

Employers, Get Ready! D.C. Court Rules That EEOC Must Collect EEO Pay Data by September 30, 2019

Labor & Employment Law Update

on May 1, 2019

On April 25, 2019, the U.S. District Court for the District of Columbia ruled that employers must submit pay data by September 30, 2019. For a more detailed background on the case at issue, *National Women's Law Center v. Office of Management and Budget (OMB)*, please see our blog from last month. As a brief background, years ago the U.S. Equal Employment Opportunity Commission (EEOC) set out to collect pay data from employers in an effort to identify and address pay discrimination against women and minority workers. The EEOC already collects data from employers regarding the sex, race, and ethnicity of employees in various job categories (Component 1 of EEO-1 report). In order to also collect pay data (Component 2 of EEO-1 report), the EEOC needed permission from the OMB.

The OMB initially approved the pay data collection, and then stayed its permission in 2017 bringing the EEOC's pay data efforts to a halt. Women and minority workers advocacy groups filed a lawsuit in the D.C. Circuit court to vacate the OMB's self-imposed stay. In ruling on motions, the court asked the EEOC to provide guidance on an acceptable deadline by which it would be able to implement collecting pay data from employers. The EEOC said it would not be able to collect this data any earlier than September 30, 2019, and in doing so would need to rely on an outside contractor to perform the data collection.

On April 25th 2019 Court Order requires the EEOC to do the following:

- The EEOC must collect EEO-1 Component 2 pay data for **calendar year 2018** by **September 30, 2019**.
- In addition to the pay data for calendar year 2018, the court ordered that the EEOC must either collect:
 - EEO-1 Component 2 pay data for **calendar year 2017** by **September 30, 2019**; OR
 - EEO-1 Component 2 pay data for **calendar year 2019** in the **2020 EEO-1 reporting period**.

The EEOC must alert the court by May 3, 2019 if it elects to collect 2019 pay data in lieu of 2017 pay data.

- The court ordered that OMB's approval of EEOC's pay data collection shall expire on April 5, 2021.

Stay tuned as the EEOC is expected to provide further guidance on its pay data collection soon. In the meantime, employers should plan on submitting Component 2 of the EEO-1 reports for calendar year 2018 by September 30, 2019, and ensure that it submits Component 1 of the EEO-1 reports for calendar year 2018 by May 31, 2019.

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