



Federal Agency Promising and Emerging Practices Facilitating Self-Identification of Disability

This report was developed in partnership with and in support of the EO Workgroup, a collaborative effort of the U.S. Department of Labor's Office of Disability Employment Policy (ODEP), the Equal Employment Opportunity Commission (EEOC), the Office of Personnel Management (OPM) and the Employer Assistance and Resource Network on Disability Inclusion (EARN). Through this partnership, the EO Workgroup is dedicated to ensuring that federal agencies have the tools and resources they need to recruit, hire, retain and promote individuals with disabilities.

The Employer Assistance and Resource Network on Disability Inclusion (EARN) is a resource for employers seeking to recruit, hire, retain and advance qualified employees with disabilities. It is funded by the U.S. Department of Labor's Office of Disability Employment Policy under a cooperative agreement with The Viscardi Center. For more information, visit AskEARN.org.

Preparation of this item was fully funded by the United States Department of Labor, Office of Disability Employment Policy in the amount of \$9,241,750 (five year total grant amount) under Cooperative Agreement No. OD26451-14-75-4-36.

This document does not necessarily reflect the views or policies of the U.S. Department of Labor, nor does mention of trade names, commercial products, or organizations imply endorsement by the U.S. Government.

INTRODUCTION

The Federal Government needs talented workers to meet evolving challenges in the 21st century. Currently, there is an underutilized community of such individuals who want to work, and specifically want to work for the Federal Government – individuals with disabilities, including individuals with targeted disabilities. According to [Executive Order 13548](#) “Increasing Federal Employment of Individuals with Disabilities” (July 26, 2010):

“The Federal Government has an important interest in reducing discrimination against Americans living with a disability, in eliminating the stigma associated with disability, and in encouraging Americans with disabilities to seek employment in the Federal workforce. Yet Americans with disabilities have an employment rate far lower than that of Americans without disabilities, and they are underrepresented in the Federal workforce...As the Nation’s largest employer, the Federal Government must become a model for the employment of individuals with disabilities. Executive departments and agencies must improve their efforts to employ workers with disabilities through increased recruitment, hiring, and retention of these individuals.”

To ensure that the Federal Government’s commitment to recruiting, hiring, retaining and advancing qualified individuals with disabilities is fully honored, on January 3, 2017 the Equal Employment Opportunity Commission (EEOC) published in the *Federal Register* a [final rule](#) to amend, strengthen and clarify responsibilities of federal agencies to be “model employers” of individuals with disabilities under Section 501 of the Rehabilitation Act (Section 501). For purposes of this guide, we will refer to this rule as the Section 501 rule, as amended (2017).

Federal agencies’ responsibilities under Section 501 include nondiscrimination and the development of an affirmative action program plan. A key component of an affirmative action program plan is an analysis of the agency’s current employment rates and the establishment of measurable goals for the hiring and retention of qualified individuals with disabilities, including individuals with targeted disabilities. Historically, each federal agency established its own goals regarding individuals with disabilities and individuals with targeted disabilities. Under the Section 501 rule, as amended (2017) EEOC establishes uniform goals across all agencies.

The primary method used by federal agencies to count employees with disabilities is self-identification. Thus, now more than ever, it behooves federal agencies to develop and implement comprehensive strategies for facilitating self-identification of disability. This guide provides a path, outlining effective policies, practices and procedures for doing so. Specifically, it includes the following:

- ➔ Overview of the Section 501 rule, as amended (2017)
- ➔ Importance of self-identification to federal agencies
- ➔ Concerns and benefits of disclosure and self-identification for applicants with disabilities
- ➔ Promising and emerging practices facilitating self-identification
- ➔ Conclusion
- ➔ Resources

Note: The phrases “self-identification of disability” and “disclosure of disability” are sometimes used interchangeably. For purposes of this document, however, the terms have distinct meanings.

The term “disclosure of disability” means sharing information about one’s disability with specified agency personnel that may personally affect the individual. An example of self-disclosure of disability is the presentation of documentation used to verify eligibility for Schedule A Excepted Service Hiring Authority for People with Disabilities (Schedule A). Another example of self-disclosure of disability involves presentation of documentation for purposes of securing a reasonable accommodation.

The term “self-identification” means providing information about disability status that is used for statistical purposes only (i.e., for data collection and reporting purposes) and will not in any way affect the individual providing the information. For statistical purposes, individuals who are hired using Schedule A will be requested to self-identify their disability status using the “Self-Identification of Disability Form” (Standard Form 256) and, if they decline to do so, their disability status will be obtained from documentation used to support their hire. Similarly, disability status will be obtained from the documentation submitted by an employee to secure reasonable accommodation. Confidentiality rules govern both disclosure of disability and self-identification of disability.

RULE IMPLEMENTING SECTION 501

On January 3, 2017, EEOC published in the *Federal Register* a [final rule](#) to amend the regulations at [29 CFR 1614.203](#) implementing Section 501. As a general summary, the provisions included in the Section 501 rule, as amended (2017) impose two distinct obligations on federal agencies.

First, the Section 501 rule, as amended (2017) requires that federal agencies not discriminate against individuals on the basis of disability in regard to hiring, advancement or discharge; employee compensation; job training; or other terms, conditions and privileges of employment. Consistent with Title V of the Rehabilitation Act, the Section 501 rule, as amended (2017) simply specifies that the standards used to determine whether Section 501 has been violated in a complaint alleging employment discrimination shall be the standards applied under the Title I of the Americans with Disabilities Act (ADA) and its other applicable provisions related to employment. For a more comprehensive description of the ADA standards applicable to self-disclosure and self-identification, see Appendix A.

Second, the Section 501 rule, as amended (2017) specifies that federal agencies must 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)] More specifically, the Section 501 rule, as amended (2017) includes several substantive changes to the affirmative action requirements — one of the most important of which specifies that agencies must take specific steps that are reasonably designed to gradually increase the number of employees who have a disability and the number of employees who have a targeted disability until they meet specified goals and subgoals, respectively, set by EEOC, rather than by the agencies themselves, as previously required. [82 FR [654](#), [667-670](#) (January 3, 2017)]

For a more comprehensive description of the provisions in the final Section 501 rule, as amended (2017) regarding goals and workforce utilization analysis, see Appendix B.

IMPORTANCE OF SELF-IDENTIFICATION TO FEDERAL AGENCIES

Under the Section 501 rule, as amended (2017), agencies may classify individuals for purposes of the workforce analysis based on “[t]he 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 the Office of Personnel Management Form 256 (SF-256), which states that the information collected will be kept confidential and used only for statistical purposes, and the completion of the form is voluntary.” [29 CFR 1614.203(d)(6)(ii)]

[SF-256](#) explains that “each agency in the Executive Branch of the Federal Government has established programs to facilitate the hiring, placement, and advancement of individuals with disabilities. Self-identification of disability status is essential for effective data collection and analysis of the Federal Government’s efforts. While self-identification is voluntary, your cooperation in providing accurate information is critical to these efforts. Every precaution is taken to ensure that the information provided by each employee is kept in the strictest confidence.” SF-256 requests the entry of a code based on whether an individual has specified “targeted disabilities or health conditions” or “other disabilities or health conditions.”

Furthermore, the instructions accompanying the form include the following statements:

- ➔ “The Rehabilitation Act of 1973, as amended, requires each agency in the Executive Branch of the Federal Government to establish programs that will facilitate the hiring, placement, and advancement of individuals with disabilities.”
- ➔ “One method for determining agency progress in fulfilling these requirements is through the production of reports at certain intervals showing, for example, the number of employees with disabilities who are hired, promoted, trained, or reassigned over a given time period; the percentage of employees with disabilities in the workforce and in various grades and occupations; etc.”
- ➔ “Such reports bring to the attention of agency top management, OPM, and the Congress progress or any deficiencies within specific agencies or the Federal Government as a whole in the hiring, placement, and advancement of individuals with disabilities.”
- ➔ “The disability data collected on employees will be used only in the production of reports such as those previously mentioned and not for any purpose that will affect them individually.”
- ➔ “The only exception to this rule is that records may be used for selective placement purposes and selecting special populations for mailing of voluntary personnel research surveys.”
- ➔ “In addition, every precaution will be taken to ensure that the information provided by each employee is kept in the strictest confidence and is known only to those individuals in the agency Personnel Office who obtain and record the information for entry into the agency’s and OPM’s personnel systems.”
- ➔ “You should also be aware that participation in the disability reporting system is entirely voluntary, with the exception of employees appointed under the Schedule A Excepted Appointing Authority for People with Intellectual Disability, Severe Physical Disability, or Psychiatric Disability (5 CFR 213.3102(u)). Agencies will request that these employees identify their disability status and if, they decline to do so, their correct disability code will be obtained from medical documentation used to support their appointment.”

- ➔ “Employees who wish to confirm the disability code carried in their agencies’ and OPM’s personnel systems is consistent with the employees’ representation, may ask their Personnel Officer for a printout of the code and definition from their individual records. The code noted in the employees’ records in the agencies’ system will be identical to that carried in OPM’s system.”

EEOC reminds agencies in the section-by-section analysis accompanying the Section 501 rule, as amended (2017) that “they have the discretion to periodically request employees to respond to voluntary surveys updating their SF-256 information. If accompanied by an explanation of why self-reporting is important, resurveying can enhance data accuracy.” [82 FR [667](#) (January 3, 2017)]

In addition, the Section 501 rule, as amended (2017) allows, but does not require, agencies to collect disability information using forms other than the SF-256. More specifically, the rule 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 Applicant Flow Form](#). [82 FR [667](#) (January 3, 2017)]

In sum, the benefit of self-identification of disability to federal agencies is evident—accurate tracking is critical to determine if the goals established by EEOC have been achieved, and accurate tracking is generally contingent on employees and applicants with disabilities self-identifying. But there are more significant benefits too: reporting progress in achieving the goals can also identify bottlenecks and improve workplace climate. Increased diversity and inclusion can impact employees’ job satisfaction, commitment and productivity. Seeing that their colleagues with disabilities are fairly treated can build employee loyalty and commitment toward the agency, and sometimes, even encourage people with disabilities who have not self-identified to do so.

CONCERNS AND BENEFITS OF DISCLOSURE AND SELF-IDENTIFICATION FOR APPLICANTS AND EMPLOYEES

CONCERNS/OBSTACLES

An agency’s legal responsibility to ask applicants and employees about disabilities in order to meet its goals may not be a compelling enough reason for some individuals to self-identify. Disclosing a disability is still a personal choice; many people with disabilities fear bias or discrimination. If they do not need a reasonable accommodation, some say their disability is not the agency’s business. Also, some employees may not choose to self-identify if they can’t see any personal pay-off (“What’s in it for me?”) for doing so. In other words, having a disability is a personal matter that some employees may prefer not to share if they are concerned about negative consequences or cannot see any positives of doing so.

More specifically, research indicates that individuals with disabilities often do not disclose or self-identify their disability out of concerns that agency personnel (particularly supervisors) will:

- ➔ Have lowered expectations, isolate them from co-workers, not treat them with dignity and respect, not be understanding/supportive.
- ➔ Focus more on their disability than on actual work performance/abilities.
- ➔ Decrease their job responsibilities.
- ➔ Pass them over for promotions.

- ➔ Reduce or take away their health insurance.
- ➔ Terminate their employment.

Finally, some individuals may simply want to keep their disability private.

BENEFITS AND FACILITATORS

In addition to reporting concerns with disclosure of disability, researchers have identified some benefits for individuals with disabilities, such as facilitating the process for requesting an accommodation to perform the essential functions of a job; explaining behavior to a supervisor or taking care of health conditions during working hours; and explaining gaps in employment history.

Also, researchers have identified factors that facilitate disclosure and self-identification:

- ➔ Existence of a supportive supervisor relationship.
- ➔ Knowing the employer has made concerted efforts to create a disability- inclusive/friendly workplace, including disability awareness training for all employees.
- ➔ Knowing that other employees have self-identified their disability and are successful in the workplace.
- ➔ The belief that disclosure will lead to new opportunities for promotion or training.
- ➔ Message of disability inclusiveness on the company's website, promotional and recruitment materials.
- ➔ Availability of flexible work opportunities.
- ➔ The existence of a disability-related Employee Resource Group (ERG).

PROMISING AND EMERGING PRACTICES FACILITATING SELF-IDENTIFICATION

Recognizing the importance of self-identification and its costs and benefits, researchers have identified promising and emerging practices that facilitate self-identification of disability in the workplace context. These practices fall into three categories—practices relating to the general culture and climate of the agency, practices describing the benefits of self-identification and practices specifically related to the implementation of the agency's self-identification policies and procedures.

GENERAL WORKPLACE CULTURE AND CLIMATE

Workplace culture plays a particularly important role in decisions by individuals to self-identify their disability. A supportive workplace and coworkers are critical to self-identifying in the workplace as is demonstrating equitable treatment of individuals with disabilities. To create a more disability-inclusive workplace in which applicants and employees feel comfortable self-identifying agencies can:

- ➔ Gain senior leadership buy-in and sponsorship of disability-related initiatives. Senior leadership regularly speaks on how work groups that include diverse perspectives and people, including those with disabilities, yield greater engagement, productivity and performance.
- ➔ Include disability as part of the broader diversity and inclusion initiatives.

- ➔ Hire, advance and retain employees with disabilities at all grade levels and the Senior Executive Service.
- ➔ Foster a strong disability-related ERG.
- ➔ Assign at least one or two points of contact to manage disability-related issues and accommodations (e.g., Disability Program Manager, Reasonable Accommodation Coordinator, Selective Placement Program Coordinator).
- ➔ Articulate a clear business case for why employing individuals with disabilities is important.
- ➔ Conduct an analysis of bottlenecks and disability census every few years.
- ➔ Ensure all physical space is accessible.
- ➔ Make the agency's websites (Internet and Intranet) accessible and design the website and marketing materials to convey strong commitment to disability diversity and inclusiveness, including highlighting policies regarding reasonable accommodations and using Schedule A.
- ➔ Offer work experiences, including internships and mentorships.
- ➔ Encourage employees with disabilities to engage in career development initiatives, including detail assignments, coaching, individual development plans and mentoring opportunities.
- ➔ Maintain a centralized reasonable accommodation fund at the highest level in the department or agency to remove the administrative and financial responsibility of reasonable accommodation from the direct manager or supervisor.
- ➔ Include reasonable accommodation statements on all meeting requests, programs and events directing employees on where to obtain accommodations, if needed.
- ➔ Make disability familiar and ordinary by "putting a face on it," for example, highlight stories of employees with disabilities and the agency's efforts to recruit, hire, develop and retain this talent segment, or show videos in which agency leaders self-identify as having a disability.
- ➔ Highlight the importance of relationships between individuals with disabilities and their supervisors and co-workers by helping supervisors become "disability." confident and offering training and resources to improve disability awareness.
- ➔ Hold managers accountable for meeting disability diversity and inclusion goals.

POTENTIAL BENEFITS OF SELF-IDENTIFICATION

In addition to fostering an inclusive workplace culture in which individuals with disabilities feel comfortable self-identifying, agencies can adopt practices explaining the benefits of self-identification.

- ➔ Communicating (beyond just the information in SF-256) why agency officials are asking those with disabilities to self-identify, how the information will be used and anonymity or confidentiality will be protected and the benefits of self-identification for the employee(s).
- ➔ Providing multiple avenues for employees with disabilities to self-identify.
- ➔ Anticipating the "What's in it for me?" question and answering it honestly with the potential benefits of self-identification, for example:
 - With human capital analytics, the agency can better understand the needs of individuals with disabilities
 - Agency wants its workforce to reflect the communities it serves

- Agency wants to provide a workplace where team members with disabilities can be their most productive
- Understanding the composition of the workforce helps the agency distribute resources where they are most needed
- ➔ Appealing to self-interest. Individuals may be curious to know how many colleagues are similarly living with a disability and about the agency's resources and process for accommodating people with disabilities.

SPECIFIC PRACTICES REGARDING SELF-IDENTIFICATION

In addition to fostering an inclusive workplace culture in which individuals with disabilities feel comfortable self-identifying and adopting practices explaining the benefits of doing so, agencies can implement strategies to overcome obstacles, including:

- ➔ Communicating the definition of "disability" and including examples. One of the reasons employees with disabilities do not self-identify is that they may not realize they meet the definition of disability.
- ➔ Providing employees the option to self-identify within a secure/confidential online system where they maintain changes to tax deductions, pay check allocations, etc. (i.e., separate from the electronic personnel documents that include the SF-50, performance evaluations, etc.).
- ➔ Assigning the disability ERG a key role in communicating the importance of self-identification.
- ➔ Using data to inform talent management practices. If an agency is trying to create an environment to attract the very best people from diverse communities, the agency has to start by finding out who they are.
- ➔ Launching an enterprise communication plan encouraging employees to update their personal information. Rather than sending a one-time message, agencies should consider continuing to use events throughout the year, such as the annual benefits enrollment and the employee engagement survey, to remind employees to check that their personal information is still current.

CONCLUSION

With the publication of the Section 501 rule, as amended (2017), EEOC reaffirms and strengthens the Federal Government's commitment to being a model employer of people with disabilities. As mentioned in the introduction, two substantive changes to the affirmative action program plan requirements are of particular significance:

- ➔ Agencies must meet goals set by EEOC, rather than by agencies themselves (currently required) for employment of people with disabilities and agencies; and
- ➔ Agencies must meet sub-goals set by EEOC, rather than by the agencies themselves (as currently required) for the employment of people with targeted disabilities.

Self-identification of disability is a primary method used to count individuals with disabilities for purposes of meeting these goals. Due to the strengthening of the goals requirements in the Section 501 rule, as amended (2017), the need for agencies to adopt comprehensive strategies on self-identification is greater than ever. Now is the time for agencies to adopt practices that expand and improve the agency culture and recognize and overcome obstacles to self-identification.

RESOURCES

U.S. Office of Personnel Management, Office of Diversity and Inclusion:

<https://www.opm.gov/policy-data-oversight/diversity-and-inclusion/>

Do Ask, Do Tell, Encouraging Employees with Disabilities to Self-Identify:

<http://www.askearn.org/news-events/announcements/do-ask-do-tell-new-report-addresses-strategies-for-encouraging-self-disclosure/>

Do Ask, Do Tell: Tapping the Power of Disability Diversity & Encouraging Self-Identification (Archived Webinar):

<http://www.askearn.org/news-events/webinars/do-ask-do-tell-tapping-the-power-of-disability-diversity-encouraging-self-identification/>

Standard Form 256 Self-Identification of Disability:

https://www.opm.gov/forms/pdf_fill/sf256.pdf

EEOC's Applicant Flow Form (Demographic Information on Applicants):

https://www.eeoc.gov/federal/upload/Applicant_Tracking_Form_2-19-2014-2.pdf

Reaffirming the Commitment: Understanding the Proposed Changes to Section 501 of the Rehabilitation Act (Archived Webinar):

<http://www.askearn.org/news-events/announcements/reaffirming-the-commitment-understanding-the-proposed-changes-to-section-501-of-the-rehabilitation-act/>

Federal Agency Employment Strategies: A Framework for Disability Inclusion:

<https://www.dol.gov/odep/pdf/FAEstrategies.pdf>

Summary Promising and Emerging Practices for Enhancing the Employment of Individuals with Disabilities Included in Plans Submitted by Federal Agencies Under Executive Order 13548:

<http://www.dol.gov/odep/pdf/2012eo13548.pdf>

Questions and Answers: Promoting Employment of Individuals with Disabilities in the Federal Workforce (EEOC):

<https://www.eeoc.gov/federal/qanda-employment-with-disabilities.cfm>

Disability Disclosure and Employment - JAN Effective Accommodation Practices Series:

<http://askjan.org/media/eaps/employmentdisclosureEAP.doc>

Fostering Disability-Inclusive Workplaces Through Employee Resource Groups:

http://askearn.org/docs/AskEarn_EmployeeResourceGroup_factsheet.pdf

APPENDIX A

OVERVIEW OF ADA STANDARDS REGARDING SELF-DISCLOSURE AND SELF-IDENTIFICATION

Set out below are the standards applicable to self-disclosure and self-identification in the employment context set out in regulations implementing Title I of the Americans with Disabilities Act (ADA). Although the ADA does not cover employment in the federal sector, the ADA Title I nondiscrimination standards are incorporated by reference in the Section 501 rule, as amended (2017) pertaining to nondiscrimination on the basis of disability by federal agencies.

1. Pre-Employment

With limited exceptions, an employer may not require an applicant to disclose his or her disability or medical impairment prior to making an offer of employment. Under one of these limited exceptions, federal agencies required to undertake affirmative action under Section 501 may invite applicants and employees to voluntarily self-identify as having a disability prior to making an offer of employment. In requesting this information, an agency must clearly state, in writing and otherwise, that the information is being requested on a voluntary basis, that it will be kept confidential, that refusal to self-identify will not subject the person to any adverse treatment, and that the information will be used only in accordance with Section 501. [See 82 FR 668, footnote 93 (January 3, 2017)]

2. After a Conditional Offer of Employment

A “conditional job offer” is a job offer that is conditioned on the applicant successfully meeting the reasonable and legitimate physical and medical requirements of the job. Once an employer makes a job offer to a job applicant, the employer may require medical examinations before hiring and may ask wide-ranging questions that involve disability-related information. However, the information must be requested of every applicant for that position. If an employer uses this information to disqualify a job candidate, the reasons behind the disqualification must not be discriminatory and must be “job-related” and “consistent with business necessity.”

3. Disclosure to Receive Reasonable Accommodation

Reasonable accommodation may be needed to participate in the hiring process, perform essential job functions, or receive a benefit or privilege of employment. Under Section 501 (and the ADA), discrimination includes not making reasonable accommodations to the “known” physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee. Thus, requesting an accommodation necessitates disclosing disability.

4. Confidentiality

Federal agencies must keep all information concerning the medical condition or history of their applicants or employees confidential. The information must be collected on a separate form and kept in a separate medical file, apart from an employee’s personnel file. Only staff that needs to know the medical information, usually direct supervisors and managers, should know this information. If co-workers inquire as to why a colleague seems to have accommodations, a different work schedule, or what is perceived as preferential treatment, the employer may only explain that they are acting for legitimate business reasons or to comply with federal law.

With limited exceptions, federal agencies must keep confidential any medical information learned about an applicant or employee. Information can be confidential even if it contains no medical diagnosis or treatment course and even if it is not generated by a health care professional. For example, an employee’s request for a reasonable accommodation would be considered medical information subject to the Section 501 (via Title I of the ADA) confidentiality requirements. Medical information must be kept in a separate medical file that is accessible only to designated officials. Medical information stored electronically must be similarly protected (e.g., by storing it on a separate database).

Section 501 (via Title I of the ADA) recognizes that agencies may sometimes have to disclose medical information about applicants or employees. Therefore, certain exceptions to the general rule requiring confidentiality are applicable. Information that is otherwise confidential under the ADA may be disclosed:

- To supervisors and managers where they need medical information in order to provide a reasonable accommodation or to meet an employee’s work restrictions;
- To first aid and safety personnel if an employee would need emergency treatment or require some other assistance (such as help during an emergency evacuation) because of a medical condition;
- To individuals investigating compliance with the ADA and with similar state and local laws; and
- Pursuant to workers’ compensation laws (e.g., to a state workers’ compensation office in order to evaluate a claim) or for insurance purposes.

APPENDIX B

AFFIRMATIVE ACTION PROGRAM PLAN PROVISIONS APPLICABLE TO GOALS AND UTILIZATION ANALYSIS [29 CFR 1614.203(d)(6)]

The Section 501 rule, as amended (2017), includes several substantive amendments to the affirmative action requirements, one of the most important of which specifies that agencies must take specific steps that are reasonably designed to gradually increase the number of employees who have a disability and the number of employees who have a “targeted disability” until they meet specific goals and sub-goals, respectively, set by the EEOC, rather than by the agencies themselves, as currently required.

Since 1987, federal agencies have been required by EEOC to set their own numerical objectives (goals) for the number of employees with targeted disabilities and report that data annually to EEOC. Since 2010, federal agencies have been required under Executive Order 13548 to set their own internal goal for the percentage of employees with targeted disabilities as well as the percentage of employees with disabilities in their workforces, and submit those targets to OPM. Under the Section 501 rule, as amended (2017), agencies are required to perform the workforce utilization analysis necessary to determine whether goals established by EEOC have been met.

More specifically, 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. Agencies may also design their own forms or use existing forms as appropriate. For example, agencies are permitted to use the approach taken in EEOC’s Applicant Flow Form.
- Records relating to the individual’s appointment under a hiring authority that takes disability into account (such as Schedule A Excepted Service Hiring Authority for People with Disabilities), if applicable.
- Records relating to the individual’s request for reasonable accommodation, if any.

EEOC 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, footnote 93 (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% 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% 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 subgoal of ensuring that no less than 2% 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% 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.

The Section 501 rule, as amended (2017) does not specify a timeframe for achieving the goals. Rather, the Section 501 rule, as amended (2017) requires each agency to take specific steps that are reasonably designed to gradually increase the number of employees with disabilities and targeted disabilities employed at the agency until it meets the goals.

The Section 501 rule, as amended (2017) provides examples of such steps, including:

- Increased use of hiring authorities that take disability into account;
- To the extent permitted by applicable laws, consideration of disability or targeted disability status as a positive factor in hiring, promotion, or assignment decisions;
- Additional outreach or recruitment efforts;
- Increased efforts to hire and retain individuals who require supported employment because of a disability, who have retained the services of a job coach at their own expense or at the expense of a third party, and who may be given permission to use the job coach during work hours as a reasonable accommodation without imposing undue hardship on the agency; and
- Adoption of training, internship and mentoring programs for individuals with disabilities.