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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION WASHINGTON, D.C. 20507

EEOC FORM 274, LOCAL UNION REPORT (EEO-3)

REFERRAL LOCAL UNIONS ONLY

INSTRUCTIONS FOR FILING AND RECORDKEEPING REQUIREMENTS

These instructions were written to assist in the preparation of Local Union Report (EEO-3). Submit the original no later than December 31 to the address on the EEO-3 website <https://egov.eeoc.gov/eo3/contact.htm>.

1. WHO MUST FILE REPORT

Local Union Report (EEO-3). This report must be completed in full and filed by or on behalf of all **referral** local unions subject to Title VII of the Civil Rights Act of 1964, as amended, which have had 100 or more members at any time since December 31 of the preceding year. (See Section 1602.22 of the regulations in Section 8 of these instructions, and Section 701 (d) of the Title VII for a more exact definition of "labor organization.")

"Referral Union" is a term which describes unions under whose normal methods of

operation individuals customarily and regularly seek or gain employment through the union or an agent of the union.

For the purposes of this report, a local union will be considered to be a Referral Union only if it:

- (a) Operates a hiring hall or hiring office (on its own behalf or through a joint council or other referral agent), or
- (b) Has an arrangement under which one or more employers are required to consider or hire persons referred by the union or its agent, or
- (c) Has 10 percent or more of its members employed by employers which customarily and

regularly look to the union, or any agent of the union, for employees to be hired on a casual or temporary basis, for a specified period of time, or for the duration of a specified job.

The union will not be considered a Referral union where there are only occasional referrals to an employer who relies on sources other than the union, or an agent of the union, for a substantial portion of all hires. Thus, the fact that a union representative in an industrial plant occasionally recommends persons for a job at the employer's request would not in itself result in the classification of that union as a Referral Union.

Only those local referral unions located in the 50 States and the District of Columbia, excluding Hawaii, should be reported. No reports should be filed for local unions in Puerto Rico, the Virgin Islands, and other American protectorates. However, reports are required for union members regularly employed within the 50 States and the District of Columbia, except Hawaii, by foreign-owned companies.

2. REQUESTS FOR SPECIAL REPORTING PROCEDURES

A local union which claims that preparation or the filing of Report EEO-3 would create undue hardship may apply to the Commission for a special reporting procedure. In such cases, the respondent must submit in writing an alternative proposal for compiling and reporting information to:

The EEO-3 Coordinator, EEO-3 Reporting Center, EEOC Program Research and

Surveys Staff, 131 M Street, NE, Room 4SW32H, Washington, DC 20507.

3. SURVEY REPORTING PERIOD: DEFINITION OF "2-MONTH PERIOD"

The EEO-3 biennial report must be filed with the Equal Employment Opportunity Commission Reporting Center no later than December 31. The "2-month period" required to report certain information in Schedule I may be any **consecutive period of 2 months beginning no earlier than August 1 and ending no later than November 30**. For example, the referral union may gather the information between September 15 and October 15, or August 15 and October 15, But NOT between July 1 and September 1, or October 15 and December 15.

4. METHODS OF OBTAINING INFORMATION AS TO RACE AND ETHNICITY IDENTIFICATION

There are four methods of obtaining the necessary information as to the race and ethnicity identification of individuals required to be listed in the tables in Questions 1 and 2 of Schedule I: As noted in Section 8 of these instructions, the existence of State or Local laws prohibiting inquiries and recordkeeping as to race, etc., of individuals is not an acceptable excuse for failure to report the information called for in these tables. It is recognized that exact identification of race, color, or national origin of an individual is not always possible. A good faith effort is acceptable.

(a) **Existing Record** - Where there is already a record of the race and ethnicity

designation of the persons involved, that record should be used.

(b) **Visual Survey** - A visual survey, or “head count” may be used for identifying individuals by race and ethnicity category and sex. An individual may be included in the race and ethnicity group to which he/she appears to belong or considers himself/herself to belong. A visual survey is usually the simplest way to gather information about race and ethnicity designation where persons are gathered in one place. Where it is impractical to conduct a visual survey, the reporting union may use the other method described below.

(c) **Making a Tally From Personal Knowledge** - One or more officers or members of the union may examine membership, and referral, of any kind and make a tally of each person by race and ethnicity category and sex using personal knowledge and acquaintanceship with the person listed on membership or other rolls.

(d) **Self-Identification** - The Commission is aware of the high degree of sensitivity of many persons when asked to identify themselves. Therefore, gathering information as to the race and ethnicity identification of an individual by direct inquiry is not encouraged. However, in those instances where, because of the conditions under which the union operates, all other methods prove impractical and burdensome (as for example, where union members are working at widely scattered sites), the union may adopt a method of self-identification or some other method of direct inquiry.

SELF-IDENTIFICATION PROCEDURES ARE AUTHORIZED ONLY UNDER THE FOLLOWING CONDITIONS.

- (1) It shall be made clear on any written form or in any oral or other method of inquiry that:
 - (a) The identification is made in compliance with regulations issued by the Equal Employment Opportunity Commission under Title VII of the Civil Rights Act of 1964, as amended; and
 - (b) The answer will be kept confidential, and will not be used for any purpose other than filing this report.
- (2) The person signing the report states by signature in Part C of the report that the persons asked to identify themselves were told the purpose of the question and advised of the confidential nature of their answers.

A written inquiry, if used, might be in the form of a postcard or other circular, returnable to the union, on which card the individual is asked to identify himself or herself by name and as a member of the race and ethnicity groups listed in Section 5 below. **Replies returned anonymously are not acceptable.**

5. RACE AND ETHNICITY CATEGORIES

Race and ethnicity designation as used by the Equal Employment Opportunity Commission does not denote scientific definitions of anthropological origins. For the purpose of this report, an employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no person should be counted in more than *one* race and ethnicity group.

NOTE: The category “HISPANIC”, while not

a race identification, is included as a separate race and ethnicity race because of the employment discrimination often encountered by this group; for this reason do not include HISPANIC under either “white” or “black”.

For the purposes of the report, the following race and ethnicity categories will be used:

Hispanic or Latino - A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin regardless of race.

White (Non-Hispanic or Latino) – All persons having origins in any of the original peoples of Europe, North Africa or the Middle East.

Black or African American (Non- Hispanic or Latino) - A person having origins in any of the black racial groups of Africa.

Asian (Non-Hispanic or Latino) - A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian Subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

Native Hawaiian or Other Pacific Islander (Non-Hispanic or Latino) - A person having origins in any of the peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

American Indian or Alaska Native (Non-Hispanic or Latino) - A person having origins in any of the original peoples of North and South America (including Central America), and who maintain tribal affiliation or community attachment.

Two or More Races (Non-Hispanic or Latino) - Persons who identify with two or more racial categories named above.

Instructions for assigning employees into the race and ethnicity categories:

Hispanic or Latino - Include all employees who answer YES to the question, Are you Hispanic or Latino. Report all Hispanic males in Column A and Hispanic females in Column B.

White (Non-Hispanic or Latino) - Include all employees who identify as White males in Column C and as White females in Column I.

Black or African American (Non-Hispanic or Latino) - Include all employees who identify as Black or African American males in Column D and as Black or African American females in Column J.

Asian (Non- Hispanic or Latino) - Include all employees who identify as Asian males in Column E and as Asian females in Column K.

Native Hawaiian or Other Pacific Islander (Non- Hispanic or Latino) - Include all employees who identify as Native Hawaiian or Other Pacific Islander males in Column F and as Native Hawaiian or Other Pacific Islander females in Column L.

American Indian or Alaska Native (Non-Hispanic or Latino) - Include all employees who identify as American Indian or Alaska Native males in Column G and as American Indian or Alaska Native females in Column M.

Two or More Races (Non-Hispanic or Latino) - Report all male employees who identify with more than one of the above five races in Column H and all female employees who identify with more than one of the above five races in Column N.

6. ESTIMATE OF BURDEN

Public reporting burden of this collection of information is estimated to average 2.05 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed and completing and reviewing the collection of information. A response is defined as one survey form. Send comments regarding this

burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to:

The EEOC Clearance Office

Office of Research Information and Planning
131 M Street NE, Room 4SW30F
Washington, D.C. 20507

The full text of the OMB regulation may be found at 5 CFR, Part 1320, or Federal Register, Vol. 60, No. 167, Tuesday, August 29, 1995, page 44978.

7. SCHEDULE I

If the local union answered “Yes” to Part B, Question 1 and “Yes” to any one of three questions in Part B, Question 2, of the report, it must complete EEO-3 Schedule I.

(a) Question 1 and 2 - Method of identification and Statistics: The schedule requires information by race and ethnicity group and by sex, for: (a) union members; and (b) persons referred for jobs. It also asks information about applicants for membership and applicants for referral. It is recognized that under a variety of referral arrangements in existence throughout the United States, as in the case where referral for employment is requested or made by telephone, it may be difficult for the referral union to compile the data requested on individuals. However, within the particular framework of its own operation, the referral union will be expected to establish and maintain a recordkeeping system that will enable it to report, for the 2-month period, the information called for in Question 2b. In many instances, a daily tally of the race/ethnic identification and sex of

persons referred will be sufficient. In other cases, individual records may be made through self-identification procedures as suggested in Section 4 of these instructions.

Where referral of persons is handled by an agent of the local union, or under a joint arrangement with other local unions (representing the same or different crafts or trades), it is the responsibility of the reporting union to see to it that the agent compiles the information necessary for Item 2. The definition of a labor organization in Title VII of the Civil Rights Act makes it clear that “agents” of a local union are covered by the law and therefore are equally subject to the reporting and recordkeeping regulations adopted under it.

(b) Question 1 -Method of Identification: Check the applicable boxes to indicate how race and ethnicity group identification was made in completing Item 2.

(c) Question 2 - Statistics: All entries are for Total Both Sexes, and by sex and race and ethnicity group.

Membership in Referral Unit.

- Enter in Item 2a(1) the members in the referral unit.
- Enter in Item 2a(2) the number of applicants for membership during the preceding year.

Referrals During 2-Month Period The 2-Month period referred to may be selected from any time between August 1 and November 30 of the survey year, such as September 1 to October 31 for example. For each column:

- Enter in Item 2b(1) the number of individual persons referred to a job during the 2-Month period.

- Enter in Item 2b(2) the number of referrals the persons in Item 2b(1) were sent out during the 2 month period. If a member is sent out (referred) more than one time during the 2-month period, the total number of these referrals must be included in this item.
- Enter in Item 2b(3) the number of persons who were applicants for referral during the 2-month period.

(d) Question 3 - Period Used For Referral Date: Enter the actual dates of the 2-month period used to prepare your records.

8. LEGAL BASIS FOR REPORTING AND RECORDKEEPING

Section 709 (c), Title VII, Civil Rights Act of 1964

(As Amended by the Equal Employment Opportunity Act of 1972)

Execution, retention, and preservation of records; reports to Commission; training program records; appropriate relief from regulation or order for undue hardship; procedure for exemption; judicial action to compel compliance

Every employer, employment agency, and labor organization subject to this subchapter shall (1) make and keep such records relevant to the determinations of whether unlawful employment practices have been or are being committed, (2) preserve such records for such periods, and (3) make such reports therefrom as the Commission shall prescribe by regulation or order, after public hearing, as reasonable, necessary, or appropriate

for the enforcement of this subchapter or the regulations or orders thereunder. The Commission shall, by regulation, require each employer, labor organization, and joint labor-management committee subject to this subchapter which controls an apprenticeship or other training program to maintain such records as are reasonably necessary to carry out the purposes of this subchapter, including, but not limited to, a list of applicants who wish to participate in such program, including the chronological order in which applications were received, and to furnish to the Commission upon request, a detailed description of the manner in which persons are selected to participate in the apprenticeship or other training program. Any employer, employment agency, labor organization, or joint labor-management committee which believes that the application to it of any regulation or order issued under this section would result in undue hardship may apply to the Commission for an exemption from the application of such regulation or order, and, if such application for an exemption is denied, bring a civil action in the United States district court for the district where such records are kept. If the Commission or the court, as the case may be, finds that the application of the regulation or order to the employer, employment agency, or labor organization in question would impose an undue hardship, the Commission or the court, as the case may be, may grant appropriate relief. If any person required to comply with the provisions of this subsection fails or refuses to do so, the United States district court for the district in which such person is found, resides, or transacts business, shall, upon application of the Commission, or the

Attorney General in a case involving a government, governmental agency or political subdivision, have jurisdiction to issue to such person an order requiring him to comply.

§ 1602.22 Requirements for filing and preserving copy of report.

On or before December 31, 1986, and biennially thereafter, every labor organization subject to title VII of the Civil Rights Act of 1964, as amended, shall file with the Commission or its delegate an executed copy of Local Union Report EEO-3 in conformity with the directions set forth in the form and accompanying instructions, provided that the labor organization has 100 or more members at any time during the 12 months preceding the due date of the report, and is a "local union" (as that term is commonly understood) or an independent or unaffiliated union. Labor organizations required to report are those which perform, in a specific jurisdiction, the functions ordinarily performed by a local union, whether or not they are so designated. Every local union or a labor organization acting in its behalf, shall retain at all times among the records maintained in the ordinary course of its affairs a copy of the most recent report filed, and shall make the same available if requested by an officer, agent, or employee of the Commission under the authority of section 709 of title VII. It is the responsibility of all persons required to file to obtain from the Commission or its delegate necessary supplies of the form.

§ 1602.23 Penalty for making of willfully false statements on reports.

The making of willfully false statements on Report EEO-3 is a violation of the United States Code, title 18, section 1001, and is punishable by fine or imprisonment as set forth herein.

§ 1602.24 Commission's remedy for failure to file report. Any person failing or refusing to file Report

Any person failing or refusing to file Report EEO-3 when required to do so may be compelled to file by order of a U.S. District Court, upon application of the Commission, under authority of section 709(c) of title VII.

§ 1602.25 Exemption from reporting requirements.

If it is claimed that the preparation or filing of Report EEO-3 would create undue hardship, the labor organization may apply to the Commission for an exemption from the requirements set forth in this part.

§ 1602.26 Additional reporting requirements.

The Commission reserves the right to require reports, other than that designated as Report EEO-3, about the membership or referral practices or other procedures of labor organizations, whenever, in its judgment, special or supplemental reports are necessary to accomplish the purposes of title VII, the ADA, or GINA. Any system for requirement of such reports will be

established in accordance with the procedures referred to in section 709(c) of title VII, section 107 of the ADA, or section 207(a) of GINA, and as otherwise prescribed by law.

§ 1602.27 Records to be made or kept.

Those portions of Report EEO-3 calling for information about union policies and practices and for the compilation of statistics on the race, color, national origin, and sex of members, persons referred, and apprentices, are deemed to be “records” within the meaning of section 709(c), title VII, Civil Rights Act of 1964. Every local, independent, or unaffiliated union with 100 or more members (or any agent acting in its behalf, if the agent has responsibility for referral of persons for employment) shall make these records or such other records as are necessary for the completion of Report EEO-3 under the circumstances and conditions set forth in the instructions accompanying it, which are specifically incorporated herein by reference and have the same force and effect as other sections of this part.

§ 1602.28 Preservation of records made or kept.

(a) All records made by a labor organization or its agent solely for the purpose of completing Report EEO-3 shall be preserved for a period of 1 year from the due date of the report for which they were compiled. Any labor organization identified as a “referral union” in the instructions accompanying Report EEO-3, or agent

thereto, shall preserve other membership or referral records (including applications for same) made or kept by it for a period of 1 year from the date of the making of the record. Where a charge of discrimination has been filed, or an action brought by the Commission or the Attorney General, against a labor organization under title VII, the ADA, or GINA, the respondent labor organization shall preserve all records relevant to the charge or action until final disposition of the charge or the action. The date of “final disposition of the charge or the action” means the date of expiration of the statutory period within which the aggrieved person may bring an action in a U.S. District Court or, where an action is brought against a labor organization either by the Commission, the aggrieved person, or by the Attorney General, the date on which such litigation is terminated.

(b) Nothing herein shall relieve any labor organization covered by title VII of the obligations set forth in subpart E, §§1602.20 and 1602.21, relating to the establishment and maintenance of a list of applicants wishing to participate in an apprenticeship program controlled by it.

§ 1602.29 Applicability of State or Local law.

The requirements imposed by the Equal Employment Opportunity Commission in these regulations, subparts D through G, supersede any provisions of State or local law which may conflict with them. Any State or local laws prohibiting inquiries and recordkeeping with respect to race, color, national origin, or sex do not apply to inquiries required to be made under these regulations and under the instructions accompanying Reports EEO-2 and EEO-3.

EEO-3 BK(REV.12/14) Previous editions are
obsolete