

## § 1602.45

a specific proposal for an alternative reporting system prior to the date on which the report is due.

[61 FR 33660, June 28, 1996]

### § 1602.45 Additional reporting requirements.

The Commission reserves the right to require reports, other than that designated as the Elementary-Secondary Information Report EEO-5, about the employment practices of private or public individual school systems, districts, or schools, or groups thereof, 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.

[38 FR 27619, Sept. 25, 1973, as amended at 56 FR 35756, July 26, 1991]

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

### § 1602.46 Applicability of State or local law.

The requirements imposed by the Equal Employment Opportunity Commission in these regulations, subparts L and M of this part, supersede any provisions of State or local law which may conflict with them.

[38 FR 26720, Sept. 25, 1973]

## Subpart O—Recordkeeping for Institutions of Higher Education

### § 1602.47 Definition.

Under subparts O and P of this part, the term *institution of higher education* means an institutional system, college, university, community college, junior college, and any other educational institution which offers an associate degree, baccalaureate degree or higher degree or which offers a two year program of college level studies without degree. The term *college level studies* means a post secondary program which is wholly or principally creditable to-

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ward a baccalaureate degree or terminates in an associate degree.

[40 FR 25188, June 12, 1975]

### § 1602.48 Records to be made or kept.

Commencing August 1, 1975, every institution of higher education, whether public or private, with 15 or more employees, shall make or keep all records, and information therefrom, which are or would be necessary for the completion of Higher Education Staff Information Report EEO-6 whether or not it is required to file such a report under § 1602.50. The instructions for completion of Report EEO-6 are specifically incorporated herein by reference and have the same force and effect as other sections of this part.<sup>1</sup> Such records, and the information therefrom, shall be retained at all times for a period of three years at the central administrative office of the institution of higher education, at the central administrative office of a separate campus or branch, or at an individual school which is the subject of the records and information, where more convenient. Such records, and the information therefrom, shall be made available if requested by the Commission or its representative under section 710 of title VII and 29 U.S.C. 161. It is the responsibility of every institution of higher education to obtain from the Commission or its delegate the necessary instructions in order to comply with the requirements of this section.

(Approved by the Office of Management and Budget under control number 3046-0009)

[40 FR 25188, June 12, 1975, as amended at 46 FR 63268, Dec. 31, 1981]

### § 1602.49 Preservation of records made or kept.

(a) Any personnel or employment record (including but not necessarily limited to requests for reasonable accommodation, application forms submitted by applicants and other records having to do with hiring, promotion, tenure, demotion, transfer, layoff, or termination, rates of pay or other terms of compensation, and selection

<sup>1</sup>NOTE: Instructions were published as an appendix to the regulations at 40 FR 25188, June 12, 1975.

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for training) made or kept by an institution of higher education shall be preserved by such institution of higher education for a period of two years from the date of the making of the personnel action or record involved, whichever occurs later. In the case of the involuntary termination of an employee, the personnel records of the individual terminated shall be kept for a period of two years from the date of termination. Where a charge of discrimination has been filed, or a civil action brought against an institution of higher education by the Commission or the Attorney General, the respondent shall preserve similarly at the central administrative office of the institution of higher education, at the central office of a separate campus or branch, or at the individual school which is the subject of the charge or action, where more convenient, all personnel records relevant to the charge or action until final disposition thereof. The term "personnel records 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; it would also include 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 the United States District Court, or, where an action is brought against an institution of higher education by a person claiming to be aggrieved, the Commission, or the Attorney General, the date on which such litigation is terminated.

(b) The requirements of paragraph (a) of this section shall not apply to application forms and other preemployment records of non-student applicants for positions known to non-student appli-

cants to be of a temporary or seasonal nature.

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

[40 FR 25188, June 12, 1975, as amended at 46 FR 63268, Dec. 31, 1981; 56 FR 35756, July 26, 1991]

**Subpart P—Higher Education Staff Information Report EEO-6**

SOURCE: 40 FR 25189, June 12, 1975, unless otherwise noted.

**§ 1602.50 Requirement for filing and preserving copy of report.**

On or before November 30, 1975, and biennially thereafter, every public and private institution of higher education having fifteen (15) or more employees shall file with the Commission or its delegate executed copies of Higher Education Staff Information Report EEO-6 in conformity with the directions set forth in the form and accompanying instructions. Every institution of higher education shall retain at all times, for a period of three years a copy of the most recently filed Report EEO-6 at its central administrative office, at the central office of a separate campus or branch, or at an individual school which is the subject of the report, where more convenient. An institution of higher education shall make the same available if requested by the Commission or is representative under the authority of section 710 of the Act and 29 U.S.C. 161. It is the responsibility of the institutions above described in this section to obtain from the Commission or its delegate necessary supplies of the form.

**§ 1602.51 Penalty for making of willfully false statements on report.**

The making of willfully false statements on Report EEO-6 is a violation of the United States Code, title 18, section 1001, and is punishable by fine or imprisonment as set forth therein.

**§ 1602.52 Commission's remedy for failure to file.**

Any institution of higher education failing or refusing to keep records, in accordance with § 1602.48 or § 1602.49 of