



U.S. DEPARTMENT OF AGRICULTURE



**REPORT OF CIVIL RIGHTS COMPLAINTS, RESOLUTIONS
AND ACTIONS FOR FISCAL YEAR 2021**

**Food Conservation and Energy Act of 2008
Section 14010
December 7, 2022**

United States Department of Agriculture
Office of the Assistant Secretary for Civil Rights
Washington, DC 20250



United States Department of Agriculture

Office of the Secretary
Washington, D.C. 20250

April 9, 2021

USDA Civil Rights Policy Statement

At USDA, we are recommitting ourselves to the values of equity, inclusion, and equal opportunity for each other and those we serve. As Secretary, I will work with our dedicated team to actively advance racial justice and equity for one another. We will do so by rooting out systemic racism and strengthening civil rights programs while building trust within and outside the Department, ensuring transparency and the equitable delivery of quality programs and services, and holding ourselves accountable toward meeting those goals.

As a Department that operates with excellence in leadership, we must affirm and ensure USDA provides equal employment opportunity for all employees and applicants for employment, regardless of race, religion, color, sex (including pregnancy, gender identity and sexual orientation), national origin, age, genetic information, or disability. All employees have the freedom to compete on a fair and level playing field with equal opportunity for available employment and advancement opportunities. Equal employment opportunity covers all personnel/employment programs, management practices, and decisions, including recruitment/hiring, merit promotion, transfer, reassignments, training and career development, benefits, and separation. These civil rights principles are more than employees' rights by law—they are core values at the USDA.

USDA strives to become a leader in EEO and a model employer. All USDA applicants and employees have the right not only to be free from harassment and discrimination but also to raise an allegation of harassment of discrimination and not fear reprisal. I will continue to enforce zero tolerance toward any form of workplace harassment. Agencies are required to respond to, address, and correct any harassing conduct before it becomes severe or pervasive. USDA will continue to quickly process complaints of harassment, discrimination, and reprisal and provide robust EEO training to all employees.

I will hold all employees and managers accountable for doing their part to ensure all USDA applicants, customers, constituents, and stakeholders are provided equal access to all opportunities, programs, and services available through USDA. Accordingly, all senior leaders, managers, and supervisors must model values-based leadership and appropriate behavior, leading always by example, treating everyone with dignity and respect, and promoting an ethical, equitable, and inclusive culture. All employees must comply with EEO principles as we perform the Department's mission.

A handwritten signature in blue ink that reads "Thomas J. Vilsack". The signature is fluid and cursive, written over a light blue grid background.

Thomas J. Vilsack
Secretary

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Annual Reporting Requirements

Section 14010 (1) of the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill), mandates USDA to prepare an annual report on each of its agency's civil rights complaints, resolutions and actions. In accordance with that section, this report provides the:

- number of civil rights complaints filed that relate to USDA, including whether a complaint is a program complaint or an employment complaint;
- length of time USDA took to process each civil rights complaint to closure;
- number of proceedings brought against USDA, including the number of complaints (as described in Section 14010 (1)) that were resolved with a finding of discrimination; and
- number and types of personnel actions taken by USDA following the resolution of civil rights complaints.

The 2008 Farm Bill requires USDA to submit a copy of this report to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition and Forestry, as well as make the report available to the public on USDA's website.

USDA agencies included in the report¹ are: Agricultural Marketing Service (AMS); Agricultural Research Service (ARS); Animal and Plant Health Inspection Service (APHIS); Economic Research Service (ERS); Farm Service Agency (FSA); Food and Nutrition Service (FNS); Food Safety and Inspection Service (FSIS); Foreign Agricultural Service (FAS); Forest Service (FS); National

Agricultural Statistics Service (NASS); National Appeals Division (NAD)²; National Institute of Food and Agriculture (NIFA), Natural Resources Conservation Service (NRCS); Office of the Chief Financial Officer (OCFO); Office of Inspector General (OIG); Rural Development (RD); Risk Management Agency (RMA); Departmental Administration (DA);³ and Office of the Assistant Secretary for Civil Rights (OASCR).

Executive Summary

The U.S. Department of Agriculture (USDA) submits this fiscal year (FY) 2021 civil rights report to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry in accordance with section 14010 of the Food, Conservation, and Energy Act of 2008.

The Office of the Assistant Secretary for Civil Rights' (OASCR) mission is provide leadership and direction for the fair and equitable treatment of all USDA customers and employees while ensuring the delivery of quality programs and enforcement of civil rights. USDA remains committed to ensuring the equal and equitable enforcement of civil rights, including (but not limited to) matters related to program delivery, compliance, and the processing of employee and program complaint.

OASCR manages two complaint processes: employment complaints (EEO or Equal Employment Opportunity) and program complaints. Program discrimination complaints are those filed by participants in USDA's federally funded programs and activities and against recipients of USDA Federal financial assistance programs. Employment discrimination complaints are filed by USDA employees, applicants or any specific class of individuals who believe they have suffered

¹ On November 29, 2018, GIPSA was eliminated as a stand-alone agency and transferred to AMS. However, one complaint processed during Fiscal Year (FY) 2021 was reported under GIPSA. As a result, the employment exhibits in this report reflect one GIPSA complaint separate from AMS complaints.

² In FY 2021, USDA did not process any NAD cases.

³ DA complaints received prior to FY 2018 are reflected in this report under the previous name, Departmental Management (DM). Employment complaints initiated or filed against DA and other staff offices were processed by the OASCR's Conflict Complaints Division (CCD).

discrimination in terms, conditions, and/or privileges of employment.

Timeliness in all phases of the employment complaint process in FY 2021

In FY 2021 OASCR was 99% timely in all phases of the employment complaint process and within regulatory timeframes. Most notably, there was a reduction in the length of time for completion of EEO investigations from 203 days in FY 2020 to 154 days in FY 2021, well below the regulatory time frame of 180 days. This represents a reduction, on average, of 49 days to complete an investigation.⁴ The average processing time for issuing Final Agency Decision without hearing for which USDA retained jurisdiction in 42 days in FY 2020 and 56 days in FY 2021. These average processing times are consistently below the regulatory time frame of 60 days. For those cases where complainants requested a hearing before Administrative Judge instead of a final agency decision by USDA, the average processing time decreased from 973 days in FY 2020 to 931 days in FY 2021.

Processing time for Program Complaints

The timeliness of program complaint processing is impacted by a variety of factors: the timely submission of details from complainants, the complexity of a complaint, the related USDA

program, and resources available to investigate and respond to complaints from the field and USDA agencies and staff offices.

In FY 2020, the average processing time for resolved program complaints was 369 days. In FY 2021, the average processing time for resolved program complaints was 412 days. Currently, OASCR is working to reduce processing times for program complaints further to 365 days in FY 2023 and 180 days in FY 2024. To accomplish this, OASCR is actively rebuilding its civil rights workforce and capacity by leveraging existing authorities and funding resources.

Other Notable Accomplishments in FY 2021

USDA is focused on resolving complaints in a timely manner to ensure public trust. In FY 2021, OASCR deployed a new program case tracking system (Civil Rights Management System or CRMS) to improve data tracking and reporting. OASCR has prioritized quality customer service by creating complaint filing systems that are easy to navigate and adequately making policies and procedures available to the public on the USDA website. In FY 2021, OASCR launched a USDA Civil Rights mobile application that provides easy access to civil rights complaint filing information and contact information for the relevant USDA civil rights staff.

⁴ FY 2021 and FY 2020 EEO 462 Reports.

PART I:

Fiscal Years 2020 and 2021 USDA Formal Program Complaint Data

Section A — Number of Program Complaints Filed at USDA

Introduction

Program discrimination complaints are filed by participants of USDA’s federally funded programs and activities conducted by USDA and administered through local USDA offices, (e.g., FSA’s Farm Loan and RD’s Single Family Housing Loan programs). Additionally, USDA receives program complaints filed against recipients of USDA’s Federal financial assistance programs (primarily State and local agencies and multi-family housing authorities), such as FNS’ Supplemental Nutrition Assistance Program and RD’s Multi-Family Housing Program.

This section contains comparative information regarding the number of formal Program complaints filed.

Summary of Data

Table 1 below indicates the number of Program Complaints filed with USDA for two fiscal years. The data show the number of complaints filed in comparison to the previous year (See Graph 1). In FY 2021, 220 complaints were filed as compared to 243 in FY 2020. This represents an approximate 9.5 percent decrease in complaints filed from the previous year.

Table 1
Number of Program Complaints Filed at USDA

Fiscal Year	Number
2020	243
2021	220

Source: Civil Rights Enterprise System

Section B — Inventory of Program Complaints Processed at USDA

Introduction

This section contains data regarding significant stages of the complaint inventory for program complaints processed during FYs 2020 and 2021. These stages are: (1) Beginning Inventory; (2) Complaints Filed; (3) Total USDA Inventory; (4) Complaints Closed, and (5) Ending Inventory.

Summary of Data

At the beginning of FY 2021, USDA had an open inventory of 300 program complaints. During the fiscal year, USDA received 220 complaints which resulted in a total ~~inventory~~ of 520 program complaints. USDA closed a total of 227 complaints. At the end of the fiscal year, USDA had an inventory of 293 open program complaints.

In comparison, at the beginning of FY 2020, USDA had an open inventory of 400 program complaints. During the fiscal year, USDA received an additional 243 complaints which resulted in a total inventory of 643 program complaints. USDA closed a total of 344 complaints. At the end of the fiscal year, USDA had an inventory of 299 open program complaints.

Table 2 provides the number of complaints at each of the significant stages of the complaint inventory for FY 2021 in comparison to the previous fiscal year. The data show a decrease in the complaints filed as well as in the beginning, total and ending inventories. The data also show a decrease in complaints closed.

Table 2
Inventory of Program Complaints Processed at USDA

Fiscal Year	Beginning Inventory	Complaints Filed	Total Inventory	Complaints Closed	Ending Inventory
2020	400 ¹	243	643	344	299
2021	300 ¹	220	520	227	293 ¹

Source: Civil Rights Enterprise System

Section C—Top Three Most Frequently Alleged Bases in Program Complaints Filed with USDA

Introduction

USDA prohibits discrimination on the basis of race, color, religion, sex, age, national origin, marital status, sexual orientation, familial status, disability, or because all or a part of an individual's income is derived from a public assistance program. In programs that receive Federal financial assistance from USDA, discrimination is prohibited on the basis of race, color, religion, sex, political beliefs, age, disability, or national origin (Not all bases apply to all programs). Reprisal is prohibited based on prior civil rights activity. Any person who believes they have experienced discrimination when obtaining services from USDA may file a program complaint with USDA.⁵

Summary of Data

Table 3 provides data on the top three most frequently alleged bases in program complaints filed with USDA. The three most frequently cited bases in program complaints filed in FY 2021 are: (1) disability, (2) race, and (3) age. In FY 2020, the three most frequently-cited bases were: (1) disability, (2) race, and (3) age.

Complaints Alleging Disability

Disability was the most frequently alleged basis in program complaints filed against the

Department. In FY 2021, 25 percent of program complaints cited disability as a basis compared to 30 percent in FY 2020.

Complaints Alleging Race

Race was the second most frequently alleged basis in program complaints at USDA in FY 2021. In FY 2021, 24 percent of program complaints cited race as a basis compared to 17 percent in FY 2020.

Complaints Alleging Age

Age was the third most frequently alleged basis in program complaints at USDA in FY 2021. In FY 2021, 17 percent of program complaints cited age as a basis compared to 15 percent in FY 2020.

Table 3
Top Three Most Frequently Alleged Bases in Program Complaints Filed with USDA

Fiscal Year	Disability	Race	Age
2020	144	84	74
2021	98	92	67

Source: Civil Rights Enterprise System

⁵ Complainants may allege multiple bases in a single complaint.

Section D – Program Complaint Inventory by Agencies with Highest Total Inventory

Introduction

This section contains data regarding the top three USDA agencies with the highest total inventory and the number of complaints filed against them.

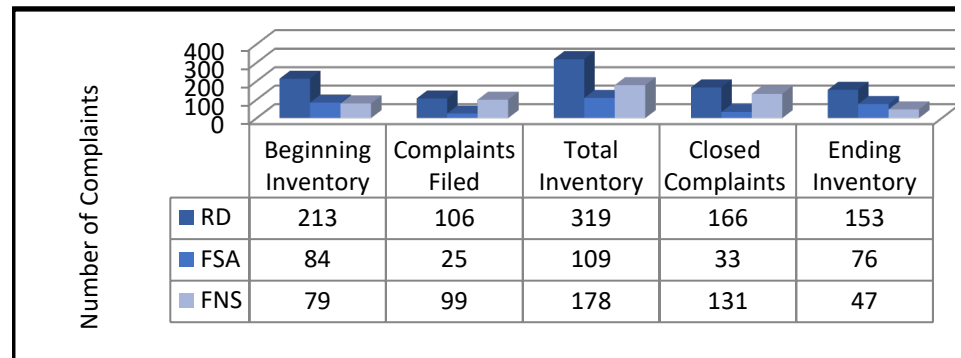
Summary of Data

In FY 2021, the program complaint inventory of RD, FNS, and FSA accounted for approximately 93 percent (482 complaints) of the total USDA complaint inventory (520). Out of the 220 program complaints filed with USDA during FY 2021, the respective top three agencies had the following totals: RD accounted for 85 complaints; FNS accounted for 80 complaints; and FSA accounted for 40 complaints.

In comparison, the FY 2020 program complaint inventory of FNS, RD and FSA accounted for approximately 94 percent (606 complaints) of the total USDA complaint inventory (643). Out of the 243 program complaints filed with USDA during FY 2020, the respective top three agencies had the following totals: FNS accounted for 99 complaints; RD accounted for 106; and FSA accounted for 25 complaints filed.

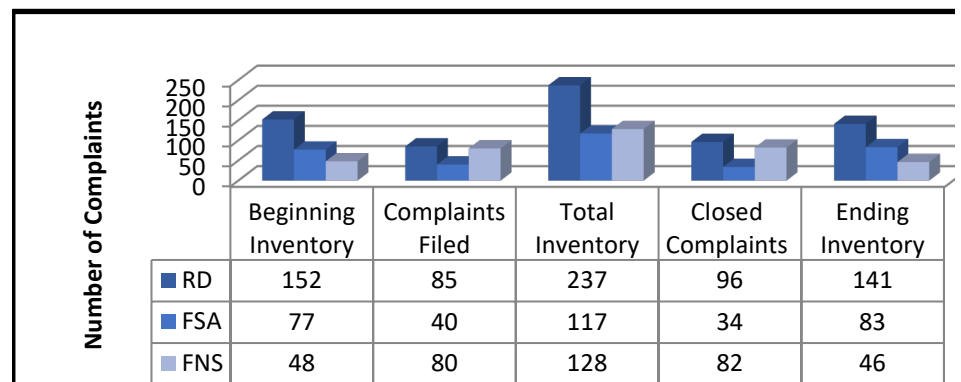
Graphs 4A and 4B provide data on the top three agencies with the highest total program

Graph 4A
FY 2020 Program Complaint Inventory by Agencies with Highest Total Inventory



Source: Civil Rights Enterprise System

Graph 4B
FY 2021 Program Complaint Inventory by Agencies with Highest Total Inventory



Source: Civil Rights Enterprise System

complaint inventory. The data shows that FNS, RD and FSA were consistently one of the top three agencies with the highest inventories for the two-year period.

Section E –Average Processing Time of Closed Program Cases

Introduction

The Average Processing Time (APT) for program complaints is the average duration of cases processed to closure within the respective fiscal year. Complaints processed are interpreted as complaints that have been received, accepted for processing, and resolved through a determination in compliance with Departmental regulations. The date the complaint was resolved (Final Agency Decision or Closure) minus the date the complaint was accepted is the method of computation of the APT.

Average Processing Time of Closed Cases:

The average processing time for 151⁶ program complaints resolved (Final Agency Decision or Closure) in FY 2021 was 412 days. The average processing time for 203⁷ complaints resolved in FY 2020 was 369 days.

Table 5 shows the number of complaints resolved at USDA, by each agency for FYs 2020 and 2021.

Table 5
Average Processing Time of Closed Cases
for USDA and Agencies

Fiscal Year	Agency	Resolved	Average Processing Time (Days)
2020	USDA	203	369
	GIPSA	1	758
	NIFA	1	632
	NRCS	3	600
	FSA	24	537
	RD	93	451
	FS	5	423
	AMS	1	303
	FNS	75	193
2021	USDA	151	412
	NIFA	2	592
	NRCS	3	670
	FSA	27	644
	RD	59	449
	FS	6	433
	AMS	1	489
	FNS	53	229

Source: Civil Rights Enterprise System

⁶ The cases resolved with following closure codes were used to calculate the average processing time: Finding, No Finding, Filed in Court, HUD Decision, Settlement, and Withdrawal. The following closure codes were omitted from calculating the average processing time: Failure to Pursue, Failure to State a Claim, Lack of Jurisdiction, Programmatic Referral, and Untimely Filing.

⁷ Same closure codes used for FY 2021 were used for FY 2020 average processing time of closed cases.

Section F - Program Complaints Resolved with a Finding of Discrimination

Introduction

Final Agency Actions involving a finding of discrimination are issued on the record. The final actions involving a finding of discrimination may include complaints with a variety of bases and issues.

Summary of Data

Table 6 shows that from FY 2020 to FY 2021, the number of findings of discrimination remained the same.

Table 6
Program Complaints Resolved with a Finding of Discrimination

Fiscal Year	Number
2020	1
2021	1

Source: Civil Rights Enterprise System

Section G - Program Complaints Resolved with a Settlement Agreement

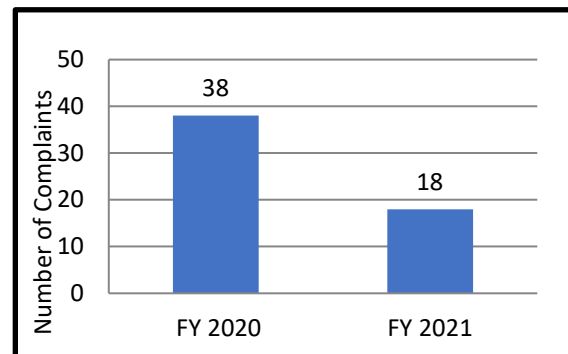
Introduction

This section contains data regarding the number of program complaints resolved with a settlement agreement for FYs 2020 and 2021.

Summary of Data

Graph 7 shows that from FY 2020 to FY 2021, the number of complaints resolved by a settlement agreement decreased by 20, from 38 in FY 2020 to 18 in FY 2021.

Graph 7
Program Complaints Resolved with a Settlement Agreement



Source: Civil Rights Enterprise System

PART II:

Fiscal Years 2020 and 2021 USDA Formal Employment Complaint Data

Section A – Number of Employment Complaints Filed at USDA

Introduction

Employment discrimination complaints are filed by USDA employees, applicants or any specific class of individuals who believe they have suffered discrimination in terms, conditions, and/or privileges of employment. USDA encourages the use of Alternative Dispute Resolution to resolve all discrimination complaints as early as possible.

This section contains comparative information regarding Pre-complaint data on ADR and the number of formal EEO complaints filed.

Summary of Data

Table 1 shows FY 2020 and FY 2021 Pre-complaint EEO ADR data. In FY 2020, 624 aggrieved cases were offered ADR and 267 (43%) agreed to participate, resulting in forty-eight settlement agreements. In FY 2021, 542 aggrieved cases were offered ADR and 274 (51%) agreed to participate, resulting in thirty-three settlement agreements. USDA will continue to embark upon a robust early resolution initiative to improve resolution rates.

Table 1
Number of EEO Pre-Complaint Resolutions at USDA

Fiscal Year	Offered ADR	Accepted ADR	Resolved /Settlement Agreements	Resolution Rate
2020	624	267	48	0.077
2021	542	274	33	0.060

Source: Certified FY 2020 and FY 2021 462 Reports.

Table 2 indicates the number of formal EEO complaints filed with USDA for two fiscal years. The data show the number of complaints filed in comparison to the previous year. In FY 2021, 346 complaints were filed as compared to 389 in FY 2020. This represents an 11 percent decrease in the number of complaints filed.

Table 2
Number of Employment Complaints Filed at USDA

Fiscal Year	Number
2020 ¹	389
2021	346

Source: Certified FY 2020 and FY 2021 462 Reports

Section B – Inventory of Employment Complaints Processed at USDA

Introduction

This section contains data regarding significant stages of the complaint inventory for formal EEO complaints processed during FYs 2020 and 2021. These stages are: (1) Beginning Inventory; (2) Complaints Filed; (3) Total USDA Inventory; (4) Complaints Closed; and (5) Ending Inventory.

Summary of Data

At the beginning of FY 2021, USDA had an open employment complaint inventory of 631 cases. During the fiscal year, USDA received an additional 346 employment complaints which gave USDA a total inventory of 977 complaints. USDA closed a total of 411 employment complaints. At the end of the

fiscal year, USDA had an inventory of 567 open employment complaints.

In comparison, at the beginning of FY 2020, USDA had an open inventory of 756 employment complaints. During the fiscal year, USDA received an additional 389 complaints which gave USDA a total inventory of 1,145 employment complaints. USDA closed a total of 512 employment

complaints. At the end of the fiscal year, USDA had an inventory of 637 open employment complaints.

Table 3 below provides the number of complaints in the inventory for FY 2021 in comparison to the previous fiscal year. The data shows a decline in inventory at each of the significant stages of the employment complaint inventory.

Table 3
Inventory of Employment Complaints Processed at USDA

Fiscal Year	Beginning Inventory (A)	Complaints Filed (B)	Total A + B	Complaints Closed	Ending Inventory
2020 ⁸	756	389	1,145	512	637
2021	631	346	977	411	567

Source: FY 2020 and FY 2021 462 Reports.

Section C – Top Three Most Frequently Alleged Bases in Formal Employment Complaints Filed with USDA

Introduction

USDA prohibits discrimination on the basis of race, color, national origin, age (40 or older), mental and/or physical disability, sex (including pregnancy, sexual orientation or gender identity), genetic information, religion, reprisal/retaliation, marital status, parental status, or political beliefs. It is also USDA’s policy to process complaints of employment discrimination in a fair, equitable, and timely manner.⁹

Summary of Data

Table 4 provides data on the top three most frequently alleged bases¹⁰ in formal EEO complaints filed with USDA. The three most frequently cited bases in formal EEO complaints filed in FY 2021 are: (1) retaliation; (2) race; and (3) sex. The three

most frequently cited bases in formal EEO complaints filed in FY 2020 were also: (1) retaliation; (2) race; and (3) sex.

Complaints Alleging Retaliation

Retaliation was the most frequently alleged basis in formal EEO complaints at USDA for both FYs 2020 and 2019. In FY 2021, 47 percent of complaints cited retaliation as a basis as compared to 57 percent in FY 2020.

Complaints Alleging Race Discrimination

Race was the second most frequently alleged basis in formal EEO complaints at USDA in FY 2021. In FY 2021, 41 percent of complaints cited race as a basis as compared to 43 percent in FY 2020.

⁸ After reconciliation, the number of complaints filed is 389 and closed cases is 512 according to FY 2020 462 report.

⁹ Complainants may allege multiple bases in a single complaint.

¹⁰ Source: FY 2020 and FY 2021 No FEAR Reports

Complaints Alleging Sex Discrimination

Sex was the third most frequently alleged basis in formal EEO complaints at USDA in FY 2021. In FY 2021, 32 percent of complaints cited sex as a basis compared to 43 percent in FY 2020.

Table 4
Top Three Most Frequently Alleged Bases in Formal Complaints Filed with USDA

Fiscal Year	Retaliation	Race	Sex
2020	224	170	168
2021	162	142	111

Source: FY 2020 and FY 2021 462 Reports.

Section D – Employment Complaint Inventory by Agencies and Mission Areas with Highest Total Inventory

Introduction

This section contains data regarding the top three USDA agencies and/or Mission Areas with the highest total inventory and the number of complaints filed against them.

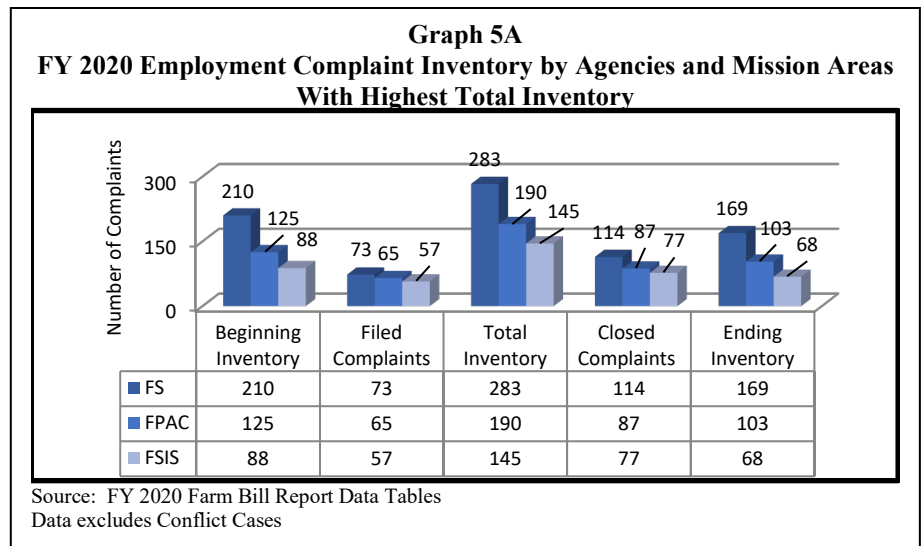
Out of the 397 employment complaints filed with USDA during FY 2020, the respective top three agencies had the following totals: FS accounted for 73 complaints; FPAC accounted for 65 complaints; and FSIS accounted for 57 complaints.

Summary of Data

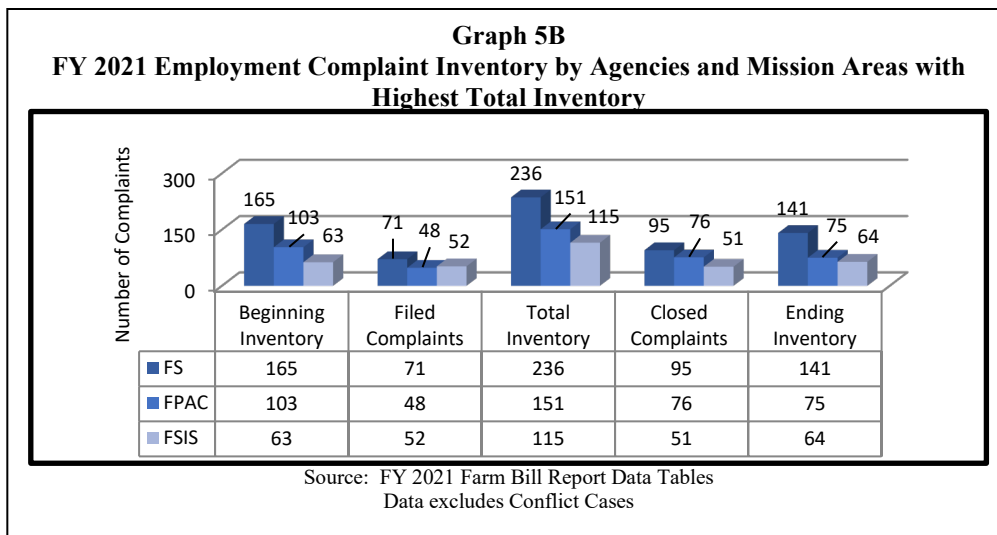
In FY 2021, the employment complaint inventory of FS, FPAC, and FSIS accounted for approximately 51 percent (502 complaints) of the total USDA complaint inventory¹¹ (982). Out of the 342 employment complaints filed with USDA during FY 2021, the respective top three agencies had the following totals: FS accounted for 71 complaints; FPAC accounted for 48 complaints; and FSIS accounted for 52 complaints.

Graphs 5A and 5B provide data on the top three agencies and/or Mission Areas with the highest total employment complaint inventory. The data shows FS, FPAC and FSIS were consistently the top three agencies with the highest total inventory for the two-year period (See Graphs 5A and 5B).

In comparison, the FY 2020 employment complaint inventory of FS, FPAC and FSIS accounted for approximately 53 percent (618 complaints) of the total USDA complaint inventory (1,169).



¹¹ FY 2021 data from Farm Bill Report Data Tables. The data from FY 2021 Farm Bill Report Data Tables from USDA Civil Rights Enterprise System dated January 27, 2022, shows the following: 640 as Beginning Balance, 342 as Complaints filed, 982 as Total Inventory, 419 as Complaints closed, and 563 as Ending Inventory.



Section D.1 – Employment Complaints Filed Per Capita in Top Three Agencies with Highest Inventories

Introduction

This section contains data and information for the top three USDA agencies and/or Mission Areas with the highest total inventory and the number of EEO complaints filed per capita.

Table 6 displays data on those agencies with the highest inventories and their respective complaints filed per capita (per 1,000 employees).

Summary of Data

In FY 2021, the USDA agencies with the highest employment complaint inventories were FS, FPAC, and FSIS. The number of complaints filed as a percent of their individual agency’s total work force (per capita 1,000 employees) indicates FS at 2.5, FPAC at 3.4 and FSIS 5.9, respectively.

The same agencies, FS, FPAC, and FSIS, were also the highest employment complaint inventories in FY 2020. The number of complaints filed as a percent of their individual agency’s total work force (per capita 1,000 employees) indicates FS at 2.5, FPAC at 4.5 and FSIS 6.6.

Table 6
Formal Employment Complaints Filed Per Capita in Top Three Agencies with Highest Inventories

USDA Agency	Agency Total Workforce ¹	Number Complaints Filed ²	Number of Complaints Filed as % of Total Work Force	Per Capita (per 1,000)
FY 2020				
FS	28,894	73	0.25%	2.5
FPAC ³	14,572	65	0.45%	4.5
FSIS	8,617	57	0.66%	6.6
FY 2021				
FS	28,724	71	0.25%	2.5
FPAC ³	14,124	48	0.34%	3.4
FSIS	8,854	52	0.59%	5.9
FY 2021 Department-wide ⁴	91,873	346	0.37%	3.7
FY 2019 Government-wide ⁵	3,002,119	15,070	0.50%	5.0

Source:

¹ MD-715 Workforce Table A-2, Agency data only include permanent workforce

² FY 2020 and FY 2021 Farm Bill Report Data Tables

³ Does not include FPAC Business Center Employees (2,991 FSA, 10,741 NRCS, and 392 RMA employees)

⁴ FY 2021 MD-715, Aggregate, Table A-1, Department-wide data include permanent and temporary workforce

⁵ EEOC FY 2019 Federal Sector Report Data--Table B-1. FY 2020 Government-wide data is currently unavailable.

<https://www.eeoc.gov/federal-sector/reports>

Section E: Average Processing Time for Employment Complaints

Introduction

For FY 2021 report, OASCR is providing the Average Processing Time (APT) for employment complaints in the three categories that follow: 1) Average Days for USDA to Complete Investigations, 2) Average Days for USDA to Issue Final Agency Decisions, and 3) Average Days for EEOC Administrative Judge to Issue Final Agency Decisions. The categories provided will help distinguish the cases processed by USDA and those over which EEOC retained jurisdiction through issuance of the final order.

Average Processing Time to complete EEO Investigations:

There has been a reduction in the time required to complete EEO investigations from 203 days in FY 2020 to 154 in FY 2021, well below the regulatory time frame of 180 days. This represents a reduction, on average, of 49 days to complete an investigation. (See Table 7)

Average Processing Time for USDA to issue Final Agency Decisions:

The average processing time for USDA to issue Final Agency Decisions (FADs) in FY 2021 was consistently below the regulatory time frame of 60 days. On average, 56 days in FY 2021 and 42 days in FY 2020 for USDA to issue Final Agency Decisions. (See Table 8)

Table 7
Average Days to Complete EEO Investigations

Agency	Average Days In FY 2020	Average Days in FY 2021
USDA	203	154
AMS	217	140
APHIS	166	150
ARS	183	143
CCD	247	194
ERS	205	137
FAS	235	149
FNS	165	143
FS	174	132
FSIS	198	137
FSA	228	130
NASS	180	178
NIFA	133	-
NRCS	205	128
RD	181	187
RMA	135	141

Source:
FY 2020 and FY 2021 462 Reports
Part IX, Summary of Investigations Completed, Section A
Two cases in NIFA are conflict cases and the data are included in CCD figure

Average Processing Time for EEOC to issue Final Agency Decisions:

The average processing time where the EEOC Administrative Judge issued a final agency order (decision) decreased from 973 days in FY 2020 to 931 days in FY 2021. EEOC retained jurisdiction over the cases until the final order was issued. (See Table 8)

Table 8
Average Days to Issue Final Agency Decisions by USDA and EEOC

	USDA Average Days in FY 2020	USDA Average Days in FY 2021	EEOC Average Days in FY 2020	EEOC Average Days in FY 2021
USDA	42	56	973	931
AMS	32	64	788	1,059
APHIS	42	79	926	1,049
ARS	38	40	695	1,481
CCD	47	57	1,001	807
ERS	-	-	603	-
FAS	52	28	332	886
FNS	24	26	966	943
FS	39	53	1,083	923
FSIS	37	43	861	753
FSA	52	54	1,007	1,020
NASS	35	-	1,436	-
NIFA	15	-	-	-
NRCS	43	56	835	1,016
RD	47	103	795	927
RMA	135	61	887	-

Source: FY 2020 and FY 2021 462 Reports
Part VI, Summary of Closures by Category, Sections C and D
Note: CCD data includes Agency conflict cases

Section F – Employment Complaints Resolved 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 may include complaints with a variety of bases and issues.

Summary of Data

Table 9 shows that from FY 2020 to FY 2021, the number of findings of discrimination issued with an EEOC Administrative Hearing decreased by six, and the number of findings without an EEOC Administrative Hearing decreased to zero during FY 2021.

Table 9
Employment Complaints Resolved with a Finding of Discrimination

Fiscal Year	With an EEOC Administrative Hearing	Without an EEOC Administrative Hearing
2020	7	3
2021	1	0

Source: FY 2020 No FEAR Act Annual Report

Section G – Personnel Actions Taken Following Resolution of Employment Complaint by Either a Settlement Agreement or Finding of Discrimination

In FY 2021, 64 complaints were voluntarily resolved by a settlement agreement and one (1) final agency order. The total number of personnel actions taken by USDA agencies following the resolution of employment complaints was 27 (See Table 10).

Detailed information regarding the number and types of actions taken, including monetary and non-monetary, following the resolution of each complaint in FY 2021 is provided in Part III, Exhibit 2-1: Number and Type of Personnel Actions Taken Following Resolution of Employment Complaints

Table 10
Personnel Actions Taken Following Resolution of Employment Complaints by Either a Settlement Agreement or Finding of Discrimination in FY 2021

Personnel Actions	FY 2021
Disciplinary Action Modified	2
Disciplinary Action Rescinded	4
Hire Non-Retroactive	3
Hire Retroactive	1
Promotion Non-Retroactive	0
Promotion Retroactive	1
Reassignment	9
Reinstatement	1
Removals Rescinded and Voluntary	6
Total	27

Source: FY 2021 Farm Bill Report Data Tables

Section H – Administrative Disciplinary Actions

Summary of Data

Table 11 contains the number of disciplinary actions taken against employees who were found to have committed prohibited acts of discrimination, retaliation, harassment, or

prohibited personnel practices (including those acts discovered in conjunction with investigations of whistleblower protection or civil rights complaints).

Table 11
USDA Disciplinary Actions for Fiscal Years 2020–2021

TYPE OF ACTION	FY 2020						FY 2021					
	DISC.	RET.	HAR.	PPP	WBP	TOTAL	DISC.	RET.	HAR.	PPP	WBP	TOTAL
REMOVAL	0	0	0	0	0	0	0	0	0	0	0	0
15 DAY OR MORE	0	0	0	0	0	0	0	0	0	0	0	0
14 DAY OR LESS	1	2	5	0	1	9	0	0	0	0	0	0
REDUCTION IN GRADE	0	0	0	0	0	0	0	0	0	0	0	0
REDUCTION IN PAY	0	0	0	0	0	0	0	0	0	0	0	0
LOR	1	0	4	0	0	5	1	0	0	0	0	0
TOTAL DISCIPLINE	2	2	9	0	1	14	1	0	0	0	0	1

Source: FY 2020 and FY 2021 No FEAR Act Annual Reports.

Table

Abbreviations:
Disc. = Discrimination;
Ret. = Retaliation;
Har. = Harassment;
PPP = Prohibited Personnel Practice;
WBP = Whistleblower Protection Act; and
LOR = Letter of Reprimand.

PART III

Fiscal Year 2021 Complaint Data Tables by USDA Agency

Section I – Program Discrimination Complaint Data by USDA Agency

Summary of Data

This section provides summary data for program complaints in FY 2021 for each USDA agency. References are made to the exhibits section of this report regarding detailed program complaint data for each USDA agency.

Table 12
Program Complaints Inventory During FY 2021

Agency	Beginning Complaint Inventory	Complaints Filed	Total Complaint Inventory During FY 2021	Closed	Ending Complaint Inventory	Exhibit 1 Page(s)
AMS	3	1	4	1	3	1
APHIS	1	0	1	0	1	1
FNS	48	80	128	82	46	1-4
FS	10	4	14	9	5	5
FSA	77	40	117	34	83	5-8
NIFA	3	1	4	2	2	8
NRCS	5	4	9	3	6	8-9
Other Government Agency ¹²	1	1	2	0	2	9
RD	152	85	237	96	141	9-16
RMA	0	4	4	0	4	16
Total USDA	300*	220	520	227	293	1-16

*This number differs from the FY 2020 Farm Bill Report ending inventory due to database reconciliation.

¹² Other Government Agency refers to those complaints over which both USDA and another Federal Agency have jurisdiction.

Section II – Employment Complaints Data by USDA Agency

Summary of Data

This section provides summary data for employment complaints in FY 2021 for each USDA agency. References are made to the exhibits section of this report regarding detailed employment complaint data for each USDA agency.

Table 13: Employment Complaints for FY 2021

	Beginning Complaint Inventory*	Complaints Filed	Total Complaint Inventory During FY 2020	Closed	Ending Complaint Inventory	Exhibit 2 Page(s)
AMS	23	18	41	19	22	1
APHIS	66	39	105	31	74	1-2
ARS	17	15	32	14	18	2
CCD**	83**	39**	122**	44**	78**	2-3
ERS	2	1	3	0	3	-
FAS	19	9	28	11	17	3
FNCS	24	9	33	20	13	3-4
FPAC	103	48	151	76	75	4-6
FS	165	71	236	95	141	6-8
FSA***	1***		1***	***		***
FSIS	63	52	115	51	64	8-10
GIPSA	1	0	1	0	1	-
NASS	2	4	6	0	6	-
NIFA	1*	0	0	0	0	-
OCFO	22	17	39	27	12	10
OIG	7	0	7	2	5	10
RD	41	20	61	28	33	10-11
RMA***	2***		2***	***		***
Unassigned	3***	***	***	***	3***	***
Total USDA*	640*	342	982	419	563	1-11

Source: FY 2021 Farm Bill Report Data Tables. The data from FY 2021 Farm Bill Report Data Tables from USDA Civil Rights Enterprise System dated January 27, 2022, shows the following: 640 as Beginning Balance, 342 as Complaints filed, 982 as Total Inventory, 419 as Complaints closed, and 563 as Ending Inventory.

Note: For FY 2021, CCD data includes Agency’s conflict and DEPT cases.

*This number differs from the FY 2020 Farm Bill Report ending inventory due to database reconciliation.

**Data from the CCD’s certified FY 2021 462 report dated 10/26/2021. Per FY 2021 Farm Bill Data Tables, CCD data is as follows: 84 cases for Beginning Complaint Inventory, 39 Complaints Filed, 123 as Total Complaint Inventory in CCD. In addition, during FY 2021, 45 of CCD cases as Closed, and 78 as Ending Complaint Inventory in CCD. In addition, the average processing time to close 45 cases per the FY 2021 Farm Bill Data Table is 542 days.

***The “Summary section” of the FY 2021 Farm Bill Report Data Tables showed three (3) cases without agency designation but with other relevant info such as Beginning Inventory and Ending Inventory. Details of the three (3) cases are listed in the “Unassigned” category above. In the “Details by Agency” section, three (3) cases, without relevant data, were identified as cases in two agencies in FPAC Mission Area (1 from FSA, and 2 from RMA) and were counted as part of the total 982 cases.

PART IV: Recommendations

Based on the findings within the report, USDA will implement select mitigation and complaint prevention strategies annually. Specifically, OASCR will:

- Increase Alternative Dispute Resolution efforts to resolve Program discrimination and EEO Complaints.
- Take steps necessary to reduce substantially the processing time on Program Complaints. The reduction in time to process Program Complaints, on average, is targeted as 365 days in FY 2023 and 180 days in FY 2024.
- Monitor USDA agency's efforts in assessing the participation rates of protected groups in programs and services and its methods to increase their representation.
- Collaborate with USDA agencies to develop methods to resolve program complaints filed by issues, bases, or geographic locations.
- Implement and schedule civil rights training and education modules to address complaint allegations on the bases of age, disability, race, sex, and retaliation.

EXHIBITS

Exhibit 1: FY 2021 USDA Program Complaint Inventory

Exhibit 2: FY 2021 USDA Employment Complaint Inventory

Exhibit 2-1: FY 2021 Number and Type of Personnel Actions Taken Following Resolution of Employment Complaints

The exhibits listed above will be made available on our website. In the interim, you may obtain a copy of the exhibits by contacting the Office of the Assistant Secretary for Civil Rights, Information Research Service, at (202) 401-0005 or (800) 795-3272 (toll free) or by sending an email request to CR-INFO@usda.gov.