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Via Electronic Submission

Bernadette Wilson
Executive Officer, Executive Secretariat
U.S. Equal Employment Opportunity Commission
131 M. Street NE
Washington, DC 20507

Re: Comment on the Equal Employment Opportunity Commission
Notice of Proposed Rulemaking
RIN: 3046-AA94 / CFR: 29 CFR Part 1614
Affirmative Action for Individuals with Disabilities in the Federal Government

To Whom It May Concern:

On behalf of the Massachusetts Attorney General's Office ("AGO" or the "Office"), I would like to thank you for the opportunity to comment on this Notice of Proposed Rulemaking. This Office applauds the continuing efforts of the U.S. Equal Employment Opportunity Commission ("EEOC") to combat discrimination in the workplace and supports EEOC's continuing efforts to ensure the equal employment rights of people with disabilities. We submit this letter in strong support of the EEOC's proposed rule.

The Commonwealth of Massachusetts has a long history of promoting and protecting the rights of people with disabilities. This Office enforces both federal and state antidiscrimination laws affecting people with disabilities. Based on this work, we are acutely aware of the various barriers to full participation in society that people with disabilities face, from accessibility limitations to segregation and exclusion to outright discrimination in employment. Indeed, twenty-five years after the implementation of the Americans with Disabilities Act, employment discrimination against people with disabilities remains a critical problem.

Both unemployment and underemployment for people with disabilities remain unacceptably high. According to the Department of Labor in 2014, the unemployment rate nationally for people with a disability was 12.5 percent, about twice the figure of 5.9 percent for those with no disability, and 33 percent of workers with a disability were employed only part time, compared with 18 percent for those with no disability.¹ And those numbers do not include the large number of people with disabilities who are prevented from being active in the workforce though they could be productive workers. Indeed, the average labor force participation rate of workers with disabilities nationally – 17 percent – is about one-quarter that

¹ See Persons With A Disability: Labor Force Characteristics-2014, Bureau of Labor Statistics, U.S. Department of Labor. (June 16, 2015), 1-2, available at <http://www.bls.gov/news.release/disabl.nr0.htm>.



of workers without a disability.² The need for concerted and purposeful action to overcome these disparities could not be clearer.

This Office recognizes that the federal government has attempted in many ways over many years to increase employment of people with disabilities in federal agencies but that, notwithstanding those efforts and attempts to provide guidance on how agencies are to fulfill their obligation to develop affirmative action plans, people with disabilities are still underemployed in the federal government. By strengthening and clarifying what federal employers need to do to meet their obligations to hire people with disabilities, the regulation will push federal workplaces not only to address and remove physical and programmatic barriers and impediments but also to work toward eliminating lingering discrimination by affirmatively bringing people with disabilities into federal workplaces.

This Office believes the regulation provides appropriate and meaningful guidance to federal agencies on how to effectuate their affirmative action obligation pursuant to Section 501 of the Rehabilitation Act of 1973. In particular, this Office commends that the regulation specifies actions that federal agencies can take at each step in the hiring process – from recruitment to application to hiring – to increase the number of people with disabilities. The specific guidance provided, including requiring agencies to work with organizations that do job placement for people with disabilities and clarifying the application process, are good steps. In addition, this Office also commends the requirement that federal agencies provide personal assistance services for individuals with targeted disabilities, such as paralysis or cerebral palsy, even though that requirement goes beyond providing reasonable accommodation to perform the job. We agree that merely accommodating people with disabilities and making workplaces more accessible, while very necessary, is not enough. Actually giving people with disabilities the aid they need to be able to enter the workplace, not just to do their jobs once they have them, is an important addition to federal policy.

This Office commends the EEOC's efforts to strengthen and clarify federal agencies' obligations to make affirmative efforts to employ people with disabilities. Greater inclusion in the workforce is necessary to make the attitudinal and systematic change required to enable qualified people with disabilities to have equal employment opportunity. Again, we thank you for this opportunity to weigh in on a very important area of the law. If we can be of any further assistance in your consideration of these regulations, please do not hesitate to contact us.

Sincerely,



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² *Id.*