

## AUTHORITIES RELEVANT TO FEDERAL EEO RESPONSIBILITIES

### A. AUTHORITIES RELEVANT TO TITLE VII

#### Statutes

Section 717 of Title VII of 1964, as amended, 42 U.S.C. §2000e-16, requires that personnel actions be free from discrimination on the basis of race, sex, color, national origin, and religion and that agencies establish affirmative programs of equal employment opportunity.

Section 715 of Title VII establishes the EEOC as the lead agency for “developing and implementing agreements, policies, and practices designed to maximize effort, promote efficiency, and eliminate conflict, competition, duplication, and inconsistency among . . . various departments, agencies, and branches of the federal government responsible for the implementation and enforcement of equal employment opportunity legislation, orders, and policies. . .”

Section 703(k) of Title VII sets forth the criteria for establishing a claim of unlawful adverse impact.

#### Regulations

**29 C.F.R. §1604** Sets forth policies and principles governing discrimination on the basis of sex.

**29 C.F.R. §1606** Sets forth policies and principles governing discrimination on the basis of national origin.

**29 C.F.R. §1607** Establishes policies, principles, and procedures for determining when a “selection procedure” has an unlawful impact on the hiring, promotion, or other employment opportunities of members of any race, sex, or ethnic group.

**29 C.F.R. §1608.4** Governs affirmative action in the private sector and requires that an affirmative action plan or program under Title VII contain three elements: a reasonable self analysis; a reasonable basis for concluding action is appropriate; and reasonable action.

**29 C.F.R. §1614** Sets forth policies and regulations to effectuate the Government’s obligation to promote equal employment opportunity and to prohibit discrimination in employment because of race, color, religion, sex, national origin, age, or disability.

**29 C.F.R. §1614.601** Requires each agency to establish a system to collect and maintain accurate employment information on the race, national origin, sex and disability of its employees. Section 1614.601(b) states that data on race, national origin, and sex should be collected by voluntary self identification. Subsection (e) states that an agency shall not establish a quota for the employment of persons based on race, color, religion, sex, or national origin. Subsection (g) states that an agency shall report to the Commission on employment by race, national origin, sex, and disability in the form, and at such times, as the Commission may require.

**29 C.F.R. §1614.602** Requires that each agency report to the Commission complaint processing information. Subsection (c) states that each agency shall submit annually for the review and approval of the Commission written national and regional equal employment opportunity plans of action. The plans shall be in a format prescribed by the Commission.

**29 C.F.R. §1690** Sets forth procedures for the prescribed coordination between the EEOC and other federal agencies having responsibility for enforcement of statutes, regulations, Executive Orders, and policies which require equal employment opportunity without regard to race, color, national origin, sex, religion, age, or disability.

### **Executive Orders**

Executive Order 11478, as amended (1971) – Reiterated the policy of the federal government to provide equal employment opportunity on the basis of merit and fitness and “without discrimination because of race, color, religion, sex, or national origin.” To promote the full realization of this policy, the Order requires, inter alia, that agencies and departments establish “continuing affirmative programs” to ensure that equal employment opportunity is an “integral part of every aspect of personnel policy and practice in the employment, development, advancement, and treatment of civilian employees in the Federal Government.”

Executive Order 12106 (1978) – Amended Executive Order 11478 to include, in its coverage, non-discrimination based on age and disability. The Order further transferred federal equal employment opportunity enforcement authority to the Equal Employment Opportunity Commission and made the EEOC responsible for “directing and furthering” the implementation of equal employment opportunity policy.

Executive Order 12067 (1978) – Effected the transfer of the functions of the Equal Employment Opportunity Coordinating Council to the EEOC and delineated the EEOC’s responsibility for “develop[ing] uniform standards, guidelines, and policies for promoting and furthering equal employment opportunity in the government.

## **B. Authorities Relevant to Rehabilitation Act**

### **Statutes**

Section 501 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. §791, requires each covered agency to establish an affirmative action program plan for the hiring, placement, and advancement of individuals with disabilities. Section 501(g) of the Act incorporates the legal standards of Title I of the Americans with Disabilities Act (42 U.S.C. §12111 et seq.) for complaints alleging “non-affirmative action employment discrimination” and the provisions of sections 501 through 504, and 510, of the ADA (42 U.S.C. §12201 - §12204 and §12210) “as such sections relate to employment.”

Section 508 of the Rehabilitation Act requires agencies to provide federal employees with disabilities access to information and data that is comparable to the access provided to federal employees without disabilities.<sup>1/</sup>

The Architectural Barriers Act, 42 U.S.C. §4151 et seq. is enforced by the Architectural and Transportation Barriers Compliance Board and requires that buildings and facilities be accessible to people with disabilities if they were constructed or altered by or on behalf of the federal government or with certain federal funds, or leased to the government, after 1968.

<sup>1/</sup> National security systems, as defined in the Clinger-Cohen Act, 40 U.S.C. §1452 are exempt from these requirements. See 29 U.S.C. §794d(a)(5).

## **Regulations**

**29 C.F.R. §1614** Sets forth policies and regulations to effectuate the Government's obligation to promote equal employment opportunity and to prohibit discrimination in employment because of race, color, religion, sex, national origin, age, or disability.

**29 C.F.R. §1630** Regulations implementing the equal employment provisions of the Americans with Disabilities Act.

**5 C.F.R. §213.3102(t), (u)** OPM special appointing authority government employment of individuals who are mentally retarded (t) and those with severe physical "handicaps" (u).

**5 C.F.R. §213.3102** OPM special appointing authority governing persons with psychiatric disabilities. Under this provision such employees may be converted to competitive status after completion of two years of satisfactory service in their expected positions.

**5 C.F.R. §213.3102(11)** OPM special appointing authority for employment of readers, interpreters, and personal assistants for employees with disabilities.

**5 C.F.R. §315.709** Authorizes employees with severe physical disabilities and mental retardation to convert to competitive status after completion of two years of satisfactory service in their expected positions.

## **Executive Orders**

Executive Order 13078, as amended (2000) – Established the National Task Force on Employment of Adults with Disabilities (now called the Presidential Task Force). The purpose of the Task Force is to implement a national policy to effect gainful employment of adults with disabilities, including employment in the Federal Government.

Executive Order 13145 (2000) – Prohibits discrimination in federal employment on the basis of genetic information.

Executive Order 13163 (2000) – Promotes a policy to increase opportunities for individuals with disabilities employed at all levels and occupations in the federal government.

Executive Order 13164 (2000) – Requires agencies to establish written procedures to facilitate the provision of reasonable accommodations under the Rehabilitation Act.