

**Supporting Statement  
Recordkeeping and Reporting Requirement for the  
Elementary-Secondary Staff Information EEO-5 Report  
(EEOC Form 168A)**

**A. Justification**

1. Legal and administrative requirements

The legal basis for the Elementary-Secondary Staff Information (EEO-5) form and recordkeeping requirements is Section 709(c) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e-8(c), which imposes the requirement that “[e]very 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 there from as the Commission shall prescribe by regulation or order. . .” Accordingly, the EEOC issued a regulation, **29 C.F.R. §1602.39-45**, which sets forth the reporting and related recordkeeping requirements for public Elementary and Secondary school systems and districts with 100 or more employees. Elementary and Secondary public school systems and districts have been required to submit EEO-5 reports since 1974 (biennially in even numbered years since 1982). Also see, Title VI of the Civil Rights Act of 1964 (42 USC 2000d, 2000d-1; 34 CFR 100.6(b)), Title IX of the Education Amendment of 1972 (20 USC 1681, 1682; 34 CFR 106.71), and Section 203(c) of the Department of Education Organization Act of 1979 (20 U.S.C. 3413(c)). The individual reports are confidential and may not be made public by the Commission prior to the institution of lawsuit(s) under Title VII in which the individual reports are involved.

2. Use of collected information

The EEO-5 data are used by the EEOC to investigate charges of employment discrimination against public elementary and secondary school districts. Generally, analyses are conducted in conjunction with a charge of discrimination and comparisons are formed with comparative school districts. The data are used to support EEOC decisions and conciliations, and in systemic program activities. For example, data are used to evaluate and categorize charges and to determine the appropriate investigative approaches. Further in the process, the data can also be analyzed to provide additional proof as the investigation proceeds. Aggregated data are provided generally to the public and in some instances specialized data bases are developed for academic researchers.

The data are shared with the Department of Justice and the Department of Education. Pursuant to §709(d) of Title VII of the Civil Rights Act of 1964, as amended, EEO-5 data are also shared with eighty-six State and local Fair Employment Practices Agencies (FEPAs) for their enforcement efforts.

3. Use of information technology

The EEO-5 report is collected through a web based on-line filing system. There are 6,024 respondents reporting biennially and approximately 97 percent of these respondents file on-line. The on-line filing system has reduced the burden hours.

4. Description of efforts to identify duplication  
While the Department of Education requires school districts to retain demographic data on staffing there is no reporting requirement. EEOC requires biennial reporting, and the EEO-5 data is shared with the Department of Education.
5. Impact on small business  
The EEO-5 Report does not have an impact on small businesses, as it is collected from public school districts.
6. Consequences if information were collected less frequently  
Because the data is an integral part of the Title VII enforcement process, failure to collect the data would reduce our ability to enforce Title VII. The data has been integrated into the enforcement process. Collecting the data less often would impair enforcement decisions by reducing the reliability of the data as there will be a lag between the employment statistics provided by employers when reporting and when the data is used. This problem is likely to be most pronounced among school districts with fluctuations in employment. It is important to make certain that employment decisions are consistent with law when increases or decreases in employment occur. A gap of more than two years between data collections would also impose some processing costs on EEOC because more work would be needed to update mailing lists. The data is only collected biennially. Since employment characteristics are dynamic, collecting the data less often would significantly reduce data utility.
7. Special circumstances  
This information collection does not require any special circumstances.
8. Consultation outside the agency  
A Federal Register Notice was published on April 20, 2017 informing the public of the request for a three-year extension of a currently approved collection. There were no comments received from the public.
9. Gifts or payments  
EEOC's employees are prohibited by law from providing any payments or gifts to respondents, other than remuneration of contractors or grantees.
10. Confidentiality of information  
No reports or information from individual reports may be made public by EEOC prior to the institution of any proceeding under Title VII, as provided by Section 709(e) of Title VII. The Department of Education's Office for Civil Rights, however, possesses the authority to release these reports and information to the public, in privacy-protected form, in a manner that reveals particular jurisdiction's data. In addition, aggregate data may be

made public by EEOC, but only in a manner so as not to reveal any particular jurisdiction's statistics.

11. Questions of a sensitive nature

The EEO-5 Report does not solicit any information of a sensitive nature from respondents.

12. Information collection burden

Collection Title: Elementary-Secondary Staff Information Report (EEO-5)

OMB-Number: 3046-0003

Frequency of Report: Biennial

Type of Respondent: Certain public elementary and secondary school districts

Description of Affected Public: Certain public elementary and secondary school districts

Number of Responses: 6,024

Reporting Hours (biennial): 102,839.32

Respondent Cost Burden (biennial): \$0

Federal Cost: \$190,000

Number of Forms: 1

The EEOC has updated its methodology for calculating annual burden to reflect the different staff responsible for preparing and filing the EEO-5. The EEOC's revised burden estimate reflects that the bulk of the work in biennially preparing an EEO-5 report is performed by computer support specialists, executive administrative staff, and payroll and human resource professionals; the revised estimate also includes time spent by school district finance professionals and superintendents who, in a few cases, may consult briefly during the reporting process. After accounting for the time spent by the various employees who have a role in preparing an EEO-5, the EEOC estimates that a school district will spend 17.07 hours to prepare the report, and estimates that the aggregate biennial hour burden for all respondents is 102,839.32. The cost associated with the burden hours was calculated using median hourly wage rates obtained from the Department of Labor<sup>1</sup> for each job identified above as participating in the submission of the report; using those rates, we estimate that the burden hour cost per school district will be approximately \$539.57, while the estimated total biennial burden cost for all 6024 school districts will be \$3,250,361.25.

13. Information collection cost burden

There is no cost for respondents. It is believed that the costs associated with collecting, managing and reporting data are de minimis and not quantifiable.

14. Cost to federal government

Estimated cost to the federal government will be: \$190,000 contract cost (based on a competitive bid process from prior years.)

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<sup>1</sup> Median hourly wage rates were obtained from the Bureau of Labor Statistics (see U.S. Dept. of Labor, Bureau of Labor Statistics, Occupational Outlook Handbook, <http://www/bls.gov/ooh/>)

15. Program changes or burden adjustments  
There have been no program changes or adjustments to the requirements of this information collection since its last approval.
16. Publication of data for statistical use  
Time Schedule for Information Collection and Publication:
- |                           |              |
|---------------------------|--------------|
| Reporting Period for Data | October 1    |
| Filing Deadline           | November 30  |
| Follow-up Communication   | January 31   |
| Preliminary Data Tape     | May 31       |
| Final Data Tape           | August 31    |
| Table Preparation         | September 30 |
17. Approval not to display the expiration date  
The EEOC is not seeking approval to not display the OMB approval expiration date on the EEO-5 report.
18. Exceptions to the certification statement  
The EEOC is not seeking any exceptions to the certification statement under this information collection request.