

## § 1614.703

## 29 CFR Ch. XIV (7–1–08 Edition)

the agency and ceases when the AJ returns the case to the agency to take final action.

(e) For purposes of §1614.704(i), (j), and (k) the phrase without a hearing refers to a final action by an agency that is rendered:

(1) When an agency does not receive a reply to a notice issued under §1614.108(f);

(2) After a complainant requests an immediate final decision;

(3) After a complainant withdraws a request for a hearing; and

(4) After an administrative judge cancels a hearing and remands the matter to the agency.

(f) For purposes of §1614.704(i), (j), and (k), the term *after a hearing* refers to a final action by an agency that is rendered following a decision by an administrative judge under §1614.109(f)(3)(iv), (g) or (i).

(g) The phrase *final action by an agency* refers to the step of the federal sector EEO process described in 29 CFR 1614.110 and, for purposes of this subpart, it commences when the agency receives a decision by an Administrative Judge (AJ), receives a request from the complainant for an immediate final decision without a hearing or fails to receive a response to a notice issued under §1614.108(f) and ceases when the agency issues a final order or final decision on the complaint.

(h) The phrase *final action by an agency involving a finding of discrimination* means:

(1) A final order issued by an agency pursuant to §1614.110(a) following a finding of discrimination by an administrative judge; and

(2) A final decision issued by an agency pursuant to §1614.110(b) in which the agency finds discrimination.

(i) The term *appeal* refers to the step of the federal sector EEO process described in 29 CFR 1614.401 and, for purposes of this subpart, it commences when the appeal is received by the Commission and ceases when the appellate decision is issued.

(j) The term *basis of alleged discrimination* refers to the individual's protected status (i.e., race, color, religion, reprisal, sex, national origin, Equal Pay Act, age, or disability). Only those bases protected by Title VII of the

Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e *et seq.*, the Equal Pay Act of 1963, 29 U.S.C. 206(d), the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. 621 *et seq.*, and the Rehabilitation Act of 1973, as amended, 29 U.S.C. 791 *et seq.*, are covered by the federal EEO process.

(k) The term *issue of alleged discrimination* means one of the following challenged agency actions affecting a term or condition of employment as listed on EEOC Standard Form 462 ("Annual Federal Equal Employment Opportunity Statistical Report of Discrimination Complaints"): Appointment/hire; assignment of duties; awards; conversion to full time; disciplinary action/demotion; disciplinary action/reprimand; disciplinary action/suspension; disciplinary action/removal; duty hours; evaluation/appraisal; examination/test; harassment/non-sexual; harassment/sexual; medical examination; pay/overtime; promotion/non-selection; reassignment/denied; reassignment/directed; reasonable accommodation; reinstatement; retirement; termination; terms/conditions of employment; time and attendance; training; and, other.

(l) The term *subordinate component* refers to any organizational sub-unit directly below the agency or department level which has 1,000 or more employees and is required to submit EEOC Form 715-01 to EEOC pursuant to EEOC Equal Employment Opportunity Management Directive 715.

### § 1614.703 Manner and format of data.

(a) Agencies shall post their statistical data in the following two formats: Portable Document Format (PDF); and an accessible text format that complies with section 508 of the Rehabilitation Act.

(b) Agencies shall prominently post the date they last updated the statistical information on the Web site location containing the statistical data.

(c) In addition to providing aggregate agency-wide data, an agency shall include separate data for each subordinate component. Such data shall be identified as pertaining to the particular subordinate component.

(d) Data posted under this subpart will be titled "Equal Employment Opportunity Data Posted Pursuant to

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Title III of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Pub. L. 107-174,” and a hyperlink to the data, entitled “No FEAR Act Data” will be posted on the homepage of an agency’s public Web site. In the case of agencies with subordinate components, the data shall be made available by hyperlinks from the homepages of the Web sites (if any exist) of the subordinate components as well as the homepage of the Web site of the parent agency.

(e) Agencies shall post cumulative data pursuant to §1614.704 for the current fiscal year. Agencies may not post separate quarterly statistics for the current fiscal year.

(f) Data posted pursuant to §1614.704 by agencies having 100 or more employees, and all subordinate component data posted pursuant to subsection 1614.703(c), shall be presented in the manner and order set forth in the template EEOC has placed for this purpose on its public Web site.

(1) Cumulative quarterly and fiscal year data shall appear in vertical columns. The oldest fiscal year data shall be listed first, reading left to right, with the other fiscal years appearing in the adjacent columns in chronological order. The current cumulative quarterly or year-end data shall appear in the last, or far-right, column.

(2) The categories of data as set forth in §1614.704(a) through (m) of this subpart shall appear in horizontal rows. When reading from top to bottom, the order of the categories shall be in the same order as those categories appear in §1614.704(a) through (m).

(3) When posting data pursuant to §1614.704(d) and (j), bases of discrimination shall be arranged in the order in which they appear in §1614.702(j). The category “non-EEO basis” shall be posted last, after the basis of “disability.”

(4) When posting data pursuant to §1614.704(e) and (k), issues of discrimination shall be arranged in the order in which they appear in §1614.702(k). Only those issues set forth in §1614.702(k) shall be listed.

(g) Agencies shall ensure that the data they post under this subpart can

be readily accessed through one or more commercial search engines.

(h) Within 60 days of the effective date of this rule, an agency shall provide the Commission the Uniform Resource Locator (URL) for the data it posts under this subpart. Thereafter, new or changed URLs shall be provided within 30 days.

(i) Processing times required to be posted under this subpart shall be recorded using number of days.

### **§ 1614.704 Information to be posted— all Federal agencies.**

Commencing on January 31, 2004 and thereafter no later than 30 days after the end of each fiscal quarter beginning on or after January 1, 2004, each Federal agency shall post the following current fiscal year statistics on its public Internet Web site regarding EEO complaints filed under 29 CFR part 1614.

(a) The number of complaints filed in such fiscal year.

(b) The number of individuals filing those complaints (including as the agent of a class).

(c) The number of individuals who filed two or more of those complaints.

(d) The number of those complaints, whether initially or through amendment, raising each of the various bases of alleged discrimination and the number of complaints in which a non-EEO basis is alleged.

(e) The number of those complaints, whether initially or through amendment, raising each of the various issues of alleged discrimination.

(f) The average length of time it has taken an agency to complete, respectively, investigation and final action by an agency for:

(1) All complaints pending for any length of time during such fiscal year;

(2) All complaints pending for any length of time during such fiscal year in which a hearing was not requested; and

(3) All complaints pending for any length of time during such fiscal year in which a hearing was requested.

(g) The number of complaints dismissed by an agency pursuant to 29 CFR 1614.107(a), and the average length of time such complaints had been pending prior to dismissal.