

EEOC To Reconsider Pay Data Collection

Labor & Employment Law Update

on February 14, 2017

On September 29, 2016, the Equal Employment Opportunity Commission (EEOC) announced it finalized regulations that require employers to include employee pay data in annual EEO-1 reports. The pay data is required for 2017 reports, which are due March 31, 2018. That is, employers with 100 or more employees are now required to include aggregate W-2 income by gender, race, ethnicity, and job group on their EEO-1 reports. The rule was harshly criticized by employers, who place hope in the Trump administration to undo the regulations.

On January 25, 2017, President Trump designated Victoria Lipnic as the EEOC's acting chair. Commissioner Lipnic voted against the pay data collection rule and recently indicated this is the type of government action President Trump wants to halt. Changes to the rule would require a vote from the Commission. Prior to the March 31, 2018 deadline for first collection of pay data, President Trump will have the opportunity to nominate two EEOC Commissioners. The nominations require Senate confirmation, so it is uncertain when new EEOC Commissioners will be in place. However, once the EEOC has a Republican majority, it is widely anticipated that the pay data rule will be rolled back, if not eliminated.

Aside from the pay data regulations, employers should note that Commissioner Lipnic announced that the EEOC's core strategic enforcement plan is not expected to change significantly under the Trump administration. The EEOC's systemic program will remain a priority as will its focus on workplace harassment charges. The EEOC may reign in broad attacks on the employer community, but it will likely remain an active agency under the Trump administration.

Stay tuned for updates on any changes to the pay data rule and how the EEOC is operating and enforcing rules under the new administration.