

Breaking News: Judge Orders Employers to Report Pay Data by September 30

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On April 25, 2019, U.S. District Court for the District of Columbia Judge Tanya S. Chutkan ruled that employers covered by EEO-1 reporting requirements must submit 2018 pay data for their workforces by September 30, 2019. The Equal Employment Opportunity Commission (EEOC) is expected to place a statement on its website informing employers of Judge Chutkan's decision and post the new requirement in the *Federal Register* by April 29, 2019. This ruling is another twist in the saga of pay data reporting since Judge Chutkan issued an [order](#) lifting the stay of the pay data collection component of the EEO-1 on [March 4, 2019](#).

Judge Chutkan has ordered the EEOC to collect a second year of pay information, and the EEOC will be allowed to decide if that data should be from 2017 or 2019. Specifically, the EEOC may collect (1) 2017 and 2018 data by September 30, 2019 or (2) 2018 data by September 30 and 2019 data by March 31, 2020. Judge Chutkan has reportedly provided the EEOC until May 3, 2019, to decide which year's pay data will be collected and report back to the court.

In the meantime, the judge reportedly required the EEOC to keep its Component 2 portal open. The portal was the topic of an [April 16 hearing](#) during which Judge Tanya Chutkan had said she did not understand why the EEOC decided to remove instructions for employers on submitting Component 2 EEO-1 (pay and hours worked) data for 2018 as part of their annual employer information, or EEO-1, reports.

Judge Chutkan also required the EEOC to file a status report to the court every 20 days after the May 3 deadline.

How Will Data Be Collected?

While the exact details of how this pay data will be collected are unknown, there are early reports suggesting that the format for the pay collection will be similar to the collection structure proposed by the EEOC in 2016. If so, this structure would require employers to use 2018 W-2 Box 1 information to

place all employees in a series of 12 pay bands that will then be further sorted by gender, race/ethnicity, and EEO-1 category. In addition, employers would then report the total number of employees and the total hours worked in 2018 for each pay band subset.

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National Law Review, Volume IX, Number 115

Source URL: <https://natlawreview.com/article/breaking-news-judge-orders-employers-to-report-pay-data-september-30>