

FISCAL YEAR 2022

# ANNUAL PERFORMANCE REPORT



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION



## HOW THIS REPORT IS ORGANIZED

This *Fiscal Year 2022 Annual Performance Report* (APR) presents the U.S. Equal Employment Opportunity Commission's (the EEOC or agency) program results and management challenges. The APR presents the agency's fiscal year 2022 information in the following sections:

- › **Agency and Mission Information:** Provides an overview of the agency's organizational structure, mission, and vision.

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- › **Performance Results:** Highlights the progress made in meeting the agency's performance measures, which are articulated in the [EEOC's Strategic Plan for Fiscal Years 2018 through 2022](#), as well as accomplishments in related programs and activities.

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- › **Other Information:** Identifies major management priorities and challenges and addresses the verification and validation of the performance data.

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- › **Evidence Building:** Describes findings from agency-funded evaluations and other relevant evidence-building activities.

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- › **Appendices:** Contains information on the EEOC's organization, jurisdiction, leadership, and performance information specifically requested by Congress, as well as a glossary of the acronyms used in the report.

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## A MESSAGE FROM THE CHAIR



I am pleased to present the fiscal year 2022 Annual Performance Report (APR) for the U.S. Equal Employment Opportunity Commission (the EEOC or Commission). It is an honor to lead the agency's dedicated employees as we seek to advance equal opportunity for all in the workplace. The APR provides an overview of the agency's work during fiscal year 2022 to secure justice in America's workplaces by preventing and remedying unlawful employment discrimination.

The EEOC was created in direct response to the call for racial justice and basic human dignity at the historic 1963 March on Washington for Jobs and Freedom. Entrusted with a clear mission of preventing and remedying workplace discrimination, for nearly sixty years, the EEOC has enforced the nation's workplace civil rights laws and conducted outreach and education to ensure that employees and employers know their rights and responsibilities under these laws. As we approach the 60th anniversary of the March on Washington, we recognize that the nation has made significant progress in advancing civil rights, but that a great deal of work remains to fulfill the promise of equality for America's workers. Today, promoting equal employment opportunity and enforcing the nation's federal workplace anti-discrimination laws remain critical priorities. The EEOC continues to work toward an America where all have a fair chance to work, provide for their families, and contribute to our economy.

As the primary federal agency that enforces laws against employment discrimination, the Commission plays a critical role in advancing equal opportunity in the workplace. The EEOC has numerous tools to combat discrimination, including outreach and education, technical assistance, and enforcement. In fiscal year 2022, the agency used all of these tools to achieve change on a broad scale. Among other accomplishments, the agency educated more than 225,000 individuals nationwide about employment discrimination and their workplace rights and responsibilities and secured more than \$513.7 million in monetary relief for more than 38,000 victims of employment discrimination, including nearly \$40 million as a direct result of litigation resolutions, and more than \$132 million for federal employees and applicants. Once again, the agency demonstrated that the EEOC is a sound investment for the American people, recovering more in monetary benefits for victims of discrimination than our \$420 million budget, while making significant progress in each of its priority areas.

During fiscal year 2022, the agency prioritized tackling systemic discrimination in all forms and on all bases; advancing racial justice and equity in the workplace; preventing and remedying unlawful retaliation; enforcing pay equity; supporting diversity, equity, inclusion, and accessibility (DEIA); and addressing the use of artificial intelligence in employment decisions. The agency realized significant accomplishments in each of these priority areas in fiscal year 2022. For instance, the EEOC resolved more than 300 systemic investigations on the merits and obtained more than \$29.7 million in monetary benefits for victims of discrimination as well as targeted equitable relief designed to change employment practices, prevent future discrimination, and bring employers into compliance with the law. The EEOC also prioritized outreach and education programs to reach vulnerable workers and underserved communities, including immigrant and

**The EEOC secured more than**  
**\$513.7**  
**million**  
**in monetary relief for more than**  
**38,000**  
**victims**  
**of employment discrimination.**



farmworker communities as well as other communities where individuals are reluctant to come forward to complain about employment discrimination, hosting over 1,000 events for these groups and reaching nearly 80,000 individuals. EEOC field offices also collaborated with partner organizations to extend the agency's reach and better serve vulnerable workers and underserved communities, which included conducting over 1,619 partnership events reaching 98,490 attendees.

During my tenure as Chair, I have focused on strategic use of the agency's resources to ensure that the EEOC can vigorously enforce the law, including effectively addressing an increased demand for the agency's services. As detailed in this report, during fiscal year 2022, the charges of discrimination filed with the EEOC, as well as calls and emails to the agency's contact center, increased significantly compared with fiscal year 2021. To ensure that the agency has the resources and tools it needs to continue to protect and advance civil rights, in fiscal year 2022, I authorized the hiring of 352 new positions, the majority of which were front-line positions (investigators, mediators, attorneys, and administrative staff, among other positions) to help strengthen our ability to fulfill the agency's vital role in preventing and remedying employment discrimination.

The EEOC was created as a result of a strong national commitment to civil rights and continues to serve as tangible proof that the causes of justice and equality are greater than hatred, division, and bigotry. That legacy and our work are critically important to the American people and to this administration as we rebuild the economy to work for everyone and fulfill our nation's promise of equal justice for all.

A handwritten signature in black ink, reading "Charlotte A. Burrows". The signature is written in a cursive, flowing style.

Charlotte A. Burrows  
Chair  
U.S. Equal Employment Opportunity Commission

# MISSION, MAJOR PROGRAMS, AND ORGANIZATIONAL STRUCTURE





The Equal Employment Opportunity Commission's Annual Performance Report (APR) provides performance results that enable the President, Congress, and the public to assess the EEOC's accomplishments for each fiscal year (October 1 through September 30). This report provides an overview of programs, accomplishments, and challenges for fiscal year 2022. The report is prepared in accordance with the requirements of the Office of Management and Budget (OMB) Circular No. A-11, Annual Performance Planning and Reporting Requirements.

MISSION	VISION
Prevent and remedy unlawful employment discrimination and advance equal opportunity for all in the workplace.	Respectful and inclusive workplaces with equal employment opportunity for all.

## AGENCY OVERVIEW

Title VII of the Civil Rights Act of 1964 (Title VII) created the EEOC to enforce protections against employment discrimination on the bases of race, color, religion, sex, and national origin. Congress subsequently vested the EEOC with responsibility to enforce the Equal Pay Act of 1963 (EPA), the Age Discrimination in Employment Act of 1967 (ADEA), Section 501 of the Rehabilitation Act of 1973, Titles I and V of the Americans with Disabilities Act of 1990 (ADA), and Title II of the Genetic Information Nondiscrimination Act of 2008 (GINA). In addition, in 1972, Congress further expanded the agency's responsibilities by providing federal government employees the protections of Title VII and providing the EEOC with independent litigation authority against private employers under Title VII.

## STATUTORY STRUCTURE

The EEOC is a bipartisan Commission comprised of five presidentially appointed members, including the Chair, Vice Chair, and three Commissioners. No more than three Commissioners (including the Chair and Vice Chair) may be from the same political party. The Chair is responsible for the administration and implementation of policy and the enforcement program, financial management, and day-to-day operations of the Commission. The Vice Chair and the Commissioners participate equally in the development and approval of Commission policies, issue charges of discrimination where appropriate, and authorize the filing of lawsuits and amicus curiae briefs. In addition to the Commissioners, the President appoints a General Counsel to support the Commission and provide direction, coordination, and supervision to the EEOC's litigation program.

The Commissioners and General Counsel	Term Expires
CHAIR CHARLOTTE A. BURROWS	2023
VICE CHAIR JOCELYN SAMUELS	2026
COMMISSIONER JANET DHILLON*	2022
COMMISSIONER KEITH E. SONDERLING	2024
COMMISSIONER ANDREA R. LUCAS	2025
GENERAL COUNSEL VACANT**	

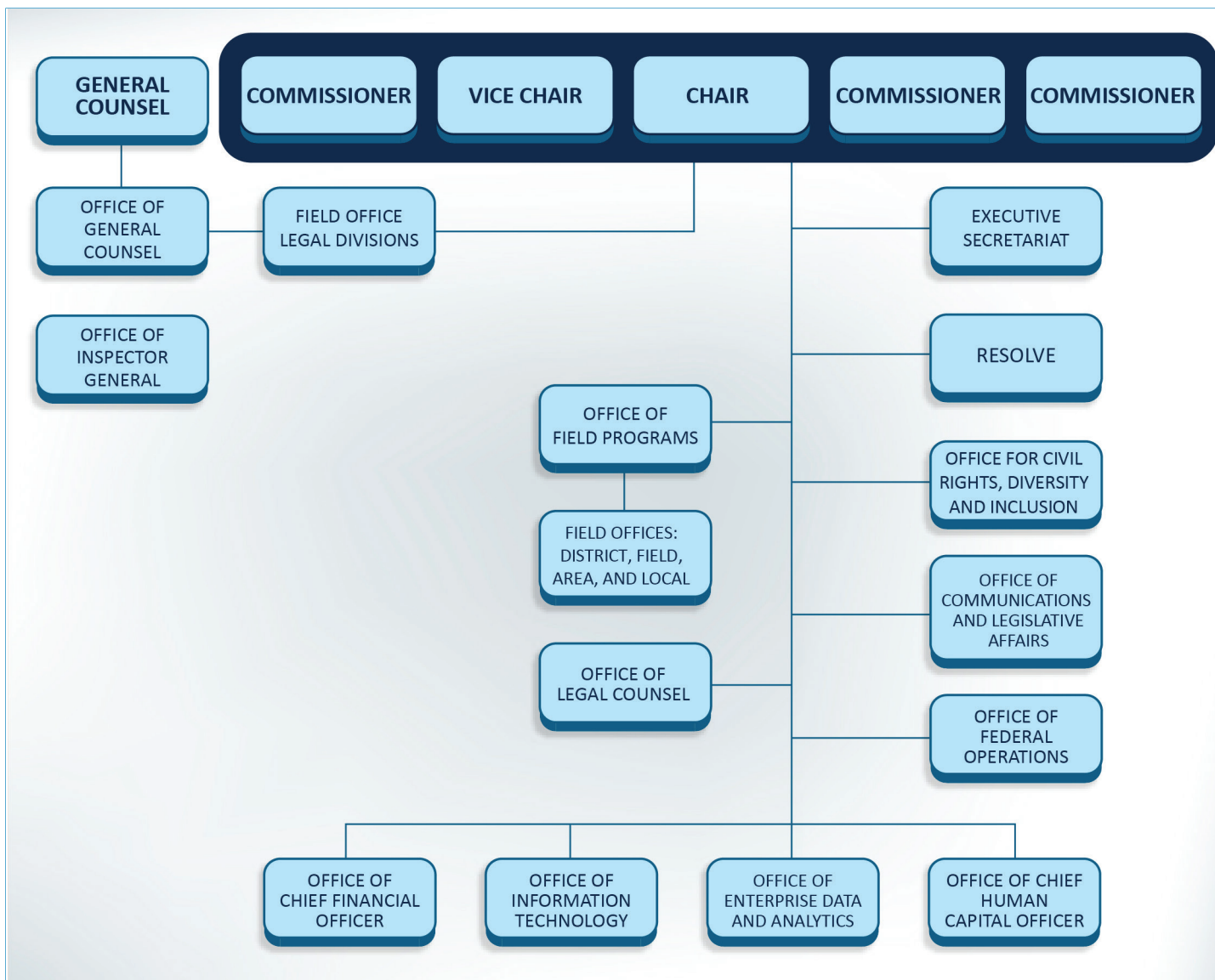
\* Commissioner Dhillon's term expired on July 1, 2022. She remained in hold-over status until her resignation on November 18, 2022.

\*\*Gwendolyn Young Reams was named acting General Counsel on June 8, 2022.



## ORGANIZATION

The EEOC accomplishes its mission through component offices that administer various programs. The EEOC maintains work sharing agreements and contract services with 91 state and local Fair Employment Practices Agencies (FEPAs) to coordinate the investigation of charges dual-filed under federal law and state and local laws, as appropriate. The EEOC also contracts with 62 Tribal Employment Rights Offices (TEROs) to assist them in protecting the employment rights of Native Americans working on or near Tribal lands.



For more information about specific EEOC offices, please see Appendix A.

These programs are carried out through a network of 53 district, field, area, and local offices. For more information about the [EEOC Field Offices](#) across the nation, please see Appendix B.



# PERFORMANCE RESULTS





## SUMMARY OF AGENCY RESULTS UNDER THE STRATEGIC PLAN PERFORMANCE MEASURES

The Government Performance and Results Modernization Act (5 U.S.C. 306, as amended), requires federal agencies to prepare a Strategic Plan every four years, beginning in 2012. The Commission approved the EEOC's [Strategic Plan for Fiscal Years 2018–2022](#) (Strategic Plan or Plan) on February 12, 2018.

The EEOC's Strategic Plan established a national framework to achieve the agency's mission. To that end, the EEOC has committed to pursuing the following three strategic objectives and associated goals:

› **Strategic Objective I: Combat and prevent employment discrimination through the strategic application of EEOC's law enforcement authorities.** The associated goals are: 1) Discriminatory employment practices are stopped and remedied, and victims of discrimination receive meaningful relief; and 2) Enforcement authorities are exercised fairly, efficiently, and based on the circumstances of each charge or complaint.

› **Strategic Objective II: Prevent employment discrimination and promote inclusive workplaces through education and outreach.** The associated goals are: 1) Members of the public understand the employment discrimination laws and know their rights and responsibilities under these laws; and 2) Employers, unions, and employment agencies (covered entities) prevent discrimination, effectively address EEO issues, and support more inclusive workplaces.

› **Management Objective: Achieve organizational excellence.** The associated goals are: 1) Staff exemplify a culture of excellence, respect, and accountability; and 2) Resource allocations align with priorities to strengthen outreach, education, enforcement, and service to the public.

The Plan also identified strategies for achieving each outcome goal and identified 12 performance measures for gauging the EEOC's progress through fiscal year 2022. The below chart summarizes the agency's progress in meeting these measures in fiscal year 2022.

EEOC FY 2022 Performance <sup>1</sup>		
Measures	12 Total	Identifier
Targets Met or Exceeded	11	■
Target(s) Partially Met*	1	◆
Targets Not Met	0	●

\***Targets Partially Met:** A rating assigned to target results where (1) at least half of the activities targeted for completion were completed, or (2) the EEOC was unable to assess the results because full year data was not yet available.

1. In the [Fiscal Year 2022 Agency Financial Report](#), the EEOC reported that the targets for ten performance measures were met or exceeded and the targets for two performance measures were partially met. Subsequent to the publication of the AFR, additional supporting documentation on performance measure nine, which was included in the measures that were partially met in the AFR, was provided by the responsible program office and the agency was able to validate that performance measure nine was fully met in fiscal year 2022. Therefore, in fiscal year 2022, the EEOC met or exceeded the targets for 11 performance measures and partially met the targets for one performance measure.



## SUMMARY OF FISCAL YEAR 2022 PERFORMANCE HIGHLIGHTS

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The EEOC's Strategic Plan establishes a framework for achieving the EEOC's mission to "Prevent and remedy unlawful employment discrimination and advance equal opportunity for all in the workplace," so that the nation may achieve the Commission's vision of "Respectful and inclusive workplaces, with equal employment opportunity for all." Below are some of our performance highlights in achieving the agency's strategic objectives for fiscal year 2022.

The EEOC continued to successfully combat and prevent employment discrimination through the strategic enforcement of laws within our jurisdiction by:

- Using administrative enforcement and litigation to promote broad compliance with federal workplace anti-discrimination laws, including:
  - Securing more than \$513.7 million for victims of discrimination, including:
    - Approximately \$342 million for more than 33,298 victims of employment discrimination in the private sector and state and local government workplaces through mediation, conciliation, and settlements.
    - \$39.7 million for 1,461 individuals as a direct result of litigation resolutions.
    - More than \$132 million for 3,362 federal employees and applicants.
  - Successfully managing an increased demand for services from the public, including:
    - Receiving 73,485 new discrimination charges, an increase of nearly 20% compared to fiscal year 2021.
    - Handling more than 475,000 calls from the public through the agency contact center, an 18.8% increase from fiscal year 2021, and over 68,700 emails, an increase of more than 32% compared with fiscal year 2021.
  - Successfully resolving 44% of conciliations.
    - Among the successful conciliations, 43.1% involved one or more Strategic Enforcement Plan priority areas.
  - Filing 91 lawsuits including 53 suits on behalf of individuals, 25 non-systemic suits with multiple victims, and 13 systemic suits involving multiple victims or discriminatory policies.
    - Among the lawsuits filed by the EEOC in fiscal year 2022, 43 raised one or more Strategic Enforcement Plan priorities.
  - Resolving 96 lawsuits and achieving favorable results in 94.8% of all federal district court resolutions.
  - Continuing to build on our successful mediation program, including:
    - Conducting 6,578 successful mediations resulting in \$170.4 million in benefits for charging parties.
    - Conducting 471 federal sector mediations resulting in \$9.1 million for federal employees and applicants.



- Resolving 9,336 federal sector hearings requests and securing approximately \$125.1 million in relief for federal employees through the EEOC’s hearings program.
- Resolving 4,125 federal sector appeals, including:
  - Appeals addressing the merits of employees’ discrimination claims, with 107 findings of discrimination in fiscal year 2022.
  - Securing over \$7.7 million in monetary relief as ordered in EEOC’s federal appellate decisions.
  - Issuing 90 federal sector decisions implicating one or more Strategic Enforcement Plan priorities, including numerous decisions addressing equal pay or other wage discrimination issues.

FY 2022 EEOC ADMINISTRATIVE ENFORCEMENT	
Receiving more than <b>218,000 inquiries</b> in field offices	Conducting <b>6,578 successful mediations</b> resulting in <b>\$170.4 million in benefits</b>
Handling more than <b>475,000 calls</b> and over <b>68,700 emails</b> from the public through the agency contact center	Resolving <b>65,087 charges</b>
Handling <b>73,485 new charges</b> of discrimination	Securing approximately <b>\$342 million</b> for more than <b>33,298 victims of employment                      discrimination</b> in the private sector and state and local government workplaces through mediation, conciliation, and settlements

- › Working to ensure that federal complaints and charges of discrimination against state, local or private employers are handled promptly and efficiently by:
  - Managing the increased inventory of charges of discrimination filed against state, local or private employers that resulted from a significant increase in new charges filed with the agency compared to fiscal year 2021. The number of pending charges at the end of fiscal year 2022 was 51,399.
  - Reducing the federal sector hearings inventory for the fifth consecutive year, achieving a reduction of 25.1% in fiscal year 2022, with 7,657 hearings pending at the end of the fiscal year.
  - Resolving 2,047 federal sector appeals that were or would have been more than 500 days old at the end of the fiscal year. As a result, fiscal year 2023 began with 2% of the total pending inventory consisting of cases over 500 days old.



- › Upgrading the Commission’s data collection, analysis, and reporting capabilities, which will enable the agency to use modern data analytics to facilitate evidence-based decision making, including:
    - Launching [eeoc.gov/data](https://eeoc.gov/data), the agency’s online resource for data and analytics, providing access to all the EEOC’s publicly available workforce demographic data, easy-to-explore datasets, and visualizations on specific topics.
    - Creating new data visualizations to illustrate employment discrimination data in a simple, comprehensible, and visually accessible way.
    - Expanding [EEOC Explore](#), a web-enabled, state-of-the-art, data query and mapping tool that promotes transparency, facilitates access, and encourages greater use of the EEOC’s publicly available data through user-friendly dashboards.
    - Enhancing the federal [Annual Report Dashboard](#) on the EEOC website, which reports agency-level federal sector complaint data. It allows the user to view key complaint data from the EEOC’s Statistical Report of Discrimination, including counseling, complaints, investigations, closures and costs, and alternative dispute resolution (ADR).
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The EEOC made significant efforts to prevent employment discrimination and promote inclusive workplaces through education and outreach in the following ways:

- › Conducting 3,302 fee-based and no cost outreach and training events and providing more than 225,906 individuals nationwide with information about employment discrimination and their rights and responsibilities in the workplace.
- › Increasing digital media products to enhance the public’s understanding of the equal employment opportunity laws and their rights and responsibilities under those laws, resulting in [the EEOC’s website](#) having: about 10.8 million users, a 3% increase over fiscal year 2021; 16 million user sessions, a 4.4% increase over fiscal year 2021; over 29 million page views, a 4.4% increase over fiscal year 2021; and a 3% increase in mobile traffic on the website.
- › Prioritizing outreach to the small business community, including:
  - Conducting 399 outreach events for small businesses, which reached 18,878 individuals.
  - Promoting the online Small Business Resource Center to help small businesses easily access information about employer responsibilities.
  - Receiving an “A” rating in the [Small Business Administration Ombudsman’s report to Congress for fiscal year 2020](#), which was published in fiscal year 2022, for responsiveness to small business concerns.
- › Addressing the intersection of the COVID-19 pandemic and federal employment discrimination laws, including conducting 369 outreach events related to COVID-19 that reached 26,041 individuals.



- Updating the Commission’s [written technical assistance on COVID-19 and the EEO Laws](#) a total of seven times in fiscal year 2022, including the addition of new sections addressing religious objections to vaccination, retaliation against workers asserting their rights under the EEO laws, protecting workers who are caregivers, and when COVID can be an ADA-covered disability.
- Conducting listening sessions, trainings, and meetings on the rights of LGBTQI+ individuals to be free from employment discrimination, including hosting 343 outreach events related to LGBTQI+ matters, which reached 48,477 individuals.
- Increasing outreach to vulnerable workers and developing and enhancing partnerships with organizations that work with vulnerable workers, including:
  - Conducting 1,007 outreach events for vulnerable workers and reaching 79,788 individuals.
  - Collaborating with partner organizations to extend our reach and better serve vulnerable workers and underserved communities.
  - Improving language access by translating key agency documents into Spanish, Arabic, simplified Chinese, Haitian Creole, Korean, Russian, Tagalog, and Vietnamese; and providing charging parties with access to translation services in over 200 languages.
  - Partnering with U.S. Citizenship and Immigration Service’s Verification Division to update various employment authorization documents, forms, and associated web content to inform immigrants new to the U.S. workforce of their right to work free from discrimination and harassment.
- Publishing new technical assistance documents to assist EEOC stakeholders:
  - [The COVID-19 Pandemic and Caregiver Discrimination Under Federal Employment Discrimination Law](#). The EEOC also released videos in [English](#) and [Spanish](#) explaining caregiver discrimination.
  - [The Americans with Disabilities Act and the Use of Software, Algorithms, and Artificial Intelligence to Assess Job Applicants and Employees](#). The EEOC also issued a shorter companion document focused on the rights of workers, “[Tips for Workers: the Americans with Disabilities Act and the Use of Software, Algorithms, and Artificial Intelligence](#),” and an American Sign Language video titled [Use of Artificial Intelligence in Making Job Decisions for People with Disabilities](#).

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The EEOC worked to achieve organizational excellence by:

- Continuing to modernize agency data collections and data dissemination activity to align with the Federal Data Lifecycle Framework and ensure compliance with the provisions of Title VII of the Civil Rights Act of 1964, Paperwork Reduction Act (PRA), Information Quality Act (IQA), Foundations for Evidence-Based Policymaking Act (Evidence Act), Confidential Information Protection and Statistical Efficiency Act (CIPSEA), and Federal Information Security Modernization Act (FISMA).



- › Partnering with the Department of Interior’s Multi-Agency SES Candidate Development Program to provide a succession management resource that selects and trains aspiring senior leaders.
- › Continuing to streamline the recruitment process to improve time-to-hire rates and reach and maintain authorized staffing plan levels, including filling 352 new positions and ending the year with 2,187 employees on board. All hires were made within the 78-day deadline, utilizing special hiring flexibilities, such as Schedule A appointments for persons with disabilities, veteran appointments, the Pathways Program; college graduate hiring authority; law clerks; and interagency lateral transfers.
- › Developing employees and addressing competency gaps for our mission-critical occupations to improve effectiveness and organizational results and to increase retention of employees.

## SUMMARY OF FISCAL YEAR 2022 ACHIEVEMENTS IN PRIORITY AREAS

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The Biden Administration has called for a whole-of-government approach to addressing systemic discrimination and advancing equal opportunity, and the EEOC has a critical role in achieving that vision. In fiscal year 2022, the EEOC focused on the following broad areas — addressing systemic discrimination in all forms and on all bases; advancing racial justice; preventing and remedying retaliation; enforcing pay equity; advancing diversity, equity, inclusion, and accessibility in the workplace; addressing the use of artificial intelligence and algorithmic fairness in employment decisions; and strengthening the agency to ensure it has the resources needed to effectively enforce the law and serve the public. Below are a few highlights of the agency’s accomplishments in each of these areas.

The EEOC addressed systemic discrimination in all forms and on all bases by:

- › Resolving more than 300 systemic investigations on the merits and obtaining more than \$29.7 million in monetary benefits for victims of discrimination as well as targeted equitable relief designed to change employment practices, prevent future discrimination, and bring employers into compliance with the law, including:
  - Successfully resolving a systemic investigation against a major U.S. employer after finding evidence of discriminatory denial of reasonable accommodations to pregnant workers on the bases of disability and sex for \$8 million in relief, substantial changes to policies and practices, and reporting to the EEOC to ensure the employer remains in compliance with the law.
  - Successfully resolving a systemic investigation against a large U.S. automobile manufacturer after determining the company’s medical examination policy was overly broad, included prohibited medical inquiries and prohibited acquisition of genetic information, and was not job related or consistent with business necessity for \$400,000, a change in the unlawful policy affecting more than 50,000 employees, and a requirement that the employer inform its medical providers of their obligations under the law.
  - Successfully resolving a systemic investigation against a prominent nightclub in a major hotel and casino involving the performance of sexual acts in exchange for employment as well as sexual harassment of respondent’s female workforce, for \$1 million in monetary relief to the charging party and an anticipated class of 100 victims. The three-year conciliation agreement included significant injunctive relief including claims administration of the monetary relief, hiring an EEO Consultant, conducting climate surveys of employees, revising



EEO policies and internal investigative procedures, distribution of revised policies, revision of management performance evaluations to include EEO compliance, neutral references for class members, workforce training on sex harassment, extensive reporting, recordkeeping, and a press release.

- › Resolving 10 systemic lawsuits, obtaining over \$28 million in relief for nearly 1,300 individuals and significant equitable relief.
- › Filing 13 new systemic lawsuits.
  - The allegations in these lawsuits involved failure to accommodate and discharge based on religion and disability; discriminatory hiring and assignment claims based on race and national origin; discriminatory hiring and assignment based on sex; hiring discrimination based on age; systemic harassment; and unequal pay based on sex.

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The EEOC advanced racial justice during fiscal year 2022 in the following ways.

- › Resolving significant race cases during the administrative process, including:
  - Successfully conciliating a systemic investigation after finding evidence of egregious racial harassment and disparate discipline, racial steering, and workplace segregation for \$1.8 million for the victims and injunctive relief to prevent the recurrence of race discrimination at this workplace.
  - Successfully conciliating a systemic investigation against 12 subcontractors in the construction industry after finding evidence of egregious racial harassment for \$1.3 million in monetary relief for the 75 aggrieved individuals and extensive injunctive relief to prevent future harassment.
  - Successfully conciliating a race discrimination case in which a supervisor made racial remarks and disparaging comments to a Black employee for \$300,000 for the charging party; the company also agreed to revise its non-discrimination policy, conduct an annual employee survey to solicit information from employees regarding their work environment and the effectiveness of respondents' responses to bullying and harassment complaints, and provide EEO training to its workforce.
- › Resolving 18 lawsuits alleging race or national origin discrimination for approximately \$4.6 million in relief benefiting 298 individuals.
- › Filing 9 new systemic or class cases alleging race and national origin discrimination and another 11 individual cases alleging race or national origin discrimination.
- › Through education and outreach, the EEOC continued to play a pivotal role in advancing racial justice in the workplace, including by:
  - Conducting 468 race and color outreach events reaching 52,675 attendees, including 143 racial justice events reaching 9,064 attendees.





- Conducting 279 Asian American, Native Hawaiian, and Pacific Islander (AANHPI) outreach events reaching 12,213 attendees.
  - Conducting 42 Historically Black Colleges and Universities (HBCU) outreach events reaching 1,741 attendees.
  - Conducting 37 Tribal outreach events reaching 1,134 attendees.
  - Conducting 73 outreach events focused on backlash due to race or religion reaching 10,303 attendees.
- › Adopting an [equity action plan](#), which focuses on systemic racial discrimination, advancing equity in the agency's activities, and improving outreach and access to underserved communities.

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The EEOC prevented and remedied retaliation by:

- › Collaborating with the Department of Labor (DOL) and National Labor Relations Board (NLRB) on an initiative to protect workers, educate the public, and engage with employers, business organizations, labor organizations, and civil rights groups, including through co-hosting an educational online dialogue entitled "[Ending Retaliation, Securing Racial and Economic Justice in the Workplace](#)." Over 3,000 viewers tuned in to the program, which discussed the impact of employer retaliation on workers, particularly low wage workers, who may also suffer racial discrimination in the workplace.
- › Resolving significant retaliation cases during the administrative process, including:
  - Successfully conciliating a systemic investigation against a world-wide automotive supplier after finding evidence of discrimination based on sexual harassment and retaliation for \$100,000. The employer also agreed to conduct training for all hourly and temporary workers at the facility where the harassment occurred, expand its anti-harassment policies to expressly state that temporary workers are covered by the policy, and conduct four climate studies on sexual harassment at the facility across the life of the agreement.
- › Successfully resolving 26 lawsuits containing retaliation claims for nearly \$26 million in relief benefiting 762 individuals.
- › Filing 32 lawsuits which contained retaliation claims.
- › Conducting 384 retaliation outreach events reaching 57,439 attendees.

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The EEOC prevented and remedied discrimination in pay by:

- › Resolving significant compensation discrimination cases during the administrative process, including:
  - Collaborating with DOL's Office of Federal Contract Compliance Programs (OFCCP) in an Equal Pay Act directed charge investigation involving a class of female employees alleging discrimination in wages and obtaining significant monetary and injunctive relief for the class including a salary increase for women in certain job classifications totaling \$365,000, and policy changes to hiring, promotion, and compensation practices.



- › Filing nine lawsuits raising compensation discrimination claims, five of which alleged that women were paid less than their male counterparts.
- › Conducting 192 outreach sessions, which 23,000 individuals attended, involving issues related to equal pay.
- › Publishing an EEO Digest article entitled [\*In Pursuit of Pay: Examining Barriers to Equal Pay, Intersectional Discrimination Theory, and Recent Pay Equity Initiatives\*](#).
- › [Publishing an EEOC Data Highlight on the Continuing Impact of Pay Discrimination in the United States](#).

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The EEOC played a critical role in advancing diversity, equity, inclusion, and accessibility by:

- › Collaborating with the Office of Management and Budget (OMB) and the Office of Personnel Management (OPM), among others, to implement [Executive Order \(EO\) 14035: Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce](#), for example,
  - Helping agencies conduct self-assessments, assisting with the development of the Governmentwide Strategic Plan called for by EO 14035, which was released in November 2021, providing technical assistance to agencies drafting DEIA strategic plans, conducting government-wide outreach, collaborating on the development of government-wide resources for an OMB Max website, and hosting weekly office hours and learning sessions to assist in agencies' implementation of the EO.
  - Supporting interagency collaboration to meet with Cabinet agencies and evaluate their DEIA strategic plans.
  - Contributing to two administration efforts to improve federal demographic data collection by, respectively, updating the collection of race and ethnicity data and creating categories for sexual orientation and gender identity data.
  - In coordination with OPM and OMB, jointly launching a new Chief Diversity Officers Executive Council to implement and sustain a national strategy for DEIA across the federal government and position the government as a model for DEIA. EEOC's Chair serves as one of two Council Vice Chairs.
- › Creating the EEOC's Office for Civil Rights, Diversity, and Inclusion (OCRDI), laying the foundation for the agency's efforts to achieve four overarching goals: workforce diversity, employee equity, inclusive practices, and accessibility.
- › Serving on the implementing committee for [EO 13988: Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation](#) and providing technical assistance to agencies in furtherance of the [National Security Memorandum: Revitalizing America's Foreign Policy and National Security Workforce, Institutions, and Partnerships](#).
- › Providing consultation in support of [EO 13985: Advancing Racial Equity and Support for Underserved Communities Through the Federal Government](#), and [EO 14075: Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Individuals](#).



- › In conjunction with OFCCP, launching the Hiring Initiative to Reimagine Equity (HIRE), a multi-year collaborative effort chaired by EEOC Chair Burrows and OFCCP Director Yang to expand access to good jobs for workers from underrepresented communities and help address key hiring and recruiting challenges as the nation makes major investments in infrastructure and recovery.
- › Conducting education and outreach on DEIA issues, including:
  - Featuring presentations and training sessions at the 2022 EXCEL Conference on various DEIA issues, including the opening joint plenary session with EEOC Chair Burrows, OPM Director Kiran Ahuja, and OFCCP Director Yang, which discussed the Biden Administration’s whole-of-government approach to equity and the future of work. The plenary session also highlighted the EEOC’s and OPM’s efforts to promote diversity, equity, inclusion, and accessibility in America’s workplaces.

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The EEOC addressed the use of artificial intelligence and algorithmic fairness in employment decisions in the following ways:

- › Providing AI training to systemic enforcement teams in the EEOC’s field offices.
- › Issuing technical assistance, including [The Americans With Disabilities Act and the Use of Software, Algorithms, and Artificial Intelligence to Assess Job Applicants and Employees](#), and a shorter companion document focused on the rights of workers — [Tips for Workers: the Americans with Disabilities Act and the Use of Software, Algorithms, and Artificial Intelligence](#).
- › Holding [listening sessions](#) and meetings with key stakeholders about algorithmic tools and their employment ramifications.
- › Issuing an [educational video](#) in American Sign Language on the use of artificial intelligence in making job decisions for people with disabilities.
- › Hosting a [virtual roundtable](#) on the potential barriers automated technologies present to diversity, equity, inclusion, and accessibility.
- › Filing one lawsuit involving this technology.
  - In *EEOC v. iTutorGroup, Inc., Tutor Group Limited, and Shanghai Ping’An Intelligent Education Technology Co., Ltd.*, No. 1:22-cv-2565 (E.D.N.Y. May 5, 2022), the EEOC alleged that providers of English-language tutoring services to students in China programmed their software to automatically reject female applicants over the age of 55 and male applicants over the age of 65. The EEOC alleged that the defendants failed to hire the charging party and more than 200 other qualified tutor applicants age 55 and older because of their age.
- › Providing education and outreach to stakeholders on AI and algorithmic fairness in hiring, including:
  - Hosting 24 AI and algorithmic fairness outreach events reaching 1,192 attendees.
  - Conducting two well-attended Training Institute workshops to educate employers about the risks associated with AI in the workplace.



- Featuring a session on Equitable Artificial Intelligence in the Workplace at the 2022 EXCEL conference.
- Hosting a panel discussion on the topic of Artificial Intelligence and Algorithmic Fairness at the 2022 EEOC-FEPA Conference.

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During fiscal year 2022, the EEOC strengthened the enforcement capacity of the agency in the following ways:

- Ensuring that the agency had sufficient staff to address its expanding workload by filling 352 new positions and ending the year with 2,187 employees.
  - The majority of these positions were front-line staff (investigators, investigative support assistants, mediators, and attorneys, among other positions).
- Improving service to the public by enhancing the agency's ability to communicate with and provide accurate and timely information to stakeholders by:
  - Recruiting, hiring, and training new contact representatives at the EEOC's Call Center for the public to ensure consistency in staffing levels.
  - Launching a new, state-of-the-art Telephony Platform for the EEOC's 1-800 toll free telephone number with an updated Interactive Voice Response (IVR) system in both English and Spanish, which contains significantly more automated information most often sought by callers to the EEOC's 1-800 number and presents that information in a user-friendly manner. In addition, the new Telephony system offers other enhancements including the option to receive information via text messaging, IVR provided web access, and real-time customer satisfaction surveys.
- Strengthening the agency's ability to combat employment discrimination in the federal sector, including:
  - Releasing a [Guide to Writing Appeal Briefs for Unrepresented Complainants](#), intended to assist federal employees and applicants without legal representation who have appeals pending before the EEOC. The new guide explains what content should be included in an appeal brief and how it should be organized. The guide also helps make the appeal process more accessible by providing an explanation of how to support or oppose an appeal, sample briefs that can be downloaded and used as templates, and a glossary for technical and legal terms.
  - Providing federal sector EEO practitioners an opportunity to develop their skills, network, share resources, and learn through the EEOC's EEO Education Consortium (EDCON). EDCON staff also delivered webinars with cutting edge topics such as Building an Inclusive Workplace and Developing Impactful Training in a Virtual Environment. In fiscal year 2022, EDCON continued its successful efforts to dialogue with its membership via social media, as evidenced by the 64% increase in Twitter followers with an impressive 94% engagement rate.



## THE EEOC'S PERFORMANCE MEASUREMENT PROCESS

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The Government Performance and Results Modernization Act of 2010 (5 U.S.C. 306, as amended), requires executive departments, government corporations, and independent agencies to develop and post a Strategic Plan on their public websites every four fiscal years. The implementing guidance from OMB instructs agencies on the necessary elements required in an agency's plan and the requirements to publish a new plan with the beginning of each new term of an administration.

The EEOC's *Strategic Plan* establishes a framework for achieving the EEOC's mission to "Prevent and remedy unlawful employment discrimination and advance equal opportunity for all in the workplace," so that the nation may realize the Commission's vision of "Respectful and inclusive workplaces, with equal employment opportunity for all."

The Strategic Plan established three overarching strategic objectives and 12 performance measures to gauge the agency's progress in meeting these objectives. In the agency's Annual Performance Plan (APP), issued as part of the OMB's budget request, the EEOC identifies the level of planned performance to achieve in the fiscal year, along with performance goals and key milestones that align with the EEOC's Strategic Plan and agency priorities. In the Annual Performance Report, which is issued in coordination with the agency's Congressional Budget Justification in February each year, the EEOC reports on progress achieving the goals and objectives in the agency's Strategic Plan and APP, along with performance and program results achieved for the previous fiscal year.

## DETAILED RESULTS ACHIEVED IN FISCAL YEAR 2022 UNDER THE STRATEGIC PLAN PERFORMANCE MEASURES

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### Overview of the Strategic Plan and Performance Measures

The agency engaged in a comprehensive assessment of its programs and priorities when developing the Strategic Plan. Under the Strategic Plan, the EEOC has worked steadfastly to achieve its mission and vision by focusing on the following three strategic objectives:

› **Strategic Objective I**, to combat and prevent employment discrimination through strategic application of EEOC's law enforcement authorities, reflects the EEOC's primary mission of preventing unlawful employment discrimination through mechanisms Congress entrusted to the agency: 1) administrative (investigation and conciliation) and litigation mechanisms with regard to private employers, labor organizations, employment agencies, and state and local government employers; and 2) adjudicatory and oversight mechanisms with regard to federal employers. Five performance measures were developed for Strategic Objective I.

› **Strategic Objective II**, to prevent employment discrimination and promote inclusive workplaces through education and outreach, reflects the EEOC's obligation to deter employment discrimination before it occurs. Investigations, conciliations, and litigation are only some of the means that the EEOC uses to fulfill its mission and vision. Educational and outreach programs, projects, and events are also cost-effective law enforcement tools because they promote understanding of the law and voluntary compliance with the law. All parties benefit when the workplace is free from discrimination and everyone has access to equal employment opportunity. Three performance measures were developed for Strategic Objective II.



› **The Management Objective**, achieving organizational excellence, seeks to improve management functions with a focus on information technology, infrastructure enhancement, and accountable financial stewardship. This requires integration and coordination across the agency to foster organizational excellence from both internal and external perspectives. Four performance measures were developed for the Management Objective.

The agency's fiscal year progress on these 12 performance measures, as it relates to the strategic objectives, outcome goals, and corresponding strategies for achieving results in the Strategic Plan, is discussed in more detail on the following pages.

## STRATEGIC OBJECTIVE I: Combat and Prevent Employment Discrimination Through the Strategic Application of the EEOC's Law Enforcement Authorities.

The agency adopted two outcome goals to further the objective:

- › **Outcome Goal I.A:** Discriminatory employment practices are stopped and remedied, and victims of discrimination receive meaningful relief; and
- › **Outcome Goal I.B:** Enforcement authorities are exercised fairly, efficiently, and based on the circumstances of each charge or complaint.

The EEOC also identified and is implementing eight key strategies. The strategies for achieving Outcome Goal I.A are:

- › **Strategy I.A.1:** Rigorously and consistently implement the Strategic Enforcement Plan to focus resources on the EEOC's priorities and to integrate agency responsibilities and activities.
- › **Strategy I.A.2:** Use administrative and litigation mechanisms to identify and attack discriminatory policies and practices, including systemic practices.
- › **Strategy I.A.3:** Use the EEOC's decisions and oversight activities to target discriminatory policies and practices in federal agencies.
- › **Strategy I.A.4:** Seek remedies to end discriminatory practices and deter future discrimination.
- › **Strategy I.A.5:** Seek remedies that provide meaningful relief to individual victims of discrimination.

The strategies for achieving Outcome Goal I.B are:

- › **Strategy I.B.1:** Rigorously and consistently implement the Strategic Enforcement Plan to focus resources on the EEOC's priorities and to integrate agency responsibilities and activities.
- › **Strategy I.B.2:** Rigorously and consistently implement the charge management systems for private sector and state and local government charges.
- › **Strategy I.B.3:** Further develop and rigorously and consistently implement a case management system for federal sector hearings and appeals.



The EEOC has developed Performance Measures 1 through 5 to track the agency’s progress in pursuing these strategies.

Strategic Objective I Performance Summary		
Measures	5 Total	Identifier
Targets Met or Exceeded	4	■
Targets Partially Met*	1	◆
Targets Not Met	0	●

**\*Targets Partially Met:** A rating assigned to target results where (1) at least half of the activities targeted for completion were completed, or (2) the EEOC was unable to assess the results because full year data was not yet available.

### Performance Measure 1

By fiscal year 2022, a significant proportion of EEOC and FEPA resolutions contain targeted, equitable relief.

**Sub-Measure 1a: By fiscal year 2022, 86–88% of EEOC resolutions contain targeted, equitable relief.**

FY 2022 Target	FY 2022 Result	Performance
86–88%	91.4%	■ Target Exceeded

An important activity undertaken by both the EEOC and state and local Fair Employment Practices Agencies (FEPA) is negotiating resolutions of charges after an investigation has determined that there is reasonable cause to believe that unlawful employment discrimination has occurred. It is neither appropriate nor feasible to set a target for the number of reasonable cause determinations the agency makes because every investigation is dependent on the facts of the case. However, it is appropriate to set a goal for the type of relief that should be sought in resolutions of cases once reasonable cause has been found.

The fiscal year 2022 target for Performance Measure 1, Sub-Measure 1a was for 86–88% of the EEOC’s resolutions to contain targeted, equitable relief. Targeted, equitable relief means any non-monetary and non-generic relief (other than the posting of notices in the workplace about the case and its resolution), which explicitly addresses the discriminatory employment practices and provides remedies to the aggrieved individuals or prevents similar violations in the future. Such relief may include customized training for supervisors and employees, development of policies and practices to deter future discrimination, and external monitoring of employer actions, as appropriate. By fiscal year-end, the agency had far exceeded the targeted range, reporting 615 administrative and legal resolutions with targeted, equitable relief out of a total of 673 resolutions, or 91.4%.

**Sub-Measure 1b: By fiscal year 2022, at least 17–19% of FEPA resolutions contain targeted, equitable relief.**

FY 2022 Target	FY 2022 Result	Performance
17–19%	18%	■ Target Met ■ Overall Targets Met or Exceeded

The fiscal year 2022 target for Performance Measure 1, Sub-Measure 1b was that at least 17–19% of FEPA’s resolutions contain targeted, equitable relief. During Q1 of fiscal year 2022, FEPAs met the target range with 18% of resolutions containing targeted, equitable relief. Data on this measure is only available for Q1 of fiscal year 2022 due to unexpected reporting issues following the launch of the EEOC’s new digital charge database, the Agency Records Center (ARC), in January 2022.



Both Sub-Measures 1a and 1b under Performance Measure 1 were designed to encourage the EEOC and FEPAs to seek relief in these cases that goes beyond monetary damages for individual victims of discrimination. Performance Measure 1b measures all FEPA resolutions, which acknowledges the differences in their administrative procedures. Unlike the EEOC, not all FEPAs engage in conciliation. This measure ensures that the protection of equitable relief that the FEPAs obtain is captured.

## Performance Measure 2

In each year through 2022, EEOC favorably resolved at least 90% of the agency's enforcement lawsuits.

FY 2022 Target	FY 2022 Result	Performance
90%	94.8%	■ Target Exceeded

Performance Measure 2 places a premium on maintaining the high level of successful resolutions in the EEOC's litigation program. Successful resolutions include cases decided by favorable court order and those concluded through a consent decree or a settlement agreement. Achieving success for this measure ensures that the EEOC continues to exercise its prosecutorial discretion responsibly, while allowing the agency to take on challenging issues and litigate complex cases, including cases of systemic discrimination. As stated in the Strategic Enforcement Plan (SEP) for Fiscal Years 2018–2022, effective strategic enforcement includes a balance of individual and systemic cases and those involving national and local priority issues, recognizing that each may have strategic impact in varied ways. This measure is significant because the achievement of success in cases raising priority issues under the SEP is often challenging and resource intensive, especially in cases involving emerging or developing issues and systemic cases.

The fiscal year 2022 target for Performance Measure 2 was for the agency to favorably resolve 90% of its enforcement lawsuits. By fiscal year end, the agency had exceeded the target with 91 out of 96, or 94.8%, of its enforcement lawsuits resolved favorably.

## Performance Measure 3

Each year through 2022, the EEOC reports on its efforts to identify and resolve systemic discrimination.

FY 2022 Target	FY 2022 Result	Performance
Report issued.	The report is currently under review.	◆ Target Partially Met*

**\*Target(s) Partially Met:** A rating assigned to target results where (1) at least half of the activities targeted for completion were completed, or (2) the EEOC was unable to assess the results because full year data was not yet available.

Performance Measure 3 focuses on the use and reporting of data to ensure the EEOC has a coordinated, strategic, and effective approach to systemic enforcement. To track our progress in identifying and resolving systemic discrimination, this performance measure requires that the EEOC annually maintain and report on data on the overall number of systemic cases filed in the fiscal year; the percentage of cases filed in the fiscal year that are systemic cases; the percentage of systemic cases on the agency's overall docket; and the number of ongoing systemic investigations by bases and issues and the percentage of all pending investigations that are systemic investigations.

The EEOC has posted [specific information concerning its systemic program for fiscal years 2019, 2020, and 2021 on its website](#). It includes information on the number of ongoing systemic investigations, the number of systemic resolutions, the systemic conciliation rate, and monetary relief recovered.





#### Performance Measure 4

By fiscal year 2022, an increased percentage of federal agencies subject to oversight activities or compliance reviews change their employment practices based on EEOC's recommendations.

FY 2022 Targets	FY 2022 Results	Performance
90% of federal agencies have compliant reasonable accommodation procedures.	90.4% of federal agencies have compliant reasonable accommodation procedures.	<span style="color: green;">■</span> Targets Exceeded
75% of federal agencies have a compliant anti-harassment policy.	78.8% of federal agencies have a compliant anti-harassment policy.	
70% of recommendations made in agency program evaluations completed in FY 2019 are substantially implemented.	78% of recommendations made in agency program evaluations completed in FY 2020 are substantially implemented.	

Performance Measure 4 recognizes that because the federal government is the largest employer in the United States, reducing unlawful employment discrimination in the federal sector is an integral part of combatting employment discrimination. Moreover, as the largest U.S. employer, the federal government has tremendous influence over the employment practices of private and public employers in the United States and around the world. Thus, the promotion of equal employment opportunity in the federal government can positively impact all employees and jobseekers.

The fiscal year 2022 targets for Performance Measure 4 were designed to capture the percentage of reasonable accommodations procedures, anti-harassment policies, and program evaluation recommendations from the EEOC that agencies implemented during the fiscal year.

Throughout fiscal year 2022, the Office of Federal Operations (OFO) partnered with the Department of Defense (DoD) to ensure that all of its sub-components had a compliant anti-harassment policy. Since December 31, 2021, OFO has approved 26 policies, including 11 DoD policies. As a result, the percentage of compliant policies increased substantially. Since January 1, 2022, OFO has approved 19 reasonable accommodation procedures. The percentage of compliant procedures significantly increased from 82.9% on December 31, 2021 to 90.4% on September 30, 2022.

By fiscal year-end, 179 out of 198 agencies, or 90.4% of federal agencies receiving feedback from the EEOC, had compliant reasonable accommodation procedures. Also, as of September 30, 2022, 78.8%, or 160 out of 203 federal agencies that received EEOC feedback had compliant anti-harassment policies.

Throughout fiscal year 2022, the EEOC reviewed compliance and recorded successful completion of targets based on prior recommendations to ensure that 70% of federal agencies substantially implemented agency recommendations in program evaluation reports. While the EEOC initiated two program evaluations in fiscal year 2019, given the scope of the evaluations and that they involved large departments, the EEOC completed the evaluations in fiscal year 2020. For the recommendations made in agency program evaluations completed in fiscal year 2020, the EEOC exceeded the goal of 70%, with 78% of recommendations substantially implemented.



## Performance Measure 5

By fiscal year 2022, a significant proportion of the investigations, conciliations, hearings, and appeals meet established quality criteria.

### Sub-Measure 5a: By fiscal year 2022, 88% of charge investigations and conciliations meet criteria established in the Quality Enforcement Practices Plan.

FY 2022 Target	FY 2022 Result	Performance
88%	92.7%	■ Target Exceeded

Performance Measure 5 builds on the EEOC's previous Strategic Plan with a metric focused on quality in both the private and federal sector programs. For the private sector, the Commission approved a plan for [Quality Enforcement Practices for Effective Investigations and Conciliations](#) (QEP) in September 2015. The QEP promotes the rigorous implementation of quality investigations and conciliations with progress goals established for each year of the Strategic Plan. In fiscal year 2016, the EEOC applied the criteria established under the QEP to a sample of investigations and conciliations to establish benchmarks for offices to use in fiscal year 2017. In fiscal year 2018, the benchmarks were used to project future targets. The fiscal year 2022 target for Performance Sub-measure 5a was for 88% of the EEOC's charge investigations and conciliations to meet criteria established in the QEP.

In fiscal year 2022, the EEOC conducted thorough reviews of closed charges to assess the quality of investigations and charge processing resolutions. The agency reviewed 630 completed investigations from the EEOC's 53 offices, including 323 conciliations, or 1% of the EEOC's resolution inventory. Overall, 92.7% of the charge files reviewed met established quality standards, which is an increase of 1.8 percentage points from fiscal year 2021. Of the conciliation resolutions, 98.5% of the charge files reviewed met established quality standards, which is an increase of 1.3 percentage points from fiscal year 2021.

### Sub-Measure 5b: By fiscal year 2022, 90% of federal sector hearings and appeals meet criteria established in the Federal Sector Quality Practices Plan.

FY 2022 Target	FY 2022 Result	Performance
90%	94.6%	■ Target Exceeded ■ Overall Targets Exceeded

For the federal sector, Performance Measure 5, Sub-Measure 5b builds on the [Federal Sector Quality Practices](#) (FSQP) approved by the Commission on January 10, 2017, which includes quality components for hearings and appeals. In fiscal year 2018, the agency established a baseline and projected future targets for federal sector hearings and appeals to meet criteria established in the FSQP. The agency implemented a checklist for assessing quality practices and applied it to a sampling of draft decisions to create a baseline from which to set FSQP quality improvement goals in the outlying years. The baseline established was 80% of the files to meet the quality standards.

The fiscal year 2022 target for this measure was for the EEOC to increase the percentage of federal sector hearings and appeals that meet criteria established in the FSQP to 90%. During the fiscal year, the agency evaluated decisions applying the metrics developed in fiscal year 2018. These evaluations determined that, on average, the goal was exceeded — 93.1% of the federal sector hearings met the criteria established in the FSQP, and when combined with the 96.1% of appellate reviews, the overall results were 94.6%, thereby exceeding the annual target.



## STRATEGIC OBJECTIVE II: Prevent Employment Discrimination and Promote Inclusive Workplaces Through Education and Outreach.

The agency adopted two outcome goals to further the objective:

- › **Outcome Goal II.A:** Members of the public understand the employment discrimination laws and know their rights and responsibilities under these laws; and
- › **Outcome Goal II.B:** Employers, unions, and employment agencies (covered entities) prevent discrimination, effectively address EEO issues, and support more inclusive workplaces.

The EEOC also identified and is implementing seven key strategies. The EEOC's strategies for achieving Outcome Goal II.A are:

- › **Strategy II.A.1:** Broaden the use of technology to expand our reach to diverse populations.
- › **Strategy II.A.2:** Target outreach to vulnerable workers and underserved communities.

The strategies for achieving Outcome Goal II.B are:

- › **Strategy II.B.1:** Utilize modern technology and media to expand our reach to employers and other covered entities.
- › **Strategy II.B.2:** Promote promising practices that employers can adopt to prevent discrimination in the workplace.
- › **Strategy II.B.3:** Target outreach to small and new employers.

Associated strategies under Strategic Objective II include:

- › **Strategy II.A.3/II.B.4:** Provide up-to-date, accessible guidance and training on the requirements of employment discrimination laws.
- › **Strategy II.A.4/II.B.5:** Increase the knowledge of targeted audiences through focused, innovative collaborations with internal and external stakeholders.

The EEOC has developed Performance Measures 6 through 8 to track the agency's progress in pursuing these strategies.


Strategic Objective II Performance Summary		
Measures	3 Total	Identifier
Targets Met or Exceeded	3	■
Targets Partially Met*	0	◆
Targets Not Met	0	●

\***Targets Partially Met:** A rating assigned to target results where (1) at least half of the activities targeted for completion were completed, or (2) the EEOC was unable to assess the results because full year data was not yet available.



## Performance Measure 6

By fiscal year 2022, the EEOC modernizes and expands utilization of technology to ensure that members of the public have greater access to information about their rights and responsibilities.

FY 2022 Targets	FY 2022 Results	Performance
90% of federal agencies have compliant reasonable accommodation procedures.	90.4% of federal agencies have compliant reasonable accommodation procedures.	 Targets Exceeded
75% of federal agencies have a compliant anti-harassment policy.	78.8% of federal agencies have a compliant anti-harassment policy.	
70% of recommendations made in agency program evaluations completed in FY 2019 are substantially implemented.	78% of recommendations made in agency program evaluations completed in FY 2020 are substantially implemented.	

Performance Measure 6 focuses on strengthening and expanding the impact of the EEOC's education and outreach activities by expanding the use of technology. The implementation of a technology plan created in fiscal year 2018 facilitates the dedication of resources to the most critical needs. The EEOC focuses its technological advances on priority areas and specific communities to increase public access to information about rights and responsibilities under the laws the EEOC enforces. The fiscal year 2022 target for Performance Measure 6 was for the EEOC to report on the user experience surveys and increase access to information in at least two additional priority areas.

During the fiscal year, the EEOC continued to build upon the effort to employ customer experience surveys on the website, most notably by implementing the plan that was developed in fiscal year 2020. The agency has analyzed the survey responses received, approximately 150–200 survey responses per quarter, to determine whether any revisions to the website would aid the public's understanding of the equal employment opportunity laws or increase their knowledge of rights and responsibilities under these laws.


Additionally, the agency conducted four new social media campaigns during the fiscal year: 1) increasing awareness of workplace harassment through an interactive campaign on [Instagram](#) during Q1; 2) increasing awareness of how to report race and color discrimination in the workplace through a coordinated effort on [Twitter](#) in Q2; 3) increasing federal workers' awareness of the federal complaint process and the role of the EEOC on [Twitter](#) in Q3; and 4) increasing awareness in Q4 about pregnancy discrimination and the laws to protect pregnant workers and job applicants in the workplace, utilizing [Facebook](#) and [Twitter](#) platforms.

The EEOC has also increased the amount of video content on the agency's website and helped ensure that events focused on the Chair's priorities have been recorded and posted on the EEOC's [YouTube channel](#), including posting more Spanish language videos and the agency's first video in American Sign Language in over six years. In addition to maintaining the agency's [Spanish language website](#) and posting 52 new documents in Spanish and 18 Spanish press releases, the EEOC implemented a public education campaign about the over 300 webpages in 7 languages newly posted to the agency's [website](#) and posted over 18 new documents, each in Chinese (Simplified), Haitian Creole, Korean, Russian, Tagalog, and Vietnamese, and 2 new documents each in Pashto and Farsi.



**Performance Measure 7**

By fiscal year 2022, the EEOC leverages collaborations with significant partner organizations to assist in reducing and eliminating employment barriers.

FY 2022 Target	FY 2022 Results	Performance
Maintain the FY 2019 baseline measure of 70 partnership events held.	The agency maintained the number of significant partners nationwide.  In FY 2022, partnership engagement increased to 1,619 events with advocacy groups serving vulnerable and underserved communities, small and new businesses, as well as employer groups.	 Target Exceeded


The EEOC is in a unique position to serve as a conduit to promote effective partnerships and to strengthen relationships among diverse groups with common goals. The Commission does not believe that a focus solely on the number of events held, number of attendees, or number of significant partnerships is the best way to measure its public education impact. Facilitating effective partnerships, collaborations, and connections can lead to reducing or eliminating employment barriers as well. For example, connecting an employer association with an advocacy organization seeking to eliminate recruitment and hiring barriers may help to prevent discrimination and create job opportunities for qualified job seekers. Performance Measure 7 leverages our long-term significant partnerships with civic and advocacy organizations (particularly those that represent vulnerable or underserved workers) and employer and business organizations to achieve sustained benefits for all communities.

The fiscal year 2022 target for Performance Measure 7 was to maintain the fiscal year 2019 baseline measure of 70 joint partnership events held. The agency maintained the number of significant partners, nationwide, and worked with EEOC’s partners to advance equity in organizational policies, employment practices, and to reduce employment barriers in underserved and vulnerable communities and to support small and new businesses. The agency’s District Offices hosted 1,619 partnership events with state, local, tribal, federal, and advocacy groups to increase awareness of fiscal year 2022 strategic partnership priorities and initiatives and to provide updated technical assistance. Significant efforts were made to reach communities that may be reluctant to come forward, such as persons with low literacy skills and limited English proficiency, deaf or hard of hearing individuals, and those new to the workforce.



### Performance Measure 8

By fiscal year 2022, the EEOC updates existing guidance and training materials, and creates new, user-friendly resource tools to address and prevent workplace discrimination.

FY 2022 Target	FY 2022 Result	Performance
Produce or update at least two additional resource or guidance documents on updated priority list.	The agency produced and/or updated more than two resource or guidance documents that had been prioritized, including two new technical assistance documents, two updated regulations, and seven updates to an existing technical assistance document.	 Target Exceeded

Performance Measure 8 ensures that the EEOC’s sub-regulatory guidance documents and resource materials are reviewed and that, where necessary, they are updated and use plain language. The agency’s enforcement work in the private sector, its adjudicatory and oversight work in the federal sector, and its outreach and education work all depend on the availability of up-to-date and accessible materials explaining the laws it enforces and how to comply with them. While the regulations issued by the Commission set the basic legal framework for the implementation of those laws, sub-regulatory materials provide more tangible assistance to those with rights and responsibilities under such laws. These materials may or may not require a vote of the Commission and may include a range of guidance material, best practices, Q&A’s, and fact sheets.

The fiscal year 2022 target for Performance Measure 8 was for the EEOC to produce or update at least two resource or guidance documents on the agency’s updated priority list that focuses on the most critical issues for action. The EEOC published two regulatory updates — to make inflationary adjustments to the penalty for violating notice posting requirements on February 23, 2022, and to make ministerial changes to the agency’s contact information in existing regulations on March 16, 2022. The agency also drafted and issued two technical assistance documents in fiscal year 2022: 1) [The COVID-19 Pandemic and Caregiver Discrimination Under Federal Employment Discrimination Law](#) (March 14, 2022); and 2) [The Americans with Disabilities Act and the Use of Software, Algorithms, and Artificial Intelligence to Assess Job Applicants and Employees](#) (May 12, 2022), along with a companion document, [Tips for Workers: the Americans with Disabilities Act and the Use of Software, Algorithms, and Artificial Intelligence](#) (May 12, 2022).

Additionally, the EEOC updated the agency’s pandemic technical assistance document, [What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws](#), seven times in fiscal year 2022:

- ▶ On October 13, 2021, updates were made in accordance with updated guidance from the Centers for Disease Control and Prevention (CDC);
- ▶ On November 17, 2021, a new section on retaliation was added (Section M);
- ▶ On December 14, 2021, a new section was added about COVID-19 as an ADA disability (section N);
- ▶ On December 20, 2021, edits were made to reflect further changes in guidance from federal public health authorities;



- › On March 1, 2022, a new section on religious objections was added (section L);
- › On March 14, 2022, the section on caregivers was updated; and
- › On July 12, 2022, a comprehensive update was issued.

With these updates, the EEOC ensured the document's continued accuracy in light of the most up-to-date guidance from the CDC.

## MANAGEMENT OBJECTIVE: Achieve Organizational Excellence

The agency adopted two outcome goals to further the objective:

- › **Outcome Goal III.A:** Staff exemplify a culture of excellence, respect, and accountability.
- › **Outcome Goal III.B:** Resource allocations align with priorities to strengthen outreach, education, enforcement, and service to the public.

The EEOC also identified and is implementing ten key strategies. The agency's strategies for achieving Outcome Goal III.A are:

- › **Strategy III.A.1:** Recruit, develop, and retain skilled and committed employees.
- › **Strategy III.A.2:** Advance performance management to maximize organizational improvement.
- › **Strategy III.A.3:** Advance diversity and inclusion in the workplace.
- › **Strategy III.A.4:** Develop and support innovation and collaboration to advance employee engagement and morale.
- › **Strategy III.A.5:** Continuously implement quality practices in all programs.
- › **Strategy III.A.6:** Foster constructive employee and labor management relations.
- › **Strategy III.A.7:** Strive to model the workplace practices the EEOC promotes.

The three strategies for achieving Outcome Goal III.B are:

- › **Strategy III.B.1:** Embrace and invest in technology to transform the way the EEOC serves the public and to improve productivity.
- › **Strategy III.B.2:** Expand the use of data and technology to support, evaluate, and improve the agency's programs and processes.
- › **Strategy III.B.3:** Prioritize and actively manage available fiscal resources to best achieve the agency's mission.



The EEOC has developed Performance Measures 9 through 12 to track the agency’s progress in pursuing these strategies.

Strategic Objective III (Management Objective) Performance Summary		
Measures	4 Total	Identifier
Targets Met or Exceeded	4	■
Targets Partially Met*	0	◆
Targets Not Met	0	●

**\*Targets Partially Met:** A rating assigned to target results where (1) at least half of the activities targeted for completion were completed, or (2) the EEOC was unable to assess the results because full year data was not yet available.

### Performance Measure 9

The EEOC’s performance improves with respect to employee engagement and inclusiveness.

FY 2022 Targets	FY 2022 Results	Performance
Conduct annual focus groups with employees and climate assessments to obtain feedback on agency culture.	In FY 2022 Q1, the Building Employee Satisfaction Together (BEST) Workgroup conducted focus groups based on five Federal Employee Viewpoint Survey (FEVS) areas and briefed senior leadership on the results and the agency’s culture in December 2021.	■ Targets Met
EEOC FEVS scores for employee engagement and inclusiveness will maintain or increase in relation to the prior-to-current year changes in comparable government agency averages.	The EEOC FY 2022 FEVS Employee Engagement Index (EEI) score was 78%, a decline of 2 percentage points from 80% in FY 2021. However, in FY 2022, OPM replaced the Inclusion Index with the Diversity, Equity, Inclusion, and Accessibility (DEIA) Index, effectively eliminating the possibility that FY 2022 DEIA scores could be compared to prior year EEI results.	
Develop and adjust action plans, as necessary, in response to focus group feedback and prior year FEVS results.	For FY 2022, the EEOC’s score for DEIA was 81%. OMB will be using the DEIA index moving forward to measure employee engagement and agency culture that aligns with Executive Order 14035.	





Performance Measure 9 takes a holistic approach to assessing and strengthening the agency’s efforts to improve employee engagement and inclusiveness. The EEOC does not focus solely on improving FEVS scores as that is only one snapshot of agency performance. Annual focus groups and climate assessments conducted with a broad range of groups throughout the agency provide an ongoing feedback mechanism to engage with staff and seek their input on solutions to agency challenges.

The fiscal year 2022 targets for this measure were to conduct annual focus groups and climate assessment(s) with employees for feedback on agency culture and implement plans, as necessary, to maintain or increase the EEOC’s FEVS scores. During Q1 of 2022, the BEST Workgroup conducted focus groups with employees based on five FEVS focus areas and briefed the Chair on the results and the agency’s culture. Also, OPM released EEOC’s Employee Engagement Index (EEI) score of 78% for the agency, a decline of 2 percentage points from 80% in 2021. However, OPM also introduced the DEIA Index in fiscal year 2022, which replaced the Inclusion Index from previous years — effectively eliminating the requirement to compare prior year EEI results, based on the agency’s fiscal year 2022 FEVS score. The DEIA Index is specifically designed to align with Executive Order 14035 and emphasizes the four components in Equal Opportunity: Diversity, Equity, Inclusion, and Accessibility. In fiscal year 2022, the EEOC’s average score for DEIA was 81%, which exceeded the Government-wide average of 69% by 12 percentage points, and the average for medium-sized agencies of 75% by 6 percentage points.

**Performance Measure 10**

Feedback surveys and other mechanisms provide baseline measures of services provided to those with whom the EEOC interacts.

FY 2022 Targets	FY 2022 Results	Performance
Continue to implement feedback surveys and other mechanisms, adjusting the measures and targets, as necessary.	The agency continued to conduct feedback surveys throughout the fiscal year, including workgroup sessions and electronic survey reviews, to support continued access to EEOC services provided to the public.	■ Targets Met
Set goals for improvement or maintenance at the beginning of each fiscal year and review results at the end.	In Q1 of FY 2022, new e-versions of participant surveys were issued as part of an independent evaluation conducted in coordination with academia and the EEOC’s ADR Program. Additionally, the Revolving Fund evaluated prior survey measures and issued new FY 2022 surveys at the EEOC’s 25th annual Examining Conflicts in Employment Laws (EXCEL) Training Conference held August 23–25, 2022. The results of the FY 2022 EXCEL Training Conference evaluation were reviewed and analyzed to provide feedback and set goals for next year’s conference.	



Performance Measure 10 focuses on obtaining feedback on services provided to the public. It also supports the goal of obtaining and evaluating feedback from the targeted audiences the EEOC serves to allow for better measurement of the agency’s service delivery and increased accessibility.

The fiscal year 2022 target for this measure was to continue to implement feedback surveys and related mechanisms from the public and targeted audiences that the EEOC serves to adjust the measures and targets, as necessary; set goals for improvement or maintenance of the agency’s service delivery; and increase accessibility annually.

As part of the annual assessment of the ADR program, an e-survey was issued at the end of fiscal year 2022 to provide an assessment of participant satisfaction on the adaptation to remote mediation sessions. Results were issued and made available to the public in June 2022 on EEOC’s external website via a report titled, [“EEOC Mediation Participants in Online Mediation and Comparison to In-Person Mediation.”](#) Also in fiscal year 2022, the Revolving Fund utilized revised survey measures to secure feedback from attendees at all workshops, customer specific trainings, and the annual EXCEL Conference. The fiscal year 2022 EXCEL conference design and presentations were modified based on the prior fiscal year’s conference feedback and the agency plans to build on feedback received from the fiscal year 2022 conference to make further enhancements in fiscal year 2023.

**Performance Measure 11**

Monitor yearly progress on modernization of charge/case management systems for program offices until completed in 2022.

FY 2022 Target	FY 2022 Results	Performance
<p>Report on progress quarterly and adjust the plan, as necessary.</p>	<p>The private sector module of the new Technology Modernization Fund (TMF)/ EEOC funded Charge/Case Management System, now named ARC, went live in January 2022 to 145 EEOC and FEPA offices, replacing the legacy Integrated Mission System (IMS) applications.</p> <p>Ongoing trainings, How-To videos, Teams communications for the field, as well as regular in-house collaboration with the Office of Information Technology eased the transition and provided requested enhancements.</p> <p>The EEOC continued to deliver program oversight briefings to the TMF/General Services Administration (GSA) project team, senior agency managers, and the TMF Board throughout the fiscal year.</p>	<p>■ Target Met</p>

Performance Measure 11 allows the agency to track and assess progress on migration to a fully digital charge/complaint environment. The benefits of such modernization include improved collaboration and knowledge sharing, enhanced data integrity, reduced paper file storage or manual archiving/disposition requirements, and a more mobile workforce.



Streamlined services and increased responsiveness to users throughout the process are regularly evaluated. The fiscal year 2022 target for Performance Measure 11 was to report on progress quarterly and adjust the plan, as necessary.

During fiscal year 2022, the modernization team defined and developed an end-to-end charge management solution for the agency’s private sector processes and the accompanying processes for its FEPA partners. Over 200 requirements workgroup meetings, requirement reviews, and demonstrations were conducted in support of this program. These requirement efforts were critical to the development of nine common services, which are the foundation of the modernized system, and 20 app modules, which are the enabling tools for private sector and FEPA processes. The private sector component of the modernized system, now branded as ARC, was deployed on January 18, 2022, to 145 EEOC and FEPA offices, with demonstrations of the system and training for staff before full implementation. Development of ARC now is shifting to modernizing the litigation and federal sector services components of the agency’s charge management system.

Briefings were provided throughout the fiscal year to senior agency managers and the TMF Board to apprise them of the project’s progress and to solicit feedback and input on key issues and proposed modifications to system design and launch. Status updates were also shared with the GSA in accordance with TMF requirements.

## BUDGETARY RESOURCE ALIGNMENT

The EEOC has worked to communicate across the agency a common understanding of how the strategic priorities direct efforts of staff. Accordingly, with direction from the Chair, budget submissions prepared by each program office explain how the allocated resources implement the strategies and goals of the Strategic Plan. The Chair examines the budget requests and allocates or re-allocates resources, as needed, to align the agency’s budget with the Strategic Plan and SEP in each fiscal year.

### Performance Measure 12

The budget process prioritizes funding for EEOC’s strategic goals.

FY 2022 Targets	FY 2022 Results	Performance
<p>As part of an overall increase in budget development transparency, produce an annual Congressional budget justification and operating plan that reflects strategic enforcement and management priorities as approved by the agency head.</p> <p>Meet all submission deadlines.</p>	<p>The EEOC’s final FY 2022 Operating Plan was approved by the Chair on March 15, 2022.</p> <p>The EEOC’s FY 2023 Congressional Budget was submitted to Congress on March 28, 2022.</p> <p>The FY 2024 OMB Performance Budget was submitted to OMB on September 12, 2022.</p>	<p>■ Targets Met</p>

At every level within the EEOC, a common understanding of how the strategic priorities direct the work of the agency is necessary for success. The EEOC achieves this common understanding in various ways, including integrating Strategic Plan goals into performance standards and ensuring that budget submissions from each component office explain how the agency’s resources will be used to implement the strategies and goals outlined in the Strategic Plan. By developing a strong and clear message for use in budget documents and other publications, the agency demonstrates the nexus between its budget requests, allocations and operating plans, and the achievement of its mission and vision.



The fiscal year 2022 targets for Performance Measure 12 were to produce the EEOC's Fiscal Year 2023 Congressional Budget Justification and the 2022 Operating Plan and prepare the EEOC's Fiscal Year 2024 Performance Budget that aligns resources with the Strategic Plan. These documents were all submitted in a timely manner and clearly explained how resources aligned with strategic priorities. The final fiscal year 2022 Operating Plan was approved by the Chair on March 15, 2022. The agency's [Fiscal Year 2023 Congressional Budget Justification](#) was submitted to Congress on March 28, 2022. The Fiscal Year 2024 OMB Performance Budget was submitted to OMB on September 12, 2022.

## RELATED PROGRAM RESULTS AND ACTIVITIES

### I. Strategic Objective I: Combat and Prevent Employment Discrimination Through the Strategic Application of the EEOC's Law Enforcement Authorities.

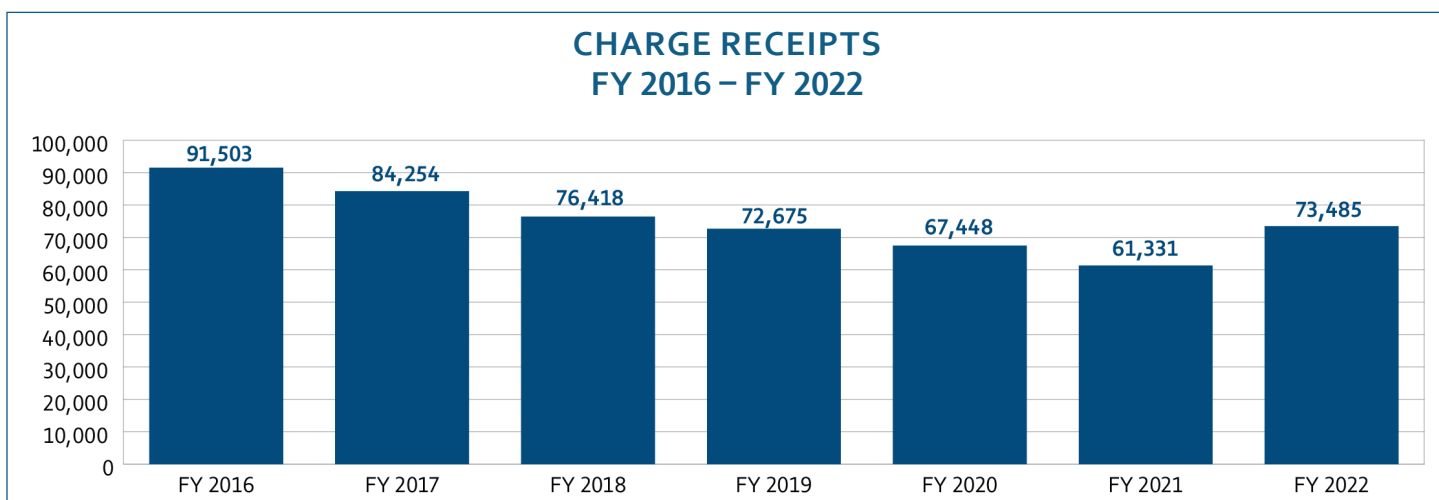
#### A. Providing Public Service through the Intake Information Group

The Intake Information Group (IIG) is the agency's point of contact for members of the public who use the agency's toll-free number, general information e-mail address, and direct ASL video service for general inquiries. The IIG received over 475,000 phone calls (an 18.8% increase from fiscal year 2021), approximately 898 calls through an American Sign Language videophone line (a 7.5% increase from fiscal year 2021), and more than 68,700 emails in fiscal year 2022 (a 32% increase from fiscal year 2021). Approximately 46.76% of callers used the interactive voice response system to find answers to their inquiries, without further assistance from IIG Contact Representatives. The rest of the callers to the EEOC's toll-free number were assisted by IIG Contact Representatives using an extensive knowledge database to respond, in both English and Spanish, to these calls. In fiscal year 2022, over 74% of calls and emails answered by the IIG Contact Representatives were fully resolved without having to be referred to other staff in EEOC field offices. The EEOC continues to be one of few federal agencies providing direct ASL video service for the Deaf and Hard of Hearing community. The IIG also uses an interpretation service so that the EEOC can assist people in over 200 languages.

#### B. Strengthening the Enforcement Capacity of the Agency in the Private Sector

In fiscal year 2022, the agency again prioritized ensuring that it had sufficient resources and tools to continue to prevent and remedy employment discrimination. First and foremost, that required ensuring that the agency had sufficient staff necessary to address its expanding workload. During fiscal year 2022, the agency filled 352 new positions and ended the year with 2,187 employees on board. Notably, the majority of these positions were front-line staff (investigators, investigative support assistants, attorneys, and mediators, among other positions). As a result of this hiring effort, the EEOC was able to address critical service and morale issues by restoring staffing losses in key areas.

The addition of new employees in mission critical positions also better positioned the agency to provide quality service to the public and ensure timely and appropriate resolution of discrimination charges. The investment in additional staff was critically important in fiscal year 2022, as the agency saw a significant increase in the number of charges filed compared to the prior fiscal year. In fiscal year 2022, the EEOC received 73,485 new charges, an increase of almost 20% compared to fiscal year 2021, which resulted in 51,399 pending charges at fiscal year-end, an increase from the 42,811 pending charges in fiscal year 2021.



Having additional staff to focus on inventory management enhances service to the public and allows staff additional time and resources to devote to developing and resolving meritorious charges of discrimination. In fiscal year 2022, the agency resolved 18.6% of charges with outcomes favorable to the charging party, also known as merit factor resolutions. In addition, the EEOC resolved a total of 65,087 charges, secured over \$342 million in monetary relief for individuals during the administrative process, and obtained targeted, equitable relief in 91.5% of all conciliation agreements in the administrative process.

With the additional staff hired in fiscal year 2022, the agency was also better equipped to successfully address the hundreds of thousands of calls, inquiries, and charges from workers seeking assistance with potential complaints of discrimination. In addition to the calls and emails received by the IIG discussed above, in fiscal year 2022, the EEOC received more than 218,000 inquiries in field offices, a 26% increase from the prior fiscal year. Over 160,900 of those inquiries were filed through the online intake and appointment scheduling system. In total, 73,485 charges were filed in fiscal year 2022, which was an increase of almost 20% from last fiscal year's level of 61,331. Of the total charges received in fiscal year 2022, over 10,000 of those alleged discrimination related to COVID-19.

**The EEOC resolved a total of**  
**65,087**  
**charges**  
**in FY 2022.**

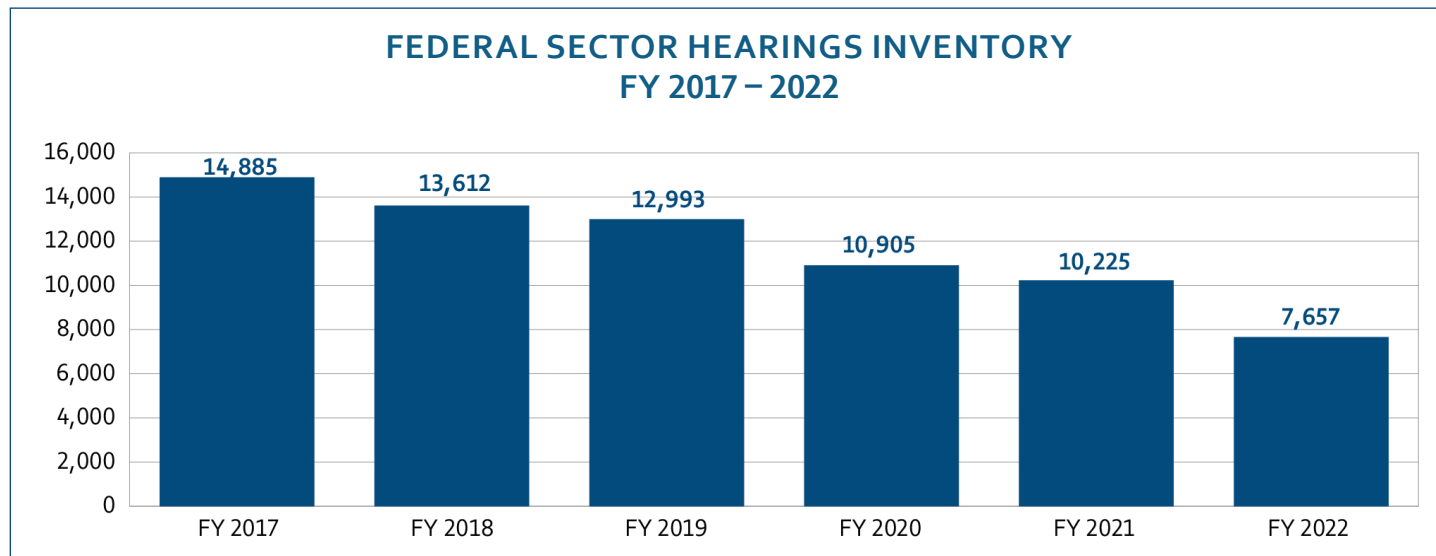
### C. Strengthening the Enforcement Capacity of the Agency in the Federal Sector

In addition to the agency's private sector enforcement activities, the EEOC has adjudicatory responsibilities in the federal EEO complaints process. This involves hearings before administrative judges on complaints of discrimination by federal employees or applicants, as well as adjudication of appeals from federal agency final decisions on employment discrimination complaints. Strengthening the agency's ability to effectively combat employment discrimination in the federal government was also a priority for the agency during fiscal year 2022.

In fiscal year 2022, the federal sector hearings program continued making strides in managing its inventory of hearing requests. The EEOC successfully decreased the pending inventory of hearing receipts for the fifth consecutive year — a reduction of 25.1%, from 10,225 in fiscal year 2021 to 7,657 in fiscal year 2022. By developing and implementing strategies to increase efficiency, the federal hearings program resolved 9,336 hearing requests in fiscal year 2022, securing more than \$125.1 million in benefits for federal workers (an almost 40% increase from fiscal year 2021). Notably, this relief included the \$12 million settlement of a landmark class action case involving a finding of discrimination. During



fiscal year 2022, the hearings program also focused on resolving older cases in the inventory and utilized case management strategies to balance field inventories through the resolution of older cases and the closure of incoming cases. Resolutions resulted in a 76% reduction of pending cases that were more than 300 days old. The focus on aged cases also resulted in a 4% reduction in the average age of the overall pending federal hearings inventory.



To maintain quality while also managing the inventory of federal hearings, the agency continued to use metrics, which were originally implemented in fiscal year 2019, to assess and measure quality. Additionally, the EEOC's Public Portal continued to yield efficiencies in case processing in the federal sector because complainants can use the portal to submit their hearing requests, upload documents, view the status of their complaints, and file appeals. The EEOC Public Portal also allows federal sector complainants to indicate their interest in alternative dispute resolution to resolve their complaint.

The EEOC's federal sector appellate program adjudicates appeals from federal agency final decisions on employment discrimination complaints, including those following a decision by an EEOC administrative judge. It ensures agency compliance with orders issued on those appeals. The EEOC also adjudicates appeals from decisions made in federal collective bargaining agreement grievances alleging employment discrimination, reviews decisions by the Merit Systems Protection Board (MSPB) addressing allegations of discrimination, and actions originating under Section 304 of the Government Employees Rights Act of 1991. The appeals process is governed by EEOC regulations at 29 C.F.R. Parts 1614 and 1603 and Management Directive 110 (MD-110). In addition to vindicating the rights of individual federal complainants, the EEOC's appellate decisions serve as vehicles to develop and promulgate the Commission's policies in the federal and private sectors. They serve to educate federal sector complainants, agencies, and the public and private sectors about the law, guide agencies in their efforts to become model workplaces, and advance the public interest in eradicating discrimination in federal employment.

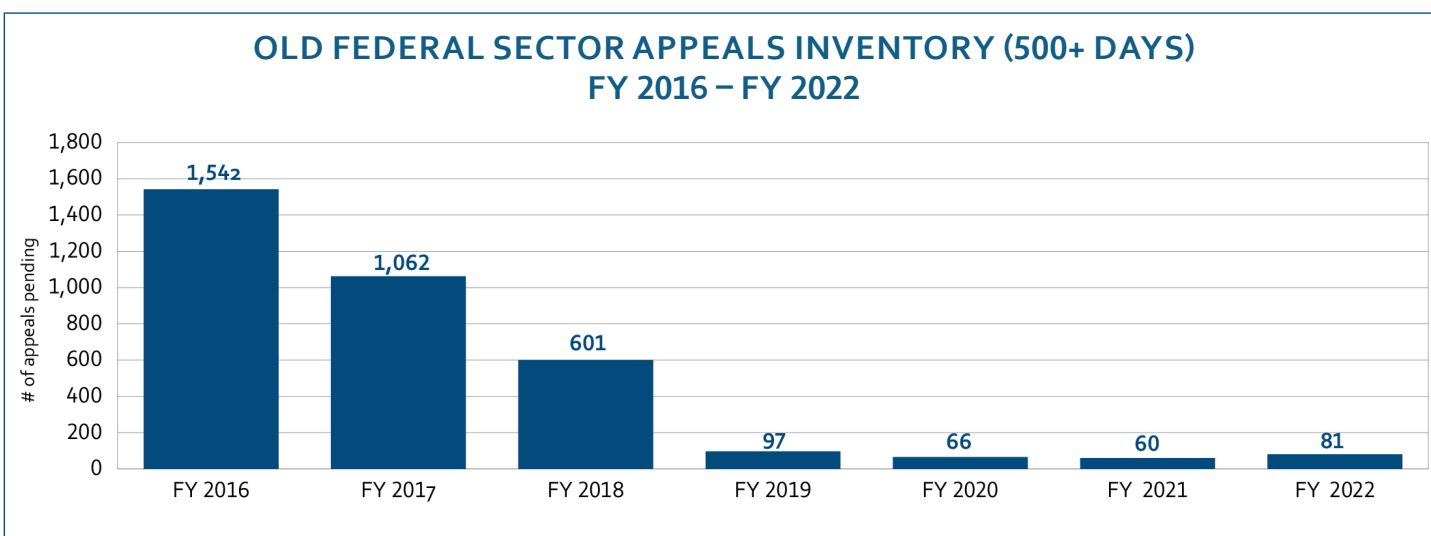
The EEOC ensures that its federal appellate adjudicatory functions are fair to all parties and that the decisions issued apply relevant law and precedent to the unique facts presented in each individual case. At the same time, the EEOC recognizes its responsibility to effectively manage the appellate inventory to ensure that decisions are issued as expeditiously as possible.

In fiscal year 2022, the EEOC continued its focus on resolving the oldest federal sector appeals as well as those that vindicate employees' legal rights or preserve their access to the EEO complaint process. The EEOC resolved 4,125



federal sector appeals and secured \$7.7 million in monetary relief for victims of discrimination in the EEOC's federal sector appellate decisions. During fiscal year 2022, the EEOC's federal sector appellate program also continued its significant resolution of appeals addressing the merits of employees' discrimination claims, including 107 appeals which found discrimination. Among the decisions issued in fiscal year 2022, 90 were identified as implicating one or more Strategic Enforcement Plan (SEP) priority areas.

During fiscal year 2022, federal sector appellate receipts totaled 4,212 and the EEOC resolved 4,125 appeals. As a result, the EEOC ended the fiscal year with an inventory of 3,503 pending appeals, which was slightly higher than the inventory of 3,416 pending appeals at the end of fiscal year 2021. With the EEOC's federal sector appellate programs' focus on the resolution of the oldest appeals, at fiscal year-end the pending cases that were more than 500 days old represented 2% of the total pending inventory.



At the same time, over 1,679 of the total appeal resolutions were issued within 180 days of receipt. These resolutions included 702 initial appeals from procedural dismissals that terminated complainants' participation in the EEO process, reversing 29% of those dismissals with an order to the agency to continue processing the EEO complaint. The average age of the open inventory of appeals is currently at 220 days old. Quickly addressing appeals involving procedural dismissals of complaints has been critical to effectively preserving access to the EEO complaint process, as has the agency's focused concentration on the aged inventory workload.

The EEOC's federal sector program also vigorously implemented case management strategies to more effectively allocate resources. These strategies allowed for the screening and categorization of cases early in the appellate process, including cases determined to have significant impact. This early screening process was greatly aided by the full implementation of the FedSEP digital portal, in which agencies can upload the documentation necessary to process an appeal, as well as the public portal, which enables complainants to request appeals, upload selected documents, and manage their personal and representative's contact information. In addition, through training and educational outreach, the EEOC has partnered with federal agencies to speed up submissions of records, perfect defective records, and reduce wasted efforts spent on records not ripe for adjudication. These technological innovations make the appellate process more transparent for all parties and reduce the EEOC's reliance on and costs for support staff to prepare and scan paper documentation received from the parties.



The following are a small sample of notable appellate decisions issued in fiscal year 2022:

- › [\*Lorraine D., Denese G., Kerrie F. v. Agency for International Development\*](#), EEOC Appeal Nos. 2020003744, 45, 46 (November 9, 2021).

In this consolidated appeal, the EEOC remanded the complaints to the agency upon discovery that the agency's Office of General Counsel (OGC) prepared the agency's final decisions instead of the EEO office, finding that intrusion by the agency's OGC into the EEO process negatively affected the impartiality and appearance of impartiality of the agency's EEO program.

- › [\*Cleveland C., Kenneth W., Marquis K., Roman G., Orlando O., Jeffery J., Shane L., Jay C., & Gilbert B. v. Dep't of Defense \(Washington Headquarters Services\)\*](#), Appeal Nos. 2020003894, -3895, -3896, 3897, 3898, 3899, 3900, 3901, 3902, & 3903 (November 17, 2021), request for reconsideration denied 2022000893, et al. (April 4, 2022).

In this consolidated decision, which involved 10 complainants, the EEOC found that the agency violated the Rehabilitation Act by adopting a blanket policy requiring Pentagon Force Protection Agency officers to be clean shaven because the agency failed to meet its burden of proving that there was no reasonable accommodation that would enable the complainants with pseudofolliculitis barbae (a chronic bacterial skin disorder brought on by shaving facial hair and which predominantly affects African American males) to meet the existing standard or an alternative approach that would still allow the officers to perform the essential functions of their position.

- › [\*Nathanial E. v. Department of Interior\*](#); EEOC Appeal No. 2021000613 (Jan. 13, 2022).

In this decision, the EEOC reversed the agency's determination that although the evidence demonstrated that complainant's supervisor subjected complainant to harassment based on his sexual orientation, there was no basis to impute liability to the agency for the supervisor's actions, finding that the record demonstrated that the supervisor's harassment included tangible employment actions. The complaint was remanded for a determination of complainant's entitlement to compensatory damages and other remedial relief.

- › [\*Melina K. v. Department of Veterans Affairs\*](#), EEOC Appeal No. 2021001468 (Mar. 8, 2022) and [\*Willa M. v. Department of Veterans Affairs\*](#), EEOC Appeal No. 2020005021 (Mar. 14, 2022).

In its consolidated decision, the EEOC determined that due to the severity of the egregious racial harassment complainants were subjected to by an agency doctor, compensatory damages in the amount of \$175,000 and \$125,000 were warranted.

#### **D. Continued Use of Technology to Improve Services to the Public**

The EEOC built upon its commitment to building a digital workplace to increase its efficiency and deliver timely service to the public during fiscal year 2022. The EEOC's Public Portal continued to be a critical factor in the agency's ability to serve both private and public sector parties, along with the use of Microsoft Teams unified communications, and other cloud-based communication services. Having a unified communication platform is saving the agency over \$1.2 million annually, which is being reinvested in other needed IT services.

The EEOC also continued to provide agency employees with virtual meeting platforms, enabling staff to hold successful and engaging meetings while working remotely. Agency program offices held more than 10,300 remote meetings in fiscal year 2022, including two large annual conferences. The EEOC successfully enhanced accessibility in the delivery of nationwide, public facing-meetings and trainings by standardizing accessibility related elements of virtual and hybrid event technology selection, focused event planning and execution, and excellent support services.





In fiscal year 2022, the agency continued to make significant progress in modernizing its charge management system. In early 2020, the Technology Modernization Fund (TMF) Board provided EEOC with an initial tranche of \$2 million to modernize the legacy technology and data structure of the agency's 22-year-old legacy charge management system. For the last two years, the EEOC worked to define and build a modern solution for the agency's private sector processes and the accompanying processes for its Fair Employment Practices Agency (FEPA) partners.

The EEOC held over 200 requirements workgroup meetings, requirement reviews, Field Office and FEPA roadshows, and demonstrations in support of this program. In preparation for the new records system, the technical team evaluated, cleansed, and transformed more than thirty years of EEOC and FEPA data from prior legacy systems. On January 18, 2022, the new Agency Records Center (ARC) system went live for 145 EEOC and FEPA offices and more than 2,000 users. During its first almost nine months in operation, the ARC system provided intake services for over 158,000 inquiries to the EEOC, more than 49,000 of which became charges.

Having met the milestones outlined in the agreement with the TMF, the agency received the second, and final, tranche of TMF funding in mid-2022, supporting the remaining two domains that will be serviced by ARC — litigation and federal sector services.

Beginning in fiscal year 2023, and continuing in fiscal year 2024, the EEOC will enhance its Public Portals with modernized infrastructure, expanded language offerings, improved and more granular data, new services, and improved interview scheduling, all made possible by the modernized ARC implementation.

In fiscal year 2021, the agency deployed a new user-friendly electronic Freedom of Information Act (FOIA) tracking system. During fiscal year 2022, the agency worked with the tracking system's vendor to improve process function, enabling staff to respond to FOIA requests with increased efficiency. The FOIA tracking system is scheduled to begin use of the Login.gov multi-factor authentication method used for publicly accessible federal websites, a first for the EEOC. Once launched, it will serve as a model for implementation on the agency's other public services, such as the Public Portal and the Respondent Portal.

The EEOC secured over

**\$513.7  
million  
for over  
37,000  
victims  
of discrimination.**

### **E. Recovery for Victims of Discrimination**

In fiscal year 2022, the EEOC continued prioritizing resource allocation to tasks that have the maximum impact on fulfilling the agency's mission. Through the strategic use of resources, the EEOC secured more than \$513.7 million for victims of discrimination in private, state and local government, and federal workplaces. This included:

- ▶ Approximately \$342 million for 32,298 victims of employment discrimination in the private sector and state and local government workplaces through mediation, conciliation, and settlements during the administrative process.
- ▶ Over \$39.7 million for 1,461 individuals as a direct result of litigation resolutions.
- ▶ More than \$132 million for 3,362 federal employees and applicants.

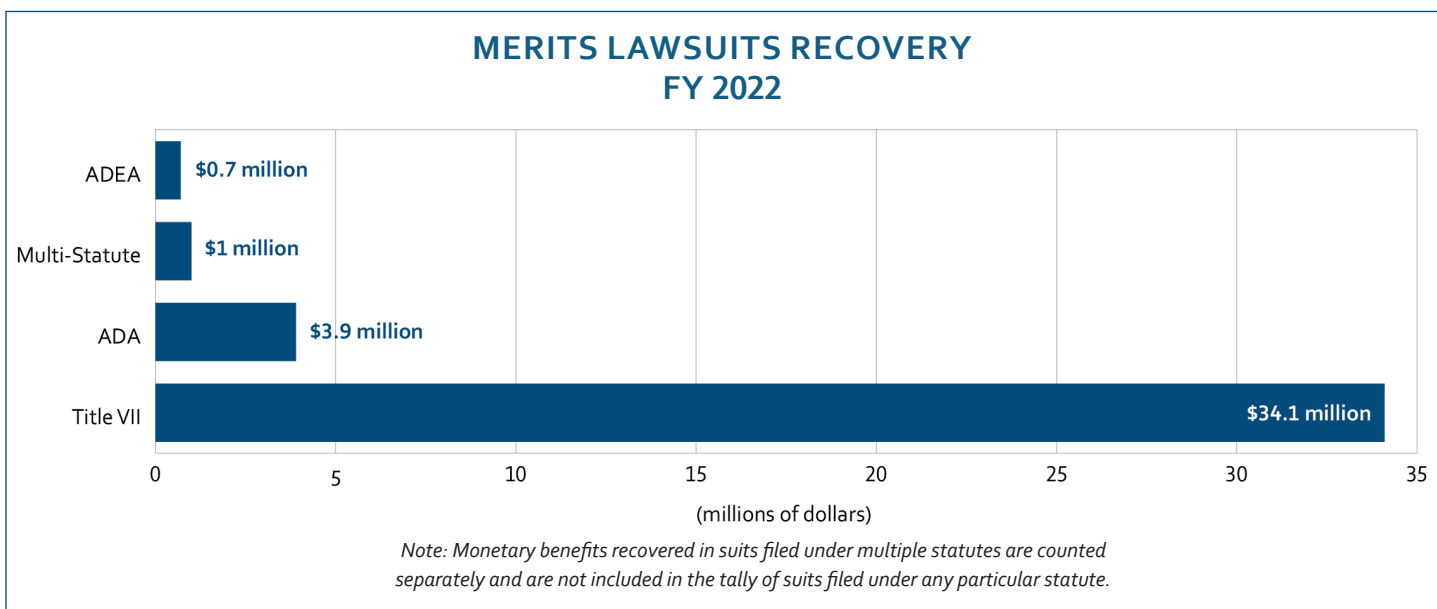


Importantly, in each of these categories, the agency also obtained substantial changes to discriminatory practices to remedy violations of equal employment opportunity laws and prevent future discriminatory conduct in the workplace.

**F. Challenging Discrimination in Federal District Court**

The EEOC’s field legal units filed 91 merits lawsuits in fiscal year 2022. Merits lawsuits are direct suits or interventions alleging violations of the substantive provisions of the statutes enforced by the EEOC and suits to enforce administrative settlements. Fiscal year 2022 lawsuits include 53 suits seeking relief for individuals, 25 non-systemic suits with multiple victims, and 13 systemic suits. These filings alleged violations covering multiple bases, including sex (45), retaliation (32), disability (27), race (17), national origin (6), age (6), and religion (3). The issues raised most frequently in these suits were discharge (40), harassment (24), hiring (including referral, recall, assignment, and job classification) (22), constructive discharge (18), and reasonable accommodation (17). Two suits also included recordkeeping claims. At the end of fiscal year 2022, the EEOC had 177 cases on its active district court docket, of which 100 (56.4%) sought relief for individuals, 45 (25.4%) were non-systemic suits with multiple victims, and 32 (18%) involved challenges to systemic discrimination.

In fiscal year 2022, the EEOC resolved 96 merits lawsuits in the federal district courts for a total monetary recovery of nearly \$40 million. The EEOC achieved a favorable result in 94.8% of all district court resolutions, and a total of 1,461 individuals received monetary relief as a direct result of EEOC litigation resolutions. Favorable results include cases decided by court order and concluded through a consent decree or a settlement agreement in litigation.



Addressing systemic employment discrimination on all protected bases is a top priority for the EEOC. The 13 systemic lawsuits filed by the EEOC in fiscal year 2022 challenge various types of systemic discrimination, including claims of failure to accommodate and discharge based on religion and disability; hiring and assignment claims based on race, national origin, and sex; hiring claims based on age; systemic harassment; and an equal pay claim. At the end of fiscal year 2022, a total of 32 cases on the active docket were systemic, accounting for 18% of all active merits suits. This past fiscal year, the EEOC resolved 10 systemic cases — three of which accounted for over \$23.5 million in relief for over 1,000 victims of systemic discrimination. The EEOC’s litigation program achieved a remarkable 100% success rate in its systemic case resolutions in fiscal year 2022.

Advancing racial justice also continues to be a top priority for the EEOC. The agency filed 20 lawsuits alleging race or national origin discrimination in fiscal year 2022, representing 21.9% of all merits suits filed. These new suits challenge



various employment issues, including discriminatory hiring, harassment, unequal terms and conditions of employment, and disparate pay. At the end of fiscal year 2022, a total of 43 cases on the active docket were cases involving race or national origin discrimination, accounting for 24.2% of all active merits suits. This past fiscal year, the EEOC also resolved 18 cases involving race or national origin, recovering \$4.6 million for 298 victims of race or national origin discrimination.

Below are examples of significant fiscal year 2022 systemic or class lawsuit resolutions that advance racial justice:

- ▶ In *EEOC v. Chicago Meat Authority, Inc.*, No. 18-cv-1357 (N.D. Ill. Oct. 7, 2021), the EEOC alleged that the employer, a meat processor, packager, and shipper, failed to hire Black applicants because of their race, used recruitment and hiring practices that had a disparate impact on Black applicants, and subjected Black employees to racial harassment. The suit also alleged that the employer terminated a Black employee because of his race and in retaliation for his complaints about race harassment. The case was resolved by consent decree providing \$1.1 million to 93 claimants.
- ▶ In *EEOC v. Baumann Farms, LLP*, No. 3:21-cv-00579 (W.D. Wisc. June 8, 2022), the EEOC alleged that the employer, a ginseng producer, maintained an English-only policy that discriminated based on national origin, subjected female agricultural workers to sexual harassment, and retaliated against them for complaining about the harassment. The case was resolved by consent decree for \$170,000 to two claimants plus attorney's fees to the legal clinic that filed the EEOC charges.
- ▶ In *EEOC v. Giertsen Company of Wisconsin*, No. 21-cv-1130 (E.D. Wis. June 2, 2022), the EEOC alleged that a provider of real estate restoration services subjected the charging party and other Black employees to racial harassment and discharged the charging party in retaliation for complaining about the harassment. The lawsuit was resolved by consent decree for \$140,000 to four aggrieved individuals.
- ▶ In *EEOC v. The Village at Hamilton Pointe, LLC*, No. 3:17-cv-00147 (S.D. Ind. Aug. 5, 2022), the EEOC alleged that a residential nursing home subjected Black employees to a racially hostile work environment, including use of racially derogatory terms by employees, residents, and relatives of residents. The EEOC also alleged that the employer made race-based work assignments, complying with residents' requests not to receive care from Black employees. After a 5-day trial, the jury found that the nursing home made race-based job assignments with respect to one employee and subjected three employees to a racially hostile work environment, awarding damages to one of these employees in the amount of \$45,000.

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Combatting all forms of workplace harassment remains an important priority of the agency. In fiscal year 2022, the EEOC filed 37 lawsuits challenging workplace harassment: 25 cases raised claims of hostile work environment based on sex, nine based on race, four based on national origin, one based on disability, one based on religion, and four based on retaliation. Fourteen harassment suits were individual cases, 20 were class cases, and three were systemic cases. In all, just over 40% of all lawsuits filed by the agency included an allegation of harassment. The EEOC successfully resolved 39 harassment suits in fiscal year 2022. Five of these resolutions involved allegations of systemic harassment. The EEOC recovered nearly \$28 million for 633 individuals subjected to harassment through its litigation program.

In addition to the lawsuits summarized above alleging harassment based on race, below are examples of significant fiscal year 2022 lawsuit resolutions alleging sex-based harassment, which represent the largest category of harassment charges filed with the EEOC:



- › In *EEOC v. Coughlin, Inc.*, No. 2:21-cv-00099 (D. Vt. June 16, 2022), the EEOC alleged that a manager at one of defendant's McDonald's restaurants subjected male and female employees, many of them teens, to sexual harassment. The EEOC also alleged that the employer retaliated against one employee because of her complaint about unlawful harassment by rescinding her reasonable accommodation. The harassment included sexually explicit comments, requests for sex, and touching and hitting of employees' breasts, buttocks, and genitals. The case was resolved by consent decree for \$1.6 million to approximately 45 aggrieved individuals.
- › In *EEOC v. Lowe's Home Centers, LLC d/b/a Lowe's*, No. 3:22-cv-08152 (D. Ariz. Sept. 15, 2022), the EEOC alleged that a home improvement store subjected two teen charging parties and another female employee to sexual harassment by male coworkers, including sexual comments and innuendos. The alleged harassment was so severe that one employee was forced to resign. A second employee went on short-term disability leave due to anxiety caused by the harassment and was later constructively discharged. The case was resolved by consent decree for \$700,000 to three aggrieved individuals.
- › In *EEOC v. Carrabba's Italian Grill, LLC and OS Restaurant Services, LLC*, No. 8:21-cv-02507 (M.D. Fla. Dec. 9, 2021), the EEOC alleged that owners and operators of a restaurant chain subjected female employees working at a Florida location to sexual harassment. The male manager of the restaurant made sexually offensive comments to female employees, touched them inappropriately, sent them inappropriate texts, and conditioned better work assignments on submitting to his advances. The case was resolved by consent decree for \$690,000 to approximately 20 aggrieved individuals.
- › In *EEOC v. MedicOne Medical Response of Tennessee, Inc., and MedicOne Medical Response of Middle Tennessee, Inc.*, No. 3:20-cv-00912 (M.D. Tenn. Nov. 29, 2021), the EEOC alleged that providers of medical transportation services subjected female employees to requests for sexual favors, sexual advances, and inappropriate text messages from a manager, and discharged a female paramedic in retaliation for complaining about the harassment. The case was resolved by consent decree for \$450,000 to eight aggrieved individuals.
- › In *EEOC v. GIPOHX10, LLC d/b/a "Hawthorn Suites by Wyndham" and Jaffer, Inc.*, No. 2:20-cv-01369 (W.D. Wash. June 28, 2022), the EEOC alleged that a hotel subjected two female housekeepers to sexual comments and groping from their supervisor, constructively discharged one housekeeper, and retaliated against the other. The case was resolved by consent decree, providing \$370,000 to the two women.
- › In *EEOC v. Air Control Heating & Air Conditioning, Inc. d/b/a Air Control Heating and Electric*, No. 2:21-cv-00347 (E.D. Wash. June 13, 2022), the EEOC alleged that an HVAC contractor subjected female employees to sexually explicit comments and jokes, unwelcome touching, and sex-based comments from defendant's male owner, resulting in the constructive discharge of one employee. The case was resolved by consent decree for \$350,000 to seven aggrieved individuals.
- › In *EEOC v. Route 22 Sports Bar, Inc., and Crazy Mexican Restaurant & Grill, LLC*, No. 5:21-cv-00007 (N.D. W. Va. Oct. 20, 2021), the EEOC alleged that female employees were subjected to unwelcome touching, sexually suggestive comments, and requests for sex and pictures from defendant's co-owner



and other male employees, and that one female employee was discharged for complaining of the harassment. The case was resolved by consent decree for \$217,000 to eight aggrieved individuals.

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In fiscal year 2022, lawsuits alleging disability discrimination accounted for 30% of total filings and 41% of total resolutions. Twenty-one (54%) of the disability discrimination resolutions involved denials of reasonable accommodation. Below are some notable examples:

- ▶ In *EEOC v. Willis Knighton Medical Ctr.*, No. 2:21-cv-01774 (E.D. La. Oct. 19, 2021), the EEOC alleged that a medical center used qualification standards that screened out individuals with disabilities, failed to provide reasonable accommodations, and discharged employees because of their disabilities. The employer's leave and light duty policies required employees to be 100% healed after exceeding fixed leave and light duty caps of 26 weeks in a rolling calendar year. The case was resolved by consent decree for \$450,000 to approximately 30 individuals.
- ▶ In *EEOC v. SFM, LLC d/b/a Sprouts Farmers Market Lafayette*, No. 1:21-cv-02600 (D. Colo. Oct. 14, 2021), the EEOC alleged that a grocery store failed to hire and refused to provide reasonable accommodation during the application process to individuals because of their hearing impairments. The case was resolved by consent decree for \$280,000 for three aggrieved individuals.
- ▶ In *EEOC v. Ranew's Management Company, Inc.* No. 5:21-cv-00443 (M.D. Ga. Feb. 14, 2022), the EEOC alleged that defendants, providers of fabrication, coatings, assembly and logistics services, terminated charging party because of his disability (depression). After granting charging party six weeks of leave to treat his condition, the employer allegedly told charging party it could no longer trust him to perform accounting work and terminated his employment. The lawsuit was resolved by consent decree providing \$250,000 to the charging party.
- ▶ In *EEOC v. CampusPoint Corp. and Viewpoint, Inc.*, No. 3:21-cv-01429 (D. Ore. June 3, 2022), the EEOC alleged that a staffing agency (CampusPoint Corp.) and a software developer (Viewpoint, Inc.), acting as joint employers, failed to provide a reasonable accommodation during the application process to charging party, who is hearing impaired, and failed to hire him because of his disability and/or need for accommodation. The case was resolved by consent decree, providing \$225,000 to the charging party.

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During fiscal year 2022, the EEOC also resolved cases involving disability discrimination due to COVID-19:

- ▶ In *EEOC v. Gas Field Specialists, Inc.*, No. 4:21-cv-01615 (M.D. Pa. Aug. 2, 2022), the EEOC alleged that a Pennsylvania-based provider of services and materials to the natural gas extraction industry terminated charging party, who had a history of cancer, because it feared he would contract COVID-19 and become sick. The case was resolved by consent decree providing \$184,000 to the charging party.
- ▶ In *EEOC v. 151 Coffee, LLC*, No. 4:21-cv-01081 (N.D. Tex. May 9, 2022), the EEOC alleged that an operator of coffee shops refused to provide two hourly employees with reasonable accommodations for their disabilities and discharged them. The two employees had disabilities that put them at higher risk for complications from COVID-19 and sought accommodations to mitigate that risk. The employer denied the requested accommodations and placed the employees on indefinite, unpaid leave. The case was resolved by consent decree for \$70,000 to the two aggrieved individuals.



The EEOC achieved many other significant resolutions in lawsuits involving discrimination based on various protected bases. Below are several examples:

- › In *EEOC v. Activision Blizzard, Inc., Blizzard Entertainment, Inc., Activision Publishing, Inc. and King.com, Inc.*, No. 2:21-cv-07682 (C.D. Cal. March 29, 2022), the EEOC alleged that defendants, related companies that create and distribute video games, subjected female employees to sexual harassment and pregnancy discrimination and retaliated against employees for complaining about the discrimination. The case was resolved by consent decree for \$18 million to approximately 400 aggrieved individuals.
- › In *EEOC v. American Freight Management Co., LLC*, No. 2:19-cv-00273 (N.D. Ala. Feb. 2, 2022), the EEOC alleged that an operator of approximately 150 furniture stores throughout the United States refused to hire female applicants for sales and warehouse jobs nationwide because of their sex. Labor market data showed statistically significant underrepresentation of women in the employer's sales and warehouse positions. The EEOC alleged that corporate officials told hiring managers not to hire women because they "complain and make trouble" and distract male employees. The case was resolved by consent decree for \$5 million to approximately 500 aggrieved individuals.
- › In *EEOC v. Plains Pipeline, L.P., Plains All American GP, LLC, Plains Marketing, L.P., and Copperhead Pipeline and Construction, Inc.*, No. 7:2020-cv-00082 (W.D. Tex. Aug. 5, 2022), the EEOC alleged that four national companies that built and maintained gas pipelines in New Mexico and Texas subjected male pipeline employees to a hostile work environment based on race and national origin (Black, Hispanic, White, Native American, and biracial), sex (male), and to retaliation. The EEOC alleged that a supervisor repeatedly used racial slurs when addressing the employees and subjected them to unwanted sexual touching and threats of physical violence. The case was resolved by consent decree for \$1.75 million to 16 aggrieved individuals.
- › In *EEOC v. Stan Koch & Sons, Trucking, Inc.*, No. 19-cv-02148 (D. Minn. Dec. 7, 2021), the EEOC alleged that a transport business required applicants for truckdriver positions and employees returning to truckdriver positions after a medical leave to pass a physical abilities test that had a disparate impact on women. Analysis of the employer's workers' compensation claims showed no evidence that drivers who passed the test sustained statistically significantly fewer injuries to justify the test's disparate impact. The lawsuit was resolved through a consent decree providing \$500,000 to about 50 individuals and \$11,000 to the U.S. Treasury for the EEOC's litigation costs.
- › In *EEOC v. Staffing Solutions of WNY, Inc.*, No 1:18-cv-00562 (W.D.N.Y. Sept. 30, 2022), the EEOC alleged that a staffing company discriminated against a class of employees based on sex (including pregnancy), race, age, and disability. The EEOC alleged that the company's owner directed its recruiters to reject highly qualified Black applicants or place them in the lowest paying, least desirable jobs; comply with clients' race and sex preferences; reject pregnant applicants; reject applicants over the age of 50 and those whom defendant deemed disabled; and improperly ask pre-offer questions about injuries and medical conditions. Three employees who complained about the discriminatory practices were retaliated against. The case was resolved by consent decree for \$550,000 to approximately 176 aggrieved individuals.



- › In *EEOC v. Davis Automotive Group, Inc., t/a BMW Cleveland*, No. 1:19-cv-02257 (N.D. Ohio Dec. 13, 2021), the EEOC alleged that defendant, operator of a car dealership, denied employment to an applicant (age 52) and terminated the oldest members of its sales department (ages 67 and 70, respectively) because of their ages. The employer’s general manager, hired shortly before the unlawful employment decisions were made, sought to create a more youthful work environment and replaced the older workers with individuals in their 20s and 30s. The case was resolved by consent decree providing \$390,000 to the three individuals.
- › In *EEOC v. Neighborhood Restaurant Partners Florida, LLC d/b/a Applebee’s Restaurant*, No. 8:21-cv-01931 (M.D. Fla. July 6, 2022), the EEOC alleged that a large Applebee’s franchise subjected a line cook at a restaurant to a hostile work environment based on his race (Black) and sexual orientation and retaliated against him for complaining of the harassment by reducing his hours, leading to his constructive discharge. The EEOC alleged that the employee’s co-workers routinely referred to him using racial and sexual slurs and that when he complained, his manager told him to ignore it. The case was resolved by consent decree for \$100,000 to the charging party.

### **G. Challenging Discrimination in the Federal Appellate Courts**

In addition to its nationwide litigation program at the district court level, the EEOC maintains an active appellate program in the federal courts of appeals. In fiscal year 2022, the EEOC prevailed in several notable appellate decisions.

- › In *EEOC v. Wal-Mart Stores, Inc.*, an ADA case, the Seventh Circuit upheld a jury verdict in favor of the EEOC. The charging party, who has a developmental disability and is deaf and visually impaired, had worked successfully as a cart attendant for over 16 years with the help of a Medicaid-paid job coach. After a new store manager arrived, the employer suspended the charging party and required him to submit a new request for a reasonable accommodation. The charging party submitted the request, but the employer took no action on it for eight months, at which point it said it would not take charging party back. A jury agreed with the EEOC that the employer had failed to provide a reasonable accommodation and had ended charging party’s employment in violation of the ADA. The jury awarded \$200,000 in compensatory damages and \$5,000,000 in punitive damages (which the district court reduced to \$100,000 to comply with the statutory cap). On appeal, the court rejected the employer’s contention that charging party could not perform the position’s essential functions, holding that “whether certain functions are essential functions of a job under the ADA is an almost quintessential question of fact.” The court held that the jury had sufficient evidence from which to conclude that charging party was able to perform all essential functions of the job, and rejected the employer’s argument that a full-time job coach is an unreasonable accommodation as a matter of law. The court rejected the employer’s argument that the EEOC’s theory that a permanent, full-time job coach could be a reasonable accommodation was “novel or otherwise poorly recognized.” Because the definition of reasonable accommodation turns on fact-specific circumstances, the court held, “[Employer] was on notice that a jury could find a full-time job coach to be a reasonable accommodation for Charging Party if he or she did not perform the essential functions of Charging Party’s job.” As such, the jury was permitted to award punitive damages.
- › In *EEOC v. Ryan’s Pointe Houston, L.L.C.*, the Fifth Circuit reversed an award of summary judgment against the EEOC. The EEOC had sued the owners of a 250-unit apartment complex and their management company for firing their property manager because of her national origin (Mexican) and sex (pregnancy) in violation of Title VII. The court of appeals held that the EEOC had produced



direct evidence of national origin discrimination in the form of explicitly biased comments by individuals with authority over the property manager’s termination, including complaining that the office staff were “all Mexicans,” expressing a desire to “change the demographics” of the staff, stating a preference for “white” staff, and directing the property manager’s supervisor to replace her with a “higher class of individual with the look of Ken and Barbie,” which the supervisor understood to mean someone “petite, attractive, young[,] and Caucasian.” The court also held that the EEOC had produced sufficient circumstantial evidence of sex discrimination to create a jury question. According to the court, the record evidence, including the property manager’s supervisor encouraging her to get an abortion because her “job was taking off,” would allow a jury to find that the property manager’s pregnancy played a role in the decision to terminate her employment.

- › In *EEOC v. Cash Depot, LTD*, the Commission alleged that the employer discriminated against charging party by failing to accommodate his disability when he sought to return to work after recovering from a stroke and by terminating him. Charging party had notified human resources that he was medically cleared to return to his job, subject only to a temporary 25-pound lifting restriction. Instead, the employer placed him on unpaid leave, hired his replacement, and then fired him less than a day later, without exploring or offering an accommodation. The district court granted summary judgment for the employer, and the Fifth Circuit reversed in an unpublished opinion. The Fifth Circuit observed that the Commission “does not have the burden to prove its entire case on summary judgment”; rather, the employer “has the burden of establishing the absence of a genuine issue of material fact.” The court rejected the district court’s characterization of charging party’s testimony about how he did and could perform the essential functions of his job as “speculation.” The court of appeals also faulted the district court for giving deference, rather than consideration, to the employer’s judgment on what were essential job functions.

## H. Continued Focus on Conciliation

The EEOC’s conciliation efforts are another vital means to promote voluntary compliance with federal employment discrimination laws. When the EEOC determines that there is reasonable cause to believe discrimination has occurred, the agency invites the parties to join the EEOC in seeking to settle the charge through an informal and confidential process known as conciliation. Conciliation is a voluntary process, and the parties must agree to the resolution. The EEOC has a statutory obligation to attempt to resolve findings of discrimination through conciliation before the agency considers the matter for litigation.

The agency is committed to resolving charges in conciliation as one of the most effective means to prevent and remedy discrimination in the workplace. In fiscal year 2022, the EEOC successfully resolved 44% of conciliations, which represented an almost 3 percentage point increase from the 41.1% rate in fiscal year 2021. The EEOC recovered \$39.3 million for victims of discrimination through conciliation and pre-determination settlements in fiscal year 2022.

## I. Continued Focus on Alternative Dispute Resolution

Alternative Dispute Resolution (ADR) is an effective and efficient tool to resolve charges of discrimination. The EEOC’s ADR program provides an opportunity for those filing charges of discrimination and employers to convene and discuss their respective positions with a neutral mediator. Successful mediations resolve charges early in the process, benefiting both workers and employers.

In fiscal year 2022, the agency successfully resolved 6,578 of the 8,690 mediations conducted, resulting in over \$170.4 million in benefits to charging parties. Notably, mediators in the EEOC’s ADR program also conducted 471 federal sec-





tor mediations, securing more than \$9.1 million in benefits for federal sector complainants. The program continues to receive overwhelmingly positive feedback from participants.

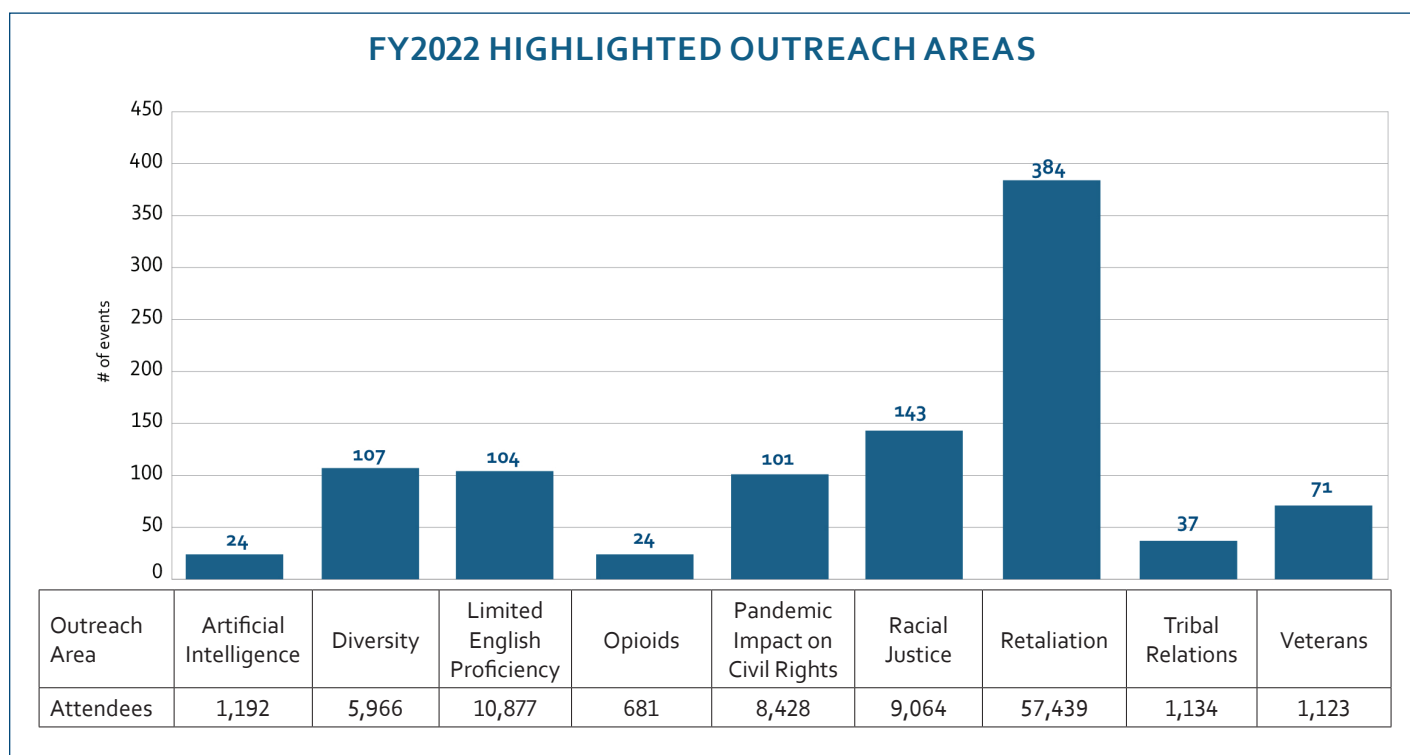
During fiscal year 2022, the EEOC also continued to focus on providing outreach to respondents to highlight the benefits of the ADR program. EEOC field offices conducted a total of 309 ADR employer events.

Building upon the technology enhancements implemented in fiscal year 2021, in fiscal year 2022, the EEOC was able to timely collect electronic survey responses from its mediators and mediation participants concerning their experiences mediating charges via video platforms. During fiscal year 2022, the EEOC provided the data collected from these surveys to independent researchers for review and analysis. In June 2022, the EEOC announced the publication of [two independent reports](#) concerning the efficiency, efficacy, and fairness of video mediations. The reports found overwhelming satisfaction with the EEOC’s mediation program during its successful transition from in-person to online mediation due to the COVID-19 pandemic. Participants continued to view the EEOC’s voluntary mediation program as highly effective, fair, and neutral, and expressed strong satisfaction with the process. The studies also found “near unanimity” in participants’ willingness to participate in the mediation program in the future. Specifically, more than nine out of 10 participants (98% of employers and 92% of charging parties) indicated they would be willing to participate in the EEOC’s mediation program again if they were a party to an EEOC charge.

## II. Strategic Objective II: Prevent Employment Discrimination and Promote Inclusive Workplaces Through Education and Outreach.

### A. Continued Emphasis on Outreach and Education in the Private Sector

Outreach and education are essential tools for the EEOC to promote inclusive workplaces and prevent employment discrimination before it occurs. In fiscal year 2022, there were 3,040 free outreach events reaching 218,184 individuals nationwide with information about employment discrimination and their workplace rights and responsibilities. As described in more detail below, in fiscal year 2022, the EEOC targeted its outreach and education programs to vulnerable communities and small and new businesses.





The EEOC conducted 1,007 outreach events for vulnerable workers and underserved communities in fiscal year 2022, reaching 79,788 participants. This included outreach to immigrant and farmworker communities, as well as communities where individuals are reluctant to come forward to report employment discrimination. EEOC field offices also collaborated with partner organizations to extend the agency's reach and better serve vulnerable workers and underserved communities, which included conducting 1,619 partnership events reaching 98,490 attendees. To enhance EEOC's ability to identify and reach vulnerable or underserved populations, the EEOC developed a data visualization tool to enable EEOC field offices to readily obtain demographic and industry data by District Office.

The EEOC also prioritized outreach, education, and technical assistance to small and new businesses. Given their size and limited resources, these businesses are often less able to take advantage of commercial training programs and less likely to have in-house human resources professionals to assist them with compliance. In fiscal year 2022, the agency conducted 399 outreach events directed toward small businesses, reaching 18,878 small business representatives.

In addition, the EEOC continued to promote its public website containing the online [Small Business Resource Center](#), a comprehensive resource providing small businesses tools to understand the federal anti-discrimination laws and to prevent employment discrimination in their workplaces. The site features answers to frequently asked questions, guidance for making employment decisions in common scenarios, and pointers for developing good workplace policies. It has tips for small businesses on various potential workplace discrimination issues to help businesses avert problems before they arise. It also provides quick access to the names and contact information of the EEOC's Small Business Liaisons in EEOC's field offices. These liaisons answer questions from small business owners as they institute policies and practices to comply with the law.

The Small Business Association Office of the National Ombudsman's Annual Report to Congress grades all federal agencies on their responsiveness to small business concerns and their compliance with the Small Business Regulatory Enforcement Fairness Act of 1996. The Ombudsman's most recent [2020 Annual Report to Congress](#), which was published in fiscal year 2022, gave the EEOC an "A" rating across-the-board, the highest possible rating, reflecting the U.S. Small Business Administration's (SBA) recognition of the EEOC's strong commitment to assist this important sector of the economy.

Through the agency's education and outreach activities, the EEOC also played a pivotal role in promoting racial justice and confronting systemic barriers in the workplace during fiscal year 2022. For example, the EEOC reached out to workers of color and conducted outreach through listening sessions, panel discussions, trainings, and other meetings to strategize ways to combat racial and ethnic harassment and discrimination. The EEOC's field offices facilitated the exchange of information across district offices, coordinated community engagement efforts with other federal agencies, and collaborated with the White House Initiative on Asian Americans, Native Hawaiians, and Pacific Islanders (WHIAANHPI), and the White House Office of Public Engagement in response to the rise in hate crimes and incidents against Asian American and Pacific Islander communities around the nation. Through regional roundtables, technical

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assistance programs, regular planning calls, resource-sharing, virtual convenings, and webinars, the EEOC worked with the WHIAANHPI Regional Network to address specific community needs and feedback. A total of 279 WHIAANHPI events were conducted reaching 12,213 individuals. The agency also conducted 42 Historically Black Colleges and Universities outreach events reaching 1,741 individuals, 468 outreach sessions involving race discrimination reaching 52,675 attendees, including 143 events focused on racial justice reaching 9,064 attendees, and 327 sessions on national origin discrimination reaching 51,454 attendees.

The EEOC also prioritized outreach and education on the workplace civil rights implications of the COVID-19 pandemic, providing workers, employers, and other stakeholders with up-to-date information about the interplay of COVID-19 and federal EEO laws. During fiscal year 2022, the EEOC held 369 outreach events related to COVID-19, reaching 26,041 individuals.

In fiscal year 2022, the EEOC also focused outreach and education on priorities identified in the agency's [Strategic Enforcement Plan](#) (SEP).

### Outreach and Education — Strategic Enforcement Plan Priorities

	Events <sup>2</sup>	Attendees
<b>Recruitment and Hiring</b>	<b>252</b>	<b>35,476</b>
<b>Vulnerable and Underserved Workers</b>	<b>1,007</b>	<b>79,788</b>
<b>Emerging or Developing Issues</b>	<b>859</b>	<b>84,477</b>
Disability Issues	376	34,370
Accommodating Pregnancy Limitations	111	11,401
LGBTQI+	262	24,366
Complex Employment Relationships	37	4,037
Backlash Discrimination	73	10,303
<b>Equal Pay</b>	<b>192</b>	<b>23,000</b>
<b>Access to the Legal System</b> (includes retaliation, recordkeeping violations, waivers, mandatory arbitration)	<b>267</b>	<b>15,270</b>
<b>Systemic Harassment</b> (includes sexual harassment)	<b>598</b>	<b>42,636</b>
<b>Total</b>	<b>3,075</b>	<b>280,647</b>

#### B. Leveraging Partnerships to Maximize Strategic Enforcement

The EEOC takes seriously its role of enhancing public awareness about emerging issues of employment discrimination in America's workplaces. By facilitating effective partnerships and collaborations with internal and external stakeholders, the EEOC works to reduce and eliminate employment barriers and achieve sustained benefits for the communities we serve. In fiscal year 2022, the agency conducted over 1,619 partnership events reaching 98,490 attendees.

Working in partnership with other law enforcement agencies and stakeholder communities allows the EEOC to incorporate diverse perspectives, achieve savings and efficiencies, eliminate duplication of efforts, and avoid conflicting enforcement objectives. The EEOC continues to partner with the Department of Labor (DOL), particularly DOL's Office of Federal Contract Compliance Programs (OFCCP), the Small Business Administration, Department of Justice (DOJ), Department of Veterans Affairs, Department of State, state and local Fair Employment Practices Agencies, and TEROs, as well as consulates and embassies. For example, during Labor Rights Week, the EEOC partnered with several embas-

2. Events addressing multiple Strategic Enforcement Plan Priorities are counted under each priority.



sies and consulates hosting events in Spanish throughout the country focusing on immigrant and migrant workers. These events included co-hosting a webinar with DOL that focused on pay equity under the EPA and Title VII, along with other issues impacting women in the workplace, including pregnancy discrimination, caregiving responsibilities, harassment, and retaliation. Participating DOL agencies included the Women's Bureau, Wage and Hour Division (WHD), Occupational Safety and Health Administration (OSHA), OFCCP, Employee Benefits Security Administration (EBSA), and Employment and Training Administration/Apprenticeship Program. Five hundred and seventy-six people viewed the program.

The EEOC participated in a virtual "Labor Trafficking in Agriculture Roundtable" sponsored by the Wage and Hour Division's Southeast Region, which convened various federal, state, and local organizations to discuss common indicators of trafficking in agriculture. The discussion included information on how to report suspected labor trafficking, and how employers, enforcement agencies, and community organizations can collaborate to combat these issues. DOL's Wage and Hour Division, Bureau of International Labor Affairs, and DOL's Office of Inspector General also participated in the roundtable, as well as panelists from the North Carolina Department of Commerce — Division of Workforce Solutions; the South Carolina and Georgia Human Trafficking Task Forces; and the Coalition of Immokalee Workers/Fair Food Standards Council. Approximately 460 attendees participated in this event.

The EEOC continues to strengthen relationships with Native American and Tribal Communities. In fiscal year 2022, the EEOC hosted a Native American Listening Session partnering with DOL's Wage and Hour Division, OFCCP, NLRB, the Southwest TERO (representing 26 Tribes), and the Chairperson of the Council for Tribal Employment Rights (representing 127 Tribes). The agenda for this listening session was designed to gain maximum input from Tribal members.

The EEOC also participated in a stakeholder meeting/listening session with LGBTQI+ advocates and leaders with Georgia Equality, Lambda Legal — GA, OUT Business Alliance, Counter Narrative Project, First City Pride Center, ACLU-GA, THRIVE SS (Transforming HIV Resentments into Victories Everlasting Support Services), ZAMI NOBLA (National Organization of Black Lesbians on Aging), SOJOURN (Southern Jewish Resource Network for Gender and Sexual Diversity), and Atlanta Legal Aid.

### **C. Providing Employers with Education and Technical Assistance**

The [EEOC Training Institute](#) (the Institute) provides fee-based training and technical assistance to stakeholders in the private and public sectors. The Institute is funded through the EEOC's Revolving Fund, established by Congress in 1992 to enable the EEOC to charge "reasonable fees" for specialized products and services developed and delivered as part of the Commission's training and technical assistance efforts. In fiscal year 2022, the training platform was conducted virtually due to the COVID-19 pandemic.

In fiscal year 2022, the Institute trained 11,667 individuals at 285 virtual events, ranging from 1-hour to 5-hour workshops, including 184 Customer Specific Training (CST) programs for private sector and state and local government employers (5,008 attendees), and 63 events focused on Respectful Workplaces employee training (789 attendees) and Leading for Respect manager and supervisor training (787 attendees). The workshops and CSTs are responsive to employers' needs and address rights and obligations in the workplace. These programs provide detailed information about applicable laws, potential liabilities, and activities that relate to employment discrimination, with the aim of helping participants identify, address, and prevent workplace discrimination. These workshops also enabled EEOC field offices to partner together, pool their creative ideas and resources, and maximize revenue potential. In fiscal year 2022, the Institute conducted 16 national (1, 2, 3, and 5-hour) workshops with 2,444 attendees. These workshops received excellent evaluations from attendees.

The agency held its 25th Annual Examining Conflicts in Employment Laws (EXCEL) Training Conference for both federal sector and private sector EEO practitioners. The conference started with a joint opening plenary session by EEOC Chair



Charlotte Burrows, OPM Director Kiran Ahuja, and OFCCP Director Jenny Yang. Additionally, Vice Chair Jocelyn Samuels provided closing remarks on the conference's final day. The conference received outstanding feedback from participants. A record number of 874 participants attended from the federal and private sectors. The conference offered 36 workshops and several breakout sessions that covered COVID-19 related topics as well as significant employment law and EEO compliance issues. The conference generated approximately \$682,680 in net revenue.

#### **D. Continued Emphasis on Outreach and Education in the Federal Sector**

Outreach and education in the federal sector is equally important to the EEOC's efforts to promote broad compliance with federal workplace anti-discrimination laws. In fiscal year 2022, the EEOC built upon its robust education and outreach program that focuses on both free and fee-based education and training opportunities in the federal sector and leveraged the use of technology to strengthen and expand the impact of its education and outreach activities. In total, the EEOC delivered nearly 200 federal sector outreach, education, and training events, and provided more than 18,000 federal sector employees and equal employment opportunity (EEO) professionals with information about employment discrimination and their rights and responsibilities in the workplace.

In fiscal year 2022, the EEOC's federal sector staff continued to provide its complete catalog of fee-based training courses in virtual formats. Because of the ability to reach a wider audience through virtual platforms, the EEOC staff delivered and produced 58 learning opportunities that reached over 8,000 federal partners throughout the country, which was a 400% increase over fiscal year 2021. Our customized training courses also remained in high demand. The EEOC's subject matter experts consulted with federal agencies to develop and deliver 42 customized trainings that reached approximately 2,100 federal employees. Of these trainings, 24% targeted preventing workplace harassment and creating a culture of respect which are key SEP priorities.

In addition to our fee-based training, the EEOC is committed to providing free technical assistance, outreach, and educational programs to assist federal employers, employees, and stakeholder groups in understanding and preventing discrimination. During fiscal year 2022, EEOC's federal sector staff coordinated, participated in, or hosted 75 no-cost outreach events, reaching approximately 15,000 federal partners.

The EEOC also offers a no-cost webinar series and podcast focused on issues important to the federal sector. The agency's three-webinar series — *1st Friday with OFO*, *News You Can Use*, and *The Learning Table* — are offered in a virtual environment, with attendance averaging 400 persons per event. All events are recorded and then shared to [EEOC's Federal Sector YouTube channel](#), allowing easy listening access to those who could not attend the session. During fiscal year 2022, EEOC delivered 17 no-cost webinars.

In fiscal year 2022, the EEOC also continued collaborating with other federal agencies to form strategic partnerships and engage in outreach activities for the federal sector. For example:

- › The EEOC manages an interagency consortium, [Federal Exchange of Employment and Disability \(FEED\)](#), with the Department of Labor and Office of Personnel Management. Through FEED, the EEOC and partner agencies conducted quarterly events for federal sector disability practitioners.
- › Commission staff assisted the White House with implementation of [Executive Order 14035: Diversity, Equity, Inclusion, and Accessibility \(DEIA\) in the Federal workforce](#), issued on June 25, 2021. With the White House Domestic Policy Council (DPC), Office of Management and Budget (OMB), and Office of Personnel Management (OPM), the EEOC conducted government-wide outreach, collaborated on developing government-wide resources, hosted weekly office hours, and provided learning sessions to assist in agencies' implementation of the Executive Order.



- › The EEOC also partnered with DPC, OMB, OPM, and DOJ to serve on the implementing committees for [Executive Order 13988: Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation](#), as well as with the National Security Council in the implementation of the National Security Memorandum of February 4, 2021: [Revitalizing America's Foreign Policy and National Security Workforce, Institutions, and Partnerships](#).
- › EEOC staff actively participated as Advisory Board members for the FDR Conference. In this role, the EEOC provided strategic guidance and direction in the creation of the EEO track at FDR's annual conference.
- › The EEOC hosted an Annual Meeting with agency General Counsels across the federal government. This meeting was attended by approximately 200 individuals and served as a gateway to strengthen outreach and communication between EEOC and agency counsel who regularly represent the federal government during the EEO process.
- › Recognizing that smaller agencies have limited resources and different challenges than larger agencies, the EEOC continued to meet with the Small Agency Council to address the unique needs of small federal agencies.

#### **E. Providing Strong Leadership and Oversight for Federal Agencies**

The EEOC provides leadership and guidance to federal agencies on all aspects of their equal employment opportunity (EEO) programs. As part of this role, the EEOC ensures federal agency and department compliance with federal sector regulations; provides technical assistance to federal agencies concerning EEO complaint adjudication; monitors and evaluates federal agencies' affirmative employment programs; produces an annual report on federal sector complaint processing, appellate case processing, and compliance; produces reports on significant issues and government-wide trends in the federal sector; develops and distributes federal sector educational material; and conducts training for stakeholders.

The EEOC embraces and recognizes the value of proactive prevention. Thus, in addition to taking remedial actions when agencies fail to comply with the EEOC's appellate orders, regulations, or directives, the EEOC continued and enhanced its practice of providing technical assistance to agencies on a routine basis before problems arose. In fiscal year 2022, the EEOC established a goal to conduct 55 technical assistance visits with agencies and issue a feedback letter within 180 days of each visit. During fiscal year 2022, the EEOC conducted 66 technical assistance visits with agencies and timely issued 97% of feedback letters to federal agencies. As discussed above, under Performance Measure 4 of the EEOC's Strategic Plan, the EEOC also proactively worked with agencies to ensure that they adopted compliant reasonable accommodation procedures and anti-harassment policies by the end of fiscal year 2022.

In keeping with its goal of advancing equal employment opportunity in federal agencies through data dissemination and analytics, program evaluations, and technical assistance, the EEOC is finalizing evaluations of two federal agencies as well as monitoring a large federal agency's corrective action plan. In fiscal year 2022, the EEOC issued a [governmentwide program evaluation report](#) addressing the reporting structures of EEO programs across the federal government in support of the Elijah E. Cummings Nondiscrimination Act of 2020.

The EEOC also published quarterly issues of the [Digest of EEO Law](#), a summary of important EEOC cases, in fiscal year 2022. The EEOC also periodically publishes articles on topics of interest for federal sector EEO programs. These resources are published on the EEOC's website, so all interested parties have access to the summaries and links to the full decisions.



## F. Providing Guidance to Our Stakeholders

Outreach and education are critical tools to prevent discrimination, and the EEOC works with hundreds of thousands of employees and employers every year to educate them on their legal rights and responsibilities. Since the start of the pandemic in March 2020, the EEOC has worked to provide technical assistance to stakeholders about the workplace civil rights implications of the COVID-19 pandemic. During fiscal year 2022, the EEOC provided high-quality, easy to understand education and outreach in the private, state and local, and federal sectors in response to the pandemic. This included:

- › Updated and expanded [\*What You Should Know about COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws\*](#), with new sections on Title VII religious objections, retaliation and interference, and the definition of “disability” under the ADA/Rehabilitation Act.
- › A new technical assistance document, [\*The COVID-19 Pandemic and Caregivers Under Federal Employment Discrimination Laws\*](#), to specifically address the needs and concerns of caregivers during the pandemic and as workplaces began to reopen.
- › Numerous presentations and speaking events regarding COVID-19 and the civil rights laws the EEOC enforces.

Another priority of the EEOC during fiscal year 2022 was to educate the public regarding the application of civil rights laws enforced by the EEOC and the use of algorithmic decision making by employers. As part of its Algorithmic Fairness Initiative, the agency issued technical assistance, [\*The Americans with Disabilities Act and the Use of Software, Algorithms, and Artificial Intelligence to Assess Job Applicants and Employees\*](#), a companion document aimed at a lay audience ([\*Tips for Workers: The Americans with Disabilities Act and the Use of Software, Algorithms, and Artificial Intelligence\*](#)), and an American Sign Language video ([\*Use of artificial intelligence in making job decisions for people with disabilities \(ASL\) — YouTube\*](#)).

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In addition, during fiscal year 2022 the EEOC updated or created several web pages including:

- › [Arrest and Conviction Records: Resources for Job Seekers, Workers and Employers](#)
- › [Mental Health Conditions: Resources for Job Seekers, Employees, and Employers](#)
- › [EEOC Disability-Related Resources](#)
- › [Pregnancy Discrimination and Pregnancy-Related Disability Discrimination](#)

The EEOC also updated its internal *Non-Discrimination and Inclusion Policy Regarding Gender Identity and Sexual Orientation* and its process for requesting religious accommodations.



The EEOC took the following regulatory actions in fiscal year 2022:

Action	Description	Location
Notice of Proposed Rulemaking for use of Digital Transmissions	This NPRM proposes to revise <u>29 C.F.R. Part 1614</u> , the EEOC’s federal sector complaint processing regulations to explicitly provide for the digital transmission of EEO complaint and appellate documents, and to address the use of the Commission’s online Public Portal.	87 Federal Register 58469 (Sept. 27, 2022)
Final Rule on 2022 Adjustment of the Penalty for Violation of Notice Posting Requirements	This final rule adjusts for inflation the civil monetary penalty for violation of the notice-posting requirements in Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, and the Genetic Information Non-Discrimination Act.	87 Federal Register 10072 (Feb. 23, 2022)

### III. Management Objective — Achieve Organizational Excellence

#### A. Rebuilding and Strengthening the Enforcement Capacity of the Agency

The EEOC has a critical role to play in addressing many of the urgent issues facing our nation. The EEOC requires sufficient resources and tools to continue to prevent and remedy employment discrimination, both now and in the future. In fiscal year 2022, the agency continued to prioritize ensuring that it had sufficient staff to address its expanding workload, which included a goal of 2,100 employees on board by September 30, 2022. The EEOC successfully exceeded its fiscal year 2022 hiring goal, with 2,187 employees on board as of the end of the fiscal year. The EEOC filled 500 positions, all of which were made within the agency’s 78-day time-to-hire goal. Of the 500 positions, 148 were backfills and 352 were new positions which included selection of internal and external candidates.

During fiscal year 2022, in order to strengthen the enforcement capacity of the agency, managers were encouraged to establish and recruit for developmental positions to support workforce and succession planning initiatives through various hiring flexibilities such as 30% veterans’ preference hiring, Historically Black Colleges and Universities (HBCUs) recruitment initiatives, military spouse non-competitive hiring, partnering with the U.S. Peace Corps to obtain applicants, and Schedule A appointments for persons with disabilities. The agency also implemented strategies to retain the EEOC’s talent to compensate for separations due to retirements, transfers, and departures. For example, the agency used key programs and flexibilities to rebuild the enforcement capacity of the agency, including retaining talent through the Pathways Program, College Graduate Hiring Program, and law clerk recruitment. The EEOC used an enterprise-wide approach to recruit candidates through these programs to meet overall office needs and align with the Biden Administration’s executive orders to promote diversity, equity, inclusion and accessibility (with paid interns), which is contributing to the agency’s long-term retention efforts.

**The EEOC exceeded its  
FY 22 hiring goal and filled**

**500  
positions**

**for a total of  
2,187  
employees.**

In fiscal year 2022, the EEOC also continued to provide employees with the tools and resources they need to be successful in their jobs, including:





- › Flexible and alternative schedules.
- › A Maxi-Flex COVID-19 Emergency Pilot Program to provide employees who voluntarily participated in the program additional flexibilities to complete basic work requirements.
- › Consistent and transparent communication with staff concerning the pandemic through the establishment of a COVID-19 SharePoint Site and regular email updates.

## B. Hiring a Diverse Workforce

The EEOC can best accomplish its mission with a productive, inclusive, and diverse workforce. In fiscal year 2022, the EEOC continued to fully embrace the principles of equal employment in the agency's own workplace, recognizing that doing so creates an environment that enhances the EEOC's overall effectiveness by fostering a culture of inclusion and respect and increasing the cultural competency and familiarity of the EEOC's workforce with diverse demographic groups within the United States. Of the new hires in fiscal year 2022, 21% (74) were individuals with a disability and 8% (28) were individuals with a targeted disability. Moreover, 27% of the EEOC's workforce identified as individuals with disabilities and approximately 9% identified as individuals with targeted disabilities. The agency benchmark for individuals with disabilities and targeted disabilities is 12% and 2%, respectively. Among federal agencies, the EEOC also has the highest percentage of veterans that are classified as 30% or more disabled. As of the end of fiscal year 2022, approximately 21% of the agency's employees were veterans. Of those, 468 veterans, 98% (463) have a disability. Of the veterans who have a disability, 82% (381) are classified as 30% or more disabled veterans. This data indicates consistent and tremendous progress in the implementation of the agency's affirmative action plan aimed at individuals with disabilities.

The EEOC also ensured the presence of individuals with disabilities through the agency's Information Intake Group (IIG) operations. The agency employs seven individuals as Information Intake Representatives (IIRs) who were hired in coordination with the National Telecommuting Institute (NTI), a non-profit organization whose mission is to identify and develop work-at-home jobs for home-based individuals who are physically disabled. These employees are part of the [Social Security Administration's Ticket to Work Program](#) and were hired with the provision that they could perform their work 100% remotely.

The EEOC plays a critical role in demonstrating the value of diversity and inclusion in the workplace. Living out the concepts and principles of equal employment is essential not only to serve as a model, but also to strengthen the workplace to accomplish more for the agency's stakeholders and the public. The EEOC is working to ensure that the agency's positions are appropriately structured and staffed with a high quality, diverse workforce to effectively accomplish the agency's mission.

In fiscal year 2022, the agency's new hires represented the diversity of the [nation's civilian labor force](#) (CLF). In this regard, the EEOC exceeded the availability in the CLF for several race, ethnicity, and gender groups for new hires overall. Of the new hires, the EEOC exceeded the CLF for females overall (65%), Hispanic females (11%), Black males (8%), Black females (27%), Asian males (3%), Native Hawaiian or Other Pacific Islander females (0.6%), American Indian and Alaska Native males (0.3%), American Indian and Alaska Native females (0.3%), and Two or More Races (1.4%). Moreover, in fiscal year 2022, approximately 74% of the EEOC's workforce is age 40 and above, and about 47% is age 50 and above.

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The EEOC also fostered a culture of inclusion and respect during fiscal year 2022, and supported collaboration and strategic innovation among all employees by:



- › Migrating its out-of-support legacy intranet site to SharePoint, making content more accessible and Section 508 compliant. The revised site brings a fresh look, clearly defined and accessible navigation, and a landing page that leads visitors to their desired location. It allows content managers to make immediate content and design changes without having to rely on technicians, reducing delays in publishing important agency information.
- › Continually testing applications and services for Section 508 compliance and reporting any issues or concerns to technicians and vendors for remediation. This includes providing guidance, along with tips and tricks, to ensure that meetings, communications, and trainings are fully accessible.

### C. Employee Training and Development in the EEOC

The EEOC continues to show commitment to our employees' growth by supporting and providing ongoing training opportunities. In fiscal year 2022, the agency approved \$2.5 million in training programs for employees at all grade levels. The agency continued its alignment of training programs to the agency's priorities and assessing both technical and non-technical training programs, utilizing the decision matrix tool that includes training programs and catalog descriptions. The agency also highlights the importance of training by disseminating weekly communications to employees with information on training courses, an EEOC Events Calendar, Individual Development Plan (IDP) data calls for training and tuition assistance, Learning Management System (LMS) training, and internal and external development opportunities with OPM, the Partnership for Public Service, Graduate School USA, and many other entities. In addition, the EEOC partnered with the Department of Interior to host a Senior Executive Service Candidate Development Program (SESCDP). These training and development improvements will successfully assist career development at all levels within the EEOC's workforce.

In fiscal year 2022, the EEOC continued partnership with OPM's Human Resources Solutions to brief the EEOC on the recommendations resulting from the skills-gap analysis of all EEOC mission-critical occupations (MCOs) — Attorney-Examiner (AJ), Trial Attorney, EEO Investigator, Mediator, EEO Specialist, and General Attorney. The study provided the EEOC with insight into the competencies critical to success in these positions. The EEOC will use this information and work with offices to guide future training and development efforts to close gaps and ensure MCOs have the competencies necessary to perform successfully and contribute to the EEOC's mission.

### D. Performance Management and Recognition

Accountability remained the focus of performance management in fiscal year 2022. The agency conducted numerous training sessions for EEOC employees and managers on performance related topics, with the objective of promoting and sustaining a high-performance culture and meeting EEOC organizational goals. For fiscal year 2022, employees were provided performance standards, progress reviews, and final performance ratings.

The EEOC Awards Program creates a balance between performance/rating-based awards and contribution awards that supports the strategic use of awards and recognition throughout the year and addresses workforce challenges by allocating rating-based awards in a manner that recognizes high-performing employees. The rating-based award process reflects meaningful distinction and pay differentiation based on levels of performance to ensure employees with higher ratings of record receive larger monetary awards. The contribution award process gives the EEOC the flexibility to recognize individual or group acts/achievements through a variety of means, including special act/achievement awards, on-the-spot awards, suggestion awards, time-off awards, and/or other non-monetary recognition. The Chair's Honor Award program is the EEOC's premier contribution awards program. The program recognizes employees who have distinguished themselves by making significant contributions to the agency's mission, strategic goals and objectives, and core organizational values. The Chair's Honor Awards are open to all EEOC employees, regardless of grade, position, or tenure, whose accomplishments are examples of excellence in the work we do.



## E. Employee and Labor Relations

The EEOC continues to provide supervisors the necessary training and tools to address employee development and performance throughout the employee lifecycle. This year, training included topics on leave administration, conduct/performance-based actions, performance management, and handling grievances for new and mid-level supervisors.

Labor relations plays a significant role in ensuring employee engagement, employee satisfaction, and employee retention. The EEOC strives for proactive and collaborative engagement with the Union on draft policies and on policy implementation, when appropriate. During fiscal year 2022, EEOC leadership and the Union engaged in monthly meetings on labor-management issues.

In early 2022, the agency and the Union agreed to a Memorandum of Understanding (MOU) regarding the agency's workforce safety plan which set forth protocols to follow for a safe reentry to the workplace for employees, visitors and service recipients. In November 2022, a comprehensive MOU was reached on the agency's reentry plan, a three-phased approach informed by feedback gathered via an agency-wide employee survey, listening sessions with the workforce, employee emails to the agency's COVID-19 Coordination Team and reentry planning mailbox, as well as input from our Union partners.

In fiscal year 2022, the Union also participated on the agency's Strategic Planning Workgroup. The workgroup was responsible for development of both the draft Fiscal Years 2022–2026 Strategic Plan and the draft Fiscal Years 2023–2027 Strategic Enforcement Plan.

# OTHER INFORMATION





## MAJOR MANAGEMENT CHALLENGES

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As this report highlights, the EEOC tracks progress toward successful completion of the agency's strategic objectives. Many of the performance measures identified in the agency's Strategic Plan and discussed throughout this report address the agency's efforts to prevent and remedy employment discrimination.

Additionally, each year, the Office of Inspector General (OIG) reports on what it has determined are the most serious management and performance challenges facing the EEOC. For a full description of the challenges identified by the OIG, see the agency's [Fiscal Year 2022 Agency Financial Report](#).

[OIG's Fiscal Year 2022 Management Challenges Report](#) identified three challenges facing the agency: Reentry, Mission-Critical Data System Modernization, and Digital Records Management. The EEOC implements remedial actions in response to the recommendations of the OIG. Described below is the progress the agency has made in addressing the major management challenges identified by the OIG.

### Reentry

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The agency's pandemic-related decision-making has been, and will continue to be, informed by three principles and values during the reentry and post-reentry periods: (1) maintaining the safety of employees and the public consistent with Safer Federal Workforce (SFW), CDC, and other federal, state, and local guidance; (2) achieving the agency's mission to advance equal employment opportunity; and (3) ensuring our service to the public is not diminished, particularly with respect to the most vulnerable workers and those who face barriers to contacting the federal government via the internet. As the Inspector General noted, after operating in an almost entirely virtual environment since March 2020, in fiscal year 2022, the EEOC reintroduced increased numbers of staff to its headquarters and field offices.

The agency's reentry plan, which was adopted in March 2022 contained three phases: 1) employees reported to the office at least one day a week for the first month of reentry; 2) employees reported to the office at least two days each week beginning the second month of reentry; and 3) reopening its offices to the public after the second month of employee reentry. In November 2022, the agency and the Union agreed to an MOU concerning the agency's reentry plan. In accordance with the MOU, the agency instituted plans to move forward with phase three of the reentry plan and reopened the agency's offices to the public beginning in early December 2022.

### Mission-Critical Data System Modernization

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Over the past eight years, the EEOC has been moving its paper-based processes to online transactions and digital systems. The legacy technology and data structure of the agency's 22-year-old Integrated Mission System (IMS) slowed the agency's efforts to transition to fully digital charge/case processing, however. The agency also lacked resources to address the myriad needs and opportunities for process and technology improvements the EEOCs staff and the public deserve.

As described previously, during fiscal year 2022, the EEOC focused on the design, development, testing, and support of the agency's new mission system, ARC. The modernized system delivered private sector charge management from intake to closure, including transformation efforts that:

- ▶ Aided the EEOC field offices with their work by replacing the manual entry of action codes (recordation) with event-driven transactions.
- ▶ Supported program and process innovation and policy flexibilities.



- › Provided automation to improve processes, such as the charge closure processes.
- › Improved data quality and reporting, including role-based dashboards, such that the outdated and labor-intensive quarterly data validation process was nearly eliminated.
- › Provided full charge management capabilities — e.g., next actions, due dates, etc.
- › Improved the capability to identify, catalog, and collaborate on charges with systemic issues.

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The build and deployment of ARC was the most complex technical effort ever undertaken by the agency and required significant change management effort, including:

- › Conducting more than 20 demonstration and feedback sessions, reviewing system functions and modules to identify issues requiring refinement or correction in the lead-up to User Acceptance Testing (UAT).
- › Successfully completing an intensive UAT as an essential step in the system development process.
- › Training users across the field, to include the agency's FEPA partners, on the use of the system ahead of system launch.
- › Conducting sustainment/complement training post-launch and providing on-demand assistance to users across the field via chat, email, and the ARC Academy in Teams.

In the months post-launch, the agency identified, developed, and implemented hundreds of system fixes and enhancements to improve system operations and the user experience. These significant and sustained efforts exemplify that ARC will continually be improved upon.

Having met the milestones outlined in the agreement with the TMF, the agency received the second, and final, tranche of TMF funding in mid-2022, supporting the remaining two domains that will be serviced by ARC. The agency's current effort is the development and deployment of services to support the agency's litigation and litigation appeals processes. Learning from the private sector/FEPA build, the agency is conducting functional demonstrations every two weeks and has separated the builds and deployments into two phases during fiscal year 2023.

As the litigation and litigation appeals effort heads into user acceptance testing for the first phase, the agency will begin work on the development and deployment of services to support the agency's federal sector hearing and appeals processes.

In addition to the significant work on TMF-related efforts, the agency continued to implement enhancements to the legacy IMS, Public Portal and Respondent Portal, and FEDSEP applications during fiscal year 2022.

For the first time in years, the agency has the necessary resources to systematically undertake a complete overhaul of its internal digital systems. Removing the considerable barriers of old technology, transforming the EEOC to support fully digital services, and providing staff and partners with a modern system has better enabled the agency to carry out its critical mission.



## Digital Records Management

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In fiscal year 2022, the agency continued its efforts to transition to electronic records and develop guidance for records management, despite continued challenges associated with largely remote work during the pandemic. In fiscal year 2022, the EEOC hired new Records Information Management (RIM) staff who are tasked with updating the EEOC's RIM program to bring it into compliance with National Archives and Records Administration (NARA) requirements. This work includes updating the agency's records control schedules, developing updated records management guidance based on the revised records control schedules, creating file inventories, and continuing to work collaboratively with agency executives and internal stakeholders to provide guidance regarding records management issues and processes.

The EEOC received approximately 16,000 FOIA requests nationwide during fiscal year 2022. Collaboration between headquarters and district office FOIA professionals throughout fiscal year 2022 resulted in the EEOC's FOIA program ending the fiscal year with only 86 FOIA requests nationwide that were overdue — a historically low number for the agency and a reduction of almost 70% compared with last year. In fiscal year 2022, the FOIA staff changed their document review platform and created new workflow processes that have helped monitor and target resources.

## CROSS-AGENCY COLLABORATIONS

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At the request of OMB and other agencies, during fiscal year 2022, the EEOC provided important assistance on documents drafted by these agencies regarding COVID-19, disability and religious accommodations, and the reopening of workplaces. In addition, the EEOC conducted joint outreach with agency partners to provide workers and employers with information regarding the rights of pregnant workers. Finally, the EEOC participated in numerous government-wide task forces on issues such as employment for formerly incarcerated persons, combating trafficking, and AI and employment.

During fiscal year 2022, the EEOC's cross-agency collaboration efforts on data issues continued to expand across program offices within the EEOC as well as with other federal agencies.

The agency continued to fulfill the leadership role with the EEO Special Tabulation Consortium and oversaw the execution of the current multi-year Interagency Agreements with the U.S. Census Bureau. Authorized under 13 U.S.C. §§ 141 and 193, the Census Bureau collects survey data through the American Community Survey (ACS). The ACS is the largest general-purpose demographic survey in the United States and includes questions on individuals' occupations in combination with other demographic characteristics, such as race, sex, national origin, age, educational attainment, and income. The EEOC has found that the Census Bureau is the best entity to provide the required demographic EEO data and the ACS is the only source that can provide this information. This ongoing EEO project will use the ACS 5-year data from the 2014–2018 ACS surveys to produce a custom tabulation, and then disseminate the tabulated data for the consortium agencies. In working with the Census Bureau, the EEOC joins a consortium of over 40 subject matter experts from DOJ, DOL, and OPM that will use the summarized data to monitor and enforce civil rights laws and regulations in employment. The EEOC's Office of Enterprise Data and Analytics (OEDA), with input from the Office of Federal Operations and the Office of General Counsel, continued to chair the Consortium and manages quarterly meetings with the Census Bureau. In fiscal year 2022, all 12 table sets of the entire 2014–2018 EEO Tabulation were made available online via the EEO Table Tool on the Census Bureau's website and the EEO Tabulations became accessible via the [Census Bureau's file transfer protocol server](#).



## Data Sharing with OFCCP

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The EEOC has continued to share data with OFCCP to improve the effectiveness of both agencies in eradicating employment discrimination. The EEOC provides OFCCP with access to EEO-1 data to facilitate OFCCP's enforcement of Executive Order 11246, which prohibits federal contractors from discriminating in employment on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin and requires contractors to take affirmative action to ensure equal opportunity in employment. Since fiscal year 2021, the EEOC has successfully onboarded OFCCP staff to EEOC's secure Enterprise Data Warehouse, which will allow EEOC and OFCCP staff to further improve upon methodologies and data quality for both agencies while preserving confidentiality of the data.

## Collaborating with USCIS Verification Division

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During fiscal year 2022, the EEOC collaborated with the Department of Homeland Security, United States Citizenship and Immigration Services (USCIS), Verification Division to develop a shared vision to increase workers' knowledge of their employment rights under the laws the EEOC enforces and to help employers across all participating industries understand their responsibilities under EEO laws. To reach the large pool of workers and employers who cycle through the employment verification process each year, USCIS updated key locations on their website, including E-Verify user guide manuals, the Know Your Rights section on various documents, and E-Verify Employee Rights webinar, to include relevant information about the EEOC. This interagency effort directly supports [Executive Order 14058: Transforming Federal Customer Experience and Service Delivery to Rebuild Trust in Government](#), by limiting hard to navigate, complicated websites for workers who are new to the country and may have limited English proficiency, literacy, or technology skills. This interagency collaboration streamlines the customer experience by providing information related to employment from different agencies in one location, increasing access to important resources, and leading to positive lasting change for vulnerable communities to access these critical services at the beginning of their U.S. employment experience.

## PROGRAM EVALUATIONS

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Program evaluation is an important component of the EEOC's effort to ensure that its programs are operating as intended and achieving results. Program evaluation is a thorough examination of program design and operational effectiveness that uses rigorous methodologies and statistical and analytical tools. These evaluations also rely on external and internal agency expertise to enhance analytical perspectives and to lend credence to the methodologies employed, the evaluation processes and findings, and any subsequent recommendations for the program under review.

Independent program evaluations played an important role in formulating the strategic goals and objectives detailed in the EEOC's Strategic Plan and helped shape some of the program issues and key focus areas for improvement. They are an invaluable management tool to guide the agency's strategic efforts in attaining high levels of productivity and program efficiency, effectiveness, and accountability. Consistent with the agency's focus on improving the effectiveness of government through rigorous evaluation and evidence-based policy initiatives, the EEOC will continue to consider appropriate program areas for evaluation each year. This review will ensure that the agency's efforts align with the EEOC's budget and other programmatic priorities.

In fiscal year 2022, the agency continued its work on the following evaluation projects: The Interagency Agreement (IAA) between the EEOC and The Committee on National Statistics of the National Academies of Sciences, Engineering, and Medicine (National Academies) for a Panel to Evaluate the Quality and Utility of Compensation and Hours Worked Data Collected from U.S. Employers by the EEOC through the EEO-1 Project; the Mediation Survey Modernization Project; and the EEOC's Data and Modernization Program.





**IAA between the EEOC and the National Academies for a Panel to Evaluate the Quality and Utility of Compensation and Hours Worked Data Collected from U.S. Employers by the EEOC through the EEO-1 Project.** In 2020, the EEOC contracted with the National Academies to evaluate the EEOC's historic, first-time collection of pay data from certain private employers and federal contractors between July 2019 and February 2020. On July 28, 2022, the National Academies issued an approximately 300-page Consensus Study Report, which concluded that the data EEOC collected may be used to prioritize investigations and the agency's allocation of resources to identify potential pay discrimination. The report also provided recommendations for improving the collection of pay data in the future. Many of the recommendations complement efforts already underway as part of the agency's ongoing modernization of its EEO data collections and data analytics. The EEOC is examining the report from the National Academies and will use it to inform the agency's approach should it decide to again undertake pay data collection in the future.

**Mediation Survey Modernization Project.** EEOC mediation participants are now able to share their feedback by completing a survey electronically, in English, Spanish, Haitian/Creole, and Chinese (Simplified). The project's benefits include fewer steps in the process of distributing the survey to participants, faster receipt of survey responses, reduced data entry, and elimination of postage. In fiscal year 2022, the project included EEOC mediators as well as mediation participants.

**The EEOC's Data and Analytics Modernization Program.** Beginning in fiscal year 2018 and continuing through fiscal year 2023, the goals of the modernization program are to: 1) enhance transparency of agency functions and operations; 2) reduce burden on agency stakeholders; 3) augment agency use of modern data analytics to drive data-driven decision making; and 4) promote greater public access to data.

## DATA VERIFICATION AND VALIDATION

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The agency's private sector, federal sector, and litigation programs require accurate enforcement data, as well as reliable financial and human resources information, to assess the EEOC's operations and performance results and make sound management decisions. The EEOC will continue efforts to ensure the accuracy of program information and analysis of the information.

The EEOC systematically reviews the information collected in its databases for accuracy by using statistical software (e.g., SAS, PowerBI, etc.) and program reviews of a sample of records during field office technical assistance visits. Additionally, headquarters offices regularly conduct analyses to review the information collected to identify erroneous entries requiring correction to collection procedures.

The modernization of the agency's legacy IMS application to the new ARC system continues to improve the collection and validation of information for our program data related to charge intake, investigation, mediation, conciliation, and FEPA functions — migrating away from manual activity-based data entry to automated event-driven recordation. During these modernization efforts, the EEOC has identified many areas where the agency will be able to further improve and automate current processes and related data integrity. Because several performance measures require data to assess the agency's achievements, it is significant that the EEOC can now obtain more reliable data more quickly. The EEOC's OIG continues to review the agency's data verification and validation procedures, information systems, and databases and offers recommendations for improvement. The EEOC uses the OIG's information and recommendations to continually improve agency systems and data.

# EVIDENCE BUILDING





The EEOC recognizes the importance of data driven decision-making and the transformative role data can have to make the federal government more efficient and to better serve the nation. The EEOC is committed to building its capacity to provide mission-critical evidence and better integrate the agency's information and data policy into budget, performance and management decision-making. As a basis for this emphasis, the EEOC is guided by:

- › The EEOC's [Strategic Plan](#) and its prioritization across the EEOC's long-term strategic goals and objectives;
- › Foundations for Evidence-Based Policymaking Act of 2018;
- › OMB Guidance, including OMB [M-21-27](#), OMB [M-20-12](#), and OMB [M-19-23](#);
- › [Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government](#);
- › [Presidential Memorandum on Restoring Trust in Government Through Scientific Integrity and Evidence-Based Policymaking](#); and
- › [Executive Order on Improving the Nation's Cybersecurity](#).

The EEOC's Data Governance Board and Chief Data Officer provide executive leadership and oversight for the development and implementation of the policies and processes that govern the collection, creation, management, use, and disclosure of the EEOC's data.

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The EEOC continues to make great strides with its Data and Analytics Modernization Program. In fiscal year 2022, the program focused on enhancing the transparency of agency functions and operations, reducing burden on stakeholders, augmenting agency use of modern data analytics to drive data-driven decision-making, and promoting greater public access to data. The EEOC's Data and Analytics Modernization Program accomplishments include:

- › Completed four nationwide EEO data collections covering over 100,000 employers and representing over 100,000,000 employees;
- › Modernized the data collection instrument, replacing an outdated model of allowing filers to email, call, or fax the Filer Support Team with a web-based "Message Center," reducing costs and contacts per filer;
- › Unveiled an expanded [EEOC Explore](#), a web-enabled, state-of-the-art, user-friendly, data query and mapping tool, to facilitate and encourage greater access to and use of EEOC data for both agency staff and members of the public;
- › Updated the District Demographic Dashboard, an interactive visualization dashboard that uses data from the American Community Survey to identify the needs of and appropriately align resources for groups of potentially vulnerable workers, and provided demonstrations for outreach and education coordinators and State, Local, and Tribal program staff;



- › Modernized, enhanced, and streamlined the agency management workload reporting process thereby reducing burden on district office staff and utilizing the modern analysis and reporting platforms; and
- › Launched [eeoc.gov/data](https://eeoc.gov/data), the agency's one-stop shop for data and analytics that enables access to the EEOC's publicly available workforce demographic data, and easy-to-explore datasets, along with visualizations on specific topics.

# APPENDICES





## APPENDIX A: ORGANIZATION AND LAWS ENFORCED

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When the EEOC first opened its doors in 1965, it was charged by Congress with enforcing the employment provisions in Title VII of the landmark Civil Rights Act of 1964. The EEOC's jurisdiction over employment discrimination now includes the following areas:

- › **Title VII of the Civil Rights Act of 1964**, which prohibits employment discrimination on the basis of race, color, religion, sex (including pregnancy, gender identity, and sexual orientation), and national origin.

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- › **Pregnancy Discrimination Act of 1978**, which amended Title VII to clarify that discrimination on the basis of pregnancy, childbirth, or related medical conditions constitutes sex discrimination and requires employers to treat female employees affected by pregnancy, childbirth, or related medical conditions the same as other employees who are similar in their ability or inability to work, with respect to terms and conditions of employment, including leave and benefits.

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- › **Equal Pay Act of 1963 (included in the Fair Labor Standards Act)**, which prohibits sex discrimination in the payment of wages to men and women performing substantially equal work in the same establishment.

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- › **Age Discrimination in Employment Act of 1967**, which protects workers age 40 and older from discrimination in hiring, discharge, pay, promotions, fringe benefits, and other aspects of employment. The ADEA also prohibits the termination of pension contributions and accruals on account of age and governs early retirement incentive plans and other aspects of benefits planning and integration for older workers.

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- › **Title I and Title V of the Americans with Disabilities Act of 1990, as amended by the Americans with Disabilities Act Amendments Act of 2008**, which prohibits employment discrimination by private sector respondents and state and local governments against qualified individuals on the basis of disability.

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- › **Section 501 of the Rehabilitation Act of 1973**, which prohibits employment discrimination on the basis of disability in the federal government.

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- › **Title II of the Genetic Information Nondiscrimination Act of 2008**, which prohibits employment discrimination on the basis of an applicant's or employee's genetic information (including family medical history), generally prohibits acquisition of genetic information from applicants and employees, and requires covered entities to keep such information confidential, with limited exceptions.

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- › **Lilly Ledbetter Fair Pay Act of 2009**, which overturned adverse Supreme Court precedent and restored the EEOC's long-held position on the timeliness of pay discrimination claims.

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The Office of Field Programs (OFP), the Office of General Counsel (OGC), and 53 field offices, ensure that EEOC effectively enforces the statutory, regulatory, policy, and program responsibilities of the agency through various resolution methods tailored to each charge. Staff are responsible for achieving a wide range of objectives, which focus on the quality, timeliness, and appropriateness of individual, multiple victim, and systemic charges and for securing relief for victims of discrimination in accordance with Commission policies. Field offices are also responsible for



conducting hearings of federal sector complaints under the oversight of the OFP. Staff also counsel individuals about their rights under the laws enforced by the EEOC and conduct outreach and technical assistance programs. The Office of General Counsel conducts litigation in federal district courts and in the federal courts of appeals.

Additionally, through OFP's State, Local, and Tribal Program, the EEOC maintains work sharing agreements and a contract services program with 91 state and local FEPAs for the purpose of coordinating the investigation of charges dual-filed under state and local laws and federal law, as appropriate. The EEOC partners with more than 62 Tribal Employment Rights Offices (TEROs) to promote equal employment opportunity on or near Native American/Alaska Native reservations/tribal lands.

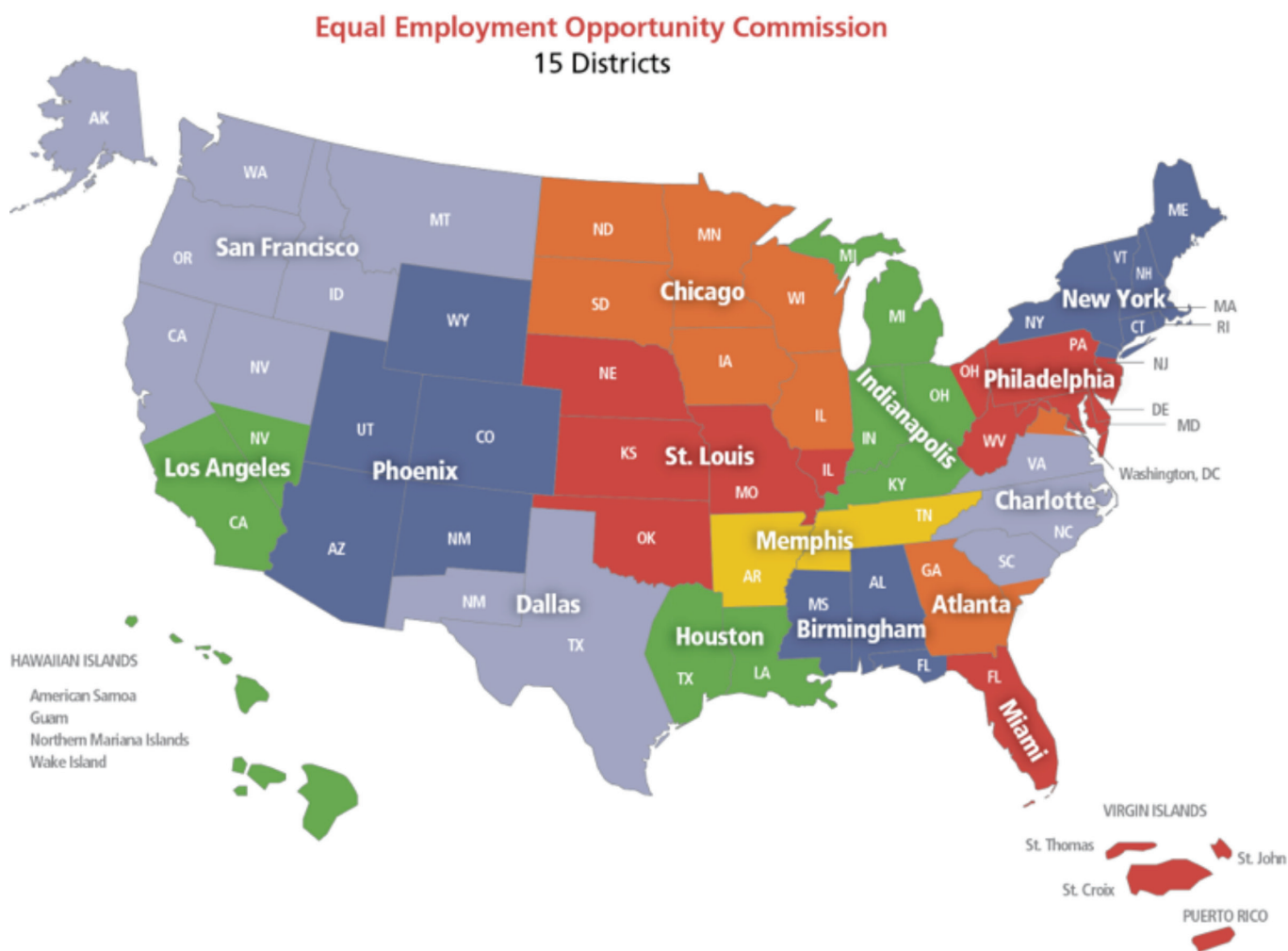
The Office of Legal Counsel (OLC) serves as counsel to the Chair, developing policy guidance, providing technical assistance to employers and employees, and coordinating with other agencies and stakeholders regarding the statutes and regulations enforced by the EEOC. The Office of Legal Counsel also fulfills in-house counsel functions by conducting or coordinating defensive litigation on behalf of the Chair and the Commission and advising agency officials on administrative issues such as contracts, disclosures, ethics, fiscal law, and recordkeeping matters. OLC houses the agency's FOIA Division and its Records Management Division.

Through its Office of Federal Operations (OFO), the EEOC provides leadership and guidance to federal agencies on all aspects of the federal government's equal employment opportunity program. This office ensures federal agency and department compliance with EEOC regulations, provides technical assistance to federal agencies concerning EEO complaint adjudication, monitors and evaluates federal agencies' affirmative employment programs, develops and distributes federal sector educational materials and conducts training for stakeholders, provides guidance and assistance to EEOC administrative judges who conduct hearings on EEO complaints, and adjudicates appeals from administrative decisions made by federal agencies on EEO complaints.

The EEOC receives a congressional appropriation to fund the necessary expenses of enforcing civil rights legislation, as well as prevention, outreach, and coordination of activities within the private and public sectors. In addition, the EEOC maintains a Training Institute for technical assistance programs. These programs provide fee-based education and training relating to the laws administered by the Commission.



## APPENDIX B: EEOC FIELD OFFICES



For a list of EEOC offices and a zip-code based office locator, please see: <https://www.eeoc.gov/field/index.cfm>





## APPENDIX C: BIOGRAPHIES OF THE CHAIR, VICE CHAIR, AND COMMISSIONERS

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### **Charlotte A. Burrows, Chair**

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Charlotte A. Burrows was designated by President Biden as Chair of the U.S. Equal Employment Opportunity Commission (EEOC) on January 20, 2021. Chair Burrows was initially nominated to serve as a Commissioner of the EEOC in 2014 and then re-nominated in 2019. By unanimous vote, the U.S. Senate confirmed her to a second term ending July 1, 2023.

For more information about Chair Burrows, please see: [www.eeoc.gov/eeoc/burrows.cfm](http://www.eeoc.gov/eeoc/burrows.cfm).



### **Jocelyn Samuels, Vice Chair**

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Jocelyn Samuels was designated by President Biden as Vice Chair of the U.S. Equal Employment Opportunity Commission (EEOC) on January 20, 2021. Vice Chair Samuels was initially nominated to serve as a Commissioner of the EEOC in 2020 and then re-nominated in 2021. The U.S. Senate confirmed her to a second term ending July 1, 2026.

For more information about Vice Chair Samuels, please see:

<https://www.eeoc.gov/jocelyn-samuels-vice-chair>.



### **Janet Dhillon, Commissioner\***

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Janet Dhillon was nominated in 2017 to serve as a Commissioner at the U.S. Equal Employment Opportunity Commission (EEOC) and confirmed in 2019 for a term ending on July 1, 2022. Dhillon was Chair of the EEOC from May 15, 2019 through January 20, 2021.

\*Commissioner Dhillon's term expired on July 1, 2022. She remained in hold-over status until her resignation on November 18, 2022.



### **Keith E. Sonderling, Commissioner**

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Keith E. Sonderling was nominated to serve as a Commissioner of the U.S. Equal Employment Opportunity Commission in 2019 and was confirmed on September 22, 2020, for a term expiring July 1, 2024. Sonderling previously served as the Commission's Vice Chair from September 30, 2020 through January 20, 2021.

For more information about Commissioner Sonderling, please see:

<https://www.eeoc.gov/keith-e-sonderling-commissioner>.



### **Andrea R. Lucas, Commissioner**

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Andrea R. Lucas was nominated to serve as Commissioner of the U.S. Equal Employment Opportunity Commission in 2020 and was confirmed by the U.S. Senate on September 22, 2020 for a term expiring July 1, 2025.

For more information about Commissioner Lucas, please see:

<https://www.eeoc.gov/andrea-r-lucas-commissioner>.



## APPENDIX D: ADDITIONAL INFORMATION ON EEOC INVESTIGATIONS AND LITIGATION REQUESTED BY CONGRESS

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### Investigations

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**The number of investigations initiated in fiscal year 2022 based on a directed investigation or Commissioner charge and the nature of the alleged discrimination:**

In fiscal year 2022, Commissioners initiated a total of 29 investigations based on Commissioner charges. The issues included:

- › Failure to provide a reasonable accommodation based on disability;
- › Failure to provide a religious accommodation;
- › Assigning workers based on sex, race, and/or national origin in order to comply with customer preferences;
- › Recruiting workers based on sex and/or race/ethnicity;
- › Retaliation against workers who object to sexual harassment;
- › Failure to hire on the basis of race, national origin, disability, and record of disability.

In fiscal year 2022, the EEOC initiated 25 directed investigations. These investigations alleged age discrimination in advertising, hiring, promotion, discharge, terms and conditions of employment, waivers, and benefits.

**The number of ongoing investigations in fiscal year 2022, initiated by a directed investigation or Commissioner charge and the nature of the alleged discrimination:**

At the close of fiscal year 2022, there were 47 ongoing investigations initiated by a Commissioner charge. These investigations alleged:

- › Failure to hire on the basis of race, sex, national origin, disability, record of disability, genetic information, and in retaliation for protected activity;
- › Discriminatory terms and conditions of employment based on national origin, race, sex, color, religion, and in retaliation for protected activity;
- › Harassment based on sex, race, national origin, and in retaliation for protected activity;
- › Sexual harassment and harassment in retaliation for protected activity;
- › Assignment based on race, sex, and national origin;
- › Discipline on the basis of race, color, religion, national origin, disability, and in retaliation for protected activity;



- › Discharge based on race, national origin, disability, color, religion, and in retaliation for protected activity;
- › Constructive discharge on the basis of sex and in retaliation for protected activity;
- › Testing that may have a disparate impact based on race, national origin or disability which is not job-related and consistent with business necessity;
- › Failure to promote based on race and sex;
- › Wage discrimination on the bases of sex, race, and national origin;
- › Segregation on the basis of sex;
- › Medical inquiries prohibited by the ADA and GINA;
- › Failure to accommodate disability and religion; and
- › Exclusion on the basis of sex.

At the close of fiscal year 2022, there were 22 ongoing investigations initiated by a directed investigation. These investigations alleged age discrimination in advertising, hiring, assignment, promotion, discharge, wages, benefits, testing, demotion, terms and conditions, qualifications, recall, and unequal pay based on sex.

## Litigation

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### The number of lawsuits filed in fiscal year 2022 based on a directed investigation or Commissioner charge:

In fiscal year 2022, the EEOC filed one lawsuit based on a Commissioner charge. *EEOC v. Radiant Services Corporation and BaronHR, LLC*, C.D. Cal., No. 2:22-cv-06517, filed September 13, 2022 (see description below).

The EEOC filed one lawsuit based on a directed investigation (along with several individual charges). *EEOC v. Verona Area School District*, No. 3:22-cv-00039 (W.D. Wisc.), filed January 25, 2022 (see description below).

### Final attorneys' fees awarded against the EEOC in which the defendant prevailed on the merits:

There were no attorneys' fees in which the defendant prevailed on the merits in fiscal year 2022.

The statutes enforced by the EEOC do not permit the award of attorneys' fees to the agency when it prevails on the merits of a matter. The EEOC was not ordered to pay fees as a discovery sanction in fiscal year 2022.

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### The number of cases of systemic discrimination brought in court by the EEOC under section 706 or 707 of the Civil Rights Act of 1964:

The EEOC initiated 13 systemic suits in fiscal year 2022:

- › *EEOC v. Carrabba's Italian Grill, LLC, and OS Restaurant Services, LLC*, M.D. Fla., No. 8:21-cv-02507, filed October 26, 2021, alleging that the owners and operators of a restaurant chain subjected female employees working at a Florida location to sexual harassment. The male manager of the restaurant allegedly made sexually offensive comments to female employees, touched them inap-



appropriately, sent them inappropriate texts, and conditioned better work assignments on submitting to his advances. The case was resolved by consent decree for \$690,000 for approximately 20 aggrieved individuals.

- › *EEOC v. Verona Area School District*, W.D. Wis., No. 3:22-cv-00039, filed January 25, 2022, alleging that a school district paid female special education teachers and a female school psychologist substantially less than a male special education teacher and a male school psychologist.
- › *EEOC v. Hillstone Restaurant Group, Inc.*, S.D.N.Y., No. 1:22-cv-03108, filed April 14, 2022, alleging that a nationwide restaurant group refused to hire job applicants over age 40 for front-of-house positions at its two New York locations.
- › *EEOC v. EEOC v. iTutorGroup, Inc., Tutor Group Limited, and Shanghai Ping'An Intelligent Education Technology Co., Ltd.*, E.D.N.Y., No. 1:22-cv-02565, filed May 5, 2022, alleging that providers of English-language tutoring services to students in China programmed their software to automatically reject female applicants over the age of 55 and male applicants over the age of 65. This resulted in defendants failing to hire charging party and more than 200 other qualified tutor applicants age 55 and older because of their age.
- › *EEOC v. SmartTalent LLC*, W.D. Wash., No. 2:22-cv-01102, filed August 8, 2022, alleging that a staffing agency with six Washington offices engaged in a pattern or practice of failing to hire or place female workers into certain temporary staffing assignments due to the defendant's clients' preference for male workers.
- › *EEOC v. Radiant Services Corporation and BaronHR, LLC*, C.D. Cal., No. 2:22-cv-06517, filed September 13, 2022, alleging that a California commercial laundry facility and a national staffing agency discriminated against certain non-Hispanic job applicants by failing to recruit, refer, and/or hire them because of their race or national origin. Defendants also discriminated against job applicants based on their sex by recruiting, referring, and/or hiring male job applicants into certain "heavy" job positions and female job applicants into certain "light" job positions. In addition, the staffing agency allegedly discriminated against qualified job applicants with disabilities, perceived disabilities, or a record of disability by requiring that they have no medical conditions or injuries.
- › *EEOC v. Lilly USA, LLC, S.D. Ind.*, No. 1:22-cv-01882, filed September 26, 2022, alleging that a pharmaceutical company failed to hire job applicants for pharmaceutical sales representative positions because of their age. The company allegedly set a goal of 40% "Early Career" hiring and required older job applicants to undergo higher levels of review and approval before being extended a job offer.
- › *EEOC v. Kenneth O. Lester Company, Inc. d/b/a PFG Customized Distribution-Indiana*, N.D. Ind., No. 1:22-cv-00329, filed September 27, 2022, alleging that a food distribution warehouse company engaged in a pattern or practice of discrimination when it failed to hire women for order-selector positions because of their sex. The company allegedly also discriminated against female employees by assigning them to the small-wares section, which resulted in lower pay.



- › *EEOC v. Landmark Dodge, Inc.*, W.D. Mo., No. 4:22-cv-00614, filed September 27, 2022, alleging that a group of automotive dealerships discriminated against female job applicants and employees by subjecting them to interview questions premised on sex-based stereotypes and refusing to hire or transfer them into higher-paying sales positions because of their sex. Defendants allegedly discriminated against male job applicants by denying them employment into jobs that were considered “women’s positions,” such as in the Business Development Center and for cashier, clerical, and other office positions. In addition, defendants allegedly subjected two human resources employees who opposed the discriminatory practices to a retaliatory hostile work environment and caused their constructive discharge.
- › *EEOC v. Global Medical Response, Inc.*, D. Colo., No. 1:22-cv-02544, filed September 29, 2022, alleging that emergency transport companies and their subsidiaries discriminated against a nationwide class of applicants and first responders with sincerely-held religious beliefs and disabilities that required them to wear beards in conflict with defendants’ policy against facial hair. Defendants allegedly failed to hire, failed to accommodate, terminated, and/or retaliated against these applicants and employees.
- › *EEOC v. ‘Murica, LLC*, D. Colo., No. 1:22-cv-02549, filed September 29, 2022, alleging that the owner of a country restaurant, bar, and dancehall subjected female employees to a sexually hostile work environment that included sexual comments, unwanted physical contact, quid pro quo propositions, and sexual assault. The owner subjected male employees to a sexually hostile work environment through repeated offensive sexual comments about female job applicants and employees and about a male employee, because of a sex-based stereotype that men would not object to these comments. In addition, the company allegedly retaliated against female and male employees who opposed the owner’s offensive sexual conduct by disciplining, discharging, and/or constructively discharging them. The company further retaliated against such employees by filing a lawsuit accusing them of defamation and other tort claims.
- › *EEOC v. Supreme Staffing LLC*, W.D. Tenn., No. 2:22-cv-02668, filed September 29, 2022, alleging that an integrated enterprise of staffing agencies discriminated against Black job applicants and employees because of their race and the race-based preferences of clients. The staffing agencies failed to refer, select, place, or assign Black job applicants and employees with clients, and assigned Black job applicants and employees to less desirable and lower-paying positions. The complaint also includes a recordkeeping claim related to defendant’s failure to keep applications for employment and lists of available applicants.
- › *EEOC v. Gypsum Express, Ltd.*, E.D. Ky., No. 2:22-cv-00119, filed September 30, 2022, alleging that a truck transportation services company with terminals in nine states engaged in a pattern or practice of discrimination against female job applicants by not hiring them for flatbed driver positions because of their sex. The company also allegedly discriminated and retaliated against the two charging parties, female recruiters, by subjecting one to a retaliatory discharge after she opposed these practices and requiring the second one to engage in discriminatory hiring practices that adversely affected the terms of her employment and which culminated in her constructive discharge.

**The EEOC’s success rate at the appellate level in fiscal year 2022:**

On merits cases, the EEOC prevailed in three appeals and lost one appeal.



## APPENDIX E: GLOSSARY OF ACRONYMS

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**ADA** Americans with Disabilities Act of 1990

**ADEA** Age Discrimination in Employment Act of 1967

**ADR** Alternative Dispute Resolution

**AJ** Administrative Judge

**APP** Annual Performance Plan

**ARC** Agency Records Center

**CTER** Council for Tribal Employment Rights

**DEIA** Diversity, Equity, Inclusion, and Accessibility

**DOJ** U.S. Department of Justice

**DOL** U.S. Department of Labor

**DOL, OFCCP** U.S. Department of Labor, Office of Federal Contract Compliance Programs

**DPC** White House Domestic Policy Council

**EEO** Equal Employment Opportunity

**EEOC** Equal Employment Opportunity Commission

**EPA** Equal Pay Act of 1963

**EXCEL** Examining Conflicts in Employment Laws

**FEPA** Fair Employment Practices Agency

**FMFIA** Federal Managers Financial Integrity Act

**FEVS** Federal Employee Viewpoint Survey

**FOIA** Freedom of Information Act

**GINA** Genetic Information Nondiscrimination Act of 2008

**GSA** U.S. General Services Administration

**IIG** Intake Information Group

**IIR** Intake Information Representative

**IMS** Integrated Mission System

**IOA** Information Quality Act

**OCRDI** Office for Civil Rights, Diversity, and Inclusion

**OEDA** Office of Enterprise Data and Analytics

**OFO** Office of Federal Operations

**OFP** Office of Field Programs

**OGC** Office of General Counsel

**OIG** Office of Inspector General

**OMB** U.S. Office of Management and Budget

**OPM** U.S. Office of Personnel Management

**PRA** Paperwork Reduction Act

**SBA** U.S. Small Business Administration

**TMF** Technology Modernization Fund

**TERO** Tribal Employment Rights Offices

**WHIAANHPI** White House Initiative on Asian Americans, Native Hawaiians, and Pacific Islanders



## APPENDIX F: INTERNET LINKS

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EEOC Homepage: <https://www.eeoc.gov/>

EEOC Statistics: <https://www.eeoc.gov/statistics>

EEOC Explore: <https://www.eeoc.gov/data/data-tools-and-products>

EEOC Public Portal: <https://publicportal.eeoc.gov/Portal/Login.aspx>

EEOC Strategic Plan: <https://www.eeoc.gov/us-equal-employment-opportunity-commission-eeoc-strategic-plan-fiscal-years-2018-2022>

EEOC Training Institute: <https://www.eeoc.gov/training-institute>

Digest of EEO Law: <https://www.eeoc.gov/digest>

Strategic Enforcement Plan for FY 2017–2021: <https://www.eeoc.gov/us-equal-employment-opportunity-commission-strategic-enforcement-plan-fiscal-years-2017-2021>

Quality Enforcement Practices Plan: <https://www.eeoc.gov/quality-practices-effective-investigations-and-conciliations>

Meetings of the Commission: <https://www.eeoc.gov/meetings>

Newsroom/Press Releases: <https://www.eeoc.gov/newsroom/search>

EEOC FY 2022 Performance Budget: <https://www.eeoc.gov/fiscal-year-2022-congressional-budget-justification>

EEOC Performance Budgets: <https://www.eeoc.gov/eeoc-budget-archives>

EEOC Performance and Accountability Reports: <https://www.eeoc.gov/eeoc-annual-reports-archives>

Small Business Resource Center: <https://www.eeoc.gov/employers/small-business>

EEOC Systemic Enforcement Information: <https://www.eeoc.gov/systemic-enforcement-information#fy2020>

Youth@Work: <https://www.eeoc.gov/youthwork>

YouTube Channel: <https://www.youtube.com/user/TheEEOC>

Federal Sector YouTube Channel: <https://www.youtube.com/c/EEOCOFO/featured>

U.S. Census Bureau, EEO Tables: <https://www.census.gov/acs/www/data/eo-data/eo-tables-2018/tableview.php?geotype=nation&usVal=us&filetype=all1r&geoName=United%20States>



## APPENDIX G: ACKNOWLEDGEMENTS

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The EEOC's Fiscal Year 2022 Annual Performance Report is a collaborative endeavor on the part of many EEOC employees. The Commission would like to acknowledge and thank them for their hard work and commitment in successfully preparing this report.

### We Welcome Your Comments

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Thank you for your interest in the EEOC's Fiscal Year 2022 Annual Performance Report. We welcome your comments on how we can make this report more informative for our readers.

Please send your comments to:

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Office of the Executive Secretariat  
U.S. Equal Employment Opportunity Commission  
131 M Street, NE  
Washington, DC 20507-0001

(202) 921-2815

TTY 1-800-669-6820

ASL Video Phone 1-844-234-5122

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