

## § 1602.29

## 29 CFR Ch. XIV (7-1-03 Edition)

respondent labor organization shall preserve all records relevant to the charge or action until final disposition of the charge or the action. The date of "final disposition of the charge or the action" means the date of expiration of the statutory period within which the aggrieved person may bring an action in a U.S. District Court or, where an action is brought against a labor organization either by the Commission, the aggrieved person, or by the Attorney General, the date on which such litigation is terminated.

(b) Nothing herein shall relieve any labor organization covered by title VII of the obligations set forth in subpart E, §§ 1602.20 and 1602.21, relating to the establishment and maintenance of a list of applicants wishing to participate in an apprenticeship program controlled by it.

(Approved by the Office of Management and Budget under control number 3046-0040)

[37 FR 9220, May 6, 1972, as amended at 46 FR 63268, Dec. 31, 1981; 56 FR 35755, July 26, 1991]

### **Subpart H—Records and Inquiries as to Race, Color, National Origin, or Sex**

#### **§ 1602.29 Applicability of State or local law.**

The requirements imposed by the Equal Employment Opportunity Commission in these regulations, subparts D through G, supersede any provisions of State or local law which may conflict with them. Any State or local laws prohibiting inquiries and record-keeping with respect to race, color, national origin, or sex do not apply to inquiries required to be made under these regulations and under the instructions accompanying Reports EEO-2 and EEO-3.

[32 FR 10652, July 20, 1967]

### **Subpart I—State and Local Governments Recordkeeping**

#### **§ 1602.30 Records to be made or kept.**

On or before September 30, 1974, and annually thereafter, every political jurisdiction with 15 or more employees is required to make or keep records and the information therefrom which are or

would be necessary for the completion of report EEO-4 under the circumstances set forth in the instructions thereto, whether or not the political jurisdiction is required to file such report under § 1602.32 of the regulations in this part. The instructions are specifically incorporated herein by reference and have the same force and effect as other sections of this part.<sup>1</sup> Such reports and the information therefrom shall be retained at all times for a period of 3 years at the central office of the political jurisdiction and shall be made available if requested by an officer, agent, or employee of the Commission under section 710 of title VII, as amended. Although agency data are aggregated by functions for purposes of reporting, separate data for each agency must be maintained either by the agency itself or by the office of the political jurisdiction responsible for preparing the EEO-4 form. It is the responsibility of every political jurisdiction to obtain from the Commission or its delegate necessary instructions in order to comply with the requirements of this section.

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[38 FR 12604, May 14, 1973, as amended at 39 FR 30832, Aug. 26, 1974; 46 FR 63268, Dec. 31, 1981]

#### **§ 1602.31 Preservation of records made or kept.**

Any personnel or employment record made or kept by a political jurisdiction (including but not necessarily limited to requests for reasonable accommodation application forms submitted by applicants and other records having to do with hiring, promotion, demotion, transfer, layoff, or termination, rates of pay or other terms of compensation, and selection for training or apprenticeship) shall be preserved by the political jurisdiction for a period of 2 years from the date of the making of the record or the personnel action involved, whichever occurs later. In the case of involuntary termination of an employee, the personnel records of the individual terminated shall be kept for

<sup>1</sup>NOTE: Instructions were published as an appendix to the proposed regulations on Mar. 2, 1973 (38 FR 5662).

a period of 2 years from the date of termination. Where a charge of discrimination has been filed, or an action brought by the Attorney General against a political jurisdiction under title VII or the ADA, the respondent political jurisdiction shall preserve all personnel records relevant to the charge or action until final disposition of the charge or the action. The term "personnel record relevant to the charge," for example, would include personnel or employment records relating to the person claiming to be aggrieved and to all other employees holding positions similar to that held or sought by the person claiming to be aggrieved; and application forms or test papers completed by an unsuccessful applicant and by all other candidates for the same position as that for which the person claiming to be aggrieved applied and was rejected. The date of final disposition of the charge or the action means the date of expiration of the statutory period within which a person claiming to be aggrieved may bring an action in a U.S. district court or, where an action is brought against a political jurisdiction either by a person claiming to be aggrieved or by the Attorney General, the date on which such litigation is terminated.

(Approved by the Office of Management and Budget under control number 3046-0040)

[38 FR 12605, May 14, 1973, as amended by 46 FR 63268, Dec. 31, 1981; 56 FR 35756, July 26, 1991]

### Subpart J—State and Local Government Information Report

SOURCE: 38 FR 12605, May 14, 1973, unless otherwise noted.

#### § 1602.32 Requirement for filing and preserving copy of report.

On or before September 30, 1993, and biennially thereafter, certain political jurisdictions subject to title VII of the Civil Rights Act of 1964, as amended, shall file with the Commission or its delegate executed copies of "State and Local Government Information Report EEO-4" in conformity with the directions set forth in the form and accompanying instructions. The political ju-

risdictions covered by this section are (a) those which have 100 or more employees, and (b) those other political jurisdictions which have 15 or more employees from whom the Commission requests the filing of reports.

Every such political jurisdiction shall retain at all times a copy of the most recently filed EEO-4 at the central office of the political jurisdiction for a period of 3 years and shall make the same available if requested by an officer, agent, or employee of the Commission under the authority of section 710 of title VII, as amended.

[58 FR 29536, May 21, 1993]

#### § 1602.33 Penalty for making of willfully false statements on report.

The making of willfully false statements on report EEO-4, is a violation of the United States Code, title 18, section 1001, and is punishable by fine or imprisonment as set forth therein.

#### § 1602.34 Commission's remedy for political jurisdiction's failure to file report.

Any political jurisdiction failing or refusing to file report EEO-4 when required to do so may be compelled to file by order of a U.S. district court, upon application of the Attorney General.

#### § 1602.35 Political jurisdiction's exemption from reporting requirements.

If it is claimed that the preparation or filing of the report would create undue hardship, the political jurisdiction may apply to the Commission for an exemption from the requirements set forth in this part by submitting to the Commission or its delegate a specific proposal for an alternative reporting system prior to the date on which the report is due.

#### § 1602.36 Schools exemption.

The recordkeeping and report-filing requirements of subparts I and J of this part shall not apply to State or local educational institutions or to school districts or school systems or any other educational functions. The previous sentence of this section shall not act to bar jurisdiction which otherwise would attach under § 1602.30.