



EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION  
WASHINGTON, D.C.

State and Local Reporting Committee  
131M Street, NE  
Washington, D.C. 20507

**EEOC FORM 164, STATE AND LOCAL GOVERNMENT INFORMATION (EEO-4)  
INSTRUCTION BOOKLET**

[Please Read This Booklet before Completing Enclosed Report]

Under Public Law 88-352, Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, all State and local governments that have 15 or more employees are required to keep records and to make such reports to the Equal Employment Opportunity Commission as are specified in the regulations of the Commission. The applicable provisions of the law, Section 709(c) of Title VII, and the regulations issued by the Commission are printed in full in the Appendix (4) of these instructions. School systems and educational institutions are covered by other employment surveys and are excluded from EEO-4.

In the interests of consistency,

uniformity and economy, State and Local Government Report EEO-4 is being utilized by Federal government agencies that have responsibilities with respect to equal employment opportunity. A joint State and Local Reporting Committee, with which this report must be filed, represents those various Federal agencies. In addition, this report should bring about uniformity in State and local government recordkeeping and reporting and should serve as a valuable tool for use by the political jurisdiction in evaluating their own internal programs for ensuring equal employment opportunity.

As stated above, the filing of Report EEO-4 is required by law; it is *not voluntary*.

Under Section 709 (c) of Title VII, the Attorney General of the United States may compel a jurisdiction to file this report by obtaining an order from a United States District Court.

## **1. WHO MUST FILE**

Beginning with the 1993 survey year and biennially (every odd-numbered year) thereafter, those who must file this report include: (1) all States; and (2) all other political jurisdictions which have 100 or more employees.

## **2. WHO MUST KEEP RECORDS**

Every political jurisdiction with 15 or more employees must make and keep records and statistics which would be necessary for the completion of Report EEO-4, as set forth in these instructions. Records must be kept for a period of 3 years. See regulations 1602.30 and 1602.31 in the Appendix(4).

Although the EEO-4 report requires the combining of agency data to complete the report, separate data for each agency must be maintained either by the agency itself or by the office responsible for preparing the EEO-4 report, and should be available upon request to representatives of Federal agencies.

## **3. HOW TO FILE**

State and local governments must file EEO-4 reports according to the number of full-time employees on the payroll as follows:

### **A. FEWER THAN 1,000 FULL-TIME EMPLOYEES**

(1) File one (1) report which includes all employees in functions performed with fewer than 100 employees.

(2) In addition to (1), file a separate report for each function which has 100 or more employees.

(3) Check each box in section C which represents a function performed by the jurisdiction.

(4) Include a list of any agencies not included in the report that should have been included with the complete address for those agencies.

### **B. MORE THAN 999 FULL-TIME EMPLOYEES**

File one form for each function listed on page 1 of the form (if that function is performed), for a maximum of 15 forms. Jurisdictions should report only persons on the jurisdiction's payroll.

In those jurisdictions where all data are available at a single location, forms may be completed by the central office. Where data are not available centrally, figures should be obtained by the central office from all agencies and aggregated onto the proper form by functions.

If you file forms for more than one function, a Summary Sheet will be included with your forms. On the Summary Sheet you are requested to check those functions for which you are submitting completed reports; functions for which you are not reporting; and functions for which you will be reporting at a later date. This will facilitate our own recordkeeping, and minimize unnecessary follow-up correspondence. Full-time employment must also be reported on the Summary Sheet.

The Summary Sheet provides for one certification statement as to the accuracy and completeness of the entire report from the

jurisdiction. If such certification can be and is made by one official, a separate signature on every form will not be required.

The fact that a branch or agency of a government has separately elected officials, or is autonomous or semi-autonomous in its operations does not affect the legal status of the jurisdiction, nor the requirement that EEO-4 covers the entire jurisdiction. To the extent feasible, the report should cover all branches of the government. In any cases where that is not feasible, and data are not available to the central office of the government, a list of agencies and addresses not included should accompany the report.

Where interstate, intercounty, etc., boards, agencies, commissions, or other type special district governments exist, **ONE FORM** should be submitted by the headquarters of the special district.

In conclusion, the submitted report must contain the following, submitted in one (1) package:

- (1) One (1) SUMMARY SHEET (SUMMARY IS NOT REQUIRED FOR A FILER WITH ONLY ONE FUNCTION).
- (2) The original and one (1) copy of up to 15 reports based on the number of functions performed.
- (3) A list of agencies not included in the report but which should have been included in the report, with the complete address for any agency listed.

#### **4. WHEN TO FILE**

This biennial report must be filed with the Equal Employment Opportunity Commission no later than the date printed in the accompanying cover letter. Full-time and part-time employment figures should cover

the payroll period which includes June 30 of the survey year. New hires data is for the entire fiscal year which ends on June 30th.

#### **5. WHERE TO FILE**

The original and one (1) copy of the completed reports (in duplicate) should be forwarded to the address indicated on the EEO-4 form. All requests for additional information and report forms should also be directed to that address.

#### **6. SPECIAL REPORTING PROCEDURES**

An employer who claims that preparation or the filing of Report EEO-4 would create undue hardships may apply to the Commission for a special reporting procedure. In such cases, the employer must submit in writing a proposal for compiling and reporting information to:

The EEO-4 Coordinator  
EEOC-Surveys  
131M Street NE  
Washington, D.C. 20507

Only those special procedures approved in writing by the Commission are authorized. Such authorizations remain in effect until notification of cancellation is given or EEOC publishes a change to the survey form.

A computer printout, magnetic tape or diskette is also a special reporting procedure. Only the report formats for those media which are designed and approved by EEOC will be accepted. A copy of those formats with an explanatory memorandum may be acquired from the EEO-4 Coordinator at the above address.

## **7. ELECTED AND APPOINTED OFFICIALS**

Section 701(f) of the Equal Employment Opportunity Act of 1972 contains an exemption for elected and certain appointed officials that is set forth in the definition of "employee" in Appendix (1). Based on the legislative history of Section 701 (f), the General Counsel of the Commission has ruled that this exemption was intended by the Congress to be construed narrowly. This ruling concluded that only the following persons would be included in the exemption:

- (1) State and local elected officials.
- (2) Such official's immediate secretary, administrative, legislative or other immediate or first-line aide.
- (3) Such official's legal advisor.
- (4) Appointed cabinet officials in the case of a Governor, or heads of executive departments in the case of a mayor or County Council. No other persons appointed by an elected official are exempt under this interpretation. In no case is any person exempt who is appointed by an appointed official, whether or not the latter is exempt. Furthermore, as specified in Section 701 (f), the exemption does not include employees subject to the civil service laws of a State government, governmental agency or political subdivision.

## **8. CONFIDENTIALITY**

All reports and information from individual reports are subject to the

confidentiality provisions of Section 709(e) of Title VII, and may not be made public by EEOC prior to the institution of any proceeding under Title VII. However, aggregate data may be made public in a manner so as not to reveal any particular jurisdiction's statistics. Barring prohibitive State or local legislation, a political jurisdiction may make its EEO-4 Report public at any time.

## **9. ESTIMATE OF BURDEN**

Public reporting burden for this collection of information is estimated to be (7.16 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 Officer  
Office of Research, Information and  
Planning  
131 M Street, N. E.  
Room 4Sw30F  
Washington, D.C. 20507

**PLEASE DO NOT SEND YOUR COMPLETED REPORT TO THE ABOVE ADDRESS.**

Unless the collection displays a currently valid Office of Management and Budget (OMB) control number, respondents are not required to fill out this form.

The full text of the OMB regulations

may be found at 5 CFR Part 1320, or Federal Register, vol. 60, no. 167, Tuesday, August 29, 1995, page 44978.

## **INSTRUCTIONS ON HOW TO PREPARE INFORMATION REPORTS**

Definitions of Terms and Categories are Located in the Appendix

### **SECTION A - TYPE OF GOVERNMENT**

Check one box indicating type of government.

### **SECTION B-IDENTIFICATION**

Indicate the name and central mailing address of the governmental jurisdiction if different from address label in top margin.

### **SECTION C-FUNCTION**

A jurisdiction with fewer than 1,000 full-time employees should report all jurisdiction employees on its form unless it is filing a report for a function which has 100 or more employees. Indicate in Section C of the form which functions are performed by your jurisdiction. On page 4 of the form, list the departments or agencies included on the form by activity function.

Jurisdictions with more than 999 full-time employees should use a separate form for each function for which you are reporting in accordance with the instructions provided in part 3 of this booklet.

The data should be aggregated for all agencies performing in a particular function. This also applies to unspecified functions which are to be combined in one report for Function 15, "Other". State education agencies, both agencies covering elementary and secondary schools and those covering education, should be included in Function 15.

Where the political jurisdiction is unable to separate data, the agency should be reported under the function that represents its dominant activity. For example, if a transportation department includes among other functions streets and highways, and two-thirds of the employees of the department are engaged in street and highway activities, those employees should be separated out and reported separately if feasible. If not, the entire department should be reported separately in function 2, Streets and Highways. On page 4 of each function report, list the departments or agencies included in this function. For instance, Function 1 might include: Office of the Tax Collector, Office of the Mayor, Office of the District Attorney, etc.

### **SECTION D- EMPLOYMENT DATA AS OF JUNE 30**

For purposes of this report, a person is an employee of a political jurisdiction if he or she is on the payroll of that jurisdiction, regardless of the source of the funds by which the person is paid.

#### *1. FULL-TIME EMPLOYEES*

(For detailed explanation of job categories and race and ethnicity identification, see Appendix.)

Employment data should include total full-time employment except those elected and appointed officials specified in Section 7 above of these instructions. Where employees receive separate salaries or payments from two or more jurisdictions, but work full-time for one jurisdiction, they should be counted as full-time employees by that jurisdiction and to the extent possible their annual salary should reflect their total earnings from all jurisdictions from which they are paid. Also, where a person is a full-time employee of a jurisdiction, but is employed in more than one

function, he or she should be reported for the function which accounts for most of the worktime. Trainees should be counted in appropriate columns by job, salary, race and ethnicity group, and sex. Every employee must be accounted for in one and only one of the categories. Definitions are included in the Appendix (2).

**a. Race and Ethnicity/Sex Data-** 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 B. In columns A through N, report employment for the categories indicated. The line totals for columns A through N are entered in Column O.

**b. Occupational Date-** Employment data should be reported by annual salary within job category. Report each employee in only one job/salary category. In order to simplify and standardize the method of reporting, all jobs are considered as belonging in one of the broad occupations shown in the table. To assist you in determining how to place your jobs within the occupational groups, a description of job categories with examples follows in the Appendix (3). The list of examples is in no way exhaustive.

\*Total Lines- Report total employment for this matrix, as well as row totals.

**c. Annual Salary-** Where employees are paid on an other than annual basis, their regular earnings in the payroll period which includes June 30 should be expanded and expressed in terms of an annual income. All special increments of an employee's annual earnings which are regular and recurrent should be included. Overtime pay should not be included.

## 2. OTHER THAN FULL-TIME EMPLOYEES

Employment data should include all

employees not included in a full-time matrix, except those specifically exempted (see Section 7, Elected and Appointed Officials.) Where employees are working part-time for different jurisdictions, and are on separate payrolls of different jurisdictions, they should be reported as part-time employees of the separate jurisdictions. Persons on the payroll of the jurisdiction for a specified temporary appointment, such as a public employment program, should be included in this category.

\*Total Lines- Report total employment for this matrix, as well as row totals.

## 3. NEW HIRES DURING FISCAL YEAR (A FISCAL YEAR COVERS THE PERIOD JULY 1-JUNE 30)

Include those employees who were hired during the fiscal year into permanent full-time positions whether or not they terminated employment prior to the end of the fiscal year. New Hires are included in Section D-1 if they were full-time employees at the end of the fiscal year. Total Lines-Report total employment for this matrix, as well as row totals.

## REMARKS

Include in this section: (1) the list of your government agencies included in this report, and (2) any remarks, explanations, or other pertinent information regarding this report.

NOTE: List here the National crime Information Center (NCIC) numbers assigned by the U.S. Department of Justice to any criminal justice agencies whose data are included.

## CERTIFICATION

Each form must be certified and signed by an official responsible for the information, unless a Summary Sheet has been certified and signed and submitted with the completed forms.

## APPENDIX

### 1. DEFINITIONS APPLICABLE TO ALL EMPLOYERS

**a. Commission** refers to the Equal Employment Opportunity Commission established under Title VII of the Civil Rights Act of 1964.

**b. Employee** means an individual employed by a political jurisdiction, who is on the payroll of that jurisdiction, regardless of the source of the funds by which the worker is paid. The following is an exception to the definition, subject to the interpretation in Section 7 above these instructions. The term "employee" shall not include any person elected to public office in any State or political subdivision of any state by the qualified voters thereof, or any person chosen by such officer to be on such officer's personal staff, or an appointee on the policy making level or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office. The exception set forth in the preceding sentence shall not include employees subject to the civil service laws of a State government, governmental agency or political subdivision.

**c. Full-time Employees** -Persons employed during this pay period to work the number of hours per week that represent regular full-time employment (excluding temporaries and intermittents).

**d. Other Than Full-time Employees** - Persons employed during this pay period on a part-time basis. Include those daily or hourly employees usually engaged for less than the regular full-time work week, temporaries working on a seasonal basis (whether part-time or full time) or hired for the duration of a particular job or operation, including public employment programs, and intermittents.

**e. "New Hires During Fiscal Year** - Persons both with and without previous experience and transfers who were hired for the first time in this jurisdiction or rehired after a break in service for permanent full-time employment.

### 2. RACE AND ETHNICITY IDENTIFICATION

An employer may acquire the race and ethnicity information necessary for this section either by visual surveys of the work force, or from post-employment records as to the identity of employees. Since visual surveys are permitted, the fact that race and ethnicity identifications are not present on agency records is not an excuse for failure to provide the data called for. However, although the Commission does not encourage direct inquiry as a method of determining racial or ethnic identity, this method is not prohibited in cases where it has been used in the past, or where other methods are not practical, provided it is not used for purposes of discrimination.

Moreover, the fact that employees may be located at different addresses does not provide an acceptable reason for failure to comply with the reporting requirements. In such cases, it is recommended that visual surveys be conducted for the employer by persons such as supervisors who are responsible for the work of the employees or to whom the employees report for

instruction or otherwise.

Please note that the General Counsel of the Commission has ruled, on the basis of court decisions, that the Commission has the authority to require the racial and ethnic identification of employees, regardless of any possible conflicting state or local laws.

The concept of race as used by the Equal Employment Opportunity Commission does not denote clear cut scientific definitions of anthropological origins. For the purposes 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 may be counted in more than one race and ethnicity category.

NOTE: The category "HISPANIC", while not a race identification, is included as a separate race and ethnicity category 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/ethnicity categories:**

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

### 3. DESCRIPTION OF JOB CATEGORIES

**a. Officials and Administrators:** Occupations in which employees set broad policies, exercise overall responsibility for execution of these policies, direct individual departments or special phases of the agency's operations, or provide specialized consultation on a regional, district or area basis. Includes: department heads, bureau chiefs, division chiefs, directors, deputy directors, controllers, wardens, superintendents, sheriffs, police and fire chiefs and inspectors, examiners (bank, hearing, motor vehicle, warehouse), inspectors (construction, building, safety, rent-and-housing, fire, A.B.C. Board, license, dairy, livestock, transportation), assessors, tax appraisers and investigators, coroners, farm managers, and kindred workers.

**b. Professionals:** Occupations which require specialized and theoretical knowledge which is usually acquired through college training or through work experience and other training which provides comparable knowledge. Includes: personnel and labor relations workers, social workers, doctors, psychologists, registered nurses, economists, dietitians, lawyers, systems analysts, accountants, engineers, employment and vocational rehabilitation counselors, teachers or instructors, police and fire captains and

lieutenants, librarians, management analysts, airplane pilots and navigators, surveyors and mapping scientists, and kindred workers.

**c. Technicians:** Occupations which require a combination of basic scientific or technical knowledge and manual skill which can be obtained through specialized post-secondary school education or through equivalent on-the-job training. Includes: computer programmers, drafters, survey and mapping technicians, licensed practical nurses, photographers, radio operators, technical illustrators, highway technicians, technicians (medical, dental, electronic, physical sciences), police and fire sergeants, inspectors (production or processing inspectors, testers and weighers), and kindred workers.

**d. Protective Service Workers:** Occupations in which workers are entrusted with public safety, security and protection from destructive forces. Includes: police patrol officers firefighters, guards, deputy sheriffs, bailiffs, correctional officers, detectives, marshals, harbor patrol officers, game and fish wardens, park rangers (except maintenance), and kindred workers.

**e. Paraprofessionals:** Occupations in which workers perform some of the duties of a professional or technician in a supportive role, which usually require less formal training and/or experience normally required for professional or technical status. Such positions may fall within an identified pattern of staff development and promotion under a New Careers concept. Included: research assistants, medical aides, child support workers, policy auxiliary welfare service aides, recreation assistants, homemakers aides, home health aides, library assistants and clerks, ambulance drivers and attendants, and kindred workers.

**f. Administrative Support (Including Clerical and Sales):** Occupations in which workers are responsible for internal and

external communication, recording and retrieval of data and/or information and other paperwork required in an office. Includes: bookkeepers, messengers, clerk-typists, stenographers, court transcribers, hearing reporters, statistical clerks, dispatchers, license distributors, payroll clerks, office machine and computer operators, telephone operators, legal assistants, sales workers, cashiers, toll collectors, and kindred workers.

**g. Skilled Craft Workers:** Occupations in which workers perform jobs which require special manual skill and a thorough and comprehensive knowledge of the process involved in the work which is acquired through on-the-job training and experience or through apprenticeship or other formal training programs. Includes: mechanics and repairers, electricians, heavy equipment operators, stationary engineers, skilled machining occupations, carpenters, compositors and typesetters, power plant operators, water and sewage treatment plant operators, and kindred workers.

**h. Service-Maintenance:** Occupations in which workers perform duties which result in or contribute to the comfort, convenience, hygiene or safety of the general public or which contribute to the upkeep and care of buildings, facilities or grounds of public property. Workers in this group may operate machinery. Includes: chauffeurs, laundry and dry cleaning operatives, truck drivers, bus drivers, garage laborers, custodial employees, gardeners and groundskeepers, refuse collectors, construction laborers, park rangers (maintenance), farm workers (except managers), craft apprentices/trainees/helpers, and kindred workers.

#### **4. LEGAL BASIS FOR REQUIREMENTS**

*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.

## **Title 29, Chapter XIV, Code of Federal Regulations**

### *Subpart I-State and Local Governments Recordkeeping*

#### § 1602.30 Records to be made or kept.

On or before September 30, 1974, and annually thereafter, every political jurisdiction with 15 or more employees is required to make or keep records and the information therefrom which are or would be necessary for the completion of report EEO-4 under the circumstances set forth in the instructions thereto, whether or not the political jurisdiction is required to file such report under § 1602.32 of the regulations in this part. The instructions are specifically incorporated herein by reference and have the same force and effect as other sections of this part.<sup>1</sup> Such reports and the information therefrom shall be retained at all times for a

period of 3 years at the central office of the political jurisdiction and shall be made available if requested by an officer, agent, or employee of the Commission under section 710 of title VII, as amended. Although agency data are aggregated by functions for purposes of reporting, separate data for each agency must be maintained either by the agency itself or by the office of the political jurisdiction responsible for preparing the EEO-4 form. It is the responsibility of every political jurisdiction to obtain from the Commission or its delegate necessary instructions in order to comply with the requirements of this section.

<sup>1</sup>Note: Instructions were published as an appendix to the proposed regulations on Mar. 2, 1973 (38 FR 5662).

#### § 1602.31 Preservation of records made or kept.

Any personnel or employment record made or kept by a political jurisdiction (including but not necessarily limited to requests for reasonable accommodation application forms submitted by applicants and other records having to do with hiring, promotion, demotion, transfer, layoff, or termination, rates of pay or other terms of compensation, and selection for training or apprenticeship) shall be preserved by the political jurisdiction for a period of 2 years from the date of the making of the record or the personnel action involved, whichever occurs later. In the case of involuntary termination of an employee, the personnel records of the individual terminated shall be kept for a period of 2 years from the date of termination. Where a charge of discrimination has been filed, or an action brought by the Attorney General against a political jurisdiction under title VII, the ADA, or GINA, the respondent political

jurisdiction shall preserve all personnel records relevant to the charge or action until final disposition of the charge or the action. The term “personnel record relevant to the charge,” for example, would include personnel or employment records relating to the person claiming to be aggrieved and to all other employees holding positions similar to that held or sought by the person claiming to be aggrieved; and application forms or test papers completed by an unsuccessful applicant and by all other candidates for the same position as that for which the person claiming to be aggrieved applied and was rejected. The date of final disposition of the charge or the action means the date of expiration of the statutory period within which a person claiming to be aggrieved may bring an action in a U.S. district court or, where an action is brought against a political jurisdiction either by a person claiming to be aggrieved or by the Attorney General, the date on which such litigation is terminated.

*Subpart J- State and Local Government Information Report*

§1602.32 Requirement for filing and preserving copy of report.

On or before September 30, 1993, and biennially thereafter, certain political jurisdictions subject to title VII of the Civil Rights Act of 1964, as amended, shall file with the Commission or its delegate executed copies of “State and Local Government Information Report EEO-4” in conformity with the directions set forth in the form and accompanying instructions. The political jurisdictions covered by this section are (a) those which have 100 or more employees, and (b) those other political jurisdictions which have 15 or more employees from whom the Commission requests the filing of reports.

Every such political jurisdiction shall retain at all times a copy of the most recently

filed EEO-4 at the central office of the political jurisdiction for a period of 3 years and shall make the same available if requested by an officer, agent, or employee of the Commission under the authority of section 710 of title VII, as amended.

§1602.33 Penalty for making willfully false statements on report.

The making of willfully false statements on report EEO-4, is a violation of the United States Code, title 18, section 1001, and is punishable by fine or imprisonment as set forth therein.

§1602.34 Commission’s remedy for political jurisdiction’s failure to file report.

Any political jurisdiction failing or refusing to file report EEO-4 when required to do so may be compelled to file by order of a U.S. district court, upon application of the Attorney General.

§1602.35 Political jurisdictions exemption from reporting requirements.

If it is claimed that the preparation or filing of the report would create undue hardship, the political jurisdiction may apply to the Commission for an exemption from the requirements set forth in this part by submitting to the Commission or its delegate a specific proposal for an alternative reporting system prior to the date on which the report is due.

§ 1602.36 Schools exemption.

The recordkeeping and report-filing requirements of subparts I and J of this part shall not apply to State or local educational institutions or to school districts or school

systems or any other educational functions. The previous sentence of this section shall not act to bar jurisdiction which otherwise would attach under §1602.30.

§ 1602.37 Additional reporting requirements.

The Commission reserves the right to require reports, other than that designated as the “State and Local Government Information Report EEO-4,” about the employment practices of individual political jurisdictions or group of political jurisdictions whenever, in its judgment, special or supplemental reports are necessary to accomplish the purposes of title VII, the ADA, or GINA. Any system for the 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.

*Subpart K-Records and Inquires as to Race, Color, National Origin, or Sex*

§ 1602.38 Applicability of State or Local Law.

The requirements imposed by the Equal Employment Opportunity Commission in these regulations, subparts I and J, supersede any provisions of State or local law which may conflict with them.