School Reporting Committee (EEO-5)
Equal Employment Opportunity Commission
Office for Civil Rights (ED)

Approved by OMB No. 3046-003

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20507

# EEOC FORM 168A, ELEMENTARY-SECONDARY STAFF INFORMATION (EEO-5)

## INSTRUCTIONS FOR FILING AND RECORDKEEPING REQUIREMENTS
**(Definitions of Terms and Categories are Located in the Appendix)**

Federal law requires that the Equal Employment Opportunity Commission (EEOC) and the Office for Civil Rights (OCR) of the Department of Education (ED) prescribe such records and reports as are necessary for the enforcement of the Civil Rights Act of 1964, as amended. Accordingly this report is required by the OCR to carry out the purposes of Title VI of the Act and is required under Section 709 (c) of Title VII. Every employer subject to this Title shall keep such records and submit such reports as required by the EEOC.

This compliance reporting system is being implemented by the School Reporting Committee (EEO-5) in a joint effort between EEOC, and OCR for the collection of employment data of public elementary and secondary school systems or districts. The applicable laws and regulations pursuant to such laws issued respectively by the EEOC and OCR are reprinted in Section 4 of the Appendix.

### 1. RECORDKEEPING AND FILING REQUIREMENTS

Every public elementary and secondary school system or district, including every individually or separately administered district within a system, and every separately administered school, with 15 or more employees, and every individual school regardless of its size, within such system or district, is required to make or keep all records necessary for completing and filing the report EEO-5, whether or not it is required to file the report in any particular year.

Biennially, in the even numbered years, the School Reporting Committee will determine which of these systems, districts, and schools will be required to file report EEO-5, and will notify them of that fact when it mails them the form.

### 2. WHEN TO FILE

Employment statistics must cover the payroll period closest to October 1 of the reporting year and the report must be filed no later than November 30.

### 3. WHERE TO FILE

The completed report should be forwarded to the address indicated on the form or in the cover letter. All requests for additional report forms should also be directed to that address.

### 4. HOW TO FILE

A report must be filed covering the employment data of all the administrative and other functions of the system and the combined employment data of all the schools and annexes within the system regardless of the employment size of individual schools or annexes.

Forms will be distributed by EEOC using two methods: (1) direct mail to the school system or district, and (2) indirect mail to the school system or district through the State Education Agency. The indirect mail method is a special reporting procedure. This method will only be used in those states in which the State Education Agency agrees to the special procedures set forth by EEOC for such transmittals. The school district or system will retain the ultimate responsibility for its completed EEO-5 report. EEOC will inform the school district or system if it is in an indirect mail state. The survey reports from indirect mail states may be certified within the district or system or at the state level if prepared by the state.

Completed reports from direct mail states should be returned to the address given on the preprinted survey form. Completed reports from indirect mail states should be returned to the State Liaison Officer specified in the cover letter transmitted with the survey forms.

### 5. REQUIREMENTS FOR INFORMATION AND SPECIAL PROCEDURES

A school system or district which believes that preparation or the filing of report EEO-5 would create an undue hardship may apply to the

Commission for a special reporting procedure, submitting a written, alternate proposal for compiling and reporting the required information. Computer printouts and diskettes are special reporting procedures. See Section 11 for general guidelines to be used in their preparation.

Only those special procedures approved in writing by the Commission are authorized. Such authorization will remain in effect until written notification of cancellation is given by either party.

Direct all requests for special reporting procedures to: The EEO-5 Coordinator, EEOC Program Research and Surveys Division, 1801 L St., NW, Washington, D.C. 20507. No other address is valid for these requests.

## 6. INSTRUCTIONS FOR FILING EEO-5

### A. TYPE OF REPROT

EEOC Form 168A is the aggregate report for the entire school system or district. The report for the school system must provide summary data for all personnel employed by the school system either full-time or part-time, regardless of the location of the person's assignment to a school or other unit of the school system. Full-time personnel must be reported in Part II-A of the report; part-time personnel are to be reported in Part II-B. It is important to note that if a person is employed on a full-time basis by the school system, but assigned to one or more schools on a part-time basis in each, that person must be reported as a full-time employee on the school system report (EEOC Form 168A).

### B. DATA TO BE REPORTED

### PART I - IDENTIFICATION INFORMATION

**A. Type of Agency Which Operates the Reporting School System or District.**

Check the agency which operates the reporting unit (School System or District) and which has the responsibility or ultimate authority for the employment or dismissal of a member or members of the staff.

**B. School System Identification**

This section may be omitted if the address information on the preprinted label is correct. If the preprinted address is incorrect, please provide the correct mailing address in this section.

**C. General Statistics/School Information**

*General Statistics (EEOC Form 168A)*

Enter the total number of schools and separate teaching facilities or ANNEXES operated by the school system. Also enter the total enrollment as of October 1 of the current year or the nearest date when enrollment is stabilized.

### PART II – STAFF STATISTICS

This part of the report will reflect, for the given payroll period, the number of employees who are full-time, part-time and new hires by activity assignment classification as shown in the stub of the matrix. The total for each activity assignment classification should be reported in column A. The totals must be further tabulated by sex for each of the designated race/ethnic categories in columns B through K. Be sure to give the actual date of payroll used for your report.

A. **Full-Time Staff** (See section 2 of Appendix for definitions of assignment classifications)

Lines 1-19 should include all full-time employees, except for elected and certain appointed officials (as explained in the definition of "Employee" in section 1 of the Appendix). Include in these statistics all full-time employees of the system whether or not they are assigned part-time to one or more schools. With the exceptions of persons required to be reported on line 9, *Psychological*, report employees having multiple activity assignments, such as teacher-counselor or similar combinations as is frequently the case in guidance, library, audiovisual, etc., as full-time in the assignment in which they spend at least 51 percent of the time. If the employee spends exactly 50 percent of the time in one of two assignments, report him or her as full-time in the more critical one. If the time is distributed between more than two assignments, report the employee as full-time in the one in which he or she spends the major portion of the time or in the more critical one if the time is evenly distributed.

**B. Part-Time Staff**

Lines 20 through 22 should include statistics for all part-time employees.

**C. New Hires**

Lines 23-28 should include the number of full-time new employees who appear on the payroll for the first time between July 1 and October 1 of the survey year, for each of the assignment classifications listed. Use the definition of full-time shown in the Appendix for reporting new hires in school systems. Do not report as a new hire an employee who has been on

sabbatical or any other type of leave which is not considered a break in service, nor should anyone involved in a change in job category or promotion be reported as a new hire.

**New hires must also be counted in part A, Full-Time Staff.**

## 7. PRESERVATION OF RECORDS MADE OR KEPT

The EEO-5 report requires the combining of some data. Separate agency–employment data by sex and race/ethnic identification in those job categories should be maintained on site in such manner as is required in the EEO-5 report, and should be available upon request to representatives of Federal Agencies. Copies of the submitted EEO-5 report must be retained for a period of 3 years.

## 8. CERTIFICATION

Certification of EEOC Form 168A should be made by a school official. Documents in support of the certification should be maintained at the central office.

Enter the telephone number (include area code and extension, if any), name, title, and signature of the school district official who is responsible for the report and can answer questions about it. The EEOC General Counsel has approved rubber stamp signature reproductions as legally valid for the EEO-5 survey forms. If your district uses a rubber stamp, please be sure to stamp all copies before returning them to EEOC.

## 9. PUBLICATION OF EEO-5 DATA

The three organizations that sponsor EEO-5 operate under different legislative authorities and have different plans for publication.

Within these limitations, all three organizations plan to publish or otherwise make available statistics combining school systems into geographic aggregates, such as States, regions, etc. As restricted by Section 709(e) of the Civil Rights Act of 1964, the EEOC will not publish any data other than such aggregates.

The Office for Civil Rights may, as in some of its previous surveys, publish data by school system.

## 10. REQUEST FOR FORMS AND INSTRUCTION BOOKLET

Copies of EEOC From 168A and the Instruction Booklet may be ordered from the School Reporting Committee at the address printed in the cover letter or from the designated State Liaison Officer.

## 11. SUBMISSION OF COMPUTER PRINTOUTS AND DISKETTS

Computer printouts and diskettes may be submitted in lieu of the standard EEO-5 survey form as a special reporting procedure. A school district or system or State Education Agency must have written approval of its printout or diskette format *before* the printout is submitted in fulfillment of EEO-5 filing requirements. The following guidelines must be adhered to:

a. The print format designed by EEOC must be used. A copy of the format may be obtained from the following address:

The EEO-5 Coordinator
EEOC-Program Research and Surveys Division
1801 L Street, N.W.
Washington, D.C. 20507
Test output must also be mailed to this address

b. Each printed report must be individually signed or signature stamped as if it were a standard survey form.
c. The original and one copy of the printed report must be filed.
d. The school district or system must keep one copy of its report on file as required by Chapter XIV, Title 29, Code of Federal Regulations, Section 1602.41.

Print formats other than those approved by EEOC will not be accepted.

## 12. ESTIMATE OF BURDEN

Public reporting burden for this collection of information is estimated to average five (5) 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 the collection of information, including suggestions for reducing this burden to:

The EEOC Clearance Officer
Office of Management
1801 L Street, N.W.
Washington, D.C. 20507

Unless the collection displays a currently valid OMB control number, respondents are not required to fill out this form.

The full text of the new OMB regulations may be found at 5 CFR Part 1320, or Federal Register, vol. 60, no. 167, Tuesday, August 29, 1995, page 44978.

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

## APPENDIX

### 1. DEFINITIONS

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

b. **Employee** refers to a person employed by a school system or district. This term shall not include any person elected to public office in a State or political subdivision of a State by the qualified voters thereof, or any person appointed by such officer to be on such officer's personal staff, or an appointee at the policy-making level, or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office. However, this exemption shall not include employees subject to the civil service laws of a State government, government agency, or political subdivision.

c. **Full-time employees** refers to persons employed on a full-time basis during the pay period. These are the staff members who work for the school system or district for the whole day everyday (excluding temporary and substitute employees).

d. **NCES** refers to the National Center for Education Statistics in the Department of Education.

e. **New hires** refers to persons who were hired for the first time or after a break in service for full-time employment by the particular school system and who appear on the district payroll for the first time between July 1 and October 1.

f. **OCR** refers to the Office for Civil Rights, Department of Education.

g. **Part-time employees** refers to persons employed during this pay period who are usually engaged for less than the regular full-time work week. Do not include temporary or substitute employees.

h. **School** refers to a division of the school system or district consisting of a group of pupils in one or more grade groups organized as a unit with one or more teachers to give instruction of a defined type and housed in a school plant of one or more buildings.

i. **School Reporting Committee (EEO-5)** refers to an interagency committee representing EEOC, OCR, and NCES for the purpose of jointly sponsoring report EEO-5 and preventing any duplication of requirements by these agencies for employment statistics from institutions of elementary and secondary education.

j. **School system or district** refers to the political jurisdiction, or a dependent agency of a political jurisdiction charged with the responsibility for the operation of elementary and/or secondary schools within given geographic boundaries.

k. **State Educational Agency** refers to an agency of a State government that has some functional or jurisdictional relationship to the operations of the school systems or districts within the State.

### 2. ASSIGNMENT CLASSIFICATION (Lines 1 through 28 of Part II of the form)

a. Line 1 – **Officials, Administrators and Managers:** These are occupations requiring administrative personnel who set broad policies (not elected or appointed officials), exercise overall responsibility for execution of these policies, or direct individual departments or special phases of the school system, or district or school operations. Include in this category superintendent of schools, deputy, associate, and assistant superintendent of schools, school business officials, directors and administrators of district-wide programs, and other professional administrative staff. (Do Not include principals, assistant principals or supervisors of instruction). Non-professional supervisors of service workers, skilled crafts and laborers should be reported (counted) in their corresponding categories.

b. Line 2 – **Principals**: Staff members performing the assigned activities of the administrative head of their respective schools (not school systems or districts) to whom has been delegated responsibility for the coordination and direction of the activities of the school.

c. Lines 3 and 4 – **Assistant Principals**:

**(1) Teaching**: Staff members who in addition to assisting the head of a school (normally the principal) in performing the activities of directing and managing schools

are also engaged in instructing pupils in courses in classroom situations.

**(2) Non-Teaching:** Assignment of staff members to perform only the professional activities of assisting the head of a school (normally the principal) in performing the activities of directing and managing a school.

d. Lines 5, 6 and 7 – **Classroom Teachers**: Staff members assigned the professional activities of instructing pupils in courses in classroom situations for which daily pupil attendance figures for the school system are kept. Include in this category music, band, physical education, and home economics teachers, etc., as classroom teachers if they teach full-time at a school campus. Report classroom teachers separately for elementary, secondary or other. Use the local school system's definition of elementary and secondary. If a teacher has responsibility at both the elementary and secondary levels, report the teacher at one level only. DO NOT report the teacher at both the elementary and secondary levels. "Other Classroom Teachers" applies to full-time classroom teachers who teach upgraded classes, special education, art, music, band, physical education, home economics, etc., who have not been reported in the elementary or secondary classroom teacher categories.

e. Line 8 – **Guidance**: Include staff members responsible for advising pupils with regard to their abilities and aptitudes, educational and occupational opportunities, personal and social adjustments, etc.

f. Line 9 – **Psychological**: Include only the following individuals: psychologists, psychometrics, psychiatrists and psychological/social workers who are engaged in providing psychological-evaluative services to pupils *for placement purposes* regardless of the amount of time spent in this activity. All other professionals engaged in placement of pupils should be reported in their most pertinent category in Part II – A such as item 1 (Officials/Administrators/Managers), item 8 (Guidance) or item 12 (Other Professional Staff), etc.

g. Line 10 – **Librarians and Audio-Visual**: Librarians include staff members responsible for organizing and managing school libraries. Audio-visual personnel include staff members responsible for preparing, caring for, and making available to instructional programs, the equipment, materials, scripts, and other aids which assist teaching and learning through special appeal to the senses of sight and hearing, e.g., a director of audiovisual services, scriptwriter; etc.

h. Line 11 – **Consultants and Supervisors of Instruction:** Include staff members performing activities of leadership, guidance, and expertise in the field of specialization for the purpose of improving the performance of teachers and other instructional staff members.

i. Line 12 – **Other Professional Staff**: Include staff members performing some instructional or related function on a full-time basis who cannot be properly classified for reporting on lines 2 through 11, such as non-classroom teachers who may be teaching the home-bound, teaching through correspondence, teaching through radio or television from a studio, providing instruction for exceptional pupils released from regular classes for short periods of time, and instructing pupils in non-course (cocurricular) activities. Include persons engaged in psychotherapy and other mental health services such as psychiatrists or psychologists who are not reported in Part II-A, item 9 (See paragraph f. above). Also included are professional noninstructional staff (not officials/administrators, etc.) such as physicians, dentists, speech therapists, school social workers, community workers, attendance officers, attorneys, architects, engineers, registered professional nurses and other professional noninstructional personnel.

j. Line 13 – **Teacher Aide**: A staff member performing assigned activities which are not classified as professional educational, but which assist a staff member to perform professional-educational-teaching assignments. Include all personnel working with students under the direct supervision of a classroom teacher or under the direct supervision of a staff member performing professional-educational-teaching assignments on a regularly scheduled basis. In other words, aides who participate on a regularly scheduled basis in the formal education effort directed toward the student and/or whose impressions of student educational progress or needs may contribute to the formal authorized educational evaluation of students should be classified as Teacher Aides.

**Examples:**

(1) Librarian aide

(a) A librarian aide who functions to fulfill particular educational needs of specific students on a regularly scheduled basis should be reported as a Teacher Aide.

(b) A librarian aide who functions essentially as a clerical or physical aide to the librarians and whose contact with particular students is casual or irregular should be counted on line 10 – Librarian and Audio Visual.

(2) Playground aide

(a) A playground aide who has been advised by the professional staff of the particular educational needs of specific children and who regularly directs efforts toward meeting these needs should be counted as a Teacher Aide.

(b) A playground aide whose prime function is custodial should be counted as a Service Worker – line 16.

k. Line 14 – **Technicians**: Occupations requiring a combination of knowledge and manual skill which can be obtained through about 2 years of post-high school education, such as is offered in many technical institutes and junior colleges, or through equivalent, on-the-job training. Includes: computer programmers and operators, film inspectors, projectionists, graphic artists, drafters, engineering aides, non—teaching –related mathematical aides, licensed, practical or vocational nurses, dietitians, photographers, radio operators, scientific assistants, technical illustrators, technicians (medical, dental, electronic, physical sciences), and similar occupations which cannot be properly classified in other activity assignments.

1. Line 15 – **Clerical/Secretarial**: Those are occupations requiring skills and training in all clerical-type work including activities such as preparing, transcribing, systematizing, or preserving written communications, and reports or operating such mechanical equipment as bookkeeping machines, typewriters and tabulating machines. Include bookkeepers, messengers, office machine operators, clerk –typists, stenographers, statistical clerks, payroll clerks and kindred workers.

m. Line 16 – **Service Workers** (paraprofessionals and persons in cafeteria maintenance, transportation, etc.): Staff members performing a service for which there are no formal qualifications including paraprofessionals and nonsupervisory personnel in cafeteria, or transportation work. Include also custodial workers or others with the responsibility for cleaning the buildings of school plants or supporting service facilities; maintenance and operating such equipment as heating and ventilating systems; preserving the security of school property; and keeping the school plant safe for occupancy and use. Such activates may include cleaning, sweeping, disinfecting, heating, lighting, moving furniture, keeping school entrances appropriately locked or unlocked, keeping such facilities as fire escapes and panic bars in working order, and guard duties.

n. Line 17 – **Skilled Crafts**: Occupations in which workers perform jobs which require special manual skill and a thorough and comprehensive knowledge of the processes 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 and kindred workers.

o. Line 18 – **Laborers**: Staff members who perform manual labor not classified in another activity assignment classification. Include garage laborers, car washers and greasers, gardeners and groundskeepers or activities such as lifting, digging, mixing, loading and pulling operations.

p. Line 20 - **Professional Instructional**: This classification (required under B. Part-Time-Staff) should include all the activity assignment classifications listed in numbers 2 through 12 under A. Full-Time Staff in Part II of the form.

q. Line 26 – **Other Professional Staff**: This classification (required under C. New Hires) should include all activity assignment classifications listed in numbers 8 through 12 under A. Full-Time Staff in Part II of the form.

### 3. RACE/ETHNIC IDENTIFICATION

You may acquire the race/ethnic information necessary for this report either

by visual surveys of the workforce, or from post-employment records as to the identity of employees. Eliciting information on the race/ethnic identity of an employee by direct inquiry is not encouraged.

Where records are maintained, it is recommended that they be kept separately from the employee's basic personnel file or other records available to those responsible for personnel decisions.

Since visual surveys are permitted, the fact that race/ethnic identifications are not present on employment records is not an excuse for failure to provide the data called for.

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 instructions or otherwise.

Please note that conducting a visual survey and keeping post-employment records of the race/ethnic identity of employees is legal in all jurisdictions and under all Federal and State laws. State laws prohibiting inquiries and recordkeeping as to race, etc., relate only to applicants for jobs, not to employees.

**Race/Ethnic** designations as used by the Equal Employment Opportunity Commission do not denote 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 is to be counted in more than *one* race/ethnic group.

**White** (Not of Hispanic origin) – All persons having origins in any of the original peoples of Europe, North Africa or the Middle East.

**Black** (Not of Hispanic origin) – All persons having origins in any of the black racial groups of Africa.

**Hispanic** – All persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.

**Asian or Pacific Islander** – All persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. The areas include, for example, China, Japan, Korea, India, the Philippine Islands, and Samoa.

**American Indian or Alaskan Native** – All persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.

## 4. LEGAL BASIS FOR REPORTING REQUIREMENTS; RECORDKEEPING REGULATIONS

**Equal Employment Opportunity Commission**

**a. Section 709(c), Title VII, Civil Rights Act of 1964 (as amended).**

Every employer, employment agency, and labor organization subject to this title 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 title or the regulations or orders thereunder.

**b. Chapter XIV, Title 29, Code of Federal Regulations**

**Subpart L – Public Elementary and Secondary School Systems, Districts, and Individual Schools Recordkeeping**

**§ 1602.39 Records to be made or kept.**

On or before November 30, 1974 and annually thereafter, every public elementary and secondary school system or district, including every individually or separately administered district within a system, with 15 or more employees and every individual school within such system or district, regardless of the size of the school shall make or keep all records and information there from which are or would be necessary for the completion of report EEO-5 whether or not it is required to file such a report under § 1602.41. The instructions for completion of report EEO-5 are specifically incorporated herein by reference and have the same force and effect as other sections of this part.[1] Such records and the information there from shall be retained at all times for a period of 3 years at the central office of the elementary or secondary school system or district, or

[1] Note.-Instructions were published as an appendix to the proposed regulations on June 12, 1973 (38 F.R. 15463).

at the individual school which is the subject of the records and the information there from, where more convenient, and shall be made available if requested by an officer, agent, or employee of the Commission under section 710 of Title VII, as amended. It is the responsibility of every such school system or district, to obtain from the Commission or its delegate necessary instructions in order to comply with the requirements of this section.

**§ 1602.40 Preservation of records made or kept.**

(a) Any personnel or employment record made or kept by a school system, district, or individual school (including but not necessarily limited to 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 such school system, district, or school, as the case may be, 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 against an elementary or secondary school by the Commission or the Attorney General, the respondent elementary or secondary school system, district, or individual school shall preserve similarly at the central office of the system or district or individual school which is the subject of the charge or action, where more convenient, all personnel records relevant to the charge or action until final disposition thereof. 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 school system, district, or school either by a person claiming to be aggrieved, the Commission, or the Attorney General, the date on which such litigation is terminated.

(b) The requirements of this section shall not apply to application forms and other pre-employment records of applicants for positions known to applicants to be of a temporary or seasonal nature.

**Subpart M – Elementary – Secondary Staff Information Report**

Sec.

1602.41 Requirement for filing and preserving copy of report.
1602.42 Penalty for making of willfully false statements on report.
1602.43 Commission's remedy for school systems' or districts' failure to file report.
1062.44 School systems' or districts' exemption from reporting requirements.
1602.45 Additional reporting requirements.

**AUTHORITY** – Sec. 709(c), 78 Stat.265, 42 U.S.C. sec. 200e-8 (c); 29 CFR 1602.3

**§ 1602.41 Requirement for filing and preserving copy of report.**

On or before November 30, 1982 and biennially thereafter, certain public elementary and secondary school systems and districts, including individually or separately administered districts within such systems, shall file with the Commission or its delegate executed copies of Elementary-Secondary Staff Information Report EEO-5 in conformity with the directions set forth in the form and accompanying instructions. The elementary and secondary school systems and districts covered are: (a) every one of those which have 100 or more employees, and (b) every one of those others which have 15 or more employees from whom the Commission requests the filing of reports. Every such elementary or secondary school system or district shall retain at all times, for a period of 3 years, a copy of the most recently filed report EEO-5 at the central office of the school system or district 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. It is the responsibility of the school systems or districts above described in this section to obtain from the Commission or its delegate necessary supplies of the form.

**§ 1602.42 Penalty for making of willfully false statements on report.**

The making of willfully false statements on report EEO-5 is a violation of the United States Code, title 18, section 1001, and is punishable by fine or imprisonment as set forth therein.

**§ 1602.43 Commission's remedy for school systems' or districts' failure to file report.**

Any school system or district failing or refusing to file report EEO-5 when required to do so may be compelled to file by order of a U.S. district court, upon application of the Commission the Attorney General.

**§ 1602.44 School systems' or districts' exemption from reporting requirements.**

If it is claimed that the preparation or filing of the report would create undue hardship, the school system or district 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.

**§ 1602.45 Additional reporting requirements.**

The Commission reserves the right to require reports, other than designated as the Elementary-Secondary Information Report EEO-5, about the employment practices of private or public individual school systems, districts, or schools, or groups thereof, whenever, in its judgment, special or supplemental reports are necessary to accomplish the purpose of Title VII. 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 and as otherwise prescribed by law.

**Subpart N – Records and Inquiries as to Race, Color, National Origin, or Sex**

**§ 1602.46 Applicability of State or local law.**

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

**Office for Civil Rights**

**§ 100.6 Compliance information.**

(a) *Cooperation and assistance.* The responsible Department official shall to the fullest extent practicable seek the cooperation of recipients in obtaining compliance with this part and shall provide assistance and guidance to recipients to help them comply voluntarily with this part.

(b) *Compliance reports.* Each recipient shall keep such records and submit to the responsible Department official or his designee timely, complete and accurate compliance reports at such times, and in such form and containing such information, as the responsible Department official or his designee may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this part. For example, recipients should have available for the Department racial and ethnic data showing the extent to which members of minority groups are beneficiaries of and participants in federally-assisted programs. In the case of any program under which a primary recipient extends Federal financial assistance to any other recipient, such other recipient shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations under this part.

(c) *Access to sources of information.* Each recipient shall permit access by the responsible Department official or his designee during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance with this part. Where any information required of a recipient is in the exclusive possession of any other agency, institution or person and this agency, institution or person shall fail or refuse to furnish this information the recipient shall so certify in its report and shall set forth what efforts it has made to obtain the information. Asserted considerations of privacy or confidentiality may not operate to bar the Department from evaluating or seeking to enforce compliance with this part. Information of a confidential nature obtained in connection with compliance evaluation or enforcement shall not be disclosed except where necessary in formal enforcement proceedings or where otherwise required by law.

(d) *Information to beneficiaries and participants.* Each recipient shall make available to participants, beneficiaries, and other interested persons such information regarding the provisions of this regulation and its applicability to the program for which the recipient receives Federal financial assistance, and make such information available to them in such manner, as the responsible Department official finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this regulation.

(Secs. 601, 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d, 2000d-1)

**b. Department of Education, Title IX, Education Amendment of 1972.**

**Subpart F – Procedures [Interim]**

**§ 106.71 Procedures.**

The procedural provisions applicable to title VI of the Civil Rights Act of 1964 are hereby adopted and incorporated herein by reference. These procedures may be found at 34 CFR 100.6-100.11 and 34 CFR Part 101. (Secs.901, 902, Education Amendments of 1972, 88 Stat. 373, 374; 20 U.S.C. 1681, 1682)

EEO-5 BK (7/96)
Previous editions are obsolete.