

U.S. Department of Education Chapter of Blacks In Government's  
Reaction to the  
EEOC African American Workgroup Report

By

Wanda E. Gill, Ed.D., President of the U.S. Department of Education Chapter of Blacks In Government (BIG)

April 8, 2013

*“Our nation derives strength from the diversity of our population and from its commitment to equal opportunity for all. We are at our best when we draw on the talents of all parts of our society, and our greatest accomplishments are achieved when diverse perspectives are brought to bear when we face our greatest challenges.”*

*Barack Obama, Executive Order 13583*

## **Introduction**

The U.S. Department of Education Chapter of Blacks In Government (BIG) is pleased with the insight of the Equal Employment Opportunity Commission Office of Federal Operation's meetings with federal and non-federal interest groups, federal EEO directors and others from 2010 to "memorialize the obstacles and recommendations" of these groups. We particularly like the clear presentation of each obstacle with background, issues identified by Dialogue Partners, and Recommendations of Dialogue Partners.

The authors initiated this reaction starting on March 20, 2013. We reviewed some of the research findings noted in the report and conducted our own research to determine if there were findings from studies that supported our recommendations. Those findings are cited in this report both in the tables and in the end notes.

In the review of the EEOC African American Workgroup Report, we considered whether:

- There is any evidence indicating that the number and percentage of African Americans employed by any federal government agency is a variable in the barriers described in the report. Articulated another way, do barriers still exist in agencies with large numbers and percentages of African Americans relative to the total number of employees in an agency? Do barriers exist in those agencies with small numbers and percentages of African Americans?
- The recommendations were timely and strategic, given:
  - The Obama Administration:
  - The increasing numbers of other groups of people of color along with the lower number of Blacks employed by some agencies in the federal government.

## **2011-2012 Demographic and Employment Data for African Americans Compared to Selected Indicators**

According to a February 16, 2012 Issue Brief #322 from the Economic Policy Institute, "...Among the states with sufficient data for reliable estimates, African American unemployment rates exceeded 10 percent in 24 states and the District of Columbia in the third quarter of 2011." Little improvement is projected for the remainder of the year. Similarly, a February 29, 2012 U.S. Labor Department Report: *The African American Labor Force in the Recovery*<sup>i</sup> indicates the unemployment rate of African Americans was 13.6 percent in January 2013; it is dramatically higher than the 8.5% rate in November 2007, indicating a problematic all-time high in the age of Obama. The Report indicates 11.6% of the U.S. labor force or those employed or looking for work were Black. This represented a 61.4% participation rate compared to a 64.1% participation rate for all Americans. Nationally, Black women earned less than Black men or 91 cents per dollar earned by Black men. Black men earned \$653 per week while Black women earned \$595 per week. Black men earned 73.6% of the salary of White men and Black women earned 84.6% of the salary earned by White women.<sup>ii</sup> More than a quarter of employed Black workers earned a college degree, though the number trails whites. Blacks are more likely to be employed in the public sector, with almost 20% in federal, state or local public government positions in 2011.<sup>iii</sup> The same report indicates Black unemployment was 15.8% in 2011. The comparable figures for Whites and Hispanics are 7.9% and 11.5%, respectively.

### **Evidence of Barriers in the Federal Workforce**

According to selected profiles in the [EEOC FY 2009 Annual Report on the Federal Work Force](#), "In general, the data for the profiled agencies indicate that a comparison of the participation rates of women, Hispanics or Latinos, Blacks or African Americans, Asians, Native Hawaiian/Other Pacific Islanders and American Indians/Alaska Natives will show a decline from the First-Level positions to the Mid-Level positions and another decline from the Mid-Level positions to the Senior-Level positions."

While the national unemployment rate for African Americans is alarming, the federal rate of employment of African Americans does not adequately reflect the discrimination they face in the workplace. According to BlackDemographics.com, Blacks make up 20.3 of government employees compared to their rate of 15% in the population of the United States.<sup>iv</sup> Of course, the number of African American employees differs across federal agencies. For instance, at the U.S. Department of Education, African Americans make up 1,531 out of 4,299 or 35.61 % of the total workforce in the first pay period of 2013. Comparative data at the U.S. Department of Agriculture (large agency with historical problems with racial and gender discrimination) and at the Department of State (agency with international implications for potential barriers from the workforce that could impact international initiatives) would be useful but was unavailable to us at the time of this report.

We view the *EEOC African American Workgroup Report* as an important start at identifying barriers to full employment access. We view the “unconscious bias” barrier as real but as a cover for those who intentionally and sophisticatedly discriminate, mostly through policy actions to diminish the accomplishments, skills, ability and educational level of high performing African Americans, as they level the field to elevate Whites with degrees with bank work histories and other history outside of education. We believe each agency can add their own cogent examples of overt and unconscious biases that represent considerable barriers and considerable strategies developed at some agencies to keep the playing field from ever being level.

On the following pages, the U.S. Department of Education Chapter of Blacks In Government (BIG) presents its response to the recommendations of the Working Group with additional insights. To ease the presentation, a table format is used to align our reactions to the seven obstacles, background, issues and recommendations.

Tables 1-7 summarizes the findings in the report for each obstacle along with the ED Chapter of BIG’s Reaction and Recommendations.

**Table 1. Obstacle 1. Unconscious biases and perceptions about African Americans Impact Employment Decisions in the Federal Sector**

Report Background Summary	Report Issues Summary	Report Recommendations Summary	ED Chapter of BIG Reaction and Recommendations
<p>Unconscious bias is defined as “social behavior . . . driven by learned stereotypes that operate automatically – and therefore unconsciously — when we interact with other people.”</p>	<p>There is a practice that African Americans are not considered, groomed, or selected for high level positions because of unconscious bias that those positions are nontraditional for African Americans.</p> <p>There is an assumption or unconscious bias that African Americans who are in high level positions cannot successfully perform in those</p>	<p>Conduct unconscious bias training for all employees, especially selection panelists and selection officials who need to be aware of subtle and unconscious ways that race bias can negatively affect their employment decisions.</p> <p>Special Emphasis Program Managers should sponsor events that feature discussions and presentations on unconscious bias. Academic and social science researchers can educate and demonstrate managers’ and employees’ unconscious bias through theory.</p> <p>Agencies should conduct interactive exercises that allow “actors” to act out real life offensive situations and include audience participation by asking questions that explore the dynamics of the offenses. The</p>	<p>We completely agree with the report findings, summary issues and recommendations on obstacle 1, unconscious biases<sup>vi</sup> that impact federal employment decisions. We do believe that the “micro=inequities” described by Mary Rowe<sup>vii</sup>, have a more profound impact than she describes, when it comes to African Americans.</p> <p>Although the vast majority of cases of bias are unconscious, there are conscious biases in the federal workplace. Examples include the display of the confederate flag in cubicles in some agencies, as well as the cubicle and office placement of demeaning figures of women and African Americans. There are other examples that have gone unchecked in some agencies. Enforcement of conscious violations is extremely important, if the EEOC is to be taken seriously. While these examples are obvious there are less obvious examples of conscious racism. For instance, in one POC at ED, if the Senior Executive Service member made a decision to reduce job categories and provide uniform classifications, the action could very directly negatively impact African American employees who were teachers if the elimination of the ED Specialist position for people who taught in public schools reduced the advantage of African American employees who were former teachers and put them on par with college graduates who worked in banks and other places. In our opinion, this is an example of conscious racial discrimination which may even have been rewarded by the administration as a form of “simplifying government”.</p>

	<p>positions</p> <p>Individual decision-makers may not be aware that their decisions are motivated by bias and they do not take steps to change this.</p> <p>It is difficult to prove discrimination motivated by unconscious bias and there is no legal basis.</p>	<p>exercises should include “micro-inequities,” which are small slights, subtle discrimination and tiny injustices in the workplace.</p> <p>Legal analysis of how unconscious bias can be evidence of discrimination under Title VII and other federal anti-discrimination laws.</p>	<p>In an article by J. Nicole Shelton, Jennifer A. Richeson, Jessica Salvatore, and Sophie Trawalter, authors make clear it is often difficult for Blacks to identify biased whites. Their research suggests there are supervisors who hide their socially unacceptable biases well and overly compensate with embracing African Americans in short interactions. This may be one reason many African Americans perceive some Whites who clearly demonstrate bias as “friendly”, “kind” and “supportive” when in fact their policies and actions are otherwise. An example is the very friendly individual who limited the job categories of former Black teachers and, in so doing, made them on par with young Whites with no experience in teaching who could not qualify for the sacred and preferred “Education Specialist” job category.</p> <p>The focus on unconscious bias may very well cover the vast majority of supervisors of all races. It should be noted we believe this analysis should include managers and supervisors of all races who are also the subject of unconscious cultural biases against African Americans and Hispanics and cultural biases in favor of White and Asian groups. Therefore, we believe that additional hiring points, perhaps at least 10, should be awarded to African American candidates for jobs since this defacto unconscious and conscious bias is operative in the federal workplace.</p>
--	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Table 2. **Obstacle 2:** African Americans lack adequate mentoring and networking opportunities for higher level and management positions.

Report Background Summary	Report Issues Summary	Report Recommendations Summary	ED Chapter of BIG Reaction and Recommendations
<p>The major purposes of mentoring and networking are individual, professional, and personal facilitates employee entry and advancement into a new occupational and social world. Mentoring acquaints the individual with an organization’s values, customs and resources. Mentoring also provides role modeling behavior.</p> <p>Formal and informal mentoring and support from superiors and coworkers are key factors that help place African Americans on the organizational fast track. One study found that 73% of African American executives who reported having informal mentors at work had faster salary and total compensation growth than those without an informal mentor.</p> <p>Social science research has established a direct correlation between having mentors and increased occurrences of job growth, promotions and salary</p>	<p>African Americans are less likely to have multidimensional relationships that combine social components with work-based components.</p> <p>African Americans are less likely to receive crucial information about career advancement, including coaching about networking, tips on informal or unwritten rules of the workplace, or information about job opportunities.</p> <p>Few management officials formally mentor any employees, and even fewer mentor employees who are African American.</p> <p>African Americans are less likely to become managers and senior executives because managers and senior executives tend to be groomed for their positions by mentors who steered and prepared them for career advancement.</p>	<p>Agencies should establish formal mentoring programs and monitor their effectiveness in increasing equal employment opportunities.</p> <p>Agencies should appoint Mentoring Program Managers to oversee the mentoring activities and metrics should be developed to assess the success of mentorship programs and activities.</p> <p>Group mentoring may be an option for agencies to consider, wherein a mentor may work with multiple employees at a time to discuss various career development topics.</p> <p>Senior Level officials should be encouraged to mentor subordinates.</p> <p>Agencies should foster mentoring without regard to race or any other protected basis.</p> <p>Mentors should work with employees to develop Individual</p>	<p>We completely concur with the need for higher level mentors for African Americans in the federal workforce. The background summary, issues, and recommendations are exactly on target. With that said, we believe agencies should pair <b>all</b> White managers and supervisors with mentees who are African American to ensure corrective actions needed to secure the described benefits of this close nurturing relationship. In an article reported by Rick Nauert, networking and mentoring is less effective for African American men than other groups. The explanation is that they are selecting mentors who are like them but who have less power in the workplace.<sup>viii</sup></p> <p>Managers and supervisors who are unwilling to assume such</p>

<p>increases. Similarly, networking opportunities are vital for a diverse workplace because a network of professional contacts can help African Americans find unadvertised jobs, build their professional skills, and make them more employable by having someone vouch for them. Research has led scholars to conclude that African Americans suffer in the labor market from having weaker social networks than other groups. Having friends and relatives who can introduce someone to selecting officials or tell them about ripe opportunities has proven to be one of the most critical factors in getting work. Such connections can also help people hold onto their jobs.</p> <p>Networking is facilitated by affinity groups, or networking groups, which provide forums for employees to gather socially, meet other individuals with similar interests, and share ideas. Many federal agencies have reported positive effects from these groups.</p>		<p>Development Plans (IDPs) that create a roadmap for employees' career advancement and fulfillment.</p> <p>Mentors should be used to help employees acquire specific technical and leadership skills; to address succession planning needs; and in adjusting socially to the workplace.</p> <p>All agencies should establish an African American affinity group, and ensure that the group has the necessary resources in order to provide meaningful networking opportunities for African Americans.</p> <p>Agency senior executives should sponsor and champion African American affinity groups, should notify the group of job opportunities, and should act as a liaison between the affinity group and upper level management.</p>	<p>mentoring should be downgraded on their performance appraisals. Similarly, those whose efforts ensure the promotion of African Americans should receive higher performance ratings because of their contributions to the agency's EEO goals and objectives.</p>
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------



Table 3. **Obstacle 3:** Insufficient training and development assignments perpetuate inequalities in skills and opportunities for African Americans.

Report Background Summary	Report Issues Summary	Report Recommendations Summary	ED Chapter of BIG Reaction and Recommendations
<p>Training is planned, organized experiences that assist in the gaining or expansion of key competencies. Training builds needed competencies in order to achieve mission success and performance objectives and helps prepare employees to take on new or expanded work duties and positions, including management positions.</p> <p>Development assignments are temporary projects assigned for the purpose of exposing employees to work duties and environments that will prepare them for promotional opportunities. One example of a development assignment is the opportunity to act in a supervisory capacity. An MSPB report issued in 2009 found that 13.9% of African American federal employees reported that they had served as acting supervisor compared to 22.3% of White</p>	<p>African Americans are less likely to be offered the chance to act in supervisory positions than White males.</p> <p>Standards for granting training for African Americans are not transparent or objective.</p> <p>African Americans generally are not given as many developmental assignments as their White counterparts.</p> <p>Through development assignments, managers often steer African Americans into non-management tracks and positions such as staff positions or human resources, research, or administration rather than managerial or high level positions.</p> <p>Training and development opportunities can lead to higher levels of performance, and therefore higher performance evaluations. Several dialogue partners also reported that African Americans generally receive lower performance evaluations than</p>	<p>Agencies should establish objective and transparent criteria for granting employees’ requested training and offering developmental assignments.</p> <p>In the case of scarce resources for training and where all qualified candidates who want training cannot be approved, agencies should consider using lotteries to determine who should receive training. Otherwise, when possible, a diverse pool of multiple officials can determine decisions on training requests.</p> <p>Agencies should monitor and track training approvals and denials to evaluate whether there is disparate treatment in training.</p> <p>Supervisors should consider all subordinate employees for acting supervisory appointments.</p> <p>Supervisors should assist employees in developing IDPs that reflect their career goals and aspirations and in receiving training and developmental</p>	<p>The ED Chapter of Blacks In Government (BIG) agrees with the report background summary, report issues summary and report recommendations summary regarding insufficient training and development assignments for African Americans. In addition, we believe the agency should also afford employees who secure and document their own training incentives such as supervisory experiences to better prepare them for Senior Executive Service Corps positions. Often, when African American employees approach managers about training opportunities, they, unlike their white counterparts, are met with “no funds” answers. Even when they offer to pay for conferences, coursework, and other professional development opportunities, they are met with denials more often than white employees, according to our</p>

<p>employees.</p>	<p>White males, which can inhibit their promotion potential.</p>	<p>opportunities that can help them reach those goals.</p> <p>Agencies should provide employees with easily accessible lists of courses and training on leadership development.</p> <p>Agencies should emphasize that employees who volunteer for difficult assignments and pursue training can distinguish themselves from their peers and increase their chances of promotion.</p>	<p>survey findings. Therefore, we also recommend that African American employees be given time off for those conferences they pay for so that they will not have to use their leave for professional development, unlike other employees. This pervasive pattern of training denials to African Americans seems to permeate the U.S. Department of Education.</p>
-------------------	------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Table 4. **Obstacle 4:** Narrow recruitment methods negatively impact African Americans.

<b>Report Background Summary</b>	<b>Report Issues Summary</b>	<b>Report Recommendations Summary</b>	<b>ED Chapter of BIG Reaction and Recommendations</b>
<p>Recruitment is the activity employers use to create a continuous pool of qualified job applicants. Broad and effective recruitment practices are important because they ensure an effective and diverse workforce with people from different backgrounds who will have wide-ranging and creative ways to problem solve and will be able to produce innovative solutions in the workplace.</p> <p>Many organizations use affirmative outreach efforts in order to ensure that their recruitment methods result in a diverse pool of qualified individuals. When the pool of qualified individuals is not diverse, these organizations expand recruitment efforts and require that extra measures be taken to identify, recruit, and hire underrepresented groups such as African Americans. These extra measures often include media</p>	<p>Agencies recruit too narrowly by preferring candidates who attended perceived prestigious universities and colleges, which tend to have low percentages of African American graduates.</p> <p>Agencies do not adequately advertise for high level and management positions at educational institutions with high percentages of African American students.</p> <p>Agencies do not utilize African American professional organizations to recruit qualified African American candidates.</p> <p>Agencies are not adequately recruiting African American interns for professional apprenticeships or partnering with Historically Black Colleges and Universities (HBCUs) and African American professional organizations.</p>	<p>Agencies should expand recruitment methods by entering into partnerships with affinity groups, professional organizations, universities, and media that will facilitate dialogue with African Americans who may be interested in careers in the federal government.</p> <p>Agency recruiters, representatives, and interviewers should be trained on cultural competency, EEO, diversity issues, and unconscious bias theory.</p> <p>Agencies should use internships to introduce African American students to federal careers and should consider awarding scholarships.</p> <p>Agencies should focus on the individual abilities of candidates rather than their branding, i.e., specific schools.</p> <p>Agencies should think of recruitment not only as attracting candidates for specific vacancies or internships, but also as an</p>	<p>The ED Chapter of BIG concurs with the report background summary, report issues summary and report recommendations summary.</p> <p>Internships should have direct links to jobs for African Americans at ED. The national BIG partnership with INROADS, Inc. should include positions at federal agencies as those interns who complete the two summers of internships at an agency graduate, without competition. Additionally, the Presidential Management Fellows Program should be expanded to include graduates of Historical Black Colleges and Universities, just as it currently includes military personnel with Master’s degrees and individuals with Congressional experience at various levels. Each agency should commit to at least ten African American HBCU</p>

<p>advertisements, participation in job fairs, word of mouth, internships,</p>		<p>ongoing way to market the federal workplace as a desirable place to work. For instance, agencies should consider participating in high school career day events; host field trips to the agencies; and make presentations at meetings and conferences of professional associations.</p> <p>Agencies should widen their recruitment pool to attract and recruit qualified African Americans from the private sector into the federal sector. Thus, federal agencies should recruit at private sector job fairs and professional organization events targeted at African Americans.</p> <p>Agencies and OPM should publicize and recruit candidates for the Presidential Management Fellows Program through partnerships with HBCUs, professional organizations, African American graduate student associations, and job fairs.</p>	<p>graduates in protected positions, free of dismissal with no probationary period each year. While ED insists they do not keep track of those who leave during probationary periods by race, informal counts suggest more African Americans than any other race are terminated prior to the end of the probationary period.</p>
--------------------------------------------------------------------------------	--	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Table 5. **Obstacle 5:** The perception of widespread inequality among African Americans in the federal workforce hinders their career advancement.

<b>Report Background Summary</b>	<b>Report Issues Summary</b>	<b>Report Recommendations Summary</b>	<b>ED Chapter of BIG Reaction and Recommendations</b>
<p>Researchers have affirmed that perceptions of unfairness or inequality can impact the career advancement of underrepresented groups. Employees who feel that their chances for advancement in an agency are limited are less likely to be highly motivated to pursue higher level positions and management. For example, according to the Expectancy Theory, motivation is created when an employee expects that accomplishment will be followed by rewards. However, when an employee perceives that there is a low probability that promotion is available to him or people in his demographic group, employees naturally are less motivated to contribute to the organization. Further, employees who feel that they have little chance of promotion are likely to have feelings of injustice. Similarly, the</p>	<p>Perceptions of widespread inequality among African Americans depress their pursuit of career-enhancing activities and management positions.</p> <p>Cynicism about equal employment opportunities has reinforced inequalities for African Americans.</p> <p>The lack of support and mentoring in upper level and management positions often results in feelings of isolation among African Americans in upper management.</p> <p>Perceptions of inequality are often subtly or directly communicated to African Americans who are not in management, which reinforces widespread fears and perceptions that African Americans must sacrifice social support and racial identity in order to be successful in management.</p>	<p>Agency heads should make a commitment to address inequities in a proactive and effective manner, and should become more visible and hands-on in managing diversity and holding senior management accountable for results.</p> <p>Agency heads should also seek to include all groups in diversity initiatives:</p> <ul style="list-style-type: none"> <li>o Communicate the message that diversity is a priority and that it promotes the mission of the agency;</li> <li>o Consistently monitor agency diversity programs to ensure effectiveness;</li> <li>o Ensure that managers have technical as well as interpersonal, communications, and management skills;</li> </ul> <p>Reward managers who comply with and promote diversity and hold managers accountable for diversity and EEO compliance in their performance evaluations.</p>	<p>While the ED Chapter of BIG finds the background summary and issues summary interesting, even after taking a look at the sources cited in the report, we are concerned these summaries place too much blame on the victims. Our experience indicates that even highly qualified and very well educated African Americans who actively seek out advancement opportunities are less likely to be selected for career-enhancing activities and management positions, even after being deemed highly qualified. The EEO complaints reports across agencies back this up.</p> <p>We do, however, agree with the report recommendations. We would add to the list, a recommendation for a very strong manager tracking system and include those managers who have</p>

<p>Equity Theory suggests that feelings of injustice are stimulated if someone believes that they receive fewer rewards than others who do comparable work or produce comparable achievements. In its most recently published results from the Career Advancement Survey, the MSPB found 56 percent of African American employees reported “great” or “moderate” discrimination against African Americans on the job, while only 15 percent of employees overall said that African American federal employees experienced significant discrimination at work. Additionally, 59 percent of African American federal employees said their organization was reluctant to promote minority employees into management, while just 17 percent of White employees said the same thing.</p>			<p>all white offices, all white teams, and all white committees. The perception at ED among many African American employees is that white managers select others like themselves and out right refuse consideration of those unlike them. WE further believe that the agency’s Diversity and Inclusion Council and other EEO groups are merely figure heads for agency paper tiger solutions to complex issues. The paradigm of minority EEO directors and offices suggest people are being put in their places to “handle” other employees like them. The dissonance of this policy screams for revision.</p>
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--	--	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Table 6. **Obstacle 6:** Educational requirements create obstacles for African Americans in the federal workforce.

<b>Report Background Summary</b>	<b>Report Issues Summary</b>	<b>Report Recommendations Summary</b>	<b>ED Chapter of BIG Reaction and Recommendations</b>
<p>The Commission has noted that educational requirements can disparately impact particular protected groups, including African Americans. Studies have found that there is a strong relationship between education and advancement even in occupations that do not have explicit educational requirements. Likewise, studies have found a positive relationship between formal education and promotion rates for both professional and administrative positions. For most of American history, African Americans were legally and socially discouraged from pursuing professional and higher-paying careers. Likewise, African Americans were often prohibited from attending many higher educational institutions. Therefore, African Americans historically had less of an incentive and opportunity to pursue higher education. The historic legal and social hurdles</p>	<p>Because today's work force still reflects the vestiges of the educational inequities of yesteryear, African Americans remain generally less likely to have college and advanced degrees that often are necessary to qualify for high level and managerial positions in the federal sector.</p> <p>Relatively few African Americans are entering into certain technical fields, such as Science, Technology, Engineering, and Mathematics (STEM).</p>	<p>Agencies should ensure that education requirements are job-related and a business necessity.</p> <p>Where possible, agencies should allow practical experience to replace educational achievements.</p> <p>Agencies should consider awarding scholarships and internships to undergraduate students pursuing STEM degrees.</p> <p>Agencies should partner with primary schools, secondary schools, colleges, and foundations to stimulate interest in STEM and to encourage students to attend college and pursue degrees in STEM.</p>	<p>At the U.S. Department of Education, there are a large number of highly educated African American employees who are underemployed for their educational credentials and, in many cases, experiences. Some at the Grade 15 level are in non-supervisory positions. We believe the assertion of an undereducated African American workforce is not valid at the U.S. Department of Education. We do, however, find that the job classifications appear very unfair. The preceding example of former teachers who should be Education Specialists (a high need category) have been mis-categorized in the Office of Innovation and Improvement and possibly in other offices as well, depending on the leadership and their motives.</p>

<p>created huge disparities between Caucasian and African American educational attainment through most of American history. Although African Americans have made significant strides in closing the gap in educational attainment with White Americans in recent decades, the remnants of historic hurdles continue to impact the workforce today.</p>			
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--	--	--



Table 7. **Obstacle 7:** EEO regulations and laws are not adequately followed by agencies and are not effectively enforced.

Report Background Summary	Report Issues Summary	Report Recommendations Summary	ED Chapter of BIG Reaction and Recommendations
<p>While many agencies attain technical superficial compliance with EEO regulations and directives, there is an overall lack of commitment by agency heads to ensuring equal employment opportunities. Dialogue partners also maintained that agency heads are failing to incorporate EEO into their agency’s missions and view EEO as a burdensome adjunct to the operations of the agency. The EEOC’s Office of Federal Operations (OFO) has enforcement authority over federal sector EEO laws and regulations under Title VII, the Rehabilitation Act, the Age Discrimination in Employment Act, the Equal Pay Act, and the Genetic Information Non-discrimination Act. OFO’s responsibilities include adjudicating complaints of discrimination on appeal as well as oversight of the EEO programs of federal agencies. Agencies are required to follow the statutes and laws under the Commission’s jurisdiction, the Commission’s regulations, as well</p>	<p>Although agencies’ reports indicate that they hold management accountable for EEO, many management officials are not being held accountable for EEO issues.</p> <p>EEO Directors who do not directly report to their agency’s head represent a serious threat to the effectiveness of their agency’s EEO programs.</p> <p>EEO programs often lack adequate resources and funding, to effectively prevent and address discrimination. Low funding levels reflect agencies’ lack of commitment to achieving EEO principles and goals.</p> <p>Some agencies do not display a firm commitment to equal employment opportunity because it is not embraced by agency leadership and communicated through the ranks from the top down.</p> <p>Noncompliance with EEOC directives undermines the</p>	<p>As part of their annual performance ratings, managers, supervisors, and senior executives should be evaluated in at least one element that assesses their commitment to equal employment opportunity principles and goals.</p> <p>Awards, bonuses, and promotions should be contingent on managements’ actions in EEO, and agencies should not grant proven discriminators awards, promotions, outstanding performance evaluations, etc.</p> <p>Agency should consider demotion and/or removal of managerial duties of management officials who have been found to have engaged in unlawful discrimination or have inadequately responded to harassment.</p> <p>The EEOC should issue an agency “EEO Scorecard” that evaluates agencies’ EEO programs, inclusiveness, and accomplishments in various critical EEO elements, and it</p>	<p>The ED Chapter of Blacks In Government (BIG) agrees with the report background summary, report issues summary and recommendations. We would add the immediate removal and demotion of SES level managers who discriminate in any way or who have three EEO complaints against them, even if unproven. We note a reluctance to do so with white SES level managers, despite numerous complaints. In some instances, we believe these managers are deliberately working to eliminate competition from dialogue on their retaliatory and discriminatory behaviors, particularly in terms of job selection, promotion and classification assignments.</p>

<p>as the Commission’s management directives and guidance. Section II(A) of EEOC Management Directive 715 (MD-715) provides that “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.” Further, EEOC regulations governing agency programs to promote equal employment opportunity require each agency to “maintain a continuing affirmative program to promote equal opportunity and to identify and eliminate discriminatory practices and policies.” To implement the program, each agency must designate a Director of Equal Employment Opportunity who shall be under the immediate supervision of the agency head.</p>	<p>importance of EEO and stymies the eradication of barriers to equal employment opportunities.</p> <p>The Commission lacks sufficient enforcement powers or “lacks teeth”, to effectively combat discrimination and eradicate impediments to full access for African Americans.</p> <p>When the Commission finds that an agency has engaged in unlawful discrimination and orders agencies to consider disciplining the responsible management officials, agencies usually do not discipline responsible management officials, which sends a strong message that EEO is not a top priority for the federal government.</p> <p>The Commission’s inability to directly order agencies to discipline managers who have been found to have engaged in unlawful discrimination sends a message to agencies, discriminators, employees, and the public that the federal government does not take discrimination seriously.</p>	<p>should be presented in a digestible, user-friendly manner that is available to the public.</p> <p>The EEOC should publicize findings of discrimination in the federal sector via press releases.</p> <p>The EEOC should seek legal authority to order punishment for responsible management officials.</p> <p>The EEOC should enter into a new agreement with the Office of Special Counsel (OSC) and explore ways to refer more cases in which agencies have failed to comply with orders or if a violation warrants prosecution by OSC.</p>	
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

At the beginning of this U.S. Department of Education Chapter of Blacks In Government's Reaction to the EEOC Workgroup's Report, we indicated, we considered whether:

- There is any evidence indicating that the number and percentage of African Americans employed by any federal government agency is a variable in the barriers described in the report. Articulated another way, do barriers still exist in agencies with large numbers and percentages of African Americans relative to the total number of employees in an agency? Do barriers exist in those agencies with small numbers and percentages of African Americans?

These barriers appear to be present in large agencies, including those with African American managers and supervisors, as well as small agencies. We further believe that many EEO Directors are hard pressed to deal with complaints. Using the U.S. Department of Education as an example of a small agency where the described barriers are indeed present, we examined the report presented in the [U.S. Equal Employment Opportunity Commission's Agency Profiles from 2011 Report](#) data and statistics. Reprisal, age and race were the most frequently occurring allegations at the U.S Department of Education in 2011. It is noteworthy that a mere 3.1% of settlements were completed, as a result of counseling (that was complete in 2011) which may suggest an unwillingness of supervisors to participate. It is also interesting that almost a third or 32.3% of complaints were withdrawn. Could it be that employees see no benefit to the process, since supervisors appear to be free to indicate they do not wish to participate? It would be useful if the EEOC required agencies to report whether supervisors refused to participate in all forms of counseling and if this refusal is reflected in supervisors' ratings. The fact that 61.5% of complainants filed suggests a willingness to pursue wrongful and discriminatory actions of supervisors. The fact that only 40 complaints were filed out of 4,299 employees, of whom 1,531 are Black (data from first pay period in 2013), representing a rate of less than .01% of all employees and .026% of Black employees does not mean that discrimination towards Blacks is not occurring. It does suggest that many employees are not aware of some of the more subtle forms this

discrimination is taking or feels complaints don't yield results or know their supervisors will not participate in settlement or counseling. An example of a subtle but deliberate discriminatory move is the change in job category to favor more young white rather than Black employees, that has already been cited in the table above. To repeat, many Black employees coming to ED from teaching positions qualify for the Education Specialist job series category. Many of the White employees coming from banking, editing and jobs other than teaching do not qualify for the Education Specialist job series. When a member of the SES corps intentionally eliminates the Education Specialist series from a primary office, an unfair advantage is given to Whites and other groups who do not have teaching experience while serving to undermine the stronger position of Blacks coming into government from teaching positions. The Education Program Specialist series is one of those job categories that is in high demand at the U.S. Department of Education and is one of the series for which the agency has been recruiting.

The EEO charts also show the 20.9% settlement rate at the U.S. Department of Education. The charts also show only one finding of discrimination, suggesting employees need much better (often more costly) legal representation. There appears to be anecdotal evidence, given for this report, that investigators hired by ED did not ask (as one employee who wanted to submit testimony only if asked) "the right questions". It should be noted that the U.S. Department of Education had no monetary damages assessed in 2011, indicating a flawed process in this agency where supervisors not only can and do refuse to participate in counseling but retaliate further by their involvement in negotiating settlements. This flawed process at the U.S. Department of Education leads to almost no settlements in most cases. It also appears as though those employees working in the EEOC office are rewarded for lack of settlements. We believe EEO personnel should be rewarded for protecting employees rather than the agency and should admit to wrongdoing to prevent the brain drain that has resulted in stymied efforts at innovation. The U.S. Department of Education was selected for closer scrutiny because this is the authors' agency and it happens to be a relatively small agency. With that said, other agencies may also be rewarding EEO personnel for not reaching and paying for settlements

and for involving retaliators, harassers, and other discriminators in talks of settlement, often without outcomes ( a settlement).

**Recommendations:**

1. Policy forbidding awards and incentives to those in or out of EEO offices from refusing to participate in counseling, refusing to negotiate with counsel for employees, and for blocking full disclosure through selection of investigators who narrowly define questions aimed at circumventing the issues in question.
2. Policy forbidding those accused of retaliation for EEO complaints, harassment and discrimination from participating in any negotiations for settlement, including monetary awards of attorneys' fees and damages, among others.

Department of Education (ED)  
 FY 2011 EEO Complaint Processing Statistics

**OUTCOME OF COUNSELINGS COMPLETED IN FY 2011**

Pre-Complaint Counseling Outcomes	Completed by EEO Counselor		Completed Using ADR		All Completed Counselings	
	#	%	#	%	#	%
Pre-Complaint Counseling	37		28		65	
Settlements	1	2.7%	1	3.6%	2	3.1%
Withdrawals or No Complaints Filed	14	37.8%	7	25%	21	32.3%

<b>Complaints Filed*</b>		40	61.5%
<b>Decision to File Complaint Pending at End of FY</b>		2	3.1%
*Includes only complaints filed in FY 2011 where counseling was also completed during FY 2011.			

**AGENCY USE OF ADR FOR EEO DISPUTE RESOLUTION IN FY 2011**

	Total Number	Offer Rate	Participation Rate
<b>Pre-Complaint Counselings</b>	65	95.4%	43.1%
<b>Complaint Closures</b>	43	51.2%	23.3%

**BASES MOST FREQUENTLY ALLEGED IN FY 2011**

	Top Basis 1	Top Basis 2	Top Basis 3
<b>Bases of Alleged Discrimination</b>	Reprisal	Age	Race (Black or African American)



**TIMELINESS IN FY 2011**

	Total #	# Timely	% Timely	FY 2010 APD*	FY 2011 APD*	% Change	Govt Wide APD*
<b>All Pre-Complaint Counselings (minus remands)</b>	65	60	92.3%				
<b>All Investigations</b>	42	40	95.2%	158	192	21.5%	183
<b>All Complaint Closures</b>	43			587	430	-26.7%	346
<b>Merit Decisions (no AJ)</b>	26	26	100%	451	385	-14.6%	429
<b>Dismissal Decisions (no AJ)</b>	4			40	54	35%	73

\*APD = Average Processing Days

**OUTCOMES OF COMPLAINTS IN FY 2011**

	COMPLAINT CLOSURES		FINAL AGENCY DECISION (NO AJ DECISION)		FINAL ORDER (AJ DECISION FULLY IMPLEMENTED)		FINAL ORDER (AJ DECISION NOT FULLY IMPLEMENTED)	
	#	%	#	%	#	%	#	%
<b>TOTAL COMPLAINTS FILED</b>	<b>40</b>							

<b>TOTAL CLOSURES</b>	<b>43</b>							
<b>SETTLEMENTS</b>	<b>9</b>	<b>20.9%</b>						
<b>WITHDRAWALS</b>	<b>0</b>	<b>0%</b>						
<b>TOTAL FINAL AGENCY ACTIONS</b>	<b>34</b>	<b>79.1%</b>	<b>30</b>	<b>88.2%</b>	<b>4</b>	<b>11.8%</b>	<b>0</b>	<b>0%</b>
<b>DISMISSALS</b>	<b>4</b>	<b>11.8%</b>	<b>4</b>	<b>100%</b>	<b>0</b>	<b>0%</b>	<b>0</b>	<b>0%</b>
<b>MERIT DECISIONS</b>	<b>30</b>	<b>88.2%</b>	<b>26</b>	<b>86.7%</b>	<b>4</b>	<b>13.3%</b>	<b>0</b>	<b>0%</b>
<b>FINDING</b>	<b>1</b>	<b>3.3%</b>	<b>0</b>	<b>0%</b>	<b>1</b>	<b>100%</b>	<b>0</b>	<b>0%</b>

<b>DISCRIMINATION</b>								
<b>FINDING NO DISCRIMINATION</b>	<b>29</b>	<b>96.7%</b>	<b>26</b>	<b>89.7%</b>	<b>3</b>	<b>10.3%</b>	<b>0</b>	<b>0%</b>

**COSTS ASSOCIATED WITH EEO PROCESS IN FY 2011**

	<b>TOTAL #</b>	<b>TOTAL AMOUNT</b>	<b>AVERAGE AMOUNT</b>
<b>PRE-COMPLAINT SETTLEMENTS W/ MONETARY BENEFITS</b>	<b>0</b>	<b>\$0</b>	<b>\$0</b>
<b>ADR SETTLEMENTS W/ MONETARY BENEFITS</b>	<b>0</b>	<b>\$0</b>	<b>\$0</b>
<b>INVESTIGATION COSTS</b>	<b>42</b>	<b>\$164,307</b>	<b>\$3,912</b>

<b>COMPLAINT CLOSURES WITH MONETARY BENEFITS</b>	<b>7</b>	<b>\$28,792</b>	<b>\$4,113</b>
<b>ADR SETTLEMENTS W/ MONETARY BENEFITS</b>	<b>0</b>	<b>\$0</b>	<b>\$0</b>

The U.S. Department of Agriculture is a larger agency with 96,000 employees from 2007-2008, of whom the number of African Americans was not disclosed.<sup>ix</sup> Comparable data from the same EEO report indicates a large number of complaints with higher fees paid to investigators and cash settlements. The question for the EEOC is whether these are better investigations with more pertinent questions than those conducted by the U.S. Department of Education.

At the U.S. Department of Agriculture 953 pre-complaint sessions were conducted and 505 complaints were filed out of which 470 or 49.3% of complaints were filed and completed in 2011. The bases of complaints were gender (female), age and reprisal which is not surprising given the number of African American and other minority employees at the agency. Of particular note is the payment of monetary benefits at every stage of the process at the U.S. Department of Agriculture. This indicates a willingness to admit to damages to employees, unlike the process at the U.S. Department of Education. Pre-complaint settlements alone cost Agriculture \$247,176. Investigative costs at Agriculture cost \$1,868,632. Complaint closures with monetary benefits cost Agriculture \$2,595,409. ADR Settlements with monetary benefits were reported as \$116,505 and as \$568,543 in the same chart. Costs to Agriculture total \$5,173,805.

Department of Agriculture (USDA)  
FY 2011 EEO Complaint Processing Statistics

**OUTCOME OF COUNSELINGS COMPLETED IN FY 2011**

Pre-Complaint Counseling Outcomes	Completed by EEO Counselor		Completed Using ADR		All Completed Counselings	
	#	%	#	%	#	%
Pre-Complaint Counseling	690		263		953	
Settlements	35	5.1%	61	23.2%	96	10.1%
Withdrawals or No Complaints Filed	266	38.6%	84	31.9%	350	36.7%

<b>Complaints Filed*</b>		470	49.3%
<b>Decision to File Complaint Pending at End of FY</b>		37	3.9%
*Includes only complaints filed in FY 2011 where counseling was also completed during FY 2011.			

**AGENCY USE OF ADR FOR EEO DISPUTE RESOLUTION IN FY 2011**

	<b>Total Number</b>	<b>Offer Rate</b>	<b>Participation Rate</b>
<b>Pre-Complaint Counselings</b>	953	81%	27.6%
<b>Complaint Closures</b>	457	33.3%	16.4%

**BASES MOST FREQUENTLY ALLEGED IN FY 2011**

	Top Basis 1	Top Basis 2	Top Basis 3
<b>Bases of Alleged Discrimination</b>	Reprisal	Age	Sex (Female)

**TIMELINESS IN FY 2011**

	Total #	# Timely	% Timely	FY 2010 APD*	FY 2011 APD*	% Change	Govt Wide APD*
<b>All Pre-Complaint Counselings (minus remands)</b>	952	748	78.6%				
<b>All Investigations</b>	441	186	42.2%	324	270	-16.7%	183



<b>All Complaint Closures</b>	457			662	496	-25.1%	346
<b>Merit Decisions (no AJ)</b>	162	25	15.4%	693	638	-7.9%	429
<b>Dismissal Decisions (no AJ)</b>	72			260	133	-48.8%	73
*APD = Average Processing Days							

**OUTCOMES OF COMPLAINTS IN FY 2011**

	<b>Complaint Closures</b>	<b>Final Agency Decision (no AJ Decision)</b>	<b>Final Order (AJ Decision Fully Implemented)</b>	<b>Final Order (AJ Decision Not Fully Implemented)</b>
--	---------------------------	-----------------------------------------------	----------------------------------------------------	--------------------------------------------------------

	#	%	#	%	#	%	#	%
<b>Total Complaints Filed</b>	505							
<b>Total Closures</b>	457							
<b>Settlements</b>	127	27.8%						
<b>Withdrawals</b>	31	6.8%						
<b>Total Final Agency Actions</b>	299	65.4%	234	78.3%	65	21.7%	0	0%
<b>Dismissals</b>	74	24.7%	72	97.3%	2	2.7%	0	0%

<b>Merit Decisions</b>	225	75.3%	162	72%	63	28%	0	0%
<b>Finding Discrimination</b>	30	13.3%	28	93.3%	2	6.7%	0	0%
<b>Finding No Discrimination</b>	195	86.7%	134	68.7%	61	31.3%	0	0%

**COSTS ASSOCIATED WITH EEO PROCESS IN FY 2011**

	<b>Total #</b>	<b>Total Amount</b>	<b>Average Amount</b>
<b>Pre-Complaint Settlements w/ Monetary Benefits</b>	26	\$247,176	\$9,506
<b>ADR Settlements w/ Monetary Benefits</b>	12	\$116,505	\$9,708

Investigation Costs	441	\$1,868,632	\$4,237
Complaint Closures with Monetary Benefits	129	\$2,595,409	\$20,119
ADR Settlements w/ Monetary Benefits	25	\$568,543	\$22,741

- The recommendations were timely and strategic, given:
  - The Obama Administration:
  - The increasing numbers of other groups of people of color along with the lower number of Blacks employed by some agencies in the federal government.

*The Obama Administration*

We found these recommendations to be timely and strategic in the second term of the Obama Administration where both symbolism and legacy are more important factors. When Barack Obama was sworn in during the 57<sup>th</sup> Inaugural Ceremonies, he was holding the Bibles of President Abraham Lincoln and the Rev. Dr. Martin Luther King, Jr. whose now national holiday was celebrated on the week-end of the inauguration. Just as

President Lincoln symbolized emancipation and reunification, Dr. King symbolized equality and national unity after testing unjust laws of segregation throughout the American South. Medgar Evers' widow, Myrlie Evers-Williams did the Invocation, symbolized the millions of deaths of Black men (and women and children) who stood up to fight for equality under the law and in practice, despite the presence of the Klu Klux Klan and the White Citizens' Council, among other supremacy groups. Beyond the symbolism is the reality of the need for these reminders, not only in an historical context but also in a real time context.

Americans and the world have witnessed the unprecedented disrespect of the president and the presidency by mostly White Americans including the governor who shook her finger in the President's face while speaking to him, calls that he is a liar from a member of the House of Representatives as he delivered the State of the Union Address, and reports of meetings by key elected Republicans to undermine his presidency, as he was celebrating his first term inauguration. As most of those who elected him were celebrating the historical election, with its promise of the removal of racial barriers with the ascendance of the first African American president, some were taking what appears to be an almost treasonous stance to block legislation, appointments and innovative solutions to our problems because of what can only be described as race-based hatred. Despite the historic Obama led passage of a national health care program designed to help children and designed to make healthcare more affordable for all, despite the critical and timely salvation of the nation from what is best described as an historic depression due to the failure of our major financial institutions, despite the nation's involvement in two wars and the successful conclusion of one by the end of the first term, our first African American president is still plagued by race based hatred and a Congress that has stymied his successful attempts to more fully cut the budget deficit, streamline defense spending, and revamp and revitalize the economy.

So, yes, we view the identification, discussion of background, recommendations and refinement of recommendations by the EEOC as both timely and strategic in the second term of the Obama administration

when legacy is even more important now than it was in the first administration. The increased importance in the second term is due to the fact that with Mr. Obama's election comes the elimination of any speculation that the first election was a fluke. His election was clearly intentional in that he offers the best solutions to America's pressing problems, nationally as well as internationally. While race could not have been emphasized as much in the first term, it can be more in focus in the second term. In the first term, the emphasis had to be on poverty and, as we know, that includes large numbers of all sorts of people, including minorities.

*National Federal Workforce Goal: Increasing Numbers of Hispanics, Asians, Native Americans & Others*

As the federal government realizes its goal of increasing the numbers of Hispanics, Asians, Native Americans, the disabled, and veterans in the federal workforce, the likelihood that agencies will decrease the number of African American workers is more likely, especially with the 7 barriers described in this report. We are concerned that national demographic data is currently used to reflect workforce goals and doesn't take into consideration concentrations in specific geographic regions. For instance, in the Washington, D.C. area there are large numbers and percentages of highly qualified African Americans in the federal workforce. There are also large numbers of eligible African Americans for positions in the workforce, especially with so many Historically Black Colleges and Universities, with their graduate degree programs, in close proximity to most federal jobs in the D.C. area. Howard University, Bowie State University, Baltimore -based Coppin State University and Morgan State University, Maryland-Eastern Shore- based University of Maryland Eastern Shore are but a few close in. within a 2-3 hour drive, Virginia Union, Virginia State University and Delaware State University also offer highly qualified African American graduates. The University of Maryland graduates large numbers of African Americans, all well qualified for government positions. So, there is an opportunity for special recruitment, internship, job placement programs for graduates of these HBCUs. The concern for national hiring quotas for African Americans based in the Washington, D.C. area

rather than more realistic geographically based population statistics has already been expressed in the ERIC Clearinghouse publication #ED538186 [U.S. Department of Education Chapter of Blacks In Government \(BIG\) Report: The Status of the African American Workforce at the U.S. Department of Education](#) by the first of the co-authors.

**Final Recommendation:** One final tangential note is our recommendation that the EEO Commission monitor and track furloughed employees by race, gender, age and job classification to help determine if African American employees are more closely impacted by sequestration, furloughs, terminations and other actions as either a direct or indirect consequence of any one or more of these barriers.

---

<sup>i</sup> U.S Department of Labor, The African American Labor Force in the Recovery at [http://www.dol.gov/\\_sec/media/reports/BlackLaborForce/BlackLaborForce.pdf](http://www.dol.gov/_sec/media/reports/BlackLaborForce/BlackLaborForce.pdf)

<sup>ii</sup> U.S Department of Labor, The African American Labor Force in the Recovery at [http://www.dol.gov/\\_sec/media/reports/BlackLaborForce/BlackLaborForce.pdf](http://www.dol.gov/_sec/media/reports/BlackLaborForce/BlackLaborForce.pdf)

<sup>iii</sup> U.S Department of Labor, The African American Labor Force in the Recovery at [http://www.dol.gov/\\_sec/media/reports/BlackLaborForce/BlackLaborForce.pdf](http://www.dol.gov/_sec/media/reports/BlackLaborForce/BlackLaborForce.pdf)

<sup>iv</sup> BlackDemographics.com at <http://blackdemographics.com/economics/employment/>

<sup>v</sup> Linda Hamilton Krieger, *The Content of Our Categories: A Cognitive Bias Approach to Discrimination and Equal Employment*, *Stanford Law Review*, Vol 47, pp. 1163-1165 (1995) at <http://www.jstor.org/stable/10.2307/1229191>, “suggests that a large number

---

of biased employment decisions result not from discriminatory motivation, as current legal models presume, but from a large number of unintentional categorization-related judgment errors characterizing normal human cognitive functioning.”

<sup>vi</sup> Nilanjana Dasgupta, *Implicit Ingroup Favoritism, Outgroup Favoritism, and Their Behavioral Manifestations*, 17 **Soc. Just. Res.** 143, 147–48, 2004 at <http://link.springer.com/article/10.1023/B%3ASORE.0000027407.70241.15#page-1>, documents the unconscious bias of White Americans towards their own group and against African Americans and describes how these biases are manifested behaviorally. Relying on earlier studies, she indicates group based inequality in housing, education, healthcare, employment and the justice system.

<sup>vii</sup> Mary Rowe, *Micro-affirmations and Micro-inequalities*, **Journal of the International Ombudsman Association**, Vol. 1, p.1, pp.1-9 (2008) at <http://ctl.ucf.edu/events/winterconference/2008/content/Monday/microaffirmations.pdf>, describes Micro Inequalities as ...”small events which are often...hard-to-prove...covert...often unintentional, frequently unrecognized by the perpetrator which occur wherever people are perceived to be different....”

<sup>viii</sup> Rick Nauert, PHD, Senior News Editor, *Work Networks and Mentoring Less Effective for African-American Men*, in Psych Central at <http://psychcentral.com/news/2011/12/20/work-networks-and-mentoring-less-effective-for-african-american-men/32799.html>, Data from approximately 250 college-educated, African-American men was analyzed to determine factors that related to their career success. The study was published in the December issue of the *Journal of Vocational Behavior* and was done to see if conclusions from previous studies with Caucasians held true for African Americans. Findings indicated that for Black males, universal predictors of success were level of education, training and willingness to move for new opportunities rather than mentoring and networking. Mentoring was associated with greater career satisfaction, and, as a result, researchers recommended multiple mentors for Black males. Authors further discouraged organizations from implementing formal mentoring programs created for specific racial, ethnic or gender groups, since they can be viewed as favoritism and perpetuate stereotypes that those individuals need extra help to succeed. They preferred programs for all employees and noted that “... in a bad economy, having a climate that encourages learning and development is probably a better strategy than programs that are targeted toward a particular group,”



---

# Appendix A: EEOC African American Workgroup Report



## EEOC African American Workgroup Report

### Executive Summary

In January 2010, Carlton Hadden, Director of the Equal Employment Opportunity Commission's (EEOC) Office of Federal Operations (OFO), commissioned a work group to identify the obstacles that remain in the federal workplace that hinder equal employment opportunities for African Americans.[\[1\]](#)

This workgroup was created in furtherance of the EEOC's overall mission to eradicate discrimination in both the federal sector and private sector workplace. EEOC's OFO ensures equality of opportunity within the federal sector by implementing its regulatory and adjudicatory authority and through use of its oversight function.[\[2\]](#)

In advancement of the mission of the Commission and OFO's oversight responsibilities, between 2010 and 2012, the African American workgroup engaged in a series of discussions with EEO officials, various affinity groups, and subject matter experts. The workgroup decided that it would be most efficient to hold these discussions in conjunction with a similar workgroup commissioned to identify obstacles for Women in the federal workplace.[\[3\]](#)

---

In summation, the workgroup began the dialogue about obstacles facing African Americans by engaging in a roundtable discussion with federal EEO Directors, who are responsible for the implementation of a continuing affirmative employment program to promote equal employment opportunity and to identify and eliminate discriminatory practices and policies. Next, the workgroup engaged in roundtable dialogue with federal Special Emphasis Program Managers, who are tasked with assisting agencies in ensuring equal opportunity for specific protected classes that are underrepresented. Subsequently, the workgroup held roundtable discussions with various affinity groups, including Blacks in Government (BIG); Federally Employed Women (FEW); and the African American Federal Executives Association (AAFEA).

Additionally, the workgroup dialogued with non-federal interest and advocacy groups, including the Equal Justice Society, the Women's Bar Association of the District of Columbia, Workplace Flexibility 2010, and the Equal Rights Center. Finally, we received input from academic expert Dr. Paula Caplan, who is the Voices of Diversity Project Director for the W.E.B. Dubois Institute at Harvard University and an author, noted research psychologist, and professor. We assured our dialogue partners that their contributions to this discussion would only be generally reported and not specifically attributed to any particular dialogue partner.

Our dialogue partners identified many obstacles to achieving equality for African Americans in the federal workforce, and provided recommendations for overcoming those obstacles. For the most part, the impediments identified below were independently and repeatedly identified by our dialogue partners as the most formidable obstacles to equal employment opportunities for African Americans in the federal sector. We note that while we are not issuing a traditional report with findings and conclusions of the EEOC, we are issuing this report to memorialize the obstacles and recommendations identified by our dialogue partners.

### **Obstacle 1:**

Unconscious biases and perceptions about African Americans still play a significant role in employment decisions in the federal sector.

### **Background:**

---

Dialogue partners reported that discrimination today tends to be more subtle and can often be directly attributable to unconscious bias. Unconscious bias is defined as "social behavior . . . driven by learned stereotypes that operate automatically - and therefore unconsciously - when we interact with other people."

[\[4\]](#)

Prejudiced actions are largely the unconscious manifestation of mental processing and stereotypical associations, of which the prejudiced subject may be completely unaware.[\[5\]](#) While individuals are generally unaware of their unconscious biases, there are tools available to help individuals understand the biases that underlie their everyday decision making. For instance, the Implicit Association Test (IAT) is a test that assesses bias by measuring the speed with which an individual associates a categorical status (such as African American) with a given characteristic or description (such as good or bad).[\[6\]](#)

Researchers contend that a large number of biased employment decisions result not from discriminatory motivation, as current legal frameworks derived from the Civil Rights era suggest, but from a variety of unintentional categorization-related judgment errors associated with normal human cognitive functioning.[\[7\]](#)

### Issues Identified by Dialogue Partners:

The dialogue partners reported that unconscious bias creates the following issues for African Americans:

- There is a practice that African Americans are not considered, groomed, or selected for high level positions because of the stereotypical view (or unconscious bias) that those positions are considered nontraditional for African Americans.
- There is a stereotypical assumption (or unconscious bias) that African Americans who are in high level positions cannot successfully perform in those positions because those positions are considered nontraditional for African Americans.

- 
- Individuals may not be aware that their decisions are motivated by bias because it is subconscious rather than intentional, and therefore they do not take steps to change their biased decision making.
  - It is difficult to prove discrimination motivated by unconscious bias because it is not conducive to current legal analysis.

### Recommendations of Dialogue Partners:

The dialogue partners made the following recommendations to address unconscious biases that affect African Americans:

- Conduct unconscious bias training for all employees so they can become aware of their biases, such as:

All selection panelists and selection officials should receive comprehensive training on unconscious bias that will keep them attuned to the subtle and unconscious ways that race bias can negatively affect all aspects of employment.

Special Emphasis Program Managers should sponsor events that feature discussions and presentations on unconscious bias. Such discussions may feature academic and social science researchers to educate employees on unconscious bias theory.

Agencies should conduct interactive exercises that allow "actors" to act out real life offensive situations and the audience can participate by asking questions that explore why the offende was offended or why the offender did not realize what they said or did was offensive. The exercises should address "micro-inequities," which are small slights, subtle discrimination and tiny injustices in the workplace. [\[8\]](#)

- Legal experts must analyze how unconscious bias can be evaluated as evidence of discrimination under Title VII and other federal antidiscrimination laws.

### Obstacle 2:

---

African Americans lack adequate mentoring and networking opportunities for higher level and management positions

### Background:

Our dialogue partners reported that African Americans lack sufficient mentoring and networking opportunities in the federal sector. The purpose of mentoring and networking opportunities is the professional and personal development of an individual.<sup>[9]</sup> Mentoring is viewed as crucial for enhancing an individual's skills and intellectual development; for using influence to facilitate an individual's entry and advancement; for welcoming the individual into a new occupational and social world and acquainting the individual with its values, customs, resources, and role players; and for providing role modeling behavior.<sup>[10]</sup>

Formal and informal mentoring and support from superiors and coworkers are key factors that help place African Americans on the organizational fast track. One study found that 73% of African American executives who reported having informal mentors at work had faster salary and total compensation growth than those without an informal mentor.<sup>[11]</sup> Social science research has established a direct correlation between having mentors and increased occurrences of job growth, promotions and salary increases.<sup>[12]</sup>

Similarly, networking opportunities are vital for a diverse workplace because a network of professional contacts can help African Americans find unadvertised jobs, build their professional skills, and make them more employable by having someone vouch for them. Research has led scholars to conclude that African Americans suffer in the labor market from having weaker social networks than other groups.<sup>[13]</sup> Having friends and relatives who can introduce someone to selecting officials or tell them about ripe opportunities has proven to be one of the most critical factors in getting work.<sup>[14]</sup> Such connections can also help people hold onto their jobs.<sup>[15]</sup>

One means of networking is the establishment of affinity groups, also called networking groups, which provide forums for employees to gather socially, meet other individuals with similar interests, and share ideas. Many federal agencies have found positive effects from affinity groups. For example, the Central Intelligence Agency (CIA) has found that affinity groups make employees feel more valued.<sup>[16]</sup>

---

### Issues Identified by Dialogue Partners:

The dialogue partners reported that a lack of mentoring and networking opportunities create the following issues for African Americans:

- African Americans are less likely to have multidimensional relationships that combine social components with work-based components.
- African Americans are less likely to receive crucial information about career advancement, including coaching about networking, tips on informal or unwritten rules of the workplace, or information about job opportunities.
- Few management officials formally mentor any employees, and even fewer mentor employees who are African American.
- African Americans are less likely to become managers and senior executives because managers and senior executives tend to be groomed for their positions by mentors who steered and prepared them for career advancement.

### Recommendations of Dialogue Partners:

The dialogue partners made the following recommendations to address mentoring and networking issues that affect African Americans:

- Agencies should establish formal mentoring programs and monitor their effectiveness in increasing equal employment opportunities.
- Agencies should appoint Mentoring Program Managers to oversee the mentoring activities and metrics should be developed to assess the success of mentorship programs and activities.
- Group mentoring may be an option for agencies to consider, wherein a mentor may work with multiple employees at a time to discuss various career development topics.

- 
- Senior Level officials should be encouraged to mentor subordinates.
  - Agencies should foster mentoring without regard to race or any other protected basis.
  - Mentors should work with employees to develop Individual Development Plans (IDPs) that identify helpful training and generally create a roadmap for employees' career advancement and fulfillment.
  - Mentors should be used to help employees acquire specific technical and leadership skills; to address succession planning needs; and in adjusting socially to the workplace.
  - All agencies should establish an African American affinity group, and ensure that the group has the necessary resources in order to provide meaningful networking opportunities for African Americans.
  - Agency senior executives should sponsor and champion African American affinity groups, should notify the group of job opportunities, and should act as a liaison between the affinity group and upper level management.

### Obstacle 3:

Insufficient training and development assignments perpetuate inequalities in skills and opportunities for African Americans.

### Background:

Our dialogue partners reported that insufficient training and development opportunities pose a significant impediment to the realization of equal employment opportunities for African Americans in the federal sector. Training is planned, organized experiences that assist in the gaining or expansion of key competencies.<sup>[17]</sup> Training not only builds needed competencies in order to achieve mission success and performance objectives, but also helps prepare employees to take on new or expanded work duties and positions, including management positions.

---

Development assignments are temporary projects assigned for the purpose of exposing employees to work duties and environments that will prepare them for promotional opportunities. One example of a development assignment is the opportunity to act in a supervisory capacity. An MSPB report issued in 2009 found that 13.9% of African American federal employees reported that they had served as acting supervisor at least regularly, whereas 22.3% of White employees reported that they had served as acting supervisor.<sup>[18]</sup> This may place African Americans at a distinct disadvantage for promotions because serving in an acting supervisory capacity is often a gateway experience for supervisory or higher level positions. As noted by the MSPB, employees who had served in an acting supervisory capacity were "more likely to have received a greater number of promotions during the course of their Government careers."<sup>[19]</sup>

### Issues Identified by Dialogue Partners:

The dialogue partners reported that a lack of training and development assignments creates the following issues for African Americans:

- African Americans are less likely to be offered the chance to act in supervisory positions than White males.
- Standards for granting training for African Americans are not transparent or objective.
- African Americans generally are not given as many developmental assignments as their White counterparts.
- Through development assignments, managers often steer African Americans into non-management tracks and positions such as staff positions or human resources, research, or administration rather than managerial or high level positions.
- Training and development opportunities can lead to higher levels of performance, and therefore higher performance evaluations. Several dialogue partners also reported that African Americans generally receive lower performance evaluations than White males, which can inhibit their promotion potential.



---

## Recommendations of Dialogue Partners:

The dialogue partners made the following recommendations to address the lack of training and development assignments that affect African Americans:

- Agencies should establish objective and transparent criteria for granting employees' requested training and offering developmental assignments.
- In the case of scarce resources for training and where all qualified candidates who want training cannot be approved, agencies should consider using lotteries to determine who should receive training. Otherwise, when possible, a diverse pool of multiple officials can determine decisions on training requests.
- Agencies should monitor and track training approvals and denials to evaluate whether there is disparate treatment in training.
- Supervisors should consider all subordinate employees for acting supervisory appointments.
- Supervisors should assist employees in developing IDPs that reflect their career goals and aspirations and in receiving training and developmental opportunities that can help them reach those goals.
- Agencies should provide employees with easily accessible lists of courses and training on leadership development.
- Agencies should emphasize that employees who volunteer for difficult assignments and pursue training can distinguish themselves from their peers and increase their chances of promotion.

---

## Obstacle 4:

Narrow recruitment methods negatively impact African Americans.

### Background:

Our dialogue partners reported that narrow recruitment methods negatively impact African Americans in the federal sector. Recruitment is the activity employers use to create a continuous pool of qualified job applicants. Broad and effective recruitment practices are important because they ensure an effective and diverse workforce with people from different backgrounds who will have wide-ranging and creative ways to problem solve and will be able to produce innovative solutions in the workplace.

Many organizations use affirmative outreach efforts in order to ensure that their recruitment methods result in a diverse pool of qualified individuals.<sup>[20]</sup> When the pool of qualified individuals is not diverse, these organizations expand recruitment efforts and require that extra measures be taken to identify, recruit, and hire underrepresented groups such as African Americans.<sup>[21]</sup> These extra measures often include media advertisements, participation in job fairs, word of mouth, internships, and ongoing relationships with community organizations and schools.

### Issues Identified by Dialogue Partners:

The dialogue partners reported that narrow recruitment methods create the following issues for African Americans:

- Agencies recruit too narrowly by preferring candidates who attended perceived prestigious universities and colleges, which tend to have low percentages of African American graduates.
- Agencies do not adequately advertise for high level and management positions at educational institutions with high percentages of African American students.

- 
- Agencies do not utilize African American professional organizations to recruit qualified African American candidates.
  - Agencies are not adequately recruiting African American interns for professional apprenticeships or partnering with Historically Black Colleges and Universities (HBCUs) and African American professional organizations.

### Recommendations of Dialogue Partners:

The dialogue partners made the following recommendations to address narrow recruitment methods that negatively affect African Americans:

- Agencies should expand recruitment methods by entering into partnerships with affinity groups, professional organizations, universities, and media that will facilitate dialogue with African Americans who may be interested in careers in the federal government.
- Agency recruiters, representatives, and interviewers should be trained on cultural competency, EEO, diversity issues, and unconscious bias theory.
- Agencies should use internships to introduce African American students to federal careers and should consider awarding scholarships.
- Agencies should focus on the individual abilities of candidates rather than their branding, i.e., specific schools.
- Agencies should think of recruitment not only as attracting candidates for specific vacancies or internships, but also as an ongoing way to market the federal workplace as a desirable place to work. For instance, agencies should consider participating in high school career day events; host field trips to the agencies; and make presentations at meetings and conferences of professional associations.
- Agencies should widen their recruitment pool to attract and recruit qualified African Americans from the private sector into the federal sector. Thus, federal agencies should recruit at private sector job fairs and private sector professional organization events targeted at African Americans.

- 
- Agencies and OPM should publicize and recruit candidates for the Presidential Management Fellows Program<sup>[22]</sup> through partnerships with HBCUs, professional organizations, African American graduate student associations, and job fairs.

## Obstacle 5:

The perception of widespread inequality among African Americans in the federal workforce hinders their career advancement.

### Background:

According to our dialogue partners, widespread perceptions of inequality among African Americans in the federal sector negatively impacts their career advancement. Researchers have affirmed that perceptions of unfairness or inequality can impact the career advancement of underrepresented groups.<sup>[23]</sup> Employees who feel that their chances for advancement in an agency are limited are less likely to be highly motivated to pursue higher level positions and management.<sup>[24]</sup> For example, according to the Expectancy Theory, motivation is created when an employee expects that accomplishment will be followed by rewards.<sup>[25]</sup> However, when an employee perceives that there is a low probability that promotion is available to him or people in his demographic group, employees naturally are less motivated to contribute to the organization.<sup>[26]</sup> Further, employees who feel that they have little chance of promotion are likely to have feelings of injustice.<sup>[27]</sup> Similarly, the Equity Theory suggests that feelings of injustice are stimulated if someone believes that they receive fewer rewards than others who do comparable work or produce comparable achievements.<sup>[28]</sup>

In its most recently published results from the Career Advancement Survey, the MSPB found 56 percent of African American employees reported "great" or "moderate" discrimination against African Americans on the job, while only 15 percent of employees overall said that African American federal employees experienced significant discrimination at work.<sup>[29]</sup> Additionally, 59 percent of African American federal employees said their organization was reluctant to promote minority employees into management, while just 17 percent of White employees said the same thing.<sup>[30]</sup>

### Issues Identified by Dialogue Partners:

---

The dialogue partners reported that perceptions of widespread inequality among African Americans create the following issues for African Americans:

- Perceptions of widespread inequality among African Americans depress their pursuit of career-enhancing activities and management positions.
- Cynicism about equal employment opportunities has reinforced inequalities for African Americans.
- The lack of support and mentoring in upper level and management positions often results in feelings of isolation among African Americans in upper management.
- Perceptions of inequality are often subtly or directly communicated to African Americans who are not in management, which reinforces widespread fears and perceptions that African Americans must sacrifice social support and racial identity in order to be successful in management.

### Recommendations of Dialogue Partners:

The dialogue partners made the following recommendations to address the perceptions of widespread inequality among African Americans:

- Agency heads should make a commitment to address inequities in a proactive and effective manner, and should become more visible and hands-on in managing diversity and holding senior management accountable for results.
- Agency heads should also:
  - Seek to include all groups in diversity initiatives;
  - Communicate the message that diversity is a priority and that it promotes the mission of the agency;

---

Consistently monitor agency diversity programs to ensure effectiveness;

Ensure that managers have technical as well as interpersonal, communications, and management skills;

Reward managers who comply with and promote diversity and hold managers accountable for diversity and EEO compliance in their performance evaluations;

Expand and utilize African American Special Emphasis Programs; and

Be briefed by African American affinity groups and African American Special Emphasis Program Managers on obstacles.

## Obstacle 6:

Educational requirements create obstacles for African Americans in the federal workforce.

### Background:

Dialogue partners reported that educational requirements create obstacles for some African Americans in the federal sector. The Commission has noted that educational requirements can disparately impact particular protected groups, including African Americans.<sup>[31]</sup> Studies have found that there is a strong relationship between education and advancement even in occupations that do not have explicit educational requirements.<sup>[32]</sup> Likewise, studies have found a positive relationship between formal education and promotion rates for both professional and administrative positions.<sup>[33]</sup>

For most of American history, African Americans were legally and socially discouraged from pursuing professional and higher-paying careers. Likewise, African Americans were often prohibited from attending many higher educational institutions. Therefore, African Americans historically had less of an

---

incentive and opportunity to pursue higher education. The historic legal and social hurdles created huge disparities between Caucasian and African American educational attainment through most of American history. Although African Americans have made significant strides in closing the gap in educational attainment with White Americans in recent decades, the remnants of historic hurdles continue to impact the workforce today.

### Issues Identified by Dialogue Partners:

The dialogue partners reported that educational requirements create the following issues for African Americans:

- Because today's work force still reflects the vestiges of the educational inequities of yesteryear, African Americans remain generally less likely to have college and advanced degrees that often are necessary to qualify for high level and managerial positions in the federal sector.[\[34\]](#)
- Relatively few African Americans are entering into certain technical fields, such as Science, Technology, Engineering, and Mathematics (STEM).

### Recommendations of Dialogue Partners:

The dialogue partners made the following recommendations to address the obstacles that educational requirements may pose to some African Americans:

- Agencies should ensure that education requirements are job-related and a business necessity.[\[35\]](#)
- Where possible, agencies should allow practical experience to replace educational achievements.
- Agencies should consider awarding scholarships and internships to undergraduate students pursuing STEM degrees.

- 
- Agencies should partner with primary schools, secondary schools, colleges, and foundations to stimulate interest in STEM and to encourage students to attend college and pursue degrees in STEM.[\[36\]](#)

### Obstacle 7:

EEO regulations and laws are not adequately followed by agencies and are not effectively enforced.

#### Background:

Dialogue partners reported that EEO regulations, laws and policies are often not adhered to and enforced. They maintained that, while many agencies attain technical superficial compliance with EEO regulations and directives, there is an overall lack of commitment by agency heads to ensuring equal employment opportunities. Dialogue partners also maintained that agency heads are failing to incorporate EEO into their agency's missions and view EEO as a burdensome adjunct to the operations of the agency.

The EEOC's Office of Federal Operations (OFO) has enforcement authority over federal sector EEO laws and regulations under Title VII, the Rehabilitation Act, the Age Discrimination in Employment Act, the Equal Pay Act, and the Genetic Information Non-discrimination Act. OFO's responsibilities include adjudicating complaints of discrimination on appeal as well as oversight of the EEO programs of federal agencies.

Agencies are required to follow the statutes and laws under the Commission's jurisdiction, the Commission's regulations, as well as the Commission's management directives and guidance. Section II(A) of EEOC Management Directive 715 (MD-715) provides that "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." Further, EEOC regulations governing agency programs to promote equal employment opportunity require each agency to "maintain a continuing affirmative program to promote equal



---

opportunity and to identify and eliminate discriminatory practices and policies." [37] To implement the program, each agency must designate a Director of Equal Employment Opportunity who shall be under the immediate supervision of the agency head. [38]

### Issues Identified by Dialogue Partners:

The dialogue partners reported the following obstacles for African Americans because of inadequate enforcement of EEO regulations and directives:

- Although a majority of the agencies report that they hold management accountable for EEO, many agencies define "accountable" loosely, and in fact management officials are not being held accountable for EEO issues.
- EEO Directors who do not directly report to their agency's head represent a serious threat to the effectiveness of their agency's EEO programs.
- EEO programs generally lack adequate resources, including funding, to effectively prevent and address discrimination. Additionally, the lack of funding reflects agencies' lack of commitment to achieving EEO principles and goals.
- Some agencies do not display a firm commitment to equal employment opportunity because it is not embraced by agency leadership and communicated through the ranks from the top down.
- Noncompliance with EEOC directives undermines the importance of EEO and stymies the eradication of barriers to equal employment opportunities.
- The Commission lacks sufficient enforcement powers, or "lacks teeth", to effectively combat discrimination and eradicate impediments for African Americans.

- 
- When the Commission finds that an agency has engaged in unlawful discrimination and orders agencies to consider disciplining the responsible management officials, agencies usually do not discipline responsible management officials, which sends a strong message that EEO is not a top priority for the federal government.
  - The Commission's inability to directly order agencies to discipline managers who have been found to have engaged in unlawful discrimination sends a message to agencies, discriminators, employees, and the public that the federal government does not take discrimination seriously.

### Recommendations of Dialogue Partners:

The dialogue partners made the following recommendations to address inadequately enforced EEO regulations:

- As part of their annual performance ratings, managers, supervisors, and senior executives should be evaluated in at least one element that assesses their commitment to equal employment opportunity principles and goals.
- Awards, bonuses, and promotions should be contingent on managements' actions in EEO, and agencies should not grant proven discriminators awards, promotions, outstanding performance evaluations, etc.
- Agency should consider demotion and/or removal of managerial duties of management officials who have been found to have engaged in unlawful discrimination or have inadequately responded to harassment.
- The EEOC should issue an agency "EEO Scorecard" that evaluates agencies' EEO programs, inclusiveness, and accomplishments in various critical EEO elements, and it should be presented in a digestible, user-friendly manner that is available to the public.
- The EEOC should publicize findings of discrimination in the federal sector via press releases.

- 
- The EEOC should seek legal authority to order punishment for responsible management officials.
  - The EEOC should enter into a new agreement with the Office of Special Counsel (OSC) and explore ways to refer more cases in which agencies have failed to comply with our orders or if a violation warrants prosecution by OSC.

## Conclusion

The work of the Commission and its dialogue partners is timely. On February 22, 2012, the EEOC approved its Strategic Plan for Fiscal Years 2012-2016. The Strategic Plan establishes a framework to achieve the EEOC's mission to stop and remedy unlawful employment discrimination and to promote equal opportunity in the workplace. With regard to the federal sector, the new Strategic Plan sets forth our objective to use education and outreach to prevent employment discrimination, deliver excellent service through effective systems, update technology, have a skilled and diverse workforce, and combat employment discrimination through strategic law enforcement.

Through our discussions with our dialogue partners, we have learned that further research into the identified obstacles is necessary. An in-depth statistical study into how these particular obstacles affect African Americans would be helpful to determine what actions can be taken to address the obstacles. In particular, in-depth research is needed in the area of unconscious bias to be able to determine its prevalence and effects on the federal sector and how the EEOC and agencies can work together to address the problem. Additionally, the Office of Federal Operations should take steps to further cultivate our relationships with the dialogue partners that partnered with this workgroup, as they will continue to provide information about and insight into the obstacles that continue to face African Americans in the federal workplace.

---

[1] We note that in the African American community the terms "African American" and "Black" are often used interchangeably. In this report, we use the term "African American."

[2] OFO's responsibilities include oversight of the EEO programs of federal agencies. The EEOC's Management Directive 715 (MD-715) provides federal agencies with policy guidance for establishing and maintaining effective programs of equal employment opportunity under Section 717 of Title VII, and Section 501 of the Rehabilitation Act of 1973 (Rehabilitation Act), as amended, 29 U.S.C. § 791 et seq. MD-715 requires agencies to take appropriate steps to ensure that all employment decisions are free from discrimination and sets forth the standards by which EEOC will review the sufficiency of agency Title VII and Rehabilitation Act programs. Moreover, pursuant to MD-715, the EEOC evaluates agency policies, procedures, and practices to identify barriers to equal employment opportunity, and the agencies specify plans to remove any barriers to equal employment opportunity.

[3] A separate report memorializing the observations and recommendations from the dialogue partners regarding issues affecting Women in the federal government is forthcoming.

[4] Americans for American Values, "*What Is Implicit Bias?*," available online at [http://www.americanvaluesinstitute.org/?page\\_id=14](http://www.americanvaluesinstitute.org/?page_id=14).

[5] *Id.*

[6] Samuel R. Bagenstos, *Implicit Bias, "Science," and Antidiscrimination Law*, Harvard Law and Policy Review, Vol. 1, p. 477 (2007).

[7] Linda Hamilton Krieger, *The Content of Our Categories: A Cognitive Bias Approach to Discrimination and Equal Employment Opportunity*, Stanford Law Review, Vol. 47, pp. 1163-1165 (1995).

[8] Mary Rowe, *Micro-affirmations and Micro-inequities*, Journal of the International Ombudsman Association, Vol. 1, No. 1, pp. 1-9 (2008).

---

[9] Kijana Crawford and Danielle Smith, *The We and the Us: Mentoring African American Women*, *The Journal of Black Studies*, Vol. 36, No. 1, pp. 52-54 (September 2005).

[10] *Id.*

[11] Price M. Cobbs and Judith L. Turnock, *Cracking the Corporate Code: The Revealing Success Stories of 32 African American Executives* (2003).

[12] *Id.*

[13] Michael A. Fletcher, *Black Jobless Rate is Twice that of Whites*, *The Washington Post*, December 14, 2012, available online at [http://www.washingtonpost.com/business/economy/2012/12/14/01b6c9be-37e5-11e2-b01f-5f55b193f58f\\_story.html](http://www.washingtonpost.com/business/economy/2012/12/14/01b6c9be-37e5-11e2-b01f-5f55b193f58f_story.html) .

[14] *Id.*

[15] *Id.*

[16] Jason Forsythe, *Winning with Diversity*, *New York Times* (2004), available online at <http://www.nytimes.com/marketing/jobmarket/diversity/affinity.html>.

[17] NASA's Goddard Space Flight Center Office of Human Capital Management, *Career Development and Training*, available online at [http://ohcm.gsfc.nasa.gov/sup\\_info/toolbox/career/career.htm](http://ohcm.gsfc.nasa.gov/sup_info/toolbox/career/career.htm).

[18] U.S. Merit Systems Protection Board, *Fair and Equitable Treatment: Progress Made and Challenges Remaining*, p. 45, (December 2009).

[19] U.S. Merit Systems Protection Board, *Fair and Equitable Treatment*, *supra* at 34.

[20] See for example, *North Carolina State University Office for Institutional Equity and Diversity: Guidelines for Recruiting a Diverse Workforce*, (June 2011), available online at [http://oied.ncsu.edu/oied/hiring/OEO\\_Recruitment\\_Guidelines.pdf](http://oied.ncsu.edu/oied/hiring/OEO_Recruitment_Guidelines.pdf) .

---

[21] Id.

[22] The Presidential Management Fellows Program is a prestigious two year paid government fellowship sponsored by the Office of Personnel Management (OPM). Since 1977, the Presidential Management Fellows Program has matched outstanding graduate students with exciting federal opportunities. Agencies can hire very competitive individuals from a network of graduate schools that nominate their best students. Finalists are pre-qualified at the GS-9 level, although agencies may initially appoint at the GS-9, GS-11, or GS-12 or equivalent, available online at <http://www.pmf.gov/about/index.aspx> .

[23] Ray Friedman, Melinda Kane, and Daniel B. Cornfield, *Social Support and Career Optimism: Examining the Effectiveness of Network Groups Among Black Managers*, *Human Relations*, Vol. 51, No. 9, p. 1157 (1998).

[24] Id.

[25] Id.

[26] Id.

[27] Id.

[28] J. Stacy Adams and Sara Freedman, *Equity Theory Revisited: Comments and Annotated Bibliography*, *Advances in Experimental Social Psychology*, Vol. 9, pp. 43-90 (1976).

[29] U.S. Merit Systems Protection Board, *2007 Career Advancement in Workforce Diversity Survey*, p. 55.

[30] Id. at p. 50.

---

[31] U.S. Equal Employment Opportunity Commission, Compliance Manual, Section 15, Race and Color Discrimination, No. 915.003, at 15-V.B. (April 19, 2006), available online at <http://www.eeoc.gov/policy/docs/race-color.html#VB> .

[32] U.S. Merit Systems Protection Board, *Women in the Federal Government: Ambitions and Achievements*, p. 13 (May 2011).

[33] U.S. Merit Systems Protection Board, *Fair and Equitable Treatment*, *supra* at 36.

[34] According to the U.S. Census Bureau's most recent statistics on educational attainment, 81 percent of African Americans 25 years of age or older had at least a high school diploma or its equivalent in 2009, 18 percent had at least a bachelor's degree, and six percent had an advanced degree (master's, doctorate, medical, or law). In contrast, among non-Hispanic Whites, 90 percent had a high school diploma, 31 percent had at least a bachelor's degree, and 12 percent had an advanced degree. U.S. Census Bureau, *Educational Attainment in the United States: 2009* (February 2011), available online at <http://www.census.gov/prod/2012pubs/p20-566.pdf> .

[35] "Educational requirements obviously may be important for certain jobs. For example, graduation from medical school is required to practice medicine. However, employers often impose educational requirements out of their own sense of desirable qualifications. Such requirements may run afoul of Title VII if they have a disparate impact and exceed what is needed to perform the job." As the Supreme Court stated in *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971), which is one of its earliest interpretations of Title VII: "History is filled with examples of men and women who rendered highly effective performance without the conventional badges of accomplishment in terms of certificates, diplomas, or degrees. Diplomas and tests are useful servants, but Congress has mandated the commonsense proposition that they are not to become masters of reality." EEOC Compliance Manual Section 15, "Race and Color Discrimination," No. 915.003, at VI.B.2 (Apr. 19, 2006).

[36] For instance, in December 2010, the National Aeronautics and Space Administration (NASA) selected the United Negro College Fund Special Programs Corporation to administer a \$1 million career development and educational program designed to address the critical shortage of minority students in science and engineering fields. Likewise, NASA's Minority University Research and Education Program strives to ensure that underrepresented and underserved students participate in NASA education and research projects in pursuit of STEM careers. Additionally, the Minority University Research and Education

---

Program enhances the research needs and technology enterprises of HBCUs, and NASA's Office of Education encourages HBCUs to collaborate with teacher preparation programs that improve the quality and diversity of STEM teachers. Available online at [http://www.nasa.gov/home/hqnews/2010/dec/HQ\\_10-342\\_Science\\_Careers\\_Program.html](http://www.nasa.gov/home/hqnews/2010/dec/HQ_10-342_Science_Careers_Program.html) .

[37] 29 C.F.R. § 1614.102(a).

[38] 29 C.F.R. § 1614.102(b)(4).

<sup>ix</sup> 2008 U.S. Department of Agriculture employee roster of employees online covers civil servants at USDA's Animal and Plant Health Inspection Service (APHIS); Departmental Administration (DA), Food Safety and Inspection Service (FSIS); the Food and Nutrition Service (FNS); the Farm Service Agency (FSA); the Forest Service (USFS); the Natural Resources Conservation Service (NRCS); the Research, Education, and Economics program agency (REE); the Rural Development program agency (RD), and the USDA Office of the Inspector General (OIG) at <http://archive.org/details/U.s.DepartmentOfAgricultureEmployeeRosterAndSalaryList2008>.