

## **Equal Employment Opportunity Comm.**

## **§ 1602.21**

### **§ 1602.17 Commission's remedy for failure to file report.**

Any person failing or refusing to file Report EEO-2 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]

### **§ 1602.18 Exemption from reporting requirements.**

If it is claimed that the preparation or filing of Report EEO-2 would create undue hardship, the committee may apply to the Commission for an exemption from the requirements set forth in this part.

[32 FR 10650, July 20, 1967]

### **§ 1602.19 Additional reporting requirements.**

The Commission reserves the right to require reports, other than that designated as Report EEO-2, about apprenticeship procedures of joint labor-management committees, employers, and labor organizations whenever, in its judgment, special or supplemental reports are necessary to accomplish the purpose of title VII, the ADA, or GINA. 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.

[32 FR 10650, July 20, 1967, as amended at 56 FR 35755, July 26, 1991; 74 FR 63983, Dec. 7, 2009]

## **Subpart E—Apprenticeship Recordkeeping**

### **§ 1602.20 Records to be made or kept.**

(a) Every person required to file Report EEO-2 shall make or keep such records as are necessary for its completion under the conditions and circumstances set forth in the instructions accompanying the report, which are specifically incorporated herein by reference and have the same force and effect as other sections of this part.

(b) Every employer, labor organization, and joint labor-management committee subject to title VII which con-

trols an apprenticeship program (regardless of any joint or individual obligation to file a report) shall beginning August 1, 1967, maintain a list in chronological order containing the names and addresses of all persons who have applied to participate in the apprenticeship program, including the dates on which such applications were received. (See section 709(c), title VII, Civil Rights Act of 1964.) Such list shall contain a notation of the sex of the applicant and of the applicant's identification as "White," "Black," "Hispanic," "Asian or Pacific Islander" or "American Indian or Alaskan Native." The methods of making such identification are set forth in the instruction accompanying Report EEO-2. The words "applied," "applicant" and "application" as used in this section refer to situations involving actual applications only. An applicant is considered to be a person who files a formal application, or in some informal way indicates a specific intention to be considered for admission to the apprenticeship program. A person who casually appears to make an informal inquiry about the program, or about apprenticeship in general, is not considered to be an applicant. The term "apprenticeship program" as used herein refers to programs described in the instructions accompanying Report EEO-2.

(c) In lieu of maintaining the chronological list referred to in §1602.20 (b), persons required to compile the list may maintain on file written applications for participation in the apprenticeship program, provided that the application form contains a notation of the date the form was received, the address of the applicant, and a notation of the sex, and the race, color, or national origin of the applicant as described above.

[32 FR 10650, July 20, 1967, as amended at 33 FR 282, Jan. 9, 1968; 42 FR 33557, Aug. 10, 1977]

### **§ 1602.21 Preservation of records made or kept.**

(a) Notwithstanding the provisions of section 1602.14, every person subject to §1602.20 (b) or (c) shall preserve the list of applicants or application forms, as the case may be, for a period of 2 years

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from the date the application was received, except that in those instances where an annual report is required by the Commission calling for statistics as to the sex, and the race, color, or national origin of apprentices, the person required to file the report shall preserve the list and forms for a period of 2 years or the period of a successful applicant's apprenticeship, whichever is longer. Persons required to file Report EEO-2, or other reports calling for information about the operation of an apprenticeship program similar to that required on Report EEO-2, shall preserve any other record made solely for the purpose of completing such reports for a period of 1 year from the due date thereof.

(b) Other records: Except to the extent inconsistent with the law or regulation of any State or local fair employment practices agency, or of any other Federal or State agency involved in the enforcement of an antidiscrimination program in apprenticeship, other records relating to apprenticeship made or kept by a person required to file Report EEO-2, including but not necessarily limited to requests for reasonable accommodation, test papers completed by applicants for apprenticeship and records of interviews with applicants, shall be kept for a period of 2 years from the date of the making of the record. Where a charge of discrimination has been filed, or an action brought by the Attorney General under title VII, or the ADA the respondent shall preserve all records relevant to the charge or action until final disposition of the charge or the action. The term "records relevant to the charge," for example, would include applications, forms or test papers completed by an unsuccessful applicant and by all other candidates for the same position as that for which the charging party 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 charging party may bring an action in a U.S. District Court or, where an action is brought either by a charging party or by the Attorney Gen-

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eral, the date on which such litigation is terminated.

[32 FR 10660, July 20, 1967, as amended at 56 FR 35755, July 26, 1991]

### Subpart F—Local Union Equal Employment Opportunity Report

#### § 1602.22 Requirements for filing and preserving copy of report.

On or before December 31, 1986, and biennially thereafter, every labor organization subject to title VII of the Civil Rights Act of 1964, as amended, shall file with the Commission or its delegate an executed copy of Local Union Report EEO-3 in conformity with the directions set forth in the form and accompanying instructions, provided that the labor organization has 100 or more members at any time during the 12 months preceding the due date of the report, and is a "local union" (as that term is commonly understood) or an independent or unaffiliated union. Labor organizations required to report are those which perform, in a specific jurisdiction, the functions ordinarily performed by a local union, whether or not they are so designated. Every local union or a labor organization acting in its behalf, 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 709 of title VII. It is the responsibility of all persons required to file to obtain from the Commission or its delegate necessary supplies of the form.

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

[51 FR 11018, Apr. 1, 1986]

#### § 1602.23 Penalty for making of willfully false statements on reports.

The making of willfully false statements on Report EEO-3 is a violation 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]