

Electronic Alert

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Updates from the EEOC and DOL By Tyler Volm

EEOC Issues Revised EEO-1 Form Requiring Reporting of Pay Data

Last week the Equal Employment Opportunity Commission (EEOC) released an updated EEO-1 reporting form, affecting private employers with 100 or more employees and federal contractors with 50 or more employees. For the first time, the revised form will require those covered employers to provide employee pay data as reflected in Box 1 of their W-2 forms. Critics of the new form argue that relying on W-2 earnings may show a pay disparity where none exists (e.g., where one employee exercises stock options in a given year and another does not, increasing the first employee's W-2 earnings).

This new information must be provided in the 2017 form. The deadline for filing the 2017 form has been extended by six months, from September 30, 2017, to March 31, 2018, to provide covered employers more time to collect and report this data. Federal contractors with 50 to 99 employees will not have to provide the pay data, although they still have to report the demographic data.

Employers should consider performing self-audits (ideally with legal counsel to maintain privilege) to determine whether there appears to be any pay disparities that may be difficult to explain. Employers should also confirm that their payroll systems can generate the necessary data to include in the report. A sample of the new form can be found here:

<https://www.eeoc.gov/employers/eeo1survey/upload/component-1-and-2-sample-2017-eeo1-report.pdf>

DOL Issues Final Rule on Paid Sick Leave for Federal Contractors

Also last week, the U.S. Department of Labor (DOL) issued a lengthy [final rule](#) that requires federal contractors to provide up to seven days of paid sick leave per year to their employees. The new rule applies to federal contracts entered into on or after January 1, 2017, with only limited exclusions. Much like the statewide law that took effect in Oregon earlier this year, the DOL rule requires covered contractors to accrue paid sick leave at a rate of one hour for every 30 hours worked, and contractors must allow employees to accrue up to 56 hours per year. Alternatively, contractors may choose to frontload at least 56 hours of paid sick leave at the beginning of each accrual year. Contractors must also allow employees to carryover unused sick leave from one year to the next. Accrued paid sick leave must be reinstated for employees rehired by a covered contractor within 12 months. However, covered contractors are not required to pay an employee for unused leave after a job separation.

Sick leave must be requested at least seven calendar days in advance where the need for leave is foreseeable, and as soon as practical in other cases. The DOL's final rule also limits the employer's right to request certification from a health care provider for absences of three or more consecutive workdays. The leave requirements do not supersede any local, state or federal law, or collective bargaining agreement, that offers greater leave rights to covered employees.