

Suggestions for Sharing Your Comments to Save the EEO Counseling Program Based on EEOC's Proposed Changes to Federal EEO Program

Part 1

We have decided to be strategic by only responding to the changes to the EEO Counseling Program. While the remainder of the EEOC's proposal is important, we want to focus specifically on the part that will significantly impact our EEO-HR community.

Three main points to consider including in your Response:

1. Historical context-Why was created (see summary included on the comments website-link below)
2. Differences between Mediation and Counseling and why EEOC should keep the Counseling Program
3. The advantages of the Counseling Program, etc.

Also, you may include in your Response that the Counseling Program provides more than an opportunity to settle a complaint. Counselors educate employees about their EEO rights and responsibilities, explain the complaint process and deadlines, help clarify claims, identify issues, and facilitate early resolution.

Part 2

1. View the link where you will file your comments and you can also review the full EEOC Proposal—You can file on behalf of your Agency, Company or you can file individually.

<https://www.regulations.gov/document/EEOC-2026-0067-0002>

2. Please review the attached “Guidelines for Preparing Comments Response”, specifically pages 3-4.

SUMMARY OF EEOC PROPOSAL

EEOC Proposes Major Rule Changes to Improve Workplace Discrimination Complaint Process for Federal Employees and Applicants

WASHINGTON — Under Title VII of the Civil Rights Act of 1964 and other federal employment discrimination statutes, the U.S. Equal Employment Opportunity Commission (EEOC) is responsible for the rules governing the workplace discrimination complaint process for federal employees and applicants. Today, the EEOC voted to issue a [proposed rule](#) (a Notice of Proposed Rulemaking or NPRM) to revise these rules.

The Commission concluded that the current system is too slow and complicated, often resulting in federal employees and federal agencies waiting years for a decision. The Commission's proposed rule is designed to make the process quicker, simpler, and more effective — better for both federal employees and federal agencies. The next step is for the public to provide comments on the proposed rule. The Commission welcomes the public's feedback.

“The internal complaint process for federal employees and applicants is supposed to provide a swift, informal path to resolution. But the current system is deeply broken. It fails both federal employees and their agency employers,” **said EEOC Chair Andrea Lucas.**

“The EEOC is committed to making the federal government work better for everyone — including its own employees and agencies. These proposed changes are about fixing what doesn't work and making the process faster, fairer, and more straightforward. We want people to get answers quickly and without unnecessary hassle, while keeping in place all the important protections against employment discrimination in federal workplaces.”

What's Changing Under the Proposed Rule?

- **Faster Process:** Instead of requiring federal employees to undergo a long counseling process before filing a complaint, federal employees and applicants will be able to file directly with their agency.
- **Tailored Hearings:** Hearings with EEOC administrative judges will only happen when necessary, not automatically for every case.
- **Class Claims:** Despite being responsible for the complaints of the 2 million person federal workforce, the EEOC is a relatively small agency and not well-suited to handling large group complaints, also known as class complaints. Class actions will be handled by federal courts, but federal employees and applicants can still use the EEOC process to start these claims and to handle related individual complaints together.

- **Clearer Standards:** The EEOC will clarify how complaints should be presented and how cases that involve both discrimination issues and other issues, such as mixed-complaints unique to the federal sector, are handled.
- **Attorney Fees:** The rules governing when and how attorney fees are awarded will be updated, including how market rates for attorney work in the EEO process are determined.
- **Transparency and Accountability:** To fully implement the Cummings Act, a law passed by Congress in 2020, the EEOC will increase transparency by posting more information online about complaint outcomes, disciplinary actions, and related data, and will ensure that the head of each agency's EEO program operates independently.

What Stays the Same under the Proposed Rule?

Federal employees and applicants continue to have the right to:

- File a complaint, engage in alternative dispute resolution, and settle complaints.
- Receive a final decision from their agency after investigation.
- Appeal the agency's decision to the EEOC and receive fresh review, also called "de novo" review, from the EEOC.
- Take their case to federal court.

The proposed rule is prospective and would not affect complaints currently being processed. In addition, nothing about the proposed rule affects how the EEOC handles discrimination complaints involving employees and applicants in the private sector.

How Can You Share Your Thoughts?

You can read the proposed rule immediately on the [EEOC's website](#). Once the proposed rule is published in the Federal Register, anyone can comment online for 30 days at <https://www.regulations.gov/>. Consistent with the Administrative Procedures Act, the EEOC will review all public comments and relevant data before making a final decision.

The EEOC is the sole federal agency authorized to investigate and litigate against businesses and other private sector employers for violations of federal laws prohibiting employment discrimination. For public sector employers, the EEOC shares jurisdiction with the Department of Justice's Civil Rights Division. The EEOC also is responsible for coordinating the federal government's employment antidiscrimination effort. More information about the EEOC is available at www.eeoc.gov.



How You Can Effectively Participate in the Regulatory Process Through Public Comment

When most people think of laws, they think of bills passed by Congress and signed into law by the President. However, many legal requirements come from “regulations” or “rules” that are issued by agencies that work for the President, like the Department of Transportation or the Department of Health and Human Services, instead of Congress.

Regulations, like statutes passed by Congress, are law. Congress passes statutes that give agencies the authority to issue regulations. Regulations can impose binding legal requirements. Regulations can do everything from creating requirements for food manufacturing companies to prevent food-borne illness to outlining certain requirements for going through TSA security screening on your way to board a flight. Regulations can establish significant policies and requirements for individual citizens, state and local governments, small businesses, and organizations large and small.

An important way for Americans to influence the policies impacting their lives is by interacting directly with federal agencies on the regulations those agencies create. Federal law generally provides organizations and individuals with opportunities to comment on agencies’ proposed regulations. Agencies, in turn, consider comments the public submitted on their proposed rules and, in publishing any final rule, must respond to relevant and significant comments.

Effective, relevant comments provide regulators with information to help them improve draft rules. Comments are typically most effective when they provide information directly relevant to analyzing the rule and its potential impact. While members of the public are both allowed and welcome to express their support or opposition to a proposed regulation, simply stating that you support or oppose a policy is not as persuasive as explaining how the policy would positively or negatively impact the specific situation with which you are familiar. The goal of this guide is to help you write effective comments on agencies’ proposed rules by describing how to structure comments and what should be included in them to make them as useful for agencies as possible.

Make Your Voice Heard

The process by which agency rules or regulations are made is different from how Congress develops legislation. Congress directs agencies who work for the President to develop regulations by taking certain important steps. Generally, agencies are first required to publish a proposed rule and seek comment from the public on it,¹ often providing a window of 30 to 60 days to submit comments after a proposed rule is issued. Agencies then consider public comments and, in issuing any final rule, must respond to significant, relevant comments. In doing so, agencies may explain how those comments informed any changes from the proposed rule. If the agency fails to adequately respond

¹ Administrative Procedure Act, 5 U.S.C. § 553.



to significant, relevant comments in a final rule, members of the public may seek to challenge the rule in court on that basis and claim it should be struck down. In other words, agencies generally must consider the voice and perspective of public commenters in the rulemaking process.

While agencies consider views from the public, the public comment process is not a vote. The number of public comments submitted in favor of a regulation does not ensure that it will move forward. (The opposite is also true—the number of comments against a rule’s proposed course does not indicate whether it will be withdrawn.) An agency also is not required to change its proposed policy simply because a commenter suggests it should. Particularly influential public comments are often those that simply provide good reasoning and evidence or a perspective that the agency had not previously considered.

How to Make Your Comments Effective

Effective public comments often have one or more of the following characteristics:

- (1) an **introduction** where you explain why you are interested in the regulation and highlight any experience with the subject of the rule that may distinguish your comment;
- (2) a **background section** where you clearly identify the relevant part of the regulation you are commenting on;
- (3) **analysis** that lays out your argument and evidence (including with clear citations to any helpful research)—for example, how the action impacts you and what you care about; whether the agency anticipated or estimated these impacts correctly; any unintended consequences of this approach that the agency did not consider; and what additional details from the agency would help you better understand the action;
- (4) **recommendations** describing your suggestions to the agency and identifying specific changes you would advise—for example, providing a different way of addressing the problem the agency may not have considered; and
- (5) a **conclusion** which recaps your main argument and lists your recommendations again.

What information is helpful?

The basic idea of seeking public comment in developing regulations is that even though the agencies have staff with deep, specific knowledge, they cannot perfectly guess every potential impact of a proposed regulation, such as how a given policy may affect a specific market, industry, activity, or person. Public comments on a proposed regulation can help make sure that the government is on the right track—or alert it when it’s not—by providing information that challenges or supports the agency’s assumptions and approach.

In drafting a public comment, it is helpful to pay special attention to any prompts from the agency itself, such as questions or requests for data or evidence, within the proposed rule. Such prompts



highlight areas the agency believes are important, where it may be missing information, and where it thinks commenters could be most helpful.

Note that a good comment need not be extremely technical to be effective and helpful. In fact, some of the most effective comments are from individuals who describe the impacts of a proposal in terms of their own lived experience. Letting an agency know what may or may not work “on the ground” is often a very useful perspective to share.

Drawing on best practices, here are considerations and evaluative criteria that may help to make your comments more effective:

- *Consider the problem that the regulation intends to address.* Why is this regulation needed? What is the problem the agency is trying to address? Is it actually a problem?
- *Consider whether proposed regulations are based on the best available scientific, technical, economic, experience-based, and other information.* If you are aware of flawed, inaccurate, or out of date information the agency is using, for example, your comment explaining that fact to the agency will be very helpful for the agency to get its regulation right.
- *Consider whether the agency is missing a certain perspective.* A proposed rule may have particular impacts on a specific group or community, such as small businesses. Members of these communities or affiliated groups may be able to offer the agency insights into their perspectives.
- *Consider whether the costs of the proposed regulation are justified by its benefits.* Generally, the costs a regulation imposes should be justified by the benefits that it brings. Are they?
- *Consider distributional analysis and costs or benefits that are hard to monetize.* Those who bear the costs of a rule and those who enjoy its benefits are not always the same people. Identifying the differences between who will enjoy the benefits and bear the costs can help an agency in considering how to regulate. In other cases, a rule may have impacts that are particularly difficult or impossible to quantify or assign a monetary value to, such as impacts on dignity, equity, and fairness. In those cases, discussing the impacts qualitatively may provide valuable insight to the agency, even if the agency is not able to put a dollar figure on the impact.

Who can submit public comments?

Absolutely anyone can submit a public comment on an agency’s proposed regulation. You do not have to be an academic, expert, or even someone who knows all of the ins and outs of the policy at hand. If you have something to say and think that your perspective could constructively add to the conversation, please comment.

In addition to individuals, a variety of groups and associations often provide comments, including business groups, unions, religious organizations, privacy advocates, environmental policy advocates, and others.



The perspective of state, local, tribal, and territorial (SLTT) governments also can be very valuable in understanding any interaction of Federal requirements with SLTT government requirements and policies. That perspective may also help the agency identify whether the rule will have any disproportionate regional impacts.

And technical experts and practitioners can offer important insight into how the rule functions in practice. Even if a technical expert is commenting as a generalist, they can provide helpful reflections on the agency's assumptions, the rigor of studies on which the agency has based its analyses, and potential alternative sources of information for the agency to consider.

What does an effective comment look like?

For each of the above groups, a useful comment might look different.

Private Individuals:

Comments that reflect the perspective of individual persons are valuable in several ways: 1) they have the potential to show the agency unique situations that it has not yet contemplated in its evaluation of the policy; 2) the individual can then explain how that unique situation will impact their own behavior in response to the proposed policy change; and 3) they can express judgments on the policy that speak to their general opinion of whether the agency is heading in the right direction.

However, **simply stating that you support or oppose a policy is not as persuasive as explaining how the policy would positively or negatively affect your specific situation.** Even when agencies receive hundreds or thousands of comments opposing or supporting a policy, if those comments simply state preferences without providing relevant information or evidence, they are less likely to affect agency decision-making. Similarly, multiple identical comments are not likely to be more persuasive than if the comment had been sent only once.

Groups and Associations:

Groups and associations can aggregate the concerns and experiences of their members to paint a broader picture of the potential impacts of the proposed policy. They can direct agencies to public data sources to help them better analyze the costs and benefits of their actions or provide their own data. These groups can also make value-based arguments on behalf of their members.

These groups also play an important role in making sure their members and those they advocate on behalf of are aware of a potential policy change. Many individual commenters may only have known that there was an opportunity to comment on a rule because a group or association notified them and encouraged them to share their experience.

Technical Experts and Practitioners:

Experts in the field can present helpful data, whether from their own research or that of others in their field. They may also present expert analysis on alternate ways a regulation could be designed.



For example, they could draw from different sources written on a topic and combine them together to provide a perspective and a potential solution an agency may not have considered.

State, Local, Tribal, and Territorial (SLTT) governments:

SLTT governments can provide helpful insight into disparate impacts a rule may have, given the unique characteristics of their area—for example, the geography, environment, makeup of the population, tradition and local culture, or the particulars of the local economy. SLTT governments can provide data and insight regarding the impacts a rule could have on their residents or environment. SLTT governments should keep in mind, however, that agencies are still primarily working to analyze the impacts on the entire country. Agencies writing the rule may not be able to utilize data from a locality for the primary analysis if that data cannot be scaled to inform the country-wide impacts of the proposal.



Example: Proposal to Require Sidewalks to Include Tactile Pavers

Let's use a hypothetical example to explain how to provide more effective comments: the government is proposing a policy that would require sidewalks to include tactile pavers (such as molded bumps or ridges in the concrete) to alert people who are blind or visually impaired that a street crossing or a hazardous drop-off is approaching. The government releases a proposal that includes specifications regarding the height and distance between the individual "bumps" (tactile paver domes) on the paver itself.

Effective comments could come from a variety of perspectives:

Commenter A is a visually impaired person who has really found tactile pavers to be key in improving her mobility and her ability to get around the city safely and confidently. Her world has expanded considerably since her city implemented tactile pavers and her comment thanks the agency for pursuing the requirement more broadly to help other visually impaired persons, too.

Commenter B is a man who uses a wheelchair. He provides a comment explaining that he understands the desired impact and is glad that the pavers exist to help increase safe mobility for the visually impaired. However, he notes that if the tactile pavers are spaced together too closely, it makes it difficult for him to get from the road to the sidewalk and vice versa because the pavers slow down the momentum of his wheelchair. The wheelchair wheels get stuck in the grooves of the tactile pavers and as result, sometimes he even falls out of his wheelchair. So, he points out that while the policy is meant to ease burdens for one group with unique needs, it could negatively impact another group with different needs if not implemented with both sets of needs in mind.

Commenter C frequently wears high heels in a professional setting downtown. Her comment relays that she has had some bad experiences with the tactile pavers in those shoes. In fact, once, her heel hit the side of a paver dome and she slipped sideways, severely twisting her ankle in the process. She had to use crutches for a month and now she has to factor in additional time when traveling so that she can wear flats to the building and change shoes before she gets there. This is a cost that the agency could consider in its economic analysis, and the agency could consider it as a greater impact on women than on men due to cultural norms regarding footwear.

Commenter D is a company that installs tactile pavers on sidewalks. Based on its years of experience, its comment provides a perspective on the ideal distance that tactile paver tiles should be installed from the curb to minimize falls. It also weighs in on the parameter the agency proposed regarding the distance between individual paver domes and notes that if they are too close together, they can create issues for wheelchairs, roller blades, and other thin wheels. The company also suggests a certain type of materials to use as pavers to reduce the likelihood that the pavers obstruct wheelchairs or hand trucks carrying heavy boxes.



Appendix: The Mechanics of the Public Comment Process

In order to have your voice heard in the rulemaking process, there are a few steps you will need to take. First, you will need to identify the Federal regulation on which you are interested in providing your views. Second, you will need to prepare an effective comment (as explained above). Third, you will need to submit your comment on the right website when the proposed regulation is published for public feedback.

Where can I find what agency regulations are out for public comment?

The Federal Register ([federalregister.gov](https://www.federalregister.gov))—the official journal of the Federal government—is a helpful resource for determining what agency regulations are out for public comment. There are primarily two types of regulatory documents in the Federal Register that you can comment on: notices and proposed rules. Agencies sometimes issue a notice, such as an “advance notice of proposed rulemaking” (ANPRM) or a “request for information,” to formally request input from the public on a specific policy they are considering developing into a regulation even before it is issued as a proposed rule. A “proposed rule” or “notice of proposed rulemaking” (NPRM) is the stage of rulemaking during which agencies formally open proposed rules to public comment. To find notices and proposed rules, go to [federalregister.gov](https://www.federalregister.gov), where, by using the search bar on the home page, you can filter the documents in the current issue to view notices or proposed rules. You can also search for a specific rule using a keyword, Regulation Identifier Number (RIN), or agency name.



The screenshot shows the homepage of the Federal Register. At the top is a navigation bar with links for Sections, Browse, Search, Reader Aids, and My FR, along with a search bar labeled 'Search Documents'. Below the navigation bar is the Federal Register logo, which includes the National Archives logo and the text 'FEDERAL REGISTER The Daily Journal of the United States Government'. To the right of the logo is the seal of the National Archives and Records Administration. A blue banner across the page indicates the date 'Monday, July 1st'. Below the banner is a green box with the text 'Current Issue' and a list of statistics: '133 documents from 58 agencies (390 Pages)', '108 Notices 1 Presidential Document 6 Proposed Rules 18 Rules', and '2 Significant Documents'.

Once you’ve selected a document you will be able to read the full proposal and see important information you will need to submit an effective comment on time. The preamble of the proposed rule identifies the date by which comments must be submitted for the agency to consider them. See sample language below.

DATES:

The Department of State will accept comments until July 31, 2024.



How do I submit public comments on a notice or a proposed rule?

There are two main ways to submit comments online:

- (1) Look for a notice or proposed regulation on **federalregister.gov** that is currently out for public comment as described above. Click on “Submit a formal comment” at the top right-hand corner.

FEDERAL REGISTER
The Daily Journal of the United States Government

PR Proposed Rule

Emergency Response Standard

A Proposed Rule by the [Occupational Safety and Health Administration](#) on 06/11/2024

Comments on this document are being accepted at [Regulations.gov](#).

SUBMIT A FORMAL COMMENT

26 comments received. [View posted comments](#)

- (2) **Regulations.gov** is the official site used to submit public comments on most notices and proposed rules. Regardless of where regulations stand in the rulemaking process, they have a docket folder, containing all of the agency’s relevant rulemaking materials (e.g., the proposed rule, studies on the rule, supporting documents, public comments, hearing notices, extensions of comment period, and eventually, the final rule), and most regulatory documents published in the Federal Register will link to a docket folder at Regulations.gov. Regulations.gov also has a section containing short summaries of regulations.

To submit a public comment through Regulations.gov, copy and paste the docket number listed in the “Document Details” tab on the left-hand side of the notice or proposed regulation published in the Federal Register (see below graphic) into the search bar on Regulations.gov, click on the result (a regulatory document should come up), then click “Comment”. You can choose to type your comment directly into the text box provided or upload another file.



Minimum Standards for Driver's Licenses and Identification Cards Acceptable by Federal Agencies for Official Purposes; Phased Approach for Card-Based Enforcement

A Proposed Rule by the Transportation Security Administration on 09/12/2024



This document has a comment period that ends in 5 days. (10/15/2024)

[SUBMIT A PUBLIC COMMENT](#)

6784 comments received. [View posted comments](#)

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Document Details

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SUMMARY:

This proposed rule would ensure that Federal agencies have appropriate flexibility to implement the card-based enforcement provisions of the REAL ID regulations after the May 7, 2025, enforcement deadline by explicitly permitting agencies to implement card-based enforcement in phases. This rulemaking proposes that agencies may implement the card-based enforcement provisions through a phased enforcement plan if they determine it is appropriate upon consideration of relevant factors including security, operational feasibility, and public impact. The proposed rule would also require agencies to coordinate their plans with DHS, make the plans publicly available, and achieve full enforcement by May 5, 2027.

DATES:

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Comment Period Ends: 5 Days

Minimum Standards for Driver's Licenses and Identification Cards Acceptable by Federal Agencies for Official Purposes: Phased Approach for Card-Based Enforcement

Posted by the **Transportation Security Administration** on Sep 12, 2024

 Comment

Alternatively, you can also search for notices or proposed rules currently open for comment by directly going to **Regulations.gov**. You can find a rule on Regulations.gov by entering a keyword, title, or document number in the search area on the homepage and clicking the “Search” button. Search Results will display on the Document browser tab where you can narrow your results with the filters on the screen. Once you find the regulation, click its title to view its Document Details page.