

MS 653 Equal Employment Opportunity and Affirmative Employment

Effective Date: January 7, 2013

Responsible Office: Office of Civil Rights and Diversity

Supersedes: 09/13/11; 01/19/93; MS 644 08/75, MS 645 08/77 MS 653 08/83

Issuance Memo (09/13/2011)

Issuance Memo (01/07/2013)

Agency EEO Policy Statement

Agency Harassment Policy Statement

Attachments

Attachment A – 29 CFR Part 1614 Federal Sector Equal Employment Opportunity

Attachment B – Peace Corps Discrimination Complaint Processing Procedures

Attachment C – Executive Order 13548, 75 Fed. Reg. 45039 (July 30, 2010)

Attachment D – Peace Corps' Standard Operating Procedure for Providing Reasonable Accommodation (revised March 2011)

Table of Contents

1.0 Purpose

2.0 Authorities

3.0 Scope

4.0 Policy

4.1 Equal Employment Opportunity

4.2 Affirmative Employment Action for People with Disabilities

4.3 Effective Implementation

5.0 Definitions

6.0 Responsibilities

6.1 Office of Civil Rights and Diversity

6.2 Agency Managers

6.3 The Director of the Peace Corps

7.0 Federal Equal Opportunity Employment Program

7.1 Overview

7.2 Affirmative Employment and EEO Program Planning, Implementation, and Evaluation

8.0 Disabled Veterans' Affirmative Employment

8.1 Overview

8.2 Disabled Veterans' Affirmative Employment Plan

9.0 Non-Competitive Hiring Policy for People with Targeted Disabilities

9.1 Overview

1.0 Purpose

This Manual Section establishes the Peace Corps' overall policy of equal opportunity in employment for all people and affirmative employment action for people with disabilities. It also establishes procedures and assigns responsibilities for implementation of this policy.

2.0 Authorities

This Manual Section is based on legal requirements for all federal agencies to establish Equal Employment Opportunity Programs (29 CFR Part 1614), with specific affirmative requirements in the areas of disabled veterans (38 USC § 4214 and 5 CFR Part 720), recruitment of members of under-represented groups (E.O. 11478), Hiring of People with Disabilities (E.O. 13548), and additional authorities including:

- (a) Section 717 of the Civil Rights Act of 1964 (Public Law 88-352, 78 Stat.241)[Pub. L. 88-352, July 2, 1964, 78 Stat. 253, as amended]), 42 USC § 2000e-16 *et seq.*;
- (b) Equal Employment Opportunity Act of 1972, Pub. L. 92-261, as amended;
- (c) Executive Order 11478, 34 FR 12985, August 10, 1969, Non- Discrimination in the Federal Government, amended by Executive Order 13087 signed on May 28, 1998, and Executive Order 13152 signed on May 2, 2000;
- (d) Section 15(b) of the Age Discrimination in Employment Act of 1967, 29 USC §633a, which prohibits discrimination in Federal employment against employees 40 years of age or older;
- (e) Section 6(d) of the Fair Labor Standards Act of 1938, as amended, 29 USC §206(d), Equal Pay Act of 1963, which prohibits sex-based differences in wages where work performed is of equal skill, effort and responsibility;
- (f) Section 505(a)(1) of the Rehabilitation Act of 1973 (Pub. L. 93-112, 87 Stat. 355)[Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 355] as amended), 29 USC §794a(a)(1);
- (g) Federal Sector Equal Employment Opportunity 29 CFR Part 1614 *et seq.*;
- (h) Equal Employment Opportunity Commission Management Directive 715;
- (i) Executive order 13171, 65 FR 65251, October 12, 2000, Hispanic Employment in the Federal Government;
- (j) Executive Order 13548, 75 FR 45039, July 30, 2010, Increasing Federal Employment of People with Disabilities;

- (k) Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Pub. L. 107-174, May 15, 2002, 116 Stat. 566, as amended by Pub. L. 109-435, title VI, Sec. 604(f), Dec. 20, 2006, 120 Stat. 3242;
- (l) Genetic Information Nondiscrimination Act of 2008 (Pub. L. 110-233, 122 Stat. 881, enacted May 21, 2008);
- (m) *Lilly Ledbetter Fair Pay Act of 2009* (Pub. L. 111-2, 123 Stat. 5 (2009)); and
- (n) Civil Service Reform Act of 1978, Pub. L. 95-454, Oct. 13, 1978, 5 USC §§2302 (prohibited personnel practices) and 7116(a) (unfair labor practices).

3.0 Scope

- (a) This Manual Section applies to all Direct Hire employees, Personal Services Contract employees, and applicants for Direct Hire or Personal Services Contract employment with the Peace Corps in the United States. This Manual Section also applies to U.S. citizens who are Direct Hire employees, Personal Services Contract employees or applicants for Direct Hire or Personal Services Contract employment with the Peace Corps outside the United States. It does not apply to host country or third country nationals employed or applying for employment with the Peace Corps outside the United States.
- (b) This Manual Section does not apply to Peace Corps Volunteers or Trainees or applicants for Peace Corps service. The Peace Corps policy on equal opportunity in volunteer service is contained in MS 293 and at 22 C.F.R. Part 306.
- (c) The Peace Corps policy on the prevention and elimination of harassment, including sexual harassment is contained in MS 645.

4.0 Policy

4.1 Equal employment opportunity

The Peace Corps provides equal opportunity in employment for all persons. No person will be denied equal opportunity under applicable laws for employment with the Peace Corps because of his or her race, color, religion, sex, national origin, age, disability, genetic information, sexual orientation, gender identity, gender expression, marital status, status as a parent, political affiliation, union membership, or history of participation in either the equal employment opportunity process or any grievance procedure.

4.2 Affirmative employment action for people with disabilities

The Peace Corps promotes the full realization of equal employment opportunities for disabled veterans and people with targeted disabilities. This policy is implemented through an affirmative employment program for disabled veterans and a non-competitive hiring policy for people with targeted disabilities.

4.3 Effective implementation

The Peace Corps' policy of equal employment opportunity applies to and must be an integral part of every personnel policy and practice in the employment, development, advancement, treatment, and retention of all employees and applicants for employment of the Peace Corps. Each manager and supervisor will be held accountable for implementation of this policy within their areas of control.

5.0 Definitions

Definitions given here are intended to clarify the language of this Manual Section and are intended for purposes of this Manual Section only.

- (a) ***Certification of Job Readiness*** is a determination that an applicant with a disability is likely to succeed in the performance of the duties of the position he or she is seeking. Certification of job readiness is required for appointments of persons with mental retardation, severe physical disabilities, or psychiatric disabilities unless the Peace Corps, as the hiring agency, appoints the individual to a temporary appointment in lieu of the job readiness certification.
- (b) ***Disabled Veteran*** is a veteran who is entitled to compensation under the laws administered by the Veterans Administration, or a person who was discharged or released from active duty because of a service-connected disability. (See 38 USC § 4211(3)[reference only; not applicable to the Peace Corps]).
- (c) ***Disabled Workforce Recruitment Program Enrollees*** are postsecondary students and recent graduates with disabilities enrolled in the Workforce Recruitment Program (WRP). These enrollees are eligible for non-competitive hiring and will be referred to selecting officials for employment consideration upon receipt of request to fill a vacancy. Disabled WRP students will also be considered as part of Peace Corps' student internship program.
- (d) ***Documentation of Disability*** is the Standard Form 256 (Self-identification of Disability). Upon hiring, the individual with a disability or the Peace Corps' Office of Human Resource Management should complete the Standard Form 256 (Self-identification of Disability). The SF-256 includes the legal definition of disability and lists various disabilities, including several that are considered targeted disabilities.
- (e) ***General Eligibility*** is the status of disabled applicants listed on the Office of Personnel Management's Shared Hiring Register. These applicants are eligible and will be referred to selecting officials for employment consideration upon receipt of a request to fill a vacancy.
- (f) ***Individual with Disability*** is a person who (1) has a physical impairment or mental impairment (mental retardation or psychiatric disability) that substantially limits one or more of such person's major life activities; (2) has a record of such impairment; or (3) is regarded as having such impairment. This definition is provided by the Rehabilitation Act of 1973, 29 USC §§791 *et seq.*, as amended. See 29 CFR Part 1630, Regulations To

Implement the Equal Employment Provisions of the Americans With Disabilities Act, as amended, 76 FR 16978 (March 25, 2011).

- (g) ***Non-Competitive Hiring*** is the process by which the Office of Human Resource Management, upon receipt of a hiring request from a selecting official, will provide the selecting official with the latest list of disabled applicants on OPM's Shared Hiring Register, or the latest list of WRP applicants. The selecting official has the option of considering these applicants non-competitively, or continuing with the competitive selection process. The People with Disabilities Coordinator will work with the selecting officials to ensure documentation is provided and reasonable accommodation is considered. See MS 601.7.4.
- (h) ***Office of Personnel Management Shared Hiring Register*** is a database maintained by OPM contracted vendor, identifying disabled applicants.
- (i) ***Proof of Disability*** is documentation from State Vocational Rehabilitation Agencies, Department of Veterans Affairs, or licensed medical professionals.
- (j) ***Reasonable Accommodation*** current procedures will be followed as outlined in MS 653 Attachment D – Peace Corps' Standard Operating Procedure for Providing Reasonable Accommodation (revised March 2011).
- (k) ***Self-Referrals*** are disabled applicants who contact Peace Corps directly. They will be referred to OPM's Shared Hiring Register vendor and/or the WRP database.
- (l) ***Targeted Disability*** are those disabilities that the federal government, as a matter of policy, has identified for special emphasis. The targeted disabilities (and the codes that represent them on the Office of Personnel Management's Standard Form 256) are: deafness (16 and 17); blindness (23 and 25); missing extremities (28 and 32 through 38); partial paralysis (64 through 68); complete paralysis (71 through 78); convulsive disorders (82); mental retardation (90); mental illness (91); and distortion of limb and/or spine (92). (See <http://www.eeoc.gov/federal/reports/pwtd.html#ExecSum>)

6.0 Responsibilities

6.1 Office of Civil Rights and Diversity

6.1.1 The Office of Civil Rights and Diversity

The Office of Civil Rights and Diversity (OCRD) is charged with the responsibility of administering the agency's equal opportunity programs for employment and volunteer service and the agency's affirmative employment programs for disabled veterans and people with targeted disabilities.

6.1.2 The Manager of the Office of Civil Rights and Diversity

The Manager of OCRD is responsible for planning, implementing, and evaluating the agency's equal employment opportunity program. She/he also develops agency policy on equality of opportunity and is responsible for monitoring agency personnel staffing programs, Peace Corps' submissions to the Office of Personnel Management regarding EEO programs, and other agency activities designed to promote equality of opportunity.

The Manager of OCRD is a member of the agency's senior staff and contributes to the implementation of employee recruitment programs and human resources tracking systems, as well as the development and implementation of training for Peace Corps staff and Volunteers on the agency's equal opportunity policy. The Manager of OCRD reports directly to the Peace Corps Director and has direct access to all senior management officials throughout the world. The Manager of OCRD advises the Chief of Staff about training and recruitment initiatives, trends in work place issues and concerns, low representation in the workforce, current compliance mandates, the need to provide EEO training to overseas managers, and EEO case status updates, as appropriate. Pursuant to the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Pub. L. 107-174, May 15, 2002, 116 Stat. 566, as amended by Pub. L. 109-435, title VI, Sec. 604(f), Dec. 20, 2006, 120 Stat. 3242, the Manager of OCRD will annually inform Congress of the number of discrimination cases filed against the agency, as well as publish this information on the Peace Corps website (<http://www.peacecorps.gov/index.cfm?shell=about.policies.nofear>).

The Manager of OCRD is also responsible for submitting to the Equal Employment Opportunity Commission the Annual Federal Equal Employment Opportunity Statistical Report of Discrimination Complaints (EEOC Form 462), which includes, among other data, information on federal equal employment opportunity complaints and ADR activities.

6.1.3 The Director of Human Resource Management

The Director of Human Resource Management (M/HRM) has the primary responsibility for establishing and implementing the agency's affirmative employment program for disabled veterans and the agency's non-competitive hiring policy for people with targeted disabilities. The Director of Human Resource Management is also the agency's liaison with the Office of Personnel Management (OPM) to provide technical assistance and guidance for monitoring and evaluating Peace Corps activities in these programs.

6.2 Agency Managers

Agency managers are responsible for ensuring that the policies and procedure set forth in this Manual Section are adhered to in their respective management areas. Agency managers must administer the agency's equal employment opportunity programs in accordance with all applicable laws and regulations.

6.3 The Director of the Peace Corps

The Director of the Peace Corps is responsible for making final determinations concerning proposed personnel actions which are questioned as not being compatible with equal

employment opportunity policy or affirmative employment programs for disabled veterans and people with targeted disabilities.

7.0 Federal Equal Opportunity Employment Program

7.1 Overview

Under the direction of the Director of the Peace Corps, the Office of Civil Rights and Diversity, in coordination with the Office of Human Resource Management and agency managers, prepares the annual Peace Corps' Equal Employment Opportunity Management Directive 715 submission and the required workforce analysis for submission to the Equal Employment Opportunity Commission.

Harassment, including sexual harassment, is covered by MS 645 *Prevention and Elimination of Harassment, Including Sexual Harassment*.

7.2 Affirmative Employment and EEO Program Planning, Implementation, and Evaluation

7.2.1 Planning

The Office of Civil Rights and Diversity will ensure that Peace Corps' Strategic Plans and operations incorporate the required elements of EEO MD 110, EEO MD 715, and other EEOC federal guidelines.

7.2.2 Implementation

7.2.2.1 Manager of the Office of Civil Rights and Diversity

The Manager of the Office of Civil Rights and Diversity (D/OCRD), after appropriate coordination, maintains and distributes upon request employment data based on each office's representation in each occupational series and FP grade reported in EEO MD 715.

7.2.2.2 Office of Human Resource Management

The Office of Human Resource Management (M/HRM):

- (a) Advises agency managers on recruitment, selection, and position management programs that could enhance career opportunities for all employees.
- (b) Provides the Manager of the Office of Civil Rights and Diversity with personnel data necessary for the analyses required in developing the EEO MD 715 submission.
- (c) Conducts periodic reviews of Peace Corps personnel policies and programs to determine targets for improvement of equality of opportunity.

- (d) Reviews each proposed position and each personnel recruit, reassignment, or promotion action to ensure that the action is compatible with reasonable progress toward reaching EEO program goals.

If a proposed personnel or position action is not considered compatible with reasonable progress, M/HRM, through the Associate Director for Management, will return the action to the selecting official, who must prepare a justification for the action's priority over EEO program goals.

After receiving the justification, the Associate Director for Management may return it to M/HRM for instructions for action or refer it to the Director of the Peace Corps for final determination. The decision of the Peace Corps Director is the agency's final determination.

7.2.2.3 Agency Managers

Agency managers assist in developing EEO program goals, and ensure that personnel actions within their respective office are compatible with agency EEO program objectives.

7.2.3 Evaluation

Affirmative Employment Program Plans and accomplishments are evaluated by the Manager of the Office of Civil Rights and Diversity, with support from agency managers and M/HRM.

M/HRM prepares quarterly reports for the Manager of the Office of Civil Rights and Diversity on progress toward EEO program goals.

M/HRM conducts periodic reviews of position management, staffing, classification, organization, and development to determine where greater potential exists to improve the equal opportunity posture of the Peace Corps.

8.0 Disabled Veterans' Affirmative Employment

8.1 Overview

Under the direction of the Associate Director for Management, the Director of Human Resource Management, in coordination with agency managers, prepares the Agency's Disabled Veterans Affirmative Action Plan.

8.2 Disabled Veterans' Affirmative Employment Plan

8.2.1 Agency Plan

The Agency plan must be developed on a yearly basis and contain the following:

- (a) A statement of Peace Corps' policy with regard to the employment and advancement of disabled veterans, especially those who are 30 percent or more disabled;
- (b) The name and title of the official assigned overall program leadership for the action plan;

- (c) An assessment of the current status of disabled veteran employment, with emphasis on those veterans who are 30 percent or more disabled;
- (d) A description of how the Peace Corps will provide or improve internal advancement opportunities for disabled veterans;
- (e) A description of how the Peace Corps will inform its field offices, on a regular basis, of their responsibilities for employing and advancing disabled veterans; and
- (f) A description of how Peace Corps will monitor, review, and evaluate its planned efforts, including implementation at field offices during the period covered by the plan.

8.2.2 Implementation

An accomplishment report must be submitted to the Office of Personnel Management annually and must contain the following:

- (a) Methods used to recruit and employ disabled veterans, especially those who are 30 percent or more disabled;
- (b) Methods used to provide or improve internal advancement opportunities for disabled veterans;
- (c) A description of how the activities of headquarters and field offices were monitored, reviewed, and evaluated; and
- (d) An explanation of Peace Corps' progress in implementing its Disabled Veterans Affirmative Action Program plan during the fiscal year.

8.2.3 Evaluation

The Director of M/HRM must certify to the Office of Personnel Management by December 1 of each year that Peace Corps has an up-to-date plan.

9.0 Non-competitive Hiring Policy for People with Targeted Disabilities

9.1 Overview

Pursuant to Executive Order 13548, 75 FR 45039 (July 30, 2010)(Attachment C), and under the direction of the Associate Director for Management, the Director of M/HRM, in coordination with agency managers, implements the Peace Corps' Non-competitive Hiring Policy for People with Targeted Disabilities. Pursuant to this policy, the Peace Corps shall increase utilization of its non-competitive hiring authority for persons with disabilities and increase participation of individuals with disabilities in internships, fellowships, and training and mentoring programs. Peace Corps will also work to improve, expand, and increase successful return-to-work outcomes for those of their employees who sustain work-related injuries and illnesses, as defined under the Federal Employees' Compensation Act (FECA), by increasing the availability of job

accommodations and light or limited duty jobs, removing disincentives for FECA claimants to return to work, and taking other appropriate measures.

9.2 Non-competitive Hiring of People with Targeted Disabilities and Retention of Employees with Disabilities

9.2.1 Agency Plan

The Peace Corps' plan must be developed on a yearly basis in consultation with the Director of the Office of Personnel Management and the Director of the Office of Management and Budget, and contain the following:

- (a) A recruitment and hiring strategy to increase the employment of people with disabilities, including performance targets and numeric goals for employment of individuals with disabilities and sub-goals for employment of individuals with targeted disabilities;
- (b) Mandatory training programs for both human resources personnel and hiring managers on the employment of individuals with disabilities;
- (c) Designation of a senior-level agency official to be accountable for enhancing employment opportunities for individuals with disabilities and individuals with targeted disabilities within the agency, consistent with law, and for meeting the goals of E. O. 13548;
- (d) Identification and implementation of strategies for retaining workers with disabilities in Peace Corps' employment including, but not limited to, training, the use of centralized funds to provide reasonable accommodations, increasing access to appropriate accessible technologies, and ensuring the accessibility of physical and virtual workspaces; and
- (e) Identification and implementation of strategies to ensure the retention of those who are injured on the job.

Upon the approval of the Director M/HRM, Peace Corps may non-competitively hire an individual identified as having a targeted disability, pursuant to MS 601.7.4 (Non-competitive hiring of people with targeted disabilities).

9.2.2 Implementation

The senior-level Peace Corps official designated pursuant to MS 653.9.1.1 to be accountable for enhancing employment opportunities for individuals with disabilities and individuals with targeted disabilities within the agency, consistent with law, and for meeting the goals of E. O. 13548 shall implement the following steps:

- (a) At least one member of the M/HRM staff (preferably the ad hoc Disabilities Employment Program Coordinator) will attend training specific to the recruitment/employment of persons with disabilities;

- (b) Human Resource Specialists responsible for recruitment will attend OPM-sponsored training on hiring authorities and/or will receive a briefing from the Disabilities Employment Program Coordinator (ad hoc) who attends the formal training program/conference;
- (c) The Peace Corps' mandatory supervisory training module includes a module on hiring individuals with disabilities;
- (d) Guidance will be posted on the Peace Corps HRM web page; and
- (e) The Peace Corps will issue a notice to all managers/supervisors regarding Executive Order 13548 and Peace Corps' commitment to the employment of persons with disabilities, which may be posted on Peace Corps' website.

9.2.3 Evaluation

The senior-level Peace Corps official designated to be accountable for enhancing employment opportunities for individuals with disabilities and individuals with targeted disabilities within the agency, consistent with law, and for meeting the goals of E. O. 13548 shall ensure the following:

- (a) As part of the EEO MD 715, the Peace Corps will conduct an annual workforce analysis specific to employees with disabilities and targeted disabilities; and
- (b) As part of the EEO MD 715, the Peace Corps will conduct a barrier analysis specific to employees with disabilities.

10.0 Effective Date

This Manual Section shall take effect on the date of issuance.