

Court Rules that Employers Must Report Pay Data by September 30, 2019

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On April 25, 2019, a federal judge in Washington, D.C. set a September 30, 2019 deadline for employers to begin complying with the U.S. Equal Opportunity Commission's (EEOC) recently revived pay data collection rule. Accordingly, employers with 100 or more employees – more than 60,000 employers – must submit 2018 pay data to the EEOC by September 30, 2019.

As reported in our past alerts ([link here](#)), the pay data collection rule was first adopted by the EEOC in 2016, during the Obama administration. The rule provided that employers with 100 or more employees report employee pay data to the EEOC annually on updated Employer Information Report forms (EEO-1s), with the first filing of the new forms scheduled for March 31, 2018. In August 2017, the Trump Office of Management and Budget (OMB) initiated a review of the rule, putting the rule on hold indefinitely. The National Women's Law Center and the Labor Council for Latin American Advancement challenged the OMB's decision in the federal court. Earlier this month, the District Court reinstated the rule, finding that the OMB did not provide a reasonable explanation for putting the rule on hold. The EEOC then proposed that employers be required to submit their 2018 pay data by September 30, 2019.

By May 3, 2019, the EEOC must decide whether it will collect additional pay data for 2017 or 2019. If it opts to collect 2017 data, it will also be due by September 30, 2019. However, if it chooses to collect 2019 data, the deadline will be sometime in the spring of 2020.

The EEO-1 reporting requirement is a significant burden for employers and has long been controversial. Employers groups, which have opposed the pay data collection rule from its inception, are expected to exert significant pressure to delay implementation of the rule or have the rule withdrawn or struck down. The District Court's decision could be appealed or, provided that President Trump fills current vacancies on the EEOC, giving the EEOC a quorum, the EEOC could rescind the rule. For now, however, employers should begin to take steps to comply with the September 30, 2019 deadline.

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