DC Office of Human Rights

Equal Employment Opportunity Program (EEO)

A Review of District EEO Complaints for Fiscal Year 2008

Government of the District of Columbia
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PREFACE

Introduction

This *FY2008 Equal Employment Opportunity (EEO) Report* on the District Government workforce presents a summary of self reported EEO complaints by 43 District Government agencies under the authority of the Mayor. The prescribed principles of this document were derived from the United States Equal Employment Opportunity Commission (EEOC), Office of Federal Operations' *Annual Report on the Federal Workforce*.[1] The EEOC, as our federal partner imparts important guidelines which prove useful in the establishment and implementation of an effective EEO program. As such, the OHR hopes that this report will provide valuable information to District government authorities and agency representatives as they strive to become model employers.

Mission and Jurisdiction

The DC Office of Human Rights (OHR) was established with the mission of eradicating discrimination, increasing equal opportunity, and protecting human rights in the District of Columbia. The Office enforces the *DC Human Rights Act of 1977,* as amended, which includes investigating and adjudicating complaints of discrimination in the areas of employment, housing, places of public accommodation and educational institutions. The DC Human Rights Act protects the following classes from discrimination:

- *Race*
- *Color*
- *Sex*
- *National Origin*
- *Religion*
- *Age*
- *Marital Status*
- *Personal Appearance*
- *Sexual Orientation*
- *Gender Identity or Expression*
- *Family Responsibilities*
- *Familial Status*
- *Matriculation*
- *Political Affiliation*
- *Genetic Information*
- *Disability*
- *Source of Income*
- *Place of Business or Residence*
- *Status of a Victim of a Intra-family Offense*

[1] United States Equal Employment Opportunity Commission (EEOC), Office of Federal Operation, *Annual Report on the Federal Workforce, Fiscal Year 2007/ 2008.*

OHR also enforces the District of Columbia Family and Medical Leave Act of 1990, the District of Columbia Parental Leave Act of 1994 and the District of Columbia Language Access Act of 2004.

Federal Law

Pursuant to OHR's work sharing agreement with the Equal Employment Opportunity Commission (EEOC), this Office also investigates claims under *Title VII of the Civil Rights Act of 1964*, which prohibits employment discrimination on the basis of race, color, religion, sex, and national origin*; the Age Discrimination in Employment Act of 1967 (ADEA)*, which prohibits employment discrimination against individuals 40 years of age and older; *the Equal Pay Act of 1963 (EPA*), which prohibits discrimination on the basis of gender in compensation for substantially similar work under similar conditions; and *the American with Disabilities Act of 1990 (ADA*), which prohibits employment discrimination against employees and applicants with disabilities, and requires that reasonable accommodations be provided. In addition, as a fair housing agency (FHAP) with the United States Department of Housing and Urban Development (HUD), OHR investigates charges filed in the District under *Title VIII of the Civil Rights Act of 1968*-the Fair Housing Act.

Agency Oversight

OHR is charged with assisting DC government agencies in developing, monitoring, reviewing, and enforcing District of Columbia and agency-specific Equal Employment Opportunity (EEO) policies, procedures and Affirmative Action Plans as set forth in D.C. Official Code § 1-521.01. In an ongoing effort to fulfilling these functions, OHR asked all agency EEO Officers to report on all informal complaints filed with their agency EEO counselors.

Methodology

This report covers the period from October 1, 2007, through September 30, 2008 and contains selected measures of agencies' progress toward model EEO programs. It is important to emphasize that only 38 of the 43 agencies required to provide information to OHR on a quarterly basis complied with this requirement.

The data includes a total of both informal and formal complaints. Informal complaints are those in which an employee contacts an agency EEO Counselor to assist in the resolution of an allegation of discrimination. Formal complaints are those in which resolution was not attained at the agency level resulting in the employee filing the complaint at the OHR. This data is collected via quarterly information self reported by agency EEO Officers/Counselors and the OHR docket book of cases. This data does not include all complaints of discrimination that may have been made against the District as OHR does not capture complaints that are made directly with the EEOC or those lawsuits filed in court. [2]

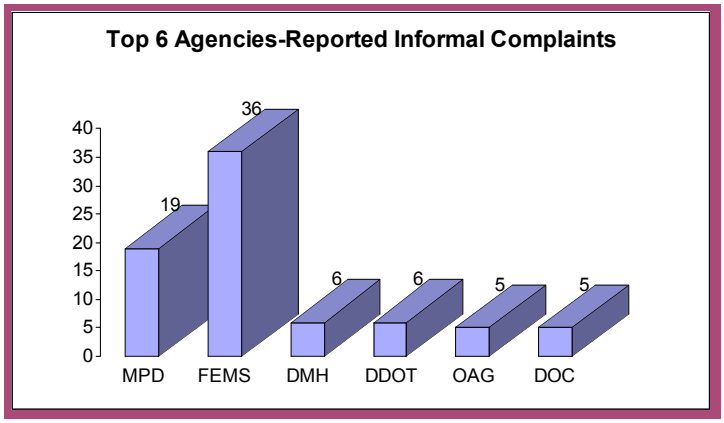
[2] The OHR does receive notification of cases through the EEOC/OHR work sharing agreement.

EXECUTIVE SUMMARY

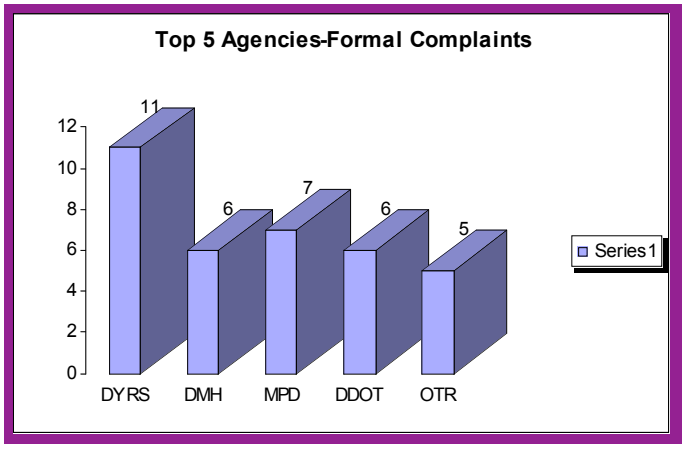
Year in Review

In FY08, there were a total of **184** complaints from District government employees. These included both formal complaints filed with this Office and informal complaints addressed at the agency level. There were **109** informal complaints brought to the agency EEO Counselors or Officers; and there were **75** formal complaints filed at the OHR. The employees also had the option of filing the complaint with an EEO Counselor outside of his/her agency.

Beginning with informal complaints, Fire and Emergency Medical Services (FEMS) had the largest number of complaints. Of the **109** informal complaints, FEMS reported **36** complaints or **49%** of the total number of complaints reported to OHR during FY08.



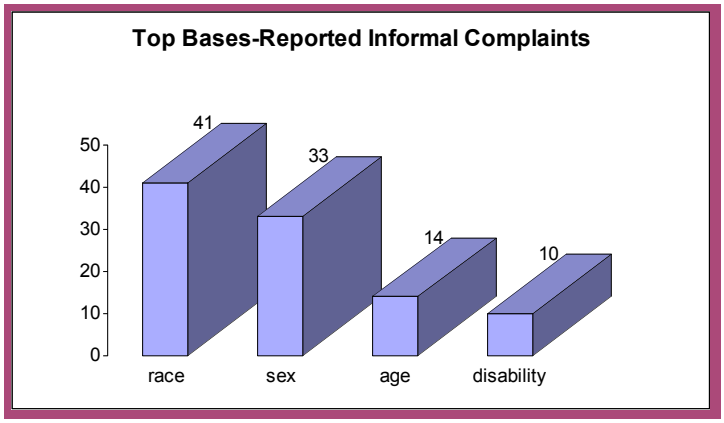
With respect to formal complaints filed at the OHR, the largest number of complainants were from the DC Department of Youth and Rehabilitation Services (**14%**), followed by the Metropolitan Police Department (9%); the Department of Mental Heath (8%) and the DC Department of Transportation (8%).

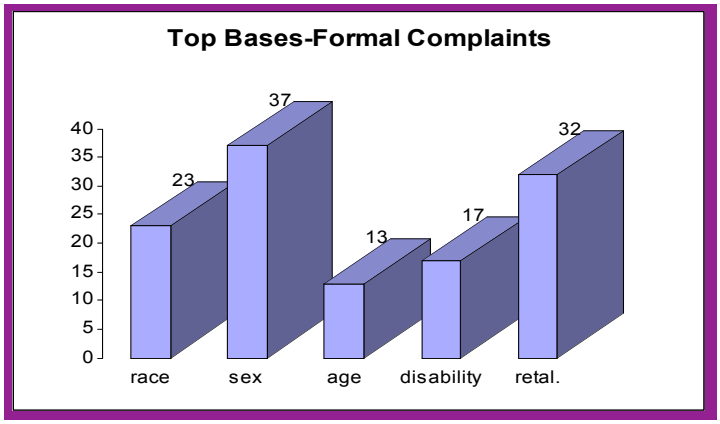


Combining both formal and informal charges, the agencies with the largest number of complaints are Fire and Emergency Medical Services (**21%**), Metropolitan Police Department (**14%**), and Department of the Department of Youth and Rehabilitation Services (**6%**). The combined total of nine percent includes agencies with only one and two complaints filed in the entire year.[3] It is important to note that there may be some overlap between the informal and formal complaints.

Bases for Complaints

The two charts below illustrate the most common bases alleged by employees when filing their complaints. Often complainants file charges under more than one basis, such as race and age, and many times complainants file complaints for more than one issue, such as hostile work environment and retaliation.

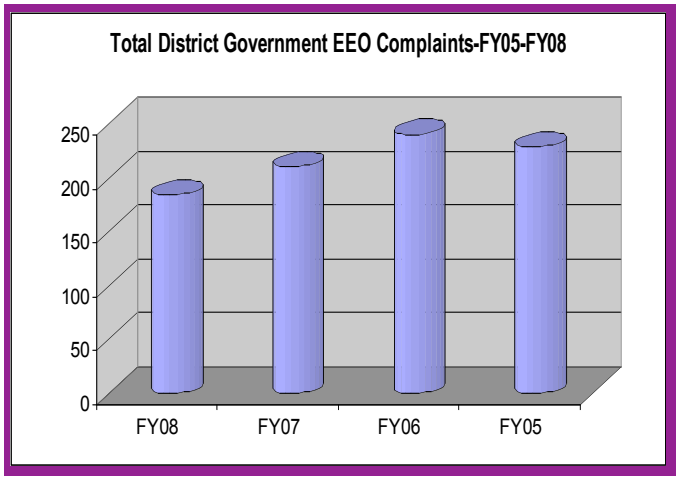




[3] These agencies include OLCB (1), DCPEFM (1), DCPL (1), HA (1), DDS (1), OPM (1), EOM (1), DHS (1), DMV (2), DISB (2), PSC (2), DCHD (2). The number presents the total formal and informal complaints.

Comparison with Previous Years

In FY05 there were 228 complaints; FY06 had 240 complaints; in FY07, there 210 complaints; and in FY08, there were 184 complaints. Therefore, there was a **12% decrease** in the number of complaints brought by DC government employees between FY05 and FY08 and 11% decrease between the last two years.



Responsiveness and Legal Compliance

Under Title IV, Chapter 1 of the District of Columbia Municipal Regulations, District agencies are required to report to OHR the EEO information concerning pre-complaint counseling, Alternative Dispute Resolution (ADR), and the status, processing, and disposition of complaints.

The requirement to file an *EEO Discrimination Complaint Quarterly Activity Form* applies to all District agencies and departments under Mayoral authority. Reports are due at the conclusion of each quarter of the fiscal year. In FY08, 43 agencies were required to submit EEO Reports, but only 38 complied. Under its FY09 agency performance plan, OHR has established a new process to ensure that all agencies report the required information.

Now, more than ever before, with the increasing expectations of government institutions, District agencies must position themselves to attract, develop and retain a top-quality workforce in order to ensure our city's continued growth, security and prosperity. To develop this competitive, highly qualified workforce, District agencies must fully utilize the talents of all employees, regardless of race, color, religion, national origin, sex, disability, or any of the protected categories. In order to assist agencies in attaining these goals, OHR promulgated new proposed regulations that set forth guidance and standards for establishing and maintaining effective EEO programs in District government.

Under §104.1 of Chapter 1 of the DC Municipal Regulations, each District agency head must commit to the following actions in furtherance of their EEO program:

- Be personally responsible and accountable for execution of the EEO program within his or her agency;
- Establish procedures, consistent with § 103.7, whereby each complaint is reviewed promptly and processed promptly at every subsequent stage and cause agency records to reflect each date of review and the action taken;
- Appoint or designate one (1) or more EEO Officers and EEO Counselors;
- Upon request of the Director, consult with him or her regarding the suitability of persons appointed or designated EEO Officers and EEO Counselors and, upon request, review appointments or designations and advise the Director of the determination. Consultation between agency heads and the Director prior to the appointment or designation of EEO Counselors and EEO Officers is encouraged;
- The consultation between the Director and agency head shall also include monitoring the EEO Counselors and the EEO Officers to determine whether or not they are executing their responsibilities, including but not limited to:
    - Providing the Exit Letter described in § 105.5 to the complainant within 30 days of complainant's filing date, or within 60 days if both parties determine that the investigation will continue;
    - Providing a Position Statement or responding to a request for documents in the time allotted by the investigator;
    - Responding to an Order of OHR within the time allotted by the investigator; and
    - Informing all employees of their rights and responsibilities under the Act.
    - Publicize to agency employees by posting on agency bulletin boards, the following:
        - The name, office address, and telephone number of each agency EEO Counselor and the organizational units served;
        - Inform employees that they may contact an EEO Counselor outside their organizational unit if desired; and the time limit for contacting an EEO Counselor;
        - The availability of the EEO Counselor to counsel an employee or qualified applicant for employment who believes he or she has been discriminated against because of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, matriculation, political affiliation, genetic information, and disability in connection with any aspect of District government employment; and
        - Inform employees and applicants of the requirement of consulting with an EEO Counselor within one hundred eighty (180) days of an alleged unlawful employment practice.

- Each District government agency head shall also publicize to all agency employees, and post permanently on official bulletin boards, the name, address, and telephone number of the Office of Human Rights, each agency EEO Officer, and the agency EEO Counselors.

- Each District government agency head shall make reasonable accommodation for the religious needs of applicants and employees, including the needs of those who observe the Sabbath on a day other than Sunday, when that accommodation can be made without undue disruption to the business of the agency.

Similar to our federal counterparts, the District expects that the commitment to equal employment opportunity must be embraced by agency leadership and communicated through the ranks from the top down. It is the responsibility of each agency head to take such measures as may be necessary to incorporate the principles of EEO into the agency's organizational structure. In addition, this section establishes that agency heads must issue a written policy statement expressing their commitment to EEO and a workplace free of discrimination and harassment. This statement should be issued at the beginning of their tenure and thereafter on an annual basis and disseminated to all employees.

Of the 43 agencies, the OHR ascertained that the agencies issue an EEO policy statement and required that all new employees acknowledge that they have received and reviewed the *District's Sexual Harassment Policy.* In addition, the OHR has ascertained that agency Directors, as well as agency General Counsels are notified when the EEO Counselor is delinquent in responding to a complaint of discrimination from this Office; and the agency Director is copied on the final determination of this Office.

Proactive Prevention of Unlawful Discrimination

As part of its mandate, OHR conducts various training sessions for District employees, managers and contractors. This Office also reaches private entities, including universities and tenant/condominium associations. In sum, a total of **1,182** were trained during FY08. In addition, this office trained **65** District agencies and independent public entities.

In FY09 OHR plans to increase the number of training sessions in DC government and offer a wide range of trainings to private sector entities. A training request form is now available through the OHR's website and response to a request is made within 24 hours. OHR is also implementing for the first time an **E-learning program** that is expected to become mandatory for a large number of DC government employees. This program is starting in FY09 with a 45-minute training on "Diversity and EEO in the District of Columbia", and it is comprised of five (5) interactive modules. The training can be completed free of charge from any computer with internet access.