

§ 1602.10 Employer's exemption from reporting requirements.

If an employer claims that the preparation or filing of the report would create undue hardship, the employer may apply to the Commission for an exemption from the requirements set forth in this part, according to instruction 5. If an employer is engaged in activities for which the reporting unit criteria described in section 5 of the instructions are not readily adaptable, special reporting procedures may be required. If an employer seeks to change the date for filing its Standard Form 100 or seeks to change the period for which data are reported, an alternative reporting date or period may be permitted. In such instances, the employer should so advise the Commission by submitting to the Commission or its delegate a specific written proposal for an alternative reporting system prior to the date on which the report is due.

[56 FR 35755, July 26, 1991]

§ 1602.11 Additional reporting requirements.

The Commission reserves the right to require reports, other than that designated as the Employer Information Report EEO-1, about the employment practices of individual employers or groups of employers whenever, in its judgment, special or supplemental reports are necessary to accomplish the purposes of title VII or the ADA. Any system for the requirement of such reports will be established in accordance with the procedures referred to in section 709(c) of title VII or section 107 of the ADA and as otherwise prescribed by law.

[31 FR 2833, Feb. 17, 1966, as amended at 56 FR 35755, July 26, 1991]

Subpart C—Recordkeeping by Employers

§ 1602.12 Records to be made or kept.

The Commission has not adopted any requirement, generally applicable to employers, that records be made or kept. It reserves the right to impose recordkeeping requirements upon individual employers or groups of employers subject to its jurisdiction when-

ever, in its judgment, such records (a) are necessary for the effective operation of the EEO-1 reporting system or of any special or supplemental reporting system as described above; or (b) are further required to accomplish the purposes of title VII or the ADA. Such record-keeping requirements will be adopted in accordance with the procedures referred to in section 709(c) of title VII, or section 107 of the ADA, and otherwise prescribed by law.

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

[31 FR 2833, Feb. 17, 1966, as amended at 46 FR 63268, Dec. 31, 1981; 56 FR 35755, July 26, 1991]

§ 1602.13 Records as to racial or ethnic identity of employees.

Employers may acquire the information necessary for completion of items 5 and 6 of Report EEO-1 either by visual surveys of the work force, or at their option, by the maintenance of post-employment records as to the identity of employees where the same is permitted by State law. In the latter case, however, the Commission recommends the maintenance of a permanent record as to the racial or ethnic identity of an individual for purpose of completing the report form only where the employer keeps such records separately from the employee's basic personnel form or other records available to those responsible for personnel decisions, e.g., as part of an automatic data processing system in the payroll department.

[31 FR 2833, Feb. 17, 1966]

§ 1602.14 Preservation of records made or kept.

Any personnel or employment record made or kept by an employer (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, lay-off or termination, rates of pay or other terms of compensation, and selection for training or apprenticeship) shall be preserved by the employer for a period of one year from the date of the making of the record or the personnel action involved, whichever

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occurs later. In the case of involuntary termination of an employee, the personnel records of the individual terminated shall be kept for a period of one year from the date of termination. Where a charge of discrimination has been filed, or an action brought by the Commission or the Attorney General, against an employer under title VII or the ADA, the respondent employer shall preserve all personnel records relevant to the charge or action until final disposition of the charge or the action. The term "personnel records relevant to the charge," for example, would include personnel or employment records relating to the aggrieved person and to all other employees holding positions similar to that held or sought by the aggrieved person 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 aggrieved person 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 the aggrieved person may bring an action in a U.S. District Court or, where an action is brought against an employer either by the aggrieved person, the Commission, or by the Attorney General, the date on which such litigation is terminated.

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[37 FR 9219, May 6, 1972, as amended at 46 FR 63268, Dec. 31, 1981; 56 FR 35755, July 26, 1991]

Subpart D—Apprenticeship Information Report

§ 1602.15 Requirement for filing and preserving copy of report.

On or before September 30, 1967, and annually thereafter, certain joint labor-management committees subject to title VII of the Civil Rights Act of 1964 which control apprenticeship programs shall file with the Commission, or its delegate, executed copies of Apprenticeship Information Report EEO-2 in conformity with the directions set forth in the form and accompanying instructions. The committees covered by this regulation are those which (a) have five or more apprentices enrolled

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in the program at any time during August and September of the reporting year, and (b) represent at least one employer sponsor and at least one labor organization sponsor which are themselves subject to title VII. Every such committee shall retain at all times among the records maintained in the ordinary course of its affairs a copy of the most recent report filed, 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. It is the responsibility of all such committees to obtain from the Commission or its delegate necessary supplies of the form.

[37 FR 9220, May 6, 1972]

§ 1602.16 Penalty for making of willfully false statements on report.

The making of willfully false statements on Report EEO-2 is a violation of the U.S. Code, title 18, section 1001, and is punishable by fine or imprisonment as set forth therein.

[32 FR 10650, July 20, 1967]

§ 1602.17 Commission's remedy for failure to file report.

Any person failing or refusing to file Report EEO-2 when required to do so may be compelled to file by order of a U.S. District Court, upon application of the Commission, under authority of section 709(c) of title VII.

[37 FR 9220, May 6, 1972]

§ 1602.18 Exemption from reporting requirements.

If it is claimed that the preparation or filing of Report EEO-2 would create undue hardship, the committee may apply to the Commission for an exemption from the requirements set forth in this part.

[32 FR 10650, July 20, 1967]

§ 1602.19 Additional reporting requirements.

The Commission reserves the right to require reports, other than that designated as Report EEO-2, about apprenticeship procedures of joint labor-management committees, employers, and labor organizations whenever, in its judgment, special or supplemental