EEOC Moves to End Demographic Reporting—But Employers Should Not Change Course Yet

California Employment Law Update on **July 23, 2026**

The Equal Employment Opportunity Commission (EEOC) has taken a significant step toward dismantling one of the federal government's longest standing employment reporting requirements.

On July 21, 2026, the EEOC voted 2-1 to issue a Notice of Proposed Rulemaking (NPRM) that would rescind regulations requiring employers and other covered entities to file annual workforce demographic reports, including the EEO-1 report submitted by most private employers with 100 or more employees. The proposal also would rescind associated recordkeeping requirements tied to those reports.

Employers should note that no actual change has yet been made**,** as the proposal must proceed through the federal rulemaking process before it can become effective. Therefore, covered employers' federal data collection and reporting obligations presently remain in effect.

The Proposal Reflects a Significant Shift in Enforcement Philosophy

EEOC Chair Andrea Lucas has argued that mandatory demographic reporting imposes unnecessary compliance burdens and may encourage employers to make employment decisions based on demographic outcomes rather than individual merit.

But in her dissent to the recent vote, EEOC Commissioner Kalpana Kotagal asserted that workforce demographic data has long been a critical enforcement tool for identifying systemic discrimination and allocating agency enforcement resources.

Current Compliance Obligations Remain Unchanged

Before the reporting requirements can be eliminated, the EEOC must consider public comments to the NPRM, issue a final rule, and defend against any potential judicial challenges. Until such time, existing regulations**—**and employer obligations**—**remain in effect.

Accordingly, employers covered by EEOC data collection and reporting requirements should presently continue to:

- maintain employee self-identification processes;
- preserve demographic information already collected; and
- monitor EEOC announcements regarding future report filing cycles.

Prematurely abandoning demographic data collection could leave employers scrambling for future reporting if the proposal is delayed, modified, or invalidated.

State Law May Require Continued Demographic Reporting

Regardless of the future of EEOC-mandated reporting, employers in certain jurisdictions may be independently obligated to collect certain demographic information under statewide mandates.

For example, California requires employers of 100 or more employees and/or 100 or more workers hired through labor contractors to submit detailed annual reports to the CA Civil Rights Department identifying employees by race, ethnicity, sex, job category, and pay band, reporting mean and median hourly rates for each combination of category, noting total hours worked by employees in each pay band, and filing a separate report on labor contractor employees.

Employers with 100 or more employees in Illinois must obtain and periodically renew an Equal Pay Registration Certificate from the IL Department of Labor. As part of that process, employers must submit employee demographic and compensation data and certify compliance with the Illinois Equal Pay Act.

Massachusetts requires employers with 100 or more employees in the state to submit copies of their federal EEO-1 reports to the MA Secretary of State. Notably, the MA law defines a covered employer as one "subject to the federal filing requirements of a wage data report." Should the EEOC's proposal to eliminate reporting ultimately take effect, it could impact obligations under the MA state law unless the state legislature takes steps to amend the law.

These laws illustrate a broader trend, as states increasingly adopt pay transparency, pay equity, and workforce demographic reporting requirements. Even if federal reporting obligations eventually cease, multistate employers may still find themselves navigating a fragmented compliance landscape.

Demographic Data May Serve Other Important Purposes—But Employers Must Use Caution

The EEOC's proposed rule change should not lead employers to conclude that workforce demographic information can never be collected or analyzed. Employers may, in certain circumstances, determine it appropriate or necessary to collect and analyze such data for a variety of compliance, risk assessment, and litigation defense purposes, including conducting privileged pay equity analyses, evaluating reduction-in-force decisions, and defending employment discrimination claims.

However, employers must carefully consider the potential risks associated with voluntary collection and use of employee demographic information. Such collections may become discoverable in future litigations (particularly where not done at the direction of counsel), trigger privacy and data security concerns, and be cited by enforcement agencies or private plaintiffs as potential evidence that protected characteristics influenced employment decisions.

Therefore, employers voluntarily collecting and analyzing employee demographic data should weigh these potential risks against the data's usefulness and take appropriate steps to ensure the data is being gathered, utilized, and maintained so as to best mitigate against these risks.

Looking Ahead

The EEOC's vote is part of what has been a historic shift in federal employment law obligations and enforcement, but this specific change is still subject to a potentially lengthy administrative process.

For now, employers should continue complying with existing federal requirements while monitoring the rulemaking process. Employers should also take careful note of applicable state law reporting obligations before making any changes to demographic data collection practices.

- **Guy Brenner**

  Partner

- **Laura M. Fant**

  Special Employment Law Counsel