

Grain Inspection, Packers and Stockyards Administration

No FEAR Act Annual Report – Fiscal Year 2015

Trends

In FY 2015, the number of complaints was 14, 56% more than the number of complaints filed (9) in FY 2014.

The number of complainants that filed complaints in FY 2015 was 14, an increase of 56% over FY 2014 when there were 9 complainants.

There were no repeat filers in FY 2015 and no repeat filers in FY 2014.

Number of Bases Alleged

“Reprisal” and “Sex” were the most frequently alleged basis in formal complaints filed in FY 2015. There were 8 complaints filed on the basis of “Sex”, an increase of 7 complaints compared to 1 complaint filed in FY 2014. “Sex” had an 88% increase in filings compared to the prior fiscal year. There were 8 complaints filed on the basis of “Reprisal”, compared to 6 complaints filed in FY 2014.

“Race” and “Age” were the second most frequently alleged basis in formal complaints in FY 2015. There were 7 complaints filed on the basis of “Age” compared to 4 in the prior fiscal year, a 75% increase in filing for this basis. There were also 7 complaints filed on the basis of “Race”, compared to 6 in FY 2014.

“Color” and “Disability” were the third most frequently alleged basis in formal complaints in FY 2015. Complaints filed on the basis of “Color” and “Disability” each totaled 6. Each basis increased by 4 compared to FY 2014.

Complaints filed on the basis of “National Origin” decreased from 4 in FY 2014 to 2 in FY 2015. Two complaints were filed on a “Non-EEO” basis, an increase of 1 from the prior year. There were 2 complaints filed on “Religion”, the total is the same as FY 2014.

There were no complaints filed on the basis of “PDA”, “Genetics” or “Equal Pay Act” in FY 2015. GIPSA has never had any complaints filed on these bases.

Number of Issues Alleged

“Harassment/Non-Sexual” was the most frequent filed issue for GIPSA in FY 2015. There were 7 complaints filed against this issue, a 75% (3) increase compared to FY 2014.

“Promotion/Non-Selection” was the second most frequently filed issue for GIPSA in FY 2015. There were 4 complaints filed, a 25% (1) increase compared to FY 2014 when there were 3 complaints.

“Disciplinary Action/Suspension” was the third most frequently cited issue in FY 2015. There were 3 complaints filed citing “Suspension”. There were no complaints filed against this issue FY 2014.

“Assignment of Duties”, “Evaluation Appraisal”, and “Reasonable Accommodation”, each had 2 filings citing these issues. “Assignment of Duties” decreased by 50% (4) from the prior year. “Evaluation Appraisal” and “Reasonable Accommodation” each increased by one complaint compared to FY 2014.

“Disciplinary Action/Reprimand”, “Duty Hours”, “Harassment/Sexual”, “Reassignment/Denied”, “Termination”, and “Time and Attendance” each had 1 complaint citing these issues. Compared to FY 2014: “Disciplinary Action/Reprimand”, “Harassment/Sexual”, and “Time and Attendance” each increased by one complaint, prior year was zero complaints; “Reasonable Accommodation” increased by 1 complaint, prior year was 1; and “Duty Hours” and “Termination” each remained at 1 complaint, the same as prior year.

Complaints filed on the issue of “Awards” decreased to zero, compared to FY 2014 when 1 complaint was filed.

Finding of Discrimination

There were no findings of discrimination in GIPSA with or without a hearing in FY 2015.

There were no findings of discrimination rendered by basis and no findings of discrimination rendered by issue during FY 2015.

GIPSA had zero findings of discrimination levied against the agency for the last 5 previous fiscal years.

Processing Time

The average number of days in investigation for complaints pending during FY 2015 shows to 157.90 days, an 11% decrease from 177.00 in FY 2014. The average number of days in final action for complaints pending during FY 2015 was 52.17 days, an increase from 0.00 in FY 2014.

The average number of days in investigation for complaints pending during FY 2015 where a hearing was requested decreased to 156.62 days, a 10% decrease from FY 2014 total of 174 days. The average number of days in final action for complaints pending during FY 2015 where a hearing was requested totaled 47.20 days, the total is an increase from 0.0 days in FY 2014.

In FY 2015, the average number of days in investigation for complaints pending where a hearing was not requested decreased to 163.00 a 9% decrease from previous year’s total of 180.00 days. The average number of days in final action for complaints pending where a hearing was not requested increased to 77.00, up from FY 2014 total of 0.0 days.

Complaints Dismissed by Agency

There were 4 complaints dismissed by the Agency in FY 2015 and with 78 average days pending prior to dismissal. There were zero complaints dismissed in FY 2014, with zero days pending prior to dismissal. Two complaints were withdrawn by the complainant in FY 2015, compared to zero withdrawn in FY 2014.

Pending complaints

At the end of FY 2015, there were 13 complaints pending and 13 complainants. The total show an increase each of 2 complaints and complainants. There were 2 complaints pending an investigation, a decrease of 1 from FY 2014. There are 12 complaints pending a hearing, an increase of 50% (4) from the previous fiscal year. There are zero complaints pending Final Agency Action a decrease of 1 from prior year.

In FY 2015, there are 3 complaints pending where investigations exceed required time frames, the number is the same as FY 2014.

Casual Analysis

“Sex” was one the most frequently filed basis for complaints and had the largest increase in filings. In FY 2014 1 complaint was filed based on “Sex”, in FY 2015 the number of filings increase to 8. After reviewing the complaints filed based on the issue of “Sex”, it was noted that 6 of the 8 cases filed were dismissed due to the complainant’s failure to state a claim.

Complaints filed on the basis of “Color”, had one the most increases in filings. In FY 2015 complaints filed on the basis of “Color” totaled 6, an increase of 4 from FY 2014. After reviewing the complaints filed regarding this issue, it was noted that 5 of the complaints were dismissed due the complainant’s failure to state a claim.

Complaints filed on the basis of “Disability”, had one the most increases in filings. In FY 2015 complaints filed on the basis of “Disability” totaled 6, an increase of 4 from FY 2014. After reviewing the complaints filed regarding this issue, it was noted that 3 of the complaints were dismissed due the complainant’s failure to state a claim

In FY 2015 complaints filed on the basis of “Age” totaled 7, an increase of 3 from FY 2014 (4). After reviewing the complaints regarding this issue, it was noted that 3 of the complaints were dismissed due the complainant’s failure to state a claim and 1 complaints was partially accepted due to untimely filing by the complainant.

The issue of “Disciplinary Action/Suspension” had 3 complaint in FY 2015, up from zero filed on this issue in FY 2014. After reviewing the complaints filed regarding this issue, it was noted that all three complaints were dismissed due to the complainant’s failure to state a claim.

In the second quarter of FY 2015, GIPSA hired a new ADR Coordinator and Mediator. The new staff member immediately focused his efforts to increase confidence in the ADR process by

promoting ADR skills at all levels. The continued goal is to enhance understanding of the ADR program among GIPSA managers and employees to make the work environment more harmonious and efficient. A reduction in complaints can be accomplished by educating employees about the distinction between workplace disputes and EEO complaints; creating avenues for redress energy and commitment to resolution; and encouraging open dialogue. GIPSA will continue to involve stakeholders during the pre-complaint process while working closely with managers, supervisors, and employees to ensure accountability and compliance with respect to USDA Civil Rights policy.

In terms of non EEO complaints the Mediator facilitated discussion on a variety of issues from misunderstandings between co-workers to an individual's classification. The Mediator assisted with identifying the barriers and creating options to resolve those issues. The participants are encouraged to identify the issues as they see it and to take pro-active measures to resolve those concerns. The Mediator periodically checks in with the participants to ensure the measures are being taken as agreed to and that accountability exists.

GIPSA will continue to support its increase use of ADR by continuing to train employees and managers on the benefits of ADR to resolve EEO complainants as well as non-EEO complaints.

Knowledge Gained

The Grain Inspection, Packers and Stockyards Administration had zero (0) findings of discrimination levied against the Agency. However, as a result of the allegation workplace harassment (sexual), by an employee to employee, the Agency's Compliance Division began an extensive internal investigation immediately after the allegation was brought forward. At the conclusion of the investigation it was revealed that the alleged harasser acted inappropriately and the Agency was put at risk. The Agency initiated disciplinary/corrective actions within 30 days of receiving the results of the internal investigation.

GIPSA ensured that all managers, supervisors and employees in the selected division complete the Prevention of Sexual Harassment training. Following the training, members of the Civil Rights Staff conducted a group "sensing session" designed give employees an opportunity to have their voices heard. Additionally, the Agency is finalizing an administrative action against the harasser.

GIPSA ensures employees have access to current and accurate information about key civil rights issues. All GIPSA employees, including managers, supervisors, and all other employees will be held accountable for treating each other and GIPSA customers fairly and equitably, and with dignity and respect. GIPSA will:

- Increase managers and employees' awareness of key civil rights issues; EEOC Management Directive (MD) 715 and the essential elements of a model agency; Equal Employment Opportunity/Civil Rights (EEO/CR) laws and regulations, and their responsibilities in carrying out EEO/CR policies and objectives;

- Implement an effective EEO counseling program, Alternative Dispute Resolution (ADR) program, and comprehensive complaints management program to close, settle, or mediate active complaints and prevent new complaints;
- Continue support for the recommendations of the EEO Advisory Committee and Special Emphasis Program in addressing the EEO issues and concerns of all GIPSA employees;
- Verify compliance with EEO/CR laws and Departmental and Agency policies by conducting EEO/CR management reviews;
- Coordinate and conduct mandatory EEO/CR training based on training modules developed by the Department and Agency-wide training in diversity for managers and employees;
- Incorporate service delivery oversight in the Civil Rights compliance review process to ensure that all service providers (including Official Agencies and cooperators) understand the responsibility of providing service without discrimination;
- Enforce USDA's zero-tolerance reprisal and disciplinary policies by ensuring accountability, discipline, and corrective actions when discriminatory conduct related to civil rights violations occurs; and

Actions Taken or Planned to Improve Complaint or Civil Rights Programs of the Agency

Use of the Employment Engagement Team facilitators and “Real Talk” sessions are helping GIPSA expand further as an inclusive agency that benefits from leadership at all levels. GIPSA will continue to generate opportunities to gather and act upon employees concerns and ideas, and to design and implement beneficial systemic changes to processes that affect employee satisfaction and human resources. GIPSA will ensure the Agency has a workforce with the needed knowledge, skills and competencies, execute strong succession planning, and promote a progressive and positive organizational environment.

Since the last reporting, GIPSA succeeded in its effort to a full time certified mediator/Alternative Dispute Resolution (ADR) Coordinator. GIPSA has dedicated this employee to coordinate all ADR activities that involve civil rights and workplace disputes. The ADR Coordinator has reported, and will continue to report to the Civil Rights Director and to the Administrator all ADR activities.

Individuals wishing to file a complaint are provided with a certification of rights and responsibilities that request the individual indicate whether or not to participate in mediation. If an employee indicates a lack of interest in participating in mediation the counselor initiates communication to discuss concerns, share information, and alleviate misperceptions. In addition, every employee is provided with a written guide on the EEO process which includes information on ADR.

GIPSA's CR staff ensures that each employee is aware that participation in the ADR process confidential, voluntary, and that if their issues are not resolved there are other avenues of redress. While face-to-face mediation continues to be the primary choice of ADR, GIPSA offers facilitated discussions, coaching, and telephonic mediations.

In 2015, GIPSA's employee engagement action teams promoted a healthy organizational climate that values employee commitment through internal programs and initiatives. In response to the

GIPSA Administrator forwarding a letter to the workforce asking for volunteers to serve on employee engagement action teams each region formed a team. Each team is charged with assisting their organization in creating an active, two-way communication program, ensuring that everyone can add his or her voice to the dialogue, thus “Real Talk” sessions.

Quarterly “Real Talk” sessions were held to determine what areas or issues exist within GIPSA that hinder or impede the work environment. Action Team members ensured that sessions were conducted efficiently by: 1) ensuring a secondary facilitator/recorder take notes; 2) ensuring all participants were engaged in discussions; 3) using good time management to maximize time spent in sessions; and 4) reported progress and information to point of contact (POC) at the USDA GIPSA Employee Engagement Program.

GIPSA Civil Rights Office (CRO) serves as the liaison between employees and management, collects all identified issues and concerns, and holds action plan meetings with GIPSA leadership. During the fourth quarter of 2015, action teams were dispatched to locations other than their own to conduct the “Real Talk” sessions.

Key issues were identified and submitted to the employee engagement POC in the CRO and the employee engagement POC in CRO compiled all issues and identified agency-wide issues and concerns to present and discuss with GIPSA leadership.

After identifying key issues that were GIPSA-wide, the employee engagement POC scheduled a strategic action plan meeting with GIPSA leadership to develop strategies to address GIPSA’s agency-wide key issues and concerns.