

# ANDERSON KILL EMPLOYMENT LAW INSIDER

May 2019



# ALERT

## EEOC Will Require Employers to Include Pay Information on EEO-1 Reports

By Bennett Pine

**A**t present, the Equal Employment Opportunity Commission (EEOC) requires employers to submit data on the ethnicity, race and sex of their workers across 10 job categories on the employment information EEO-1 report. This is referred to by the EEOC as “Component 1” data.

This EEO-1 Component 1 reporting obligation presently applies to private sector employers with:

1. 100 or more employees.
2. 50 or more employees and federal contracts or sub-contracts amounting to \$50,000 or more.

### New EEO-1 Pay Data Requirement

In 2016, the Obama administration sought to expand employers’ EEO-1 reporting requirements to include wage and salary information. According to then-Labor Secretary Thomas E. Perez, collecting the wage data was viewed as a critical step in achieving equal pay, “Better data will not only help enforcement agencies do their work, but it helps employers to evaluate their own pay practices to prevent pay discrimination in their workplaces.”

At that time, the EEO-1 report was revised to require employers to submit aggregate W-2 earnings and hours across 12 pay bands for each of the 10 job categories. The EEOC refers to this salary information as “Component 2” data.

Various employer and other advocacy groups quickly opposed the EEOC’s actions and sought relief in federal court to prevent the implementation of the salary data requirement.

On March 4, 2019, the United States District Court for the District of Columbia granted summary judgment ruling that the litigation to block the EEOC’s efforts to collect pay data “totally lacked a reasoned explanation.” Accordingly, the EEOC’s efforts to collect employee pay data by race, ethnicity and gender from large companies were reinstated.

The court ordered that EEO-1 Component 2 data dealing with wages

ANDERSON KILL  
1251 Avenue of the Americas  
New York, NY 10020  
(212) 278-1000

ANDERSON KILL  
1760 Market Street, Suite 600  
Philadelphia, PA 19103  
(267) 216-2700

ANDERSON KILL  
1055 Washington Boulevard, Suite 510  
Stamford, CT 06901  
(203) 388-7950

ANDERSON KILL  
1717 Pennsylvania Avenue, Suite 200  
Washington, DC 20006  
(202) 416-6500

ANDERSON KILL  
One Gateway Center, Suite 1510  
Newark, NJ 07102  
(973) 642-5858

ANDERSON KILL  
Wells Fargo Building  
355 South Grand Avenue  
Los Angeles, CA 90071  
(213) 943-1444

[www.andersonkill.com](http://www.andersonkill.com)





## who's who

**Bennett Pine** is a shareholder in Anderson Kill's New York and

Newark offices and is chair of the firm's employment & labor group.

Mr. Pine has broad-based labor and employment law experience and regularly plays a hands-on role offering preventative maintenance advice and counseling to employers in the full range of legal issues affecting the workplace.

**[bpine@andersonkill.com](mailto:bpine@andersonkill.com)**

**(212) 278-1288**

**(973) 642-5006**

This publication was prepared by Anderson Kill PC to provide information of interest to readers. Distribution of this publication does not establish an attorney-client relationship or provide legal advice. Prior results do not guarantee a similar outcome. Future developments may supersede this information. We invite you to contact the editor, Bennett Pine, at [bpine@andersonkill.com](mailto:bpine@andersonkill.com) or (212) 278-1288, with any questions.

### ANDERSON KILL NEWSLETTERS & ALERTS

TO SUBSCRIBE PLEASE VISIT:  
[www.andersonkill.com/  
PublicationSubscription.aspx](http://www.andersonkill.com/PublicationSubscription.aspx)

TO UNSUBSCRIBE PLEASE EMAIL:  
[unsubscribe@andersonkill.com](mailto:unsubscribe@andersonkill.com)

and salaries by job category along race, sex and ethnicity lines for calendar year 2018 must be submitted by September 30, 2019.

The EEOC is in the process of amending the EEO-1 form to include salary data, and will begin collecting such Component 2 data for calendar year 2018 in July, 2019.

A sample copy of the new EEO-1 report requiring the submission and breakdown of salary data for each job category is attached.

### Special Note

Employers should be aware that the deadline for submitting the traditional EEO-1 Component 1 data for job categories by sex, race and ethnicity is May 31, 2019. That has not changed.

It should also be noted that there is a very substantial possibility that the District Court's March 4, 2019, decision will be appealed, and will seek a delay of the revised EEO-1 requirement to include salary data pending the appeal. Additionally, the EEOC may also delay the filing deadline to provide employers with additional time to comply with the wage and salary data requirements filing.

We will continue to monitor developments. Stay tuned. ▲

