

§ 1602.13

recordkeeping requirements upon individual employers or groups of employers subject to its jurisdiction whenever, 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 em-

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ployer for a period of one year 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 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 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 ap-

prenticeship procedures of joint labor-management committees, employers, and labor organizations whenever, in its judgment, special or supplemental reports are necessary to accomplish the purpose 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.

[32 FR 10650, July 20, 1967, as amended at 56 FR 35755, July 26, 1991]

Subpart E—Apprenticeship Recordkeeping

§ 1602.20 Records to be made or kept.

(a) Every person required to file Report EEO-2 shall make or keep such records as are necessary for its completion under the conditions and circumstances set forth in the instructions accompanying the report, which are specifically incorporated herein by reference and have the same force and effect as other sections of this part.

(b) Every employer, labor organization, and joint labor-management committee subject to title VII which controls an apprenticeship program (regardless of any joint or individual obligation to file a report) shall beginning August 1, 1967, maintain a list in chronological order containing the names and addresses of all persons who have applied to participate in the apprenticeship program, including the dates on which such applications were received. (See section 709(c), title VII, Civil Rights Act of 1964.) Such list shall contain a notation of the sex of the applicant and of the applicant's identification as "White," "Black," "Hispanic," "Asian or Pacific Islander" or "American Indian or Alaskan Native." The methods of making such identification are set forth in the instruction accompanying Report EEO-2. The words "applied," "applicant" and "application" as used in this section refer to situations involving actual applications only. An applicant is considered to be a person who files a formal application, or in some informal way indicates a specific intention to be