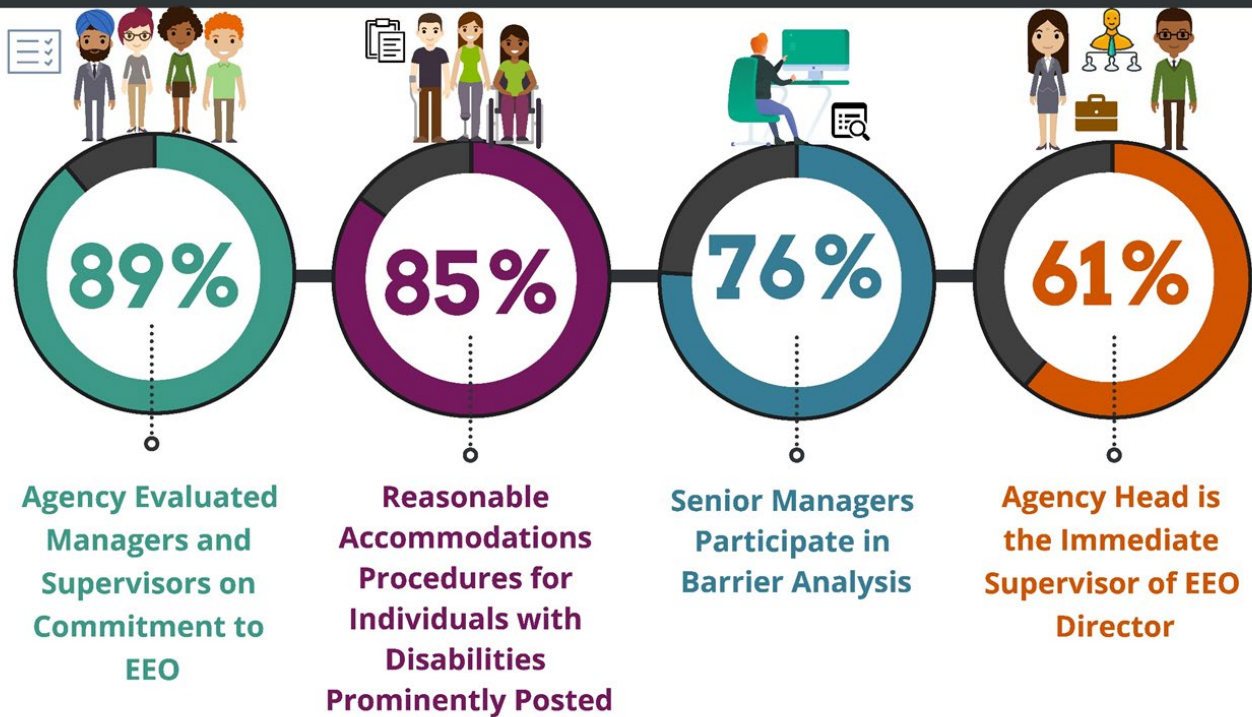
APPENDIX III. Complaint Processing (B) Tables

Available at <https://www.eeoc.gov/Federal-sector/reports>.

Table B-1 FY 2019 Total Work Force, Counselings, and Complaints
Table B-1a FY 2019 Total Work Force, Counselings, and Complaints - Sub-Component Data
Table B-2 FY 2019 All Timely Completed Counselings
Table B-2a FY 2019 All Timely Completed Counselings - Sub-Component Data
Table B-3 FY 2019 Outcomes of All Pre-Complaint Closures
Table B-3a FY 2019 Outcomes of All Pre-Complaint Closures - Sub-Component Data
Table B-4 FY 2019 Pre-Complaint ADR Offers, Rejections, and Acceptances
Table B-5 FY 2019 ADR Pre-Complaint Resolutions (Informal Phase)
Table B-6 FY 2019 Benefits Provided in All Pre-Complaint Settlements
Table B-7 FY 2019 Profile Agency Timeliness Indicators (totals with and without USPS data)
Table B-7a FY 2019 Profile Agency Timeliness Indicators (totals with and without USPS data)
Table B-8a FY 2019 Complaints Filed Basis and Issues - Cabinet Level Agencies
Table B-8b FY 2019 Complaints Filed Basis and Issues - Medium Sized Agencies
Table B-8c FY 2019 Complaints Filed Basis and Issues - Small Agencies
Table B-8 FY 2019 Complaints Filed Basis and Issues - Grand Total
Table B-9 FY 2019 Timeliness and Cost of All Completed Complaint Investigations
Table B-9a FY 2019 Timeliness and Cost of Complaint Investigations Completed by Agency Investigators
Table B-9b FY 2019 Timeliness and Cost of Complaint Investigations Completed by Contract Investigators
Table B-9c FY 2019 Timeliness and Cost of All Completed Complaint Investigations
Table B-10 FY 2019 Total Number and Average Processing Days for All Complaint Closures
Table B-11 FY 2019 Types of Complaint Closures
Table B-12 FY 2019 Average Processing Days (APD) All Complaint Closures
Table B-13 FY 2019 Complaints Closed with Dismissals
Table B-14 FY 2019 Timeliness of Merit Final Agency Decisions (FAD) (No AJ Decision)
Table B-14a FY 2019 Timeliness of Merit Final Agency Decisions (FAD) (No AJ Decision) - Sub-Component Data
Table B-15 FY 2019 Complaints Closed with Findings of Discrimination
Table B-16 FY 2019 Complaints Closed with Findings of No Discrimination
Table B-17 FY 2019 Average Processing Days (APD) Final Agency Decisions (FADs) and Final Orders (FOs) Fully Implementing (FI) AJ Decisions
Table B-18 FY 2019 Average Processing Days (APD) Final Orders (FOs) Not Fully Implementing (NFI) AJ Decisions
Table B-19 FY 2019 Total Complaint Closures Accepted/Participated in ADR
Table B-20 FY 2019 ADR Complaint Resolutions (Formal Phase)
Table B-21 FY 2019 Complaint Closures with Benefits
Table B-22 FY 2019 Complaint Closures By Statute
Table B-23 FY 2019 Summary of Pending Complaints By Category
Table B-24 FY 2019 Agency Staff Resources
Table B-24a FY 2019 Contract Staff Resources
Table B-25 FY 2019 Agency New Staff Training
Table B-26 FY 2019 Agency Experienced Staff Training
Table B-27 FY 2019 Contractor New Staff Training
Table B-28 FY 2019 Contractor Experienced Staff Training

APPENDIX IV. Percentage of Agencies Demonstrating EEO Commitment, FY2019
(Infographic)

The Percentages of Agencies Demonstrating EEO Commitment

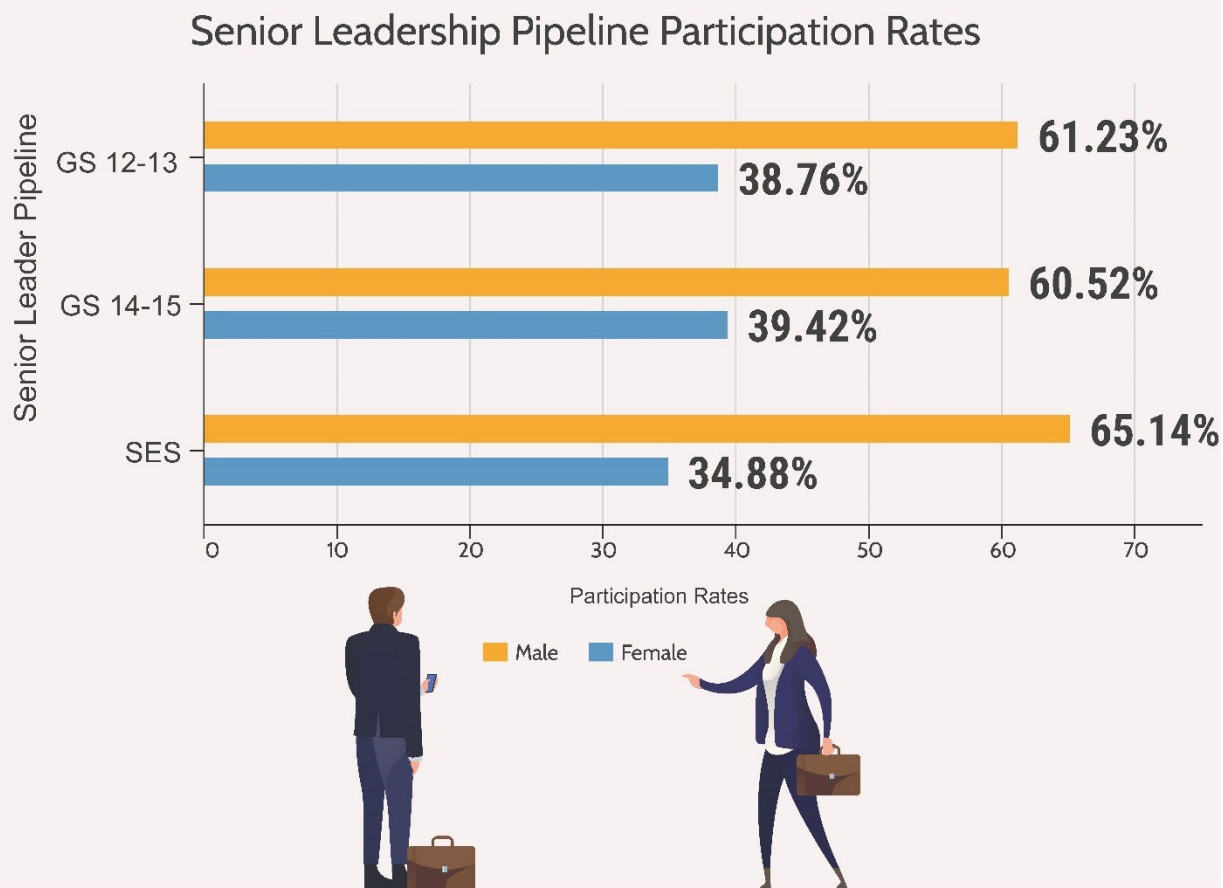


Data Source: FY 2019 EEOC Annual Report on the Federal Workforce, Figure 4.1.

Senior Leadership Pipeline Participation Rates



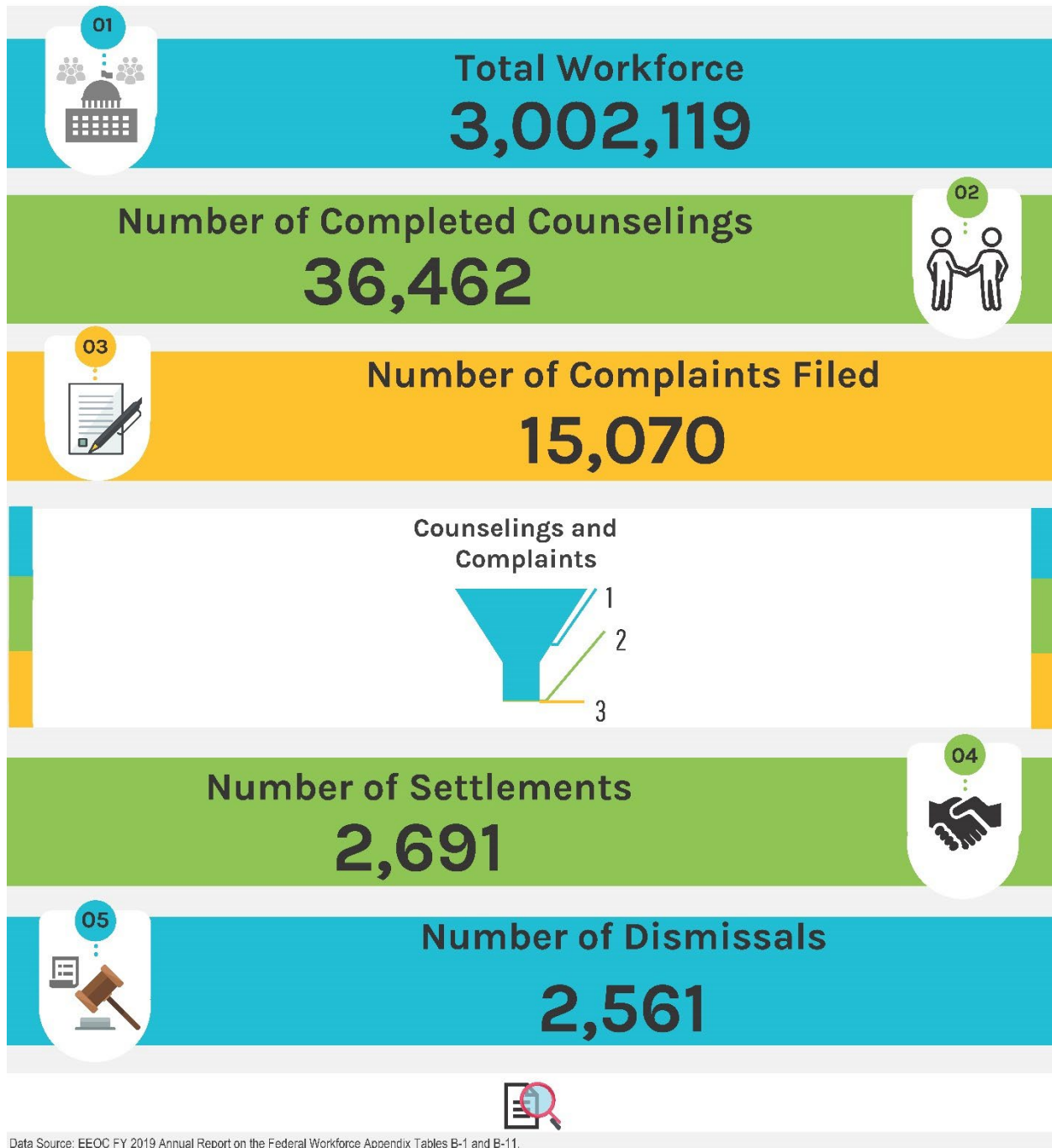
Participation Rates



Data Source: EEOC FY 2019 Annual Report on the Federal Workforce Appendix Table A-2a.

Counselings and Complaints

Government-wide



Data Source: EEOC FY 2019 Annual Report on the Federal Workforce Appendix Tables B-1 and B-11.

Government-wide EEO Alternative Dispute Resolution

Offers, Rejections, & Acceptance Rates

Number of Completed /
Ended Counselings

36,348

Number of Completed /
Ended Counselings Offered
ADR

31,646

Number of Offers
Rejected by Individual

11,982

Total of Completed / Ended
Counselings Accepted/
Participated in ADR Program

19,664

Number of ADR Closures

977

Total Number of ADR
Resolutions

359

Number of ADR Settlements

328

Number of ADR Withdrawals

31



Data Source: EEOC FY 2019 Annual Report on the Federal Workforce Appendix Tables B-4 and B-20.

APPENDIX VIII. Top 8 Issues Alleged in Complaints, FY2019 (Infographic)

