

POLICY BRIEF

SUMMARY—SECTION 501 RULE, AS AMENDED (2017), REQUIRING AFFIRMATIVE ACTION FOR PEOPLE WITH DISABILITIES IN THE FEDERAL GOVERNMENT

OVERVIEW

On January 3, 2017, the U.S. Equal Employment Opportunity Commission (EEOC) published in the *Federal Register* a [final rule](#) to amend the regulations at [29 CFR 1614.203](#) implementing Section 501 of the Rehabilitation Act of 1973 (Section 501). Section 501 requires federal agencies to establish an affirmative action program for the hiring, placement and advancement of individuals with disabilities. These changes clarify the obligations that Section 501 imposes on federal agencies, as employers; they do not apply to the private sector or to state or local governments. [82 FR 654 (January 3, 2017)]

The Section 501 rule, as amended (2017), codifies a variety of obligations currently placed on federal agencies by management directives and Executive Orders. [82 FR 657 (January 3, 2017)] It also adds substantive affirmative action requirements—the most important of which specify that agencies must:

- (1) Take specific steps that are reasonably designed to gradually increase the number of employees with disabilities and the number of employees with “targeted disabilities” until they meet specific goals and sub-goals, respectively, set by the EEOC, rather than agencies themselves, as previously required; and

(2) Provide personal assistance services (PAS) to employees who, because of targeted disabilities, require such assistance in order to be at work or participate in work-related travel, unless the provision of such services would impose an undue hardship on the agency. [82 FR 654, 657 (January 3, 2017)]

The Section 501 rule, as amended (2017), does not have a retroactive effect. Further, it recognizes that agencies may need some time to develop the capacity to meet these requirements. Therefore, it gives agencies one year to make any necessary changes in policy, staff or other aspects of their operations. Thus, the applicability date of the new rule is January 3, 2018. Prior to this effective date, EEOC will provide extensive outreach and training to help agencies prepare to meet the new requirements. [82 FR 654 (January 3, 2017)]

The final Section 501 rule, as amended (2017), takes into account comments received in response to a [Notice of Proposed Rulemaking](#) (NPRM) published in the *Federal Register* on February 24, 2016.

BACKGROUND

Section 501 imposes two distinct obligations on federal agencies. First, it prohibits federal agencies from discriminating against individuals with disabilities. Section 501 provides that the standards used to determine whether a federal agency has discriminated against an individual with a disability “shall be the standards applied under title I of the Americans with Disabilities Act of 1990...and the provisions of sections 501 through 504, and 510, of the Americans with Disabilities Act of 1990...as such sections relate to employment.” EEOC regulations provide substantial guidance on these standards at [29 CFR part 1630](#). The Section 501 rule, as amended (2017), does *not* change any of the substantive nondiscrimination requirements that currently apply in the federal sector, as set forth in EEOC’s regulations and federal sector appellate decisions. [82 FR 654-655 (January 3, 2017)]

Second, Section 501 requires each federal agency to maintain, update annually and submit to EEOC an “affirmative action program plan for the hiring, placement, and advancement of individuals with disabilities,” and further directs EEOC to approve a plan if “the Commission determines...that such plan provides sufficient assurances, procedures and commitments to provide adequate hiring, placement, and advancement opportunities for individuals with disabilities.” [82 FR 655 (January 3, 2017)]

The regulations implementing the Section 501 affirmative action requirement in effect prior to the publication of the Section 501 rule, as amended (2017), simply stated that the Federal Government shall be a “model employer of individuals with disabilities,” and that federal agencies shall “give full consideration to the hiring, placement, and advancement of qualified individuals with disabilities.” The Section 501 rule, as amended (2017), codifies a variety of obligations currently placed on federal agencies by management directives (e.g., [EEOC Management Directive 715](#)) and Executive Orders (such as [EO 13163](#), [EO 13164](#), and [EO13548](#)). [82 FR 655 (January 3, 2017)]

PURPOSE AND ORGANIZATION OF POLICY BRIEF

The purpose of this policy brief is to provide stakeholders, including federal agency policymakers, Disability Program Managers, Selective Placement Program Coordinators, and members of the disability community, with a summary description of the updates, clarifications and standards EEOC will use to review and approve affirmative action plans developed by agencies in accordance with the Section 501 rule, as amended (2017). Accordingly, this policy brief may be used as a roadmap to facilitate the process of developing updated policies, practices and procedures that conform to the Section 501 rule, as amended (2017).

Topics addressed include:

- [Definitions](#)
- [Nondiscrimination](#)
- [Model Employer](#)
- [Affirmative Action Plan](#)
 - [Disability Hiring and Advancement](#)
 - [Disability Anti-Harassment Policy](#)
 - [Reasonable Accommodation Procedures](#)
 - [Reasonable Accommodation Costs](#)
 - [Accessibility of Facilities and Technology](#)
 - [Personal Assistance Services](#)
 - [Utilization Analysis and Goals](#)
 - [Recordkeeping](#)
 - [Reporting](#)
- [Commission Approval and Disapproval](#)
- [Resources](#)

In addition, this policy brief provides links to applicable documents and resources developed by EEOC.

DEFINITIONS [1614.203(a)]

The Section 501 rule, as amended (2017), provides definitions of key terms, none which are novel. Rather, many of the defined terms are simple abbreviations. [82 FR 657(January 3, 2017)]

The Section 501 rule, as amended (2017), clarifies that, for purposes of the regulation, “disability” has the same meaning that it does under the Americans with Disabilities Act (ADA) and Section 501. As amended by the ADA Amendments Act of 2008 (“ADAAA”),

and implemented by the EEOC's regulations at [29 CFR part 1630](#), the term "disability" is construed broadly and includes a wide range of medical conditions.

The term "undue hardship" also has the meaning set forth in 29 CFR part 1630. [82 FR 657 (January 3, 2017)]

The Section 501 rule, as amended (2017), also provides that the term "hiring authority that takes disability into account" means a hiring authority that permits an agency to consider disability status during the hiring process. [82 FR 658 (January 3, 2017)] The term includes the Schedule A hiring authority for individuals with intellectual disabilities, severe physical disabilities or psychiatric disabilities as set forth at 5 CFR 213.3102(u); the Veterans' Recruitment Appointment authority, as set forth at 5 CFR part 307; and the 30% or More Disabled Veteran authority, as set forth at 5 CFR 316.302(b)(4), 316.402(b)(4). [82 FR 677 (January 3, 2017)]

Further, the Section 501 rule, as amended (2017), defines the terms "personal assistance service provider" and "personal assistance services." The term "personal assistance service provider" means an employee or independent contractor whose primary job function includes provision of personal assistance services. The term "personal assistance services" means assistance with performing activities of daily living that an individual would typically perform if he or she did not have a disability, and that is not otherwise required as a reasonable accommodation, including, for example, assistance with removing and putting on clothing, eating and using the restroom.

In addition, the Section 501 rule, as amended (2017), defines the term "targeted disability" to mean a disability that is designated as "targeted disability or health condition" on the Office of Personnel Management (OPM) [Standard Form \(SF\) 256](#) or that falls under one of the first 12 categories of disability listed in Part A of question 5 of the [EEOC's Demographic Information on Applicants form](#) (also called the Applicant Flow Form). EEOC recognizes that it will be helpful for agencies to have an updated

SF-256 that conforms to the Demographic Information on Applicants form. EEOC continues to work with OPM in such an effort. In the meantime, EEOC will consider both sets of disabilities to be “targeted” for purposes of the rule. [82 FR 658 (January 3, 2017)] Under the definitions set forth in this paragraph, the term “targeted disabilities” is defined more narrowly than “disabilities”; individuals with targeted disabilities are a subset of individuals who have disabilities as defined under Section 501.

NONDISCRIMINATION [1614.203(b)] [82 FR 658 (January 3, 2017)]

The Section 501 rule, as amended (2017), restates current policy that federal agencies shall not discriminate on the basis of disability in regard to the hiring, advancement or discharge of employees, employee compensation, job training, or other terms, conditions and privileges of employment. The standards used to determine whether an agency has violated the prohibition against discrimination are those applied under the title I of the ADA.

MODEL EMPLOYER [1614.203(c)] [82 FR 658 (January 3, 2017)]

The Section 501 rule, as amended (2017), restates current policy that the Federal Government shall be a model employer of individuals with disabilities. The Section 501 rule, as amended (2017), includes technical and conforming changes to the requirement that agencies shall “give full consideration to the hiring, advancement, and retention of qualified individuals with disabilities in the federal workforce.” Agencies shall also “take affirmative action to promote the recruitment, hiring, and advancement of qualified individuals with disabilities, with the goal of eliminating under-representation of individuals with disabilities in the federal workforce.”

AFFIRMATIVE ACTION PLAN [1614.203(d)] [82 FR 658-659 (January 3, 2017)]

The Section 501 rule, as amended (2017), includes minor changes to the current policy that each agency shall adopt and implement a plan that provides sufficient assurances, procedures and commitments to provide adequate hiring, placement and advancement

opportunities for individuals with disabilities at all levels of federal employment. An agency fails to satisfy this requirement unless it has adopted and implemented a plan that meets the requirements described below.

Disability Hiring and Advancement [1614.203(d)(1)] [82 FR 659-661 (January 3, 2017)]

With respect to *recruitment*, the Section 501 rule, as amended (2017), specifies that the plan requires the federal agency to take specific steps to ensure that a broad range of individuals with disabilities, including individuals with targeted disabilities, will be aware of and encouraged to apply for job vacancies, when eligible. These steps *shall* include, at a minimum:

- Use of programs and resources that identify job applicants with disabilities, including individuals with targeted disabilities, who are eligible to be appointed under a hiring authority that takes disability into account, consistent with applicable OPM regulations (e.g., programs that provide the qualifications necessary for particular positions within the agency to individuals with disabilities, databases of individuals with disabilities who previously applied to the agency but were not hired for the positions they applied for, and training and internship programs that lead directly to employment for individuals with disabilities); and
- Establishing and maintaining contacts (which may include formal agreements) with organizations specializing in the placement of individuals with disabilities, including individuals with targeted disabilities, such as American Job Centers, State Vocational Rehabilitation Agencies, the Veterans' Vocational Rehabilitation and Employment Program, Centers for Independent Living, and Employment Network service providers.

With respect to the *application process*, the Section 501 rule, as amended (2017) specifies that the plan shall ensure that the agency has designated sufficient staff to handle any disability-related issues that arise during the application and selection processes and provided them with sufficient training, support and other resources to carry out their responsibilities. These responsibilities *shall* include, at a minimum:

- Promptly and correctly answering any disability-related questions from members of the public regarding the application and hiring processes;
- Processing requests for and ensuring that the agency provides reasonable accommodations needed by job applicants during the application and selection processes;
- Accepting applications for appointment under hiring authorities that take disability into account, consistent with applicable OPM regulations;
- Determining, in the event an individual has applied for appointment to a particular position under a hiring authority that takes disability into account, whether the individual is eligible for appointment under such authority, and if so, forwarding the application to the relevant hiring officials with an explanation of how and when the individual may be appointed, consistent with all applicable laws; and
- Overseeing any other agency programs designed to increase hiring of individuals with disabilities.

With respect to *advancement* programs, the Section 501 rule, as amended (2017), specifies that the plan shall require the agency to take specific steps to ensure that current employees with disabilities have sufficient opportunities for advancement. Such steps *may* include efforts to inform and provide opportunities to enroll in

relevant training programs, including management training when eligible; development or maintenance of mentoring programs for individuals with disabilities; and administration of exit interviews that include questions on how the agency could improve the recruitment, hiring, inclusion and advancement of individuals with disabilities.

Disability Anti-Harassment Policy [1614.203(d)(2)] [82 FR 661 (January 3, 2017)]

The Section 501 rule, as amended (2017), specifies that the plan shall require the agency to state specifically in its anti-harassment policy that harassment based on disability is prohibited, and to include in its training materials examples of the types of conduct that would constitute disability-based harassment.

Reasonable Accommodation Procedures [1614.203(d)(3)(i)] [82 FR 661-664 (January 3, 2017)]

Since 2000, [EO 13164](#) has required agencies to have written reasonable accommodations procedures, and MD-715, as updated in 2003, includes this requirement as well. In addition, EEOC has provided [policy guidance on EO 13164](#). EEOC has made this requirement part of the final rule—the plan shall require the agency to adopt, post on its public Web site, and make available to all job applicants and employees in written and accessible formats, reasonable accommodations procedures that are easy to understand. Accessible formats include American Sign Language, documents in Braille, large print, or electronic documents that can be read by screen reading software, an individual who can read the document aloud, and others. [82 FR 661 (January 3, 2017)]

The Section 501 rule, as amended (2017), also includes in the written procedures many components of reasonable accommodation procedures described in EO 13164 and MD-715. Specifically, it requires the procedures to address 20 topics. Procedures that have been modified include:

- Explaining that reassignment to a vacant position for which an employee is qualified, and not just permission to compete for such position is a reasonable accommodation, and that the agency must consider providing reassignment as a reasonable accommodation when it determines that no other reasonable accommodation will permit an employee with a disability to perform the essential function of his or her current position;
- Requiring that decision-makers communicate, early in the interactive process and periodically throughout, with individuals who have requested a reasonable accommodation;
- Explaining the agency's right to request relevant supplemental medical information if the information submitted by the requester is insufficient for specified purposes;
- Explaining that the agency will not be expected to adhere to its usual timelines if an individual's health professional fails to provide needed documentation in a timely manner;
- Explaining that, when all the facts and circumstances known to the agency make it reasonably likely that an individual will be entitled to a reasonable accommodation, but the accommodation cannot be provided immediately, the agency shall provide an interim accommodation that allows the individual to perform some or all of the essential functions of his or her job, if it is possible to do so without imposing undue hardship on the agency; and
- Explaining that individuals who have been denied reasonable accommodations, or who believe that their Section 501 rights have otherwise been violated, have the right to file complaints.

Reasonable Accommodation Costs [1614.203(d)(3)(ii)] [82 FR 663 (January 3, 2017)]

The Section 501 rule, as amended (2017), includes a provision specifying that the plan shall require the agency to take specific steps to ensure that requests for reasonable accommodation are not denied for reason of cost, and that individuals with disabilities are not excluded from employment due to the anticipated cost of a reasonable accommodation, if the resources available to the agency as a whole, excluding those designated by statute for a specific purpose that does not include reasonable accommodation, would enable it to provide an effective reasonable accommodation, without undue hardship. Such steps *shall* be reasonably designed to, at a minimum—

- Ensure that anyone who is authorized to grant or deny requests for reasonable accommodation or make hiring decisions is aware that, in accordance with the undue hardship regulations, all resources available to the agency as a whole (excluding those designated by statute for a specific purpose that does not include reasonable accommodation) are considered when determining whether a denial based on cost is lawful; and
- Ensure that anyone authorized to grant or deny requests for reasonable accommodation or to make hiring decisions is aware of, and knows how to arrange for the use of, agency resources available to provide the accommodation, including any centralized fund the agency may have for that purpose.

Some commenters stated that the final rule should require agencies to establish a “centralized fund” to pay for required reasonable accommodations. Under MD-715, agencies are asked to report whether they use a centralized fund for purposes of providing reasonable accommodations across the agency. EEOC thinks “that a centralized fund is one of the best and easiest ways to ensure that requests for reasonable accommodation are not denied for reason of cost, and that individuals with

disabilities are not excluded from employment due to the anticipated cost of a reasonable accommodation, if the resources available to the agency as a whole would enable it to provide one without undue hardship.” [82 FR 663 (January 3, 2017)]

However, EEOC was not persuaded that a centralized fund is the only way to achieve this objective. The provision in the Section 501 rule, as amended (2017), requiring agencies to take specific steps is designed to achieve these goals. The section-by-section analysis explains that the adoption of a centralized fund is an example of one such “specific step.” EEOC also explains that “the revised paragraph requires agencies to adopt systems that perform the same valuable functions of centralized funds, while providing them with flexibility to work within existing budgetary schemes.” [82 FR 663 (January 3, 2017)]

Accessibility of Facilities and Technology [1614.203(d)(4)] [82 FR 664 (January 3, 2017)]

The Section 501 rule, as amended (2017), specifies that the plan shall require the agency to adopt, post on its public Web site, and make available to all employees in written and accessible formats, a notice that:

- Explains their rights under Section 508 of the Rehabilitation Act concerning accessibility of agency technology, and the Architectural Barriers Act concerning accessibility of agency buildings and facilities;
- Provides contact information for an agency employee who is responsible for ensuring accessibility of electronic and information technology and the individual responsible for ensuring accessibility of buildings and facilities; and
- Provides instructions on how to file complaints alleging violations of Section 508 and the Architectural Barriers Act.

If an agency's investigation of a complaint shows that a different entity is responsible for the alleged violation, the plan shall require the agency to inform the individual who filed the complaint where he or she may file a complaint against the other entity, if possible.

Personal Assistance Services [1614.203(d)(5)] [82 FR 664-666 (January 3, 2017)]

PAS allowing employees to participate in the workplace may include assistance with eating, drinking, using the restroom, and putting on and taking off clothing. [82 FR 654 (January 3, 2017)] For many individuals with targeted disabilities such as paralysis or cerebral palsy, full participation in the workplace is impossible without such services. The lack of PAS in the workplace and/or the fear of losing PAS provided by means-tested assistance programs are stubborn and persistent barriers to employment for individuals with certain significant disabilities. [82 FR 665 (January 3, 2017)]

The nondiscrimination standards set forth under the ADA in 29 CFR part 1630, and incorporated into Section 501, already require agencies to provide certain job-related services to an individual with a disability as a reasonable accommodation if doing so enables the individual to apply for a job, perform job functions, or enjoy the benefits and privileges of employment, so long as the provision of such services does not impose an undue hardship on the agency. For example, an agency may be required to provide sign language interpreter services, assistance with note taking or photocopying, or use of a job coach as reasonable accommodations, absent undue hardship. The provision of other PAS needed on the job, however, such as assistance with eating or using the restroom, is not considered a reasonable accommodation under the ADA, and therefore is not considered a reasonable accommodation for purposes of the nondiscrimination requirements of Section 501. [82 FR 664 (January 3, 2017)]

EEOC concluded that agencies should, however, be required to provide PAS to individuals who need them because of a disability as part of their affirmative action obligations under Section 501. In accordance with the Section 501 rule, as amended (2017), the plan shall require the agency to provide an employee with, in addition to

professional services required as a reasonable accommodation under the ADA standards, PAS during work hours and job-related travel if:

- The employee requires such services *because of a targeted disability*;
- Provision of such services would, together with any reasonable accommodation required under the ADA standards, enable the employee to perform the essential functions of his or her position; and
- Provision of such services would not impose an undue hardship on the agency.

The plan shall state that PAS must be performed by a personal assistance service provider. The plan may permit the agency to require personal assistance service providers to:

- Provide PAS to more than one individual; and
- Perform tasks unrelated to PAS, but only to the extent that doing so does not result in failure to provide required PAS in a timely manner.

The plan shall require the agency, when selecting someone who will provide PAS to a single individual, to give primary consideration to the individual's preference to the extent permitted by law.

The plan shall prohibit the agency from taking adverse actions against job applicants and employees based on their need for, or perceived need for, PAS.

The plan shall also require the agency to adopt, post on its public Web site, and make available to all job applicants and employees in written and accessible formats, procedures for processing requests for PAS. An agency may satisfy this requirement by stating in the reasonable accommodation procedures that requests for PAS shall be

processed in the same manner and shall be subject to the same standards as requests for reasonable accommodations.

Utilization Analysis [1614.203(D)(6)] and Goals [1614.203(d)(7)] [82 FR 667-670 (January 3, 2017)]

Since 1987, federal agencies have been required by EEOC to set numerical objectives (goals) for the number of people with targeted disabilities employed in their workforces and report that data annually to EEOC. Since 2010, federal agencies have been required under Executive Order 13548 to set internal goals for the percentage of employees with targeted disabilities and the percentage of employees with disabilities as defined under Section 501, and submit those targets to OPM. In OPM's report for fiscal year 2014, the percentage of employees with reportable disabilities in the Federal Government was 14.64 percent (191,086 individuals out of 1,305,392). The percentage of employees with targeted disabilities in the Federal Government was 1.18 percent (15,343 individuals).

The Section 501 rule, as amended (2017), specifies that the plan shall require the agency to perform an annual workforce analysis to determine the percentage of its employees at each grade level and salary level who have disabilities, and the percentage of its employees at each grade level and salary level who have targeted disabilities. For purposes of performing the workforce analysis, an employee may be classified as an individual with a disability or an individual with a targeted disability on the basis of:

- The individual's self-identification as an individual with a disability or an individual with a targeted disability on a form, including but not limited to OPM's SF-256, which states that the information collected will be kept confidential and used only for statistical purposes, and that completion of the form is voluntary;

- Records relating to the individual's appointment under a hiring authority that takes disability into account (such as Schedule A for persons with certain disabilities), if applicable; and
- Records relating to the individual's request for reasonable accommodation, if any.

In other words, the Section 501 rule, as amended (2017), permits agencies to design their own forms or use existing forms as appropriate. For example, agencies are permitted to use the approach taken in EEOC's Demographic Information on Applicants form. This form asks, among other things, whether the individual has a non-targeted disability. It does not, however, require the individual to identify which non-targeted disability he or she has. [82 FR 667 (January 3, 2017)]

The Section 501 rule, as amended (2017), specifies that the plan shall commit the agency to the goal of ensuring that no less than 12 percent of employees at the GS-11 level and above, together with employees who are not paid under the General Schedule but who have salaries equal to or greater than employees at the GS-11, step 1 level in the Washington, D.C. locality, are individuals with disabilities *and* no less than 12 percent of employees at the GS-10 level and below, together with employees who are not paid under the General Schedule but who have salaries less than employees at the GS-11, step 1 level in the Washington, D.C. locality, are individuals with disabilities.

In addition, the Section 501 rule, as amended (2017), specifies that the plan shall commit the agency to the goal of ensuring that no less than 2 percent of employees at the GS-11 level and above, together with employees who are not paid under the General Schedule but who have salaries equal to or greater than employees at the GS-11, step 1 level in the Washington, D.C. locality, are individuals with targeted disabilities and no less than 2 percent of employees at the GS-10 level and below, together with employees who are not paid under the General Schedule but who have salaries less than employees at the GS-11, step 1 level in the Washington, D.C. locality, are individuals with targeted disabilities.

EEOC recognized in the section-by-section analysis accompanying the final rule and the preamble accompanying the proposed rule that there are many reasons why it may take some agencies more time than others to meet the utilization goals, such as budgetary constraints (including hiring freezes), the number of additional individuals with targeted disabilities who would have to be hired to achieve the goals, and the nature of certain jobs within an agency's workforce that may include valid physical standards that individuals with certain disabilities may not be able to meet. [82 FR 669 (January 3, 2017)]

Thus, the Section 501 rule, as amended (2017), does *not* include a deadline for achieving the goals. [82 FR 669 (January 3, 2017)] Rather, the Section 501 rule, as amended (2017), specifies that the plan *shall* require the agency "to take *specific steps* that are reasonably designed to gradually increase the number of persons with disabilities or targeted disabilities employed at the agency until it meets the goals."

Examples of specific steps include, but are not limited to:

- Increased use of hiring authorities that take disability into account to hire or promote individuals with disabilities or targeted disabilities, as applicable;
- To the extent permitted by applicable laws, consideration of disability or targeted disability status as a positive factor in hiring, promotion, or assignment decisions;
- Disability-related training and education campaigns for all employees in the agency;
- Additional outreach and recruitment efforts;
- Increased efforts to hire and retain individuals who require supported employment because of a disability, have retained the services of a job coach at

their own expense or at the expense of a third party, and may be given permission to use the job coach during work hours as a reasonable accommodation without imposing undue hardship on the agency; and

- Adopting training, mentoring or internship programs for individuals with disabilities.

Footnote 93 in the section-by-section analysis reaffirms that the anti-discrimination regulations permit agencies (and employers generally) to ask disability-related questions for purposes of engaging in affirmative action for individuals with disabilities. [82 FR 668 (January 3, 2017)]

Recordkeeping [1614.203(d)(8)] [82 FR 670 (January 3, 2017)]

The Section 501 rule, as amended (2017), specifies that the plan shall require the agency to keep records that it may use to determine whether it is complying with the nondiscrimination and affirmative action requirements imposed under Section 501 and make the required records available to EEOC upon request. The required records are necessary for an agency to determine whether it is providing “adequate hiring, placement, and advancement opportunities for individuals with disabilities,” as required under Section 501. Specifically, the rule requires that each agency keep a record of:

- 1) The number of job applications received from individuals with disabilities, and the number of individuals with disabilities who were hired by the agency;
- 2) The number of job applications received from individuals with targeted disabilities, and the number of individuals with targeted disabilities who were hired by the agency;
- 3) All rescissions of conditional job offers, demotions and terminations taken against applicants or employees as a result of medical examinations or inquiries;

- 4) All employees hired under Schedule A hiring authority for persons with certain disabilities, and each such employee's date of hire, entering grade level, probationary status, and current grade level;
- 5) The number of employees appointed under Schedule A hiring authority for persons with certain disabilities who have been converted to career or career-conditional appointments in the competitive service, and the number of such employees who were terminated prior to being converted to a career or career-conditional appointment in the competitive service; and
- 6) Details about each request for reasonable accommodation.

Reporting [1614.203(d)(9)] [82 FR 670 (January 3, 2017)]

The Section 501 rule, as amended (2017), includes specific reporting requirements, including the annual submission of:

- A copy of its current plan to the EEOC;
- The results of the two most recent workforce analyses showing the percentage of employees with disabilities and employees with targeted disabilities in each of the designated pay groups;
- The number of individuals appointed to positions within the agency under the Schedule A hiring authority for persons with certain disabilities during the previous year, and the total number of employees whose employment at the agency began by appointment under Schedule A hiring authority for persons with certain disabilities; and
- A list of changes made to the plan since the prior submission, if any, and an explanation of why those changes were made.

Each agency shall make the information submitted to EEOC available to the public by, at a minimum, posting a copy of the submission on its public Web site and providing a means by which members of the public may request copies of the submission in accessible formats.

COMMISSION APPROVAL AND DISAPPROVAL [1614.203(f)] [82 FR 671 (January 3, 2017)]

The Section 501 rule, as amended (2017), provides that EEOC will *approve* a plan if it determines that an agency has adopted and implemented a plan that meets the prescribed requirements. The final rule also provides that EEOC will *disapprove* a plan if it determines that an agency has failed to adopt and implement a plan that meets those requirements.

The Section 501 rule, as amended (2017), further clarifies that failure to achieve a goal set forth in paragraph (d)(7)(i), by itself, is *not* grounds for disapproval unless the plan fails to require the agency to take specific steps that are reasonably designed to achieve the goal.

RESOURCES

- [Questions and Answers: The EEOC's Final Rule on Affirmative Action for People with Disabilities in Federal Employment](#)
- [Section 501 Notice of Proposed Rulemaking](#)
- [Section 501 Advance Notice of Proposed Rulemaking](#)