

Section A-Number of Formal EEO Complaints and Filers at USDA

Introduction

This section contains comparative information regarding the number of formal EEO complaints filed and the number of filers for FYs 2015 and 2016.

Summary of Data

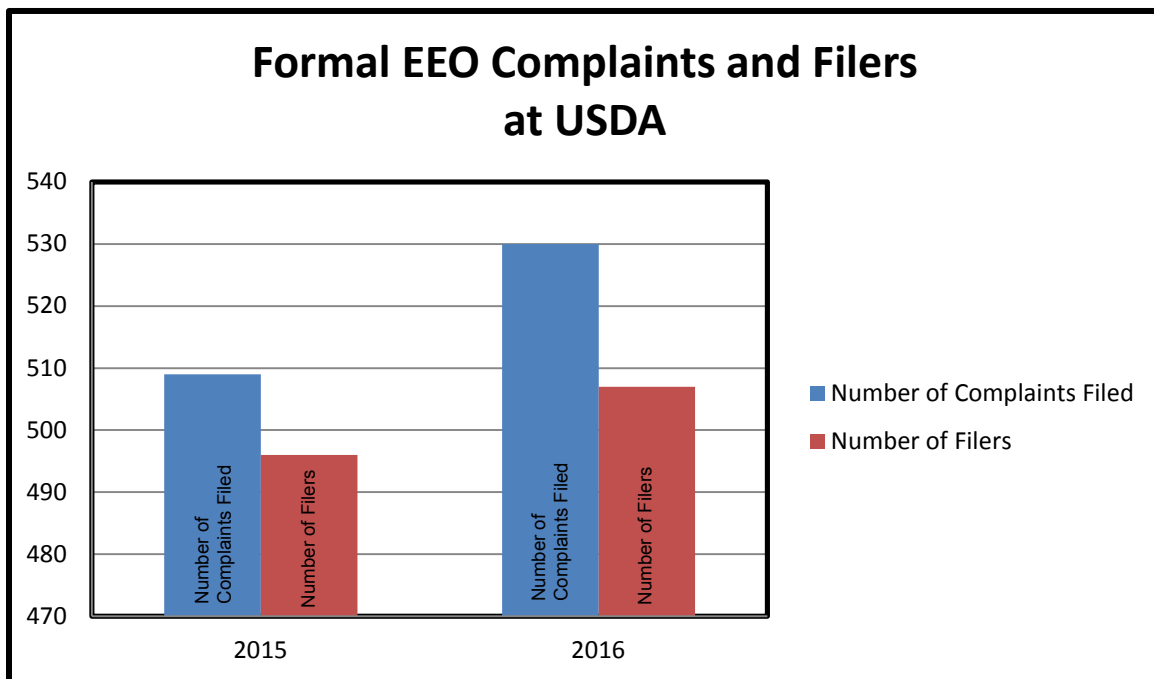
Table 1 below indicates the number of formal EEO complaints filed with USDA by fiscal year and the number of individuals who filed complaints. It shows an increase in the number of complaints filed and the number of filers over the prior year (See Graph 1).

In FY 2016, the number of complaints filed was 530; whereas, in FY 2015, the number of complaints filed was 509. This represents a four percent increase in complaints filed. Additionally, the number of filers in FY 2016 was 507; whereas, in FY 2015, the number of filers was 496. This represents an increase of 11 filers.

Table 1
Number of Formal EEO Complaints and Number of Filers at USDA

Fiscal Years	Number of Complaints Filed	Number of Filers
2015	509	496
2016	530	507

Graph 1
Formal EEO Complaints and Filers at USDA



Section B–Most Frequently Cited Bases in Formal EEO Complaints at USDA

Introduction

This section contains information regarding the most frequently cited bases in formal EEO complaints for FYs 2015 and 2016. The basis of the complaint is the protected characteristic the complainant alleges which forms the motivation for the discriminatory conduct. The bases protected by EEO statutes are race, color, religion, national origin, sex, disability, age and retaliation (for participating in the EEO complaint process or for opposing practices made illegal under the EEO laws). A complaint brought under the Equal Pay Act of 1963, as amended, is considered to be a complaint based on sex.

Summary of Data

Table 2 provides data on all bases alleged in formal EEO complaints filed with USDA. Of all bases, the four most frequently cited in formal EEO complaints filed in FY 2016 are: (1) retaliation; (2) race; (3) sex; and (4) age. In FY 2015, the four most frequently cited bases were: (1) retaliation; (2) sex; (3) race; and (4) age. These four bases are illustrated in Graph 2, which shows the trend over the two-year reporting period.

Complaints Alleging Retaliation

“Retaliation” is the most frequently alleged basis in formal EEO complaints at USDA in FY 2016. This is true for both FYs 2015 and 2016. The basis of “Retaliation” was cited in 270 formal EEO complaints in FY 2016, compared to 296 formal EEO complaints in FY 2015, a nine percent decrease (26 complaints) over a two-year period.

Complaints Alleging Race Discrimination

“Race” was the second most frequently alleged basis in formal EEO complaints at USDA in FY 2016. The basis of “Race” was cited in 222 formal EEO complaints in FY 2016, compared to 206 complaints in FY 2015, an eight percent increase (16 complaints) over a two-year period.

Complaints Alleging Sex Discrimination

“Sex” was the third most frequently alleged basis in formal EEO complaints at USDA in FY 2016. The basis of “Sex” was cited in 206 formal EEO complaints in FY 2016, compared to 215 complaints in FY 2015, a four percent decrease (nine complaints) over a two-year period.

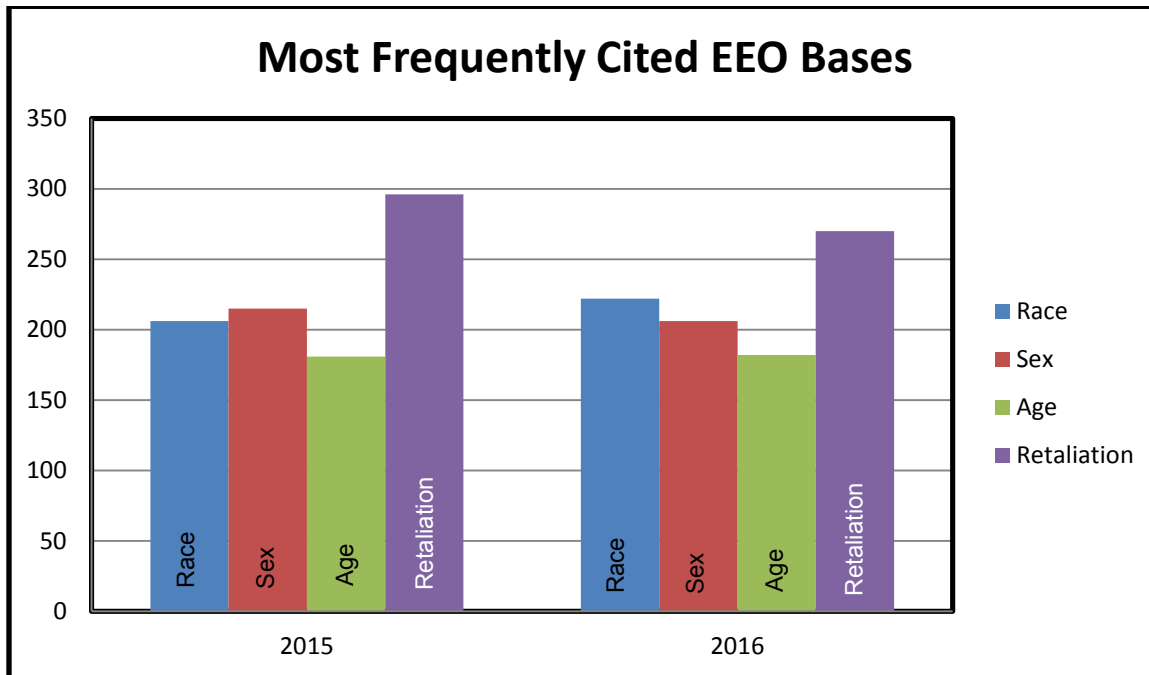
Complaints Alleging Age Discrimination

“Age” was the fourth most frequently alleged basis in formal EEO complaints at USDA in FY 2016. The basis of “Age” was cited in 182 formal EEO complaints in FY 2016, compared to 181 complaints in FY 2015, a half (.5) percent increase (1 complaint) over a two-year period.

Table 2
Most Frequently Cited EEO Bases in Formal EEO Complaints at USDA

EEO Bases in Formal EEO Complaints									
Year	Race	Color	Religion	Sex	National Origin	Disability	Age	Retaliation	Other²
2015	206	71	24	215	69	165	181	296	64
2016	222	63	35	206	47	157	182	270	41

Graph 2
Most Frequently Cited Bases



² Other USDA protected bases include Pregnancy Discrimination Act (PDA), Equal Pay Act, Genetics, and Non-EEO. Additionally, the bases of sex include gender identity and gender expression.

Section C-Most Frequently Cited Issues in Formal EEO Complaints at USDA

Introduction

This section contains information regarding the most frequently cited issues in formal EEO complaints for FYs 2015 and 2016. The No FEAR Act requires Federal Agencies to post data regarding the nature of the issues raised in EEO complaints. The issue of a complaint is the specific matter about which the individual is complaining or the alleged discriminatory incident for which the individual is seeking redress. Table 3 contains a list of issues most commonly raised in complaints. The “Other” category captures all issues not specifically listed.

Summary of Data

Table 3 provides the most frequently cited issues in formal EEO complaints filed with USDA. The three EEO issues most frequently cited in FY 2016 were: (1) Harassment; (2) Promotion/Non-selection; and (3) Terms/Condition of Employment. Graph 3 shows the trends for these three issues over the two-year reporting period.

“Harassment” was the most frequently cited issue in formal EEO cases in FY 2016, with 300 filings. In contrast, “Harassment” had 319 filings in FY 2015, indicating a six percent decrease (19 complaints) from FY 2015 to FY 2016.

“Promotion/Non-selection” was the second most frequently cited issue in formal EEO cases in FY 2016, with 149 filings. In contrast, “Promotion/Non-selection” had 162 filings in FY 2015, indicating an eight percent decrease (13 complaints) from FY 2015 to FY 2016.

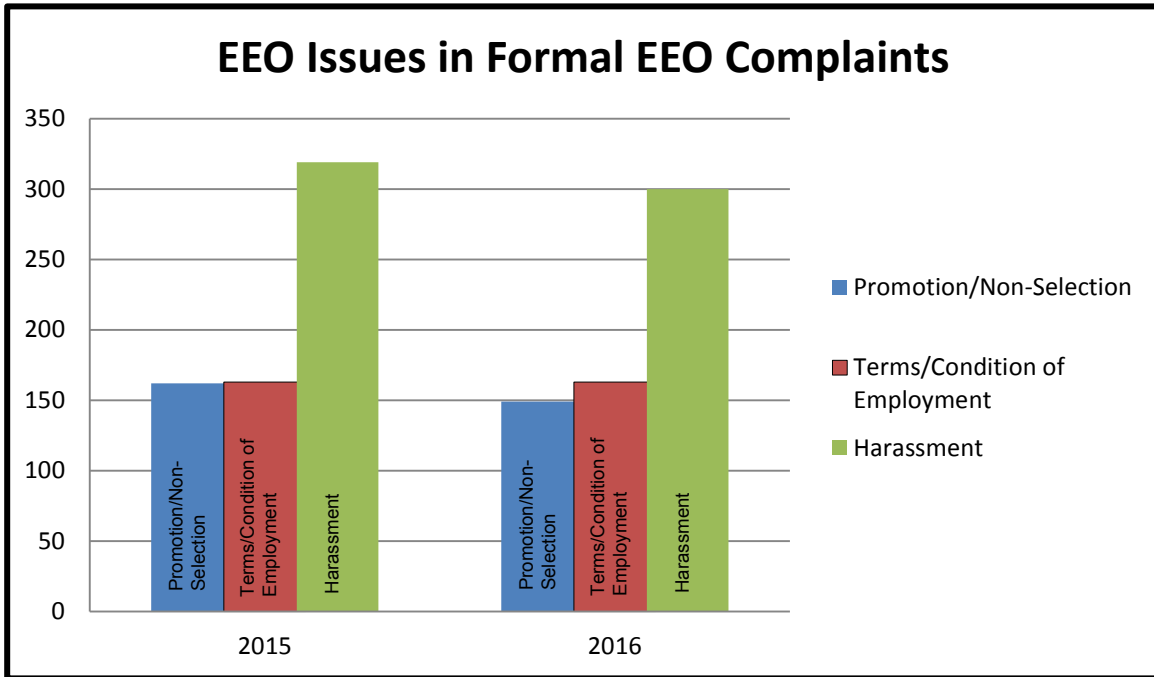
“Terms/Condition of Employment” was the third most frequently cited issue in formal EEO cases in FY 2016, with 102 filings. In contrast, “Terms/Condition of Employment” had 163 filings in FY 2015, indicating a 37 percent decrease (61 complaints) from FY 2015 to FY 2016.

**Table 3
EEO Issues in Formal EEO Complaints**

EEO Issues in Formal EEO Complaints																					
Year	Appointment/Hire	Assignment of Duties	Awards	Conversions to Full Time	Disciplinary Action	Duty Hours	Performance Evaluation/Appraisal	Examination/Test	Harassment	Medical Examination	Pay/Overtime	Promotion /Non-Selection	Reassignment	Reasonable Accommodation Disability	Reinstatement	Retirement	Termination	Terms and Conditions of Employment	Time and Attendance	Training	*Other
2015	35	115	19	0	128	23	90	1	319	8	42	162	65	83	1	1	40	163	78	49	28
2016	27	92	9	0	71	20	91	1	300	1	21	149	32	69	2	4	27	102	59	51	38

*Other USDA protected issues include Religious Accommodation, Sex-Stereotyping, Telework, and Other.

**Graph 3
EEO Issues in Formal EEO Complaints**



Section D-EEO Processing Stages

Introduction

This section contains data regarding selected stages and associated processing times for formal EEO complaints processed during FYs 2015 and 2016. The formal EEO complaint process has various stages. Not all formal complaints complete all stages. These stages are:

(1) Investigation (which includes Letter of Acceptance); (2) Final Agency Action with EEOC Hearing; (3) Final Agency Action without EEOC Hearing; and (4) Dismissal. Formal EEO complaints may be withdrawn or settled at any stage and may be dismissed at various stages.

Summary of Data

The following is an analysis of data for the four EEO stages. This section contains data on: (1) the average number of days for completion of selected stages; (2) pending complaints at various stages of the EEO process; and (3) pending formal complaints exceeding the 180-day investigation requirement.

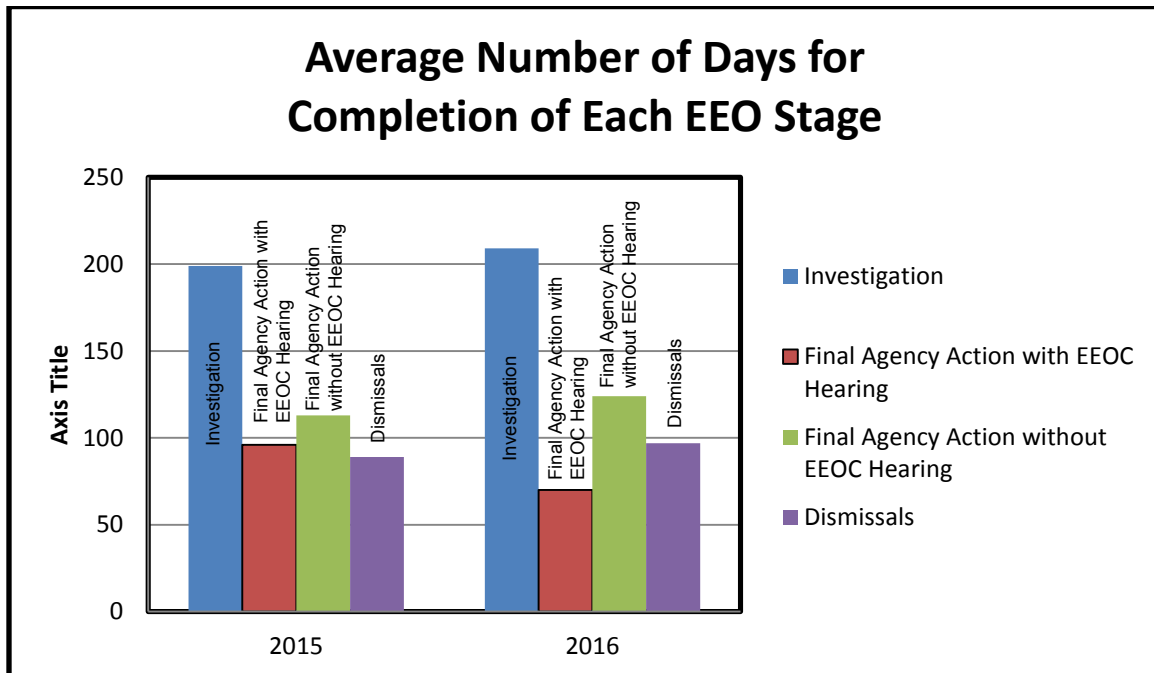
(1) Average Number of Days for Completion of Selected EEO Stages

Table 4 below provides the average number of days for completing a formal EEO complaint at each stage. The data revealed an upward trend (as shown in Graph 4) in the average number of days for an investigation, in the Final Agency Action without an EEOC hearing, and in dismissals. For all Final Agency Action with an EEOC hearing, there was a downward trend in the average number of days for processing.

Table 4
Average Number of Days for Completion of Each EEO Stage

Year	Investigation	Final Agency Action with EEOC Hearing	Final Agency Action without EEOC Hearing	Dismissals
2015	199	96	113	89
2016	209	70	124	97

Graph 4
Average Number of Days for Completion of Each EEO Stage



(2) Pending Complaints at Various Stages

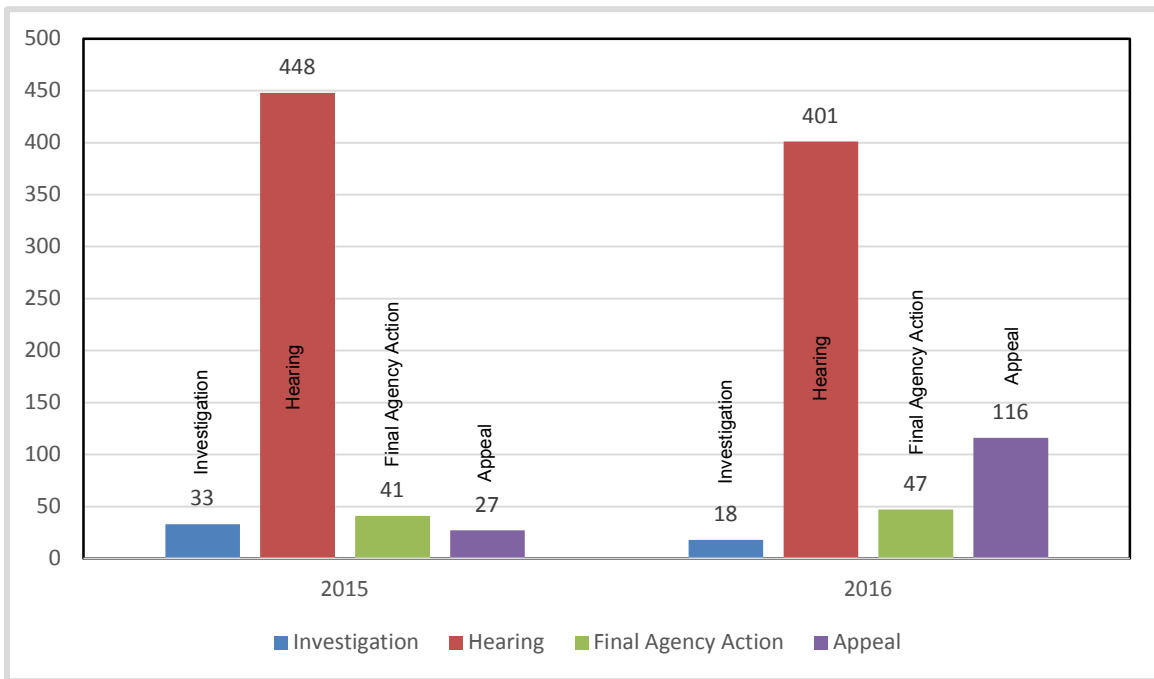
Table 5 below illustrates the number of pending EEO complaints in FYs 2015 and 2016, at each EEO stage.

Graph 5 shows a downward trend in pending complaints in Final Agency Actions, Hearings, Investigations, and Appeals.

Table 5
Pending EEO Formal Complaints by Stage

Year	Investigation	Hearing	Final Agency Action	Appeal
2015	33	448	41	27
2016	18	401	47	116

**Graph 5
Pending EEO Formal Complaints by Stage**



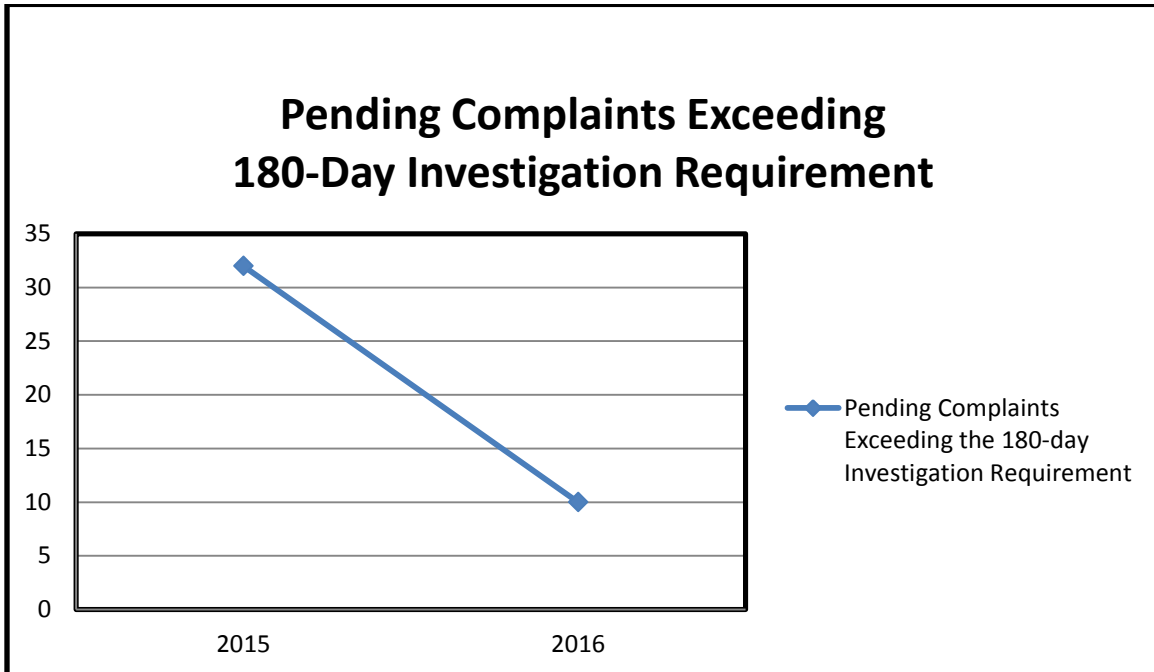
(3) Pending Formal Complaints Exceeding the 180-Day Investigation Requirement

Table 6 and Graph 6 show a 69 percent decrease for pending formal complaints that exceed the 180-day investigation requirement over the two-year reporting period.

**Table 6
Pending Formal EEO Complaints Exceeding the 180-Day Investigation Requirement**

Pending Complaints Exceeding the 180-day Investigation Requirement	
2015	32
2016	10

Graph 6
Pending Formal EEO Complaints Exceeding 180-Day Investigation Requirement



Section E-Final Agency Actions with a Finding of Discrimination

Introduction

Final Agency Actions involving a finding of discrimination may be issued on the record or following an EEOC Administrative Hearing. The final actions involving a finding of discrimination include complaints with a variety of bases and issues. The No FEAR Act requires Federal Agencies to post the total number of final actions involving a finding of discrimination, along with the issues and bases for those complaints.

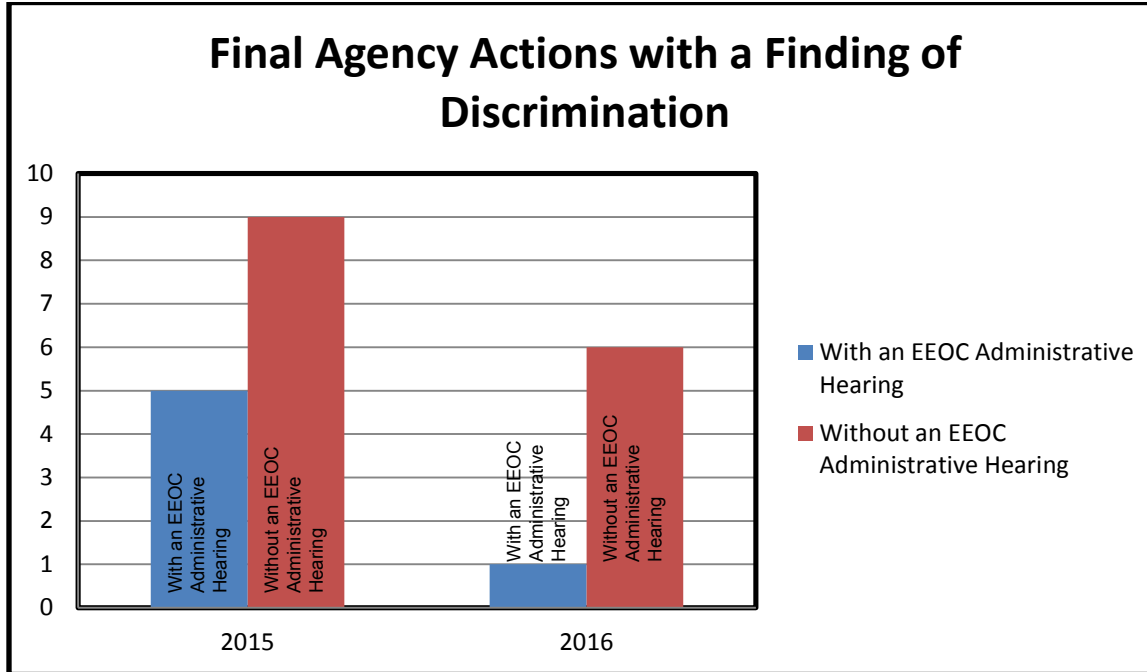
Summary of Data

Table 7 and Graph 7 show the number of findings of discrimination issued with an EEOC Administrative Hearing decreased by four, from FY 2015 to FY 2016, and the number of findings without an EEOC Administrative Hearing decreased by three from FY 2015 to FY 2016.

Table 7
Final Agency Actions with a Finding of Discrimination

Year	With an EEOC Administrative Hearing	Without an EEOC Administrative Hearing
2015	5	9
2016 ³	1	6

Graph 7
Final Agency Actions with a Finding of Discrimination



Section F-Analysis, Experience, and Actions

Introduction

The No FEAR Act requires: (1) an examination of trends; (2) a causal analysis; (3) practical knowledge gained through experience; and (4) any actions planned or taken to improve USDA’s complaint or civil rights programs. The prior sections (Sections A-E) provided an examination of trends. Described below are various observations related to the remaining three areas:

(1) Causal Analysis

USDA and its sub-component Agencies identified various factors impacting the filing of formal EEO complaints. Examples are as follows:

³ Subsequent database reconciliation revealed that there are a total of eight findings of discrimination, resulting in one disciplinary action decision pending with the Office of Human Resource Management.

- The Agricultural Marketing Service (AMS) reported an increase by one in the number of complaints filed in FY 2016. Specifically, there were 10 formal complaints filed in FY 2016, as compared to 9 formal complaints filed in FY 2015. AMS attributes the increase of complaints to the reduction of training sessions conducted in FY 2016 compared to FY 2015. Additionally, AMS attributes the increase to employees using the term harassment incorrectly to describe unfavorable work conditions or assignments, without any nexus to a protected basis.
- The Animal and Plant Health Inspection Service (APHIS) reported a decrease by 24 in the number of complaints filed in FY 2016. Specifically, there were 41 formal complaints filed in FY 2016, as compared to 65 formal complaints filed in FY 2015. APHIS attributes the decrease to a multitude of actions, including, but not limited to EEO education and training, use of ADR and early engagement of Agency manager, and supervisors in addressing employment concerns.
- The Agricultural Research Service (ARS) reported an increase by four in the number of complaints filed in FY 2016. Specifically, there were 19 formal complaints filed in FY 2016, as compared to 15 formal complaints filed in FY 2015. ARS attributes this to miscommunication or lack of communication between management and employees.
- The Conflict Complaints Division, which processes conflict cases⁴, reported a decrease by seven in the number of complaints filed in FY 2016. Specifically, there were 47 formal complaints filed in FY 2016 as compared to 54 formal complaints filed in FY 2015.
- The Economic Research Service (ERS) reported a decrease by one in the number of complaints filed in FY 2016. Specifically, there was one formal complaint filed in FY 2016, as compared to two formal complaints filed in FY 2015. ERS attributes the decrease in complaints to ERS' Director of Civil Rights practice of immediately engaging management when an employee raises a work related issue as well as management's willingness to create an environment free from discrimination and harassment. ERS also attributes this to the desire of ERS employees to understand their rights in responsibilities when provided training.
- The Foreign Agricultural Service (FAS) reported an increase by four in the number of complaints filed in FY 2016. Specifically, there were seven formal complaints filed in FY 2016, compared to three formal complaints filed in FY 2015. FAS attributes the increase of complaints to the interaction and education employees on EEO issues and concerns leading employees to believe in the neutrality of the being comfortable going to and discussing EEO issues with the OCR Staff and its EEO Counselors.

⁴ Conflict case(s) is an EEO complaint involving facts and/or allegations that are determined to pose an actual, perceived, and or potential conflict between a Responsible Management Official (RMO) or complainant's position or personal interest, and USDA's responsibility to administer a fair and impartial investigative process and resolution of complaints.

Equal Employment Opportunity Data Posted Pursuant to the No FEAR Act

USDA
FY 2016 for period ending September 30, 2016

Complaint Activity	Comparative Data				
	Previous Fiscal Year Data				
	2012	2013	2014	2015	2016
Number of Complaints Filed	536	544	481	509	530
Number of Complainants	519	512	465	496	507
Repeat Filers	12	26	17	14	19
Complaints by Basis	Comparative Data				
	Previous Fiscal Year Data				
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i>	2012	2013	2014	2015	2016
Race	215	213	243	206	222
Color	56	64	73	71	63
Religion	23	19	19	24	35
Reprisal	281	311	270	296	270
Sex	228	213	207	215	206
PDA	0	2	3	1	0
National Origin	61	59	74	69	47
Equal Pay Act	3	8	4	2	1
Age	177	201	183	181	182
Disability	141	150	130	165	157
Genetics	2	3	2	2	1
Non-EEO	55	42	55	59	39

Directed	33	33	43	40	18
Reasonable Accommodation Disability	58	63	48	83	69
Reinstatement	2	0	0	1	2
Religious Accommodation*	0	0	0	0	3
Retirement	2	2	1	1	4
Sex-Stereotyping*	0	0	0	0	1
Telework*	0	0	0	0	29
Termination	35	40	34	40	27
Terms/Conditions of Employment	85	176	146	163	102
Time and Attendance	58	50	32	78	59
Training	49	41	33	49	51
Other	61	26	23	28	5
Processing Time	Comparative Data				
	Previous Fiscal Year Data				
	2012	2013	2014	2015	2016
Complaints Pending During Fiscal Year					
Average Number of Days in Investigation	248.60	242.05	212.08	198.94	208.93
Average Number of Days in Final Action	214.93	165.94	169.31	106.7	97.94
Complaint Pending During Fiscal Year Where Hearing was Requested					
Average Number of Days in Investigation	235.23	247.31	217.23	203.6	212.88
Average Number of Days in Final Action	133.49	119.33	199.47	96.48	69.94
Complaint Pending During Fiscal Year Where Hearing was not Requested					
Average Number of Days in Investigation	273.79	233.21	204.07	192.73	202.01

