



This article presents general guidelines for Georgia nonprofit organizations as of the date written and should not be construed as legal advice. Always consult an attorney to address your particular situation.

Controversial Pay Data Portion of EEO-1 Report Reinstated; EEOC Guidance Coming Soon

In early March, a federal district court reinstated the controversial pay data collection portion of the EEO-1 report. The order requires covered employers, including nonprofit organizations, to report their employees' W-2 wage information and total hours worked by gender, race and ethnicity on a new Component 2 of the EEO-1 Report. The new data reporting requirements were first proposed in 2016, but were put on hold mid-2017 before implementation. The March 4, 2019 court order did not address timing for implementation of the new requirements and the Equal Employment Opportunity Commission did not issue a statement, thus leaving employers in limbo. The judge has now ordered EEOC to explain its plan for pay data reporting by April 3.

What's New:

Nonprofit organizations that submit an annual Employer Information Report EEO-1 will be required to start collecting and reporting pay and hours data compiled by gender, race, and ethnicity. This is a significant development because the addition of pay data and hours worked information on the EEO-1 is substantially broader than current reporting, which requires employers to report only the workforce demographics in broad job categories.

Under the EEOC's longstanding EEO-1 collection practices, businesses and organizations with 100 or more employees are required to submit annual EEO-1 reports that include data about employees' ethnicity, race and sex. The data is reported in 10 specified job categories (including, for example, "Executive/Senior level Officials and Managers," "First/Mid-Level Officials and Managers," "Professionals," "Administrative Support Workers" and "Service Workers").

Under the revised EEO-1 form covered employers will also need to collect and submit summary pay data and aggregate hours worked information. The information will be reported by race, ethnicity, and gender in 2 new grids containing 12 pay bands for each of the 10 current job classifications. Employers will report summary pay information for each job classification and pay band on one of the new grids and aggregate work hours for each job classification and pay band on the second grid.

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What organizations are required to file the EEO-1 report?

Generally, organizations that meet the following criteria are required to file the EEO-1 report annually:

- a. Subject to Title VII of the Civil Rights Act of 1964, as amended, with **100 or more employees**; or
- b. Federal government prime contractor or first-tier subcontractor with **50 or more employees** and a prime contract or a first-tier subcontract amounting to \$50,000 or more.

Current EEO-1

The 2018 EEO-1 Survey is open and the existing report due date is May 31, 2019. Prior filers should have received a Notification letter from the EEOC in mid-March. If your organization is a new filer, information regarding reporting obligations is contained in the “First Time Filers” drop down on the EEO-1 survey login page. Additional information including an instruction booklet and frequently asked questions can be found on the survey login page:

<https://www.eeoc.gov/employers/eeo1survey/index.cfm>

Guidance coming soon:

The EEO-1 portal is already open for submission and the EEOC has told employers to begin submitting their EEO-1 without the pay data. Employers can anticipate more guidance and a timetable for compliance from the EEOC by April 3. Covered organizations will need to review their compensation and hours worked data recording systems to determine how to retrieve the required information.

Pro Bono Partnership of Atlanta will continue to monitor developments and will provide updates. If you have any questions about EEO-1 reporting or this new requirement, please contact your PBPA attorney.

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