

**USDA Forest Service**  
**Fiscal Year (FY) 2020 Annual Report for the Notification and Federal Employee Anti-Discrimination and Retaliation (No FEAR) Act of 2002**

**Introduction**

This No FEAR Act Report provides Fiscal Year (FY) 2020 efforts by the U.S. Department of Agriculture's (USDA) Forest Service (FS or Agency) to fulfill the intent of the Notification and Federal Employee Anti-discrimination and Retaliation (No FEAR) Act of 2002. For ease of reading, this document is divided into sections that follow the No FEAR Act Annual Report guidelines. Each section addresses the Trends, Causal Analysis, Knowledge Gained, and Action Taken or Planned. Per each section, the information is organized with FY 2020 data first, followed by comparative data for FY 2019.

**I. Number of Complaints Filed**

- A. Trends** – In FY 2020, the USDA Forest Service's number of complaints *per capita* rate was lower than the U.S. Department of Agriculture's complaints *per capita* rate. The USDA Forest Service FY 2020 complaints *per capita* rate was 0.19% comparative to the U.S. Department of Agriculture FY 2020 complaints *per capita* rate of 0.39%. The USDA Forest Service has experienced a consistent downward trend in formal complaint activity for the past four (4) years. In FY 2020 a total of 70 formal complaints were filed, comparative to FY 2019 when a total of 100 formal complaints were filed.
- B. Causal Analysis:**
- In FY 2020, 70 formal complaints were filed.
  - In FY 2019, 100 formal complaints were filed.
- C. Knowledge Gained** – In FY 2020, the USDA Forest Service experienced a –30.00% decrease in the number of formal complaints filed compared to FY 2019. In FY 2020, there were 70 formal complaints filed comparative to the 100 formal complaints filed in FY 2019. The data shows that the USDA Forest Service's efforts to address disparate impact and disparate treatment discrimination in the work environment and improve the Equal Employment Opportunity (EEO) pre-complaint process are positively impacting the formal complaint activity.
- D. Action Taken or Planned** – The USDA Forest Service continually develops, conducts, monitors, and evaluates its Civil Rights programs, events, documentation, and trainings to ensure all employees and managers are knowledgeable of Civil Rights regulations, processes, policies, practices, procedures, and requirements. In addition, the USDA Forest Service is actively placing greater emphasis on creating and sustaining a safe, resilient, and respectful working environment through its national Work Environment and Performance Office (WEPO) and progressive Civil Rights initiatives.

The following programs and activities have been or will be implemented or conducted throughout the USDA Forest Service:

- **Employee Advisory Group** – The Employee Advisory Group is a 30-member board identifies proactive steps that support and empower employees. They advise the Chief and other senior leadership on steps needed to eliminate harassment and promote safe and respectful work environments.
- **Resolving Official Program** – The USDA Forest Service Resolving Official Program's mission is to resolve disputes at the lowest possible level through the Alternative Dispute Resolution (ADR) process. Once the terms of a Settlement Agreement are agreed upon by the Resolving Official (RO) and the Complainant, a

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draft Agreement is forwarded to the RO Program Coordinator and the Assistant Director for Civil Rights. When appropriate, the draft Agreement is reviewed by the Office of General Counsel to ensure the Agreement is legally sufficient prior to obtaining signatures from all the required parties.

In FY 2020, the Civil Rights Office identified five (5) acting senior managers who actively participated in the Resolving Official cadre. Training of new Resolving Officials was delayed because of COVID-19, however, the Agency's goal is to train ninety-five (95) percent of the USDA Forest Service senior managers on the ADR process during FY 2021, so they can participate in the Resolving Official cadre, when required.

In FY 2020, the Agency expanded utilization of the ADR process to include offering ADR on formal EEO complaints when appropriate. Six (6) offers to participate in ADR during the formal EEO process were sent to Complainants resulting in two (2) Settlement Agreements. The Agency will continue to expand and utilize this process in FY 2021 to resolve disputes at the lowest possible level.

- **Civil Rights and Human Resources Management Informational Packets/Booklets**
  - Over 700 packets/booklets were widely distributed in FY 2020. The packets/booklets were designed separately, one for employees and the other for supervisors/managers. The packets/booklets have been well received by participants at training sessions for the wealth of information they contained. The packets/booklets are comprised of current policies and a listing of contacts of the Pacific Southwest Region (R5)-Civil Rights staff and HRM Employee Relations staff. Also included in the information packets/booklets are resources and processes that are available to Forest Service employees such as the Conflict Management and Prevention Program (CMP), Reasonable Accommodation Process, and the Equal Employment Opportunity (EEO) Complaint Process.

**II. Number of Filers**

**A. Trends** – In FY 2020, the number of Complainants that filed complaints were 67, resulting in a significant decrease from the prior fiscal year. In FY 2019, the USDA Forest Service had a total of 88 Complainants that filed complaints.

**B. Causal Analysis:**

- In FY 2020, 67 number of Complainants
- In FY 2019, 88 number of Complainants

**C. Knowledge Gained** – In FY 2020 the USDA Forest Service experienced a –23.86% decrease in the number of Complainants filing formal complaints comparative to FY 2019. In FY 2020, there were 67 individuals that filed formal complaints comparative to 88 individuals that filed formal complaints in FY 2019.

**D. Action Taken or Planned** – The USDA Forest Service continually develops, conducts, monitors, and evaluates its Civil Rights programs, events, documentation, and trainings to ensure all employees and managers are knowledgeable of Civil Rights, EEO, and Anti-Harassment regulations, processes, policies, practices, procedures, and requirements. In an effort to continue to reduce the number of Complainants filing complaints in the USDA Forest Service and improve our work environments;

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the Agency has created the following programs to further identify, inform, and assist employees and managers in obtaining an atmosphere that is conducive to everyone:

- **Anti-Harassment Improved Protocol** – The Anti-Harassment Improved Protocol ensures the following issues are addressed: (1) employees’ complaints filed through the anti-harassment hotline are handled in a prompt and fair manner; (2) employees clearly understand the anti-harassment process, and who to contact for assistance; (3) ensures unit leaders are aware of existing issues and take all necessary actions to resolve work unit issues; and (4) all parties are kept informed throughout the harassment assessment process, including investigation results and final disposition of cases.
- **Victim Advocacy Support** – The USDA Forest Service established a support structure for victims, by revising the anti-harassment policy and providing training to all necessary stakeholders on a victim-centered and trauma-informed approach to anti-harassment. The training also includes Civil Rights and Employee Relations staff, as well as, Investigators. Additionally, the organization assisted with developing proactive trainings and initiatives, including bystander intervention and being an ally.
  - In FY 2020 the Policy, Analysis and Accountability focus area of the Work Environment and Performance Office (WEPO) continuously worked to improve the Anti-Harassment customer experience by updating standing operating procedures to the Harassment Reporting Center and Case Management Liaison process based on input from Agency employees. Through coordination with other focus areas within WEPO they assisted in the development of the Employee Resource Guide, informational webinars, as well as, infographic posters that went out to each Regions and Stations throughout the USDA Forest Service in order to connect employees with resources available to help address workplace conflict.
  - In FY 2021 the updated Anti-Harassment Policy will be issued, and all related standard operating procedures (SOP) will be updated as well in order to continue efforts to improve the Anti-Harassment process.
- **Building Resiliency** – The USDA Forest Service took steps during the COVID-19 pandemic to engage employees in a variety of different platforms to discuss resiliency, as well as, internal and external programs and resources to assist employees. These efforts included hosting a mindfulness session for employees; hosting a Stress First Aid session to discuss self-care and peer support, providing overviews of the Employee Assistant Program, and discussing the impact of stress and anxiety, including warning signs and how to cope.
- **Stress First Aid** – The USDA Forest Service hosted two (2) Stress First Aid sessions on August 18 and September 22. Stress First Aid is a self-care and peer support model that includes actions to help identify and address early signs of stress reactions in yourself and others in an ongoing way. It helps identify the warning signs of stress, including no longer feeling like your normal self; loss of control of emotions or behavior; excessive guilt, shame, or blame; and feelings of panic, rage or depression.

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III. **Number of Repeat Filers**

**A. Trends** – In FY 2020 the number of Repeat Filers were three (3), which was a substantial decrease from FY 2019. In FY 2019 the USDA Forest Service had a total of ten (10) Repeat Filers.

**B. Causal Analysis:**

- In FY 2020, 3 number of Repeat Filers
- In FY 2019, 10 number of Repeat Filers

**C. Knowledge Gained** – In FY 2020, the USDA Forest Service experienced an –70.00% decrease in repeat filings of formal complaints as compared to FY 2019. In FY 2020, there were three (3) repeat filings comparatively to the ten (10) repeat filings in FY 2019.

**D. Action Taken or Planned** – The USDA Forest Service worked hard to develop, conduct, monitor, and evaluate its Civil Rights programs, events, documentation, and trainings to eliminate barriers in the workplace. The USDA Forest Service goal is to ensure all employees and managers are knowledgeable of Civil Rights, EEO, and Anti-Harassment regulations, processes, policies, practices, procedures, and requirements. In an effort to reduce the number of repeat filers of complaints in our Agency. The USDA Forest Service has created and maintained the following programs:

- **National Collective Hiring & Recruitment (NCHR) Events** – The USDA Forest Service has scheduled National Collective Hiring and Recruitment Events to hire individuals for various positions. The National Collective Hiring & Recruitment (NCHR) events will help the USDA Forest Service efficiently recruit and hire interns and recent graduates across a variety of disciplines. An USDA Forest Service Call Letter was distributed that provided pertinent information and instructions on how to participate in each event and how the USDA Forest Service teams would recruit for all vacancies. The USDA Forest Service National Collective Hiring & Recruitment (NCHR) Events started in September 2020 and are scheduled to occur through May 2021.
- **Webinars for Everyday Life** – The FS Diversity, Equity and Inclusion (DEI) provided a variety of webinars to USDA Forest Service employees to provide knowledge and assistance with everyday life and to improve career choices. The FS DEI delivered the following webinars:
  - National Disability Employment Awareness Month (NDEAM) Kick-Off
  - NDEAM Digital Accessibility Primer
  - NDEAM Schedule A Hiring Authority
  - NDEAM Reasonable Accommodations
  - LGBTQIA+Basics
  - Veteran’s Day Observance Webinar on Post Traumatic Stress Disorder
  - American Indian Alaska Native Heritage Month Observance
- **Inaugural Hispanic Collaboration Meeting** – The FS DEI participated in an inaugural Hispanic Collaboration Meeting, which is a precursor to the potential

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(re)establishment of an employee resource group for Hispanics in the USDA Forest Service.

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

**A. Trends** – In FY 2020, a total of 70 formal complaints were filed, comparative to the 100 formal complaints filed in FY 2019. The analysis below provides the number of bases alleged in formal complaints and the percentages to the 70 cases filed in FY 2020 and the 100 cases filed in FY 2019. Additionally, the differential shows comparative decreases, by number and percentage, for each bases alleged in FY 2020 and FY 2019.

**B. Causal Analysis** – In FY 2020, a total of 70 formal complaints were filed and the most frequently cited bases alleged in complaints, are as follows:

○ Reprisal:	44 bases	62.86%
○ Sex:	32 bases	45.71%
○ Disability	25 bases	35.71%
○ Race	22 bases	31.43%
○ Age	20 bases	28.57%

In FY 2019, there were a total of 100 formal complaints filed. The data below provides the cited bases comparative to the most frequently cited bases alleged in complaints in FY 2020:

○ Reprisal:	61 bases	61.00%
○ Sex	33 bases	33.00%
○ Disability:	40 bases	40.00%
○ Race	29 bases	29.00%
○ Age	30 bases	30.00%

In FY 2020, alleged Bases increased or decreased comparative to FY 2019, are as follows:

- Complaints based on Reprisal **decreased** by –27.87%.
- Complaints based on Sex **decreased** by –3.03%.
- Complaints based on Disability **decreased** by –37.50%.
- Complaints based on Race **decreased** by –24.14%.
- Complaints based on Age **decreased** by –33.33%.

**C. Knowledge Gained** – In FY 2020, the USDA Forest Service had only decreases in the number of most frequently cited bases filed in formal complaints as compared to FY 2019. An analysis of the most alleged bases have been provided in the aforementioned casual analysis.

**D. Action Taken or Planned:** The USDA Forest Service continually develops, conducts, monitors, and evaluates its Civil Rights programs, events, documentation, and trainings to ensure all employees and managers are knowledgeable of Civil Rights, EEO, and Anti-Harassment regulations, processes, policies, practices, procedures, and requirements. In an effort to reduce the number of complaints’ filed in our Agency, the USDA Forest Service has created or continued the following programs in

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FY 2020 and/or will carry forward into FY 2021:

- **Our Code and Commitments** – These core values are given to all employees to reinforce and supplement the USDA’s Employee Responsibilities and Conduct Policy and the USDA Forest Service’s Anti- Harassment Policy.
- **Follow-up Actions on Complaints** – The USDA Forest Service developed a protocol to ensure follow-up on actions after a complaint is filed, and to take remedial actions, if required.
- **Mandatory Trainings** – The USDA Forest Service continually provides routine and mandatory Civil Rights, EEO, and Anti-Harassment training to all of its employees and leadership, which has resulted in fewer filings of EEO complaints. The training we provide, annually and/or as needed, affirms the Agency’s firm stance on EEO laws, policies, practices, processes, and procedures to promote a fair and respectful work environment.

V. **Number of Issues Alleged Complaints**

**A. Trends** – In FY 2020, a total of 70 formal complaints were filed, comparative to the 100 formal complaints filed in FY 2019. The analysis below shows the number of the most frequently cited issues alleged in formal complaints and their percentage for FY 2020. Additionally, the differential shows either a comparative increase or decrease, by number and percentage, for each issue alleged in FY 2020 and FY 2019.

**B. Causal Analysis** – In FY 2020, 70 formal complaints were filed and the most frequently cited issues were alleged in formal complaints, are as follows:

○ Harassment Non-Sexual	39 issues	55.71%
○ Promotion/Non-Selection	17 issues	24.29%
○ Assignment of Duties	12 issues	17.14%
○ Perf. Eval./Appraisal	12 issues	17.14%
○ Terms/Conditions of Employment	09 issues	12.86%
○ Termination	08 issues	11.43%

In FY 2019, there were a total of 100 formal complaints filed. The data below provides the cited issues compared to the most frequently cited issued alleged in complaints in FY 2020:

○ Harassment Non-Sexual	53 issues	53.00%
○ Promotion/Non-Selection	22 issues	22.00%
○ Assignment of Duties	21 issues	21.00%
○ Perf. Eval./Appraisal	17 issues	17.00%
○ Terms/Condition of Employment	39 issues	39.00%
○ Termination	09 issues	09.00%

In FY 2020, all the alleged issues decreased substantially compared to the same issues in FY 2019. The decreases are as follows:

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- Complaints based on Harassment Non-Sexual **decreased** by –26.42%.
- Complaints based on Promotion/Non-Selection **decreased** by –22.73%.
- Complaints based on Assignment of Duties **decreased** by –42.86%.
- Complaints based on Perf. Eval./Appraisal **decreased** by –29.41%.
- Complaints based on Terms/Condition of Employment **decreased** by –76.92%.
- Complaints based on Termination **decreased** by –11.11%.

**C. Knowledge Gained** – In FY 2020, the USDA Forest Service experienced decreases in the number of most frequent cited issues filed in formal complaints as compared to FY 2019. An analysis by issue has been provided in the aforementioned casual analysis. The USDA Forest Service provides mandatory and routine Civil Rights, EEO, and Anti-Harassment training to employees and leadership that results in an increase awareness of their rights and responsibilities related to EEO matters. The USDA Forest Service has been successful in achieving progressive steps toward improving the work environment by opening up lines of communications between our employees and leadership.

**D. Action Taken or Planned** – The USDA Forest Service continually develops, conducts, monitors, and evaluates its Civil Rights programs, events, documentation, and trainings to ensure all employees and managers are knowledgeable of Civil Rights, EEO, and Anti-Harassment regulations, processes, policies, practices, procedures, and requirements. In an effort to reduce the number of Complainant’s filing complaints in our Agency. The USDA FS has created and/or maintained the following programs:

- **Communicating Across Differences (CAD) Workshop** – The Pacific Southwest Region Civil Rights Service Center (CRSC) developed and presented a workshop titled “Communicating Across Differences (CAD)” to the Region’s leadership. Twenty-four (24) CAD workshops were conducted with a total of 720 attendees comprised of Regional and Forest Leadership, Deputy Forest Supervisors (DFS), District Rangers (DR), and supervisors or managers. Based on the positive feedback and support from the Region’s leadership, the workshop will also be conducted with non-supervisory employees in the near future.

The Pacific Southwest Region Civil Rights Service Center (CRSC) also developed a new curriculum workshop titled Communicating Across Cultural Differences (CACD), Sub-titled: “*In The Face of Change: The Impact of Social Media In Our Current State and Its Affects*” - COVID-19. The workshop will be delivered to the Region 5 and PSWRS employees in FY 2021.

- The USDA Forest Service hosted 15 Virtual Dialogue Circles during FY 2020 with leaders, employees in the PSWRS. Employees were afforded with an opportunity to explore their feelings and reactions to the news of violence and threats of violence towards communities of color, and in particular the Black community. Based on positive feedback and support from Leadership, the PSWRS will facilitate additional virtual dialogue circles and follow up conversations with employees to increase mindfulness and awareness of emerging issues.

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- The USDA Forest Service held facilitated discussions that support a healthy work environment throughout specific Region’s Virtual Take a Break Session platform. Virtual Take a Break Sessions were facilitated by Civil Rights Staff in conjunction with internal stakeholders from across the region to build community amongst employees. Special sessions pertaining to Asian American/Pacific Islanders, Diversity in Recreation, the LGBT Community and Limited English Proficiency were held to educate the workforce and celebrate observance months. Over 600+ employees combined participated in the sessions which fostered cross cultural communication, social awareness and inclusiveness.
- **Together We Learn Event** – The USDA Forest Service’s Office of Civil Rights held a two (2) day event on November 13-14, 2019, in Tucson, Arizona. Agency Specialists conducted a variety of workshops including: Civil Rights Impact Analysis; Compliance Reviews; Processing Program Discrimination Complaints; Agency Position Statements; and Civil Treatment Training. All Agency Equal Opportunity Specialists and Civil Rights Directors interested in learning more about the Equal Opportunity Program were invited to attend the event.
- **Limited English Proficiency Staff Training** – Training was one of four key focus areas for the LEP Program in FY 2020. Significant accomplishments in this area include the development and publication of two (2) self-paced learning modules in AgLearn, providing an introduction to the USDA Forest Service Language Access Plan and foundations of Needs Assessment. In person training was also conducted, with six (6) modules delivered to the agency-wide working group, four (4) tailored trainings were delivered to forests, regional civil rights groups, and Washington Office staff, as well as, one open enrollment virtual training sponsored by two (2) CR zones for employees across the Agency. The effect of this training effort is to meet employees where they are and provide the knowledge needed to reduce or eliminate Limited English Proficiency as a barrier to access.

VI. **Finding of Discrimination**

- A. Trends** – In FY 2020, the USDA, Office of the Assistant Secretary for Civil Rights (OASCR) and the Equal Employment Opportunity Commission (EEOC) issued a combined total of 85 Final Agency Decisions/Actions to the USDA Forest Service. Comparatively, to FY 2019, a total of 126 Final Agency Decisions/Actions were issued to the USDA Forest Service.
- B. Causal Analysis** – In FY 2020, the USDA, Office of the Assistant Secretary for Civil Rights (OASCR) and EEOC issued a combined total of 85 Final Agency Decisions/Actions to the USDA Forest Service. The Agency’s records indicates the following:
- There were six (6) findings of discrimination with bases/issues as follows:

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- **Zone 1/Law Enforcement and Investigations (LEI)** – Disability (Mental) – Non-Sexual Harassment rendered by the Office of the Assistant Secretary for Civil Rights (OASCR)
  - **Zone 2/Region 03/Southwestern Region** – 4 Cases – Sex/Reprisal – Non-Sexual Harassment, Terms/Conditions of Employment, Appointment/Hire, Assignment of Duties, Training, Perf. Eval./Appraisal, and Disciplinary Action (Reprisal) rendered by the EEOC during an Administrative Hearing.
  - **Zone 2/Region 04/Intermountain Region** – Reprisal – Pay Including Overtime and Assignment of Duties rendered by the Office of the Assistant Secretary for Civil Rights (OASCR)
- 10 complaints were procedurally dismissed
  - 37 Final Agency Decisions (FAD) with no finding of discrimination
  - 36 Final Agency Actions with and Administrative Judge Decision

In FY 2019, the USDA, Office of the Assistant Secretary for Civil Rights (OASCR) issued 126 Final Agency Actions to the USDA Forest Service. The Agency’s records indicates the following:

- There were two (2) findings of discrimination with bases/issues as follows:
    - **Zone 3/Region 05/Pacific Southwest Region** – Disciplinary Action (Suspension), Disability, Harassment (Non-Sexual). Reasonable Accommodation, rendered by the EEOC during an Administrative Hearing
    - **Zone 2/Region 04/Intermountain Region** – Reasonable Accommodation, Disability, Termination, and Harassment (Non-Sexual), rendered by an OFO/EEOC Appeal
- 12 complaints were procedurally dismissed
  - 66 Final Agency Decisions (FAD) with no finding of discrimination
  - 46 Final Agency Actions with an Administrative Judge Decision<sup>1</sup>

**C. Knowledge Gained** – The USDA Forest Service was issued a total of four (4) findings of discrimination in FY 2020, which is an increase to the two (2) findings of discrimination issued in FY 2019. The FY 2020 two (2) findings of discrimination were issued by the Equal Employment Opportunity Commission and two (2) findings of discrimination were issued by the Office of the Assistant Secretary for Civil Rights (OASCR).

**D. Actions Taken or Planned** – The USDA Forest Service continually develops, conducts, monitors, and evaluates its Civil Rights programs, events, documentation, and trainings to ensure all employees and managers are knowledgeable of Civil Rights, EEO, and Anti-Harassment regulations, processes, policies, practices, procedures, and requirements. In an effort to reduce the number of findings of discrimination in our Agency, the USDA FS is working hard to create and/or maintain the following programs:

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<sup>1</sup> The Final Agency Actions with an Administrative Judge Decision was annotated incorrectly in FY 2019. The correct total was changed from 49 to 46.

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- **Psychological Safety for Employees** – In FY 2020, the USDA Forest Service’s leadership recognized how psychological, social, and physical safety interconnects with performance and success in fire related working environments. Since the wildland fire environment is complex, uncertain, and hazardous, fire personnel need to function in a state of “total readiness”. This means that good decision making in complex and uncertain environments by field and office personnel requires psychological and social safety, as a foundation. Fire and Aviation Management’s Work Environment program manager emailed survey questions and hosted discussions amongst Washington Office Fire and Aviation Management staff centered around this topic. Improving our work environment, increasing understanding of how we can better support our employees and demonstrating our commitment to employee safety and well-being are the goals.
- **Reasonable Accommodation Efficiencies** – The USDA Forest Service focused on timeliness rates of reasonable accommodation processing in order to meet the Equal Employment Opportunity Commission (EEOC)’s requirements to ensure all cases are processed within 90% of prescribed timeframes. In FY 2020, efforts have been made to enhance the efficiency of the Reasonable Accommodation process, while filling the Reasonable Accommodation Branch Chief position with someone who is leading the effort. The processing overall rate for FY 2019 was 78.5% timely. There has been an increase for FY 2020 to 92.5% timeliness, which is above the 90% requirement. The USDA Forest Service has continually strived to increase their focus on making the Reasonable Accommodation process more efficient and in compliance with processing timelines.
- **LERIS for Reasonable Accommodations** – The Civil Rights Office (CRO) piggybacked off a Human Resources Management’s (HRM) contract to use the Labor and Employee Relations Information System (LERIS). The LERIS was selected by CRO to be the optimum database to trace and track FS Reasonable accommodation (RA) cases. Modifications to the LERIS had to be made for the CRO because the database only tracks information on a calendar basis instead of business days as outlined in Departmental Regulations (DR), Reasonable Accommodation and Personal Assistance Services Policy and Procedures, DR 4300-008. The Reasonable Accommodation Branch Chief and a RA Specialist worked directly with LERIS vendors to develop a new tracing system that would track cases by business days. It was anticipated that once fully operational the CRO modifications will have the greatest impact on RA processing and meetings the timeframes established by the RA Directive. The CRO’s successful prototype version was operational in March 2020.

Currently, the revised CRO LERIS database sends out reminders to Specialists and the Reasonable Accommodation Branch Chief to help meet mandatory thirty (30) business day timelines. The LERIS also schedule reminders for thirty (30) calendar days, giving Specialists fifteen (15) days to close-out cases.

- **Victim-Centered, Trauma Informed Approach to Harassment** – In FY 2020 the Policy, Analysis, and Accountability focus area of the Work Environment and Performance Office (WEPO) continuously worked to improve the Anti-Harassment

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customer experience by updating standing operating procedures to the Harassment Reporting Center and Case Management Liaison process based on input from Agency employees. Through coordination with other focus areas within WEPO they assisted in the development of the Employee Resource Guide, informational webinars, as well as, infographic posters that went out to each Regions and Stations throughout the USDA Forest Service in order to connect employees with resources available to help address workplace conflict.

In FY 2021 the updated Anti-Harassment Policy will be issued, and all related standard operating procedures (SOP) will be updated as well in order to continue efforts to improve the Anti-Harassment process.

- **Writing an EEO Settlement Agreement** – The Office of Civil Rights developed and delivered a two-hour presentation to twenty-three (23) Civil Rights practitioners. The presentation provided best practices for writing an EEO Settlement Agreement.
- **CyberFEDS eLearning Training for Civil Rights Staff** – The Office of Civil Rights purchased a comprehensive education package consisting of fourteen (14) one-hour modules of training on the following topics:
  - EEO Counseling: Complying with Regulations, Working Toward Resolution
  - EEO Case Law Update: Part I – The EEO Process
  - EEO Case Law Update: Part II – Findings on the Merits and Damages
  - Discriminatory Harassment: Understanding and Applying the Law
  - The Nuts and Bolts of the Reasonable Accommodation Process
  - Motions, Hearings, and Sanctions in the Federal EEO Process
  - Advanced Actions and Complex Cases in the Federal EEO Process
  - Applying Disability Laws when Identifying Employees with Disabilities
  - The Federal EEO Administrative Complaint Process: From Counseling to Remedies
  - Resolve Federal Workplace EEO and Labor-Management Issues Using ADR
  - Developing a Model EEO Program by Complying with MD-715
  - Equal Opportunity Hiring and Promotion for Individuals with Disabilities
  - Conducting Timely and Effective EEO Investigations
  - Diversity and Inclusion in the Federal Workplace

In FY 2020, forty-six (46) civil rights practitioners completed the training. Additionally, the package meets EEOC’s requirement for EEO Counselor and Mediator refresher training; eight (8) EEO Counselors/Mediators completed their refresher training.

- **Special Emphasis Program Manager (SEPM) Training** – The Office of Civil Rights procured services from Rushford and Associates to deliver training on a Specials Emphasis Program Manager’s duties and responsibilities. The training objectives included:
  - Identify individual roles as Special Emphasis Program Managers

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- Understand the overall EEO and AAP process and laws
- Outline the roles and responsibilities of EEO officials
- Evaluate management policies and practices for SEP ramifications
- Work with management and employees to overcome employment barriers

In FY 2020, Forty (40) USDA Forest Service employees attended this two-day (16-hours) course.

- **Work Environment Performance Office** – The Work Environment and Performance Office (WEPO) was established in the fall of FY 2018. WEPO focus its efforts to improve and sustain a culture in which all employees feel safe, secure, valued, respected, and supported for delivering of the priority work for the Agency. WEPO seeks to diagnose and address the root causes and cultural barriers to emotional and physical safety, security, diversity, and inclusion in the work environment. The following events were accomplished in FY 2020:
  - The USDA Forest Service executed This is Who We Are Ambassador Training for FS employees.
  - The USDA Forest Service conducted new Experienced Supervisor training with over 700+ supervisors being trained.
  - The USDA Forest Service improved the National New Employee Orientation, and Middle and Senior Leadership Programs by incorporating This is Who We Are language in the programs.
  - The USDA Forest Service is also continually implementing work environment performance measurements for supervisors and employees.
  - The USDA Forest Service drafted and implemented new performance standards for Work Environment and Safety for all USDA Forest Service employees starting FY 2021.
- **Written Language Translation** – The USDA Forest Service Limited English Proficiency (LEP) Program facilitated written translation of approximately 190 documents into languages other than English. This enabled limited English proficient individuals and communities to have meaningful access to Agency conducted programs, services, and activities. Translated documents included special use permits, signs, Forest Plan, maps, video script, news releases, and a forest mobile application. The top requested language translations were Spanish, Korean, Russian, and Hmong.
- **Oral Interpretation Telephonic Calls** – A total of five (5) telephonic oral interpreter requests were made to assist Agency staff with interpretative services. By providing language services over the phone, oral interpreters allow the USDA Forest Service personnel to interact with members of the public who may have limited or no English speaking ability. While numbers were down compared to previous years, significant agency work was made possible through this line, including witness interviews for law enforcement investigations and the marketing of forest products.

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- **Partnerships** – The USDA Forest Service supported an ongoing partnership with Corazón Latino, AFCA Agreement. The program engages Hispanic and diverse audience outreach with important conservation messages and actions on the topics of sustainable urban and rural forest management, citizen science, pollinator conservation/habitat restoration, nature viewing and ecotourism, engagement in urban and rural forest restoration, ecosystem management, youth leadership, and career development opportunities in natural resource conservation and management. This program also plays a significant role in supporting USDA Forest Service endeavors to reach Limited English Proficiency (LEP) audiences by implementing grassroots and strategic communications projects and campaigns at local, national, and international levels. In collaboration with the LEP Program, Corazón Latino will create and conduct a minimum of three (3) webinar trainings for USDA Forest Service personnel and partners on topics, tools, and resources available to reach diverse communities.

VII. **Average Length of Time to Complete Each Stage of the Complaint Process** – Once a formal complaint is filed, the Office of the Assistant Secretary for Civil Rights is responsible for accepting or dismissing the complaint and conducting and completing an investigation. EEO regulations specifies that this process must be completed within a 180 days. In FY 2020, the average number of days a case was in the investigation stage was 182 days. In comparison to FY 2019, the average number of days a case was in the investigation stage was 146 days. The reason for rise in the average number of days in FY 2020 investigations exceeding the 180-day timeframe was due to the Coronavirus Disease 2019 (COVID-19) pandemic. The COVID-19 pandemic has had major impacts on all aspects of life, including instructions of Federal sector EEO complaints. During the impact of the virus, people are attempting to balance safety needs with the statutory and regulatory responsibilities. In addition, during this time, the Agency has had a number of amended cases, whereby, Complainants added addition issues to their original complaints. On April 06, 2020, EEOC issued a memorandum to the Federal agencies regarding the processing of Federal sector EEO complaints covered by 29 CFR Part 1614 in consideration of the National Emergency. The link to the aforementioned memorandum is <https://www.eeoc.gov/update-april-6-2020-memorandum-processing-information>.

The USDA’s role is to ensure a Hearing Request is processed within fifteen (15) days of receipt of the election form from either the Complainant or the EEOC. In FY 2020, the average number of days a complaint was in the EEOC hearing process was 1046 days. In comparison to FY 2019, the average number of days a complaint was in the EEOC hearing process was 1158 days. Of all the stages of the complaint process, the final agency actions stage took the greatest number of days. In FY 2020, the average number of days of the final agency actions was 1613 days. In comparison to FY 2019, the average number days of the final agency actions was 1428 days.

VIII. **Pending Complaints Filed in Previous Fiscal Year (FY)** – In FY 2020, there were a total of 203 complaints on-hand at the beginning of the reporting period, which is a substantial decrease from the 267 pending complaints in FY 2019. There are a number of contributing factors for the carryover of complaints in FY 2020, decreases in the number of Complainants participating in Alternative Dispute Resolution (ADR) in the formal stage and outstanding cases pending before the EEOC.

IX. **Total Number of Pending Complaints where Investigations Exceed the Required Timeframes** – The USDA, Office of the Assistant Secretary for Civil Rights (OASCR), Employment Investigation

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Division (EID) has complete responsibility for the management of the investigation process. Under a renewable Service Level Agreement (SLA), the OASCR, EID compiles all relevant information and create reports of investigations (ROIs). The USDA Forest Service is only responsible for assisting in providing point of contacts, obtaining relevant documents, and ensuring the cooperation from witnesses.

In FY 2020, a total of 78 investigations were completed for the USDA Forest Service. Of the 78 investigations completed, 47 were completed within the prescribed timeframe of 180 days or less, resulting in 60.26% completion rate.

In FY 2019 a total of 114 investigations were completed for the USDA Forest Service. Of the 114 investigations completed, 89 were completed within the prescribed timeframe of 180 days, resulting in 78.07% completion rate.

In FY 2020, the averaging processing days for the Agency's responses to document requests for investigations were 13 days. The USDA Forest Service's Service Level Agreement requires the Agency to respond within 15 days of receipt of a request.

- X. **Posting of No FEAR Statistical Data** – In support for adhering to the provisions of the No FEAR Act, the USDA Forest Service has linked its Quarterly No FEAR statistical data to the USDA's public website at: <https://www.usda.gov/nofear>. Under the No FEAR Act, in addition to quarterly data postings, all Federal Agencies are required to post summary statistical EEO complaint data for the last five (5) fiscal years. The USDA Forest Service continues its focus on addressing workplace issues by verifying the distribution of quarterly statistical data trends for the public record. Quarterly summary statistical data is posted as links on both the USDA Forest Service public website (<http://fsweb.wo.fs.fed.us/cr/reports.html>) as it pertains to EEO complaints filed, as well as, on the USDA public website <https://www.usda.gov/nofear>. The No FEAR Act quarterly data is reported via a direct feed from reports generated from MicroPact iComplaints.

**No FEAR Training Requirements** – The Agency is consistently providing bi-annual No FEAR Refresher training to all FS employees on a basis which is consistent with an employee's No FEAR Comprehensive completion date. In addition to the No FEAR Refresher training, new employees also are assigned the No FEAR Comprehensive training during their onboarding process. This 508 compliant training is available to all employees (permanent/seasonal/temp/students) either electronically, via hard copy or in person. Through this effort, the USDA Forest Service is able to continually reinforce USDA's commitment to the establishment of a workplace that is free from discrimination, harassment, and retaliation. Managers, supervisors, and employees are held accountable for their part in ensuring that all customers, employees, applicants, constituents, and stakeholders are treated in accordance with USDA Civil Rights policies and applicable legal requirements. The commitment and dedication of the USDA Forest Service towards ensuring their work environment is free of harassment and discrimination for all employees is evident among the positive trends that were demonstrated in the FY 2019 No FEAR Report and is also demonstrated in this report.

**Agency's Process for Providing the Annual No FEAR Notice to its Employees** – 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 hard copy through the Workforce Education and Development Office, Civil Rights Zone Directors, or online at the Civil Rights Intranet page at

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<http://fswb.wo.fs.fed.us/cr/training/training.php>. Additionally, the No FEAR Act information is posted in common areas throughout the Agency.

In FY 2020 there were 37,561 active employees, of which 1251 were new employees with less than 90 days of time in service by the end of FY 2020. In FY 2020, 36,177 employees were required to complete either the initial Comprehensive No FEAR Act training or the bi-annual No FEAR Act refresher training. By the close of FY 2020, 33,207 employees completed the training, resulting in a 92 percent success rate. The data is not 100 percent accurate. Many employees/supervisors could not self-certify due to wilderness fires, COVID-19, and other extenuating circumstances. There are at least 42 employees that completed the training; however, keep showing on the No FEAR Incomplete List, their numbers were calculated as completed training. The USDA Forest Service is committed to USDA's policies and goals; and continually notifies its employees on an annual basis regarding EEO policies. The USDA Forest Service continues to reinforce USDA's commitment to the establishment of a workplace that is free from discrimination, harassment, and retaliation.