

**Forest Service**  
**Fiscal Year 2016 Notification and Federal Employee Antidiscrimination and Retaliation (No FEAR) Act Annual Report**

**Introduction**

This report looks at fiscal year (FY) 2016 efforts by the U.S. Department of Agriculture's (USDA) Forest Service (Agency) to fulfill the intent of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act). For ease of reading, this document is divided into sections that follow the No Fear Act report guidelines. Briefly, in sections A-D, you will find complaint data organized with 2016 data first, followed by comparison figures (usually for fiscal year (FY) 2015 and FY 2014) marked with bullets. In Section D you will find processing time frame information, followed by the required causal analysis. Section E highlights actions taken or planned, followed by an overview of knowledge gained.

**A. Trends Examination, Causal Analysis, Knowledge Gained and Action Taken/Planned**

**1. Number of Complaints Filed**

In FY 2016 the Agency's number of complaints *per capita* is proportional to USDA. The U.S. Forest Service complaints *per capita* was ~0.4% compared to ~ 0.5% for USDA. The Forest Service had 158 formal complaints filed in FY 2016. This is a slight increase from FY 2015, however, the Agency remains on a lower trend in comparison to the 180 complaints filed in FY 2013. For comparison:

- In FY 2015, 153 formal complaints were filed.
- In FY 2014, 150 formal complaints were filed.

**2. Number of Filers**

There were 143 filers in FY 2016. This is a slight decrease from the total number of filers in FY 2015. For comparison:

- There were 148 filers in FY 2015.
- There were 141 filers in FY 2014.

**3. Number of Repeat Filers**

There were 14 repeat filers (filing out of 158 complaints) in FY 2016. Of these, ten individuals filed 2 complaints each; three individuals filed 3 complaints each and one person filed 4 complaints. For comparison:

- In FY 2015, there were 5 repeat filers.
- In FY 2014, there were 7 repeat filers.

**4. Number of Bases Alleged in Complaints**

In FY 2016, 158 formal complaints were filed, and the most frequently cited bases on the percentage of cases filed in which those bases were:

- Reprisal: 92 complaints (58%)
- Disability: 55 complaints (35%)
- Age: 49 complaints (31%)
- Sex: 48 complaints (30%)
- Race: 34 complaints (22%)

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In FY 2015, 153 formal complaints were filed, and the most frequently cited bases on the percentage of cases filed in which those bases were raised:

- Reprisal: 96 complaints (63%)
- Disability: 58 complaints (38%)
- Sex: 57 complaints (37%)
- Age: 44 complaints (29%)
- Race: 40 complaints (26%)

In FY 2014, 150 formal complaints were filed, and the most frequently cited bases for filing were:

- Reprisal: 91 complaints (60%)
- Sex: 65 complaints (43%)
- Race: 60 complaints (40%)
- Age: 49 complaints (33%)
- Disability: 35 complaints (23%)

In FY 2016, the Agency compared to prior fiscal years, complaints increased and decreased as follows:

- Complaints based on age increased by 9%
- Complaints based on religion increased by 300%
- Complaints cited reprisal as basis decreased by 4%
- Complaints based on disability decreased by 5%.
- Complaints based on race decreased by 15%
- Complaints based on sex decreased by 16%
- Complaints based on national origin decreased by 46%

**5. Number of Issues Alleged in Complaints**

Of the 158 formal EEO complaints filed in FY 2016, the most frequently cited issues were:

- Harassment (non-sexual): 103 complaints (65%)
- Disciplinary Action: 27 complaints (17%)
- Terms and conditions: 28 complaints (18%)
- Promotion/Non-Selection: 32 complaints (20%)
- Reasonable Accommodation: 26 complaints (16%)
- Assignment of Duties: 27 complaints (17%)

In FY 2015, the most cited issues were:

- Harassment (non-sexual): 98 complaints (64%)
- Terms and conditions of employ: 54 complaints (35%)
- Disciplinary Action: 57 complaints (37%)
- Assignment of Duties: 31 complaints (20%)
- Promotion/Non Selection: 51 complaints (33%)
- Reasonable Accommodation: 26 complaints (18%)

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In FY 2014, the most cited issues were:

- |                                    |               |       |
|------------------------------------|---------------|-------|
| ○ Harassment (non-sexual):         | 91 complaints | (61%) |
| ○ Terms and conditions of employ:  | 61 complaints | (41%) |
| ○ Disciplinary Action:             | 27 complaints | (18%) |
| ○ Assignment of Duties:            | 46 complaints | (31%) |
| ○ Promotion/Non Selection:         | 33 complaints | (22%) |
| ○ Performance Evaluation/Appraisal | 26 complaints | (17%) |

In FY 2016, complaints citing harassment (non-sexual) increased by 5%; performance evaluation/appraisal increased by 19%, and training increased by 11%. Complaints citing telework increased from zero (0) to 7 complaints. However, there were decreases in the following:

- Complaints citing reasonable accommodation decreased by 4%
- Complaints citing assignment of duties decreased by 13%
- Complaints citing promotion/non-selection decreased by 38%
- Complaints citing terms and conditions of employment decreased by 48%
- Complaints citing disciplinary actions decreased by 53%

## **6. Findings of Discrimination**

In FY 2016, the USDA, Office of the Assistant Secretary for Civil Rights (OASCR) issued 60 Final Agency Decisions for the Forest Service. The disposition is as follows:

- There were zero findings of discrimination by the Equal Employment Opportunity Commission (EEOC). However, there were 2 cases won on appeal from the Office of Federal Operations.
- 16 complaints were procedurally dismissed.
- 44 Final Agency Decisions (FAD) with no finding of discrimination .

In FY 2015, the USDA, Office of the Assistant Secretary for Civil Rights (OASCR) issued 77 decisions for the Forest Service. The disposition is as follows:

- There was 1<sup>1</sup> finding of discrimination based on disability harassment issued by the Equal Employment Opportunity Commission (EEOC) on May 7, 2015.
- 18 complaints were procedurally dismissed.
- 49 Final Agency Decisions (FAD) with no finding of discrimination.

Also in comparison, in FY 2014, OASCR issued 86 decisions. Of these:

- There were two findings of discrimination; one for non-sexual harassment and another for discrimination based on disability.
- 19 complaints were procedurally dismissed.
- 65 Final Agency Decisions (FAD) with no finding of discrimination.

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<sup>1</sup> 1 finding with 3 consolidated cases.

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**B. Average Length of Time to Complete Each Stage of the Complaints Process**

Once a formal complaint is filed, OASCR is responsible for accepting or dismissing the action and conducting and completing the investigation. EEO regulations provide that this process must be completed within 180 days.

In FY 2016, the average number of days in the investigation stage was 202 days. For comparison:

- In FY 2015, the average number of days in the investigation stage was 199 days.
- In FY 2014, the average number of days in the investigation stage was 210 days.

The USDA's role is to ensure that the hearing request is processed within 15 days of receipt of election from either the complainant or EEOC.

In FY 2016, the average number of days a complaint was in the hearing process was 925 days. For comparison:

- In FY 2015, the average number of days a complaint was in the hearing process was 959 days.
- In FY 2014 the average number of days a complaint was in the hearing process was 971 days.

Of all of the stages of the complaint process, the final agency actions stage took the greatest number of days.

In FY 2016, the average number days for processing final agency actions was 1,315 days. For comparison:

- In FY 2015, the average number of days was 1,306 days.
- In FY 2014, the average number of days was 1,036 days.

**C. Pending Complaints Filed in Previous Fiscal Years**

At the beginning of FY 2016 there were 315 pending complaints, a slight increase from FY 2015 which yielded 289 pending complaints.

One of the contributing causes for the carry over of complaints for FY 2016, was the decertification of the *Sedillo Class*. Many of the cases required updates to the complaint database for proper disposition. The other factors for cases to be carried over from year to year included long delays before complainants are given EEOC hearings, delays in the issuance of final agency decisions as well as communication attempts with the complainants. The Agency has completed auditing of its cases and is currently working with the OASCR in closure efforts through the Expedited Resolution Process (ERP). The ERP helped resolve the majority of cases, many of which dated back to 1998. This process has helped save Agency resources in order to focus on other proactive measures and helped bring closure to the complainants affected by the lengthy litigation.

**D. Total Number of Pending Complaints Where Investigations Exceed Required Time Frames**

The OASCR Employment Investigation Division (EID) has complete responsibility for the management of the investigation process. Under a renewable Service Level Agreement (SLA), the Department's EID is responsible for compiling all reports of investigations (ROIs), and the Agency is responsible for providing a point of contact to EID and assisting EID in obtaining relevant documents and assisting EID in ensuring cooperation from witnesses. In FY 2015, the Agency launched a change initiative to streamline and optimize the investigation process by changing the points of contacts for liaison responsibilities from Employee Relations to the field Civil Rights Directors.

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In FY 2016, there were 138 investigations completed. Of these, 60 (or 43% of investigations) exceeded the regulatory timeframe.

- In FY 2015, there were 139 investigations completed. Of these, 46 (or 33% of investigations) exceeded the regulatory timeframe.
- In FY 2014, there were 137 investigations completed, with 62 (or 45% of investigations) exceeding the regulatory timeframe.

Factors that contributed to processing delays include delays in the acceptance/dismissal process; delays in procurement process; difficulties in obtaining witness and complainant statements in a timely manner; untimely submission of document requests; complainant requests for amendments; payment delays which affected the assignment and scheduling of investigations, and resubmission of investigations back to the vendor for additional information.

### **Causal Analysis**

In FY 2016 the Agency experienced a slight increase in overall formal complaint filings. However, this increase was minimal in comparison to FY 2013, which marked our highest complaint inventory in 5 years. The number of filers was also slightly lower in FY 2016 as compared to the prior two years.

A close examination of the Agency's units' complaint activity found that there were increases in formal complaint activity in the following units: Southern Region (R8), Southwestern Region (R3), Job Corp (JCC), National Forest System (R52), Pacific Northwest (R6), Business Operations (R51), Southern Research Station (R33), Alaskan Region (R10) and International Institute of Tropical Forestry (IITF/R41)).

#### **FY 2016**

- Business Operations (R51) had 23 complaints, a 10% increase compared to FY 2015 (21).
- Pacific Northwest (R6) had 20 complaints, a 11% increase compared to FY 2015 (18).
- National Forest System (R52) had 3 complaints, a 50% increase compared to FY 2015 (2).
- Job Corps (JCC) had 29 complaints, a 53% increase compared to FY 2015 (19).
- Southwest Region (R3) had 8 complaints, a 60% increase compared to FY 2015 (5).
- Southern Region (R8) had 17 complaints, a 89% increase compared to FY 2015 (9).
- Southern Research Station (R33) had 6 new complaints, an increase by 6 complaints compared to FY 2015 (0).
- Alaskan Region (R10) had 1 new complaint, an increase of 1 complaint compared to FY 2015 (0).
- International Institute of Tropical Forestry (IITF/R41) had 1 new complaint, an increase by 1 complaint compared to FY 2015 (0).

In spite of the minimal rise of our overall national numbers for complaints, the Agency has experienced decreases in new complaint filings throughout the Agency in the following Regions, Stations and Area:

- Pacific Southwest Forest and Range Experiment Station (R27) had no complaints filed in FY 2016, a 100% decrease from FY 2015 (1)
- Rocky Mountain Research Station (R22) had no complaints filed in FY 2016, a 100% decrease from FY 2015 (1)

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- Research and Development (R55) had no complaints filed in FY 2016, a 100% decrease from FY 2015 (2)
- Chief Financial Officer (CFO/R53) had 1 complaint a 67% decrease from FY 2015 (3)
- Intermountain Region (R4) had 1 complaint, a 67% decrease compared to FY 2015 (3)
- Eastern Region (R9) had 2 complaints, a 60% decrease compared to FY 2015 (5)
- Rocky Mountain (R2) had 2 complaints, a 60% decrease compared to FY 2015 (5)
- Washington Office (WO) had 1 complaint, a 50% decrease compared to FY 2015 (2)
- Law Enforcement & Investigation (LEI) had 5 complaints, a 49% decrease compared to FY 2015 (9)
- Northern Region (R1) had 2 complaints, a 33% decrease compared to FY 2015 (3)
- Pacific Southwest Region (R5) had 35 complaints, a 17% decrease compared to FY 2015 (42)

Notably, the Programs and Legislation (R54), Office of the Area Director (42), Forest Products Laboratory (R32), Northeastern Research Station (R24), State and Private Forestry (R56), Pacific Northwest Research Station (R26), and the North Central East Forest Experiment Station (R23) do not have any active formal EEO complaints, and have not had any within the past 3 or more years.

The Agency experienced a notable increase in the number of repeat filers (14) in FY 2016. There was a 180% increase in comparison to FY 2015 (5), and a 100% increase in comparison to FY 2014 (7).

Of the 158 complaints filed in FY 2016, the majority were filed based on allegations of harassment (65%), reprisal (58%), disability (35%), age (31%) and sex (30%).

Non-sexual harassment claims remains the top leading issue raised by Complainants. This is consistent with the Federal government workforce trends. In FY 2016, harassment claims have increased by 4% in comparison to FY 2015. Many employees use the term harassment to describe unfavorable work conditions or assignments, without any nexus to a protected basis. Many Agency harassment cases are non-sexual and involve general dissatisfaction with the work environment, work assignments, communication styles, and employee accountability. The Agency has increased its focus on its anti-harassment training and is continuing to provide more harassment training to improve the work environment for all Agency employees. In an effort to address this trend, the Agency is implementing a new training, Equal Employment Opportunity: Learning and Applying Skills for Workplace Success. This training has been added to the Agency's AgLearn curriculum and equips learners with the ability to identify civil rights/EEO matters and proactively apply the principles of equal employment opportunity to daily work situations.

Reprisal remains the most frequently cited basis for complaints, which is consistent with the Federal government workforce trends. Due to this fact, a focus in FY 2016 was placed on Leadership training through the institution of Civil Treatment for Managers Training. Leadership training will continue to be a focal point in FY 2017 concerning identifying and eliminating reprisal or the perception of reprisal. Although reprisal is the most cited basis, the Agency saw a decrease of 4% in comparison to FY 2015.

Claims based on allegations sex discrimination represents 30% of the Agency's new complaints, however, the Agency saw a decrease of 16% in comparison to FY 2015. The Agency's investment in continued engagement activities nationally and locally have lead to actions taken to address reports of misconduct, harassment and forms of discrimination that have directly reduced the number of complaints. While work remains, there is progress in resolving employee complaints and addressing misconduct.

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**E. Action Taken and/or Planned**

**Key Actions to Address Work Environment**

**Increasing Capacity and Expertise:**

- Working with OASCR and the Office of the General Counsel (OGC), the Forest Service has been successful in developing and delivering a number of robust trainings and presentations throughout the Agency on a variety of topics, such as navigating the EEO process, Reasonable Accommodations, Program Complaints, Lesbian Gay Bisexual Transgender (LGBT), reprisal, and Special Emphasis programs. OASCR trained and certified multiple Agency civil rights employees to serve as mediators, as well as conducted EEO counselor refresher training to all Agency EEO Counselors. OGC provided training to Title VI practitioners, focusing on program complaints and compliance reviews. And both OGC and OASCR provided numerous trainings to each and every Field Civil Rights Director in all areas of civil rights.
- In FY 2016 two compliance reviews were conducted and completed. CR Specialists performed a comprehensive assessment of the Southern Region (R8) and Job Corps (JC) CR program data and records. CR staff collaborated this year with Research and Development (R&D) staff to finalize a new online survey tool and determined the survey method (census approach). This survey has received endorsement by the National R&D Deputy Area and full concurrence and support by the Union. The web-based survey is convenient, 508 compliant and confidential for all employees. Completion rate for Southern Region was 41% and 50% for Job Corps.
- On January 25-29, 2016, the Washington Office, Office of Civil Rights hosted a National Resolving Official Training for over 45 Forest Service leaders from across the nation in Sacramento, CA. The 5-day training allowed new and returning Resolving Officials to learn and discuss various topics including new developments in alternative dispute resolution, legal sufficiency in settlement agreements, cross cultural and multi generational communication, conduct and performance, and reasonable accommodations. The Cadre participated in mock mediations and role playing to strengthen resolution skills in a variety of conflict scenarios. During the January training, collaborative expert trainers from Civil Rights, Human Resources, Employee Relations, OGC, OASCR and the Conflict Management Program provided cross-cutting materials for the emerging Cadre to take back to their Regions, Stations and Area. At the conclusion of the 32-hour training, the Cadre received certification to act in the capacity of Resolving Officials for the next 2 year period.
- The Agency prioritized lesbian, gay, bisexual, and transgender (LGBT) issues, and sponsored a DC PrideFest outreach booth, providing Forest Service and USDA employment and opportunity information to reach nearly 275,000 attendees. In addition to providing LGBT training throughout the Agency and supporting USDA's mandatory LGBT training, the Agency incorporated a collateral duty LGBT Special Emphasis Program Manager (SEPM). We have, and will continue to focus on this area, which is one of the more eminent civil rights issue of our time.
- Limited Delegation Authority for EEO cases was returned to Senior Executive Line Officers. Training was provided and focused on the Officers' roles and responsibilities for exercising delegated authority for resolving EEO as well as the benefit of resolving cases at the earliest possible stage.
- Southern Region provided support to The Urban Forestry Program at Southern University. The funds will

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be used to support capacity building, program operations, publications, and awards as well as to support efforts toward academic program accreditation, job training/internships, the GIS/Hydrology lab, the Urban Tree Research Farm, and the annual Urban Forestry Conference.

- Southern Region provided support of miscellaneous initiatives addressing such issues as collaboration and outreach to overcome the effects of historic discriminatory treatment; strengthening and expanding the capacity of land grant colleges and universities to provide education; ensure that diverse public perspectives are included in agency decisions and activities; provide student work experience and internships; support academic curriculum; improve the diversity representation and skill development of the federal workforce; and advocate the resolution of underserved community/protected groups issues and provide technical assistance and information.
- Pacific Northwest awarded the first Translation Services Contract (TSC) in spring of 2016. The contractor offers more than 170 languages and to date the region has responded to requests for interpretations in Spanish, Russian, and Cambodian. To further, enhance the efforts made with removing language barriers between the region and the communities serviced, three Limited English Proficiency (LEP) training sessions were designed and deployed to educate employees about the translation services contract.
- The Alaskan Region renewed an agreement between Alaska Native Science & Engineering Program (ANSEP) and the Alaska Region. The Chugach National Forest has served as an on-site representative to many of the ANSEP recruitment events the forest participates in the program by placing a high school “bridge” intern and/or college intern with both the Resources and Engineering Staff Groups. The ultimate goal is to recruit highly qualified ANSEP interns and graduates into permanent Forest Service positions.
- The Agency, supported by the OGC and OASCR, undertook significant efforts to improve the workforce environment for women in the Pacific Southwest Region. The Pacific Southwest Region CR worked collaboratively with senior leadership in all of the region’s program areas, as well as Human Resources, Employee Relations, Human Relations, and the Washington Office Civil Rights Director in addressing employment issues. In addition, collaboration occurred with the Pacific Southwest Region Deputy Regional Forester of Administration and Pacific Southwest on implementation and reporting of efforts to enhance its civil rights program.

**Completion of Civil Rights Redesign:**

- The Civil Rights realignment was approved March 21, 2016 by Robert Bonnie, Under Secretary, Natural Resources and Environment to consolidate multiple Civil Rights field offices into one organizational unit reporting directly to the Civil Rights Director and the Civil Rights Director reporting directly to the Agency head. This realignment demonstrates the Agency’s commitment to improve our work environment and commits efforts to foster an environment that is nondiscriminatory, fair, safe, and equitable to all Forest Service employees on the importance of EEO and civil rights programs.

**Addressing non-sexual harassment and sexual harassment issues:**

- Civil Rights collaborated with Human Resources Management to develop the Anti-harassment policy for the agency. The intent of the new policy is to outline the procedures of how to address complaints and concerns, the roles and responsibilities of the supervisor, Civil Rights and Human Resources Management and included a timeline to address/resolve issues for sexual and non-sexual harassment in the workplace. Civil Rights and Human Resources Management provided the training to return delegation authority in ER/EEO to local leadership.



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- Pacific Southwest Region issued a Prevention of Sexual Harassment Policy letter to all employees on March 31, 2011; March 6, 2012; March 12, 2013; February 28, 2014; February 27, 2015; the most and recent issuance on April 19, 2016. The letter emphasizes that the Region has a zero tolerance policy for sexual harassment and specified that disciplinary action up to and including removal could occur to those who engage in sexual harassment or to those who fail to take prompt and appropriate action to address such conduct. The policy put managers and supervisors on notice of the requirement to report all allegations of sexual harassment and/or reprisal within 24 hours and stresses confidentiality of employees who report. Furthermore, the letter contains an enclosure that identifies multiple points of contact available to employees to report sexual harassment including a telephone hotline where they could report anonymously.
- Face-to-Face Mandatory Prevention of Sexual Harassment (POSH) Communicating Awareness through Inclusiveness “Moving Forward Together” Training: The Pacific Southwest Region combined POSH training with EEO training for eight-hour training sessions for both supervisory and non-supervisory personnel. POSH and EEO are consistently implemented and delivered to all employees (permanent, temporary, seasonal, Pathways participants, detailers, and contractors) to ensure the workforce is aware of what is appropriate workplace behavior and communication. The Pacific Southwest Region had a successful/high accomplishment rate of 98% of employees. The sessions allowed employees to engage in open dialogue or to ask questions or to seek clarity.
- The Agency continued to address the “Unconscious Bias” and work toward a culture shift where a supervisor’s “Duty to Act” does not only include situations involving sexual harassment, inappropriate conduct involving race, religion, color, disability, national origin, pregnancy, genetic information or other protected personal characteristics. Unconscious Bias has been identified as the Department mandated training for FY 2017.
- Pacific Southwest Region Civil Rights Staff conducts Functional Assistance Trips on the Forests and with the Regional Office Staffs. The CR team met with the individual unit’s leadership and staff directors to discuss workplace climate and best approaches to gather non-biased information from employees and managers. Critical conversations in group sessions; surveys; and interviews of employees, managers, and union representatives resulted in numerous observations regarding points of contention that surfaced in the workforce. The results were early identification of issues, exchange of information, problem solving, and development of strategies to improve working relationships among staff members.
- Pacific Southwest Region has a dedicated hotline for reporting allegations of sexual harassment, sexual misconduct, and sexual harassment-related reprisal. This information was sent in a letter, Prevention of Sexual Harassment Policy, to all employees as an enclosure that identified multiple points of contact available to employees to report sexual harassment including a telephone hotline where they could report anonymously.
- Pacific Southwest Region Civil Rights staff has implemented a certification requirement that documents Forest Service employees have received, reviewed, and understood the requirements of the USDA Anti-Harassment policy, including the potential consequences for non-compliance. During FY 2016 the Pacific Southwest Region had 7,037 employees on the rolls; 6,630 employees (98%) completed the certification requirement by September 30, 2016.

**Establishing expectations around conduct and behavior:**

- **New Supervisor Training:** The Forest Service completed AgLearn training assignment of the USDA New Supervisor training to all newly hired and/or newly promoted supervisors. Part of this training

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includes lessons on Cultural Diversity in the workplace and nondiscrimination. The two options for this training are an online course through AgLearn, consisting of 29 online sessions, and a newly-developed blended course which has an in-person component. Five sessions of the blended course were offered across the country. Training assignments will continue as new supervisors are hired/promoted.

- **Emphasis on Ending Harassment and Improving the Work Environment:** The Forest Service is fully dedicated to provide a safe working environment which is free from harassment and discriminatory treatment. Our goal is to create a work environment in which all employees are treated with dignity, respect, and fairness. The Agency and Union partnered and included “Workplace Bullying” in the 2016 Master Agreement which lays a foundation for a safer and more respectful environment. The Agency and the Union again recommitted their unified dedication to ending harassment by crafting an extremely thorough and robust anti-harassment policy which will require all employees who witness or are aware of harassment, including sexual harassment, sexual assault, bullying, and both Equal Employment Opportunity (EEO) related and non-EEO related harassment to report the harassment to a management official. This policy exceeds legal requirements and is believed to be only one of its kind within the Department. The policy will require that inquiries be conducted in each instance of harassment, and will ensure that all necessary remedial actions are promptly taken to ensure safety of victims and accountability of perpetrators.
- **Comprehensive Annual Equal Employment Opportunity (EEO) Training:** The Office of Civil Rights developed a new, engaging and comprehensive employee training suite, entitled *Equal Employment Opportunity: Learning and Applying Skills for Workplace Success*, which brings together information in alternative dispute resolution, reasonable accommodation and the EEO complaints process. This new and improved suite of training provides for educational efficiencies and up-to-date course content and focuses on people building their individual capacities in civil rights awareness and applying this knowledge in their daily lives. The course is designed to gain and hold the attention of learners so that individuals are better aware, use, and retain concepts to eliminate workplace discrimination, harassment and hostile work environments. Developed in FY 2016, the course is scheduled to launch in FY 2017 and will be mandatory for all managers supervisors and employees.

**An Agency-wide Action Engagement Strategy**

- The Office of Civil Rights developed a new, engaging and comprehensive employee training suite, entitled *Equal Employment Opportunity: Learning and Applying Skills for Workplace Success*, which brings together information in alternative dispute resolution, reasonable accommodation and the EEO complaints process. This new and improved suite of training provides for educational efficiencies and up-to-date course content and focuses on people building their individual capacities in civil rights awareness and applying this knowledge in their daily lives. The course is designed to gain and hold the attention of learners so that individuals are better aware, use, and retain concepts to eliminate workplace discrimination, harassment and hostile work environments. The course launched in September 2016 and will be mandatory for all managers, supervisors and employees.
- Ensuring accessibility through Limited English Proficiency (LEP) Program. The Agency is developing Agency-wide LEP information tools, including training, tentatively scheduled for release in the 2<sup>nd</sup> and 3<sup>rd</sup> quarters of FY 2017, and ongoing annually thereafter.
- An Agency-wide Action-Engagement Strategy was developed to respond to trends and concerns raised in the Federal Employment Viewpoint Survey. The comprehensive plan, which is localized to Regions and Research Stations, ensures we engage employees to candidly discuss workplace concerns and join together

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to identify strategies to improve the work environment, while increasing their confidence in leaders' commitment.

- The Forest Service OCR and HRM worked collaboratively with leadership to build a more diverse and highly-skilled workforce that reflects the populations of the United States. Both offices reviewed and updated Supervisory Training Modules to include EEO Training on Leadership and Management of a Diverse Workforce, Communicating Effectively across Cultures, and EEO for Managers and Supervisors, and Competencies Addressing Unconscious Bias. Collaboration included ensuring existing and new on-line supervisory training was reviewed and had accurate information. During FY 2016, five classroom portions of the blended course were provided across the country in: Missoula, Montana; Milwaukee, Wisconsin; Atlanta, Georgia; McClellan, California; and Portland, Oregon.
- Job Corps collaborated with Human Resources, Labor Relations, Equal Employment Opportunity, and Employee Relations to conduct a one-week training session to educate Job Corps supervisors GS-8 to GS-14. The goal was to communicate the Job Corps program's commitment to USDA's Cultural Transformation mission areas of leadership accountability and commitment, outreach and partnership, recruitment and hiring, diversity, training and awareness, employee development and recognition, and creating an inclusive workforce environment. This session instructed Job Corps supervisors on the ins and outs of such issues as misconduct investigations, special emphasis programs, conflict management and prevention, reasonable accommodation, and the EEO process.
- Law Enforcement & Investigations (LEI) made all department policies available for public review and regularly posted on the department's website information about stops, summonses, arrests, reported crime, and other law enforcement data aggregated by demographics. LEI developed and implemented a Traffic Stop Data Collection process, which enabled law enforcement personnel to track and report civil rights demographics of individuals involved in a traffic stop. LEI supervisors held employees accountable for ensuring data related to race and ethnicity is collected when conducting traffic stops, to ensure that the right(s) of all are protected and provide more transparency within law enforcement operations.
- Rocky Mountain Region hosted over 100 Forest Service new employees for a 3-day orientation and training. The intent was to provide key information on alignment with the Strategic Plan, unconscious bias, career planning, benefits and more. A 2-hour presentation: New Conversations for an Inclusive Work Environment was presented to the group of 100 and again to the Ranger Cadre consisting of 50 District Rangers. Topics covered included: small acts of inclusion, unconscious bias and building personal connections.
- Southwestern and Pacific Southwest Region hosted Diversity Boot Camps. The Forest Service continues to focus on outreach to women in fire through several "boot camps" directed specifically to increasing the capacity of women in wildfire management.
- Rocky Mountain Region implemented "Six Minutes for Civil Rights" to provide an informational message and/or tools that will empower and equip leaders to develop skills to integrate civil rights throughout the Region. In follow up to each meeting the information is shared with the Civil Rights Action Team, Special Emphasis Program Managers and Administrative Officers. Topics covered include:
  - ✓ Equal Opportunity Public Notification Policy
  - ✓ LGBT Inclusion in the federal workplace
  - ✓ Cultural Transformation: Continuing the Conversation
  - ✓ Genetic Information Non-discrimination Act (GINA)
  - ✓ Special Emphasis Programs (SEP)

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- ✓ EEO/ADR Complaint Activity
  - ✓ Official Time in the EEO Complaint Process
  - ✓ Civil Rights Redesign Implementation
  - ✓ Conflict Resolution Day
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- Rocky Mountain, Southwestern, Pacific Northwest and Eastern Region’s hosted a three-day course, Working Together: American Indian Tribes and the Forest Service-A Federal Indian Law Training Program, May 10-12, 2016. Over 70 participants met near Santa Fe, NM to learn a wide array of Federal Indian developmental history, laws and policies. Received valuable information regarding how to work directly and effectively with tribal communities. Among the participants 75% were Forest Service employees and 25% were tribal members.
  - Pacific Southwest Region, held a Growth, Respect, Opportunity Workshop (GROW) in FY 2016. The audience included Regional employees and supervisors and was also attended by employees from the Washington Office, Pacific Northwest Region and the Albuquerque Service Center. The primary purpose of the workshop was to open dialogue between Regional managers and employees about the work environment and to solicit input on possible ways to improve the working environment. The workshop gave employees at all levels of the Pacific Southwest Region an opportunity to take part in shaping the new direction of the organization – by sharing personal experiences, getting different perspectives and strategizing around the steps needed to take to achieve our goals. The region-wide workshop focused on the Region’s journey to create an inclusive workforce. Discussions included barriers related to recruitment and retention and coming together in a positive “judgment free” place to build relationships and explore new ideas.
  - Southern Research Station (SRS) took progressive steps and actions in FY 2016 towards improving the work environment and build upon the efforts to create an environment where every Forest Service employee is respected, valued and treated fairly, with respect and dignity. SRS managers and supervisors are visible and diligent in their support and efforts to meet the SRS civil rights goals and equal employment opportunity (EEO) objectives.
  - Southern Research Station is using innovative approaches to engage all employees in work with multi-generations, expansion of outreach activities and partnership approaches for a more inclusive work environment. The Station Director encourages employee participation in cultural activities during special emphasis months and the SRS Business Operations Staff distributes the Special Emphasis Program Month Observance letters to all SRS employees from mailroom as received from the new Civil Rights organization. Below are some of the SEPM activities which took place during FY16:
    - ✓ Southern Research Station Director and Headquarters employees showed their deep appreciation to their veterans with a ceremony on November 10th to recognize and honor their service to their country. LGBT Inclusion in the federal workplace.
    - ✓ Southern Research Station worked in conjunction with the Northern Research Station, Northeastern Area, Forest Products Lab, and Eastern Region to host a Women’s Day of Training Program on for Women’s History Month. SRS’s Partnerships and Strategic Initiatives Director worked in conjunction with the Northern Research Station, Forest Products Lab, Northeastern Area, and Region 9 to host the FY 2016 All Cultures Week Training and Awareness Program. This year’s topics included: LGBT, Accessibility, Genealogy, and Diversity and Inclusion SRS employees presented a presentation during Women's History Month which focused on healthy living.

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- The Agency is consistently providing initial comprehensive No Fear training to new employees as well as bi-annual No Fear Refresher training to all employees on a basis which is consistent with an employees No Fear Comprehensive completion date. This 508c training is available to all employees either electronically through AgLearn, via hardcopy through their regional Civil Rights Office or online at the Civil Rights Intranet <http://fsweb.wo.fs.fed.us/cr/training.html>. Additionally the No Fear Act information is posted in common areas of the Agency.
- A team to oversee and monitor the compliance versus non-compliance of mandatory Civil Rights trainings, to include No Fear was established. Monthly reports are sent to Agency leadership to show the status of their areas of responsibility. For FY 2016 the Agency had 8,439 people whom had been assigned No Fear comprehensive and had a 82.8% completion rate (appendix A). Regarding the No Fear Refresher, the Agency had 26,118 employees whom had been assigned the training for FY 2016 and had a 97% completion rate (appendix B). Through this effort, the Agency is able to continually reinforce USDA's commitment to the establishment of a workplace that is free from discrimination, harassment, and retaliation.

**Improving the Effectiveness of Alternative Dispute Resolution:**

- The Agency has taken significant steps to improve the efficiency of its Conflict Management and Prevention Program (CMP). The Agency revised its Alternative Dispute Resolution (ADR) policy which demonstrates its unwavering commitment to equal employment opportunity, and resolution issues at the earliest possible stages. More specifically, the Chief made clear that all managers and supervisors are expected to participate in ADR when requested to do so and the requests should be received as an opportunity to communicate with the employee.
- Extensive internal CMP staff training, critical vacancy fillings, regional budget agreements, and communication plan development took place as part of the full implementation of the civil rights realignment. Additionally, CMP is transitioning EEO ADR to the Accountability and Compliance Branch to focus on more preventive services such as consultations, non-EEO facilitation, non-EEO mediations and group intervention services.
- In FY 2016, the Forest Service Workplace ADR usage reported a 27% increase from the previous FY 2015. In FY 2016, CMP conducted 2,520 consultations and 319 of them resulted in the use of further ADR techniques to include: 189 Mediations, 25 conciliations, 34 facilitations, 4 fact findings, 7 large group interventions, 43 training sessions and 17 other ADR techniques. The remaining 2,201 consultations did not require any further actions as the issue(s) was resolved at the consultation stage of the concern by way of conflict coaching.
- Seven CMP Center Managers, eight EEO Counselors and three EEO Specialists have been trained as certified mediators and added to the roster of mediators for the CMP Center.
- In FY 2016, Agency efforts to resolve cases early in the process led to 60 settlement agreements, a 5% decrease in comparison to FY 2015, which yielded 63 settlement agreements. The Agency efforts are continuing to lead to a significant decrease in the number of findings of discrimination nationally since FY 2011. In FY 2015 the Agency had 1<sup>2</sup> finding of discrimination. FY 2016 had zero findings of discrimination.

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<sup>2</sup> One Complainant with three consolidated cases

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**Knowledge Gained:**

**Improving the work environment:**

In FY 2016, the Forest Service (FS) continued its commitment to improve, strengthen, and promote the FS Civil Rights Program through conducting compliance reviews of Regional Offices, soliciting feedback from FS employees, customers, partners, and contractors; disseminating literature on the awareness of the Civil Rights processes and procedures, and administering Civil Rights training to managers, employees, and Civil Rights professionals.

Additionally, the Forest Service is continuing its engagement at all levels to ensure that specific Cultural Transformation requirements are met and that there is truly a shift within the Agency that creates a culture of inclusion that awakens and strengthens all people's connection to the land. Some of the successes achieved by the Forest Service are:

- ✓ Various training for supervisory employees and non-supervisory employees that promote skills to create an equitable and respectful workplace.
- ✓ Provides tools, data, and training opportunities that increase the capability to monitor work environment quality indicators.
- ✓ Foster regular, meaningful conversations with the public to understand the needs and requirements of the many public entities and communities served.
- ✓ Encourage employees to bring forth dissatisfaction and grievances in a timely manner and receive prompt resolution.
- ✓ Demonstrated good faith Alternative Dispute Resolution (ADR) efforts to resolve EEO complaints and other disputes, especially in the early stage of the dispute.
- ✓ Increased diversity on the FS program committees and boards.
- ✓ Recruiting and retaining a diverse workforce, reflective of the nation's demographics at all levels of leadership.

Over the past year, the Agency has continued its commitment to strengthening the Civil Rights program with the intention of improving the work environment for all employees. The Forest Service is continuing its engagement at all levels to ensure that the specific Cultural Transformation requirements are met and there truly is a shift within the Agency that creates a culture of inclusion that awakens and strengthens all people's connection to the land.

**Watching trends and doing something about them:**

The Agency has continued its focus on addressing workplace issues by distributing quarterly data trends to all employees, for leaders to monitor their Employee Relations cases and focus attention on areas of improvement, and for employees to be aware of Agency efforts to hold employees accountable for inappropriate behavior and misconduct. Quarterly summary statistical data are posted as links on the Agency intranet website as it pertains to EEO complaints filed. <http://fswweb.wo.fs.fed.us/cr/reports.html>. The Agency's No FEAR report is posted at <https://www.usda.gov/nofear/fs/indexfs.html>.

**The Forest Service continues to improve and better utilize Alternative Dispute Resolution (ADR):**

The Agency is mindful that reaching resolutions early in the EEO process is integral to the success of its Civil Rights Program, and as such has demonstrated support of the Agency's Conflict Management Prevention Program (CMP). The CMP Program is recognized as the Agency's ADR resource and is a

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National Program comprised of a Washington Office Branch Chief and 12 full time or collateral-duty, service wide CMP Program Managers to provide ADR services as required and necessary.

**Building capacity through training within the Agency's Civil Rights community:**

The Agency continues to deploy new training to all Agency employees on key civil rights competencies including how to identify civil rights/EEO matters, as well as how to more effectively navigate the EEO complaint and reasonable accommodation processes.

**Addressing factors that slow processes:**

The Forest Service continues to work closely with OASCR to follow up on outstanding complaints and to speed up disposition of cases, findings, and redress. Coupled with realignment and capacity building efforts, trend monitoring and intervention, alternative dispute resolution options and education and training efforts, these initiatives will assist in the streamlining of complaint processes and decreases in formal complaints.

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**APPENDIX A**



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**USDA NoFEAR Comprehensive Status**

| <b>Agency</b> | <b>Total Assigned</b> | <b>NoFEAR Complete</b> | <b>NoFEAR Incomplete</b> | <b>Percent Complete</b> |
|---------------|-----------------------|------------------------|--------------------------|-------------------------|
| AMS           | 378                   | 346                    | 32                       | 91.5%                   |
| APHIS         | 1503                  | 1191                   | 312                      | 79.2%                   |
| ARS           | 150                   | 150                    | 0                        | 100.0%                  |
| CR            | 18                    | 15                     | 3                        | 83.3%                   |
| DM            | 30                    | 18                     | 12                       | 60.0%                   |
| ERS           | 84                    | 71                     | 13                       | 84.5%                   |
| FAS           | 160                   | 145                    | 15                       | 90.6%                   |
| FNS           | 217                   | 201                    | 16                       | 92.6%                   |
| FS            | 8439                  | 6990                   | 1449                     | 82.8%                   |
| FSA           | 559                   | 507                    | 52                       | 90.7%                   |
| FSIS          | 1455                  | 993                    | 462                      | 68.2%                   |
| GIPSA         | 172                   | 161                    | 11                       | 93.6%                   |
| NAD           | 7                     | 5                      | 2                        | 71.4%                   |
| NASS          | 134                   | 127                    | 7                        | 94.8%                   |
| NIFA          | 32                    | 22                     | 10                       | 68.8%                   |
| NRCS          | 1330                  | 1207                   | 123                      | 90.8%                   |
| OBPA          | 3                     | 3                      | 0                        | 100.0%                  |
| OC            | 8                     | 5                      | 3                        | 62.5%                   |
| OCE           | 6                     | 4                      | 2                        | 66.7%                   |
| OCFO          | 181                   | 169                    | 12                       | 93.4%                   |
| OCIO          | 34                    | 27                     | 7                        | 79.4%                   |
| OES           | 1                     | 1                      | 0                        | 100.0%                  |
| OGC           | 33                    | 28                     | 5                        | 84.8%                   |
| OIG           | 34                    | 34                     | 0                        | 100.0%                  |
| RD            | 478                   | 427                    | 51                       | 89.3%                   |
| RMA           | 45                    | 43                     | 2                        | 95.6%                   |
| SEC           | 42                    | 11                     | 31                       | 26.2%                   |
| <b>Total</b>  | <b>15533</b>          | <b>12901</b>           | <b>2632</b>              | <b>83.06%</b>           |

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**APPENDIX B**

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**USDA NoFEAR Refresher Status Report**

| <b>Agency</b> | <b>Total Assigned</b> | <b>NoFEAR Complete</b> | <b>NoFEAR Incomplete</b> | <b>Percent Complete</b> |
|---------------|-----------------------|------------------------|--------------------------|-------------------------|
| AMS           | 1750                  | 1696                   | 54                       | 96.9%                   |
| APHIS         | 6305                  | 5972                   | 333                      | 94.7%                   |
| ARS           | 5771                  | 5645                   | 126                      | 97.8%                   |
| CR            | 109                   | 104                    | 5                        | 95.4%                   |
| DM            | 426                   | 355                    | 71                       | 83.3%                   |
| ERS           | 296                   | 292                    | 4                        | 98.6%                   |
| FAS           | 782                   | 763                    | 19                       | 97.6%                   |
| FNS           | 1191                  | 1188                   | 3                        | 99.7%                   |
| FS            | 26118                 | 25332                  | 786                      | 97.0%                   |
| FSA           | 3970                  | 3865                   | 105                      | 97.4%                   |
| FSIS          | 8026                  | 7305                   | 721                      | 91.0%                   |
| GIPSA         | 645                   | 627                    | 18                       | 97.2%                   |
| NAD           | 68                    | 67                     | 1                        | 98.5%                   |
| NASS          | 830                   | 767                    | 63                       | 92.4%                   |
| NIFA          | 271                   | 215                    | 56                       | 79.3%                   |
| NRCS          | 9702                  | 9507                   | 195                      | 98.0%                   |
| OBPA          | 38                    | 38                     | 0                        | 100.0%                  |
| OC            | 58                    | 58                     | 0                        | 100.0%                  |
| OCE           | 49                    | 49                     | 0                        | 100.0%                  |
| OCFO          | 1325                  | 1316                   | 9                        | 99.3%                   |
| OCIO          | 891                   | 880                    | 11                       | 98.8%                   |
| OES           | 16                    | 14                     | 2                        | 87.5%                   |
| OGC           | 249                   | 237                    | 12                       | 95.2%                   |
| OIG           | 451                   | 451                    | 0                        | 100.0%                  |
| RD            | 4397                  | 4218                   | 179                      | 95.9%                   |
| RMA           | 427                   | 427                    | 0                        | 100.0%                  |
| SEC           | 62                    | 28                     | 34                       | 45.2%                   |
| <b>Total</b>  | <b>74223</b>          | <b>71416</b>           | <b>2807</b>              | <b>96.2%</b>            |

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