

EEO-1 FILING UPDATE - WE HAVE TO PROVIDE PAY DATA NOW???

The controversial Obama-era EEO-1 pay data disclosure requirements [that had been indefinitely stayed](#) by the White House Office of Management and Budget ("OMB") were reinstated earlier this week by a federal district court judge. This unhappy news for employers arrives less than three months before the May 31, 2019 EEO-1 [filing deadline](#).

The case was filed by the National Women's Law Center and the Labor Council for Latin American Advancement.

THE PAY DATA DISCLOSURE RULES HAVE ALWAYS BEEN CONTROVERSIAL

The pay data disclosure rules are certainly controversial. The business community and employer groups have cited privacy concerns and characterized the requirements as overly burdensome while unlikely to yield relevant information in any meaningful compensation discrimination analysis.

Similar reasons were cited by the OMB when it indefinitely stayed the rules in 2017. The problem, according to Judge Tanya S. Chutkan, was that the OMB's stated reasons directly contradicted its own original findings after the rules had been proposed under the Obama administration. In ruling for the plaintiffs, she emphasized that the OMB failed to "provide a reasoned explanation for the change" from its original position.

Adding more drama to the story is the fact that the EEOC doesn't seem to like the pay data disclosure rules either. Indeed, the rules were publicly opposed by current EEOC Acting Chair, Victoria Lipnic, who stated there are "more effective solutions to encourage employers to review their compensation practices to ensure equal pay and close the wage gap." (So far, the EEOC has made no announcements in response to Judge Chutkan's decision.)

AN APPEAL? ANOTHER FILING DEADLINE DELAY? WHAT'S NEXT?

It is too soon to say exactly what happens next, but many are predicting that the Trump administration will appeal this decision. Such an appeal could further delay the pay data disclosure requirements and leave the issue in limbo. Absent an appeal, it seems likely that the EEOC would, at the very least, issue yet another extension to the EEO-1 filing deadline. This would give employers more time to gather the required data necessary to comply.

We will be monitoring this issue for future developments, so stay tuned.

If you have any questions or would like additional information, please contact [Jon Bumgarner](#) at (317) 977-1474 or jbumgarner@hallrender.com or your regular Hall Render attorney.