

Federal Employers and Selection of Disabled Americans  
Federal Register, V75(146) at 405039

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On July 26, 2010 President Obama signed Executive Order 13548 (1) which mandates federal employers to engage in de facto affirmative action to achieve the specific goal of hiring 100,000 individuals with disabilities as originally called for in President Clinton's 2000 Executive Order 13163. As discussed in articles about the Americans With Disabilities Act (ADA) and Americans With Disabilities Act Amendment Act (ADAAA) published previously in Polygraph (2), federal employers are largely exempt from federal employment laws but not Executive Orders. EO 13548 does not directly require federal employers to conform to the disability laws but rather each federal agency is required to submit specific recruitment and hiring plans by March 8, 2011 with a timetable of five years to meet the quota of 100,000. Oversight for compliance is authorized under the Department of Labor with input from the Office of Budget Management (OBM), the Equal Employment Opportunity Commission (EEOC) and the Office of Personnel Management (OPM). In addition, federal Human Resource Managers, Selective Placement Program Coordinators and Disability Program Managers must create reporting mechanisms to establish compliance accountability and the proper use of the revised Self-Identification of Disability Form, SF-256 (3). Since EO 13548 does not permit any intelligence or law enforcement agency exemptions, federal background investigators and polygraph examiners involved in the selection process are encourage to obtain training to learn how to properly question applicants about alcohol and substance abuse and create legally defensible disqualifiers for these information targets. Under certain conditions, successfully recovering alcoholics and drug addicts qualify as Disabled Americans and EO 13548 uses the greatly expanded menu of disabilities from the 2008 ADAAA to define disabilities. As OPM Director John Berry put it, "The President made it clear in the Executive Order that he wants regular reports to track progress and make sure this gets done. And let me tell you, Kareem Dale, his disability policy advisor in the White House, will make sure those reports get read and acted on" (4). Other disability issues such as determining subject suitability for behavioral interviews or polygraph examinations conducted prior to Conditional Offer of Employment should not concern federal employers.

- (1) Federal Register, Vol 75, No 146, pp 45039-45041 (FR Doc 2010-18988)
- (2) Printable reprints at [www.stanleyslowik.com](http://www.stanleyslowik.com), click on Articles
- (3) Issues of Merit, U.S. Merit Systems Protection Board, Office of Policy and Evaluation, February, 2011, p.3.
- (4) Remarks of OPM Director John Berry, Perspectives on Employment of Persons with Disabilities Conference, December 8, 2010.