

What to Do When You Get an EEOC Subpoena

Article By:

Anne R. Yuengert

Paul R. Barsness

The EEOC has some new laws in its arsenal (i.e., the [Pregnant Workers Fairness Act](#), the PUMP Act) and is likely to release new guidance on harassment. Keeping that in mind, we anticipate investigators will be interested in employer compliance with the new laws and will likely ask for evidence of such. For example, if you have not updated your policies to address the PWFA and the PUMP Act, do it now because you could get a request for them. If you don't provide that information in the course of the investigation, the EEOC has the power to issue a subpoena to get it.

Keep an Eye on the Deadlines and Follow the Rules

If you get a subpoena, you need to act quickly. Although you typically have 30 days to respond, you only have [five business days to object, seek to modify the scope of the subpoena, or secure confidentiality protections for sensitive information](#). If you miss that deadline, you waive your objections. And this short deadline will not be listed on the subpoena! The subpoena will likely tell you that you have 30 days to respond.

The regulations set out exactly what you need to do to object:

- File a petition with the issuing director or the general counsel (depending on who issued it) to seek the subpoena's revocation or modification.
- Identify each portion of the subpoena with which you do not intend to comply and state your basis.
- Attach the subpoena as Exhibit A.

Then What?

Once you have timely filed your petition, you should hear something within eight calendar days. If the EEOC doesn't revoke or modify the subpoena like you asked, you will need to decide your next steps (i.e., comply or not).

If you do not comply, the EEOC can file an enforcement action. As long as you are being reasonable, you are usually in a good position in an enforcement action. However, an enforcement action is like

any other kind of litigation and it can get expensive, so do not commit to that lightly.

© 2025 Bradley Arant Boult Cummings LLP

National Law Review, Volume XIV, Number 4

Source URL: <https://natlawreview.com/article/what-do-when-you-get-eeoc-subpoena>