

June 21, 2019

Legal Alert: EEOC Reporting Requirements on Pay Data Reinstated

Employers with 100 or more employees and federal contractors with 50 or more employees have long been required by the U.S. Equal Employment Opportunity Commission (EEOC) to file annual compliance reports. These reports, called Employer Information Reports (EEO-1 Reports), must disclose certain demographics about employees by job category, race, and sex (Component 1 Data). In 2016, the Obama Administration expanded the reporting requirement to mandate employers include additional data about employees' pay and hours worked (Component 2 Data). Specifically, employers were required to report aggregate W-2 income within 12 pay bands for males and females, broken down by racial or ethnic category, across several job categories. Employers were also required to report aggregate hours for employees in those same categories, which the EEOC had stated was necessary to evaluate differences in pay. The initial deadline for including Component 2 Data in revised EEO-1 Reports (Revised EEO-1 Reports) was March 31, 2018. However, the Trump Administration suspended implementation of Component 2 Data in August 2017, as we noted in our legal alert of September 26, 2017. This decision was challenged in court by advocacy groups in an effort to reinstate the expanded reporting requirements.

On April 25, 2019, a federal judge in Washington, D.C. ruled that the EEOC's elimination of the expanded reporting was unlawful and ordered that Component 2 Data reporting be reinstated. Following that ruling, the EEOC announced that employers will be required to submit Component 2 Data for the years 2017 and 2018 by September 30, 2019.¹ The EEOC has appealed the court's decision. However, there is currently no stay and so the September 30, 2019 deadline for Component 2 Data remains in effect. As a result, large employers should start gathering Component 2 Data from 2017 and 2018 in order to ensure compliance with the September deadline. The EEOC expects to open its online portal to collect Component 2 Data by mid-July, 2019 [<https://eeocomp2.norc.org>.] and will notify filers of the precise date when the survey is available. The EEOC has also created a help desk, which can be reached here: Email: EEOCcompdata@norc.org or Toll Free: (877) 324-6214

This alert is meant to provide general information only, not legal advice. If you have any questions about this alert please contact Judith Moldover at (212) 219-1800 ext. 250 or visit our website at www.lawyersalliance.org for further information.

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¹ Component 1 Data, reporting the employer's number of employees by job category, race, and sex, was due by May 31, 2019.