

DISABILITY-RELATED PROVISIONS OF EXECUTIVE ORDER 14035: Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce

On June 25, 2021, President Biden issued [Executive Order \(EO\) 14035, Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce](#). The purpose of this publication is to provide a summary of key disability-related provisions in the EO. The EO includes references to President Biden's EO 13985 issued on January 20, 2021, [Advancing Racial Equity and Support for Underserved Communities Through the Federal Government](#). It also references EOs issued by Presidents Obama and Clinton concerning coordinated efforts to promote diversity and inclusion and increase federal employment of individuals with disabilities. Links to these EOs are provided in the Appendix.

OVERARCHING POLICY [SECTION 1]

- To advance equity within the Federal Government, it is the policy of the Biden Administration to cultivate a workforce that draws from the full diversity of the Nation.
- The Federal Government must be a model for diversity, equity, inclusion and accessibility and must strengthen its ability to recruit, hire, develop, promote and retain our Nation's talent and remove barriers to equal opportunity.
- The Federal Government must also provide resources and opportunities to strengthen and advance diversity, equity, inclusion and accessibility across the Federal Government.
- The Federal Government should have a workforce that reflects the diversity of the American people.
- The EO establishes that diversity, equity, inclusion and accessibility are priorities and establishes procedures to advance these priorities across the federal workforce.

DEFINITIONS [SECTION 2]

- **Underserved communities** include individuals who belong to communities that face discrimination based on, among other things, their [disability](#).
- **Diversity** means the practice of including the many communities, identities, races, ethnicities, background, abilities, cultures and beliefs of the American people, including underserved communities.
- **Equity** means the consistent and systematic fair, just and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment.
- **Inclusion** means the recognition, appreciation and use of the talents and skills of employees of all backgrounds

- **Accessibility** means the design, construction, development and maintenance of facilities, information and communication technology, programs and services so that all people, including people with disabilities, can fully and independently use them. Accessibility includes:
 - The provision of accommodations and modifications to ensure equal access to employment and participation in activities for people with disabilities;
 - The reduction or elimination of physical and attitudinal barriers to equitable opportunities; and
 - A commitment to ensuring that people with disabilities can independently access every outward-facing and internal activity or electronic space and the pursuit of best practices such as universal design.

GOVERNMENT-WIDE DIVERSITY, EQUITY, INCLUSION AND ACCESSIBILITY INITIATIVE AND STRATEGIC PLAN [SECTION 3]

The Director of the Office of Personnel Management (OPM), the Deputy Director for Management of the Office of Management and Budget (OMB), in coordination with the Chair of the Equal Employment Opportunity Commission (EEOC) and in consultation with the Secretary of Labor (DOL), Assistant to the President for Domestic Policy (APDP), the Director of the Office of Science and Technology Policy, the Assistant to the President for National Security Affairs, the Director of the National Economic Council and the Co-Chairs of the Gender Policy Council shall:

- ✓ **Re-establish** a coordinated government-wide initiative and expand its scope to specifically include equity and accessibility.
- ✓ **Develop** and issue a government-wide diversity, equity, inclusion and accessibility (DEIA) strategic plan within 150 days that updates plan required by [EO 13583](#) (Obama Coordination).
 1. Define standards of success based on leading policies and practices in the public and private sectors.
 2. Consistent with merit system principles, identify strategies to advance DEIA and eliminate, where applicable, barriers to equity in the following federal workforce functions:
 - Recruitment
 - Hiring
 - Background investigation
 - Promotion
 - Retention
 - Performance evaluations and awards
 - Professional development programs
 - Mentoring programs
 - Employee resource and affinity groups
 - Temporary employee details and assignments
 - Pay and compensation policies and benefits, including health benefits, retirement benefits and employee services and work-life programs
 - Disciplinary or adverse actions
 - Reasonable accommodations for employees and applicants with disabilities
 - Workplace policies to prevent gender-based violence (including domestic violence, stalking and sexual violence)
 - Reasonable accommodations for employees who are members of religious minorities
 - Training, learning and onboarding programs

3. Include a comprehensive framework to address workplace harassment
 4. Promote a data-driven approach to increase transparency and accountability, which would build on, where appropriate, EEOC's MD-715 reporting process.
- ✓ **Establish** an updated system for agencies to report regularly on progress in implementing agency DEIA strategic plans that includes:
 - New reporting requirements.
 - Agency reports on actions taken. Reports shall include:
 - Measurement of improvements,
 - Analysis of the effectiveness of agency programs, and
 - Descriptions of lessons learned.
 - ✓ OPM and OMB shall **support** agencies in designing and advancing DEIA by providing, for example, updated guidance and technical assistance.
 - ✓ **Pursue** opportunities to consolidate implementation efforts and reporting requirements relating to DEIA.
 - ✓ **Support, coordinate and encourage** agency efforts to conduct research, evaluation and other evidence-building activities to identify leading practices and other promising practices for broadening participation and opportunities for advancement in federal employment.

RESPONSIBILITIES OF DEPARTMENTS AND AGENCIES [SECTION 4]

The head of each agency shall:

- ✓ Make advancing DEIA a priority component of the agency's management agenda and agency strategic planning
- ✓ Implement the Government-Wide DEIA Plan.
- ✓ Within 100 days, submit to the APDP, OPM and OMB a preliminary assessment of the current state of DEIA in the agency's human resources practices and workforce composition. The assessment should include:
 - Assessing whether the agency's policies, practices and procedures, including reasonable accommodation access, are equitable.
 - Taking an evidence-based and data-driven approach to determine the extent to which agency practices result in inequitable employment outcomes and whether agency actions may help to overcome systemic societal and organizational barriers.
 - Assessing the status and effects of existing DEIA initiatives or programs and reviewing the amount of institutional resources available.
 - Identifying areas where evidence is lacking and proposing opportunities to build evidence to address gaps.
- ✓ Within 120 days of the issuance of the Government-Wide DEIA Plan, and annually thereafter, develop and submit to the APDP, OPM and OMB an agency DEIA plan that identifies actions to advance DEIA and remove any potential barriers identified in the assessment and include quarterly goals and actions.
- ✓ On an annual basis, report to the President on the status of an agency's efforts to advance DEIA and the agency's success in implementing the agency's DEIA Strategic Plan. The agency shall also make available to the general public information on efforts to advance DEIA.
- ✓ Oversee and provide resources and staffing to support the implementation of the agency's DEIA Strategic Plan.
- ✓ Enhance DEIA within the agency in collaboration with agency senior officials.
- ✓ Seek opportunities to establish a position of chief diversity officer or diversity and inclusion officer, as distinct from an Equal Employment Opportunity (EEO) officer, with sufficient seniority to coordinate efforts to promote DEIA.
- ✓ Strongly consider for employment qualified applicants of any background who have advanced DEIA in the workplace.

- ✓ In coordination with OMB, seek opportunities to ensure alignment across various organizational performance planning requirements and efforts by integrating the agency DEIA Strategic Plan and DEIA goals into broader agency strategic planning efforts.

DATA COLLECTION [SECTION 5]

- ✓ The head of each agency shall take a data-driven approach to advance policies promoting DEIA within the agency's workforce while protecting privacy and safeguarding all personally identifiable information and protected health information.
- ✓ Using federal standards, the head of each agency shall measure demographic representation and trends related to diversity in the agency's overall workforce composition, senior workforce composition, employment applications, hiring decisions, promotions, pay and compensation, professional development programs and attrition rates.
- ✓ OPM, EEOC and OMB shall review existing guidance, regulations, policies and practices that govern agency collection of demographic data about federal employees and consider issuing, modifying or revoking such guidance in order to expand the collection of such voluntarily self-reported data and more effectively measure the representation of underserved communities in the federal workforce. The head of each agency shall implement any revised guidance.
- ✓ The head of each agency shall take steps to ensure that data collection and analysis allows for the capture or presence of multiple attributes and identities to ensure an intersectional analysis.
- ✓ The head of each agency shall collect and analyze voluntarily self-reported demographic data regarding the membership of advisory committees, commissions and boards.

PAID INTERNSHIPS [SECTION 6]

- ✓ OPM and OMB shall issue guidance to agencies with respect to internships, including guidance on how to increase the availability of paid internships, fellowships and apprenticeships and ensure all interns, fellows and apprentices with disabilities, including applicants and candidates, have a process for requesting and obtaining reasonable accommodations to support their work, without regard to whether such individuals are covered by the Rehabilitation Act.

PARTNERSHIPS AND RECRUITMENT [SECTION 7]

- ✓ The Director of the Office of Science and Technology Policy, OPM and OMB, in consultation with EEOC, shall coordinate a government-wide initiative to strengthen partnerships (Partnership Initiative) to facilitate recruitment for federal employment opportunities of individuals in underserved communities (which includes individuals with disabilities). These entities shall take steps to increase diversity in the federal employment pipeline by supporting and guiding agencies in building or strengthening partnerships with, among other groups:
 - State vocational rehabilitation agencies,
 - Disability services offices in institutions of higher education,
 - Community-based organizations that serve and work with underserved communities (including individuals with disabilities), including return-to-work programs,
 - Centers for independent living, and
 - Disability rights organizations.
- ✓ The head of each agency shall work with these entities to make employment, internships, fellowships and apprenticeship opportunities available through the Partnership Initiative and shall take steps to enhance recruitment efforts through the Partnership Initiative.

PROFESSIONAL DEVELOPMENT AND ADVANCEMENT [SECTION 8]

- ✓ OPM, in consultation with OMB, shall issue detailed guidance to agencies for tracking demographic data relating to participation in leadership and professional development programs and the rate of the placement of participating employees into senior positions in agencies, in a manner consistent with privacy and confidentiality protections and statistical limitations.
- ✓ The head of each agency shall implement the guidance and shall use demographic data relating to participation in professional development to identify ways to improve outreach and recruitment for professional development programs, consistent with merit system principles.
- ✓ The head of each agency shall also address any barriers to access to or participation in such programs faced by members of underserved communities, including individuals with disabilities.

TRAINING AND LEARNING [SECTION 9]

- ✓ The head of each agency shall take steps to implement or increase the availability and use of DEIA training programs for employees, managers and leadership to:
 - Have knowledge of systemic and institutional racism and bias against underserved communities (including individuals with disabilities),
 - Be supported in building skillsets to promote respectful and inclusive workplaces and eliminate workplace harassment,
 - Have knowledge of agency accessibility practices, and
 - Have increased understanding of implicit and unconscious bias.
- ✓ OPM and EEOC shall issue guidance and serve as a resource and repository for best practices for agencies to develop or enhance existing DEIA training programs.

ADVANCING EQUITY FOR EMPLOYEES WITH DISABILITIES [SECTION 10]¹

- ✓ The Federal Government must become a model for the employment of individuals with disabilities (as established in [EO 13548](#)).
- ✓ In order for federal employees and applicants with disabilities to be assessed on their merits, accessible information and communication technologies must be provided and, where needed, reasonable accommodations must be available.
- ✓ DOL, OPM, EEOC, OMB and the Access Board, in consultation with the General Services Administration (GSA), as appropriate, shall coordinate with agencies to:
 - Support the Federal Government's effort to provide people with disabilities equal employment opportunities and take affirmative action to ensure that agencies fully comply with applicable laws, including Section 501, 504 and 508 of the Rehabilitation Act.
 - Assess current practices in using the Schedule A hiring authority to employ people with disabilities in the Federal Government and evaluate opportunities to enhance equity in employment and financial security for employees with disabilities through different practices or guidance on the use of Schedule A hiring authority.
 - Ensure that:
 - Applicants and employees with disabilities have access to information about and understand their rights regarding disability self-identification;

¹ It should be noted that Section 11 of the EO addresses "Advancing Equity for LGBTQ+ Employees," Section 12 addresses "Pay Equity," Section 13 addresses "Expanding Employment Opportunities for Formerly Incarcerated Individuals," and Section 14 addresses "Delegation of Authority."

- Applicants and employees with disabilities have access to information on Schedule A hiring authority for individuals with disabilities;
 - Applicants and employees with disabilities have access to information about, understand their rights to and may easily request reasonable accommodations, workplace personal assistance services and accessible information and communication technology;
 - The process of responding to reasonable accommodation requests is timely and efficient and the processes and procedures for appealing the denial of reasonable accommodation requests are timely and efficient; and
 - All information and communication technology and products developed, procured, maintained or used by federal agencies are accessible and usable by employees with disabilities consistent with all standards and technical requirements of the Rehabilitation Act.
- ✓ GSA, OPM, OMB and the Access Board shall work with federal agencies to ensure that all federal office buildings and workplaces and leased buildings are accessible to employees with disabilities in compliance with the Architectural Barriers Act (ABA) of 1968 and related standards.
 - ✓ Beyond existing duties to comply with the ABA and related standards, the head of each agency shall maximize the accessibility of the physical environment so as to reduce the need for reasonable accommodations and provide periodic notice to all employees that complaints can be filed with the Access Board.
 - ✓ The Department of Defense (DoD) and DOL shall review the use of the Workforce Recruitment Program (WRP) for college students and recent graduates and take steps to expand the WRP, consistent with applicable laws. DOD and DOL shall submit a report to APDP describing any steps taken and providing recommendations for any Presidential, administrative or congressional actions to further expand and strengthen the program and expand job opportunities.

APPENDIX: LINKS TO MAJOR EXECUTIVE ORDERS CONCERNING THE ADVANCEMENT OF INDIVIDUALS WITH DISABILITIES

President Biden

- [Executive Order \(EO\) 14035 Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce](#) [June 25, 2021]
- [Executive Order 13985 Advancing Racial Equity and Support for Underserved Communities Through the Federal Government](#) [January 20, 2021]

President Obama

- [Executive Order 13583 Establishing a Coordinated Government-Wide Initiative to Promote Diversity and Inclusion in the Federal Workforce](#) [August 18, 2011]
- [Executive Order 13548 Increasing Federal Employment of Individuals with Disabilities](#) [July 26, 2010]

President Clinton

- [Executive Order 13163 Increasing the Opportunity of Individuals with Disabilities to be Employed in the Federal Government](#) [July 26, 2000]
- [Executive Order 13708 Increasing Employment of Adults with Disabilities](#) [March 13, 1998]

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