



## Office of Inspector General

U.S. Consumer Product Safety Commission

# Review of the CPSC's Equal Employment Opportunity Program

April 27, 2021

Report 21-A-06

## **Vision Statement**

We are agents of positive change striving for continuous improvements in our agency's management and program operations, as well as within the Office of Inspector General.

## **Statement of Principles**

We will:

Work with the Commission and the Congress to improve program management.

Maximize the positive impact and ensure the independence and objectivity of our audits, investigations, and other reviews.

Use our investigations and other reviews to increase government integrity and recommend improved systems to prevent fraud, waste, and abuse.

Be innovative, question existing procedures, and suggest improvements.

Build relationships with program managers based on a shared commitment to improving program operations and effectiveness.

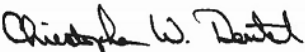
Strive to continually improve the quality and usefulness of our products.

Work together to address government-wide issues.



April 27, 2021

TO: Robert S. Adler, Acting Chairman  
Elliot F. Kaye, Commissioner  
Dana Baiocco, Commissioner  
Peter A. Feldman, Commissioner

FROM: Christopher W. Dentel, Inspector General 

SUBJECT: Review of the CPSC's Equal Employment Opportunity Program

The U.S. Consumer Product Safety Commission's (CPSC) Equal Employment Opportunity (EEO) program is responsible for compliance with all equal employment opportunity laws and regulations and regularly reports on its activities to the U.S. Equal Employment Opportunity Commission. The CPSC Office of Inspector General retained the services of GKA, P.C. (GKA), an independent public accounting firm to assess EEO compliance with statutory requirements as well as the accuracy, completeness, and reliability of their reported information. This was performed in accordance with the Council of the Inspectors General on Integrity and Efficiency's Quality Standards for Inspection and Evaluation (CIGIE QSIE).

GKA determined that while the EEO program complied with most laws, regulations, and reporting requirements, there were deficiencies regarding the reporting and documenting of counselor and alternative dispute resolution training. There was also inadequate oversight of training for contractors.

In connection with our contract, we reviewed GKA's report and related documentation and inquired of its representatives. Our review was not intended to enable us to express, and we do not express, an opinion on the matters contained in the report. GKA is responsible for the attached report. However, our review disclosed no instances where GKA did not comply, in all material respects, with CIGIE's QSIE.

In the next 30 calendar days, in accordance with Office of Management and Budget Circular A-50, the CPSC is required to provide me with management's Corrective Action Plan describing the specific actions they anticipate taking to implement each recommendation.

Should you have any questions, please contact me.



Certified Public Accountants  
& Consultants

Member of the American Institute of Certified Public Accountants

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Office of Inspector General  
U.S. Consumer Product Safety Commission  
4340 East-West Highway  
Bethesda, MD 20850

RE: U.S. Consumer Product Safety Commission's (CPSC) Office of Equal Employment Opportunity and Minority Enterprise Program and Practices Evaluation for Fiscal Years 2018 and 2019

This report presents the results of GKA, P. C.'s (GKA) independent evaluation of CPSC's Office of Equal Employment Opportunity and Minority Enterprise (EEO) compliance with 29 C.F.R. §1614 and the reporting requirements described in U.S. Equal Employment Opportunity Commission (EEOC) Management Directive (MD) 110 for fiscal years 2018 and 2019. The CPSC Office of Inspector General (OIG) contracted with GKA to conduct this independent evaluation. Our objective was to determine whether the CPSC complied with the requirements of specific sections of 29 C.F.R. §1614, EEOC MD 110 and MD 715, CPSC directives, policies and procedures. The report contains our findings and recommendations. The Director of the EEO program provided comments in the management response section of the report.

This evaluation was conducted in accordance with the Council of the Inspectors General on Integrity and Efficiency (CIGIE), *Quality Standards for Inspection and Evaluation*. We believe that the evidence obtained provides a reasonable basis for our conclusions based on the objectives of the evaluation. Our report contains the evaluation objective, scope, methodology and results.

This report is for the purpose of concluding on the objectives described above. Accordingly, this report is not suitable for any other purpose.

We appreciate the assistance we received from the staff of CPSC and appreciate the opportunity to serve you.

GKA, P.C.

Washington, DC  
March 22, 2021

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## INTRODUCTION

The objective of this evaluation was to determine whether the U. S. Consumer Product Safety Commission (CPSC) Office of Equal Employment Opportunity and Minority Enterprise (EEO) complied with 29 C.F.R. 1614 and the reporting requirements described in U.S. Equal Employment Opportunity Commission (EEOC) Management Directive (MD) 110 and MD 715 for fiscal years (FY) 2018 and 2019.

To accomplish this objective, the Office of Inspector General (OIG) hired independent public accountant GKA, P.C. (GKA) to review EEO policies, procedures, practices and reports to determine compliance with the applicable laws and regulations.

The federal government requires agencies to comply with various laws and regulations governing the administration and reporting of alleged incidents involving employment discrimination against applicants for federal employment, current federal employees or former federal employees. In addition, the EEOC issues management directives and provides interpretations of these laws and regulations to support federal agencies.

The CPSC has established an office with a direct reporting line to the CPSC Chairman in accordance with 29 C.F.R. §1614 to implement the agency's directives and establish procedures governing the handling and reporting of employment discrimination complaints.

The evaluation, which was performed from November 2020 through March 2021, was conducted in accordance with the Council of the Inspectors General on Integrity and Efficiency (CIGIE), Quality Standards for Inspections and Evaluations. GKA believes that the evidence obtained provides a reasonable basis for the findings and conclusions based on the evaluation objectives. The purpose of this report is to communicate the results of GKA's evaluation and related findings and recommendations.

More information on the objective, scope and methodology can be found later in the report.

The CPSC's EEO complied with 29 C.F.R. §1614 and the reporting requirements described in EEOC MD 110 and MD 715 except for the following:

1. Adequate counselor and alternative dispute resolution training
2. Adequate oversight of contractor training

Accordingly, we make the following recommendations to improve the CPSC's EEO program.

1. Establish policies and procedures that require and document alternative dispute resolution training for all the agency managers and supervisors.
2. Establish a regular interval for alternative dispute resolution training, preferably at least annually.

3. Enforce counselor, investigator, and Alternative Dispute Resolution training requirements in accordance with EEOC Management Directive 110.
4. Implement written policies and procedures to document and maintain independent contractor training compliance with EEOC Management Directive 110. The documentation should, at a minimum, include the name of the trainee, the nature and type of training, the provider, and the date of training. For neutrals the documentation should include evidence of practical training and references.

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## BACKGROUND

The CPSC is an independent federal regulatory agency created by Congress in 1972 under the provisions of the Consumer Product Safety Act (Public Law 92-573) to protect the public against unreasonable risks of injuries associated with consumer products. The CPSC also regulates products covered by a variety of other acts, such as the Virginia Graeme Baker Pool and Spa Safety Act, the Children's Gasoline Burn Prevention Act, the Flammable Fabrics Act, the Federal Hazardous Substances Act, the Poison Prevention Packaging Act and the Refrigerator Safety Act. The CPSC's work to help ensure the safety of consumer products such as toys, cribs, power tools and household chemicals contributed significantly to the decline in the rate of deaths and injuries associated with consumer products over the past 40 years.

The CPSC is headed by Commissioners appointed by the president with the advice and consent of the Senate. The Chairman of the CPSC is designated by the president and confirmed by the Senate. The CPSC has established an office with a direct reporting line to the CPSC Chairman to implement the agency's directives and establish procedures governing the handling and reporting of employment discrimination complaints. The EEO is responsible for assuring compliance with all equal employment opportunity laws and regulations. In FY 2018 the office consisted of a director, attorney advisor and a vacant EEO specialist position. In FY 2019 the office consisted of a director and EEO specialist.

EEO provides advice and assistance to the Chairman and CPSC staff on all equal employment opportunity related issues. EEO also manages the discrimination complaint process, including the adjudication of discrimination complaints, and facilitates Affirmative Employment Program planning for women, minorities, individuals with disabilities and disabled veterans. EEO identifies trends, personnel policies and practices that have an impact on equal employment opportunities and makes recommendations to the Chairman to improve the effectiveness and efficiency of equal employment opportunity programs and methods.

The federal government requires agencies to comply with the equal employment opportunity laws and regulations. This includes the EEOC management directives governing the administration and reporting of incidents involving employment discrimination against applicants for federal employment, current federal employees or former federal employees.

EEOC Regulation 29 C.F.R. §1614.602 requires federal agencies and departments covered by 29 C.F.R. §1614.103(b), to report information concerning pre-complaint counseling, and the status, processing and disposition of complaints under this part at such times and in such manner as the EEOC prescribes. Agencies annually submit the Form 462 report to EEOC, which summarizes the details of each EEO complaint processed by the agency each fiscal year. The report also contains summary information about agency staff resources, staff training, EEO Director reporting lines and contact information that is submitted annually on October 31 or the next business day.



Title II of the No FEAR Act of 2002 requires each federal agency to submit to Congress, EEOC and the Attorney General an annual report that includes the agency's fiscal year Equal Employment Opportunity complaint statistics among other requirements. The report is submitted not later than 180 days after the end of the fiscal year.

The OIG, in performing its oversight roles under the Inspector General Act, has access to all records, reports, audits, reviews, documents, papers, recommendations or other material available related to the CPSC's EEO programs and operations. To ensure the agency complied with equal employment opportunity laws and regulations, the OIG contracted with GKA to evaluate the EEO's compliance with laws and regulations.

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## FINDINGS AND RECOMMENDATIONS

**Finding I:** Inadequate counselor and alternative dispute resolution training

### **Condition**

This evaluation noted inadequate counselor training in FY 2018 and 2019. One of three counselors in FY 2018 and one of two counselors in FY 2019 did not receive training required by EEOC MD 110. CPSC managers and supervisors did not receive Alternative Dispute Resolution (ADR) training required by EEOC MD 110 in FY 2018 or FY 2019.

### **Criteria**

EEOC MD 110 requires that all new counselors and investigators receive at least thirty- two (32) hours of introductory training before conducting counseling and investigation duties and that all counselors and investigators receive at least eight (8) hours of continuing training every year.

EEOC MD 110 further requires that the agency provide all managers and supervisors with EEO ADR training at regular intervals.

### **Cause**

This occurred because neither EEO nor the Office of Human Resource Management require ADR training for agency managers and supervisors, did not define a regular interval for ADR training, and did not enforce the training requirements for counselors and agency managers and supervisors.

### **Effect**

The EEO program is at risk of being non-compliant with federal law and ineffective due to lack of counselor and ADR training.

### **Recommendation**

We recommend CPSC management:

1. Establish policies and procedures that require and document alternative dispute resolution training for all the agency managers and supervisors.
2. Establish a regular interval for alternative dispute resolution training, preferably at least annually.

3. Enforce counselor, investigator, and Alternative Dispute Resolution training requirements in accordance with EEOC Management Directive 110.

**Finding 2:** Inadequate oversight of contractor training

**Condition**

EEO oversight of independent contractors (counselors, investigators, and Alternative Dispute Resolution neutrals) qualifications and training is inadequate. Independent contractors are allowed to “self-certify” completion of the training and continuing education required by EEOC MD 110. However, EEO could not provide any documentation supporting contractor training in fiscal years 2018 and 2019 nor evidence of any review of contractor training.

**Criteria**

EEOC MD 110 requires that all new counselors and investigators receive at least thirty- two (32) hours of introductory training before conducting counseling and investigation duties and receive at least eight (8) hours of continuing training every year. EEOC MD 110 also requires that persons who serve as neutrals complete at least 20 hours of basic mediation skills training; as well as practical training and obtain at least two references from two qualified mediators or trainer/evaluators.

**Cause**

EEO has not implemented policies and procedures to inspect and retain documentation of independent contractor compliance with training requirements found in EEOC MD 110.

**Effect**

Failure of EEO to document contractor compliance with the training requirements of EEOC MD 110 may cause the EEO program to be non-compliant with the law and impede their ability to do their jobs.

**Recommendation**

We recommend management:

4. Implement written policies and procedures to document and maintain independent contractor training compliance with EEOC Management Directive 110. The documentation should, at a minimum, include the name of the trainee, the nature and type of training, the provider, and the date of training. For neutrals the documentation should include evidence of practical training and references.

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## OBJECTIVE, SCOPE AND METHODOLOGY

### Objective

The objective of this evaluation was to determine whether the CPSC's EEO program complied with the statutory requirements of 29 C.F.R §1614 and the reporting requirements described in EEOC MD 110 and MD 715 for fiscal years 2018 and 2019.

This evaluation was conducted in accordance with the CIGIE, Quality Standards for Inspection and Evaluation. We believe that the evidence obtained provides a reasonable basis for our conclusions based on the objectives of the evaluation.

### Scope

The scope of the evaluation is CPSC's compliance with specific sections of 29 C.F.R. §1614, and EEOC MD 110 and MD 715 for fiscal years 2018 and 2019. The focus of the engagement was CPSC's compliance with the statutory requirements, in addition to confirming the accuracy, completeness and reliability of the information reported rather than on measuring program effectiveness.

Consequently, the scope of the evaluation includes:

- (1) Determined whether the CPSC complied with specific sections stated in 29 C.F.R §1614, EEOC MD 110 and MD 715 for fiscal years 2018 and 2019, CPSC directives, policies and procedures.
- (2) Evaluated the design of the internal control system to determine whether it is adequate to mitigate the risk of errors and noncompliance of the equal employment opportunity (statutory) requirements.
- (3) Confirmed the accuracy, completeness and reliability of the information as reported.

### Methodology

To achieve our evaluation objectives, we performed the following activities:

- (a) Obtained and reviewed the specific criteria stated in 29 C.F.R. §1614, EEOC MD 110, EEOC MD 715, CPSC Directives 0980, and CPSC policies and procedures to:
  - identify and document our understanding of the criteria to be used to evaluate the CPSC compliance

- identify and document the type of evidence to be examined in support of the evaluation objective, scope, conclusion and recommendation
  - design the procedures to conduct the evaluation
- (b) Obtained and reviewed the CPSC's organizational chart, to validate the roles and responsibilities of individuals involved in the execution of the equal employment opportunity program and to ensure there is adequate segregation of duties.
- (c) Used a questionnaire to gather information on the specific criteria to be evaluated from the EEO to determine whether the CPSC has developed and implemented the required policies, procedures and practices to comply with the equal employment opportunity requirements.
- (d) Conducted walkthroughs with the EEO's subject matter experts to confirm that policies, procedures and practices have been put in place by management to mitigate the risk of errors and noncompliance with the equal employment opportunity requirements.
- (e) Obtained, inspected and reviewed the policies, procedures and practices to ensure they are complete, accurate and consistent with the specific criteria, and that the CPSC complied with the equal employment opportunity reporting requirements.
- (f) Obtained and reviewed the population of transactions related to discrimination and harassment complaints to understand the nature and scope of the complaints. Judgmentally selected a sample of the complaints for verification and validation and:
- obtained the source documents used to support the transactions related to the complaints
  - verified and validated the source documents to ensure the CPSC complied with the equal employment opportunity requirements related to the execution of the discrimination and harassment complaints

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## MANAGEMENT RESPONSE

We provided management with copies of the notices of findings and recommendations and management concurred with them.

After the exit conference, management provided the following clarification regarding Finding I. Management stated:

We provided information stating that the counselors without training were not assigned to cases due to the MD110 requirements. Both counselors were collateral duty so we have the ability to use an outside contractor during the time they did not have up to date training. We did not have any counselor work on a case without up to date training. We provided documentation for the training they took. Occasionally, the collateral counselors will be unable to complete training. Counselors who are not up to date on training are not assigned cases.

Therefore, the issue is really the lack of an alternative resolution training schedule for managers and supervisors.

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## **APPENDIX A. TABLE OF ACRONYMS USED**

Acronyms	Description of Acronyms
ADR	Alternative Dispute Resolution
CIGIE	Council of the Inspectors General on Integrity and Efficiency
CPSC	U. S. Consumer Product Safety Commission
EEO	CPSC Office of Equal Employment Opportunity and Minority Enterprise
EEOC	U. S. Equal Employment Opportunity Commission
GKA	GKA, P.C., Certified Public Accountants and Management Consultants
MD	Management Directive
OIG	Office of Inspector General

## CONTACT US

If you want to confidentially report or discuss any instance of fraud, waste, abuse, misconduct, or mismanagement involving CPSC's programs and operations, please contact the CPSC Office of Inspector General.



### **Call:**

301-504-7906  
1-866-230-6229



### **On-line complaint form:**

Click [here](#) for complaint form.  
Click [here](#) for CPSC OIG Website.



### **Write:**

Office of Inspector General  
U.S. Consumer Product Safety Commission  
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