

February 2020

Fiscal Year 2019 Annual Performance Report



**U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION**



How This Report Is Organized

This *Fiscal Year 2019 Annual Performance Report (APR)* presents the U.S. Equal Employment Opportunity Commission's (the EEOC or agency) program results and management challenges. Agency efforts in each of these areas are summarized below.

- **Agency and Mission Information:** provides an overview of the agency's organizational structure, mission, and vision.
- **Performance Results:** highlights the progress made in meeting the agency's performance measures, which are articulated in the EEOC's Strategic Plan for Fiscal Years 2018 through 2022, as well as accomplishments in related programs and activities.
- **Other Information:** identifies major management priorities and challenges, describes evidence building activities, and addresses the validation and verification of the performance data.
- **Appendices:** contains a glossary of the acronyms and definitions of terms used in the report as well as performance information specifically requested by Congress.



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A Message from the Chair



I am pleased to present the U.S. Equal Employment Opportunity Commission's (EEOC) Annual Performance Report (APR) for fiscal year (FY) 2019. The EEOC is dedicated to effective enforcement of the nation's federal equal employment opportunity laws. This report highlights the agency's achievements in advancing our mission to prevent and remedy unlawful employment discrimination and to advance equal employment opportunity in the workplace.

On May 15, 2019, I was sworn in as chair of the EEOC. It is an honor to lead the Commission and I thank Victoria A. Lipnic, who served as the Acting Chair from January 2017 until my confirmation, and Commissioner Charlotte Burrows for their warm welcome and support.

Throughout its history, the EEOC has had a positive impact on workforces across the country. As Chair, I want to build upon the agency's legacy and continue to take on workplace discrimination, while striking a careful balance between enforcement and assistance in compliance through outreach and effective communication.

As this report highlights, in fiscal year 2019 the agency made progress toward meeting the measures and objectives set out in our strategic plan. To focus the work of the agency in the most impactful manner I identified five priorities. Discussed in greater detail throughout this report, the agency was successful in adopting these priorities and making significant progress. These priorities will continue to guide our work through fiscal year 2020.

The EEOC will continue to **provide excellent customer service** and be responsive to employees who raise claims of discrimination in the workplace. Too often, justice delayed is justice denied. In fiscal year 2019 the agency made significant strides toward fulfilling this pledge by handling claims of discrimination promptly and fairly. This includes a continuation of the focus on Priority Charge Handling Procedures ("PCHP"), Quality Enforcement Practices ("QEP"), and Federal Sector Quality Practices to effectively manage active workloads and reduce inventory levels in private and public sector charges and federal sector hearings and appeals. The EEOC, through expansion of digital services, also continued to embrace technology and leverage its power to improve our service to all stakeholders. Finally, the agency continued to upgrade the Commission's data collection, analysis, and reporting capabilities, which will enable the agency to use modern data analytics to facilitate data-driven decision making.



The first word in the EEOC's mission statement is "prevent," and everyone at the Commission contributes to the goal of **providing robust compliance assistance** and preventing discrimination in the workplace. To fulfill this priority of providing robust compliance assistance to ensure equal opportunity, the Commission provided high-quality, easy to understand education and outreach in the private, public, and federal sectors, prioritizing outreach to the small business community. As part of this effort the agency continued to successfully build strong partnerships with employer and advocacy groups. The Commission also began a significant effort to update our guidance and technical assistance documents to ensure that they represent a clear explanation of the law, and rescind those documents that are out-of-date, raise the potential for confusion among our stakeholders, or exceed the Commission's statutory authority.

The EEOC serves a unique and significant role in the enforcement of civil rights laws in the workplace. During 2019 we began to **enhance our efforts to reach vulnerable workers** in our society. I established an agency-wide task force and charged them with examining our current efforts and making adjustments to ensure that we are identifying, reaching, and effectively serving – through outreach, enforcement, and litigation – vulnerable workers throughout the nation's workforce.

The EEOC continued to **strategically allocate Commission resources** to tasks that have the maximum impact on fulfilling our mission. In fiscal year 2019 the Commission continued to build on the success of our popular mediation program in the private and federal sectors. While conducting over 6,000 successful mediations that garnered over \$159.6 million in benefits to charging parties, agency staff earned a satisfaction rate of 96.8 percent for the EEOC's private sector mediation program. This represents the percent of participants who would use the process again. The Commission also continued to partner with other government agencies to advance our common interests and eliminate confusion among stakeholders, while recognizing that we cannot seek to enforce statutes outside of our jurisdiction or seek remedies that are not authorized under the laws that the EEOC is authorized to enforce.

The EEOC can best accomplish our mission if we are **continuing our efforts to be a model workplace**, with a productive, inclusive, and diverse workforce. In fiscal year 2019 the Commission continued to embrace the principles of equal employment in our *own* workplace, recognizing that doing so creates an environment that enhances the EEOC's overall effectiveness. The EEOC also supported our employees by providing them with the tools and resources they need to be successful in their jobs.

Historically, the EEOC has been a small agency with a huge mission. It is an honor to lead an agency of employees devoted to the mission to advance equal opportunity for all in the workplace and prevent and remedy unlawful employment discrimination.

A handwritten signature in black ink that reads "Janet Dhillon".

Janet Dhillon
Chair
February 10, 2020

Agency and Mission Information



Mission, Major Programs and Organizational Structure

The Equal Employment Opportunity Commission’s (the EEOC or agency) Annual Performance Report (APR) provides performance results that enable the President, Congress, and the American people to assess the EEOC’s accomplishments for each fiscal year (October 1 through September 30). This report provides an overview of programs, accomplishments, and challenges. The report is prepared in accordance with the requirements of the Office of Management and Budget (OMB) Circular No. A-11, Annual Performance Planning and Reporting Requirements.

Our Mission

- Prevent and remedy unlawful employment discrimination and advance equal opportunity for all in the workplace.

Our Vision

- Respectful and inclusive workplaces with equal employment opportunity for all.

Agency Overview

Title VII of the Civil Rights Act of 1964 (Title VII) created the EEOC to enforce protections against employment discrimination on the bases of race, color, national origin, religion, and sex. Congress subsequently vested the EEOC with responsibility to enforce the Equal Pay Act of 1963 (EPA), the Age Discrimination in Employment Act of 1967 (ADEA), Section 501 of the Rehabilitation Act of 1973, Titles I and V of the Americans with Disabilities Act of 1990 (ADA), and Title II of the Genetic Information Nondiscrimination Act of 2008 (GINA). In addition, in 1972, Congress further expanded the agency’s responsibilities by providing federal government employees the protections of Title VII and providing the EEOC with independent litigation authority against private employers under Title VII.



Statutory Structure

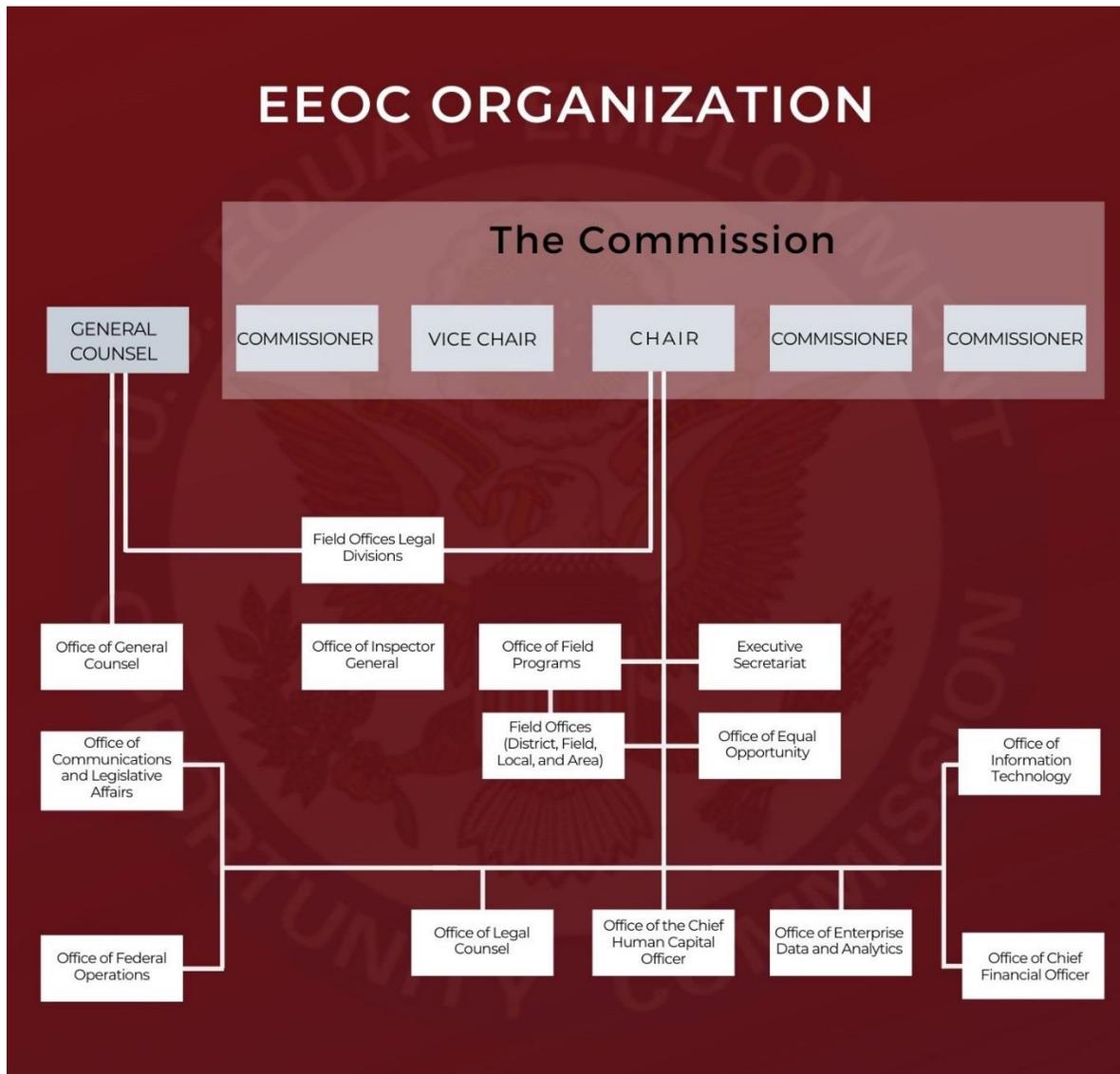
The EEOC is led by six presidential appointees – [five Commissioners \(including the Chair\) who serve staggered five-year terms and the General Counsel](#). No more than three Commissioners (including the Chair) may be from the same political party. The Chair is responsible for the administration and implementation of policy and the enforcement program, financial management, and day-to-day operations of the Commission. The Commissioners participate in the development and approval of Commission policies, issue charges of discrimination where appropriate, and authorize the filing of lawsuits. The General Counsel provides direction, coordination, and supervision to the EEOC's litigation program.

The Commissioners and General Counsel	Term Expires
CHAIR JANET DHILLON	2022
COMMISSIONER VICTORIA A. LIPNIC	2020
COMMISSIONER CHARLOTTE S. BURROWS*	2023
COMMISSIONER, VACANT	2021
COMMISSIONER, VACANT	2024
GENERAL COUNSEL SHARON FAST GUSTAFSON	2023

*Commissioner Chai R. Feldblum left the Commission in January 2019. Charlotte Burrows was confirmed to the term ending in 2023 on August 1, 2019.

Organization

The EEOC accomplishes its mission through component offices that administer various programs. The EEOC also maintains work sharing agreements and a contract services program with 92 state and local Fair Employment Practices Agencies (FEPAs) to coordinate the investigation of charges dual-filed under state and local laws and federal law, as appropriate.



For more information about specific EEOC offices, please see Appendix A.

These programs are carried out through a network of 53 district, field, area, and local offices. For more information about the [EEOC Field Offices](#) across the nation please see Appendix F.

Performance Results



Summary of Agency Results Under the Strategic Plan Performance Measures

The Government Performance and Results Modernization Act, (5 U.S.C. 306, as amended), requires federal agencies to prepare a Strategic Plan every four years, beginning in 2012. The Commission approved the EEOC’s [Strategic Plan for Fiscal Years 2018-2022](#) (Strategic Plan or Plan) on February 12, 2018.

The EEOC’s Strategic Plan established a national framework to achieve the agency’s mission. To that end, the EEOC has committed to pursuing the following three strategic objectives and goals:

- **Strategic Objective I. Combat and prevent employment discrimination through the strategic application of EEOC’s law enforcement authorities.** The correlated goals are: 1) Discriminatory employment practices are stopped and remedied, and victims of discrimination receive meaningful relief; and 2) Enforcement authorities are exercised fairly, efficiently, and based on the circumstances of each charge or complaint.
- **Strategic Objective II. Prevent employment discrimination and promote inclusive workplaces through education and outreach.** The correlated goals are: 1) Members of the public understand the employment discrimination laws and know their rights and responsibilities under these laws; and 2) Employers, unions, and employment agencies (covered entities) prevent discrimination, effectively address EEO issues, and support more inclusive workplaces.
- **Strategic Objective III. Achieve organizational excellence.** The correlated goals are: 1) Staff exemplify a culture of excellence, respect, and accountability; and 2) Resource allocations align with priorities to strengthen outreach, education, enforcement, and service to the public.

The Plan also identified strategies for achieving each outcome goal and identified 12 performance measures for gauging the EEOC’s progress through fiscal year 2022. The below chart summarizes the agency’s progress in meeting these measures in fiscal year 2019.

EEOC FY 2019 Performance			
Measures	 Targets Met or Exceeded	 Targets Partially Met ¹	 Targets Not Met
12	12	0	0
¹  Targets Partially Met: A rating assigned to target results where (1) at least half of the activities targeted for completion were completed, or (2) the EEOC was unable to assess the results because full year data was not yet available.			



Summary of Fiscal Year 2019 Performance Highlights

The EEOC successfully combated and prevented employment discrimination through the strategic application of the EEOC's law enforcement authorities in the following ways:

- Ensuring that federal and private sector complaints and charges are handled promptly and efficiently by:
 - Reducing the inventory of pending private sector charges by 12.1 percent – to 43,580 charges – the lowest in 13 years.
 - Reducing the federal sector hearings pending inventory for the second consecutive year – achieving a reduction of 5 percent in fiscal year 2019.
 - Reducing the number of federal sector appeals that were more than 500 days old by 84 percent, from 601 at the end of fiscal year 2018 to 97 at the end of fiscal year 2019.
 - Appeals that have been pending for more than 500 days now comprise only 3.2 percent of the total pending appeals inventory.
 - Continuing to build on our successful mediation program, including:
 - Achieving 6,394 successful mediations resulting in over \$159.6 million in benefits to charging parties.
 - Conducting 1,145 federal sector mediations, which contributed to the reduction of the federal sector inventory.
 - Achieving a satisfaction rate of 96.8 percent for the EEOC's private sector mediation program, which represents the percent of participants who would use the process again.
- Using administrative and litigation authorities to promote broad compliance with federal workplace anti-discrimination laws, including:
 - Securing more than \$486 million for victims of discrimination, including:
 - Approximately \$346.6 million for victims of employment discrimination in private sector and state and local government workplaces through mediation, conciliation, and settlements.
 - \$39.1 million for charging parties and other aggrieved individuals through litigation; and
 - \$100.6 million for federal employees and applicants.
 - Resolving 10,608 federal sector hearings requests – a 22.5 percent increase over fiscal year 2018 – and securing \$87.8 million in relief for federal employees.
 - Resolving 4,094 federal sector appeals.
 - The EEOC continued its significant resolution of appeals addressing the merits of employees' discrimination claims, including 101 findings of discrimination in fiscal year 2019.
 - Securing \$12.8 million in monetary relief as ordered in the EEOC's federal appellate decisions.
 - Among the decisions issued by the EEOC in fiscal year 2019, 91 were identified as implicating one or more Strategic Enforcement Plan (SEP) priorities.
 - Resolving 173 lawsuits and achieving favorable results in approximately 95 percent of all district court resolutions.
 - A total of 2,479 individuals received approximately \$39.1 million in monetary relief as a direct result of litigation resolutions.



- Filing 144 lawsuits, including 100 suits on behalf of individuals, 27 non-systemic suits with multiple victims, and 17 systemic suits involving multiple victims or discriminatory policies.

The EEOC prevented employment discrimination and promoted inclusive workplaces through education and outreach in the following ways:

- Prioritizing education and outreach in the private and federal sectors, including:
 - Conducting more than 3,800 outreach events and providing more than 295,600 individuals nationwide with information about employment discrimination and their rights and responsibilities in the workplace, including:
 - More than 350 federal sector outreach, education, and training events, and providing more than 14,000 federal sector employees and EEO professionals with information about employment discrimination and their rights and responsibilities in the workplace.
 - Prioritizing outreach to the small business community, including:
 - Conducting over 485 outreach events for small business.
 - Promoting the online Small Business Resource Center to provide a one-stop shop to help small businesses easily access information about employer responsibilities.
 - The EEOC again earned an "A" rating for responsiveness to small business concerns in the Small Business Administration Ombudsman's Report and SBA highlighted the EEOC's Small Business Resource Center as an example of agency compliance assistance initiatives.
 - Focusing on significant partnerships with advocacy and business groups, adding 55 new significant partners, bringing the combined total to 379 significant partnerships.
 - Hosting 70 joint events with employer and advocacy groups, reaching more than 6,983 attendees.
 - Conducting 744 significant partner activities, reaching 54,954 attendees.

The EEOC worked to achieve organizational excellence by:

- Continuing to develop and deliver digital services, making it easier and more efficient for employees, applicants, and employers to access the EEOC's services.
 - This was the second year the EEOC utilized the online intake system in all offices, which allows potential charging parties to submit a pre-charge inquiry for review and schedule interview appointments on-line. The system offers portals for both respondents and charging parties to submit documents, update information, respond to offers of mediation and obtain information on the current status of the charge.
 - This year the EEOC also expanded our Public Portal to provide online services to public sector constituents, bringing the EEOC's federal sector online services to par with its private sector services.
 - The online system has increased the public's access to the EEOC, with more than an 11 percent increase in the number of inquiries submitted to the Commission over last year's level.



The EEOC's Performance Measurement Process

The Government Performance and Results Modernization Act of 2010, (5 U.S.C. 306, as amended), requires executive departments, government corporations, and independent agencies to develop and post a Strategic Plan on their public websites every four fiscal years. The implementing guidance in Circular A-11 from the Office of Management and Budget (OMB) instructs agencies on the necessary elements required in an agency's plan and the requirements to publish a new plan with the beginning of each new term of an administration.

The U.S. Equal Employment Opportunity Commission Strategic Plan for Fiscal Years 2018-2022 (Strategic Plan or Plan) establishes a framework for achieving the EEOC's mission to "Prevent and remedy unlawful employment discrimination and advance equal opportunity for all in the workplace," so that the nation may realize the Commission's vision of "Respectful and inclusive workplaces, with equal employment opportunity for all." The Commission approved the [EEOC's Strategic Plan](#) on February 12, 2018.

As discussed in this report, the Strategic Plan established three overarching strategic objectives, and 12 performance measures to gauge the agency's progress in meeting these objectives. Goal leaders, assigned by program office representatives in headquarters, lead the efforts on each of the agency's performance measures. The EEOC's Office of Enterprise Data and Analytics conducts periodic performance measure reviews. During these reviews, program office representatives report on the progress made achieving the agency's performance measures. In coordination with congressional budget preparation, the reports on performance measure progress are shared with the Office of the Chair for their review.

In the agency's Annual Performance Plan (APP), issued as part of the OMB's budget request, the EEOC identifies the level of planned performance to achieve in the fiscal year, along with performance goals and key milestones that align with the EEOC's Strategic Plan and agency priorities. In the agency's Annual Performance Report, issued in coordination with the agency's Congressional Budget Justification in February each year, the EEOC reports on its progress in achieving the goals and objectives outlined in the agency's Strategic Plan and APP, along with performance and program results achieved for the previous fiscal year.



Detailed Results Achieved in Fiscal Year 2019 Under the Strategic Plan Performance Measures

Overview of the Strategic Plan and Performance Measures

This Annual Performance Report details agency progress in achieving the goals and objectives in the EEOC's Strategic Plan. The agency engaged in a comprehensive assessment of its programs and priorities when developing the Plan. Under this Plan, the EEOC has worked steadfastly to achieve its critical mission to *prevent and remedy unlawful employment discrimination and advance equal opportunity for all in the workplace* and pursue its vision of *respectful and inclusive workplaces with equal employment opportunity for all* by focusing on the following three strategic objectives:

- **Strategic Objective I:** Combat and prevent employment discrimination through the strategic application of EEOC's law enforcement authorities, reflects the EEOC's primary mission of preventing unlawful employment discrimination through: 1) the administrative (investigation and conciliation) and litigation enforcement mechanisms Congress has entrusted the agency with in regard to private employers, labor organizations, employment agencies, and state and local government employers; and 2) the adjudicatory and oversight mechanisms Congress has entrusted the agency with in regard to federal employers. Five performance measures were developed for Strategic Objective I.
- **Strategic Objective II:** Prevent employment discrimination and promote inclusive workplaces through education and outreach. This objective reflects the EEOC's obligation to deter employment discrimination before it occurs. Three performance measures were developed for Strategic Objective II.
- **Management Objective:** Achieve organizational excellence. This objective seeks to improve management functions with a focus on information technology, infrastructure enhancement, and accountable financial stewardship. These areas are cross-cutting and require integration and coordination to foster organizational excellence from internal and external perspectives. Four performance measures were developed for the Management Objective.

The agency's fiscal year progress on these 12 performance measures, as it relates to the strategic objectives, outcome goals, and corresponding strategies for achieving results in the Strategic Plan, is discussed in more detail on the following pages.



STRATEGIC OBJECTIVE I: Combat and prevent employment discrimination through the strategic application of the EEOC's law enforcement authorities.

The agency adopted two outcome goals to further the objective:

Outcome Goal I.A: Discriminatory employment practices are stopped and remedied, and victims of discrimination receive meaningful relief; and

Outcome Goal I.B: Enforcement authorities are exercised fairly, efficiently, and based on the circumstances of each charge or complaint.

The EEOC also identified and is implementing eight key strategies:

The strategies for achieving Outcome Goal I.A are:

- **Strategy I.A.1:** Rigorously and consistently implement the Strategic Enforcement Plan to focus resources on the EEOC's priorities and to integrate agency responsibilities and activities.
- **Strategy I.A.2:** Use administrative and litigation mechanisms to identify and attack discriminatory policies and practices, including systemic practices.
- **Strategy I.A.3:** Use the EEOC's decisions and oversight activities to target discriminatory policies and practices in federal agencies.
- **Strategy I.A.4:** Seek remedies to end discriminatory practices and deter future discrimination.
- **Strategy I.A.5:** Seek remedies that provide meaningful relief to individual victims of discrimination.

The strategies for achieving Outcome Goal I.B are:

- **Strategy I.B.1:** Rigorously and consistently implement the Strategic Enforcement Plan to focus resources on the EEOC's priorities and to integrate agency responsibilities and activities.
- **Strategy I.B.2:** Rigorously and consistently implement the charge management systems for private sector and state and local government charges.
- **Strategy I.B.3:** Further develop and rigorously and consistently implement a case management system for federal sector hearings and appeals.



The EEOC has developed Performance Measures 1 through 5 to track the agency’s progress in pursuing these strategies.

Strategic Objective I Performance Summary			
Measures	■ Targets Met or Exceeded	◆ Targets Partially Met ¹	● Targets Not Met
5	5	0	0
¹ ◆ Targets Partially Met: A rating assigned to target results where (1) at least half of the activities targeted for completion were completed, or (2) the EEOC was unable to assess the results because full year data was not yet available.			

Performance Measure 1

By FY 2022, a significant proportion of EEOC and FEPA resolutions contain targeted, equitable relief.	
Sub-Measure 1a.: By FY 2022, 86-88% of EEOC enforcement litigation resolutions and conciliation agreements contain targeted, equitable relief.	
	FY 2019
Target	82-84%
Results	89.4%
■	Target Exceeded

An important activity undertaken by both the EEOC and state and local FEPAs is negotiating resolutions of charges after an investigation has determined that there is reasonable cause to believe that unlawful employment discrimination has occurred. It is neither appropriate nor feasible to set a target for the number of reasonable cause determinations the agency makes because every investigation is dependent on the facts of the case. However, it is appropriate to set a goal for the type of relief that should be sought in resolutions of cases once reasonable cause has been found.

The fiscal year 2019 target for Performance Measure 1, Sub-Measure 1a was for at least 82-84 percent of the EEOC’s resolutions to contain targeted, equitable relief. Targeted, equitable relief (TER) means any non-monetary and non-generic relief (other than the posting of notices in the workplace about the case and its resolution), which explicitly addresses the discriminatory employment practices at issue in the case, and



which provides remedies to the aggrieved individuals or prevents similar violations in the future. Such relief may include customized training for supervisors and employees, development of policies and practices to deter future discrimination, and external monitoring of employer actions, as appropriate. By fiscal year-end, the agency had far exceeded the targeted range; reporting 1,003 administrative and legal resolutions with TER out of a total of 1,122 resolutions, or 89.4 percent.

Sub-Measure 1b.: By FY 2022, 17-19% of FEPA resolutions contain targeted, equitable relief.	
	FY 2019
Target	15.5-17.5%
Results	19.4%
■	Target Exceeded
■	Overall Targets Exceeded

The fiscal year 2019 target for Performance Measure 1, Sub-Measure 1b was for at least 15.5-17.5 percent of Fair Employment Practices Agencies (FEPA) resolutions to contain targeted, equitable relief. At fiscal year end, the FEPAs had exceeded well beyond the targeted range of 15.5-17.5 percent; reporting 1,109 FEPA merit resolutions with TER out of 5,712 merit resolutions, or 19.4 percent.

Both Sub-Measures 1a and 1b under Performance Measure 1 were designed to encourage the EEOC and the FEPAs to seek relief in these cases that goes beyond monetary damages for individual victims of discrimination. Performance Measure 1b measures all FEPA resolutions, which acknowledges the differences in their administrative procedures. Unlike the EEOC, not all FEPAs engage in conciliation. This measure ensures that the protection of equitable relief that the FEPAs obtained is captured.



Performance Measure 2

In each year through 2022, the EEOC favorably resolves at least 90 percent of the agency's enforcement lawsuits.	
	FY 2019
Target	90%
Results	94.8%
■	Target Exceeded

Performance Measure 2 places a premium on maintaining the high level of successful resolutions in our litigation program. Successful resolutions include cases decided by favorable court order and those concluded through a consent decree or a settlement agreement in litigation. Achieving success for this measure will ensure that we continue to exercise our prosecutorial discretion responsibly, while allowing us to take on challenging issues and litigate complex cases, including cases of systemic discrimination. As stated in the SEP for Fiscal Years 2017-2021, effective strategic enforcement includes a balance of individual and systemic cases, and those involving national and local priority issues, recognizing that each may have strategic impact in varied ways. This measure is significant because the achievement of success in cases raising priority issues under the SEP is often challenging and resource intensive, especially in cases involving emerging or developing issues and systemic cases.

The fiscal year 2019 target for Performance Measure 2 was for 90 percent of the agency's enforcement lawsuits to be favorably resolved. As of September 30, 2019, the agency had exceeded the target; reporting that 164 out of 173, or 94.8 percent of its enforcement lawsuits were favorably resolved.



Performance Measure 3

Each year through 2022, the EEOC reports on its efforts to identify and resolve systemic discrimination.	
	FY 2019
Target	Report issued.
Results	The report was issued on October 29, 2019.
■	Target Met

Performance Measure 3 focuses on the use and reporting of data to ensure the EEOC has a coordinated, strategic, and effective approach to systemic enforcement. To track our progress in identifying and resolving systemic discrimination, this performance measure will require that the EEOC maintain data and release a report annually detailing the agency’s efforts to identify and resolve systemic discrimination.

The Systemic Annual Report was issued on October 29, 2019, in advance of the deadline. It includes information on the number of ongoing systemic investigations, the number of systemic resolutions, the systemic conciliation rate, monetary relief recovered, and examples of systemic investigative resolutions. In addition, systemic activity necessary to generate the annual report was collected, tabulated, and reported to the Commission in SEP briefings throughout the fiscal year.



Performance Measure 4

By FY 2022, an increased percentage of federal agencies subject to oversight activities or compliance reviews change their employment practices based on EEOC's recommendations.	
	FY 2019
Targets	45% of federal agencies have compliant reasonable accommodation procedures. 55% of federal agencies have a compliant anti-harassment policy. 55% of recommendations made in agency program evaluations completed in FY 2017 are substantially implemented.
Results	53% of federal agencies have compliant reasonable accommodation procedures. 63% of federal agencies have a compliant anti-harassment policy. 65% of recommendations made in agency program evaluations completed in FY 2017 were substantially implemented as of September 30, 2019.
■	Target Exceeded

Performance Measure 4 recognizes that because the federal government is the largest employer in the United States, reducing unlawful employment discrimination in the federal sector is an integral part of combatting employment discrimination. Moreover, as the largest employer in the United States, the federal government has tremendous influence over the employment practices of private and public employers in the United States and around the world. Thus, the promotion of equal employment opportunity in the federal government can positively impact all employees and job-seekers.

The fiscal year 2019 targets for Performance Measure 4 were designed to capture the percentage of reasonable accommodations procedures, anti-harassment procedures, and program evaluation recommendations from the EEOC that were implemented by agencies during the fiscal year.

By fiscal year-end, 102 out of 193 agencies that received feedback from the EEOC, or 53 percent, reported their reasonable accommodation procedures complied with EEOC guidance. Also, as of September 30, 2019, 63 percent, or 121 agencies out of 193 that received EEOC feedback, had compliant anti-harassment policies. During the fiscal year, to ensure that 55 percent of federal agencies substantially implemented agency recommendations in program evaluation reports, the EEOC reviewed compliance and recorded successful completion of targets based on prior recommendations. As a result, the agency exceeded its goal and 65 percent of recommendations made in program evaluations completed in fiscal year 2017 were substantially implemented by the end of fiscal year 2019.



Performance Measure 5

By FY 2022, a significant proportion of the investigations, conciliations, hearings, and appeals meet established quality criteria.	
Sub-Measure 1a: By FY 2022, 88% of charge investigations and conciliations meet criteria established in the Quality Enforcement Practices Plan.	
	FY 2019
Target	85%
Results	88.6%
	Target Exceeded

Performance Measure 5 builds on the EEOC’s previous Strategic Plan with a metric focused on quality in both the private and federal sector programs. For the private sector, the Commission approved a plan for Quality Enforcement Practices for Effective Investigations and Conciliations (QEP) in September 2015. The QEP promotes the rigorous implementation of quality investigations and conciliations with progress goals established for each year of the Plan. In fiscal year 2016, the EEOC applied the criteria established under the QEP to a sample of investigations and conciliations to establish benchmarks for offices to use in fiscal year 2017. In fiscal year 2018, the benchmarks were used to project future targets. The agency exceeded its fiscal year 2019 target of 85 percent of investigations meeting established standards, with 88.6 percent of charge files reviewed meeting the criteria established in the QEP.



Sub-Measure 1b: By FY 2022, 90% of federal sector hearings and appeals meet criteria in the Federal Sector Quality Practices Plan.	
	FY 2019
Target	85%
Results	86%
□	Target Exceeded
□	Overall Targets Exceeded

For the federal sector, Performance Measure 5, Sub-Measure 1b builds on the Federal Sector Quality Practices (FSQP) approved by the Commission on January 10, 2017, which includes quality components for hearings and appeals. In fiscal year 2018, the agency established a baseline and projected future targets for federal sector hearings and appeals to meet criteria established in the FSQP. The agency implemented a checklist for assessing quality practices and applied it to a sampling of draft decisions to create a baseline from which to set FSQP quality improvement goals in the outlying years. The baseline established was 80 percent of the files to meet the quality standards. The fiscal year 2019 target for this measure was for the EEOC to increase the percentage of federal sector hearings and appeals that meet criteria established in the FSQP to 85 percent. After identifying the metrics to evaluate the quality of decisions and selected cases in the first part of fiscal year 2019, the application of the criteria to the reviews of hearings and appeals cases resulted in 86 percent of hearings and appeals meeting the FSQP criteria.

STRATEGIC OBJECTIVE II: Prevent employment discrimination and promote inclusive workplaces through education and outreach.

The agency adopted two outcome goals to further the objective:

Outcome Goal II.A: Members of the public understand the employment discrimination laws and know their rights and responsibilities under these laws; and

Outcome Goal II.B: Employers, unions, and employment agencies (covered entities) prevent discrimination, effectively address EEO issues, and support more inclusive workplaces.



The EEOC also identified and is implementing seven key strategies:

The EEOC's strategies for achieving Outcome Goal II.A are:

- Strategy II.A.1: Broaden the use of technology to expand our reach to diverse populations.
- Strategy II.A.2: Target outreach to vulnerable workers and underserved communities.

The strategies for achieving Outcome Goal II.B are:

- Strategy II.B.1: Utilize modern technology and media to expand our reach to employers and other covered entities.
- Strategy II.B.2: Promote promising practices that employers can adopt to prevent discrimination in the workplace.
- Strategy II.B.3: Target outreach to small and new employers.

Correlated strategies under Strategic Objective II include:

- Strategy II.A.3/II.B.4: Provide up-to-date, accessible guidance and training on the requirements of employment discrimination laws.
- Strategy II.A.4/II.B.5: Increase the knowledge of targeted audiences through focused, innovative collaborations with internal and external stakeholders.

The EEOC has developed Performance Measures 6 through 8 to track the agency's progress in pursuing these strategies.

Strategic Objective II Performance Summary			
Measures	 Targets Met or Exceeded	 Targets Partially Met ¹	 Targets Not Met
3	3	0	0
¹  Targets Partially Met: A rating assigned to target results where (1) at least half of the activities targeted for completion were completed, or (2) the EEOC was unable to assess the results because full year data was not yet available.			



Performance Measure 6

By FY 2022, the EEOC modernizes and expands utilization of technology to ensure that members of the public have greater access to information about their rights and responsibilities.	
	FY 2019
Target	<p>Explore the use of surveys to measure the customer experience and usefulness of its digital services, and to solicit ideas for improvements.</p> <p>Identify processes and implement a pilot project to increase access to information in at least two priority areas. Report on progress.</p>
Results	<p>The EEOC implemented numerous projects identified in the agency’s technology plan to increase the public’s access to information.</p> <p>The EEOC explored the use of surveys to measure the customer experience and usefulness of the EEOC’s digital services.</p> <p>Additional pilot projects to increase access to information in at least two priority areas were identified. Implementation of these pilots will take place in FY 2020.</p>
■	Target Met

Performance Measure 6 focuses on strengthening and expanding the impact of the EEOC’s education and outreach activities by expanding the use of technology. The implementation of a technology plan created in fiscal year 2018 facilitates the dedication of resources to the most critical needs. The EEOC will also focus its technological advances on priority areas and specific communities to increase public access to information about rights and responsibilities under the laws the EEOC enforces.

In fiscal year 2019, the agency implemented two pilot projects to introduce the use of two new social media platforms. In spring 2019, the EEOC launched the “You’re Hired” campaign on Instagram to provide information about discrimination and sexual harassment to youth in summer jobs. The campaign netted more than 800 followers on Instagram and 24,300 impressions. In summer 2019, the EEOC launched a campaign focused on providing easy-to-use information from our Small Business Resource Center to human resources professionals on LinkedIn. The results generated 11,000 followers and helped boost the web traffic to the Small Business Resource Center by 22 percent.



Also, during the fiscal year, the agency continued to perform market research regarding survey vendors and explored the use of surveys on the EEOC website to measure the customer experience, the usefulness of its digital services, and to solicit ideas for improvements. This process included wide-ranging conversations with both internal and external stakeholders – including subject matter experts from GSA. Any implementation of the surveys will be delayed until after the EEOC website is migrated to a new content management system. In addition, the EEOC continued to implement the technology plan, expanding the use of social media, making significant progress on migrating the website to a mobile responsive content management system, and tracking metrics.

In fiscal year 2020, the agency will launch a new public website that more effectively and efficiently meets the needs of our audience, including Spanish speakers, and those who seek to access the site using phones and tablets.

Performance Measure 7

By FY 2022, the EEOC leverages collaborations with significant partner organizations to assist in reducing and eliminating employment barriers.	
	FY 2019
Target	Increase baseline measure by 8% to 34 events.
Results	The agency conducted 70 events with significant partner organizations nationwide.
	Target Exceeded

The EEOC is in a unique position to serve as a conduit to promote effective partnerships and to strengthen relationships among diverse groups with common goals. Moving forward, the Commission does not believe that a focus solely on the number of events held, number of attendees, or number of significant partnerships is the best way to measure its public education impact. We believe we can facilitate effective interactions that can lead to reducing or eliminating employment barriers. For example, connecting an employer association with an advocacy group seeking to eliminate recruitment and hiring barriers may help to prevent discrimination and create job opportunities for qualified job seekers. Performance Measure 7 leverages our long-term significant partnerships with advocacy groups (particularly those that represent vulnerable or underserved workers) and associations or organizations that represent employers to achieve sustained benefits for the communities we serve.



In fiscal year 2019, the agency continued to leverage technology to extend its reach to diverse populations by hosting two Facebook live events with the Department of Veterans Affairs that focused on disability discrimination. The Department of Veterans Affairs has indicated that, to date, 17,072 people have been reached by these events.

The EEOC further developed and strengthened its significant partnerships with advocacy and business groups in fiscal year 2019, adding 55 new significant partners and bringing the total of significant partnerships to 379. The EEOC participated in 744 significant partner activities during the fiscal year, which reached 54,954 attendees. The agency also continued its joint advocacy and employer outreach efforts. In fiscal year 2019, the EEOC hosted 70 joint employer and advocacy group events and reached 6,983 attendees nationwide. This was an increase of 126 percent over the baseline set in fiscal year 2018, which far exceeded the fiscal year 2019 goal.

In addition, the EEOC partnered with the Department of Labor, Office of Federal Contracts Compliance Program, the Small Business Administration, Department of Justice, Department of Veteran Affairs, National Science Foundation, our Fair Employment Practices Agencies and Tribal Employment Rights Offices to enhance public's awareness of emerging issues in the American workplace. Examples of these partnering efforts include the agency:

- Developing a partnership with the National Science Foundation (NSF), which recently issued directives requiring reporting and addressing sexual harassment as a condition of their grant awards. Multiple meetings have been held and a partner engagement town hall that targets the employers who have grants awarded by NSF is under development.
- Partnering with the Department of Justice (DOJ) Civil Right Division's Disability Rights Section to provide outreach and education that helps employers and employees understand their rights and responsibilities under the Americans with Disabilities Act when dealing with opioid addiction. Internally, the EEOC worked with the DOJ to provide staff training on this topic and to support the agency's Memorandum of Understanding (MOU) referral program. The DOJ partnered with the EEOC's District offices by providing speakers at the San Diego, Albuquerque, and Phoenix Technical Assistance Program Seminars (TAPS) events. The agency continues to participate in DOJ's Interagency Opioid Subgroup, which is a component of the Federal Interagency Disability Policy Group.

In fiscal year 2020, the agency will conduct a program evaluation to determine the impact of these partnerships on vulnerable or underserved communities, and will reset the baseline, if needed. The evaluation will include creating relevant databases and measures that can be used to evaluate the effectiveness of these partnerships.



Performance Measure 8

By FY 2022, the EEOC updates existing guidance and training materials, and creates new, user-friendly resource tools to address and prevent workplace discrimination.	
	FY 2019
Target	Produce or update at least two resource or guidance documents on priority list.
Results	The agency updated at least two current guidance and technical assistance documents.
■	Target Met

Performance Measure 8 will ensure that the EEOC’s sub-regulatory guidance documents and resource materials are reviewed and that, where necessary, they are updated and use plain language. The agency’s enforcement work in the private sector, its adjudicatory and oversight work in the federal sector, and its outreach and education work all depend on the availability of up-to-date and accessible materials explaining the laws it enforces and how to comply with them. While the regulations issued by the Commission set the basic legal framework for the implementation of those laws, sub-regulatory materials, including the EEOC’s Compliance Manual, provide more tangible assistance to those with rights and responsibilities under such laws. These materials may or may not require a vote of the Commission and may include a range of guidance material, best practices, Q&A’s, and fact sheets.

In fiscal year 2019, the agency updated the EEOC/Department of Justice—Civil Rights Division Memorandum of Understanding to provide for expedited Title VII relief, especially in harassment cases. The agency also updated for 2019 the *Selected Developments in Title VII, ADEA, ADA, GINA, and EPA Case Law* (FEPA Case Law Update) for distribution to all the EEOC’s state and local FEPA partners at the June 2019 conference. The FEPA Case Law Update was finalized in May 2019 and published on June 5, 2019.¹

¹ Guidance documents and resource materials are not a substitute for administrative rulemaking and are not intended to affect rights or obligations apart from underlying statutes or regulations. They cannot create binding standards by which the EEOC determines compliance with existing regulatory or statutory requirements.



STRATEGIC OBJECTIVE III: Management Objective – Achieve Organizational Excellence

The agency adopted two outcome goals to further the objective:

Outcome Goal III.A: Staff exemplify a culture of excellence, respect, and accountability

Outcome Goal III.B: Resource allocations align with priorities to strengthen outreach, education, enforcement, and service to the public.

The EEOC also identified and is implementing ten key strategies:

The agency's strategies for achieving Outcome Goal III.A are:

- Strategy III.A.1: Recruit, develop, and retain skilled and committed employees.
- Strategy III.A.2: Advance performance management to maximize organizational improvement.
- Strategy III.A.3: Advance diversity and inclusion in the workplace.
- Strategy III.A.4: Develop and support innovation and collaboration to advance employee engagement and morale.
- Strategy III.A.5: Continuously implement quality practices in all programs.
- Strategy III.A.6: Foster constructive employee and labor management relations.
- Strategy III.A.7: Strive to model the workplace practices the EEOC promotes.

The three strategies for achieving Outcome Goal III.B are:

- Strategy III.B.1: Embrace and invest in technology to transform the way the EEOC serves the public and to improve productivity.
- Strategy III.B.2: Expand the use of data and technology to support, evaluate, and improve the agency's programs and processes.
- Strategy III.B.3: Prioritize and actively manage available fiscal resources to best achieve the agency's mission.

The EEOC has developed Performance Measures 9 through 12 to track the agency's progress in pursuing these strategies.

Strategic Objective III (Management Objective) Performance Summary			
Measures	■	◆	●
	Targets Met or Exceeded	Targets Partially Met ¹	Targets Not Met
4	4	0	0

¹ **◆ Targets Partially Met:** A rating assigned to target results where (1) at least half of the activities targeted for completion were completed, or (2) the EEOC was unable to assess the results because full year data was not yet available.



Performance Measure 9

The EEOC's performance improves with respect to employee engagement and inclusiveness.	
	FY 2019
Target	<p>Conduct annual focus groups with employees and climate assessments to obtain feedback on agency culture.</p> <p>The EEOC's FEVS scores for employee engagement and inclusiveness will maintain or increase in relation to the prior-to-current year changes in comparable government agency averages.</p>
Results	<p>The agency participated in over 50 focus groups facilitated by the Office of Personnel Management (OPM) with all levels of the agency's personnel related to the EEOC's climate, including organizational strengths, weaknesses, and communication.</p> <p>Agency directors received an evaluation tool from OPM to assist in a customized and comprehensive review and assessment of the agency's FEVS scores to identify strengths and opportunities for growth.</p> <p>The agency's FEVS and New IQ scores increased by four percentage points in fiscal year 2019.</p>
	Target Met

Performance Measure 9 takes a holistic approach to assessing and strengthening the agency's efforts to improve employee engagement and inclusiveness. We do not focus solely on improving FEVS scores because that is only one snapshot of agency performance. Annual focus groups and climate assessments will enable an ongoing feedback mechanism to engage with staff and seek their input on solutions to agency challenges.

The fiscal year target for this measure was to conduct a focus group and climate assessment(s) for feedback on agency culture and implement plans, as necessary, to maintain or increase the EEOC's FEVS scores. As part of the agency's Workforce Planning Initiative, OPM consultants facilitated over 50 separate focus groups and interviews between April 30 and August 14, 2019. The focus groups included participants from the Office of the Chair, the Office of the Chief Financial Officer, the Office of the Chief Human Capital Officer, the



Office of Equal Opportunity, the Office of Federal Operations, the Office of Field Programs, the Office of General Counsel, the Office of Information and Technology, the Office of Legal Counsel, the Office of Data and Enterprise Analytics, and the Office of Communications and Legislative Affairs. Each session included topics related to the agency’s culture, including communication across EEOC Offices, communication between employees and EEOC leadership, and organizational strengths and weaknesses.

The agency’s FEVS Employee Engagement Index (EEI) score of 72 percent exceeded the governmentwide employee engagement score of 68 percent for 2019. The EEOC’s FEVS New Inclusion Quotient Index (New IQ) score of 66 percent also exceeded the governmentwide New IQ score for 2019.

Performance Measure 10

Feedback surveys and other mechanisms provide baseline measures of services provided to those with whom the EEOC interacts.	
	FY 2019
Target	<p>Continue to implement feedback surveys and other mechanisms, adjusting the measures and targets, as necessary.</p> <p>Set goals for improvement or maintenance at the beginning of each fiscal year and review results at the end.</p>
Results	<p>The EEOC updated and enhanced its external services via the Public Portal based on feedback received in FY 2018 and FY 2019.</p> <p>The agency established an internal feedback option via an email for recommendations from staff to enhance systems.</p> <p>The agency conducted the ADR program annual survey and surveyed participants in the EEOC’s 22nd Annual EXCEL conference held in August 2019.</p>
	Target Met



Performance Measure 10 focuses on obtaining feedback on services provided to the public. It also supports the goal of obtaining and evaluating feedback from the targeted audiences the Commission serves to allow better measurement of the agency's service delivery and increased accessibility.

The fiscal year 2019 target for this measure was to continue to implement feedback surveys and related mechanisms from the public and targeted audiences the Commission serves to adjust the measures and targets, as necessary, and set goals for improvement or maintenance of the agency's service delivery and increase accessibility. In fiscal year 2019, the agency implemented changes to the Digital Charge System to address appointment no shows. Based on survey results to determine whether the system was working properly, the agency reduced the number of appointment no shows (running at 20-50 percent, depending on office) by having the system generate appointment reminders and instituting a requirement for appointment confirmations. The system now automatically cancels appointments that are not confirmed by 48 hours prior to the appointment date.

To collect continuing feedback since the survey, the agency established internal email accounts for the submission of recommendations from internal staff on the digital charge system and conciliations. Through suggestions made via this vehicle, significant improvements to process and function were implemented in the fiscal year.

The ADR program continued to receive an overwhelming qualitative endorsement. Offices reported that 96.8 percent of participants responding to the mediation survey replied that they would return to the process in a future charge filed with the Commission. The agency utilized a survey to measure the satisfaction of attendees to the 22nd annual Examining Conflicts in Employment Laws (EXCEL) Training Conference. The conference attracted more than 900 conference attendees from federal and private sector EEO practitioners. It offered more than 81 workshops, 9 pre-conference workshops, and 1 specialty track that covered multiple timely and significant topics. With a survey response rate of over 30 percent from over 300 completed evaluations, the mostly positive reviews reinforced the value of the training format and sessions, and these results will be used in designing next year's conference.



Performance Measure 11

Monitor yearly progress on modernization of charge/case management systems for program offices until completed in 2022.	
	FY 2019
Target	<p>Set goals for increasing the number/percentage of fully digital charge and case files from FYs 2019-2022.</p> <p>Report on progress quarterly and adjust the plan, as necessary.</p>
Results	<p>The number of inquiries received via the agency Portal increased by 11.1%.</p> <p>The EEOC continued efforts to develop (for deployment in FY 2020) the closure document module that will lead to the ability to have all digital files.</p> <p>The agency secured funding from the Technology Modernization Fund (TMF) to make a full-scale system change that will allow the EEOC to complete the goals of this measure well ahead of schedule.</p>
■	Target Met

Performance Measure 11 allows the agency to track and assess progress on migration to a fully digital charge/complaint environment. The benefits of such modernization include improved collaboration and knowledge sharing, enhanced data integrity, reduced paper file storage or manual archiving/disposition requirements, and a more mobile workforce. Streamlined services and increased responsiveness to customers throughout the process will be regularly evaluated. The fiscal year target for Performance Measure 11 was to set goals for increasing the number/percentage of fully digital charge and case files from fiscal years 2019-2022 and to regularly report on the progress and adjust the plan, as necessary.

In fiscal year 2019, use of the Online Inquiry and Scheduling System increased by 11.1 percent, which resulted in more inquiry and charge files being launched in a digital rather than paper process. In addition, 123,688 Potential Charging Parties (PCPs) initiated inquiries through the online system (up from 111,363 in fiscal year 2018). Of these, 30,759 were formalized into charges of discrimination (up from 30,565 in the previous fiscal year).



The Digital Charge System (DCS) was used for electronic servicing of charges to employers for every charge where the agency could identify an email address for the respondent. Over 48,300 of the 72,833 charges filed in fiscal year 2019 were served in this manner, which is more than 66.3 percent of all charges, higher than the 63.9 percent rate in fiscal year 2018. This has the added benefit of producing savings in postage, printing and copying, and staff time (to serve the notice of charge and accompanying information).

Efforts were also undertaken to design a closure document module, which will allow for final documents associated with a charge resolution to be processed in digital format. With deployment of the closure document module in fiscal year 2020, the agency will be very close to achieving all digital files, with the only non-digital files being those that were opened prior to the DCS rollout and those where the potential charging party (PCP) does not have access to either email or the Internet.

Finally, the agency made plans to increase the percentage of charge/complaint files that were fully digital with the development of the agency's proposal in fiscal year 2019 for funding through the Technology Modernization Fund (TMF). The TMF proposal outlined the agency's plans to modernize its charge/case management systems and processes, and included a detailed project plan to modernize the EEOC's charge/complaint/case management systems, outlining required resources and establishing related goals and milestones. Effective for early fiscal year 2020, the TMF Board has awarded the agency \$4 million dollars over two years. With TMF resources and level EEOC IT development and modernization funding, in 2020, the EEOC will first modernize legacy applications that support private sector charge processing, establishing common data, and business process web services, and then modernize state and local, federal sector, and litigation applications in 2021.

BUDGETARY RESOURCE ALIGNMENT:

The Commission has worked to communicate across the agency a common understanding of how the strategic priorities direct efforts of staff. Accordingly, with direction from the Chair, budget submissions prepared by each program office explain how the allocated resources implement the strategies and goals of the Strategic Plan. The Chair examines the budget requests and allocates or re-allocates resources, as needed, to align the agency's budget with the Strategic Plan and Strategic Enforcement Plan in each fiscal year.



Performance Measure 12

The EEOC's budgetary resources for FY 2018-2022 align with the Strategic Plan.	
	FY 2019
Target	<p>As part of an overall increase in budget development transparency, produce an annual congressional budget justification and operating plan that reflects strategic enforcement and management priorities as approved by agency head.</p> <p>Meet all submission deadlines.</p>
Results	<p>The EEOC's FY 2020 Congressional Budget was submitted to Congress on March 18, 2019.</p> <p>The EEOC's final FY 2019 Operating Plan was approved by the Acting Chair on September 28, 2018.</p> <p>The EEOC's FY 2021 Performance Budget was submitted to OMB on September 9, 2019.</p>
	Target Met

At every level within the EEOC, a common understanding of how the strategic priorities direct the work of the agency is necessary for success. The EEOC will achieve this common understanding in various ways, including integrating Strategic Plan goals into performance standards and ensuring that budget submissions from each component office explain how the agency's resources will be used to implement the strategies and goals outlined in the Strategic Plan. By developing a strong and clear message for use in budget documents and other publications, the agency demonstrates the nexus between its budget requests, allocations, and operating plans and the achievement of its mission and vision.

The fiscal year 2019 targets for Performance Measure 12 were to submit the *EEOC's FY 2020 Congressional Budget Justification* and the 2019 Operating Plan, and prepare the *EEOC's FY 2021 Performance (OMB) Budget* that aligns resources with the Strategic Plan. The final fiscal year 2019 operating plan was approved by the Acting Chair and transmitted to all offices on September 28, 2018. The agency's fiscal year 2020



Congressional Budget Justification was submitted to Congress on March 18, 2019. The fiscal year 2021 *Performance Budget* was submitted to OMB on September 9, 2019.



Related Program Results and Activities

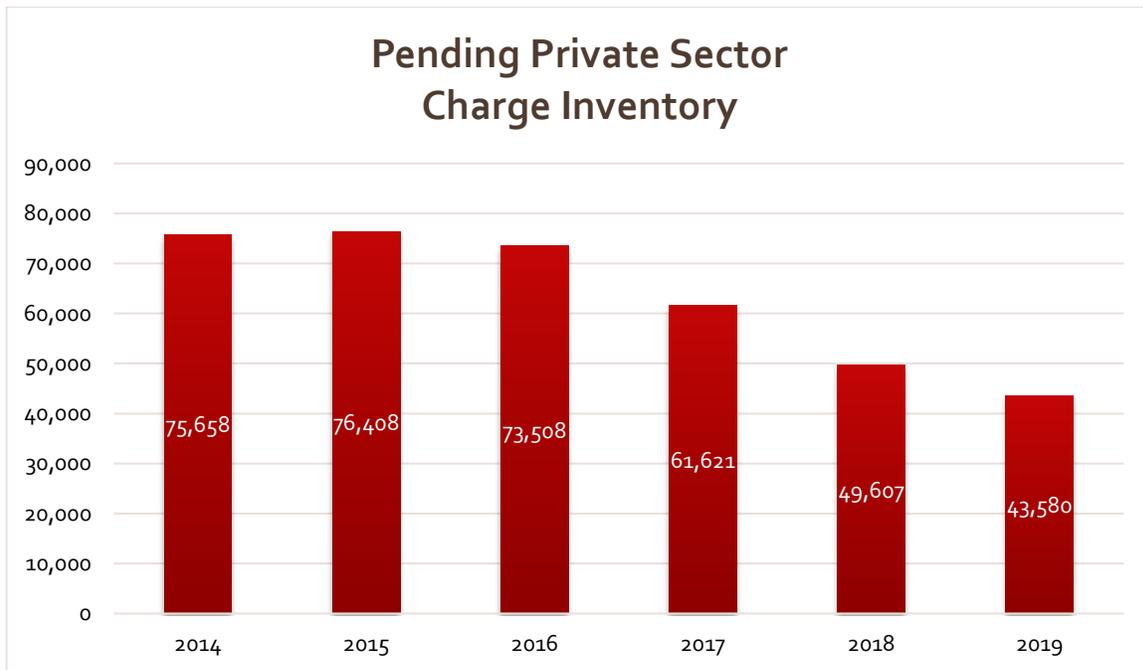
To maximize the EEOC's effectiveness at preventing and remedying unlawful employment discrimination, the agency focuses its resources on efforts that promote broad compliance with federal workplace anti-discrimination laws and enhance the agency's service to the public. In fiscal year 2019, the EEOC continued to focus efforts on those activities likely to have the greatest impact in advancing equal opportunity in the workplace. The EEOC's Strategic Plan and Strategic Enforcement Plan provide the direction for coordinated national enforcement on substantive national priorities.

Continued Success in Reducing the Private Sector Charge Workload

Each year the EEOC handles hundreds of thousands of calls, inquiries, and charges from workers in the private and public sector seeking assistance with potential complaints of discrimination. For example, in fiscal year 2019, the EEOC received over 497,000 calls to the toll-free number, more than 33,000 emails, and over 200,000 inquiries in field offices, including 123,688 inquiries through the online intake and appointment scheduling system, which resulted in 72,675 charges being filed.

To ensure quality service, it is critical that federal and private sector complaints and charges are handled promptly and fairly. Providing excellent customer service to all members of the public who seek assistance from the EEOC was a focus of the agency in fiscal year 2019 and the agency continued to build upon our work to reduce backlogs across all program offices.

An essential part of the agency's focus on combatting and preventing employment discrimination in fiscal year 2019 was a continued emphasis on reaching a manageable and sustainable private sector inventory, which allows the agency to focus on charges with merit and provide improved customer service. With a focus on inventory reduction strategies and priority charge handling procedures, technological enhancements, and front-line staff hired in fiscal years 2018 and 2019, the agency was able to make significant progress managing our pending workload of charges. In fiscal year 2019 the EEOC reduced the charge workload by 12.1 percent to 43,580, which builds on the 20 percent decline in inventory realized in fiscal year 2018. Additionally, the merit factor rate increased to 15.6 percent and over \$346.6 million in monetary benefits was secured for victims of discrimination.



The EEOC’s technological advances, including the Public Portal, Respondent Portal, and the entire Digital Charge System (DCS), have greatly improved private sector efficiency and customer service, while requiring fewer resources. The DCS provides an accessible and customer-friendly approach and reflects the value of providing greater access for the public to speak with a member of our enforcement staff prior to filing a charge of discrimination. The DCS allows potential charging parties to answer a series of questions leading to a self-screen (to determine if the EEOC is the proper agency to address their concern), as well as obtain referrals to other agencies, as appropriate, and ultimately, to allow them to schedule an initial interview prior to filing a charge. In fiscal year 2019, 123,688 Potential Charging Parties (PCPs) initiated inquiries through the system (up from 111,363 in fiscal year 2018). Of these, 30,759 were formalized into charges of discrimination (up from 30,565 in fiscal year 2018).

These technological advances also allowed the agency to further emphasize the EEOC’s priority charge handling procedures to manage the pending inventory, including pre-charge counseling and pre-determination interviews. Effective pre-charge counseling ensures individuals make informed decisions about whether to file a charge of discrimination. The pre-determination interview allows us to communicate the basis for our decisions to the parties. Both are essential for good customer service and effective charge processing. Coupling pre-charge counseling with the online system’s elimination of a paper intake questionnaire contributed to a 4.9 percent reduction in fiscal year 2019 charge receipts, even though the inquiries were up by 11.1 percent (more than 12,300 additional inquiries) over the prior fiscal year. Additionally, increased focus on the reassessment of charges as soon as new evidence is obtained enables staff to make the critical decision as to whether additional investigation is likely to result in a cause finding. Offices also utilized and took full advantage of technological advances designed to improve the efficiency of the processes.



Continued Success in Reducing the Federal Sector Inventories

In addition to our private sector enforcement activities, the Commission has adjudicatory responsibilities in the federal EEO complaints process. This involves hearings before administrative judges on complaints of discrimination by federal employees or applicants, as well as adjudication of appeals from federal agency final decisions on employment discrimination complaints. Charges of discrimination in our federal workplaces are no less important than in the private sector and reducing the pending inventory in the federal sector was also a priority for the agency during fiscal year 2019.

While there was a 32.5 percent increase in the number of hearings receipts from 6,926 in fiscal year 2018 to 9,177 in fiscal year 2019, the federal sector hearings program still made major strides in managing its inventory of hearing requests. The EEOC reduced the pending inventory of hearing receipts for the second consecutive year – a reduction of 5 percent, from 13,612 in fiscal year 2018 to 12,933 in fiscal year 2019. By developing and implementing strategies to increase efficiency, the hearings program also increased its resolutions to 10,608, an increase of 22.5 percent over fiscal year 2018. By utilizing case management strategies to balance field inventories through the resolution of older cases and the closure of incoming cases, the hearings program successfully resolved some of the oldest cases in the inventory while still managing new receipts. As a result, aged inventory—cases 300 days old or older as of the beginning of fiscal year 2019—was reduced by 65.5%.

With an eye toward maintaining quality while also addressing the inventory management of federal hearings, metrics to measure quality were implemented in fiscal year 2019. Additionally, an online portal was deployed nationwide through which complainants can submit their hearing requests and file appeals which increases the efficiency of case processing in the federal sector. The second phase of the portal, which launched in July 2019, expanded the available features for the parties and allows federal complainants to upload documents and view the status of their complaints. This expansion of the EEOC Public Portal also allows federal sector complainants to indicate their interest in alternative dispute resolution to resolve their complaint.

This fiscal year, the EEOC also focused on resolving both the oldest federal sector appeals, as well as those that vindicate employees' legal rights and/or preserve their access to the EEO complaint process. Using these approaches, the EEOC resolved 4,094 appeals in fiscal year 2019. Resolutions resulted in a nearly 84 percent reduction in the pending cases that were more than 500 days old, from 601 appeals at the start of the fiscal year to 97 by the end of the fiscal year. Cases over 500 days old now comprise only 3.2% of the total pending inventory, as compared to the end of fiscal year 2018 when one-fifth (20%) of the inventory was more than 500 days old. Another result of the focus on aged cases was the reduction in the average age of the pending appellate inventory by 25 percent, from 313 days at the start of the fiscal year to 234 days by the end of the fiscal year.



At the same time, more than 37 percent of the total resolutions were issued within 180 days of their receipt. These resolutions included 762 initial appeals from procedural dismissals that terminated complainants’ participation in the EEO process, reversing over 34 percent of those dismissals with an order to the agency to continue processing the EEO complaint. Quickly addressing appeals involving procedural dismissals of complaints is critical to effectively preserving access to the EEO complaint process.

The federal sector program also vigorously implemented case management strategies to more effectively allocate resources. These strategies provided for the screening and categorization of cases early in the appellate process, including cases determined to have significant impact. This early screening process was greatly aided by the full implementation of the FedSEP digital portal, where agencies can upload the documentation necessary to process an appeal, as well as the public portal that was fully deployed during fiscal year 2019, enabling complainants to request appeals, upload selected documents, and manage their personal and representative’s contact information. In addition, through training and educational outreach, the EEOC has partnered with federal agencies to speed record submissions, perfect defective records, and reduce wasted efforts spent on records not ripe for adjudication. These technological innovations make the appellate process more transparent for all parties and will reduce the EEOC’s reliance on and costs for support staff to prepare and scan paper documentation received from the parties.

Providing Customer Service through the Information Intake Group

The Information Intake Group (IIG)—in its eleventh year of operation—is the agency’s point of contact for members of the public who use the agency’s toll-free number, e-mail address, and direct video service for general inquiries. The IIG received over 497,000 phone calls and more than 33,000 emails in fiscal year 2019. Approximately 56 percent of the callers use the Interactive Voice Response System to find answers to their inquiries, without further assistance from the Intake Information Representatives (IIRs). The rest of the callers are assisted by IIRs using an extensive knowledge database to respond, in both English and Spanish, to these calls and e-mails. In fiscal year 2019, approximately 77 percent of calls and emails answered by the IIRs were fully resolved by the IIR without being referred to other staff in EEOC field offices. The EEOC continues to be one of few federal agencies providing direct video service for the Deaf and Hard of Hearing community.



Continued Focus on Alternative Dispute Resolution

Alternative Dispute Resolution (ADR) is an effective and efficient tool to resolve charges of discrimination. The EEOC's ADR program provides an opportunity for complainants and employers to convene and discuss their respective positions with a neutral mediator. Successful mediations resolve charges early in the process, benefiting both workers and employers. In fiscal year 2019, the agency successfully resolved 6,394 of the 8,899 mediations conducted, resulting in over \$159.6 million in benefits to charging parties. Notably, mediators in the EEOC's ADR program also conducted 1,145 federal sector mediations, which contributed to efforts to reduce the federal sector inventory. Moreover, the program continues to receive overwhelmingly positive feedback from participants. In fiscal year 2019, 96.8 percent of all participants indicated that they would utilize the mediation process in a future charge filed with the EEOC.

Additionally, during fiscal year 2019, the agency continued its efforts to increase employer acceptance of mediation through an updated and targeted marketing campaign. The agency made a concerted effort to develop marketing strategies and commit resources to increase respondent participation in the mediation program. Through these efforts in fiscal year 2019, a total of 357 ADR employer events were held by field offices and the agency saw an increase in the respondent participation rate to 30.7 percent over the fiscal year 2018 level of 27.6 percent. This reflects an 11.2 percent increase in respondent acceptance levels of mediation, which allowed the mediation program to contribute to inventory reduction efforts by conducting mediations where both parties agreed to attempt to resolve the issues before any investigation was launched.

The EEOC's conciliation efforts are another vital means to promote voluntary compliance with federal employment discrimination laws. If the EEOC determines there is reasonable cause to believe discrimination has occurred, the agency invites the parties to join the EEOC in seeking to settle the charge through an informal and confidential process known as conciliation. Conciliation is a voluntary process for employers, and the parties must agree to the resolution. The EEOC has a statutory obligation to attempt to resolve findings of discrimination on charges through conciliation before the agency considers the matter for litigation.

This year the agency continued to emphasize the importance of conciliation and worked to effectively reach meaningful resolutions which include appropriate targeted equitable relief. In fiscal year 2019 the EEOC continued its efforts to conciliate a greater percentage of cases – with successful conciliations rising from 27 percent in fiscal year 2010 to 40 percent in fiscal year 2019. The success rate for conciliation of systemic charges was 56 percent in fiscal year 2019, up from 46 percent in fiscal year 2018.

Recovery for Victims of Discrimination

The EEOC secured more than \$486 million for victims of discrimination in private, state and local government, and federal workplaces. This included:

- Approximately \$346.6 million for victims of employment discrimination in private sector and state and local government workplaces through mediation, conciliation, and settlements.
- \$39.1 million for individuals through litigation; and
- \$100.6 million for federal employees and applicants.

Importantly, in each of these categories, the agency also obtained substantial changes to discriminatory practices to remedy violations of equal employment opportunity laws and prevent future discriminatory conduct in the workplace.



Resolving Discrimination in the Federal Sector

Employment discrimination complaints in the federal government are handled by the agency involved. If the individual who filed the complaint does not agree with the agency's decision, he or she can file an appeal with the EEOC. The EEOC's federal sector appellate decisions guide agencies in their efforts to become model workplaces and vindicate the public interest in eradicating discrimination in federal employment. In fiscal year 2019, the EEOC resolved 4,094 federal sector appeals and secured \$12.8 million in monetary relief in the EEOC's federal sector appellate decisions.

Challenging Discrimination in Federal Court

In fiscal year 2019, EEOC field legal units filed 144 merits lawsuits, including 100 suits on behalf of individuals, 27 non-systemic suits with multiple victims, and 17 systemic suits. Merits lawsuits are direct suits or interventions alleging violations of the substantive provisions of the statutes enforced by the EEOC and suits to enforce administrative settlements. These merits filings alleged violations covering a wide variety of bases, including disability (53), sex (61), retaliation (48), race (16), religion (7), age (6), and national origin (4). The issues raised most frequently in these suits were discharge (102), harassment (48), reasonable accommodation (34), and hiring (28). At the end of fiscal year 2019, the EEOC had 275 cases on its active district court docket, of which 59 (21.5 percent) were non-systemic multiple victim cases and 59 (21.5 percent) involved challenges to systemic discrimination.

In fiscal year 2019, EEOC's legal staff resolved 173 merits lawsuits in the federal district courts for a total monetary recovery of just over \$39.1 million. The EEOC achieved a favorable result in 95 percent of all district court resolutions, and a total of 2,479 individuals received monetary relief as a direct result of EEOC lawsuit resolutions. Favorable results include cases decided by court order and concluded through a consent decree or a settlement agreement in litigation. In fiscal year 2019, the Office of General Counsel conducted six trials, including five jury trials and one bench trial. The EEOC won three and lost three of these trials.

Combatting all forms of workplace harassment has been a top priority of the agency. In fiscal year 2019, the EEOC filed 48 lawsuits challenging workplace harassment. Thirty-four suits raised claims of hostile work environment based on sex. Thirteen raised claims of hostile work environment based on race. Eighteen harassment suits were class cases, and another five were systemic cases. In all, one in three lawsuits filed by the agency included an allegation of harassment. The EEOC successfully resolved 48 harassment suits in fiscal year 2019, which was ten more than last year. Three of these resolutions involved allegations of systemic harassment. The EEOC recovered about \$10.7 million for 207 victims of harassment through its litigation program.

The EEOC resolved a number of cases involving a hostile work environment based on sex in fiscal year 2019. For example, in *EEOC v. Atlantic Capes Fisheries, Inc., and BJ's Services Co., Inc.* No. 1:17-cv-11860 (D. Mass.), the EEOC alleged that a male line supervisor subjected female production employees working at a scallop processing facility to sexual advances and unwanted touching. The case was resolved by a four-year consent decree providing for \$675,000 in compensatory damages to 14 victims. In *EEOC v. Ojos Locos Sport Cantina, LLC, et al*, No. 1:18-cv-00758 (D.N.M.), the EEOC alleged that male coworkers, supervisors and managers employed at a chain restaurant subjected a class of female employees to sexual comments and jokes, requests for sex, and unwanted touching. The case was resolved by consent decree providing \$700,000 to 12 victims. In *EEOC v. Lucinda Management, LLC, Centennial Food Corporation d/b/a IHOP Restaurant, et al*, No. 2:17-cv-02458 (D. Nev.), the EEOC alleged that male coworkers and managers employed by seven IHOP



franchises owned and operated by the same individuals subjected female employees to sexual comments and jokes, requests for sex, graphic text messages, unwelcome touching, and in one case, attempted sexual assault. The case was resolved by consent decree providing \$700,000 to 34 victims.

In fiscal year 2019, the EEOC also resolved lawsuits involving a hostile environment based on race and/or national origin. In *EEOC v. East Coast Labor Solutions, LLC, et al*, No. 4:16-cv-01848 (N.D. Ala.), the EEOC alleged that four related temporary staffing firms discriminated against Hispanic individuals assigned to a poultry processing plant by denying them promised reimbursements for travel expenses; requiring them to live in defendant-provided rundown housing at three times the cost of the market rental rate for their first four months of employment; assigning them to less desirable, more strenuous, lower-paying jobs than promised, and to "Latino-only" production lines; and subjecting them to ethnic slurs, screaming, mocking, and threats of termination by their non-Latino coworkers and supervisors. The case resolved by consent decree providing \$475,000 to 10 victims. In *EEOC v. Pape Material Handling, Inc.*, No. 1:17-cv-01291 (E.D. Cal.), the EEOC alleged that an employee of a company that provides forklift products and services subjected Hispanic and Mexican coworkers to racist slurs and ridicule about their accents; he also boasted about being a member of the Ku Klux Klan and threatened physical harm. The case resolved by consent decree providing \$650,000 for 9 victims.

The EEOC filed 17 systemic lawsuits in fiscal year 2019. These new suits challenge a variety of types of systemic discrimination, including: ADA policy claims; hiring claims based on race, and sex; systemic harassment based on race, national origin and sex; equal pay claims; and, claims involving the unequal accommodation of pregnancy.

Systemic suits comprised 12 percent of all merits suits filed in fiscal year 2019. At the end of fiscal year 2019, a total of 60 cases on the active docket were systemic cases, accounting for 21.4 percent of all active merits suits. This past year, the EEOC resolved 27 systemic cases, four of which included over 100 victims of discrimination. In total, the agency obtained \$22.8 million in relief for 2,022 victims of systemic discrimination. The EEOC's litigation program achieved a 100 percent success rate in its systemic cases in fiscal year 2019.

Challenging Discrimination in the Federal Appellate Courts

In addition to its nationwide litigation program at the district court level, the EEOC maintains an active appellate program in the federal circuit courts of appeal. Among the most notable appellate decisions in fiscal year 2019 is *EEOC v. McLeod Health, Inc.*, an ADA suit alleging that the defendant subjected charging party Cecelia Whitten to two illegal medical examinations and ultimately fired her because of her disability. Although Whitten's condition was congenital and she had worked successfully at her job for twenty-eight years, the district court held that the examinations were justified based on McLeod's fear that Whitten could not perform the essential functions of her job, and that McLeod reasonably relied on the results of the examinations in terminating her. The Fourth Circuit reversed. The court held that the job functions McLeod identified were not essential and, moreover, appending the qualifier "safe" to them only "muddles the analysis." Accordingly, the court held, the medical examinations violated the ADA because McLeod lacked a "reasonable belief[,] based on objective evidence," that Whitten could not perform any essential function of her job "without posing a direct threat to her own safety." The court also held that Whitten's termination violated the ADA because a jury could find that she was a qualified individual at the time she was removed from her job.



A notable subpoena enforcement decision was *EEOC v. Centura Health*, where the Tenth Circuit affirmed the district court's order requiring respondent Centura Health to produce information about employees at eight facilities where it was alleged to have a discriminatory policy based on disability. Observing that the relevance standard under § 2000e-8(a) "sweeps more broadly than it would at trial," the court explained that because evidence of an employer's discriminatory policy "is relevant to individual charges under the narrower relevance standard in a civil case, it follows that such evidence is relevant to individual charges under the broader standard of § 2000e-8(a) because it might cast light on the charges under investigation."

Represented by the Solicitor General, the EEOC filed one merits brief in the U.S. Supreme Court. At issue in *Fort Bend County, Texas v. Davis*, was whether Title VII's charge-filing requirement is jurisdictional, requiring dismissal at any stage of the proceedings, or is, instead, a claim-processing rule subject to forfeiture. The Solicitor General and the EEOC filed a brief to argue that Title VII's charge-filing provisions do not contain the clear statement of Congressional intent required to render a pre-litigation requirement jurisdictional. Charge filing may be mandatory in the sense that a court must enforce the rule if a party properly raises it, but an objection based on a mandatory claim-processing rule may be forfeited if the party asserting the rule waits too long to raise the point. The Supreme Court agreed.

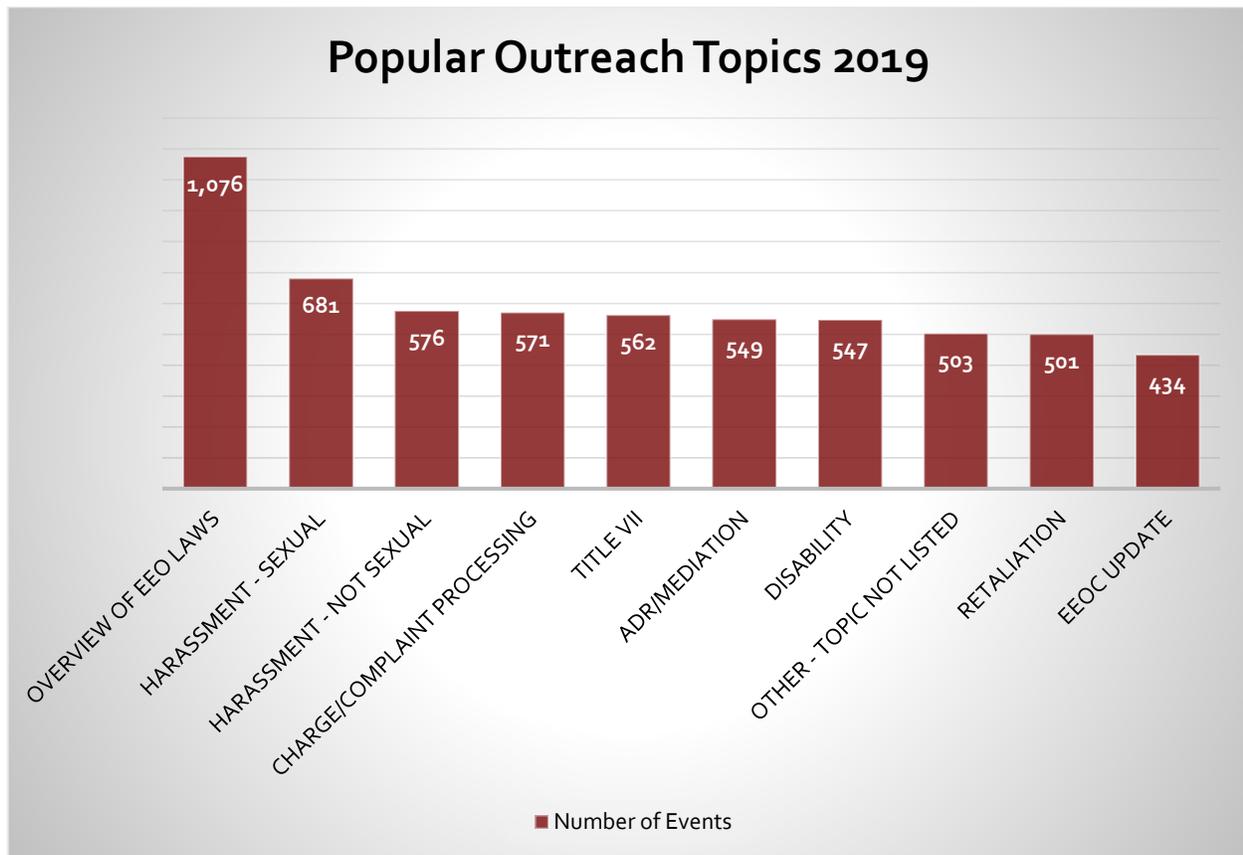
At the end of fiscal year 2019, the EEOC was handling 17 appeals in EEOC enforcement actions and participating as amicus curiae in 28 cases on appeal in private suits.

Outreach & Education

Another essential way that the EEOC is focusing its resources on efforts that promote broad compliance with federal workplace anti-discrimination laws and enhance the agency's service to the public is through continued emphasis on outreach and education. The EEOC has strengthened our efforts, many in collaboration with our enforcement partners in federal, state, and local government as well as with employer, employee, and academic communities, to maximize the impact of our collective knowledge and resources.

Continued Emphasis on Outreach and Education in the Private Sector

During fiscal year 2019, the EEOC prioritized outreach and education related to the White House and Commission's strategic focus areas and areas/topics particular to the specific jurisdictions and demographics of each District.



The EEOC supported the White House Initiative on Historically Black Colleges and Universities (WHIHBCU), the White House Initiative on Asian Americans and Pacific Islanders (WHIAPPI) and the Interagency Task Force to Monitor and Combat Trafficking in Persons. The EEOC’s field offices engaged with HBCUs by participating in conferences, training sessions, and job fairs to prepare their students, who are the next generation of employees and employers, to be models of excellence regarding equal opportunity in the American workforce. The EEOC participated in WHIAPPI’s Regional Networks which coordinated outreach and education efforts to Asian Americans and Pacific Islanders and raised awareness about the issue of trafficking in outreach events involving vulnerable workers. In fiscal year 2019, there were 76 outreach events with 6,987 attendees involving the WHIHBCU initiative, 142 outreach events with 22,526 attendees supporting the WHIAPPI initiative, and 188 outreach events with 11,237 attendees that addressed trafficking issues.

Education and outreach programs to vulnerable communities continued to be critically important to the work of the EEOC in fiscal year 2019, as these efforts promote understanding of the law by workers who might not be familiar with their right to be free from employment discrimination. The EEOC strategically targeted outreach to vulnerable workers and underserved communities in fiscal year 2019, conducting 1,298 outreach events reaching 112,410 participants, which represented approximately 34 percent of the EEOC’s total outreach. This focused outreach includes immigrant and farm worker communities, as well as communities where individuals are reluctant to come forward to complain about employment discrimination.



Education and outreach to the small business community is also essential to promote broad compliance with the anti-discrimination laws, especially for those new and small businesses lacking the resources to maintain full-time professional human resources staff. In fiscal year 2019, the EEOC conducted 485 outreach events for small businesses, reaching over 33,000 small business representatives, which represented approximately 13 percent of the EEOC's total outreach. The EEOC also continued to promote the Small Business Resource Center. The site provides a user-friendly one-stop source for information on federal employment anti-discrimination laws tailored to meet the needs of small businesses. Working with the Small Business Administration's (SBA) Office of the National Ombudsman, the EEOC also participated in round table discussions at various locations around the country with small businesses and organizations that represent small businesses as well as a Regulatory Fairness Hearing held in Washington, DC.

In fiscal year 2019, the EEOC also focused outreach and education on priorities identified in the agency's Strategic Enforcement Plan (SEP) for fiscal years 2017-2021.



National Priorities	Events	Attendees
Recruitment/Hiring	785	80,984
Vulnerable Workers (includes immigrant/migrant farmworkers, human trafficking, limited English proficiency, re-entry, youth and other vulnerable workers)	1,298	122,410
Emerging/Developing Issues	833	90,753
Disability Issues	576	71,591
Accommodating Pregnancy Related Restrictions	307	20,541
LGBT	354	25,707
Complex Employment Relationships	207	15,934
Backlash Discrimination	180	13,144
Equal Pay	514	53,641
Access to Legal System (includes retaliation, recordkeeping violations, waivers, mandatory arbitration)	864	79,176
Systemic Harassment (includes non-sexual and sexual harassment)	1,442	84,170



Leveraging Partnerships to Maximize Strategic Enforcement

The EEOC takes seriously its role of enhancing public awareness about emerging issues of employment discrimination in America's workplaces. The EEOC leverages interactive collaborative relationships with internal and external stakeholders in its efforts to prevent and remedy employment discrimination. Through strategic partner engagement the agency has formed interactive partnerships with community organizations, particularly those that represent vulnerable or underserved workers, and associations or organizations that represent employers to achieve sustained benefits for the communities we serve.

Working in partnership with other enforcement agencies and stakeholder communities allows the EEOC to incorporate diverse perspectives, achieve savings and efficiencies, eliminate duplication of efforts and avoid conflicting enforcement objectives. The EEOC continues to partner with the Department of Labor, Office of Federal Contracts Compliance Program, the Small Business Administration, Department of Justice, Department of Veteran Affairs, National Science Foundation, state and local Fair Employment Practices Agencies and Tribal Employment Rights Offices.

For example, in fiscal year 2019, the EEOC entered into a Memorandum of Understanding (MOU) with the Department of Justice's Civil Rights Division to prevent and address workplace harassment in state and local government. Through the MOU, the EEOC and the Department of Justice worked to enhance the effectiveness of the nation's equal employment opportunity enforcement in the state and local government sector to ensure the efficient use of resources and a consistent enforcement strategy. The MOU provides for the expedited coordination of any charge involving state or local government employers where the EEOC's preliminary investigation of a charge reveals that immediate action is needed to prevent further harm. In those cases, the EEOC will provide the Department of Justice with the information necessary to obtain an injunction, temporary or preliminary relief, in federal court for the affected employees, pending the final outcome of the charge.

Continued Emphasis on Outreach and Education in the Federal Sector

Continued emphasis on outreach and education in the federal sector is equally important to the EEOC's efforts to promote broad compliance with federal workplace anti-discrimination laws and enhance the agency's service to the public. In fiscal year 2019 the EEOC built upon its robust education and outreach program that focuses on both free and fee-based education and training opportunities in the federal sector and leveraged the use of technology to strengthen and expand the impact of its education and outreach activities. In addition to hosting two in-person "Brown Bag" sessions this year, the EEOC began migrating its in-person sessions to a virtual webinar format and hosted six no-cost EEO Webinars and seven online information sessions. Each of these sessions had 150 to 200 attendees. The EEOC also hosted six virtual fee-based training sessions, each of which reached the maximum capacity of 50 attendees.

The EEOC's federal sector presence further grew on social media across YouTube, Twitter, Facebook, and Instagram during fiscal year 2019, and it created podcasts that soon will be available via Apple Podcast to reach a broader audience.



To meet the demand for in-person instructor-led courses, EEOC's federal sector programs hosted 37 courses for federal EEO practitioners of varying skill levels, reaching approximately 1,295 attendees; offered 53 customer specific trainings to federal agencies across the country, reaching approximately 2,120 attendees; and delivered 178 Respectful Workplace Training sessions reaching 7,120 participants.

The EEOC's federal sector training and outreach staff also formed internal and external partnerships to further EEO training and leadership development opportunities for EEO practitioners. In October 2018, the EEOC hosted its annual Executive Leadership Training Conference in Charlottesville, VA, bringing together 75 EEO and Diversity and Inclusion professionals. Attendees built upon existing skills and learned techniques to capitalize on coalition building, and strategic thinking and planning.

During fiscal year 2019 EEOC federal sector staff also coordinated, attended, or hosted 62 no-cost outreach events. Throughout the year, EEOC federal sector staff participated at seven federal affinity group training conferences to facilitate EEO workshops, presented education materials on EEO topics, and offered federal sector EEO training at technical assistance programs in Birmingham, Baltimore, and Philadelphia. In July 2019, EEOC staff hosted a successful EEOC Examining Conflicts in Employment Laws (EXCEL) conference that included a one-day pre-conference and 45 workshops offered during the three-day main conference. It was one of the most successful EXCEL conferences in recent years, hosting 906 main conference attendees, 301 pre-conference attendees, and 39 specialty track attendees.

Providing Employers and Employees with Education and Technical Assistance

The EEOC Training Institute (the Institute) provides fee-based training and technical assistance to stakeholders in the private and public sectors. The Institute is funded through the EEOC's Revolving Fund, established by Congress in 1992 to enable the EEOC to charge "reasonable fees" for specialized products and services developed and delivered as part of the Commission's training and technical assistance efforts.

In fiscal year 2019, the EEOC's Revolving Fund Program, through its Training Institute, trained over 43,000 individuals at more than 2,600 sessions, including 30 one- or two-day TAPS, 1 half-day workshop, 37 federal courses, and over 2,530 on-site trainings (customer-specific training delivered at the workplace for private sector employers and federal agencies). The half-day, one- and two-day TAPS seminars are responsive to employers' needs and address respective rights and obligations in the workplace. The programs provide detailed information regarding applicable laws, potential liabilities, and activities that relate to employment discrimination, with the aim of helping participants identify, address and prevent workplace discrimination. Additionally, the Institute provided fee-based Respectful Workplace, Leading for Respect, and Compliance Training to over 23,000 individuals this fiscal year.

As discussed above, in August 2019, the agency held its twenty-second annual EXCEL Training Conference directed at both federal sector and private sector EEO practitioners. This year's training conference offered separate tracks for the more than 900 federal sector and private sector attendees. The conference offered over 80 workshops that covered a wide array of subjects that were of interest to EEO practitioners. Among the highlights of the conference, which had as its theme "Respect, Opportunity, Inclusion" were presentations by keynote speakers including Rev. Dr. Bernice King, Chief Executive Officer of the Martin Luther King, Jr. Center for Nonviolent Social Change; Doris Kearns Goodwin, New York Time's best-selling author, public speaker and Pulitzer Prize winner; Paula Gris, Holocaust Survivor; and Ram Ramachandran, Program Director at IBM.



Emphasis on Clear and Accurate Guidance

Outreach and education are critical tools to prevent discrimination, and the EEOC works with hundreds of thousands of employees and employers every year to educate them on their legal rights and responsibilities. As part of these efforts the EEOC is committed to providing guidance and information to our stakeholders that is current, accurate, and clear.

Since the EEOC began issuing guidance documents in the 1980s there have been many changes in the laws we enforce. Some of the EEOC's guidance and technical assistance documents have been superseded by legislation, court decisions, or newer and more complete guidance. Other guidance documents have become outdated because they were limited to narrow fact patterns that now rarely arise.

An internal work group has been reviewing the EEOC's guidance and technical assistance documents with these criteria in mind and has identified some that are candidates for updating or rescission. The Commission has begun to update several guidance documents for consistency with current statutory requirements and court decisions, and has identified other documents that are obsolete or redundant. These efforts will continue in fiscal year 2020.



The EEOC took the following significant policy and regulatory actions in fiscal year 2019:

Action	Description	Location
Final Rule	Consistent with <i>AARP v. EEOC</i> , No. 16-2113 (D.D.C. Dec. 20, 2017), removes the section of the ADA regulation addressing the level of incentives employers may offer to employees for providing their current health information as part of a wellness program and its accompanying Interpretive Guidance.	83 Federal Register 65296 (Dec. 20, 2018)
Final Rule	Consistent with <i>AARP v. EEOC</i> , No. 16-2113 (D.D.C. Dec. 20, 2017), removes the section of the GINA regulation addressing the level of incentives employers may offer to employees for providing their current health information as part of a wellness program and its accompanying Interpretive Guidance.	83 Federal Register 65296 (Dec. 20, 2018)
Notice of Proposed Rulemaking	Proposes revisions to federal sector procedural regulations to provide that complainants who file an appeal with the EEOC may withdraw the appeal and file a lawsuit in federal court within 90 days of receipt of a final agency decision.	83 Federal Register 65296 (Dec. 20, 2018)
Notice of Proposed Rulemaking	Proposes revisions to procedural regulations to expressly provide for digital transmissions of documents; clarify the process for deferral to state and local agencies; update no cause determination procedures; and correct typographical errors.	84 Federal Register 5624 (Feb. 22, 2019)
60-day Paperwork Reduction Act Notice	Proposes revisions to the Employer Information Report (EEO-1) to separate Components 1 and 2; announces intent to seek Paperwork Reduction Act (PRA) clearance of Component 1 under a new OMB Control Number; and announces intent not to seek continued PRA approval of Component 2.	84 Federal Register 48138 (Sept. 12, 2019)



Providing Strong Leadership and Oversight for Federal Agencies

The EEOC provides leadership and guidance to federal agencies on all aspects of their equal employment opportunity (EEO) programs. As part of this role, the EEOC ensures federal agency and department compliance with federal sector regulations; provides technical assistance to federal agencies concerning EEO complaint adjudication; monitors and evaluates federal agencies' affirmative employment programs; produces an annual report on federal sector complaint processing, appellate case processing, and compliance; produces reports on significant issues and government-wide trends in the federal sector; develops and distributes federal sector educational material; and conducts training for stakeholders.

The EEOC embraces and recognizes the value of proactive prevention. Thus, in addition to taking remedial actions when agencies fail to comply with the EEOC's appellate orders, regulations or directives, during fiscal year 2019, the EEOC continued and enhanced its practice of providing technical assistance to agencies on a routine basis, before problems arose. In fiscal year 2019, the EEOC established a goal to conduct 85 technical assistance visits with agencies and issue a feedback letter within 180 days of each visit. During fiscal year 2019, the EEOC conducted 93 technical assistance visits with agencies and timely issued the 50 feedback letters due during fiscal year 2019. As discussed above, under Performance Measure 4 of the EEOC's Strategic Plan, the EEOC also proactively worked with agencies to ensure that they adopt compliant reasonable accommodation procedures and compliant anti-harassment policies by the end of fiscal year 2019. As part of this process, the EEOC referred seven agencies that had not made meaningful progress in correcting the anti-harassment procedures to the Commission's federal sector adjudication division, thereby initiating a new process to leverage different areas of oversight to achieve meaningful compliance.

In keeping with its mission of advancing equal employment opportunity in federal agencies through data dissemination and analytics, program evaluations, and technical assistance, the EEOC completed the program evaluation of a large cabinet level agency and concluded monitoring a large federal agency's corrective action plan. In fiscal year 2019, the EEOC began conducting a program evaluation related to conflict case processing across agencies, and it also has begun a new program evaluation for an additional federal agency.

Also in fiscal year 2019, the EEOC completed a first-ever, court-ordered program evaluation on a federal agency. The EEOC also produced a report for stakeholders that incorporates MD-715 and Form 462 data from fiscal year 2017 – the fiscal year 2017 Annual Statistical Report on the Federal Workforce. The EEOC also published on its website fiscal year 2018 Form 462 data, which gives the public immediate access to these data prior to the release of the fiscal year 2018 Annual Report.

Recognizing the value of timeliness and efficiency, the EEOC's regulations at 29 C.F.R. § 1614 allow federal agencies the opportunity to request variances from the current administrative process. During fiscal years 2017-18, the Commission reviewed "pilot projects" submissions and approved such projects for the U.S. Department of the Air Force, the U.S. Department of Interior, and the Federal Aviation Administration of the Department of Transportation. During fiscal year 2019, the EEOC continued monitoring the approved pilots in an effort to determine whether they improved complaint processing efficiency. Two pilot projects are expected to conclude during fiscal year 2020, and the EEOC will also advertise the pilot submission period and conduct outreach to assist any agencies that might be interested in submitting a proposal.

EEOC also published quarterly issues of the EEO Digest in fiscal year 2019. This publication is a summary of important EEOC cases and generally contains an article on a topic of interest for federal sector EEO programs. In fiscal year 2019, the EEO Digest included an article on the remedies available when there is a finding of discrimination in a federal sector EEO claim, as well as an article addressing the factors considered



when making a determination as to whether a complainant timely initiated a complaint. The resource is published on the EEOC's website, so all interested parties have access to the summaries and links to the full decisions.

Finally, the EEOC continued to enhance its Form 462 and MD-715 dashboards created in the Business Intelligence Reporting Tools (BIRT) platform, improving data reliability and retrievability. The continued development of this system gradually will incorporate the EEOC's legacy data into the platform (Form 462 and MD-715 data from 2006 to 2012) and other sources of data, including complaint data for hearings and appeals, the Federal Employee Viewpoint Survey, the 2010 Census, and responses to correspondence. This information will allow the EEOC to build a more complete picture of how agencies are progressing in their development of model EEO programs. The EEOC also completed updating the Form 462 user instruction manual to better assist federal agencies in submitting accurate data.

Continued Use of Technology to Improve Services to the Public

The EEOC is committed to building a digital workplace to increase its efficiency and to provide timely service to the public. This encompasses everything the agency does, from increasing the effectiveness of its administrative processes to better supporting efforts to advance opportunity and freedom from discrimination.

In fiscal year 2019, the EEOC provided portal services to our public sector constituents – providing federal employees and applicants with the capability to submit hearings and appeals requests online, update their contact information and preferences, review status, and submit/receive electronic documents with email notification. The service was launched in July 2019. The agency also enhanced the companion Federal Sector EEO Portal (FedSEP), which provides online services to Federal agency OEO offices, to integrate with the public sector side of the Public Portal for information and document exchange. The federal sector digital repository now includes over 1.2 million documents.

Within the private sector component of the Public Portal, the agency served 48,876 charges electronically in fiscal year 2019 (up from 48,304 the prior year), conservatively saving the agency over \$31,000 in printing, postage and related costs. Electronic service also resulted in savings for the field offices' clerical staff, freeing each enforcement office automation assistant from more than seven days of work to perform other tasks. Also, in fiscal year 2019, 123,688 potential charging parties initiated inquiries through the Public Portal, up from 111,363 in fiscal year 2018. Of these, 30,759 were formalized into charges of discrimination (up from 30,565 in fiscal year 2018). In each of these instances, agency personnel were relieved of the task of data entry. Conservatively, the EEOC estimates that this saved over 40,000 hours of investigator time (almost two weeks per investigator) in fiscal year 2019, doubling our initial savings estimate. The EEOC's private sector digital repository now includes over 3.1 million documents.

During fiscal year 2019, the EEOC also continued investments in cloud technologies, migrating legacy infrastructure and applications to Microsoft Azure and Office 365/SharePoint. The agency also continued implementation of unified communications via Skype for Business – enabling staff to make, receive, and transfer calls in the office, at home, or on the road, using their phone, laptop, or mobile device without the need for a traditional phone system.

Securing the EEOC's digital workplace is a critical component of the agency's plans, with priorities developed and put in place to protect data that is central to the agency's mission and the privacy of the people the EEOC serves. During fiscal year 2019, the EEOC acquired systems and services that will enhance security capabilities related to advanced threat protection, continuous monitoring, and network access control.



Investing in the Agency of the Future

The EEOC has started to make the critical investments needed to focus the Commission on addressing the needs and challenges of the workforce of the future. In doing so, the agency has made maximum use of our resources to achieve the greatest return on the investment of taxpayer dollars. The EEOC's employees are highly committed to the mission of the agency and look forward to fulfilling the promise of the laws we are charged with enforcing. The mission of the EEOC remains the same, but we will continue to innovate and motivate our employees to maximize resources, improve performance management, and seek to provide excellent service to our stakeholders and the public.

In fiscal year 2019, the EEOC partnered with the Office of Personnel Management (OPM) on a Workforce Planning and Reshaping initiative – “Investing in the Agency of the Future.” OPM is assisting the Office of the Chief Human Capital Officer (OCHCO) in determining whether the EEOC's staffing and position alignment reflect current and future job requirements to ensure our workforce is able to efficiently and effectively meet mission demands. Advances in technology and work processes have made many previous jobs and even some of our current position descriptions obsolete. It is imperative we accurately describe our current and future work demands and assure our staffing and structures align with our ongoing mission to prevent and remedy unlawful employment discrimination and advance equal opportunity in the workplace.

This effort will result in a final report and workforce plan documenting a strategy for position management, improved organizational efficiencies, and workforce planning approaches that better align mission and available resources. We will be better positioned to identify the talents and skills needed to sustain our history of service to all stakeholder groups including employees, employers and advocacy groups.

Improvements to the EEOC's Data Capabilities

In fiscal year 2019, the EEOC continued to revamp and improve the agency's data analytics capabilities. Across the federal government, agencies are recognizing the importance of data-driven decision-making and the transformative role data can have to make the federal government more efficient and to better serve the American people. Within the EEOC, the creation in fiscal year 2018 of the Office of Enterprise Data and Analytics (OEDA), the Data Governance Board, and the expanded role of the Chief Data Officer, were designed to provide executive leadership and oversight for the development and implementation of the policies and processes that govern the collection, creation, management, use, and disclosure of the EEOC's data. OEDA's new and additional functions are intended to help the EEOC achieve its mission, as well as allow OEDA to provide greater and improved services to its customers both inside and outside of the agency.

Improving Hiring and Position Management in the EEOC

The EEOC plays a critical role in demonstrating the value of diversity and inclusion in the workplace. Living out the concepts and principles of equal employment is essential – not only to serve as a model – but also to strengthen the workplace to accomplish more for its customers and stakeholders. The EEOC is working to ensure that the agency's positions are appropriately structured and staffed with a high quality, diverse workforce to effectively accomplish the agency's mission.

The EEOC increased the number of persons with disabilities in its own workforce. In fiscal year 2019, 23 percent of the workforce identified as individuals with disabilities and approximately 6 percent (5.64%) with targeted disabilities. The agency benchmark for individuals with disabilities and targeted disabilities is 12



percent and 2 percent, respectively. The EEOC has the highest percentage of 30 percent disabled veterans among federal agencies. As of the end of fiscal year 2019, 540 (26 percent) of the agency's employees are veterans. Of those 540 veterans, 71 percent are individuals with disabilities, and of the 381 veterans with disabilities, 73 percent are classified as 30 percent or more disabled veterans. One effective strategy the EEOC used to increase the presence of individuals with disabilities is through its IIG operations. The agency employs seven individuals as IIRs who were hired in coordination with the National Telecommuting Institute (NTI), a non-profit organization whose mission is to identify and develop work-at-home jobs for home-based individuals who are physically disabled. All of these employees are part of the Social Security Administration's Ticket to Work Program and were hired with the provision that they could perform their work 100 percent remotely.

Performance Management

Accountability remained the focus of performance management in fiscal year 2019. We conducted numerous training sessions for EEOC employees and managers on performance related topics. The objective of the training was to promote and sustain a high-performance culture and meet EEOC organizational goals.

For the first time in the agency's history, the Office of the Chief Human Capital Officer (OCHCO) established a performance-based pay plan for SES members that created tiers/position levels for initial pay setting and recognized performance, position differences, and contributions commensurate with responsibilities. For GS employees, OCHCO developed a performance rating-based awards program consistent with the 2019 Memorandum from OPM and OMB on Guidance on Awards for Employees and Agency Workforce Fund Plan (M-19-24). The program is currently being rolled out and will be fully implemented in fiscal year 2021.

Employee and Labor Relations

As part of the effort to maximize performance, the EEOC is continuing its proactive approach to addressing employee conduct and performance issues. In fiscal year 2019, the agency implemented a Table of Penalties and opened all articles of the current Collective Bargaining Agreement (CBA). This will ensure the EEOC's ability to comply with Executive Orders (EO) 13836 – Collective Bargaining, 13837 – Official Time, and 13839 – Removal Procedures.

Employee Engagement

The EEOC participates in the OPM's Federal Employee Viewpoint Survey (FEVS) each year. The EEOC's fiscal year 2019 FEVS response rate was 63 percent; 20 percent over the government-wide response rate of 43 percent.

The FEVS measures employee engagement and inclusiveness via the Employee Engagement Index (EEI) and the Inclusiveness Quotient (IQ); the 2019 government-wide average score is 68 percent and 62 percent, respectively. In 2019, the EEOC surpassed the established benchmark on both indices EEI (72 percent) and IQ (66 percent).

The EEOC made a concerted effort to increase employee engagement and inclusion throughout the agency in fiscal year 2019. Noteworthy initiatives undertaken to increase FEVS scores and foster a culture of inclusion include, but are not limited to, the following: conducting over 50 focus groups and interviews to



discuss the agency's culture; mandatory training to employees entitled, "Leading for Respect" for supervisors, and "Respectful Workplaces" for employees; and providing each office a customized analysis to take an in depth look at their respective FEVS scores, identify strengths and opportunities for growth, and develop an action plan to increase scores that fall below the agency or government average.

Other Information



Major Management Challenges

As this report highlights, the EEOC tracks progress toward successful completion of the agency's strategic objectives. Many of the performance measures identified in the agency's strategic plan and discussed throughout this report, address the agency's efforts to deliver greater impact through innovation, increasing effectiveness and efficiency, and providing better customer service.

Additionally, each year, the Office of Inspector General (OIG) reports on what it has determined are the most serious management and performance challenges facing the EEOC. For a full description of the challenges identified by the OIG and the response thereto, please see the agency's [Fiscal Year 2019 Agency Financial Report](#).

The fiscal year 2019 OIG Major Management Challenges report identified three challenges facing the agency: Mission-Critical Data System Modernization; Data Analytics Capabilities; and Strategic Performance Management. The EEOC implements remedial actions in response to the recommendations of the OIG. Described below is the progress the agency has made in addressing the major management challenges identified by the OIG.

Mission-Critical Data System Modernization

Over the past five years, the EEOC has been moving its paper-based processes to online transactions and digital systems under the guidance of the Action Council for the Transformation to Digital Services (ACT Digital). While the agency has achieved notable successes, the legacy technology and action code structure of the agency's 18-year-old Integrated Mission System (IMS) has slowed our efforts to transition to fully digital charge/case processing. The agency also suffered from a lack of resources to address the myriad needs and opportunities for process and technology improvements our staff and customers deserve.

The EEOC's strategic plan requires that we "complete a shared vision and develop high-level plans with resource requirements for modernizing [our] charge/case management systems." The effort to meet this goal led the agency to engage with the Technology Modernization Fund (TMF), an innovative funding vehicle that uses a competitive vetting process to make limited funds available to federal agencies for technology improvements consistent with the President's Management Agenda.

The agency submitted an initial two-page proposal in December 2018, and, in the second phase, we developed a complete project proposal, with a 13-page narrative, high-level project plan, technical architecture, and a full business case. On July 15, 2019, a number of EEOC staff presented the proposal to the Federal CIO and the TMF Board.

The EEOC recently was awarded four million dollars in no-year funding and has begun work on this critical effort. For the first time in recent memory, the agency has the resources to systematically undertake a complete overhaul of our internal digital systems. Removing the considerable barriers of old technology,



transforming the EEOC to support fully digital services, and providing staff and partners with a modern system will better enable the agency to carry out its critical mission.

Data Analytics Capabilities

In fiscal year 2019, the EEOC through its Office of Enterprise Data and Analytics (OEDA), continued to make extraordinary progress in building a 21st century data and analytics organization utilizing state of the art data science tools and techniques, and efficiently leveraging data to reduce burden and costs while protecting individual and employer privacy and promoting program transparency. The EEOC created OEDA to aid the Commission in its efforts to achieve its mission and plan its goals and objectives strategically by researching, collecting, and analyzing relevant data and information; reviewing and analyzing organizational activities; and recommending approaches and procedures to improve operations by ensuring data-driven decision-making. The Director of OEDA serves as the Commission's Chief Data Officer (CDO).

The upgrade of the EEOC's data capabilities through the creation of OEDA resulted in remarkable agency-wide data modernization and innovation. Specific accomplishments in fiscal year 2019 included:

- Designation of OEDA's Data Analytics Division as the EEOC's Analytics Center of Excellence. Within the Data Analytics Division, the Enterprise Analytics Team was created to utilize state-of-the-art data science techniques to inform the agency's work. Skilled and experienced data scientists and statisticians were hired to lead these units;
- Demonstration of the value of enterprise analytics by identifying vulnerable populations for each of the agency's district offices, and designing an infographic that may assist the EEOC's District Office directors to more effectively allocate resources;
- Selection of the OEDA Deputy Director as a prestigious Federal Data Fellow and appointment to the Federal Data Strategy workgroup. One of only a few selected from small agencies;
- Implementation of the court-ordered pay data collection; standing up and opening a brand-new data collection in 2.5 months. In the normal course of business, it takes approximately 18-24 months to plan and implement a data collection of this magnitude;
- Provision of statistical assistance for 102 employment discrimination investigations, including 94 analytical reports and analyses, and developing and disseminating five employer e-surveys;
- Modernization of EEOC survey processes and methods resulting in increased efficiencies and at the end of the data collection, a 2018 response rate higher than the previous five years.



Strategic Performance Management

While the EEOC encountered continuing challenges in creating a scientifically sound outcome measure focused on the rate of employment discrimination, the agency, in fiscal year 2019, utilizing the expertise of newly hired data scientists and statisticians, began to explore the feasibility of creating statistically robust intermediate outcome measures which – when viewed together – could potentially be useful in assessing the EEOC’s impact in reducing employment discrimination.

Specifically, the agency reviewed the recommendations in the Urban Institute’s report *Evaluation of EEOC’s Performance Measures* (OIG Project Number #2012-10-PMEV) and determined that the following options should be evaluated more thoroughly as potential intermediate outcome measures by the EEOC’s data scientists and statisticians:

- Number of charges that led to a resolution that discrimination had occurred or for which mediation led to some form of relief being provided; and,
- The extent to which demographic groups of concern to the EEOC in the national workforce reflect the actual composition of the U.S. working population.

These options were chosen for initial exploration as the data necessary to construct statistically and methodologically valid measures and evaluate their measurement properties are available to agency data scientists and statisticians, either within the agency data system or through publicly available files.

Additionally, this measure development and testing work is able to be conducted using current resources. All other options require extensive new data collection.



Cross-Agency Collaborations

During fiscal year 2019, the EEOC's cross-agency collaboration efforts continued to expand across program offices within the EEOC as well as other federal agencies. Although there have been changes in EEOC case management and data entry, the reporting process remained largely unchanged for the past 20 years. Subsequently, at the request of agency leadership, the Office of Enterprise Data and Analytics (OEDA) led the modernization of this project. This ongoing project, known as the 396-Modernization Project, will explore opportunities to add efficiencies and innovation. A secondary goal of this project is to document the various components of the 396-reporting process and provide an internal reference guide to end users.

The agency also expanded its collaboration efforts by taking the leadership role with the EEO Special Tabulation Consortium by entering into a multi-year Interagency Agreement with the U.S. Census Bureau (USCB). The EEOC finds that the U.S. Census Bureau and its staff are the best entity that can provide these services. Authorized under 13 U.S.C. §§ 141 and 193, the USCB collects survey data through the American Community Survey (ACS). The ACS is the largest general-purpose demographic survey in the United States and includes questions on individuals' occupations in combination with other demographic characteristics, such as the individual's race, sex, national origin, age, educational attainment, and income. The ACS is the only source that can provide this information. This EEO project will use the ACS 5-year data from the 2014-2018 ACS surveys to produce a custom tabulation, and then disseminate the tabulated data for the consortium agencies. In working with USCB, the EEOC joins a consortium of over 40 Subject Matter Experts from the Department of Justice, the Department of Labor, and the Office of Personnel Management that will use the summarized data to monitor and enforce civil right laws and regulations in employment. In previous years, executive leadership was provided by the Office of Federal Operations. However, OEDA, with input from the Office of Federal Operations, now chairs the Consortium and manages quarterly meetings with the U.S. Census Bureau.



Evidence Building

The EEOC is committed to building our capacity to provide viable evidence and better integrate our information and data policy into budget, performance, and management decision making. As a basis for this emphasis, we are guided by the agency's Strategic Plan and its prioritization across the EEOC's long-term strategic goals and objectives. In fiscal year 2018, the Office of Inspector General (OIG) also assessed the agency's knowledge and use of data analytics strategies and capabilities and identified improvements, opportunities, and best practices for the EEOC's data analytics activities. The combined strategies will further develop the EEOC's capacity to use evidence, evaluation, and data tools to improve program outcomes. The data-related activities and projects detailed in the Commission's Research and Data Plan for 2016-2019 have now been superseded by the role of the Chief Data Officer, the Data Governance Board, and the new Office of Enterprise Data and Analytics.

In April 2018, the EEOC established the agency's first Data Governance Board (DGB) to provide executive leadership and oversight for the development and implementation of the policies and processes which govern the collection or creation, management, use, and disclosure of EEOC data. The guiding principle of the EEOC's DGB is to ensure intra-agency data transparency to promote efficient and appropriate use of, and investment into, agency data resources.

The EEOC recognizes the importance of data-driven decision-making and the transformative role data can have to make the Federal government more efficient and to better serve the American people. To fulfill the President's call for agencies to create a "robust, integrated approach to using data to deliver on mission, serve customers, and steward resources," the agency has proposed plans to modernize the EEOC's data and analytics that directly supports all four strategies (Enterprise Data Governance; Access, Use, and Augmentation; Decision-Making and Accountability; and Commercialization, Innovation, and Public Use) contained in the President's Management Agenda goal of "Data, Accountability and Transparency: Creating a Data Strategy and Infrastructure for the Future."



Program Evaluations

Program evaluation is an important component of the EEOC's effort to assure that its programs are operating as intended and achieving results. Program evaluation is a thorough examination of program design and/or operational effectiveness that uses rigorous methodologies and statistical and analytical tools. These evaluations also use expertise internal and external to the agency and the program under review to enhance the analytical perspectives and lend credence to the methodologies employed, the evaluation processes and findings, and any subsequent recommendations.

Independent program evaluations continue to play an important role in formulating the strategic objectives and performance goals detailed in the EEOC's Strategic Plan for Fiscal Years 2018–2022 and helped shape some of the program issues and key focus areas for improvement. They are an invaluable management tool to guide the agency's strategic efforts in attaining overall productivity and program efficiency, effectiveness, and accountability.

Consistent with the agency's focus on improving the effectiveness of government through rigorous evaluation and evidence-based policy initiatives, the EEOC will continue to consider appropriate program areas for evaluation each year. This will ensure that the agency's efforts align with the EEOC's budget and other programmatic priorities. To that end, beginning in fiscal year 2019, the agency initiated several evaluation projects, including: the Conciliation Project and the EEOC Data and Analytics Modernization Program.



Data Validation and Verification

The agency's private sector, federal sector, and litigation programs require accurate enforcement data, as well as reliable financial and human resources information, to assess the EEOC's operations and performance results and make sound management decisions. We will continue efforts to ensure the accuracy of program information and any analysis of the information.

The EEOC continually reviews the information we collect in our databases for accuracy by using software editing programs and program reviews of a sample of records during field office technical assistance visits. In addition, headquarters offices regularly conduct analyses to review the information collected in order to identify any anomalies that indicate erroneous entries requiring correction to collection procedures.

Upgrades to the Federal Sector EEO Portal, which enables all federal agencies to electronically submit annual equal employment opportunity statistics (EEOC Form 462 and MD-715) continue to improve the quality and timeliness of public sector data. As we modernize our Integrated Mission System (IMS), which consolidates our mission data on charge intake, investigation, mediation, litigation, and outreach functions into a single shared information system, we continue to improve the collection and validation of data and information. IMS includes many automated edit checks and rules to enhance data integrity. Since several of our performance measures require us to use data to assess our achievements, it is significant that we can now obtain this data much more quickly and with greater data accuracy.

The EEOC's Office of Inspector General (OIG) continues to review aspects of the status of the agency's data validity and verification procedures, information systems, and databases and offer recommendations for improvements in our reports. We use the OIG's information and recommendations to continually improve our systems and data. In addition, many of the data-related tasks and projects called for by the agency's Research and Development Plan for 2016-2019 have now been superseded by the creation of the EEOC's Chief Data Officer position and reorganization of the former Office of Research, Information and Planning into the new Office of Enterprise Data and Analytics.

Appendices



Appendix A: Organization and Jurisdiction

The U.S. Equal Employment Opportunity Commission is a bipartisan Commission comprised of five presidentially appointed members, including the Chair, and four Commissioners. The Chair is responsible for the administration and implementation of policy and the financial management and organizational development of the Commission. The Commissioners participate equally in the development and approval of Commission policies, issue charges of discrimination where appropriate, and authorize the filing of certain lawsuits. In addition to the Commissioners, the President appoints a General Counsel to provide direction, coordination, and supervision to the EEOC's litigation program. A brief description of major program areas is provided on the following pages.

When the Commission first opened its doors in 1965, it was charged with enforcing the employment provisions of the landmark Civil Rights Act of 1964. The EEOC's jurisdiction over employment discrimination issues has since grown and now includes the following areas:

- **Title VII of the Civil Rights Act of 1964**, which prohibits employment discrimination on the basis of race, color, religion, sex, and national origin.
- **Pregnancy Discrimination Act**, which amended Title VII to clarify that discrimination on the basis of pregnancy, childbirth, or related medical conditions constitutes sex discrimination and requires employers to treat pregnancy and pregnancy-related medical conditions as any other medical disability with respect to terms and conditions of employment, including health benefits.
- **Equal Pay Act of 1963 (included in the Fair Labor Standards Act)**, which prohibits sex discrimination in the payment of wages to men and women performing substantially equal work in the same establishment.
- **Age Discrimination in Employment Act of 1967**, which protects workers 40 and older from discrimination in hiring, discharge, pay, promotions, fringe benefits, and other aspects of employment. ADEA also prohibits the termination of pension contributions and accruals on account of age and governs early retirement incentive plans and other aspects of benefits planning and integration for older workers.
- **Title I and Title V of the Americans with Disabilities Act of 1990, as amended by the Americans with Disabilities Act Amendments Act of 2008**, which prohibits employment discrimination by private sector respondents and state and local governments against qualified individuals on the basis of disability.
- **Section 501 of the Rehabilitation Act of 1973**, which prohibits employment discrimination on the basis of disability in the federal government.
- **Title II of the Genetic Information Nondiscrimination Act**, which prohibits employment discrimination on the basis of an applicant's or employee's genetic information (including family medical history), generally prohibits acquisition of genetic information from applicants and employees, and requires covered entities to keep such information confidential.
- **Lilly Ledbetter Fair Pay Act of 2009**, which overturned adverse Supreme Court precedent and restored the EEOC's long-held position on the timeliness of pay discrimination claims.

The **Office of Field Programs**, the **Office of General Counsel**, and **53 field offices**, ensure that EEOC effectively enforces the statutory, regulatory, policy, and program responsibilities of the Commission



through a variety of resolution methods tailored to each charge. Staff is responsible for achieving a wide range of objectives, which focus on the quality, timeliness, and appropriateness of individual, multiple victim, and systemic charges and for securing relief for victims of discrimination in accordance with Commission policies. Staff also counsel individuals about their rights under the laws enforced by the EEOC and conduct outreach and technical assistance programs. The **Office of General Counsel** conducts litigation in federal district courts and in the federal courts of appeals.

Additionally, through the **Office of Field Program's State, Local, and Tribal Program**, the EEOC maintains work sharing agreements and a contract services program with 92 state and local **Fair Employment Practices Agencies (FEPAs)** for the purpose of coordinating the investigation of charges dual-filed under state and local laws and federal law, as appropriate. The EEOC partners with more than 60 **Tribal Employment Rights Offices (TEROs)** to promote equal employment opportunity on or near Indian reservations.

The **Office of Legal Counsel** develops policy guidance, provides technical assistance to employers and employees, and coordinates with other agencies and stakeholders regarding the statutes and regulations enforced by the Commission. The Office of Legal Counsel also includes an external litigation and advice division, which defends the agency in actions brought by charging parties, respondents, tort claimants, FOIA requesters and other members of the public, and advises the agency on administrative issues such as contracts, disclosures, ethics, fiscal law, and recordkeeping matters, and a Freedom of Information Act unit.

Through its **Office of Federal Operations**, the EEOC provides leadership and guidance to federal agencies on all aspects of the federal government's equal employment opportunity program. This office ensures federal agency and department compliance 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, provides guidance and assistance to EEOC administrative judges who conduct hearings on EEO complaints, and adjudicates appeals from administrative decisions made by federal agencies on EEO complaints.

The EEOC receives a congressional appropriation to fund the necessary expenses of enforcing civil rights legislation, as well as prevention, outreach, and coordination of activities within the private and public sectors. In addition, the EEOC maintains a **Training Institute** for technical assistance programs. These programs provide fee-based education and training relating to the laws administered by the Commission.



Appendix B: Additional Information on EEOC Investigations and Litigation Requested by Congress

Investigations

The number of investigations initiated in fiscal year 2019 based on a directed investigation or Commissioner charge and the nature of the alleged discrimination:

In fiscal year 2019, the EEOC approved 9 investigations by Commissioner charges. Some Commissioner charges alleged multiple issues. These issues were:

- failure to hire based on race, sex, national origin, religion and disability;
- failure to promote based on sex;
- testing which discriminates on the basis of race, national origin, religion;
- disparate terms and conditions based on disability;
- failure to accommodate disability;
- failure to accommodate religion;
- discharge, discipline based on disability;
- assignment based on sex;
- medical inquiry/exam in violation of the ADA and GINA;
- harassment, intimidation, disparate terms and conditions based on race.

There was a Commissioner charge that was approved in fiscal year 2018, but not served on the respondent until fiscal year 2019. This Commissioner charge was not included in our fiscal year 2018 count of Commissioner charges published in the agency's [Fiscal Year 2018 Performance and Accountability Report](#). The Commissioner charge alleged:

- harassment, sexual harassment based on sex and in retaliation for engaging in protected activity; and
- unequal wages based on sex.

In fiscal year 2019, the EEOC initiated 55 directed investigations. These investigations alleged age discrimination in advertising, hiring, terms and conditions of employment, lay off, qualifications, and unequal pay, benefits, and terms and conditions based on sex.



The number of ongoing investigations in fiscal year 2019, initiated by a directed investigation or Commissioner charge and the nature of the alleged discrimination:

At the close of fiscal year 2019, there were 45 ongoing investigations initiated by a Commissioner charge. These investigations alleged:

- failure to hire on the basis of race, sex, national origin, religion, disability, genetic information, color, and in retaliation for protected activity;
- discriminatory terms and conditions of employment based on national origin, disability, race, sex, color, religion, and in retaliation for protected activity;
- retaliation, intimidation, and breach of confidentiality;
- harassment based on sex, race, national origin, and in retaliation for protected activity;
- sexual harassment based on sex and in retaliation for protected activity;
- assignment based on race, sex, national origin, disability, and in retaliation for protected activity;
- discipline on the basis of race, sex, national origin, disability, and in retaliation for protected activity;
- discharge based on sex, race, national origin, disability, color, religion, genetic information, and in retaliation for protected activity;
- testing which discriminates on the basis of race, sex, national origin and disability;
- referring applicants and employees in ways that discriminate on the basis of race, sex, national origin, religion, color, disability, and in retaliation for protected activity;
- failing to promote based on race, sex, national origin, and color;
- paying wages on the bases of sex, race, and national origin;
- layoff based on race;
- segregated facilities and locals on the basis of race, sex, and national origin;
- medical inquiries prohibited by the ADA and GINA including medical exams;
- failure to accommodate disabilities;
- exclusion on the basis of race and sex;
- discrimination in benefits and insurance based on disability and genetic information;
- waivers that retaliate against employees for engaging in protected activity;
- job classifications based on race, sex, national origin, religion, disability, and in retaliation for protected activity.

At the close of fiscal year 2019, there were 30 ongoing investigations initiated by a directed investigation. These investigations alleged age discrimination in advertising, hiring, assignment, referral, promotion, discharge, wages, benefits, testing, demotion, terms and conditions, qualifications, recall, and unequal pay, benefits, and terms and conditions based on sex.



Litigation

The number of lawsuits filed in fiscal year 2019 based on a directed investigation or Commissioner charge:

The EEOC did not file any lawsuits in fiscal year 2019 based on a directed investigation or Commissioner charge.

Final attorneys' fees awarded against the EEOC in which the defendant prevailed on the merits:

No final awards of attorneys' fees were issued against the agency in fiscal year 2019 based on a merits determination.

The agency has filed an appeal in *EEOC v. Mathews Ford Marion, Inc.*, No. 3:16-cv-2406 (N.D. Ohio), in which a district court awarded \$36,397 in attorneys' fees against the agency.

As to a pending fee award from 2017, the agency filed an appeal in *EEOC v. CRST Van Expedited, Inc.*, No. 18-1446 (8th Cir.), in which a district court awarded approximately \$3.3 million in attorneys' fees against the agency. In December 2019, the U.S. Court of Appeals for the Eighth Circuit affirmed the district court's award of \$3.3 million in attorneys' fees against the agency.

The statutes enforced by the EEOC do not permit the award of fees to the agency when it prevails on the merits of a matter.

Attorneys' fees awarded as a discovery sanction

In *EEOC v. Wencor*, No. 3:17-cv-139 (N.D. Ga.), a district court awarded \$5,392 in attorneys' fees against the agency under discovery rule FRCP 37.

Courts awarded fees in favor of the agency under the discovery rules in four separate matters in 2019. Those fees totaled approximately \$19,000.

The number of cases of systemic discrimination brought in court by the EEOC under section 706 or 707 of the Civil Rights Act of 1964:

The EEOC initiated 17 systemic suits this fiscal year:

AH 2007 Management LP-Aimbridge Hospitality Management, W.D. La., No. 3:19-cv-00914, filed July 16, 2019 - Alleging that Defendant paid a class of female guest service representatives less than males for substantially equal work.

All Security Group Co., D. Md., No. 1:19-cv-01625-CCB, filed June 3, 2019 - Alleging that Defendant paid a class of female security guards lower wages than males for substantially equal work.



American Freight, N.D. Ala., No. 2:19-cv-00273, filed Feb. 14, 2019 - Alleging that Defendant engaged in a pattern or practice of failing to hire female employees into warehouse positions because of sex.

Cardinal Health, C.D. Cal., No. 5:19-cv-00941, filed May 21, 2019 - Alleging that Defendant subjected multiple black employees to racial harassment and fired employees who complained about it.

Carondelet Health Network, D. Az., No. 4:19-cv-00263, filed May 10, 2019 - Alleging that Defendant failed to provide reasonable accommodations to qualified employees with disabilities and fired employees on the basis of their disabilities and/or pregnancy-related medical conditions. This case was resolved on May 17, 2019, and the EEOC obtained \$545,000 in relief.

El Sombrero Mexican Restaurant, S.D. Miss., 3:19-00698, filed Sept. 30, 2019 - Alleging that Defendant created a sexually hostile work environment for female servers and fired employees who complained about it.

Imperial Pacific International Holdings, LTD., D.N.M.I., No. 1:19-cv-00017, filed Sept. 23, 2019 - Alleging that Defendant subjected multiple female employees to sexual harassment, required female VIP service hosts to perform different duties and assignments than men, and took retaliatory actions against employees who complained about discrimination.

Kimco Staffing Services, Inc., C.D. Cal., No. 5:19-cv-01838, filed Sept. 25, 2019 - Alleging that Defendant subjected multiple black employees to racial harassment and retaliation.

McKenzie Tank Lines Inc., N.D. Fla., No. 3:19-cv-02830, filed July 29, 2019 - Alleging that Defendant denied leave as a reasonable accommodation to employees with disabilities and instead fired them after they had exhausted FMLA leave.

North Brook Place, N.D. Tex., No. 3:19-cv-02304L, filed Sept. 27, 2019 - Alleging that Defendant denied leave as a reasonable accommodation for an employee's disability and instead fired her pursuant to its maximum medical leave and no-restrictions policies.

Orlando Float & Massage, M.D. Fla., No.6:16-cv-01689-PGB, filed Aug. 28, 2019 - Alleging that Defendant fired an employee on the basis of her pregnancy, applying its policy requiring that pregnant employees submit a doctor's note clearing her to work as a massage therapist.

Plains All American GP, LLC, D.N.M., No. 1:19-cv-00912, filed Sept. 30, 2019 - Alleging that Defendants subjected multiple employees to a hostile work environment based on race (black, white, and bi-racial), sex (male) and national origin (Hispanic) and fired employees who complained about it.

Protocol Restaurant, E.D.N.C., No. 1:19-cv-00598, filed May 9, 2019 - Alleging that Defendant subjected a class of female employees to a hostile work environment and fired employees who objected to the harassment or rejected sexual advances.

Sactacular Holdings, LLC d/b/a Adam and Eve, E.D.N.C., No. 5:19-cv-00402, filed Sept. 12, 2019 - Alleging that Defendant refused to hire men into sales associate positions.



Schuster Trucking, N.D. Iowa, No. 5:19-cv-04063, filed Sept. 26, 2019 - Alleging that Defendant subjected a class of female truck driver applicants to a physical abilities test that has a disparate impact on women, and failed to hire them because of their sex.

Stan Koch & Sons, D. Minn., No. 0:19-cv-02148, filed Aug. 7, 2019 - Alleging that Defendant subjected a class of female truck driver applicants to a physical abilities test that has a disparate impact on women, and failed to hire them because of their sex.

Tallahassee Memorial Hospital, N.D. Fla., No. 4:19-cv-00417, filed Aug. 27, 2019 - Alleging that Defendant fired employees with disabilities instead of providing leave as a reasonable accommodation, pursuant to its maximum medical leave policy. This case was resolved on August 28, 2019, and the EEOC obtained \$375,000 in relief.

The EEOC's success rate at the appellate level in fiscal year 2019:

On merits cases, the EEOC prevailed in two appeals and did not prevail in two appeals. In subpoena enforcement cases, the EEOC prevailed in the two cases decided on appeal.



Appendix C: Biographies of the Chair, Commissioners and General Counsel



Janet Dhillon, Chair

Janet Dhillon was sworn in as Chair of the U.S. Equal Employment Opportunity Commission on May 15, 2019. She is the 16th Chair of the EEOC. Dhillon was first nominated by President Trump on June 29, 2017 and confirmed on May 8, 2019. Her term will end on July 1, 2022.

For more information about Chair Dhillon, please see: www.eeoc.gov/eeoc/dhillon.cfm.



Victoria A. Lipnic, Commissioner/Former Acting Chair

Victoria A. Lipnic serves as a Commissioner of the U.S. Equal Employment Opportunity Commission. She was first named to the Commission by President Obama in 2010, when she was confirmed by the U.S. Senate for a five-year term. In 2015 she was re-nominated and confirmed by the U.S. Senate for a second five-year term. On January 25, 2017, she was named Acting Chair of the Commission by President Trump, a position she held for nearly two and a half years until the confirmation and swearing in of Chair Dhillon.

For more information about Commissioner Lipnic, please see: www.eeoc.gov/eeoc/lipnic.cfm.



Charlotte A. Burrows, Commissioner

Charlotte A. Burrows was initially nominated to serve as a Commissioner of the U.S. Equal Employment Opportunity Commission (EEOC) in 2014 by President Obama and then re-nominated in 2019 by President Trump. By unanimous vote, the U.S. Senate confirmed her to a second term ending in 2023.

For more information about Commissioner Burrows, please see: www.eeoc.gov/eeoc/burrows.cfm.

Chai R. Feldblum, Former Commissioner

Chai R. Feldblum began her service as a Commissioner of the Equal Employment Opportunity Commission in April 2010. She was confirmed by the Senate for a second term, which ended on July 1, 2018. She continued to serve in a holdover capacity until January 3, 2019.



Sharon Fast Gustafson, General Counsel

Sharon Fast Gustafson was nominated to serve as the General Counsel of the U.S. Equal Employment Opportunity Commission (EEOC) by President Trump on March 20, 2018. She was confirmed by the U.S. Senate on August 1, 2019 for a term ending in 2023.

For more information about General Counsel Gustafson, please see www.eeoc.gov/eeoc/gustafson.cfm.



Appendix D: EEOC Glossary of Acronyms

- ADA** Americans with Disabilities Act of 1990
- ADEA** Age Discrimination in Employment Act of 1967
- ADR** Alternative Dispute Resolution
- AJ** Administrative Judge
- CFO** Chief Financial Officer
- CHCO** Chief Human Capital Officer
- DMS** Document Management System
- EEO** Equal Employment Opportunity
- EEOC** Equal Employment Opportunity Commission
- EPA** Equal Pay Act of 1963
- EXCEL** Examining Conflicts in Employment Laws
- FEPA** Fair Employment Practice Agency
- FMFIA** Federal Managers Financial Integrity Act
- FOIA** Freedom of Information Act
- GINA** Genetic Information Nondiscrimination Act of 2008
- GSA** General Services Administration
- IIG** Intake Information Group
- IIR** Intake Information Representative
- OFO** Office of Federal Operations
- OFP** Office of Field Programs
- OGC** Office of General Counsel
- OIG** Office of Inspector General
- OMB** U.S. Office of Management and Budget
- OPM** U.S. Office of Personnel Management
- PCHP** Priority Charge Handling Procedures



TAPS Technical Assistance Program Seminar

TERO Tribal Employment Rights Offices

UAM Universal Agreement to Mediate



Appendix E: Internet Links

EEOC: <https://www.eeoc.gov/>

ADEA 50th Anniversary: <https://www.eeoc.gov/eeoc/history/adea50th/index.cfm>

EEOC FY 2019 Performance Budget: <https://www.eeoc.gov/eeoc/plan/2019budget.cfm>

EEOC Statistics: <https://www.eeoc.gov/eeoc/statistics/index.cfm>

EEOC Strategic Plan: https://www.eeoc.gov/eeoc/plan/strategic_plan_18-22.cfm

Meetings of the Commission: <https://www.eeoc.gov/eeoc/meetings/index.cfm>

Newsroom: <https://www.eeoc.gov/eeoc/newsroom/index.cfm>

Past EEOC Performance Budgets: <https://www.eeoc.gov/eeoc/plan/archives/budgets/index.cfm>

Past EEOC Performance and Accountability Reports:
<https://www.eeoc.gov/eeoc/plan/archives/annualreports/index.cfm>

Report of the Select Task Force for the Study of Harassment:
https://www.eeoc.gov/eeoc/task_force/harassment/report.cfm

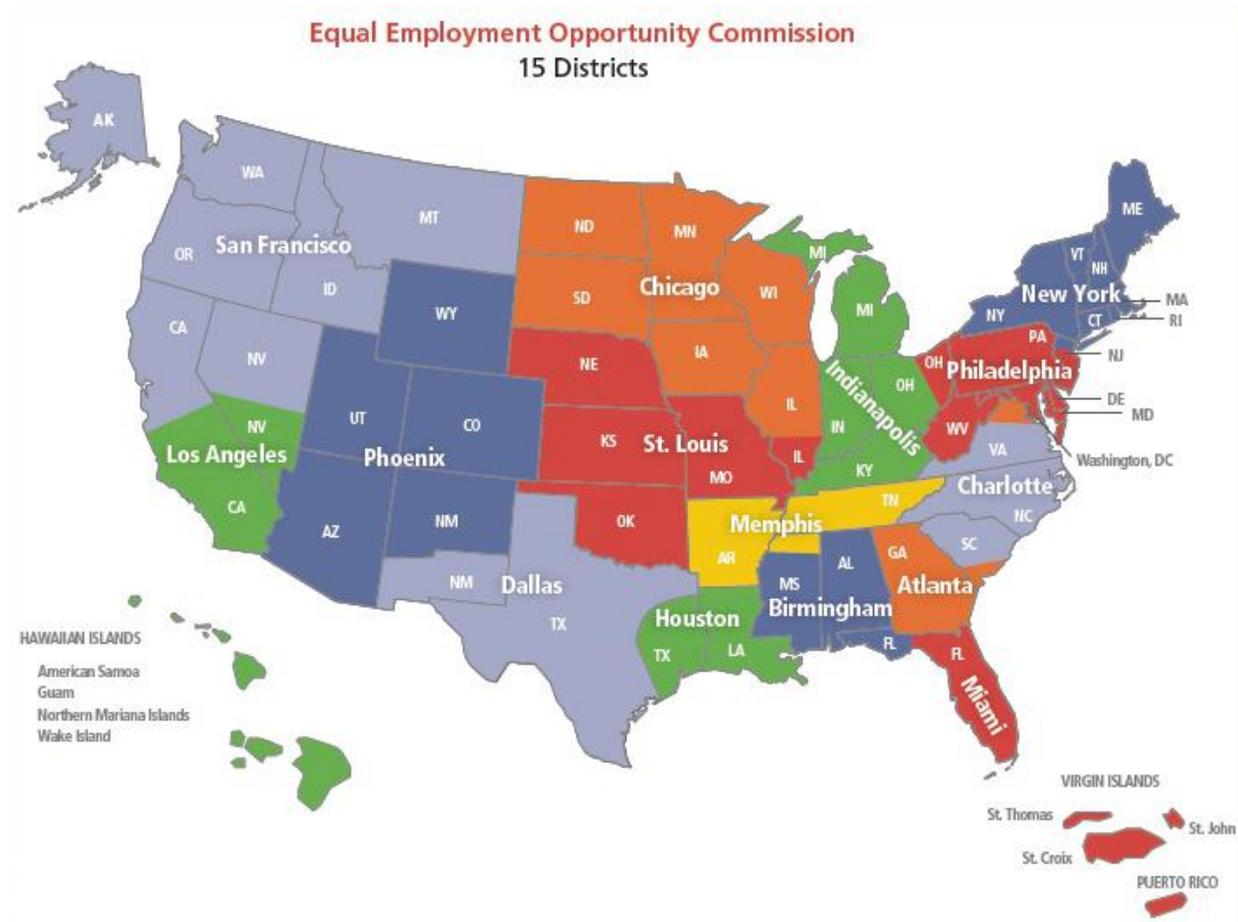
Small Business Resource Center: <https://www.eeoc.gov/employers/smallbusiness/index.cfm>

Strategic Enforcement Plan for FY 2017-2021: <https://www.eeoc.gov/eeoc/plan/sep-2017.cfm>

Youth@Work: <https://www.eeoc.gov/youth/>



Appendix F: EEOC Field Offices



For a list of EEOC offices and a zip-code based office locator, please see: <https://www.eeoc.gov/field/index.cfm>.

Acknowledgments



The EEOC's fiscal year 2019 Annual Performance Report is a collaborative endeavor on the part of many EEOC employees. The Commission would like to acknowledge and thank them for their hard work and commitment in successfully preparing this report.



We Welcome Your Comments

Thank you for your interest in the EEOC's fiscal year 2019 Annual Performance Report. We welcome your comments on how we can make this report more informative for our readers. Please send your comments to:

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