

§ 1602.13

§ 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 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 hold-

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ing 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.

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

[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]