

Equal Employment Opportunity Comm.

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of the United States Code, title 18, section 1001, and is punishable by fine or imprisonment as set forth herein.

[32 FR 10651, July 20, 1967]

§ 1602.24 Commission's remedy for failure to file report.

Any person failing or refusing to file Report EEO-3 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]

§ 1602.25 Exemption from reporting requirements.

If it is claimed that the preparation or filing of Report EEO-3 would create undue hardship, the labor organization may apply to the Commission for an exemption from the requirements set forth in this part.

[32 FR 10651, July 20, 1967]

§ 1602.26 Additional reporting requirements.

The Commission reserves the right to require reports, other than that designated as Report EEO-3, about the membership or referral practices or other procedures of labor organizations, whenever, in its judgment, special or supplemental reports are necessary to accomplish the purposes of title VII or the ADA. Any system for 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 10651, July 20, 1967, as amended at 56 FR 35755, July 26, 1991]

Subpart G—Recordkeeping by Labor Organizations

§ 1602.27 Records to be made or kept.

Those portions of Report EEO-3 calling for information about union policies and practices and for the compilation of statistics on the race, color, national origin, and sex of members, persons referred, and apprentices, are deemed to be "records" within the meaning of section 709(c), title VII, Civil Rights Act of 1964. Every local,

independent, or unaffiliated union with 100 or more members (or any agent acting in its behalf, if the agent has responsibility for referral of persons for employment) shall make these records or such other records as are necessary for the completion of Report EEO-3 under the circumstances and conditions set forth in the instructions accompanying it, which are specifically incorporated herein by reference and have the same force and effect as other sections of this part.

(Approved by the Office of Management and Budget under control number 3046-0006)

[32 FR 10651, July 20, 1967, as amended at 46 FR 63268, Dec. 31, 1981]

§ 1602.28 Preservation of records made or kept.

(a) All records made by a labor organization or its agent solely for the purpose of completing Report EEO-3 shall be preserved for a period of 1 year from the due date of the report for which they were compiled. Any labor organization identified as a "referral union" in the instructions accompanying Report EEO-3, or agent thereto, shall preserve other membership or referral records (including applications for same) made or kept by it for a period of 1 year from the date of the making of the record. Where a charge of discrimination has been filed, or an action brought by the Commission or the Attorney General, against a labor organization under title VII or the ADA, the respondent labor organization shall preserve all records relevant to the charge or action until final disposition of the charge or the action. 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 a labor organization either by the Commission, the aggrieved person, or by the Attorney General, the date on which such litigation is terminated.

(b) Nothing herein shall relieve any labor organization covered by title VII of the obligations set forth in subpart E, §§1602.20 and 1602.21, relating to the establishment and maintenance of a list of applicants wishing to participate

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in an apprenticeship program controlled by it.

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[37 FR 9220, May 6, 1972, as amended at 46 FR 63268, Dec. 31, 1981; 56 FR 35755, July 26, 1991]

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

§ 1602.29 Applicability of State or local law.

The requirements imposed by the Equal Employment Opportunity Commission in these regulations, subparts D through G, supersede any provisions of State or local law which may conflict with them. Any State or local laws prohibiting inquiries and record-keeping with respect to race, color, national origin, or sex do not apply to inquiries required to be made under these regulations and under the instructions accompanying Reports EEO-2 and EEO-3.

[32 FR 10652, July 20, 1967]

Subpart I—State and Local Governments Recordkeeping

§ 1602.30 Records to be made or kept.

On or before September 30, 1974, and annually thereafter, every political jurisdiction with 15 or more employees is required to make or keep records and the information therefrom which are or would be necessary for the completion of report EEO-4 under the circumstances set forth in the instructions thereto, whether or not the political jurisdiction is required to file such report under §1602.32 of the regulations in this part. The instructions are specifically incorporated herein by reference and have the same force and effect as other sections of this part.¹ Such reports and the information therefrom shall be retained at all times for a period of 3 years at the central office of the political jurisdiction and shall be made available if requested by an officer, agent, or employee of the

¹NOTE: Instructions were published as an appendix to the proposed regulations on Mar. 2, 1973 (38 FR 5662).

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Commission under section 710 of title VII, as amended. Although agency data are aggregated by functions for purposes of reporting, separate data for each agency must be maintained either by the agency itself or by the office of the political jurisdiction responsible for preparing the EEO-4 form. It is the responsibility of every political jurisdiction to obtain from the Commission or its delegate necessary instructions in order to comply with the requirements of this section.

(Approved by the Office of Management and Budget under control number 3046-0008)

[38 FR 12604, May 14, 1973, as amended at 39 FR 30832, Aug. 26, 1974; 46 FR 63268, Dec. 31, 1981]

§ 1602.31 Preservation of records made or kept.

Any personnel or employment record made or kept by a political jurisdiction (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, layoff, or termination, rates of pay or other terms of compensation, and selection for training or apprenticeship) shall be preserved by the political jurisdiction for a period of 2 years 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 2 years from the date of termination. Where a charge of discrimination has been filed, or an action brought by the Attorney General against a political jurisdiction under title VII or the ADA, the respondent political jurisdiction shall preserve all personnel records relevant to the charge or action until final disposition of the charge or the action. The term "personnel record 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; and application forms or