



DEPARTMENT OF DEFENSE
EDUCATION ACTIVITY
4040 NORTH FAIRFAX DRIVE
ARLINGTON, VA 22203-1635

MAR 29 2012

MEMORANDUM FOR MR. JIMMY LOVE, ACTING PRINCIPAL DIRECTOR, OFFICE OF
DIVERSITY MANAGEMENT AND EQUAL OPPORTUNITY

SUBJECT: Fiscal Year 2011 Annual Notification and Federal Employee Antidiscrimination
and Retaliation Act Report

Dear Mr. Love:

Attached is the Department of Defense Education Activity's Fiscal Year 2011 Annual Report to Congress as required by Section 203 of the Notification and Federal Employee Anti-Discrimination and Retaliation Act of 2002. In compliance with Public Law 107-174, this report provides equal employment opportunity data for Fiscal Year 2011.

Please direct questions concerning this report to Ms. Alina Doreste-Johnson, Chief, Diversity Management & Equal Opportunity Office, (703) 588-3232.

Sincerely,

A handwritten signature in black ink, appearing to read "Marilee Fitzgerald", is written over a faint, larger signature.

Marilee Fitzgerald
Director

Attachment:
As stated

dodea

Department of Defense Education Activity



**Fiscal Year 2011
Annual Notification and
Federal Employee Anti-
Discrimination and
Retaliation (NoFEAR)
Act Report**

**Notification and Federal Employee Antidiscrimination and Retaliation
(NoFEAR) Act of 2002
Department of Defense Education Activity (DoDEA)**

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Introduction

The Department of Defense Education Activity (DoDEA) is pleased to submit this annual report in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation (NoFEAR) Act of 2002.

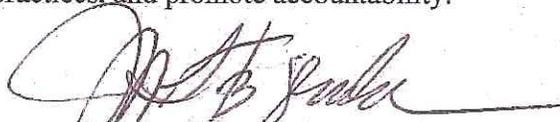
The NoFEAR Act is intended to reduce the incidence of workplace discrimination within the Federal government by making agencies and departments more accountable. Section 203 of the NoFEAR Act specifically requires, not later than 180 days after the end of each Fiscal Year, each Federal agency to submit an annual report to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, each committee of Congress with jurisdiction relating to the agency, the Equal Employment Opportunity Commission, and the Attorney General. The NoFEAR Act Annual Report shall have specific information relating to each agency's Equal Employment Opportunity complaints activity (including Federal district court cases) and resulting disciplinary actions, Judgment Fund reimbursements, adjustments to agency budgets to meet reimbursement requirements, as well as an analysis of trends, causation, and practical knowledge gained through experience. Further guidance is provided at 5 CFR § 724 on each agency's reporting obligations, and also requires the submission of the annual report to the Director of the Office of Personnel Management for the implementation of a best practices study and the issuance of advisory guidelines.

In accordance with Section 203 of the NoFEAR Act, this Annual Report to Congress includes data and analysis in the following categories:

- Number of cases in Federal Court arising under the antidiscrimination and whistleblower protection laws;
- Amount of money reimbursed to the judgment fund, and adjustments needed to comply with reimbursement requirements;
- Number of employees disciplined for discrimination, retaliation, and harassment, and agency policy regarding disciplinary actions for such violations;
- Final year-end NoFEAR Act statistical data posted;
- Description of agency's policy for taking disciplinary action against Federal employees for conduct that is inconsistent with Federal Antidiscrimination Laws and Whistleblower Protection Laws or for conduct that constitutes another prohibited personnel practice revealed in connection with agency investigations of alleged violations of these laws; and
- Examination of trends, causal analysis, experiential knowledge, and actions (taken or planned) to improve complaints programs.

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This report summarizes DoDEA's dedication to a workplace free of discrimination and harassment and demonstrates our strong commitment to abide by merit principles, provide protection from prohibited personnel practices, and promote accountability.



Marilee Fitzgerald
Director

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DoDEA Background

The Department of Defense Education Activity (DoDEA) is a Department of Defense (DoD) field activity operating under the direction, authority and control of the Undersecretary of Defense for Personnel and Readiness and the Deputy Under Secretary of Defense for Military Community and Family Policy. DoDEA consists of two school systems: the DoD Dependents Schools (DoDDS), which is the overseas school system, and (2) the DoD Domestic Dependent Elementary and Secondary (DDESS), the domestic school system. These systems provide a world class education program that inspires and prepares all students in military communities around the world to be successful and responsible citizens in a dynamic global environment. DoDEA is the Presidential and national showcase for education excellence.

DoDEA operates 194 schools in 14 districts located in 12 foreign countries, 7 states, Guam, and Puerto Rico. The schools are divided into three areas, each managed by an Area Director. Schools within DoDEA are fully accredited by U.S. accreditation agencies. Approximately 8,700 teachers serve approximately 87,000 students. Educators make up 77% of DoDEA's workforce in the Teacher Pay (TP) and Administratively Determined (AD) pay plans. These pay plans are school-level positions located stateside and overseas and include classroom teachers, counselors, media specialists, administrators, and other school-level positions. Classroom teachers are the majority of TP and AD pay plans.

DoDEA's Mission, Vision, Guiding Principles¹

Mission

To provide an exemplary education that inspires and prepares all DoDEA students for success in a dynamic, global environment.

Vision

Communities investing in success for ALL students!

¹ The Department of Defense Education Activity (DoDEA) has begun the process of developing a new Community Strategic Plan (CSP) for 2012-2016, which will be critical in refining the mission, vision, guiding principles, goals, and initiatives that DoDEA will undertake to deliver a high quality, student-centered education.

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Guiding Principles

- **S**uccess for All Students
- **T**rust and respect for others
- **U**ncompromising advocacy for students
- **D**evelopment of lifelong learners
- **E**qual access to quality, rigorous education
- **N**ew and motivating challenges to inspire excellence
- **T**eaching with high expectations
- **S**afe and stable learning environment

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DoDEA, Diversity Management and Equal Opportunity (DMEO) Office

The DoDEA DMEO office has three integrated functions with independent strategies: (1) developing Department-wide Equal Employment Opportunity (EEO) and diversity policies, performing workforce analyses and reporting, developing outreach and retention programs, and providing training and communication on EEO and diversity topics; (2) administering the EEO complaint processing system (counseling, acceptance and dismissing formal complaints, investigation, and compliance) and the EEO Alternate Dispute Resolution (ADR) program; and (3) issuing final agency decisions based upon an investigative record or a final order after receiving and/or appealing Equal Employment Opportunity Commission (EEOC) administrative decisions.

The DMEO Chief reports to the Director of DoDEA, in accordance with, the 29 Code of Federal Regulations (CFR) 1614.102(b)(4), and is responsible for the implementation of a continuing affirmative employment program to promote equal employment opportunity and to identify and eliminate discriminatory practices and policies (EEOC Management Directive 110, Chapter 1, para. I). In FY 2011, DMEO's staffing consisted of 12 full-time equivalent (FTE) positions serving approximately 16,000 permanent and temporary employees operating in 12 foreign countries, seven states, Guam, and Puerto Rico. At the end of FY 2011, DMEO lost one FTE position (ADR Program Manager) due to Office of the Secretary of Defense budget cuts. In addition, one FTE was vacated (Diversity Program Manager).

In FY 2011, DMEO utilized the vacated position (Diversity Program Manager) to advertise for a Research Psychologist. The position was filled in October 2011. The Research Psychologist brings to DoDEA the competencies to persuade and influence, client-service orientation, analytical and conceptual thinking, relationship building and professional integrity, organizational focus, and knowledge and expertise of occupational/organizational psychology. This staff member focuses on cultural transformation, identifying organizational strengths and weaknesses, to chart a path to move DoDEA into a 21st century inclusive and supportive organization for our employees. With the assistance of the Research Psychologist, DoDEA will examine systemic barriers in all aspects of the organization—including cultural norms, business practices, communications, leadership development, training and education, management accountability, and work life.

The DMEO Headquarters office in Arlington, Virginia, employs the Chief, one Deputy Chief, two EEO Specialists, and one Research Psychologist, to oversee all functions of the DMEO programs as described above in paragraph one. In addition, two EEO Specialists are located at each of the three DMEO Area offices located in Wiesbaden, Germany; Okinawa, Japan; and Peachtree City, Georgia. The positions are classified as: (1) an Area Program Manager responsible for oversight of the pre-complaint EEO process, the formal EEO complaint process, EEO training, and each component of a model EEO program (reasonable accommodations program, ADR program, diversity and inclusion, and complaints and compliance); and (2) a full-time EEO Counselor responsible for the pre-complaint EEO process, to include resolving complaints at the lowest level, providing training, scheduling and planning

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ADR services, and working as a team with the Area Program Manager, including developing Special Emphasis Program initiatives in accordance with DoD Instruction 1440.1.

DMEO Vision and Mission Statements

DMEO's Vision

For DoDEA to be the model employer with a diverse workforce founded upon equality of opportunity.

DMEO's Mission

To provide technical and professional advice to DoDEA's worldwide workforce in accordance with Title VII and all applicable EEO regulatory guidelines which safeguard the workplace from discrimination based on sex, race, color, national origin, age, disability, religion, and reprisal.

DMEO Guiding Principles

DMEO's guiding principles are trust and respect for all people; development of partnerships with internal functional departments within DoDEA and other DoD components with which it works; equal access to employment, training, and pay for quality performance; continuance of new and motivating challenges to inspire excellence in the workplace; open communication with its stakeholders; and the best training skills available to bring positive results with high expectations from participants.

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Federal Court Cases, Judgment Fund, and Number of Employees Disciplined for Discrimination, Retaliation, and Harassment

1. The number of cases arising under each of the respective provisions of law covered by paragraphs (1) and (2) of section 201(a) in which discrimination on the part of the agency was alleged.	6								
2. The status or disposition of cases described in paragraph (1).	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding-left: 20px;">Dismissed</td> <td style="text-align: right;">0</td> </tr> <tr> <td style="padding-left: 20px;">Settled</td> <td style="text-align: right;">0</td> </tr> <tr> <td style="padding-left: 20px;">Summary Judgment</td> <td style="text-align: right;">0</td> </tr> <tr> <td style="padding-left: 20px;">Pending</td> <td style="text-align: right;">6</td> </tr> </table>	Dismissed	0	Settled	0	Summary Judgment	0	Pending	6
Dismissed	0								
Settled	0								
Summary Judgment	0								
Pending	6								
3. The amount of money required to be reimbursed by such agency under section 201 in connection with each of such cases, separately identifying the aggregate amount of such reimbursements attributable to the payment of attorneys' fees, if any.	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding-left: 20px;">Lump Sum</td> <td style="text-align: right;">\$0</td> </tr> <tr> <td style="padding-left: 20px;">Attorney Fees</td> <td style="text-align: right;">\$0</td> </tr> </table>	Lump Sum	\$0	Attorney Fees	\$0				
Lump Sum	\$0								
Attorney Fees	\$0								
4. The number of employees disciplined for discrimination, retaliation, harassment, or any other infraction of any provision of law referred to in item 1 above.	0								
5. Any adjustment (to the extent the adjustment can be ascertained in the budget of the agency) to comply with the requirements under section 201.	Not Applicable								

Agency Policy Regarding Disciplinary Actions

DoDEA has an aggressive policy for the prevention of discrimination and harassment throughout the Agency. There are several policies that address a zero tolerance for any discriminatory actions, which are posted in all facilities and schools as well as on DoDEA web sites in all areas (Headquarters, DDESS, DoDDS-Pacific, DoDDS-Europe and the DMEO Intranet site). These policies include, [Anti-Harassment Policy Memorandum](#), [NoFEAR Act Notice](#), [DoDEA Regulation 5713.9](#), [Equal Employment Opportunity](#), [EEO Policy Memorandum](#), and the [Diversity Policy Statement](#). DoDEA further enforces these policies through on-site training, and online NoFEAR Act training on its intranet. Anyone found to have engaged in discriminatory or retaliatory conduct or behavior should expect timely and appropriate corrective and/or disciplinary action. The Agency disciplinary regulation, [DS Regulation 5751.9](#), [Disciplinary and Adverse Actions](#), carries a penalty of reprimand to removal for anyone found to have discriminated against employees based on race, sex, national origin, religion, age, disability, sexual orientation, marital status, political affiliation, or reprisal or retaliation for prior protected activity; sexual harassment; or interfering in an employee's right to appeal, file a complaint or grievance, through established procedures. In addition, the regulation includes penalties for management offenses of reprimand to removal for managers found to have

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committed a prohibited personnel practice as covered by Title 5 of the United States Code § 2302.

NoFEAR Act Training Plan

Initial Training Required by 5 CFR § 724.203(d)

The DoDEA DMEO office contracted with Labor Relations Press (LRP) Publications to access NoFEAR Act interactive online training which is located on its intranet. The NoFEAR Act training can be taken at an employee's workstation and takes less than 30 minutes to complete all six sections. Each section of the video can be selected from the menu and viewed in order (Whistleblowing; Race/Color National Origin; Religion; Sex/Age; Disability/Retaliation). The final section addresses regulatory timeframes for filing EEO and Whistleblower complaints.

NoFEAR Act Training during New Employees' Orientation, Required by 5 CFR § 724.203(e)

The DoDEA DMEO office sponsors and participates in all DoDEA New Employee Orientation sessions providing basic information on the NoFEAR Act and directing new employees to the NoFEAR Act online presentation posted on DMEO's intranet website.

Recurring NoFEAR Act On-Line Training and Documentation

NoFEAR Act training is mandatory for all employees, managers, and supervisors. Newly-hired employees must be trained within 90 days of hire; refresher training is required every 2 years. Each Area office is required to provide the local DMEO Program Manager with the total number of completed training certificates by February of each year. The program is in compliance with the recurring training and documentation requirements of 5 CFR § 724.203(b) and (d).

Other Training

True Colors, a diversity training tool, is an interactive, entertaining, and easy-to-remember personal success seminar, providing new tools to employees to understand themselves and those with whom they work. After a successful roll out in FY 2010, the Diversity and Disabilities Program Manager, DMEO's certified trainer, has continued to provide *True Colors* training in FY 2011. Evaluations of the training have remained favorable and demonstrated that the *True Colors* training has been effective. Word has spread, and DMEO is being requested to provide this training in other schools, to administrators, and to students. The training has also been used by our Center for Early Dispute Resolution (CEDR) at schools in several locations.

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**DoDEA's Posted Equal Employment Opportunity Data Pursuant to the
NoFEAR Act:**

DoDEA (and below)
For 4th Quarter 2011 for period ending September 30, 2011
Mixed Cases are Included in this report.

Complaint Activity	Comparative Data					
	Previous Fiscal Year Data					2011 Thru 09-30
	2006	2007	2008	2009	2010	
Number of Complaints Filed	34	49	31	45	49	58
Number of Complainants	33	50	31	46	49	58
Repeat Filers	1	1	0	1	0	0

Complaints by Basis	Comparative Data					
	Previous Fiscal Year Data					2011 Thru 09-30
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i>	2006	2007	2008	2009	2010	
Race (all races combined)	21	25	11	14	18	23
Color	10	6	3	5	8	7
Religion	3	4	1	1	4	2
Reprisal	0	13	9	9	22	25
Sex	18	22	9	20	16	23
PDA	0	0	0	0	0	0
National Origin	5	5	7	9	8	13
Equal Pay Act	0	0	0	1	0	0
Age	14	18	11	18	20	17
Disability	8	19	10	9	12	20
Genetics	0	0	0	0	0	0
Non-EEO	0	0	0	0	0	0

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Complaints by Issue	Comparative Data					
	Previous Fiscal Year Data					2011 Thru 09-30
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i>	2006	2007	2008	2009	2010	
Appointment/Hire	9	4	1	6	13	5
Assignment of Duties	3	3	2	2	6	7
Awards	0	0	0	0	0	0
Conversion to Full-time	0	0	0	0	0	0
Disciplinary Action						
Demotion	0	0	0	0	0	0
Reprimand	2	1	2	1	2	3
Suspension	1	1	0	0	1	0
Removal	0	0	0	1	1	1
Other	2	0	1	0	0	5
Duty Hours	0	0	0	0	0	0
Evaluation Appraisal	2	0	1	0	2	5
Examination/Test	0	0	0	0	0	0
Harassment						
Non-Sexual	12	16	16	21	21	26
Sexual	0	2	1	1	1	3
Medical Examination	0	1	0	0	0	0
Pay (Including Overtime)	0	0	0	1	0	0
Promotion/Non-Selection	6	3	5	2	4	3
Reassignment						
Denied	0	1	0	0	0	4
Directed	4	9	4	4	2	4
Reasonable Accommodation	1	2	4	2	1	4

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Reinstatement	0	0	0	0	0	0
Retirement	0	0	0	0	2	0
Termination	1	7	3	5	3	14
Terms/Conditions of Employment	4	2	0	5	1	9
Time and Attendance	2	1	0	0	2	2
Training	1	1	0	0	0	2
Other	1	0	0	0	7	1

Processing Time	Comparative Data					
	Previous Fiscal Year Data					2011 Thru 09-30
	2006	2007	2008	2009	2010	
Complaints pending during fiscal year						
Average number of days in investigation	208.91	264.37	216.79	215.31	217.22	171.51
Average number of days in final action	101.59	122.42	161.76	76.53	45.85	83.55
Complaint pending during fiscal year where hearing was requested						
Average number of days in investigation	219.82	257.93	212.00	214.11	215.22	160.41
Average number of days in final action	22.93	89.83	52.00	37.57	19.50	23.60
Complaint pending during fiscal year where hearing was not requested						
Average number of days in investigation	198.92	269.20	220.15	215.94	218.34	178.64
Average number of days in final action	239.25	155.00	187.59	110.62	52.44	103.53

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Complaints Dismissed by Agency	Comparative Data					
	Previous Fiscal Year Data					2011 Thru 09-30
	2006	2007	2008	2009	2010	
Total Complaints Dismissed by Agency	4	15	6	11	13	11
Average days pending prior to dismissal	259	85	137	49	50	91
Complaints Withdrawn by Complainants						
Total Complaints Withdrawn by Complainants	2	2	2	2	3	4

Total Final Agency Actions Finding Discrimination	Comparative Data											
	Previous Fiscal Year Data										2011 Thru 09-30	
	2006		2007		2008		2009		2010			
	#	%	#	%	#	%	#	%	#	%	#	%
Total Number Findings	0		0		0		0		1		0	
Without Hearing	0	0	0	0	0	0	0	0	0	0	0	0
With Hearing	0	0	0	0	0	0	0	0	1	100	0	0
Findings of Discrimination Rendered by Basis	Comparative Data											
	Previous Fiscal Year Data										2011 Thru 09-30	
	2006		2007		2008		2009		2010			
	#	%	#	%	#	%	#	%	#	%	#	%
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings.</i>												
Total Number Findings	0		0		0		0		1		0	
Race	0	0	0	0	0	0	0	0	1	100	0	0
Color	0	0	0	0	0	0	0	0	1	100	0	0
Religion	0	0	0	0	0	0	0	0	0	0	0	0

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Reprisal	0	0	0	0	0	0	0	0	0	1	100	0	0
Sex	0	0	0	0	0	0	0	0	0	0	0	0	0
PDA	0	0	0	0	0	0	0	0	0	0	0	0	0
National Origin	0	0	0	0	0	0	0	0	0	0	0	0	0
Equal Pay Act	0	0	0	0	0	0	0	0	0	0	0	0	0
Age	0	0	0	0	0	0	0	0	0	1	100	0	0
Disability	0	0	0	0	0	0	0	0	0	0	0	0	0
Genetics	0	0	0	0	0	0	0	0	0	0	0	0	0
Non-EEO	0	0	0	0	0	0	0	0	0	0	0	0	0
Findings After Hearing	0		0		0		0		1		0		
Race	0	0	0	0	0	0	0	0	1	100	0	0	
Color	0	0	0	0	0	0	0	0	1	100	0	0	
Religion	0	0	0	0	0	0	0	0	0	0	0	0	
Reprisal	0	0	0	0	0	0	0	0	1	100	0	0	
Sex	0	0	0	0	0	0	0	0	0	0	0	0	
PDA	0	0	0	0	0	0	0	0	0	0	0	0	
National Origin	0	0	0	0	0	0	0	0	0	0	0	0	
Equal Pay Act	0	0	0	0	0	0	0	0	0	0	0	0	
Age	0	0	0	0	0	0	0	0	1	100	0	0	
Disability	0	0	0	0	0	0	0	0	0	0	0	0	
Genetics	0	0	0	0	0	0	0	0	0	0	0	0	
Non-EEO	0	0	0	0	0	0	0	0	0	0	0	0	
Findings Without Hearing	0		0		0		0		0		0		
Race	0	0	0	0	0	0	0	0	0	0	0	0	
Color	0	0	0	0	0	0	0	0	0	0	0	0	
Religion	0	0	0	0	0	0	0	0	0	0	0	0	

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Reprisal	0	0	0	0	0	0	0	0	0	0	0	0
Sex	0	0	0	0	0	0	0	0	0	0	0	0
PDA	0	0	0	0	0	0	0	0	0	0	0	0
National Origin	0	0	0	0	0	0	0	0	0	0	0	0
Equal Pay Act	0	0	0	0	0	0	0	0	0	0	0	0
Age	0	0	0	0	0	0	0	0	0	0	0	0
Disability	0	0	0	0	0	0	0	0	0	0	0	0
Genetics	0	0	0	0	0	0	0	0	0	0	0	0
Non-EEO	0	0	0	0	0	0	0	0	0	0	0	0

Findings of Discrimination Rendered by Issue	Comparative Data											
	Previous Fiscal Year Data										2011 Thru 09-30	
	2006		2007		2008		2009		2010		#	%
	#	%	#	%	#	%	#	%	#	%		
Total Number Findings	0		0		0		0		1		0	
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	0	0	0	0	0	0	0	0	0	0
Awards	0	0	0	0	0	0	0	0	0	0	0	0
Conversion to Full-time	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action												
Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Reprimand	0	0	0	0	0	0	0	0	0	0	0	0
Suspension	0	0	0	0	0	0	0	0	0	0	0	0
Removal	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0
Evaluation Appraisal	0	0	0	0	0	0	0	0	0	0	0	0

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Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Harassment												
Non-Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0
Pay (Including Overtime)	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	0	0	0	0	0	0	0	0	0	0	0	0
Reassignment												
Denied	0	0	0	0	0	0	0	0	1	100	0	0
Directed	0	0	0	0	0	0	0	0	1	100	0	0
Reasonable Accommodation	0	0	0	0	0	0	0	0	0	0	0	0
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Termination	0	0	0	0	0	0	0	0	0	0	0	0
Terms/Conditions of Employment	0	0	0	0	0	0	0	0	0	0	0	0
Time and Attendance	0	0	0	0	0	0	0	0	0	0	0	0
Training	0	0	0	0	0	0	0	0	0	0	0	0
Other - User Defined	0	0	0	0	0	0	0	0	0	0	0	0
Findings After Hearing	0		0		0		0		1		0	
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	0	0	0	0	0	0	0	0	0	0
Awards	0	0	0	0	0	0	0	0	0	0	0	0
Conversion to Full-time	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action												
Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Reprimand	0	0	0	0	0	0	0	0	0	0	0	0
Suspension	0	0	0	0	0	0	0	0	0	0	0	0

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Removal	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0
Evaluation Appraisal	0	0	0	0	0	0	0	0	0	0	0	0
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Harassment												
Non-Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0
Pay (Including Overtime)	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	0	0	0	0	0	0	0	0	0	0	0	0
Reassignment												
Denied	0	0	0	0	0	0	0	0	1	100	0	0
Directed	0	0	0	0	0	0	0	0	1	100	0	0
Reasonable Accommodation	0	0	0	0	0	0	0	0	0	0	0	0
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Termination	0	0	0	0	0	0	0	0	0	0	0	0
Terms/Conditions of Employment	0	0	0	0	0	0	0	0	0	0	0	0
Time and Attendance	0	0	0	0	0	0	0	0	0	0	0	0
Training	0	0	0	0	0	0	0	0	0	0	0	0
Other - User Defined	0	0	0	0	0	0	0	0	0	0	0	0
Findings Without Hearing	0		0		0		0		0		0	
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	0	0	0	0	0	0	0	0	0	0
Awards	0	0	0	0	0	0	0	0	0	0	0	0
Conversion to Full-time	0	0	0	0	0	0	0	0	0	0	0	0

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Disciplinary Action												
Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Reprimand	0	0	0	0	0	0	0	0	0	0	0	0
Suspension	0	0	0	0	0	0	0	0	0	0	0	0
Removal	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0
Evaluation Appraisal	0	0	0	0	0	0	0	0	0	0	0	0
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Harassment												
Non-Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0
Pay (Including Overtime)	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	0	0	0	0	0	0	0	0	0	0	0	0
Reassignment												
Denied	0	0	0	0	0	0	0	0	0	0	0	0
Directed	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation	0	0	0	0	0	0	0	0	0	0	0	0
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Termination	0	0	0	0	0	0	0	0	0	0	0	0
Terms/Conditions of Employment	0	0	0	0	0	0	0	0	0	0	0	0
Time and Attendance	0	0	0	0	0	0	0	0	0	0	0	0
Training	0	0	0	0	0	0	0	0	0	0	0	0
Other - User Defined	0	0	0	0	0	0	0	0	0	0	0	0

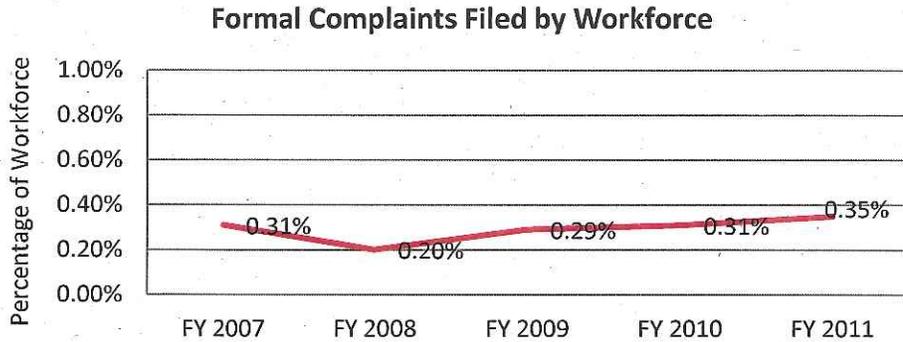
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Pending Complaints Filed in Previous Fiscal Years by Status	Comparative Data					
	Previous Fiscal Year Data					2011 Thru 09-30
	2006	2007	2008	2009	2010	
Total complaints from previous Fiscal Years	0	0	0	9	0	0
Total Complainants	34	49	31	45	49	58
Number complaints pending						
Investigation	0	0	0	0	2	2
ROI issued, pending Complainant's action	0	1	0	0	0	0
Hearing	0	0	0	10	12	21
Final Agency Action	0	3	0	2	1	1
Appeal with EEOC Office of Federal Operations	0	0	0	0	0	0

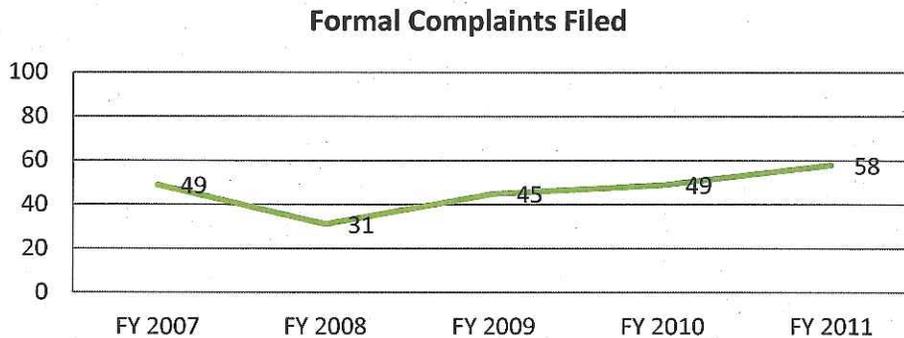
Complaint Investigations	Comparative Data					
	Previous Fiscal Year Data					2011 Thru 09-30
	2006	2007	2008	2009	2010	
Pending Complaints Where Investigations Exceed Required Time Frames	6	4	1	0	1	0

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Trend Analysis/Causality-Formal Complaint Data FY 2007-2011



In FY 2011, DoDEA supported a total workforce of 16,534 employees (permanent and temporary), a 3% increase from FY 2007. From FY 2007 to 2011 formal complaints filed by the workforce range from 0.20% to 0.35%. In FY 2011, 0.35% of the workforce filed formal complaints, a 0.04% increase from FY 2007 and FY 2010. The FY 2010 government-wide average for complaints by workforce for large agencies (15,000 or more employees) is 0.46%. For this FY, DoDEA is 0.11% below the FY 2010 government-wide average. See the Employment Opportunity Commission (EEOC) FY 2010 Annual Report on the Federal Workforce, <http://www.eeoc.gov/federal/reports/fsp2010/>.



Analysis of the formal complaints filed from FY 2007 to 2011, reflects a total of 232 formal complaints filed, an average of 46 per FY. From FY 2007 to 2011 formal complaints have ranged from 31 to 58.

While the preceding chart illustrates how many formal complaints were filed, it does not address the number of EEO complaints received at the contact and pre-complaint counseling stage that do not continue to the formal EEO complaint process. EEO contacts are individuals who request to speak with an EEO representative regarding issues of workplace dissatisfaction. The EEO counselor provides information to assist the aggrieved person in deciding whether or not they will proceed with initiating a pre-complaint. From FY 2007 to 2011, an average of 47% of EEO contacts did not continue through the EEO pre-complaint process and an average of 43%

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of pre-complaints did not continue through the formal complaint process. These efforts are directly attributed to the EEO Counselors who provide excellent service by resolving issues at the lowest possible level.

Although formal complaints have increased by nine since FY 2007, it is not a significant increase, especially when acknowledging a reorganization in 2010 to maximize resources, the National Security Personnel System conversion in 2008, and conversion back to the General Schedule pay plan in FY 2010 to 2011. Certain changes in the workplace often produce resistance, and the realignment and change in doing business can directly impact the increase in formal complaints. We have not pinpointed any specific issues that have contributed to the rise in complaints from FY 2007 to 2011; however, as the Federal workforce decreased in size over the past few years with further decreases expected, EEO pre-complaints have risen government wide, increasing to 3.9% from FY 2009 to 2010 and 4.5% since FY 2006, based on the EEOC's FY 2010 Annual Report on the Federal Workforce. The rise in formal complaints at DoDEA is not substantial and should not be looked upon as a reliable indicator of an increase of discrimination in the workplace.

A Government Accounting Office Report, Testimony Before the Subcommittee on Civil Service Committee on Government Reform, EEO Discrimination Complaint Caseloads and Underlying Causes, <http://www.gao.gov/new.items/gg00104t.pdf>, states that, "downsizing, reassignments, and changes in the economic and legal environment contribute to the increases in the number of complaints. Another factor was the Civil Rights Act of 1991, which motivated some employees to file complaints by allowing compensatory damage awards up to \$300,000 to be made. Other factors include the Americans with Disabilities Act of 1990, which made Federal workers aware of existing protections; and program regulations implemented in 1992 made the complaint process more accessible to employees. Additionally, employees may file multiple complaints and "spin-off" complaints; multiple employees challenging the processing of existing complaints, and there has been a Federal increase in reprisal complaints, claims by employees who allege that they have been retaliated against for filing a complaint. EEOC also reported that among other things, the discrimination complaint process was burdened by a number of cases that were not legitimate discrimination complaints. Some employees file frivolous complaints to harass supervisors or "game" the system. Others file a complaint in an attempt to get a third party's assistance in resolving workplace disputes unrelated to discrimination. In the same vein, the EEOC reported in its 1996 study that a sizable number of complaints might not involve discrimination issues but instead reflect basic communications problems in the workplace."

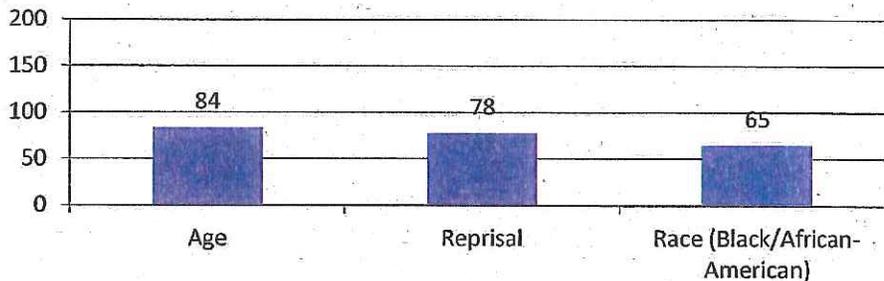
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Bases and Issues Filed in Formal EEO Complaints

Bases – Most Frequently Alleged FY 2007-2011

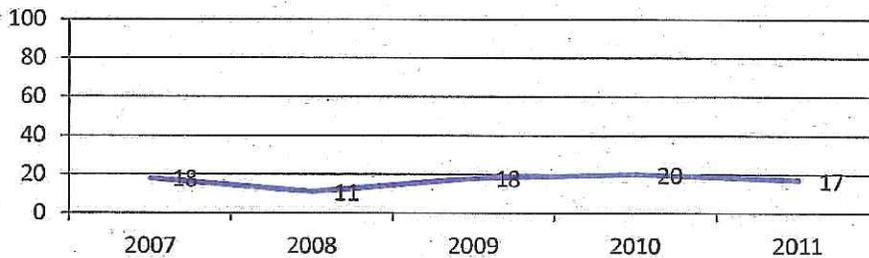
From FY 2007 to 2011, the top three most frequent alleged bases in formal complaints were: age (84), reprisal (78), and race (Black/African-American) (65).

Top 3 Bases



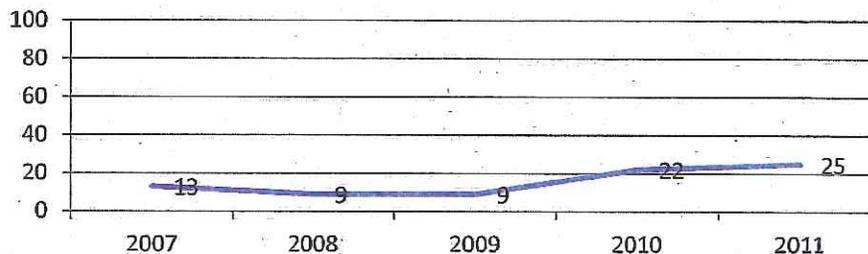
Age discrimination was the most frequent alleged basis from FY 2007 to 2011. Of the 232 formal complaints filed over the past 5 years, 36% were based on age.

Age



From FY 2007 to 2011, the number of age complaints ranged from 11 to 20. During the 5-year period they dropped 6%. Approximately 77% of the DoDEA workforce is educators who are 40 years of age or older. The average age of DoDEA educators is 48 years old.

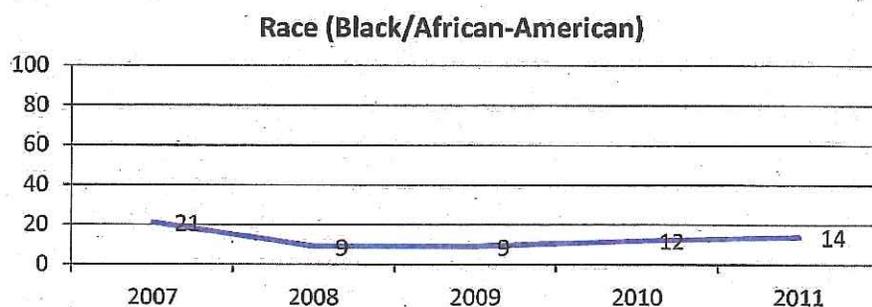
Reprisal



The second most frequent alleged basis from FY 2007 to 2011 is reprisal. Reprisal was alleged in 34% of the 232 formal complaints filed during the 5-year period. Reprisal complaints remained stable from FY 2007 to 2009, followed by an increase in FY 2010 and 2011.

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Reprisal claims constituted 36.3% of the charges filed with the EEOC in FY 2010 Federal wide, over 1/3 of all charges filed. This percentage has risen dramatically over the past decade and constitutes a tangible threat to employers, especially given the fact that retaliation claims carry with them damages that are essentially identical to primary discrimination claims (such as race, sex and disability claims). Because an employee can lose his or her primary discrimination claim while succeeding with a retaliation claim, retaliation claims provide an extra avenue for employees to potentially recover against employers. DoDEA's EEO policies and training, address a zero tolerance for retaliation. Anyone found to have engaged in retaliatory conduct or behavior should expect timely and appropriate corrective and/or disciplinary action up to and including removal from Federal service, as outlined in agency disciplinary regulation, DoDEA Regulation 5751.9, Disciplinary and Adverse Actions.



Race (Black/African-American) is the third most frequent alleged basis from FY 2007 to 2011. Of the 232 formal complaints filed during this period, race (Black/African-American) was alleged in 28% of the complaints. Based on the chart above, the trend shows that after FY 2007, there was a marked decline followed by relatively stable amounts of activity.

Bases by Fiscal Year – FY 2007-2011

During the past 5 years, the top three bases filed in EEO complaints fluctuated. In FY 2011, the top three bases were reprisal (25); age (17); and sex (female) (15). Reprisal was also the top basis in FY 2010 (22). Age was the top basis in FY 2009 (18) and FY 2008 (11). In FY 2007, race (Black/African-American) (21) was the top basis. The top three bases government-wide for the past 5 years has been (in order) reprisal, age, and race (Black/African-American) as reported in the EEOC's FY 2010 Report on the Federal Workforce.

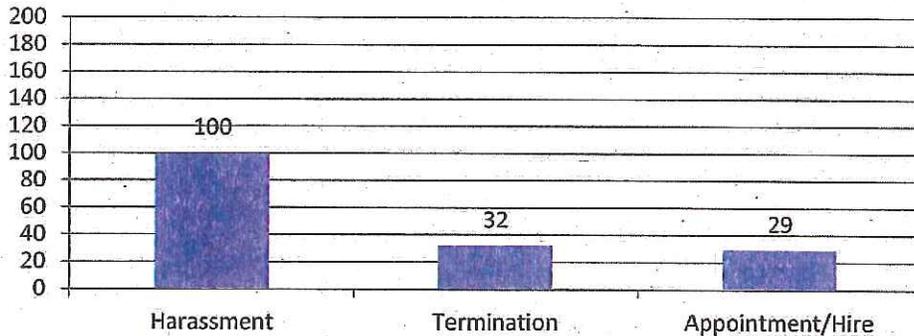
A recent Diversity Climate survey (the Federal Organizational Climate Survey, or FEOCS) conducted by DoDEA also sheds some light on what types of discrimination are most frequently reported in our agency. In the survey, participants were asked if they had experienced any type of discrimination, in the past 12 months, in regards to any of the following areas: race/national origin/color, gender (sex), age, disability, religion, and they also had the option of indicating they had been discriminated against in two or more categories from the list. Approximately 3,000 employees, 18% of the workforce, completed the survey, and of those who completed it, 20% reported they had experienced some form of discrimination. Of the 20% who reported experiencing discrimination, 28% said they had experienced two or more forms of discrimination. The next most common type of reported discrimination was race/national origin/color (26%), followed by discrimination based on age (20%), and sex (18%). Measures are

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underway to address these issues by increasing transparency, communication, and trust in the organization.

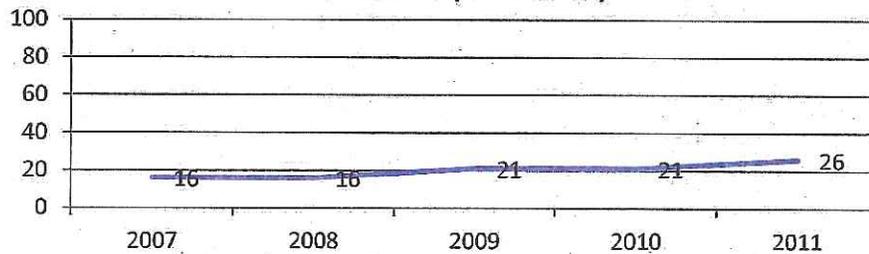
Issues

Top Issues FY 2007-2011



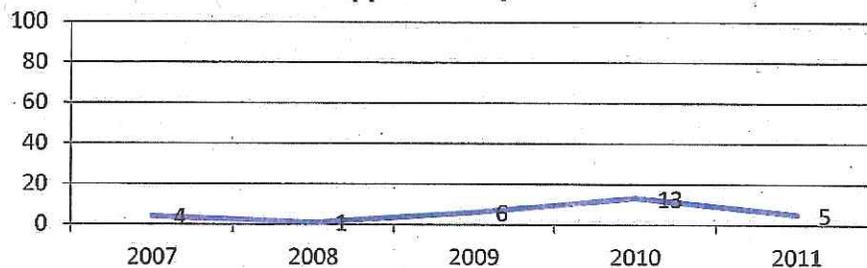
During the past 5 years, the issues most frequently alleged in complaints have been harassment (non-sexual), termination, and appointment/hire.

Harassment (non-sexual)



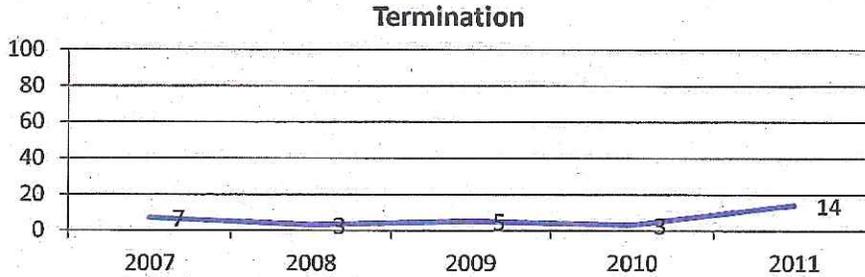
Harassment (non-sexual) is the most frequent alleged issue during the past 5 years. Of the 232 formal complaints received, harassment was alleged in 43% of the complaints. From FY 2007 to 2011, harassment complaints have gradually increased. The prevalence of this issue is consistent with the EEOC's FY 2010 Report on the Federal Workforce.

Appointment/Hire



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The second most frequent alleged issue filed in formal complaints is appointment/hire. Of the 232 formal complaints filed over the past 5 years, 13% were regarding appointment/hire issues. From FY 2007 to 2011, the number of complaints varied from 1 to 13.



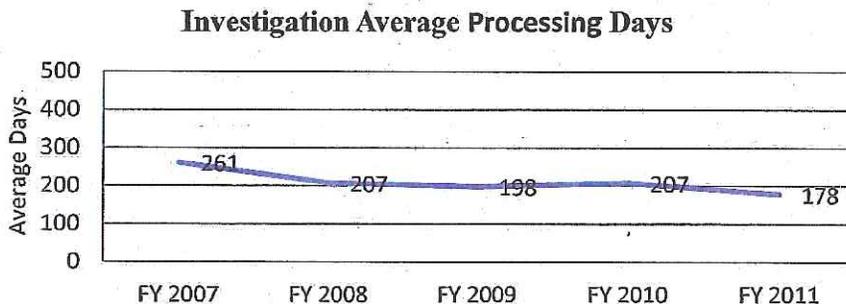
The third most frequent alleged issue was termination. Termination was alleged in 12% of the formal complaints filed from FY 2007 to 2011. From FY 2007 to 2010, complaints regarding termination were fairly stable until an uptick in FY 2011.

Issues – Top 3 by Fiscal Year

The top three issues filed in complaints vary each FY. Harassment (non-sexual) has been the number one issue consistently over the past 5 years. Additionally, harassment (non-sexual) is the number one issue Federal wide over the past 5 years.

In FY 2011, the top three issues were harassment (non-sexual) (26); reassignment (8); and assignment of duties (7). In FY 2010, the top three issues were harassment (21), appointment hire (13), and assignment of duties (6). In FY 2009, the top three issues were harassment (non-sexual) (21), appointment/hire (6), and termination (5) tied with terms/conditions of employment (5). In FY 2008, the top three issues were harassment (non-sexual) (16), promotion/non-selection (5), and reassignment (4) tied with reasonable accommodation (4). In FY 2007, harassment (non-sexual) (16), reassignment (10), and termination (7).

Investigations FY 2007-2011

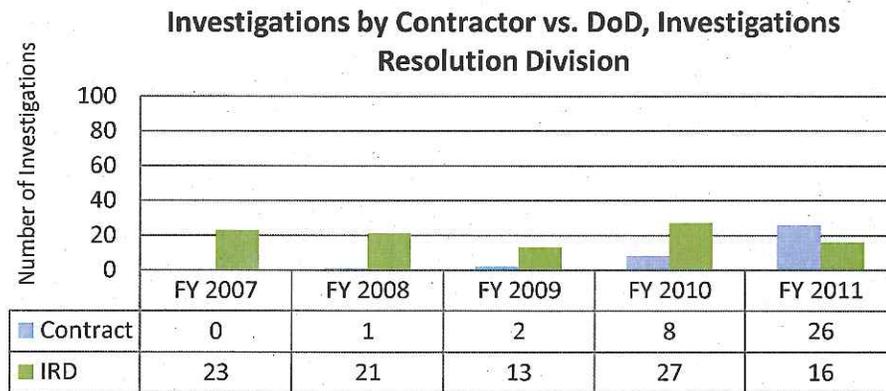


In accordance with 29 CFR 1614, Federal agencies are required to complete investigations within 180 calendar days from the date the formal complaint was filed. The

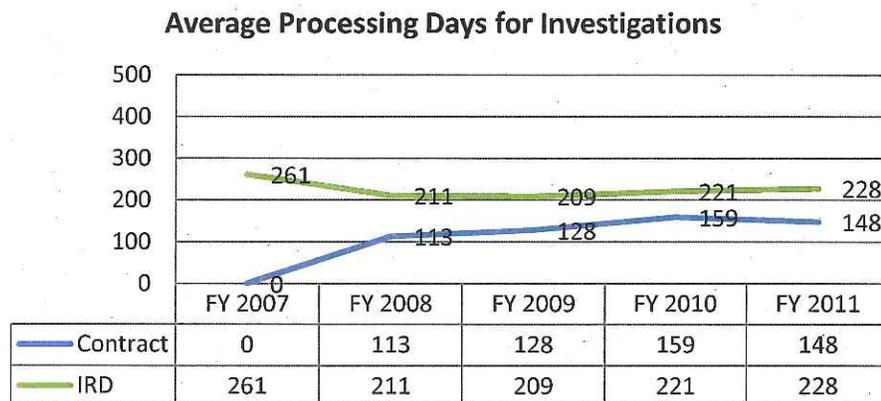
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government-wide investigation average processing days as reported in the EEOC's FY 2010 Annual Report on the Federal Workforce, was 181 days. DoDEA is 2 days below the 180 day requirement. From FY 2007 to 2011 investigation average days have been generally decreasing.

In FY 2011, DoDEA processed 42 investigations in 178 average days, a 29-day improvement from FY 2010 and an 83-day improvement from FY 2007. This is the first time the Agency has exceeded the 180-day average investigation processing requirement. This goal was achieved by contracting out the majority of the investigations as illustrated in the charts below.



Over the past 3 fiscal years, the DMEO office increased the number of contract investigations to meet the 180-day investigation requirement. In FY 2011, 62% of the 42 investigations were contracted. As a result, the Agency was able to complete investigations in 178 average days. From FY 2007 to 2011, contractors completed 27% of Agency EEO investigations and IRD completed 63%. While IRD is the primary DoD investigative office, their lack of resources and a high employee turnover created a backlog of cases over the past 2 years. DMEO had to look for alternative resources to ensure timely investigations.



The chart above illustrates that contract investigations are consistently timely and internal investigations (IRD) exceed the 180-day investigation requirement. In FY 2011, the 178 processing day average included two untimely investigations. One investigation was nine days

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late due to a death in the family of a contract investigator, and the other investigation was an IRD investigation completed in 298 days which was reassigned multiple times. Contract investigations increased 57% from FY 2008 to 2011 resulting in an 83-day average improvement in processing time.

Final Agency Actions

EEOC regulations require an agency to take a final action on each formal complaint filed. Agencies may issue a decision dismissing a complaint on procedural grounds such as untimely EEO counselor contact or failure to state a claim. An agency may also issue a decision after an investigation, either finding discrimination or finding no discrimination. Finally, when an EEOC Administrative Judge (AJ) has issued a decision, the agency must issue a final order either implementing the AJ's decision or not implementing and simultaneously appealing to EEOC.

Merit Final Agency Decisions (FAD) without an AJ

EEOC regulations require agencies to issue a FAD within 60 days of a complainant's request (or agency's) for such a decision or from receipt of an AJ's remand for a FAD. In addition, EEOC regulations require agencies to issue a FAD within 60 days after completion of an investigation if the complainant has not requested either a final decision or an EEOC hearing. In FY 2010, Federal agencies timely issued 51.5% of their merit FADs without an AJ.

In FY 2011, DoDEA issued 13 merit FADs without an AJ in 50 average days, ten days below the 60-day requirement. DoDEA timely issued 92% of the merit FADs in FY 2010, 41% above the government-wide average, with only one untimely. Even with one untimely FAD, the average processing days were exceeded by 41%. DoDEA continues to improve processing timelines by closely monitoring all FADs.

From FY 2007 to 2011, DoDEA issued 60 FADs, an average of 12 per year. From FY 2009 to 2010, FAD timeliness began to show a marked improvement from 110 days to 53 days. In FY 2011, the improvement continued with a 50-day FAD processing timeline, ten days below the requirement. This improvement was due to more stringent control of the FAD process, development of a FAD flowchart, monitoring of timelines, and restructuring the DMEO office and placement of a Complaints Manager with oversight of the FADs. The FY 2010 government-wide average for issuing FADs without an AJ's decision is 201 days. DoDEA exceeded this by 151 average days in FY 2011.

Procedural Dismissals

An agency may dismiss a complaint for several reasons to include untimely counselor contact, filing the identical claim in Federal court, and failure to state a claim, among other reasons. See 29 CFR 1614.107(a). The EEOC suggests that acceptance letters/dismissal decisions be issued within 60 days of the filing of the formal complaint.

From FY 2007 to 2011 a total of 56 procedural dismissals were issued, an average of 11 per FY. From FY 2008 to 2011, dismissal timelines improved by 46 days. In FY 2010, the

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government-wide average processing time for issuing a decision dismissing a complaint on procedural grounds was 100 days. DoDEA's FY 2011 average processing days for procedural dismissals was 91 days, nine days below the government-wide average, but 31 days over EEOCs suggested deadline. DoDEA is working towards its goal of processing procedural determinations within 30 days of filing the formal complaint. Performance standards reflect this requirement.

Merit Final Agency Actions with an AJ Decision

Finally, when an EEOC AJ has issued a decision, the agency must issue a final order either implementing the AJ's decision or not implementing and simultaneously appealing to EEOC. EEOC regulations require agencies issue an order within 40 calendar days of receiving the AJ's decision or the decision becomes the agency's final decision. In FY 2010, Federal agencies issued orders on AJ merit decisions in an average of 685 days from the complaint being filed. DoDEA issued five decisions in FY 2010 in an average of 727 days from the date the complaint was filed, an increase of 42 days over the government-wide average. DoDEA made a 113-average-day improvement from FY 2009 at 840 days.

The percentage of findings of discrimination government-wide is 3.30%. In October of 2011, LRP projects editor and EEO expert Allison Uehling held an audio conference where she noted five lessons that agencies should take away from findings of discrimination: (1) chilling effect/retaliation, (2) procedural failures such as failing to submit complaint file to EEOC, beginning an investigation 450 days after the complaint was filed, and taking 574 days to produce a report of investigation; (3) not engaging in the interactive process when considering a request for a reasonable accommodation; (4) suddenly ending a reasonable accommodation and inexplicably providing a modified job offer outside the complainant's limitations; and (5) violations of the Equal Pay Act. Proactive training in these areas will help DoDEA managers avoid making the same mistakes as other agencies.

During the 5-year period, DoDEA had one finding of discrimination, in the Pacific Area. The finding involved discrimination based on race (Black/African-American), color (Black), age, and reprisal for prior EEO activity. The issue involved a reassignment. At the end of FY 2011, DoDEA had 22 cases before the EEOC for hearing.

Knowledge Gained through Practical Experience

A number of notable successes in the processing of EEO complaints were made in FY 2011: improvements in the number and percentage of timely pre-complaints counseled, EEO investigations and Final Agency Decisions, improved conversion rates from contact to pre-complaints filed and from pre-complaints filed to formal complaints filed.

Pre-Complaints Counseled 100% Timely: DoDEA was 100% timely in regards to counseling pre-complaints in FY 2011. This was an improvement from FY 2010 at 94% timely.

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93% Timely Investigations: DMEO's objective for FY 2011 was to have 100% timely investigations; however, two (out of 42) investigations were untimely. Regardless, the percentage of timely investigations for FY 2011 (93%) improved 2% from FY 2010 (91%). Although investigations are not 100% timely, our average investigation processing days decreased to 178 average days (which is two days below the mandated 180 days to complete an investigation); this was also an improvement from FY 2010 (207 average processing days).

Timelines of investigations is an ongoing challenge. DoDEA investigations are typically processed by DoD, Civilian Personnel Management Services, Investigations and Resolutions Division (IRD). In January 2010 and 2011, IRD announced that they were experiencing a large backlog of cases and high turnover of staff, resulting in delays of three or more months in assigning cases to investigators. To offset this, DMEO frequently requested 90-day extensions of cases under investigation, which must be granted by the complainant, but is not always granted. IRD investigations have resulted in higher average processing days. As an alternative, DMEO resorted to contracting out 62% of the 42 investigations in FY 2011 at a substantial cost for compliance. Contract investigations were processed in an average of 148 days compared to IRD investigations which average 228 days. DMEO has requested to hire a full-time investigator to ensure timely investigations and be in compliance with EEOC regulatory guidelines.

Improved Processing Time for Final Agency Decisions (FADs): DMEO FAD processing timelines continue to improve. In FY 2010 and 2011, FADs remained below the 60-day requirement. The average number of processing days improved three days for FY 2011 (50 days), compared to FY 2010 (53 days). DoDEA was untimely for one FAD in FY 2011 and one FAD in FY 2010. However, in FY 2010, DMEO issued 15 FADS and in FY 2011, 13. This resulted in a slight decrease in timeliness (92% for FY 2011 vs. 93% for FY 2010) although the number of untimely FADs did not change.

Update on the DMEO Reorganization to Attain the Essential Elements of a Model EEO Program

In FY 2011, the DMEO office became fully staffed in all functional areas when two vacant positions were filled. The positions filled were: (1) EEO full-time counselor for the Domestic Dependent Secondary and Elementary Schools, Peachtree City, Georgia, DMEO office; and (2) a full-time ADR Program Manager position at the DMEO Headquarters office. DMEO found that Area offices staffed with a Program Manager and a full-time EEO counselor yields better processing and resolution rates. The responsibilities of the Area EEO counselor include providing EEO counseling for the EEO pre-complaint process, assisting the Program Manager with the diversity management, disabilities program/reasonable accommodations and the ADR program. Filling the vacant ADR Program Manager position at Headquarters provided oversight of the ADR Program to include marketing and training Agency-wide. We anticipate improved ADR participation and resolution rates with this new addition. Unfortunately, due to mandated agency personnel cuts, during FY 2011, the ADR Program Manager position was cut

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from the DMEO staff and the duties were incorporated into the Complaint Program Manager position.

DMEO conducted a comprehensive review of its programs and identified that a total of seven additional staff members would be necessary to effectively implement a model EEO program in accordance with the EEOC's Management Directive 715, <http://www.eeoc.gov/federal/directives/md715.cfm>. Without proper staffing and funding, DoDEA will find it difficult to attain the expertise and knowledge to improve its diversity climate. Having proper staffing and funding would allow DMEO to restructure itself into two functions: (1) Complaints & Compliance (C&C) and (2) Diversity & Inclusion (D&I). Distinctly separating these two functions would allow D&I staff to concentrate on a harmonious and productive work environment, a diverse and inclusive workforce, and a high quality education for students, and would allow C&C to focus on preventing, resolving, and processing workplace disputes in a high-quality manner.

According to the Office of the Secretary of Defense Office of Diversity Management and Equal Opportunity, an analysis of all DoD components showed the staffing ratio of the Equal Employment Opportunity Specialists (0260 Series) to be 1:750 for the 4th Estate. Currently, the DoDEA DMEO staff ratio to employee is 1:1443. DoDEA's DMEO staff is fewer than any of our counterparts. DoDEA is part of the DoD's 4th Estate. Army has a ratio of 1:610, the Navy, 1:1060 and the Air Force, 1:1090. The following positions are being considered for future hires: one individual to supervise the D&I staff; three Research Psychologists, one Training/Communications Manager, one Investigator/Mediator, and one Program Assistant (upward mobility position).