

EMPLOYER ASSISTANCE AND RESOURCE NETWORK  
ON DISABILITY INCLUSION (EARN)  
POLICY BRIEF

A SUMMARY OF THE EEOC NOTICE OF PROPOSED RULEMAKING ON  
AFFIRMATIVE ACTION FOR PEOPLE WITH DISABILITIES  
IN THE FEDERAL GOVERNMENT  
FEBRUARY 2016

BACKGROUND

---

On February 24, 2016, the U.S. Equal Employment Opportunity Commission (EEOC) published in the *Federal Register* a [Notice of Proposed Rulemaking](#) (NPRM) 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.

The affirmative action requirement in Section 501 imposes two distinct obligations on federal agencies. First, affirmative action requires that agencies not discriminate 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 proposed rule does not change any of the substantive nondiscrimination requirements that currently apply in the federal sector, as set forth in EEOC’s regulations. [81 FR 9123, column 3- 9124, column 1]

Second, affirmative action requires each federal agency to maintain, update

annually, and submit to the Commission an “affirmative action program plan for the hiring, placement, and advancement of individuals with disabilities,” and further directs the Commission 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.” [81 FR 9124, column 1]

The regulations currently implementing this Section 501 requirement simply state that the Federal Government shall be a “model employer of individuals with disabilities,” and instruct federal agencies to “give full consideration to the hiring, placement, and advancement of qualified individuals with disabilities.” Currently, in addition to the regulations, affirmative action requirements are found in a variety of sources, including management directives (e.g., [EEOC Management Directive 715](#)) and Executive Orders (such as [EO 13163](#), [EO 13164](#), and [EO13548](#)). [81 FR 9124, column 1]

This NPRM proposes to amend [29 CFR 1614.203](#) to update, clarify, and put in one place the standards EEOC will use to review and approve affirmative action plans developed by agencies in accordance with Section 501. This will provide clarity for federal agencies for the development of their affirmative action plans. [81 FR 9125, column 2]

In addition, the proposal includes several substantive changes to the affirmative action requirements, the most important of which specify that agencies must:

- Take specific steps to meet goals set by the EEOC, rather than by the agencies themselves, as currently required, for employment of people who have disabilities;
- Take specific steps to meet sub-goals set by the EEOC, rather than by agencies themselves as currently required, for the employment of people with targeted (severe) disabilities; and

- Provide personal assistants to employees who, because of 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.

[81 FR 9123, column 2 and 3; 81 FR 9125, column 2]

The rule would not have a retroactive effect. Further, the proposed rule does not impose any obligations on private businesses or state and local governments.

## **PURPOSE AND ORGANIZATION OF THIS POLICY BRIEF**

---

This Policy Brief provides 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 Section 501 of the Rehabilitation Act. The Policy Brief can be used to facilitate the preparation of formal comments submitted to EEOC. It may also be used by federal agencies as a roadmap to begin the process of developing updated policies, practices, and procedures that conform to Section 501.

Topics addressed in the Policy Brief include:

- [Definitions](#)
- [Nondiscrimination](#)
- [Model Employer](#)
- [Affirmative Action Plan](#)
  - [Disability Hiring and Advancement](#)
  - [Disability Anti-Harassment Policy](#)

- [Written Reasonable Accommodation Procedures](#)
- [Accessibility of Facilities and Technology](#)
- [Personal Services](#)
- [Utilization Analysis and Goals, including Classification of Individuals as Having Disabilities and Self-Identification](#)
- [Recordkeeping](#)
- [Reporting](#)
- [Commission Approval and Disapproval](#)
- [Resources](#)
  - [Questions and Answers about EEOC's Notice of Proposed Rulemaking on Affirmative Action for People with Disabilities in the Federal Government](#)
  - [EEOC Notice of Proposed Rulemaking on Affirmative Action for People with Disabilities in the Federal Government: Background and Summary](#)
  - [Advance Notice of Proposed Rulemaking](#) (EEOC, May 15, 2014)

## COMMENTS

---

EEOC invites comments on the proposed changes from all interested parties. Comments must be received on or before April 25, 2016. All comments must include the agency name and docket number or the Regulatory Information Number (RIN) **[RIN 3046-AA94]** for this rulemaking. Comments need be submitted in only one of the following listed formats:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- Fax: (202) 663-4114. (There is no toll free FAX number). Only comments of six or fewer pages will be accepted via FAX transmittal, in order to assure access to the equipment. Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Executive Secretariat staff at (202) 663-4070 (voice) or (202) 663-4074 (TTY). (These are not toll free numbers).
- Mail: Bernadette Wilson, Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, U.S. Equal Employment Opportunity Commission, 131 M Street, N.E., Washington, DC 20507.
- Hand Delivery / Courier: Bernadette Wilson, Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, U.S. Equal Employment Opportunity Commission, 131 M Street, N.E., Washington, DC 20507.

[81 FR 9123, column 1]

EEOC invites comments on all aspects of the proposed regulation. In addition, it invites comments on the following specific issues.

***Personal Assistance Services***

As discussed in more detail below, agencies are not required to provide PAS, such as assistance with eating or using the restroom, under the reasonable accommodation standards set forth in 29 CFR part 1630. The unavailability of PAS, however, is a significant hindrance to the employment of persons with certain targeted disabilities. 1614.203(d)(5) addresses this concern by requiring agencies to provide PAS to employees with disabilities as part of the agencies' affirmative action obligations under Section 501. To ensure that the Commission's final decision whether to include this requirement is based on a sound record, the Commission invites responses to the following questions. [81 FR 9130, column 2-3 and 9131, column 1]

1. Should Section 501 regulations require agencies to provide PAS to employees who need them because of a disability while they are on the job or on job-related travel as part of the affirmative action obligation? Do the services described in the regulations accurately capture the PAS that a person with a disability might require?
2. If the rule should require agencies to provide PAS, should assistants be assigned to a particular individual, or should they respond to requests for PAS by different individuals, as needed? Should the agency be allowed to assign non-PAS tasks to assistants when no personal assistance is required?
3. The proposed rule does not address how the obligation to provide PAS would be enforced. The Commission is requiring that agencies provide PAS as part of their affirmative action obligations under Section 501. Affirmative action obligations, such as employment goals or advancement plans, are not generally enforceable through the part 1614 process. The requirement to provide PAS is unlike most general affirmative action obligations, however, as an agency's failure to comply with this obligation will directly harm specific, identifiable individuals. The Commission invites comments on (a) whether the Commission should enforce the PAS requirement in the manner envisioned in paragraph (f) of the proposed rule, or instead offer a process through which individuals denied PAS can request that the Commission review agency denials and order relief to persons wrongly denied those services.
4. Is the Commission's estimate of the costs associated with a PAS requirement, discussed in the regulatory procedures section below, accurate? If not, what is a more accurate estimate? Would particular agencies, or types of agencies, experience significant logistical difficulties in complying with the PAS requirement? What is a realistic estimate of costs arising from offering a process for enforcement of the obligation to provide PAS? Please include supporting references.

***Utilization Analysis and Goals***

5. EEOC is interested in learning from the public what would be appropriate minimum standards for federal agencies regarding goals for hiring of persons with disabilities.

As proposed [1614.203(d)(7)], the goals for representation rates have been set at 12% for individuals with all disabilities and 2% for individuals with targeted disabilities. Are these levels appropriate? What data exists that show that the goals should either be higher or lower than in this proposed rule?

***Database***

6. EEOC is interested in whether agencies should maintain a file or database of individuals who have been determined to be eligible for appointment under a hiring authority that takes disability into account, but who have not been hired by the agency. EEOC is interested in whether such individuals should be asked whether they wish to be included in such a database, or whether the database should be created automatically from those who apply via a hiring authority that takes disability into account.

***Affirmative Action Standards***

7. EEOC requests comments from the public on any of the standards proposed in this rule governing affirmative action with respect to the hiring, advancement, and retention of federal employees with disabilities. This includes the PAS requirement, the utilization analysis and goals provision, and the recordkeeping and reporting requirements. It also includes the affirmative action requirements related to reasonable accommodations. EEOC requests any data or evidence that shows that these standards are either too strict or too lenient and any information on the costs and benefits related to each standard.

**DEFINITIONS [1614.203(a)] [81 FR 9125, column 3 and 9126, column 1]**

---

The proposed rule provides definitions of key terms. None of the definitions are novel. Many of the defined terms are simple abbreviations.

The proposed rule 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

Commission's regulations at 29 CFR part 1630, the term "disability" is construed broadly and includes a wide range of medical conditions.

The proposed rule also provides that the term "hiring authority that takes disability into account" means any hiring authority that permits an agency to consider disability status in the selection of individuals for employment, and provides examples of such, including the Schedule A hiring authority for persons with certain disabilities; 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).

In addition, the proposed rule defines the term "targeted/severe disability" to mean a disability specifically designated as "targeted/severe" in SF-256. 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)] [81 FR 9126, column 1]

---

The proposed rule restates current policy that Section 501 prohibits disability discrimination in employment, and that the standards used to determine whether an agency has violated the prohibition against discrimination are those applied under title I of the ADA. The provisions reminds agencies that discrimination on the basis of disability is prohibited in all aspects of employment, including hiring, advancement or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.

#### MODEL EMPLOYER [1614.203(c)] [81 FR 9126, column 1]

---

This paragraph is taken directly from 29 CFR 1614.203(a) of the existing regulations. Other than redesignating the paragraph as 1614.203(c), the proposed rule makes no changes to the paragraph.

## AFFIRMATIVE ACTION PLAN [1614.203(d)] [81 FR 9126, column 2]

---

This paragraph sets forth the requirements that an agency's affirmative action plan must meet in order to provide "sufficient assurances, procedures, and commitments to provide adequate hiring, placement, and advancement opportunities for individuals with disabilities." Each requirement is discussed in detail below.

### Disability Hiring and Advancement [1614.203(D)(1)] [81 Fr 9126, Column 2]

With respect to recruitment, the proposed rule specifies that the Plan requires the federal agency to take specific steps to ensure that a broad range of individuals with disabilities will be aware of and be encouraged to apply for job vacancies, when eligible. These steps must include, at a minimum:

- Use of programs and resources that may be used to identify job applicants with disabilities who are eligible to be appointed under a hiring authority that takes disability into account (e.g., training programs for individuals with disabilities that lead directly to employment and databases of potential job applicants with disabilities); and
- Establishing and maintaining contacts with organizations specializing in the placement of individuals with disabilities.

With respect to the application process, the Plan must ensure that the agency has designated sufficient staff to handle any disability-related issues that arise during the application and placement processes and provided them with sufficient training, support, and other resources to carry out their responsibilities.

With respect to advancement programs, the Plan must require the agency to take specific steps to ensure that current employees with disabilities have sufficient opportunities for advancement. Such steps may include mentoring programs and administration of exit interviews that include questions on how the agency could improve practices.

Some common suggestions were not incorporated into the rule. The proposed rule does not modify the competitive service hiring process by, for example, awarding additional “points” to candidates with disabilities, adopting preferences, reserving certain positions for individuals with disabilities, or requiring agencies to interview all qualified candidates with disabilities. The rule also does not require agencies to provide mandatory training to supervisors and hiring officials, to incorporate equal employment opportunity and affirmative action principles into supervisors’ and hiring officials’ performance reviews, or to take disciplinary action against employees who have engaged in discrimination, because these issues are already addressed elsewhere by Commission regulations.

### **Disability Anti-Harassment Policy [1614.203(D)(2)] [81 Fr 9126, Column 3]**

The Plan must 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.

### **Written Reasonable Accommodation Procedures [1614.203(D)(3)] [81 Fr 9126, Column 3 And 9127, Column 1 and 2]**

Since 2000, [Executive Order 13164](#) has required agencies to have written reasonable accommodation procedures, and MD-715, as updated in 2003, includes this requirement as well. In addition, EEOC has provided [policy guidance on EO 13164](#). The Commission has made this requirement part of the proposed rule. The paragraph also includes in the written procedures many components of reasonable accommodation procedures described in Executive Order 13164 and MD-715. They include:

- A statement that expedited processing and interim accommodations will be provided when possible;
- Instructions for managers on how to recognize and report requests for reasonable accommodation;

- An explanation of the applicable confidentiality requirements; processing deadlines; information on how to challenge a denial under the federal equal employment opportunity complaint process; and
- A statement that requestors will be notified of the basis for a denial. The notification requirement is also incorporated into the rule.

Some commenters stated that the 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. However, in the Commission’s judgment, mandating this requirement as part of an agency’s affirmative action obligation raises too many practical concerns as to the precise manner in which appropriated funds are to be held, requested, and disbursed within the agency. Additionally, centralized funding is not a complete solution—problems remain if the fund is too small, or if relevant decision-makers within the agency are unaware of the fund’s existence or of the means of accessing it.

Instead, paragraph (d)(3)(ii) addresses underlying rationale for a centralized fund by requiring agencies to inform all employees who are authorized to grant or deny requests for reasonable accommodation that, under the “undue hardship” standard set forth by Section 501’s nondiscrimination requirement, all available resources are considered when determining whether a denial of reasonable accommodation based on cost is appropriate. In addition, the agency should ensure that relevant decision-makers are informed about various external resources that may be used to fund reasonable accommodations, including, for example, a centralized fund specifically created by the agency for providing reasonable accommodations, the Department of Defense Computer/Electronic Accommodations Program (“CAP”), and agency funds that, although not designated specifically for providing reasonable accommodations, may be used for that purpose. The purpose of the suggested requirement is to ensure that sufficient funds are available for more costly accommodations, when necessary.

### **Accessibility of Facilities and Technology [1614.203(D)(4)] [81 Fr 9127, Column 2-3]**

Paragraph (d)(4) of the proposed rule is intended to ensure that federal employees with disabilities have the information they need to utilize existing enforcement and compliance mechanisms. The paragraph requires agencies to provide all employees with contact information for the employees inside the agency who are responsible for ensuring compliance with Section 508 of the Rehabilitation Act and the Architectural Barriers Act, and with clear instructions on how to file complaints under existing rules. It also requires agencies to assist employees in filing a complaint with another federal agency, where investigation shows that such other entity is responsible for the alleged violation.

### **Personal Services [1614.203(D)(5)] [81 Fr 9127, Column 3 And 9128, Columns 1-2]**

Personal services allowing employees to participate in the workplace may include assistance with eating, drinking, using the restroom, and putting on and taking off clothing. 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 personal services provided by means-tested assistance programs are stubborn and persistent barriers to employment for individuals with certain significant disabilities.

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 personal services 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.

EEOC concluded that agencies should, however, be required to provide PAS to individuals who need them because of a disability as part of the agencies' affirmative action obligations under Section 501. Paragraph (d)(5) also clarifies that agencies can fulfill the PAS requirement by hiring persons who perform both PAS and additional tasks, including provision of professional services and other duties, as time permits. The agency can also require a person hired as a personal assistant to perform PAS for more than one individual with a disability. Thus, an agency might be able to satisfy this requirement by, for example, hiring a pool of personal assistants (either solely for assistance tasks or for assistance tasks and other professional services) throughout the agency or at a particular location. The pool hiring approach would be consistent with how many agencies currently address sign language interpreter needs. Whether this approach is feasible will depend on the particular services required and other relevant facts.

#### **Utilization Analysis [1614.203(D)(6)] and Goals [1614.203(D)(7)] [81 Fr 9128, Columns 2-3 and 9129-9130, Column 1]**

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

Paragraph (d)(7) sets forth the goals that the EEOC expects federal agencies to be able to achieve, based on current federal employment data. First, an affirmative action plan should adopt the goal of achieving a **12%** representation rate for people with disabilities as defined by Section 501 at both the GS-11 level and above, including the Senior Executive Service (“SES”), and at the GS-10 level and below.

Second, the Plan should adopt the goal of achieving a **2%** representation rate for individuals with targeted disabilities as defined by SF-256 at the GS-11 level and above (including SES), and at the GS-10 level and below.

The 12% goals established in paragraph (d)(7) are based, in part, on historical data on the employment of persons with disabilities in the federal workforce compiled by OPM. OPM data show that the Federal Government, viewed as a whole, has already reached a representation rate of 12% at both the GS-10 level and below and the GS-11 level and above. Results from the most recent Federal Employee Viewpoint Survey further indicate that approximately 13.5% of the federal workforce identify as a person with a disability.

The sub-goal for targeted disabilities is also based, in part, on historical data from OPM. Individuals with targeted disabilities currently make up 1.91% of federal employees at the GS-10 level and below and approximately 0.8% of federal employees at the GS-11 level and above. These figures are based on the number of persons who self-report as having targeted disabilities on SF-256. In addition, the Commission has encouraged federal agencies with 1,000 or more employees to set a goal of a 2% representation rate for individuals with targeted disabilities for some time.

Paragraph (d)(7) further states that the utilization goals for persons with disabilities and for persons with targeted disabilities will be assessed both above and below the GS-10 level, including SES. This was done for two reasons. First, OPM employment data show that individuals with disabilities are disproportionately represented at lower levels of employment within the Federal Government. In fiscal year 2014, the representation rate of individuals with disabilities at the GS-11 level and above was roughly 30% lower than

their representation rate at the GS-10 level and below, and the representation rate of individuals with targeted disabilities was almost 60% lower at the GS-11 level and above. Establishing a separate goal for representation at GS-11 and above should rectify this imbalance.

Second, the Commission does not wish to see a rise in the representation of individuals with disabilities as defined by Section 501 at higher levels of employment be accompanied by a corresponding fall in their representation rate at lower levels. As a result, the proposed rule also requires agencies to adopt the goal of achieving a 12% representation rate for individuals with disabilities as defined by Section 501 and a 2% representation rate for individuals with targeted disabilities as defined by SF-256 at the GS-10 level and below.

Paragraph (d)(6) requires agencies to perform the workforce analysis necessary to determine whether these goals set forth in paragraph (d)(7) have been met. The paragraph clarifies that the analysis must be performed on an annual basis, and that it may classify individuals as having disabilities or targeted disabilities on the basis of records relating to self-identification via SF-256, appointment of individuals under noncompetitive disability-related hiring authorities, and requests for reasonable accommodation. This workforce analysis is largely consistent with what is currently required under MD-715.

The Commission recognizes 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 that 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. The rule therefore does not specify a timeframe for achieving the goals. Rather, the rule requires each agency to create and submit a Plan that includes specific steps reasonably designed to gradually increase the number of employees with disabilities and targeted disabilities, with the

objective of achieving the goals established pursuant to paragraph (d)(7)(i) of this section.

Paragraph (d)(7)(ii) provides examples of such steps, including increased use of hiring authorities that take disability into account, additional outreach and recruitment efforts, disability-related training for all employees, and adoption of training, internship, and mentoring programs for individuals with disabilities. The rule explicitly provides that the Commission will not disapprove a Plan solely because the agency has failed to meet a goal.

Although Section 501 generally prohibits employers from asking questions about whether an applicant has a disability before making a job offer, there are still a number of ways that agencies may learn about a particular applicant's disability.

- First, the applicant may choose to disclose his or her disability, or the disability may be obvious.
- Second, the disability may be disclosed in paperwork establishing eligibility for appointment under the Schedule A hiring authority for persons with certain disabilities.
- Third, an employer is permitted to invite job applicants to self-identify as individuals with disabilities or targeted disabilities prior to a conditional offer of employment, if the invitation is made pursuant to an affirmative action program for people with disabilities, and if the information is used only for that purpose.

#### **Recordkeeping [1614.203(D)(8)] [81 Fr 9131, Columns 1-2]**

This paragraph sets forth the recordkeeping requirements imposed by the rule, and directs agencies to make the required records available to the Commission 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 individuals with disabilities and the number of individuals with targeted disabilities who apply for employment;
- 2) the number of individuals with disabilities and the number of individuals with targeted disabilities that the agency hires;
- 3) the number of adverse actions the agency takes based on medical information, including rescissions of conditional job offers; and
- 4) details regarding all requests for reasonable accommodation the agency receives.

In addition, the paragraph requires agencies to keep records of the date of hire, entering grade level, probationary status, and current grade level of each employee hired under Schedule A excepted service hiring authority, as well as the number of such employees converted to the competitive service each year.

#### **Reporting [1614.203(D)(9)] [81 Fr 9130, Columns 1-2]**

This paragraph sets forth the reporting requirements imposed by the rule. As provided under Section 501, the paragraph requires each agency to submit a copy of its Plan to the Commission on an annual basis, the results of the two most recent workforce analyses performed pursuant to paragraph (d)(7), and the number of employees appointed under the Schedule A hiring authority for persons with certain disabilities.

The proposed paragraph does not specify the precise time and manner of submission, as EEOC intends to reconcile this regulation’s reporting requirements with existing obligations under MD-715 following final promulgation of the rule. As suggested by several commenters, the paragraph also requires agencies to make the information submitted to the Commission available to the public.

## COMMISSION APPROVAL AND DISAPPROVAL [1614.203(f)] [81 FR 9130, column 2]

The proposed rule provides that the Commission will approve a Plan if it determines that the Plan, as implemented, meets the requirements set forth in paragraph (d) of this section. The proposed rule also provides that the Commission will disapprove a Plan if it determines that the Plan, as implemented, does not meet those requirements. The paragraph further clarifies that failure to achieve a goal set forth in proposed paragraph 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 about EEOC's Notice of Proposed Rulemaking on Affirmative Action for People with Disabilities in the Federal Government](#)
- [EEOC Notice of Proposed Rulemaking on Affirmative Action for People with Disabilities in the Federal Government: Background and Summary](#)
- [Advance Notice of Proposed Rulemaking](#) (EEOC, May 15, 2014)