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

(e) For purposes of §1614.704(h), (i) and (j), 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(h), (i) and (j), 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, sex, national origin, age, disability, or retaliation). Only those bases protected by Title VII of the Civil Rights Act of

1964, as amended, 42 U.S.C. 2000e *et seq.*; the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. 621 *et seq.*; the Equal Pay Act of 1963, 29 U.S.C. 206(d); 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 *subelement* refers to any organizational sub-unit directly below the agency or department level which has 1,000 or more employees.

§ 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, each agency shall include separate data for each subelement listed in §1614.702(1). Such data shall be identified as pertaining to the particular subelement.

(d) Data posted under this subpart will be titled "Equal Employment Opportunity Data Posted Pursuant to the No Fear Act" and a hyperlink to the data will be posted prominently on the homepage of each agency's public Web

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site. In the case of agencies with subelements, the data shall be made available by hyperlinks from the Web sites of both the subelement (if one exists) as well as the parent agency.

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

§ 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 must 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 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 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;

(h)(1) The total number of final actions by an agency rendered in such fiscal year involving a finding of discrimination and, of that number,

(2) The number and percentage that were rendered without a hearing and

(3) The number and percentage that were rendered after a hearing;

(i) Of the total number of final actions by an agency rendered in such fiscal year involving a finding of discrimination,

(1) The number and percentage of those based on each respective basis,

(2) The number and percentage for each respective basis that were rendered without a hearing and

(3) The number and percentage for each respective basis that were rendered after a hearing;

(j) Of the total number of final actions by an agency rendered in such fiscal year involving a finding of discrimination,

(1) The number and percentage for each respective issue,

(2) The number and percentage for each respective issue that were rendered without a hearing and

(3) The number and percentage for each respective issue that were rendered after a hearing;

(k) Of the total number of complaints pending for any length of time in such fiscal year,

(1) The number that were first filed before the start of the then current fiscal year,

(2) The number of individuals who filed those complaints in earlier years, and

(3) The number of those complaints that are respectively pending at the investigation, hearing, final action by an agency, and appeal step of the process; and

(1) Of the total number of complaints pending for any length of time in such fiscal year, the total number of complaints in which the agency has not completed its investigation within the time required by 29 CFR 1614.106(e)(2) plus any extensions authorized by that section or §1614.108(e).

§ 1614.705 Comparative data—all Federal agencies.

Commencing on January 31, 2004 and no later than January 31 of each year thereafter, each federal agency shall post year-end data corresponding to that required to be posted by §1614.704