

Blog Post

Is EEO-1 Done? What the EEOC's Proposed Rule Means for Employers

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For decades, EEOC regulations have required covered private employers and certain federal contractors to file annual EEO-1 workforce reports identifying employees by job category, race/ethnicity, and sex, and to maintain related records. In July, the EEOC proposed rescinding those reporting and recordkeeping requirements. Employers should not cross EEO-1 off their compliance lists yet. Until a final rule is issued, the current obligations remain in place. Although the EEOC has not formally canceled the 2025 EEO-1 collection, it also has not opened a filing window. Employers should therefore be prepared in case the agency opens one — or a court orders it to do so. They should finalize their Q4 2025 snapshot data, confirm EEO-1 portal credentials and contact information, and refrain from purging workforce demographic records. Here is what the proposal would change, what may happen next, and how employers can prepare.

Overview of the Proposal

On July 21, 2026, the EEOC voted to issue a [Notice of Proposed Rulemaking \(NPRM\)](#), which was published in the Federal Register on July 23, 2026. The NPRM proposes removing the EEO reporting requirements in 29 C.F.R. Part 1602. For private employers, the most significant proposed change is the elimination of the EEO-1 report:

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- **EEO-1 report (private employers and certain federal contractors):** Private employers with at least 100 employees and certain federal contractors with at least 50 employees use the EEO-1 to report workforce data by job category, race/ethnicity, and sex. Roughly 110,000 employers file the report.

Although EEO-1 is the report most relevant to private employers, the proposal is broader. It also would eliminate the EEO-2 report for joint labor-management apprenticeship programs, the EEO-3 report for labor unions, the EEO-4 report for state and local governments, the EEO-5 report for public school systems, and the EEO-6 report for institutions of higher education.

The proposed rescission extends to the recordkeeping requirements associated with those reports, but not to employers' broader record-preservation duties. The obligations imposed by Title VII, the ADA, GINA, and the PWFA — including 29 C.F.R. § 1602.14 — would remain in place. Employers therefore would still need to retain records relating to employment actions generally.

EEOC's Rationale for the NPRM

According to the NPRM, the EEOC has “preliminarily” concluded that the reporting requirements are “inconsistent with equal employment opportunity law and potentially unconstitutional.” The agency also stated that the requirements may “encourage employers to discriminate against employees who are not considered ‘minorities,’” “promote racial stereotyping,” or encourage discrimination aimed at avoiding enforcement actions or addressing perceived inequitable outcomes. In addition, the EEOC characterized the requirements as “unnecessary to enforce anti-discrimination laws” and said their “marginal benefits” are “outweighed by the substantial burdens” imposed on employers

and the agency, particularly absent any indication of discrimination.

The EEOC estimates that eliminating the reports would save private employers about \$273 million per year.

Potential Impact on Employers and Employer Concerns

At the EEOC's August 11, 2026, public hearing, commenters raised several concerns:

- **Reporting can help identify discriminatory patterns:** The data may reveal patterns that warrant enforcement attention or further investigation.
- **Modernization may be preferable to elimination:** Some employers favored updating job classifications and demographic categories and reducing compliance burdens rather than eliminating the reports.
- **Eliminating reporting may not eliminate the burden:** Employers may still need the same data for EEOC investigations, litigation, audits, and similar purposes.
- **Reported data can serve as a compliance tool:** Aggregated data can help employers assess hiring, promotion, and other practices. One commenter, for example, explained that its “well-intentioned employee referral program,” which was “designed to help fill jobs efficiently by encouraging employees to refer people they knew,” produced a “consistently narrow applicant pool and a homogeneous hiring pattern.” That type of analysis is distinct from using race or sex as a basis for employment decisions.

Supporters of the proposal argued that the EEOC should focus on specific allegations of discrimination, request information case by case,

and avoid pressuring organizations to balance workforce demographics rather than treat employees as individuals.

What May Happen Next

The comment period closed on August 24, 2026. After reviewing the written submissions and testimony from the August 11 hearing, the EEOC may issue a final rule, publish a modified rule, or withdraw the proposal.

The current OMB Paperwork Reduction Act clearance for the EEO-1 covers only reporting years 2022–2024 and expires November 30, 2026, so collecting 2025 data likely would require new clearance. The **September 30 filing date** in the EEOC’s regulations has passed without the agency opening a 2025 filing window. That does not resolve the issue, however. The EEOC has collected EEO-1 data “off cycle” before, setting filing windows from year to year, and a court previously ordered the agency to complete a data collection it had sought to discontinue. Several outcomes therefore remain possible. Notably, the EEOC’s website still states that “[u]pdates regarding the 2025 EEO-1 Component 1 data collection will be posted to this page as they become available.”

Until a final rule is issued and becomes effective, the existing reporting requirements remain on the books, and congressional action under the Congressional Review Act could affect the outcome.

How Employers Should Prepare

- **Continue complying.** Current reporting and recordkeeping requirements remain in effect until a final rule is issued, and federal anti-discrimination laws remain unchanged.
- **Prepare for a possible filing.** Finalize Q4 2025 snapshot data and confirm EEO-1 portal credentials and contact information.

- **Preserve records.** Do not purge workforce data. General record-retention and record-preservation requirements under Title VII, the ADA, GINA, and the PWFA continue to apply.
- **Evaluate internal data needs.** Consider retaining demographic data for privileged self-audits, litigation, and charge responses because the EEOC may still request information during investigations.
- **Track state and local obligations.** Separate requirements — including California and Illinois pay-data reporting, Massachusetts EEO reporting, and New York City requirements — are unaffected.
- **Monitor developments affecting federal contractors.** Executive Order 11246 was revoked, and DOL has proposed rescinding the OFCCP regulations that contain an EEO-1 requirement.
- **Use demographic data appropriately.** Ensure that demographic information is not used as a basis for employment decisions.
- **Stay alert for updates.** Monitor the EEOC for a final rule, filing announcements, and related guidance.

For guidance on EEO reporting obligations, workforce data-collection practices, or other workplace compliance matters, contact your Akerman Labor and Employment attorney.

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