

§ 1602.40

29 CFR Ch. XIV (7-1-08 Edition)

herein by reference and have the same force and effect as other sections of this part.¹ Such records and the information therefrom shall be retained at all times for a period of 3 years at the central office of the elementary or secondary school system or district, or at the individual school which is the subject of the records and the information therefrom, where more convenient, and shall be made available if requested by an officer, agent, or employee of the Commission under section 710 of title VII, as amended. It is the responsibility of every such school system or district, 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 3046-0003)

[38 FR 26719, Sept. 25, 1973, as amended at 39 FR 30832, Aug. 26, 1974; 46 FR 63268, Dec. 31, 1981]

§ 1602.40 Preservation of records made or kept.

Any personnel or employment record made or kept by a school system, district, or individual school (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 such school system, district, or school, as the case may be, 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 against an elementary or secondary school by the Commission or the Attorney General, the respondent elementary or secondary school system, district, or individual school shall preserve similarly

at the central office of the system or district or 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 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 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 a U.S. district court or, where an action is brought against a school system, district, or school either by a person claiming to be aggrieved, the Commission, or the Attorney General, the date on which such litigation is terminated.

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[38 FR 26719, Sept. 25, 1973, as amended at 46 FR 63268, Dec. 31, 1981; 56 FR 35756, July 26, 1991]

Subpart M—Elementary-Secondary Staff Information Report

SOURCE: 38 FR 26719, Sept. 25, 1973, unless otherwise noted.

§ 1602.41 Requirement for filing and preserving copy of report.

On or before November 30, 1982, and biennially thereafter, certain public elementary and secondary school systems and districts, including individually or separately administered districts within such systems, shall file with the Commission or its delegate executed copies of Elementary-Secondary Staff Information Report EEO-5 in conformity with the directions set

¹NOTE: Instructions were published as an appendix to the proposed regulations on June 12, 1973 (38 FR 15463).