

Equal Employment Opportunity Comm.

§ 1627.1

administrative regulations, order, ruling, approval or interpretation * * * or any administrative practice or enforcement policy of [the Commission].

The Commission has determined that only (1) a written document, entitled "opinion letter," signed by the Legal Counsel on behalf of and as approved by the Commission, or (2) a written document issued in the conduct of litigation, entitled "opinion letter," signed by the General Counsel on behalf of and as approved by the Commission, or (3) matter published and specifically designated as such in the FEDERAL REGISTER, may be relied upon by any employer as a "written regulation, order, ruling, approval or interpretation" or "evidence of any administrative practice or enforcement policy" of the Commission "with respect to the class of employers to which he belongs," within the meaning of the statutory provisions quoted above.

(b) An opinion letter issued pursuant to paragraph (a)(1) of this section, when issued to the specific addressee, has no effect upon situations other than that of the specific addressee.

(c) When an opinion letter, as defined in paragraph (a)(1) of this section, is requested, the procedure stated in §1626.17 shall be followed.

§ 1626.19 Rules to be liberally construed.

(a) These rules and regulations shall be liberally construed to effectuate the purposes and provisions of this Act and any other acts administered by the Commission.

(b) Whenever the Commission receives a charge or obtains information relating to possible violations of one of the statutes which it administers and the charge or information reveals possible violations of one or more of the other statutes which it administers, the Commission will treat such charges or information in accordance with all such relevant statutes.

(c) Whenever a charge is filed under one statute and it is subsequently believed that the alleged discrimination constitutes an unlawful employment practice under another statute administered and enforced by the Commission, the charge may be so amended

and timeliness determined from the date of filing of the original charge.

PART 1627—RECORDS TO BE MADE OR KEPT RELATING TO AGE: NOTICES TO BE POSTED: ADMINISTRATIVE EXEMPTIONS

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AUTHORITY: Sec. 7, 81 Stat. 604; 29 U.S.C. 626; sec. 11, 52 Stat. 1066, 29 U.S.C. 211; sec. 12, 29 U.S.C. 631, Pub. L. 99-592, 100 Stat. 3342; sec. 2, Reorg. Plan No. 1 of 1978, 43 FR 19807.

SOURCE: 44 FR 38459, July 2, 1979, unless otherwise noted.

Subpart A—General

§ 1627.1 Purpose and scope.

(a) Section 7 of the Age Discrimination in Employment Act of 1967 (hereinafter referred to in this part as the Act) empowers the Commission to require the keeping of records which are necessary or appropriate for the administration of the Act in accordance with the powers contained in section 11 of the Fair Labor Standards Act of 1938. Subpart B of this part sets forth the recordkeeping and posting requirements which are prescribed by the

Commission for employers, employment agencies, and labor organizations which are subject to the Act. Reference should be made to section 11 of the Act for definitions of the terms “employer”, “employment agency”, and “labor organization”. General interpretations of the Act and of this part are published in part 1625 of this chapter. This part also reflects pertinent delegations of the Commission’s duties.

(b) Subpart C of this part sets forth the Commission’s rules under section 9 of the Act providing that the Commission may establish reasonable exemptions to and from any or all provisions of the Act as it may find necessary and proper in the public interest.

(c) Subpart D of this part sets forth the Commission’s regulations issued pursuant to section 12(c)(2) of the Act, providing that the Secretary of Labor, after consultation with the Secretary of the Treasury, shall prescribe the manner of calculating the amount of qualified retirement benefits for purposes of the exemption in section 12(c)(1) of the Act.

[44 FR 38459, July 2, 1979, as amended at 44 FR 66797, Nov. 21, 1979]

Subpart B—Records To Be Made or Kept Relating to Age; Notices To Be Posted

§ 1627.2 Forms of records.

No particular order or form of records is required by the regulations in this part 1627. It is required only that the records contain in some form the information specified. If the information required is available in records kept for other purposes, or can be obtained readily by recomputing or extending data recorded in some other form, no further records are required to be made or kept on a routine basis by this part 1627.

§ 1627.3 Records to be kept by employers.

(a) Every employer shall make and keep for 3 years payroll or other records for each of his employees which contain:

- (1) Name;
- (2) Address;
- (3) Date of birth;

- (4) Occupation;
- (5) Rate of pay, and
- (6) Compensation earned each week.

(b)(1) Every employer who, in the regular course of his business, makes, obtains, or uses, any personnel or employment records related to the following, shall, except as provided in paragraphs (b) (3) and (4) of this section, keep them for a period of 1 year from the date of the personnel action to which any records relate:

(i) Job applications, resumes, or any other form of employment inquiry whenever submitted to the employer in response to his advertisement or other notice of existing or anticipated job openings, including records pertaining to the failure or refusal to hire any individual.

(ii) Promotion, demotion, transfer, selection for training, layoff, recall, or discharge of any employee.

(iii) Job orders submitted by the employer to an employment agency or labor organization for recruitment of personnel for job openings.

(iv) Test papers completed by applicants or candidates for any position which disclose the results of any employer-administered aptitude or other employment test considered by the employer in connection with any personnel action.

(v) The results of any physical examination where such examination is considered by the employer in connection with any personnel action.

(vi) Any advertisements or notices to the public or to employees relating to job openings, promotions, training programs, or opportunities for overtime work.

(2) Every employer shall keep on file any employee benefit plans such as pension and insurance plans, as well as copies of any seniority systems and merit systems which are in writing, for the full period the plan or system is in effect, and for at least 1 year after its termination. If the plan or system is not in writing, a memorandum fully outlining the terms of such plan or system and the manner in which it has been communicated to the affected employees, together with notations relating to any changes or revisions thereto, shall be kept on file for a like period.