

MD-715: Core Concepts and Practical Applications

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What is MD-715?

- Management Directive 715 provides policy guidance and standards for establishing and maintaining effective affirmative employment programs of equal opportunity under section 717 of Title VII and Section 501 of the Rehabilitation Act.

Dual Goals of MD-715

- I. Model EEO Program
- II. Equal Opportunity (Barrier-Free Workplace)



Components of MD-715

- PARTS A – D: General Info about Agency
- PART E: Executive Summary
- PART F: Certification by Agency Head
- PART G: Self-Assessment Checklist
- PART H: Plans to Correct Program Deficiencies
- PART I: Plans to Remove Barriers
- PART J: Plan for People with Targeted Disabilities
- Appendix: Workforce Data Tables



MD-715 Filing Requirements

- Covered Agencies
 - 1000+ employees – All PARTS & Tables
 - 500-999 employees – PARTS A-I & Tables 1-7
 - 0-499 employees – PARTS A-F & Tables 1-5
- Sub-Component Agencies
 - 1000+ employees – All PARTS & Tables
 - 500-999 employees – PARTS A-I & Tables 1-7
- No agencies are required to submit PART G



What are the Elements of a Model EEO Program?

- Demonstrated **Commitment** from Agency Leadership
- **Integration** of EEO into the Agency's Strategic Mission
- Management and Program **Accountability**
- Proactive **Prevention** of Unlawful Discrimination
- **Efficiency**
- **Responsiveness** and Legal Compliance



Demonstrated Commitment

- Requires agency's leadership to make EEO a fundamental part of the culture.
 - Promulgate EEO Policy statements
 - Evaluate management on commitment to:
 - Ensuring workplace free from discrimination
 - Provide religious accommodations
 - Provide reasonable accommodations
 - Disseminate RA procedures on public website



Integration into Strategic Mission

- Factor EEO considerations into strategic planning
 - EEO Director reports to agency head
 - "State of the Agency" briefing
 - EEO officials present during deliberations regarding the workforce
 - Sufficient funding and human resources allocated to EEO programs



Why include EEO in strategic planning?

- Establishes the agency's commitment to EEO principles.
- Ensures that EEO receives appropriate share of agency's resources
- Helps to avoid unlawful discrimination in agency strategic planning concerning:
 - reduction in force
 - succession planning
 - recruitment drives
 - retention programs
 - employee development programs



Strategic Planning Who's Who

- Executive (Agency Head)
- Programmatic
- General Counsel
- Information Technology
- Training/Employee Development
- Budget and Finance
- Human Resources
- EEO



Management and Program Accountability

- Managers, supervisors, EEO and HR are responsible for effective implementation and management of agency's EEO program
 - EEO staff updates, advises & assists management
 - Coordination among GC, HR, Finance, IT, etc.
 - Regular communication between EEO and HR
 - Mechanism for disciplinary actions is in place
 - Prompt compliance with court/administrative orders



Proactive Prevention

- Prevent unlawful discrimination by eliminating potential causes
 - Annual self-assessment, including trend analysis
 - Barrier identification and elimination
 - Alternative Dispute Resolution



Efficiency

- Effective program evaluation and dispute resolution systems are in place
 - Resources to achieve elimination of barriers
 - Effective complaint tracking & monitoring
 - Compliance with regulatory time frames in complaint processing
 - Management trained in ADR
 - Consults with other agencies to find best practices
 - Investigative and adjudicatory functions of complaint processing are separate from agency's legal defense arm



Responsiveness & Legal Compliance

- Timely compliance with EEOC orders
- Timely completion of corrective action
- Timely submission of compliance documentation
- Compliance with Executive Order 13164
- Compliance with Architectural Barriers Act
- Compliance with Section 508 of Rehabilitation Act



Deficiencies in EEO Program

- A Program Deficiency is a problem that inhibits an agency's efforts to develop a model EEO program, but does not impact directly upon individuals.
- Agencies identify strengths and weaknesses in their EEO program through the Self-Assessment Checklist in PART G.

Program Deficiencies – PART G & PART H

- Conduct annual self-assessment of EEO and related programs (submission voluntary).
- Utilize checklist found in Part G of MD-715 report form to identify deficiencies.
- Devise plans for removing those deficiencies in Part H of MD-715 report form.
 - Objective and responsible official
 - Initiation and completion dates
 - Milestones and Accomplishments

Examples of Program Deficiencies

- All new supervisors are not provided a copy of EEO policies upon their appointment.
- Lack of consistent coordination among Human Resources (HR) and EEO staff on matters affecting the integration of equal employment opportunity in the Agency's strategic mission.
- Lack of involvement of senior managers and supervisors in working with HR and EEO staff to identify barriers to equal employment opportunity for all groups during the development of the EEOC MD-715 Annual Plans.
- Completed objectives should indicate deficiencies eliminated.
- No longer need to be reported on MD-715 unless the deficiency re-surfaces.

PART H Action Plans

- For the "No" answers in PART G, Agency should consider whether to develop a plan in PART H.
- Not all deficiencies may require a plan in PART H.
 - EEO policy statement was not issued in a timely manner due to recently-installed agency head.
 - Provide explanation in PART G
- Program deficiencies and action plans must be updated each year in Part H of the MD-715 report.
- Set forth accomplishments and revisions to plan, including achieved and/or revised due dates.

Program Deficiencies versus Barriers to EEO

A **program deficiency** affects the agency's EEO program:

Examples:

- The agency does not collect applicant-flow data.
- The agency does not have reasonable accommodation procedures.
- The agency does not have adequate funding to process EEO complaints.

Program Deficiencies versus Barriers to EEO

A **barrier** affects the employment opportunities of certain EEO groups in the agency's workforce.

Example: Blacks have lower than expected participation in senior grade levels because they enter the agency at low grade levels and the agency has no career-development program.

Barrier Analysis Process

- Barrier analysis is an investigation of anomalies found in workplace policies, procedures, practices, and conditions with the goal of identifying the root causes of those anomalies, and if necessary, eliminating them.



What is a Barrier?

- A **barrier** is a policy, practice, procedure, or condition that limits employment opportunities for members of a particular race, ethnic background, gender or because of a disability.



Types of Barriers

Will you know one when you see it?

- **Institutional**
Example: Agency primarily recruits from local 4 year colleges/universities or from the military.
- **Attitudinal**
Example: Women will not return to work after having a child.
- **Physical**
Example: Building is not handicap accessible.



Barrier Analysis Should Be ...

- Focused
- Methodical
- Involve the participation of all relevant agency officials



Steps in Barrier Analysis

- Step 1 - Find triggers by comparing workforce snapshots to benchmarks and noting "irregularities" in other sources of information
- Step 2 - Investigate the causes of the triggers to identify potential barriers
- Step 3 - Develop and implement a plan to remove identified barriers
- Step 4 - Assess success of the plan



Step 1 – Sources of Information

- Workforce data tables (MD-715 data)
- EEO complaints data (Form 462 data)
- EEO and Human Resources offices
- Other agency offices (programmatic & career development)
- Union and advocacy groups
- Surveys, focus groups, & exit interviews
- Studies by outside organizations (GAO, EEOC, OPM)



Step 1 – Workforce Data Tables

- Total workforce
- Occupational categories
- Grade level
- Major occupations
- Applicants for employment, career development, internal promotion, and senior level positions
- Awards
- New hires and separations



Step 1 - Triggers

- A **trigger** is a "red flag."
- Triggers are conditions, disparities, or anomalies warranting further inquiry.
- Agencies must investigate triggers to determine whether actual barriers exist.
- Remember, triggers can lead to barriers. Every trigger may not lead to a barrier. Every barrier may not have a trigger.



Step 1 – Spotting the Trigger

- Use the correct benchmarks when analyzing workforce data tables
- Typical benchmarks are Civilian Labor Force (CLF), Total Workforce, Permanent Workforce, Applicant Flow Data, and Occupational CLF
- Handouts show you benchmarks for each data table



Step 1 – Triggers versus Barriers

- A **trigger** is a symptom that something may be wrong, *i.e.*, that a barrier to equal opportunity may exist.
- A **barrier** is the cause if the trigger, *i.e.*, the policy, practice, procedure, or condition that limits employment opportunities for members of a particular EEO group.

Step 1 – Examples of Triggers

- The participation rate of Black males in the total workforce is 1.25%, as compared to the 4.84% availability of Black males in CLF.
- The participation rate of individuals with targeted disabilities (0.9%) is lower than the Federal Goal (2%).
- High separation rate of women in the workforce.
- Lack of promotions of Asians to senior level positions.
- Surge in EEO complaints involving gender-based harassment.
- "I won't hire Mexicans."

Step 2 – Finding the Barrier

- A **barrier** is the root cause of the trigger; it is the working hypothesis from which action plans will be devised.
- Goal is always to pinpoint that root cause(s).
- Keep drilling down until there is an answer to the question "why."

Step 2 – Policies, Procedures, & Practices

- Recruitment
- Hiring
- Training and career development
- Performance incentives and awards
- Competitive and career-ladder promotions
- Supervisory and managerial selections
- Disciplinary actions
- Separations

Step 2 – Examples of Barriers

- Single-source or limited-source recruiting.
- Hiring laterally at higher grades, as opposed to hiring at entry level.
- Use of overly narrow selection criteria, e.g., highly specialized / exotic experience requirements that potential applicants not likely to have.
- Biased/hostile attitude of management.

Step 3 – Barrier Elimination

- Establish a plan of action to address the problem identified.
- Treat the root cause of the symptom, not the symptom itself.
- Report action plans to eliminate barriers in Part I of MD-715 report.

Step 3 – Examples of barrier removal

- Expand areas of recruitment: recruit from colleges in other geographic areas, be willing to fill higher level positions from outside of the agency, at least until entry-level participation rates increase.
- Note: Even if barrier is job-related, explore alternatives that serve the same purpose and that have less impact on a particular group of employees.

Step 4 – Assess Success of Plan

- Barrier analyses and action plans must be updated each year in Part I of the MD-715 report.
- Set forth accomplishments and revisions to plan, including achieved and/or revised due dates.
- Report if action taken has inadvertently created a new trigger.
- Progress should be measurable and agency officials held accountable.

Step 4 – An Effective Action Plan?

- Assess whether action plan was successful in eliminating barrier.
- Indicators of success:
 - Participation rates up.
 - Separation rates down.
 - Drop in complaints.
 - Favorable responses in surveys, exit interviews, etc.
- If plan did not work, then either:
 - Wrong barrier identified.
 - Action plan gave rise to new barrier.

Step 4 – Successful Barrier Analysis

Successful barrier analysis depends on:

- Education
- Communication
- Information



Individuals with Disabilities

- Three aspects to equal employment opportunity for individuals with disabilities:
 - Nondiscrimination - everyone.
 - Reasonable accommodation – individuals with disabilities.
 - Special emphasis - individuals with targeted disabilities if agency employs 1,000 or more.
- Compliance with:
 - Architectural Barriers Act.
 - Section 508 of the Rehabilitation Act.



Types of Targeted Disabilities

- Deafness
- Blindness
- Missing limbs
- Partial paralysis
- Complete paralysis
- Convulsive disorders
- Mental retardation
- Mental illness
- Distortion of limbs or spine



Targeted Disabilities

- MD-715 requires agencies with 1,000 employees or more to:
 - Submit PART J; and
 - Establish specific goals and objectives for the employment and advancement of people with targeted disabilities.
- Agencies should demonstrate measurable progress in accomplishing its goals and objectives in PART J.



Objectives to Accomplish EEOC's Goal of 2% by 2010

- Engage in targeted outreach and recruitment.
- Take advantage of excepted appointing authorities, particularly those that apply only to individuals with targeted disabilities.
- Create training and development plans for individuals with targeted disabilities.
- Take disability into account in selection decisions where an individual with a disability is otherwise qualified with or without a reasonable accommodation.



Effective Barrier Analysis

- Establish processes to accurately analyze all aspects of employment policies, practices, and procedures.
- Involved trained personnel and key managers in the barrier analysis process.
- Creative problem-solving – outside the box.
- Assign responsibility for barrier removal.
- Remember – the process is an ongoing one.



And that's a wrap ...

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