



News & Updates

EMPLOYEE EARNINGS AND HOURS DATA DUE TO EEOC BY SEPTEMBER 30, 2019

On April 25, 2019, in *National Women's Law Center, et al. v. Office of Management and Budget*, Judge Tanya Chutkan of the U.S. District Court for the District of Columbia ruled that the Equal Employment Opportunity Commission (EEOC) must immediately take all steps necessary to comply with its prior March 4, 2019 decision. That previous decision lifted a stay that the White House Office of Management and Budget (OMB) had imposed in August 2017, which prevented a new rule from going into effect requiring employers to report additional information regarding employee pay data using a revised Employer Information Report EEO-1 (EEO-1) form.

The EEOC collects workforce data from employers with more than 100 employees (lower thresholds apply to federal contractors). Employers meeting the reporting thresholds have a legal obligation to provide the data. Prior to the new EEO-1 form, the EEOC required that such employers file an EEO-1 form requiring them to report the number of individuals employed by job category, sex, race, and ethnicity. In September 2016, the OMB approved a new collection of data on employees' W-2 earnings and hours worked, which EEO-1 filers maintained in the ordinary course of business.

In the new April 25 order, Judge Chutkan declared that the EEOC must immediately take all steps to complete the EEO-1 Component 2 data collections for 2017 and 2018 by September 30, 2019. The court also gave the EEOC the option of collecting data for 2019 in lieu of data for 2017. The EEOC was ordered to report its decision to the court by May 3, 2019, and to post notifications about it on its website.

Since then, the EEOC has posted two statements on its website on April 29, 2019 and May 2, 2019. The first announced the reinstatement of the revised EEO-1, including the collection of Component 2 data, and advised employers of their obligation to submit Component 2 data for the 2018 by September 30, 2019. The second stated that employers should plan to submit 2017 Component 2 data by September 30, 2019, along with the 2018 data.

In addition, on May 3, 2019, the EEOC posted a statement on its website advising that the Department of Justice filed a Notice of Appeal in *National Women's Law Center*. The filing of this Notice of Appeal does not stay the district court orders or alter EEO-1 filers' obligations to submit Component 2 data. Therefore, EEO-1 filers should now begin preparing to submit Component 2 data.

For more information on this decision and how it might affect your business, please contact:

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