

THE MODEL EEO PROGRAM

Section I: Instructions to Federal Agencies on EEO MD-715



THE MODEL EEO PROGRAM

- ✓ **The Equal Employment Opportunity Commission (EEOC) explains to Federal Agencies in EEO Management Directive 715 the basic elements necessary to create and maintain a model EEO program, as required under both Title VII of the Civil Rights Act of 1964 (Title VII), as amended, 42 U.S.C. § 2000e *et seq.*, and Section 501 of the Rehabilitation Act of 1973 (Rehabilitation Act), as amended, 29 U.S.C. § 791 *et seq.***



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- ✓ **EEOC explains in EEO MD-715 that a model EEO program effectively considers and addresses concerns arising under both Title VII and Section 501 of the Rehabilitation Act.**

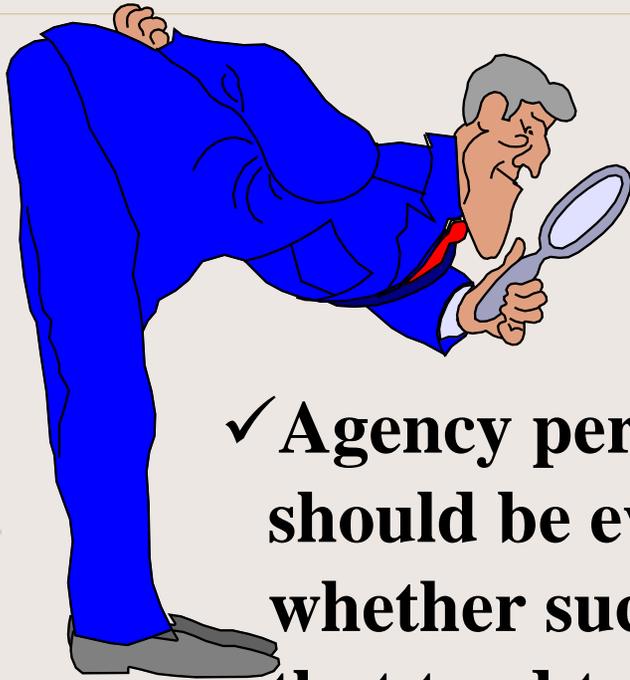


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- ✓ **When establishing a Model EEO Program, an agency should incorporate into the design a structure for effective management, accountability, and self-analysis which will ensure program success and compliance with EEO MD-715.**



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- ✓ Agency personnel programs and policies should be evaluated regularly to ascertain whether such programs have any barriers that tend to limit or restrict equitable opportunities for open competition in the workplace.



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✓ **An Agency should review its EEO personnel programs, policies, and performance standards against all six elements to identify where their EEO program can become more effective.**



✓ **EEOC divides the essential elements of model agency EEO programs into six broad categories.**



SIX ESSENTIALS ELEMENTS

- **Element One: Demonstrated Commitment** 
- **Element Two: Making EEO An Integral Part of the Agency's Strategic Mission**
- **Element Three: Ensuring Management and Program Accountability**
- **Element Four: Proactive Prevention** 
- **Element Five: Efficiency**
- **Element Six: Responsiveness and Legal Compliance**

Element One: Demonstrated Commitment

✓ Start with an Effective EEO Program Policy Statement(s) (29 C.F.R. § 1614.102)



- Committed Agency/Facility/Installation Head should issue a signed policy statement annually;
- EEO Program Policy Statement(s) should be prominently posted in all personnel offices, EEO offices, and on the Agency's internal website; and
- EEO Program Policy Statement shall affirm principles of EEO and assure EEO program requirements will be enforced by Agency Head.



Element One: Demonstrated Commitment



- **Principles that the EEO Program Policy Statement must affirm and assure will be upheld include, but are not limited to:**
 - **EEO for all employees and applicants regardless of their race, religion, color, sex, national origin, age, or disability;**
 - **All employees will have freedom to compete on a fair and level playing field with equal opportunity for competition;**
 - **EEO covers all personnel/employment programs, management practices, and decisions;**
 - **Workplace harassment will not be tolerated, allegations of harassment will immediately be investigated, and where allegations are substantiated, appropriate action will be taken; and**
 - **Reprisal will not be tolerated.**



Element One: Demonstrated Commitment

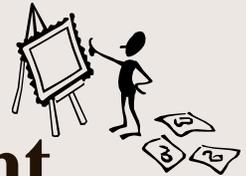
✓ Allocate Sufficient Resources



- Agency shall provide sufficient staffing and resources to operate the EEO program in an effective manner. For example, staff and resources should be sufficient to enable accurate collection and analysis of data and other employment factors.
- Agency must provide sufficient staffing, funding, and authority to eliminate identified barriers. For example, an agency should examine a number of factors to determine whether it is providing sufficient resources. These factors are:



Element One: Demonstrated Commitment



- **Whether the Agency employs personnel with training and experience to conduct an analyses required by EEOC MD-715;**
- **Whether the Agency's EEO staff has the knowledge, skills and ability to ensure EEO programs and procedures are effectively implemented;**
- **Whether the Agency has implemented an adequate data collection and analysis system that permit tracking of information that is required by EEOC MD-715;**
- **Whether sufficient resources have been provided to conduct effective audits;**



Element One: Demonstrated Commitment



- **Whether EEO training and education programs are made available to all managers and employees;**
- **Whether a central fund or other mechanisms have been established for providing disability accommodations;**
- **Whether there is a Disability Program Manager or some other mechanism in place to ensure coordination of disability accommodations in all major components of the agency; and**
- **Whether a Special Emphasis Program Manager is on staff (as may be necessary) (29 C.F.R. 1614.102(b)(4))**

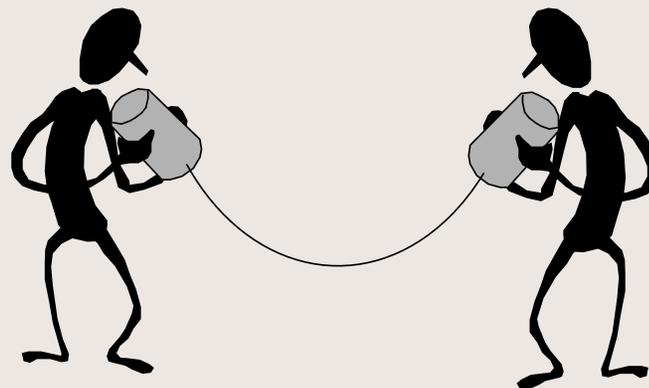


Element One: Demonstrated Commitment

✓ Ensure All Employees are Informed



- Agency must ensure that EEO program information is distributed to all employees, using all media available, including the World Wide Web or Internet.
- Each employee must be informed of the Agency's Annual EEO program policy statements, requirements and prohibitions of Title VII and the Rehabilitation Act, and the operation of the EEO administrative complaint process and procedures.





Element One: Demonstrated Commitment

- **Federal regulation requires that EEO posters and program information be prominently posted throughout the Agency.**
- **Complainants must be advised in writing about the EEO administrative complaint process (29 C.F.R. § 1614.102(b)(5), (7)).**
- **Agencies must distribute their reasonable accommodation procedures to all managers, supervisors, and others responsible for processing requests for reasonable accommodations and make the procedures readily available to all employees.**





Element One: Demonstrated Commitment

- **Agencies must provide training to all employees and supervisors on the operation of the EEO administrative complaint process, protections afforded to employees, related policy statements, and reasonable accommodation procedures.**

- **Demonstrate the value of EEO to the Agency and employees**
 - **Seek input (e.g., using employee surveys and focus groups, discussions with employee advisory groups, etc.) regarding the workplace environment.**



Element Two: Making EEO an Integral Part of the Agency's Strategic Mission

✓ Structure From The Top



- Agencies must maintain a reporting structure that provides the EEO Director with regular access to the Agency Head and Senior Management Officials for reporting on the effectiveness, efficiency and legal compliance of their Title VII and Rehabilitation Act Programs.
 - Such access includes, but is not limited to, the State of the Agency briefing to be given to the Head of the agency by the principal EEO Director/Officer following the submission of the Agency's EEOC MD-715.
 - Briefing should thoroughly cover all components of the Agency's EEOC MD-715, including an assessment of the performance of the Agency in each of the six elements of the Model EEO Program.
 - EEO Director should report on the progress of the Agency in completing its barrier analysis including any barriers it identified and/or eliminated or that reduced the impact of the agency's EEO program.



Element Two: Making EEO an Integral Part of the Agency's Strategic Mission

✓ Strategic Commitment



- **Ensure that EEO Officials are involved in critical workplace decisions, have regular access to senior staff, and participate in meetings where critical personnel decisions regarding management and the deployment of Human Resources are made.**
- **Allocate sufficient resources to create and/or maintain Title VII and Rehabilitation Act Programs that: 1) identify and eliminate barriers that impair the ability of individuals to compete in the workplace; 2) establish and maintain training and education programs designed to provide maximum opportunity for all employees to advance; and 3) ensure that unlawful discrimination in the workplace is promptly corrected and addressed.**
- **Attract, develop, and retain EEO staff with the strategic competencies necessary to accomplish the agency's EEO mission, and interface with agency officials, managers and employees;**



Element Two: Making EEO an Integral Part of the Agency's Strategic Mission



- **Recruit, hire, develop, and retain supervisors and managers who have effective managerial, communications, and interpersonal skills. Provide managers and supervisors with appropriate training and other resources to understand and successfully discharge their duties and responsibilities;**
- **Involve managers and employees in the implementation of the Agency's Title VII and Rehabilitation Act Programs; and**
- **Use various media to distribute EEO information concerning Federal EEO laws, regulations and requirements, rights, duties and responsibilities and to promote best workplace practices.**



Element Three: Ensuring Management and Program Accountability

✓ Overall Accountability and EEO Programmatic Management



- Hire, develop, and retain supervisors and managers who have effective managerial, communication, and interpersonal skills in order to supervise most effectively in a workplace with diverse employees and avoid disputes arising from ineffective communications.
- Inform managers and supervisors that success and a positive evaluation will include an assessment of how that manager contributes to the Agency's EEO Program.



Element Three: Ensuring Management and Program Accountability



- ✓ **Make clear that all managers and supervisors share the responsibility with the EEO program and human resources officials for the successful implementation of the EEO programs.**
 - **Provide managers and supervisors with initial and regular refresher training to understand their responsibilities under civil rights laws, including ADR, and how those responsibilities figure into the success of the agency's EEO program and overall mission.**
 - **Conduct regular internal audits, on at least an annual basis, to assess the effectiveness and efficiency of the EEO program and to ascertain whether the agency has removed identified barriers to equality of opportunity in the workplace.**



Element Three: Ensuring Management and Program Accountability



- **Ensure that personnel policies and procedures, rules of conduct, promotion, evaluation and training systems are routinely reviewed to ensure that they are clearly defined, well-communicated, consistently applied and fairly implemented.**
- **Ensure there are procedures in place for effective coordination between the Agency's EEO office and related agency human resource programs and other management programs, such as the Federal Equal Opportunity Recruitment Program (FEORP), Alternative Dispute Resolution (ADR), Disabled Veterans Affirmative Action Program (DVAAP), and Hispanic Employment Initiative: Nine Point Plan, and Employee Relations.**



Element Four: Proactive Prevention



- ✓ **Agencies have an ongoing obligation to prevent discrimination on the bases of race, color, national origin, religion, sex, age, reprisal and disability and eliminate barriers that impede free and open competition in the workplace. Agencies must:**
 - **Conduct a self-assessment on at least an annual basis to monitor progress, identify areas where barriers may operate to exclude certain groups and develop strategic plans to eliminate identified barriers; and**
 - **Provide managers and supervisors with initial and regular refresher training to understand their responsibilities under civil rights laws, including ADR, and how those responsibilities figure into the success of the agency’s EEO program and overall mission.**



Element Four: Proactive Prevention



- ✓ **Agencies should develop a comprehensive anti-harassment policy to prevent harassment on all protected bases (including, but not limited to, sexual harassment) and retaliation in the workplace. The policy should:**
 - **Inform employees as to what type of behavior is prohibited, and the steps to take if faced with a harassment situation;**
 - **Provide for multiple avenues of redress, not just the EEO complaint process; and**
 - **Provide that no acts of retaliation will be tolerated.**
 - **For further guidance, see EEOC Enforcement Guidance: Vicarious Liability for Unlawful Harassment by Supervisors (June 18, 1999); and EEOC Enforcement Guidance on *Harris v. Forklift Systems, Inc.*, 510 U.S. 17 (1993) (March 8, 1994).**



Element Four: Proactive Prevention



- ✓ **Pursuant to Executive Order 13164, as of July 25, 2001, all federal agencies were required to have developed written procedures for acting on requests for reasonable accommodation under the Rehabilitation Act.**
 - **Agencies that remain noncompliant with this Executive Order must develop such procedures immediately and submit them to EEOC, which will offer feedback.**
 - **Agency should evaluate this policy regularly for noncompliance.**
 - **All employees must be informed of, and have access to these procedures, including making the procedures available on the World Wide Web or Internet.**



Element Four: Proactive Prevention



✓ **Effective reasonable accommodation procedures must include the following:**

- **An explanation as to how an employee or job applicant may initiate a request for reasonable accommodation;**
- **An explanation of how the agency will process a request for reasonable accommodation and from whom the individual requesting accommodation will receive a final decision;**
- **A designated time period during which reasonable accommodation requests will be granted or denied, absent extenuating circumstances;**
- **An explanation of the responsibility of the employee or applicant requesting reasonable accommodation when the disability and/or need for accommodation is not obvious or already known to provide appropriate medical information, when requested, related to the functional impairment and the requested accommodation;**



Element Four: Proactive Prevention



- **An explanation of the circumstances under which the agency may request supplemental medical information in support of an accommodation requests;**
- **An explanation of the agency's right to have medical information reviewed by a medical expert of the agency's choosing at the agency's expense;**
- **An explanation of the circumstances in which reassignment will be required as a reasonable accommodation;**
- **A provision that denials of requests for reasonable accommodation will be in writing and specify the reasons for denial;**
- **A provision that the agency's systems of record-keeping track the processing of request for reasonable accommodation;**



Element Four: Proactive Prevention



- **Encouragement of the use of informal dispute resolution processes to allow individuals with disabilities to obtain prompt reconsideration of denials of reasonable accommodation; and**
- **Provisions for the effective dissemination of the written procedures and sufficient training.**
- **For further information, consult the *EEOC Policy Guidance on Executive Order 13164: Establishing Procedures to Facilitate the Provision of Reasonable Accommodation (October 20, 2000)*.**



Element Five: Efficiency



- ✓ **Agency must evaluate its EEO complaint resolution process to ensure it is efficient, fair and impartial. Processing times should not exceed those provided for in 29 C.F.R. Part 1614.**
 - **Agency's complaint process must provide for neutral adjudication.**
 - **Agency's EEO office must be kept separate from the legal defense arm of the agency (i.e., the Office of the General Counsel) or other agency offices having conflicting or competing interests.**
 - **Agencies must establish and make available an Alternative Dispute Resolution (ADR) program that facilitates an early, effective, neutral, efficient informal resolution of disputes. This enables disputants to potentially resolve disputes in a quick, amicable and cost effective manner.**



Element Six: Responsiveness and Legal Compliance



- ✓ **Agency Head or the Agency Head Designee must certify to EEOC that the Agency is in full compliance with the EEO laws and EEOC regulations, policy guidance, and other written instructions.**
- ✓ **Agencies shall report their EEO program efforts and accomplishments to the EEOC and respond to EEOC directives and orders, including final orders contained in administrative decisions, in accordance with instructions, time frames and deadlines.**
- ✓ **Agencies shall similarly comply with orders and directives of other adjudicatory bodies with concurrent jurisdiction over the EEO laws.**



Finally, one last thought...



- Agencies are encouraged to consult with your EEOC representative to learn which Federal agencies have best practices that can be used as a model.

