



EEOC Proposed Revision of the Employer Information Report (EEO-1) Comments

81 Fed. Reg. No. 20 at 5113

[3046-0007]

SEIU Local 121RN is a labor union representing about 8,500 registered nurses (“RNs”) and other healthcare professionals employed at hospitals throughout Southern California. SEIU Local 121RN is affiliated with the Service Employees International Union (“SEIU”), which represents more than two-million workers nationwide. SEIU Local 121RN is a party to 19 collective-bargaining agreements (“CBAs”) with employers that employ more than 100 employees, and therefore are required to annually file an EEO-1 Report. SEIU Local 121RN negotiates into CBAs nondiscretionary wage structures and antidiscrimination clauses so there are not any known Equal Pay Act violations for SEIU Local 121RN members.

SEIU Local 121RN actively seeks to organize RNs and other health care professionals who are not currently represented and therefore not protected by a union contract. In speaking with unorganized RNs, we have heard first-hand accounts from female RNs who have experienced receiving lower wage rates or were given less overtime hours than male colleagues performing with equal skill, effort or responsibility.

SEIU Local 121RN supports beginning the new report form in 2017. The Equal Pay Act of 1963 has been the law for over 50 years, and yet pay is still not equal between men and women for performance requiring equal skill, effort, and responsibility. Accordingly, the EEOC should not delay implementation.

SEIU Local 121RN supports electronic filing of the EEO-1 Report. Electronic filing decreases transcription errors and saves the EEOC from expending its limited resources to input data. This filing requirement applies to large companies that have the capacity to do this; and in fact as was noted in the Federal Register’s request for comments, all but three employers are already submitting the EEO-1 Report electronically.

SEIU Local 121RN supports using the W-2 wage standard over the OES definition for wages. In the health care industry, it is important to capture overtime hours and shift differentials because those two items can dramatically increase an RN’s annual wages. In a nonunion hospital, distribution of overtime hours can be given to men over women because of stereotypes about men being the family breadwinners or favoritism by executive management who continue to be predominantly male.

SEIU Local 121RN supports collecting hourly data along with the pay data. In the health care industry, nearly all employees are paid on an hourly basis and employees' numbers of hours vary widely due to the large number of part-time positions and availability of overtime. Without knowing the hours, the annual wage data would not reveal the true pay disparities between male and female employees.

SEIU Local 121RN supports using pay bands over individual pay rates or expecting employers to calculate standard deviations, but the 12 proposed bands are too wide in the middle income brackets to detect pay disparities between male and female employees, and instead SEIU Local 121RN suggests using more narrow pay bands in the \$40,000-\$160,000 range that are more similar to the pay bands on the EEO-4 report. Currently as proposed, the pay bands are too broad to meet the stated goal of discerning potential discrimination.

SEIU Local 121RN supports the development of software tools and guidance for stakeholders to enable analysis of EEO-1 Report data. SEIU Local 121RN further supports the EEOC's goal of encouraging employers to self-monitor and voluntarily comply with the Equal Pay Act after they conduct an annual review pursuant to completing the annual EEO-1 Report. Employees, however, must be able to access the employer data in some form or pay will continue to be disparate based on sex. First, the EEOC does not have the resources to study the estimated 67,146 employers that will be completing the EEO-1 Report. Second, voluntary compliance will capture a small segment of the population because this data is already available to the impacted large employers, and yet the problem persists. SEIU Local 121RN therefore suggests employees and their labor organizations, as stakeholders, be granted access to their employer's report. If the EEOC is concerned that it cannot legally disclose individual employer data to impacted employees under Section 709(e)'s confidentiality provision, the EEOC should develop an user-friendly, online process for an employee or a labor organization to file a request for the trained EEOC investigators to review the identified employer data and to respond to the complainant within seven days as to whether there is a pay disparity between male and female employees. A fast turnaround is realistic where the complaint is submitted electronically, the data is available electronically, and staff are trained on the software which will be used to evaluate pay disparities based on sex.

Again, although unequal pay between men and women has been unlawful for over half a century, the problem persists nationwide, across industries, and regardless of specialization. SEIU Local 121RN strongly supports the EEOC's proposal to require large employers to disclose pay band data for men and women annually on the EEO-1 Report as one more step to close the pay gap. To be a realistic means of actually making a dent in the gender pay gap, there must be a way for employees and their labor organizations to be involved in this process and partner with the EEOC to ensure large employers are complying with the Equal Pay Act.

For the foregoing reasons, SEIU Local 121RN supports the proposed revisions to the Employer Information Report.

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