

Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The proposed amendments would redesignate portions of the following airways and jet routes within the United States:

1. V-163 from the Brownsville, Tex., VORTAC to the Matamoros, Mexico, VOR.
2. V-20 from the McAllen, Tex., VOR to the Reynosa, Mexico, VOR.
3. V-359 from the Laredo, Tex., VOR TAC to the Nuevo Laredo, Mexico, VOR.
4. V-280 from the El Paso, Tex., VOR TAC to Ciudad Juarez, Mexico, VOR.
5. J-29 from the Brownsville, Tex., VORTAC to the Tampico, Mexico, VOR.
6. J-25 from the Brownsville, Tex., VORTAC to the Matamoros, Mexico, VOR.
7. J-22 from the Laredo, Tex., VOR TAC to the Monterrey, Mexico, VOR.
8. J-11 from the Tucson, Ariz., VOR TAC via the Tucson 185° true radial to the United States/Mexico border.
9. J-13 from the Truth or Consequences, N. Mex., VORTAC via the Truth or Consequences 162° true radial to the United States/Mexico border.
10. J-26 from the El Paso, Tex., VOR TAC to the Ciudad Juarez, Mexico, VOR.

These proposed airspace actions would provide continuity of airways and jet routes between the United States and Mexico. It would also provide an efficient and orderly flow of traffic at major crossings between the two countries.

Mexican Government authorities have concurred in this plan and will initiate separate action to establish or otherwise amend their airway/route structure to be logically consistent.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on June 8, 1973.

H. B. HELSTROM,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc. 73-11835 Filed 6-11-73; 9:04 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR, Part 12]

NONDISCRIMINATION IN PROGRAMS RECEIVING ASSISTANCE FROM THE ENVIRONMENTAL PROTECTION AGENCY—EFFECTUATION OF SECTION 13 OF THE FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972

Notice of Proposed Rulemaking

The Environmental Protection Agency is considering the adoption of a new part 12 in chapter I of title 40 of the Code of Federal Regulations to implement section 13 of the Federal Water Pollution Control Act Amendments of 1972 by eliminating discrimination on the ground of sex under any program or activity receiving assistance from the Environmental Protection Agency under the Federal Water Pollution Control Act, as amended, or the Environmental Financing Act.

Interested parties are invited to submit written data, views, or comments to the Director, Office of Civil Rights and Urban Affairs, Environmental Protection Agency, Washington, D.C. 20460. All such submissions received on or before August 13, 1973, will be considered before approval and promulgation of a final regulation.

ROBERT W. FRI,
Acting Administrator.

JUNE 7, 1973.

PART 12—NONDISCRIMINATION IN PROGRAMS RECEIVING ASSISTANCE FROM THE ENVIRONMENTAL PROTECTION AGENCY—EFFECTUATION OF SECTION 13, THE FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972

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AUTHORITY.—Sec. 13, Federal Water Pollution Control Act Amendments of 1972.

§ 12.1 Purpose.

The purpose of this part is to effectuate section 13 of the Federal Water Pollution Control Act Amendments of 1972 (hereinafter referred to as the Act) to the end that no person in the United States shall, on the ground of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving financial assistance from the Environmental Protection Agency under the Fed-

eral Water Pollution Control Act Amendments of 1972.

§ 12.2 Definitions.

Unless the context requires otherwise, as used in this part the term:

(a) "Administrator" means the Administrator of the Environmental Protection Agency or, except in § 12.11(e), any other Agency official who by delegation may exercise the Administrator's authority.

(b) "Agency" means the Environmental Protection Agency and includes each and all of its organizational components.

(c) "Applicant" means one who submits an application, subagreement, request, plan, or any other document required to be approved by the Administrator, or by a primary recipient, as a condition to eligibility for Federal financial assistance, and "application" means such an application, subagreement, request, plan, or any other such document.

(d) "Facility" includes all or any part of structures, equipment, or other real or personal property or interests therein, and the term "provision of facilities" includes the construction, expansion, renovation, remodeling, alteration, or acquisition of facilities.

(e) "Federal financial assistance" includes:

- (1) Grants, loans, and advances of Federal funds;
- (2) The grant or donation of Federal property and interests in property;
- (3) The detail of Federal personnel;
- (4) The sale or lease of, or the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration, or for less than adequate consideration for the purpose of assisting the recipient, or in recognition of the public interest to be served by such a sale or lease to the recipient; and
- (5) Any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

(f) "Primary recipient" means any recipient which is authorized or required to extend Federal financial assistance to another recipient for the purpose of carrying out a program for which it receives Federal financial assistance.

(g) "Program" includes any program, project, or activity for the provision of services, financial assistance, or other benefits to individuals (including education or training, health, welfare, housing, rehabilitation, or other services, whether provided through employees of the recipient of Federal financial assistance or provided by others through contracts or other arrangements with the recipient, and including work opportunities or other assistance to individuals), or for the provisions of facilities for furnishing services, financial assistance, or

other benefits to individuals. The services, financial assistance, or other benefits provided under a program receiving Federal financial assistance shall be deemed to include (1) any services, financial assistance, or other benefits provided with the aid of Federal financial assistance or with the aid of any non-Federal funds, property, or other resources required to be expended or made available for the program to meet matching requirements or other conditions which must be met in order to receive the Federal financial assistance, and (2) any services, financial assistance, or other benefits provided in or through a facility provided with the aid of Federal financial assistance or such non-Federal resources.

(h) "Recipient" means any State, or any political subdivision or instrumentality thereof, any public or private agency, institution, organization, or other entity, or any individual, in any State to which or whom Federal financial assistance is extended, directly or through another recipient, for any program, or who otherwise participates in carrying out such program, including any successor, assignee, or transferee thereof, but such term does not include any ultimate beneficiary under any such program.

(i) "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

§ 12.3 Applicability.

This part applies to any program for which Federal financial assistance is authorized under the act administered by the agency. It applies to any such program or activity to which money was paid, property transferred, or other Federal financial assistance extended after the effective date of this part. This part does not apply to: (1) Any program funded only by Federal financial assistance by way of insurance or guaranty, (2) any such program to which money was paid, property transferred, or other assistance extended only before the effective date of this part, (3) any assistance to any individual who is the ultimate beneficiary under any such program, or (4) any employment practice under any such program of any employer, employment agency, or labor organization, except as provided in § 12.4 (c).

§ 12.4 Discrimination prohibited.

(a) *General.*—No person in the United States shall, on the ground of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity to which this part applies.

(b) *Specific discriminatory actions prohibited.*—(1) a recipient under any program or activity to which this part applies may not, directly or indirectly, on the ground of sex:

(i) Deny a person any service, financial assistance, or other benefit provided under the program;

(ii) Provide to a person any service, financial assistance, or other benefit which is different, or is provided in a different manner, from that provided to others under the program;

(iii) Subject a person to segregation or separate treatment in any matter related to such person's receipt of any service, financial assistance, or other benefit under the program;

(iv) Restrict a person in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial assistance, or other benefit under the program;

(v) Treat a person differently from others in determining whether such person satisfies any admission, enrollment, quota, eligibility, membership, or other requirement or condition which persons must meet in order to be provided any service, financial assistance, or other benefit provided under the program;

(vi) Deny a person an opportunity to participate in the program through the provision of services (or otherwise) or afford a person an opportunity to participate in a manner different from that afforded others; or

(vii) Deny a person the opportunity to participate as a member of any planning or advisory body which is an integral part of the program.

(2) A recipient, in determining the types of services, financial assistance, or other benefits of facilities which will be provided under any such program or the class of persons to whom, or the situations in which, such services, financial assistance, other benefits, or facilities will be provided under any such program, or the class of persons to be afforded an opportunity to participate in any such program may not, directly or indirectly, utilize criteria or methods of administration which have or may have the effect of subjecting a person to discrimination because of sex or which have or may have the effect of defeating or substantially impairing accomplishment of the objectives of the program or activity with respect to individuals of a particular sex.

(3) In any program receiving financial assistance in the form, or for acquisition, of real property or an interest in real property, to the extent that rights to space on, over, or under any such property are included as part of the program receiving that assistance, the nondiscrimination requirement of this part shall extend to any facility located wholly or in part in that space during the period of time stated in § 12.6(a) (2).

(4) The enumeration of specific forms of prohibited discrimination in this paragraph does not limit the generality of the prohibition in paragraph (a) of this section.

(c) *Employment practices.*—(1) Where a primary objective of a program receiving Federal financial assistance to which this part applies is to provide employment, a recipient or other person or entity subject to this part shall not discriminate, directly or indirectly, on the ground of sex in its employment

practices under such program. Employment practices include recruitment, recruitment advertising, employment, layoff, termination, firing, upgrading, demotion, transfer, rates of pay, or other forms of compensation or benefits, selection for training or apprenticeship, use of facilities, and treatment of employees. Each recipient shall take affirmative steps to insure that applicants are employed and employees are treated during employment without regard to sex. Where this part applies to construction employment, the applicable requirements shall be those specified in or pursuant to part III of Executive Order 11246, as amended, or any Executive order which may supersede it.

(2) In regard to Federal financial assistance which does not have providing employment as a primary objective, the provisions of subparagraph (1) of this paragraph apply to the employment practices of the recipient if discrimination on the ground of sex in such employment practices tends, on the ground of sex, to exclude persons from participation in, to deny them the benefits of, or to subject them to discrimination under the program receiving Federal financial assistance. In any such case, the provisions of subparagraph (1) of this paragraph shall apply to the extent necessary to assure equality of opportunity to and nondiscriminatory treatment of beneficiaries.

(d) *Site selection.*—A recipient may not make a selection of a site or location of a facility if the purpose of that selection, or its effect when made, is to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this rule applies, on the ground of sex.

(e) *Construction projects.*—An EPA recipient of funds awarded for the location, design, or construction of a demonstration facility or sewage treatment plant may not deny access to, or use of, the facility being constructed or the system of which it is a part to any person on the basis of sex.

§ 12.5 Affirmative action.

(a) Each applicant or recipient must take reasonable steps to remove or overcome the consequences of prior discrimination and to accomplish the purposes of the act where previous practice or usage has in purpose or effect tended to exclude individuals from participation in, deny them the benefits of, or subject them to discrimination under any program or activity to which this part applies, on the ground of sex.

(b) Even in the absence of such prior discrimination, a recipient in administering a program may take affirmative action to overcome the effects of conditions which resulted in limiting participation by, or denying benefits to, persons of a particular sex.

§ 12.6 Assurances required.

(a) *General.*—(1) *Form of assurance.*—Every application for Federal financial assistance to a program to

which this part applies and every application for Federal financial assistance to provide a facility shall, as a condition to its approval and the extension of any Federal financial assistance pursuant to the application, contain or be accompanied by an assurance that the program will be conducted or the facility operated in compliance with all requirements imposed by or pursuant to this part, and that the applicant shall take affirmative steps to insure equal opportunity and shall periodically evaluate its performance. Like assurances will be required of subgrantees, contractors, and subcontractors, transferees, successors in interest, and other participants in the program. Any such assurance shall include provisions which express consent to judicial enforcement by the United States.

(2) *Duration of assurance.*—In cases where the Federal financial assistance is to provide or is in the form of either personal property or real property or any interest therein or structure thereon, the assurance shall obligate the recipient or in the case of a subsequent transfer, the transferee, for the period during which the property is used for any purpose for which the Federal financial assistance is or was extended or for another purpose involving the provision of similar services or benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. In all other cases the assurance shall obligate the recipient for the period during which Federal financial assistance is extended to the program.

(3) *Assistance for construction.*—In the case where the assistance is sought for the construction of a facility, or part of a facility, the assurance shall in any event extend to the entire facility and to facilities operated in connection therewith. In particular, if a facility to be constructed is part of a larger system, the assurance shall extend to the larger system.

(4) *Assistance through transfer of real property.*—Where Federal financial assistance is provided in the form of a transfer from the Federal Government of real property, structures, any improvements thereon, or any interest therein, the instrument effecting or recording the transfer shall contain a covenant running with the land assuring nondiscrimination for the period for which the real property is used for a purpose for which the Federal financial assistance is or was extended or for another purpose involving the provision of similar services or benefits. Where no transfer of property or an interest therein from the Federal Government is involved, but property is acquired or improved under a program of Federal financial assistance, the recipient shall agree to include such a covenant in any subsequent transfer of such property. When the property is obtained from the Federal Government, the covenant may also include a condition coupled with a right to be reserved by the Agency to revert title to the property in the event of a breach of the covenant. Such a condition and right of reverter may be included in covenants

for any grants or other assistance that the Administrator in his discretion deems appropriate for such treatment. In such event if a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing, facilities on such property for the purposes for which the property was transferred, the Administrator may agree, upon request of the transferee and if necessary to accomplish such financing, and upon such conditions as he deems appropriate, to subordinate such right of reversion to the lien of such mortgage or other encumbrance.

(b) *Continuing State programs.*—Every application by a State or a State agency to carry out a program involving continuing Federal financial assistance to which this part applies shall, as a condition to its approval and the extension of any Federal financial assistance pursuant to the application, (1) contain or be accompanied by a statement that that program is (or, in the case of a new program, will be) conducted in compliance with all requirements imposed by or under this part, and (2) provide or be accompanied by provision for such methods of administration for the program as are found by the Administrator to give reasonable assurance that the applicant and all recipients of Federal financial assistance under such program will comply with all requirements imposed by or under this part.

(c) *Assurances from educational institutions.*—In the case of any application for Federal financial assistance to an institution of higher education, the assurance required by this section shall extend to admission practices and to all other practices relating to the treatment of students.

§ 12.7 Compliance information.

(a) *Cooperation and assistance.*—Each responsible Agency official shall seek the cooperation of recipients and applicants in obtaining compliance with this part and shall provide assistance and guidance to recipients and applicants to help them comply voluntarily with this part.

(b) *Compliance reports.*—Each recipient or applicant shall keep such records and submit to the responsible Agency official or such official's designee timely, complete, and accurate compliance reports at such times, in such form, and containing such information, as the responsible Agency official or such official's designee may determine to be necessary or useful to enable the Agency to ascertain whether the recipient or applicant has complied or is complying with this part. Recipients and applicants shall have available for Agency officials on request data showing the extent to which persons of each sex are or will be beneficiaries of the assistance. In the case of any program under which a primary recipient extends or will extend Federal financial assistance to any other recipient such other recipient shall submit such compliance reports to the primary recipient as may be necessary or useful to enable the primary recipient to carry

out its obligations as a recipient or applicant under this part.

(c) *Access to source of information.*—Each recipient shall permit access by the responsible Agency official or such official's designee during normal business hours to such of its facilities, books, records, accounts, and other sources of information as may be relevant to a determination of whether or not the recipient is complying with this part. Where any information required of a recipient is in the exclusive possession of any other agency, institution, or person and such agency, institution, or person fails or refuses to furnish this information, the recipient shall so certify in its report and shall set forth what efforts it had made to obtain the information.

(d) *Information to beneficiaries and participants.*—Each recipient shall make available to participants, beneficiaries, and other interested persons any information pertinent to the provisions of this part and its applicability to the program receiving Federal financial assistance which is necessary or useful to apprise such persons of the protections against discrimination assured them by the act and by this part.

§ 12.8 Investigations.

(a) *Periodic compliance reviews.*—The Administrator shall from time to time review the practices of recipients to determine whether they are complying with this part.

(b) *Complaints.*—Any person or entity who believes any specific class of persons (including the person or entity complaining) to be subjected to discrimination prohibited by this part may personally or by a representative file with the Administrator a written complaint. This complaint should be filed as promptly as possible after the date of the alleged discrimination.

(c) *Investigations.*—The Administrator will make a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with this part. The investigation will include, where appropriate, a review of the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with this part occurred, and other factors relevant to a determination of whether the recipient has failed to comply with this part.

(d) *Resolution of investigation.*—(1) If an investigation indicates a failure to comply with this part, the Administrator will so inform the recipient and complainant, if any, in writing, and the matter will be resolved by informal means whenever possible. If the Administrator determines that the matter cannot be resolved by informal means, action will be taken as provided for in § 12.9.

(2) If an investigation does not warrant action pursuant to subparagraph (1) of this paragraph, the Administrator will so inform the recipient and complainant, if any, in writing.

(e) *Intimidatory or retaliatory acts prohibited.*—No recipient or other person shall intimidate, threaten, coerce, or

discriminate against any individual for the purpose of interfering with any right or privilege secured by the act or by this part, or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The Administrator or the Administrator's designee may agree to keep confidential the identity of any complainant except to the extent that disclosure would be required by law in proceedings for the enforcement of this part.

§ 12.9 Procedure for obtaining compliance.

(a) *General.*—(1) If compliance with this part cannot be assured by informal means, compliance with this part shall be effected by termination of or refusal to grant or to continue Federal assistance in accordance with the procedures of paragraph (b) of this section, or by any other means authorized by law in accordance with the procedures of paragraph (c) of this section. Such other means include, but are not limited to, (i) a referral of the matter to the Department of Justice with a recommendation that appropriate judicial proceedings be brought to enforce any rights of the United States under any law or assurance or contractual undertaking, and (ii) any applicable proceeding under State or local law.

(b) *Procedure for termination or refusal to grant or continue assistance.*—An order terminating or refusing to grant or continue Federal assistance shall become effective only after:

(1) The Administrator has the applicant or recipient of its failure to comply and has determined that compliance cannot be secured by voluntary means;

(2) There has been an express finding on the record, after opportunity for hearing, of a failure by the applicant or recipient to comply with a requirement imposed by or under this part;

(3) The action has been approved by the Administrator pursuant to § 12.11 (e); and

(4) The expiration of 30 days after the Administrator has filed with the committee of the House and the committee of the Senate having legislative jurisdiction over the program or activity involved, a full written report of the circumstance and the grounds for such action. The termination or refusal to grant or continue assistance shall be limited to the particular political entity, or part thereof, or other recipient as to which a finding of noncompliance with section 13 of the act and with this part has been made and shall be limited in its effect to the particular program or part thereof in which such noncompliance has been so found.

(c) *Other means authorized by law.*—No action to effect compliance with section 13 of the act and with this part by any other means authorized by law shall be taken until:

(1) The Administrator has determined that compliance cannot be secured by voluntary means, and the recipient or other person against whom action will

be sought has been notified of such determination; and

(2) The expiration of at least 10 days from the mailing of such notice to the recipient or such other person. During this period of at least 10 days, additional efforts may be made to persuade the recipient or such other person to take such corrective action as may be appropriate.

§ 12.10 Hearings.

(a) *Opportunity for hearing.*—Whenever an opportunity for a hearing is required by § 12.9(b), reasonable notice shall be given by certified mail, return receipt requested, to the affected applicant or recipient. This notice shall fix a date not less than 3 weeks after the date of receipt of such notice within which the applicant or recipient may file with the Administrator a request in writing that the matter be scheduled for hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing under this paragraph or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing under § 12.9(b) and consent to the making of a decision on the basis of such information as is available.

(b) *Time and place of hearing.*—Hearings shall be held at the offices of the Agency in Washington, D.C., unless the Administrator determines that the convenience of the applicant or recipient or of the Agency requires that another place be selected. Hearings shall be held at a time fixed by the Administrator before a hearing examiner appointed in accordance with section 3105 of title 5, United States Code, or detailed under section 3344 of title 5, United States Code.

(c) *Right to counsel.*—In any proceeding under this section, the applicant or recipient and the Agency shall have the right to be represented by counsel.

(d) *Procedures, evidence, and record.*—(1) The hearing, decision, and any administrative review thereof shall be conducted in conformity with 5 U.S.C. 554-557 (1970).

(2) Technical rules of evidence do not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the officer conducting the hearing. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

(e) *Consolidated or joint hearings.*—In cases in which the same or related facts are asserted to constitute noncompliance with this part with respect to two or more types of Federal financial assistance to which this part applies, the Administrator may provide for the conduct of consolidated or joint hearings,

and for the application to such hearings of rules or procedures not inconsistent with this part. Final decisions in such cases shall be made in accordance with § 12.11.

§ 12.11 Decisions and notices.

(a) *Procedure on decisions by hearing examiner.*—The hearing examiner shall make an initial decision, including his recommended findings and proposed decision, and a copy of such initial decision shall be mailed by certified mail (return receipt requested), to the applicant or recipient. The applicant or recipient may, within 30 days after the receipt of such notice of initial decision, file with the Administrator his exceptions to the initial decision, and his reasons therefor. In the absence of exceptions, the Administrator may, on his own motion, within 45 days after the initial decision, serve on the applicant or recipient a notice that he will review the decision. Upon the filing of such exceptions or of notice of review, the Administrator shall review the initial decision and issue his own decision thereon including the reasons therefor. In the absence of either exceptions or a notice of review the initial decision shall, subject to paragraph (e) of this section, constitute the final decision of the Administrator.

(b) *Decisions on record on review by the Administrator.*—Whenever the Administrator reviews the decision of a hearing examiner pursuant to paragraph (a) of this section, the applicant or recipient, the Agency officials responsible, and the complainant, if any, shall be given reasonable opportunity to file with him briefs or other written statements of their contentions, and a written copy of the final decision of the Administrator shall be sent to the applicant or recipient and to the complainant, if any.

(c) *Decisions on record where a hearing is waived.*—Whenever a hearing is waived pursuant to § 12.10(a), a decision shall be made by the Administrator on the record and a written copy of such decision shall be sent to the applicant or recipient, and to the complainant, if any.

(d) *Rulings required.*—Each decision of a hearing examiner shall set forth his ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to this part with which it is found that the applicant or recipient has failed to comply.

(e) *Approval by Administrator.*—Any decision by an official of the Agency, other than the Administrator personally, which provides for the termination of, or the refusal to grant or continue, Federal financial assistance, or the imposition of any other sanction available under this part or the act, shall promptly be transmitted to the Administrator personally, who may approve such decision, vacate it, or remit or mitigate any sanction imposed.

(f) *Context of orders.*—The final decision may provide for termination of, or refusal to grant or continue, Federal financial assistance, in whole or in part,

to the program involved and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purpose of the act and this part, including provisions designed to assure that no Federal financial assistance will thereafter be extended under such program to the applicant or recipient determined by such decision to have failed to comply with requirements imposed by or under this part unless and until it corrects its noncompliance and satisfies the Administrator that it will fully comply with this part.

(g) *Post-termination proceedings.*—(1) An applicant or recipient adversely affected by an order issued under paragraph (f) of this section shall be restored to full eligibility to receive Federal financial assistance from the Agency if it satisfies the terms and conditions of that order for such eligibility and brings itself into compliance with this part and provides reasonable assurance that it will fully comply with this part in the future.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (f) of this section may at any time request the Administrator to restore fully its eligibility to receive Federal financial assistance from the Agency. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of subparagraph (1) of this paragraph. If the Administrator determines that those requirements have been satisfied, he shall restore such eligibility.

(3) If the Administrator denies any request made under subparagraph (2) above, the applicant or recipient may submit a request in writing for a hearing, specifying why it believes him to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record in accordance with rules or procedures issued by the Administrator. The applicant or recipient will be restored to such eligibility if it proves at such a hearing that it satisfied the requirements of subparagraph (1) of this paragraph. Failure to file such a request within 3 weeks after receipt of notice of such denial shall constitute consent to the Administrator's determination.

(4) While proceedings under this paragraph (g) are pending, the sanctions imposed by the order issued under paragraph (f) of this section shall remain in effect.

§ 12.12 Effect on other regulations, forms, and instructions.

(a) *Effect on other regulations.*—All regulations, orders, or like directions issued before the effective date of this part by any officer of the Agency, or by any predecessor of such an officer, which impose requirements designed to prohibit any discrimination against individuals on the ground of sex under any program to which this part applies, and which authorize the termination of or refusal to grant or to continue Federal financial assistance to any applicant for or recip-

ient of such assistance under such program for failure to comply with such requirements, are hereby superseded to the extent that the discrimination against which they are directed is prohibited by this part, except that nothing in this part shall relieve any person of any obligation assumed or imposed under any such superseded regulations, order, or like direction before the effective date of this part. Nothing in this part, however, supersedes any of the following (including future amendments thereof): (1) Executive Order 11246 (3 CFR 1971 etc., p. 424), and regulations issued thereunder, or (2) any other orders, regulations, or instructions insofar as such orders, regulations, or instructions prohibit discrimination on the ground of sex in any program or situation to which this part is inapplicable, or prohibit discrimination on any other ground.

(b) *Forms and instructions.*—The Administrator shall issue and promptly make available to all interested persons forms and detailed instructions and procedures for effectuating this part as applied to programs to which this part applies and for which he is responsible.

(c) *Supervision and coordination.*—The Administrator may from time to time assign to officials of the Agency, or to officials of other departments or agencies of the Government with the consent of such departments or agencies, responsibilities in connection with effectuation of the purposes of section 13 of the act, and this part. The Administrator may delegate in writing any function assigned (other than responsibility for final decision as provided in § 12.11), to him by the act or by this part. Any action taken, determination made, or requirement imposed by an official of another department or agency acting pursuant to an assignment or delegation of responsibility under this paragraph shall have the same effect as though such action had been taken by the Administrator of the Agency. All actions taken pursuant to this part with respect to EPA grants including written communications to or from a grant applicant or grantee shall be effected through the appropriate EPA Grants Officer.

[FR Doc. 73-11857 Filed 6-11-73; 8:45 am]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

[29 CFR, Part 1602]

ELEMENTARY AND SECONDARY SCHOOL SYSTEMS, DISTRICTS, AND INDIVIDUAL SCHOOLS

Public Hearing on Proposed Reporting and Recordkeeping Requirements

Notice is hereby given pursuant to 44 U.S.C. 1508 and § 1602.3, Equal Employment Opportunity Commission Procedural Regulations, 29 CFR 1602.3, that the Equal Employment Opportunity Commission has authorized a public hearing to be held at 10 a.m., June 27, 1973, in the hearing room of the Equal Employment Opportunity Commission, 1800 G Street NW., Washington, D.C., room 1129, for the purpose of considering

views regarding proposed reporting and recordkeeping requirements for elementary and secondary school systems, districts, and individual schools embodied in §§ 1602.39-1602.46 and Elementary-Secondary Staff Information Report EEO-5.¹ The public hearing is held as required by section 709(c), 42 U.S.C. 2000e-8(c), of title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, and § 1602.2, Equal Employment Opportunity Commission Procedural Regulations, 29 CFR 1602.2.

The Equal Employment Opportunity Act of 1972 extended the Commission's jurisdiction to include the employment practices of educational institutions, both public and private, with 25 or more employees (15 or more employees as of March 24, 1973), except religious educational institutions with respect to the employment of individuals of a particular religion. The act prohibits employment discrimination on the basis of race, color, religion, sex, or national origin. Section 709(c) of the act authorizes the Commission to require employers, employment agencies, and labor organizations to preserve such records and reports as are necessary and appropriate for the enforcement of the act.

Accordingly, the Commission proposes to amend title 29, chapter XIV, part 1602 of the Code of Federal Regulations to establish report and recordkeeping regulations for elementary and secondary school systems, districts, and individual schools as set forth below.

The EEO-5 report is a joint report form which will service the employment information needs of this Commission and the Department of Health, Education, and Welfare, Office of Civil Rights, and Office of Education. The report, therefore, will avoid unnecessary duplication of effort in obtaining the required information to the benefit of the public and the agencies involved pursuant to the mandate of the Office of Management and Budget, chapter 35, Coordination of Federal Reporting Services, 44 U.S.C. 3501, et seq. Additionally, the basic pattern established by the Office of Civil Rights for collection of employment information whereby individual schools are required to complete forms has been retained. It is to be noted, however, that the EEO-5 report does not supersede the collection of information previously required by the Office of Civil Rights pertaining to bilingual instruction, including (but not limited to) the number of teachers in the school system offering such instruction. Also, other information not reported on Form EEO-5 will continue to be required by the Office of Civil Rights on Forms OS/CR101 and OS/CR102, Elementary and Secondary School Civil Rights Survey.

All persons who are interested are invited to participate in the public hearing. The procedure governing the hearing is

¹ The proposed report EEO-5 and instructions are set forth in appendix I immediately following the proposed regulation.

set forth in §§ 1602.4-1602.6, Equal Employment Opportunity Commission Regulations, 29 CFR 1602.3-1602.6. Each person who wishes to participate should notify, in writing, the Director of Research, Equal Employment Opportunity Commission, Public Hearing—Personal, 1800 G Street NW., Washington, D.C. 20506, by June 22, 1973. Such notification should include the name, address, and telephone number of the person, agency, or organization wishing to participate, a brief general description of the evidence or argument to be presented, and an estimation of the time which will be required for such purpose. The Commission will notify the person, agency, or organization of the approximate time it will have for presentation and the approximate time during the public hearing at which such presentation may be given. A transcript will be made of the hearing and may be purchased by the public.

Persons planning to participate in this hearing and persons who are unable to attend the hearing or who wish to supplement in any way the presentation given at the hearing may submit pertinent written data, views, and argument to the Director of Research, Equal Employment Opportunity Commission, Proposed Regulation—Personal, 1800 G Street NW., Washington, D.C. 20506, no later than June 29, 1973. Each written submission should give the name and address of the person, agency, or organization responsible for it. Copies of all written submissions will be available for examination by interested persons at the Equal Employment Opportunity Commission Library, 1800 G Street NW., Washington, D.C., room 1145, between the hours of 9:30 a.m. to 5 p.m.

It is proposed to amend part 1602 by adding new subparts L, M, and N, and by adding new §§ 1602.39, 1602.40, 1602.41, 1602.42, 1602.43, 1602.44, 1602.45, and 1602.46 thereto to read as follows:

Subpart L—Elementary and Secondary School Systems, Districts, and Individual Schools Recordkeeping

Sec.
1602.39 Records to be made or kept.
1602.40 Preservation of records made or kept.

AUTHORITY.—Sec. 709(c), 78 Stat. 265, 42 U.S.C. sec. 2000e-8(c); 29 CFR 1602.3.

Subpart L—Elementary and Secondary School Systems, Districts, and Individual Schools Recordkeeping

§ 1602.39 Records to be made or kept.

On or before October 16, 1973, and annually thereafter, every public and private 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, with 15 or more employees, shall make or keep all records and information therefrom which are or would be necessary for the completion of report EEO-5 under the circumstances set forth in the instructions to that report (set out below), whether or not it is required to file such a report under § 1602.41. The instructions are specifically incorporated herein by reference and have the same

force and effect as other sections of this part. Such records and the information therefrom 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 at the individual school which is the subject of the records and the information therefrom 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, district, or individual school 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 system, district, or individual school by the Commission or the Attorney General, in a case involving a public school system, district, or individual school, 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, in a case involving a public school system, district, or school,

the date on which such litigation is terminated.

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

NOTE.—The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

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', districts', or individual schools' failure to file report.
1602.44 School systems', districts', or individual schools' exemption from reporting requirement.
1602.45 Additional reporting requirements.

AUTHORITY.—Sec. 709(c), 78 Stat. 265, 42 U.S.C. sec. 2000e-8(c); 29 CFR 1602.3.

Subpart M—Elementary-Secondary Staff Information Report

§ 1602.41 Requirement for filing and preserving copy of report.

On or before October 16, 1973, and annually thereafter, certain elementary and secondary school systems or districts, including individually or separately administered districts within such systems, and individual schools subject to title VII of the Civil Rights Act of 1964, as amended, 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, districts, and individual schools covered by this regulation 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, district, or individual school shall retain at all times, for a period of 3 years, a copy of the most recently filed EEO-5 at the central office of the school system or district, or the individual school which is the subject of the report, where more convenient, 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, districts, or individual schools 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', districts', or individual schools' failure to file report.

Any school system, district, or individual school 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 or the Attorney General, in a case involving a public school system, district, or individual school.

§ 1602.44 School systems', districts', or individual schools' exemption from reporting requirements.

If it is claimed that the preparation or filing of the report would create undue hardship, the school system, district, or individual school 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 that designated as the Elementary-Secondary Information Report EEO-5, about the employment practices of individual school systems, districts, or schools, or groups thereof, whenever, in its judgment, special or supplemental reports are necessary to accomplish the purposes 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.

(Sec. 709(c), 78 Stat. 265, 42 U.S.C. 2000e-3(c), 29 CFR 1602.3.)

Signed at Washington, D.C., this 1st day of June 1973.

WILLIAM H. BROWN III,
Chairman.

APPENDIX I

EQUAL EMPLOYMENT OPPORTUNITY INSTRUCTIONS FOR FILING THE ELEMENTARY-SECONDARY STAFF INFORMATION REPORT EEO-5 AND RECORDKEEPING REQUIREMENTS

Federal law requires that the Equal Employment Opportunity Commission (EEOC) and the Office for Civil Rights (OCR) of the Department of Health, Education, and Welfare (HEW) prescribe such records and reports as are necessary for the enforcement of the Civil Rights Act of 1964. Accordingly this report is required by the OCR to carry out the purposes of title VI of the act and by the EEOC to carry out the purposes of title VII as amended by the Equal Employment Opportunity Act of 1972.

This compliance reporting system is being implemented in a joint effort between EEOC, OCR, and the National Center for Educational Statistics of the Office of Education (HEW) for the collection of employment data of elementary and secondary school systems or districts and schools both public and private. The applicable laws, and regulations issued respectively by the EEOC and OCR pursuant to such laws, are reprinted in the appendix. The basis for the requirement of, and uses of, these data by the Office of Education are also explained in the appendix.

1. *Who must file.*—Elementary and secondary school systems or districts, public and private, with 15 or more employees located in any political subdivisions (State, county, municipality, township, special district, etc.), must maintain the necessary records to complete the EEO-5 form. Elementary and secondary schools within the systems or districts and schools which are individually or separately administered, public and private, must also maintain the necessary records to complete the EEO-5 form.

2. *When to file.*—Employment statistics should cover the payroll period closest to October 16 of the reporting year and the reports filed no later than _____ of the same year.

3. *Where to file.*—The completed reports should be forwarded in triplicate to the post office box indicated on the form. All requests for additional report forms should also be directed to this address.

4. *How to file.*—Elementary and secondary school systems or districts will complete and file a report form covering the combined employment data of all the schools within the system or district, regardless of the employment size of individual schools, and the employment data of all the administrative functions of the system or district.

Elementary and secondary schools within the system or district will complete and file a separate report. Blank forms will be sent to the central office of the political subdivision with the responsibility for the school system or district. In those jurisdictions where all the data are available at a single location, reports for individual schools and the aggregate report for the system or district may be completed and certified by the central office. Where data are not available at a single location, reports should be obtained by the central office from individual schools. In such cases certification will be made by a school official. In addition an aggregate report should be compiled for all schools and the school system or district including its administrative support, and all reports to Washington. The aggregate report should be certified by an official of the district or system. Blank forms will also be sent to the central office of a nonpublic school system whenever applicable or directly to a nonpublic school which may be individually or separately administered. Certification of such nonpublic organizations' reports will be done as indicated in the preceding instructions for public schools, districts, or systems.

5. *Requests for information and special procedures.*—A school, 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, alternative proposal for compiling and reporting the required information. Only those special procedures approved in writing by the Commission are authorized. Such authorization will remain in effect until notification of cancellation is given.

Direct all requests for special reporting procedures and other information to: Equal

Employment Opportunity Commission, attention: Office of Research, 1800 G Street NW., Washington, D.C. 20506.

6. *Instructions for filing EEO-5.*—A. *Type of report.*—(1) *School System or School District Report.*—An EEO-5 report must be filed if total employment of the school system/district is 15 or more. 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 A of the report; part-time personnel are to be reported in part 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, he must be reported as a full-time employee on the school system report but as a part-time person on the school report (see below). Anyone employed part time and assigned part time to a school must be reported as part time on both the school system and school reports where he is assigned.

(2) *School report.*—A report must be filed for each school operated by the school system. A school is defined as a division of the school system or district consisting of a group of pupils composed of one (1) or more grade groups, organized as one unit with one (1) or more teachers to give instruction of a defined type, and housed in a school plant of one (1) or more buildings.

Persons assigned full time to the school must be reported in part A of the report. Persons assigned part time to the school, regardless of whether they are employed full time by the school system, must be reported in part B of the report.

B. *Completion of the EEO-5 preprinted label.*—If the preprinted label showing the name and address of the school system/district or school, as it is presently identified by the OCR or the Office of Education, HEW, is in error, enter the correct information in part I, A, or B, whichever is applicable. Do not cross out the information on the label.

NOTE.—If the system or school number (code) is in error, enter the correct one to the right of the label. Do not cross out the preprinted number.

PART I.—IDENTIFICATION

A and B.—Enter the name and address information including ZIP code only if the preprinted label is in error; it is a new system or district; it has been consolidated or reorganized; it is a new school; or the reporting unit has been renamed.

C. Check the grades offered in a school for the individual school report only.

NOTE.—Do not complete item C in the aggregate report of a school system/district.

PART II.—AGENCY OR ORGANIZATION WHICH OPERATES SYSTEM OR SCHOOL REPORTING

This part identifies the agency or organization which operates the reporting unit (school or school system or district) and has the responsibility or ultimate authority for the employment or dismissal of a member or members of the staff.

PART III.—INDIVIDUAL SCHOOL REPORT

Complete this part for an individual school report only.

A. *Grades offered.*—Place an "X" for each of the grades taught in the school in the corresponding box of the form.

B. *Assignment of principal.*—If a principal is assigned to the school for which this report is intended, complete all the applicable items in this section of part III.

PART IV.—STAFF STATISTICS

A. Full time.—This item will reflect the full time staff by the activity assignment classification shown in the stub of the matrix, by sex for each of the designated racial/ethnic categories in columns a through l. Elected and certain appointed officials will not be included. Elected and appointed officials means an individual employed by a political jurisdiction, except that the term "employee" shall not include any person elected to public office in any State or political subdivision of any State by the qualified voters thereof, or any person chosen by such officer to be on such officer's personal staff, or an appointee on the policymaking level or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a State government, governmental agency, or political subdivision. Please enter in the appropriate line and column the number of full-time staff members on a full-time basis only. These are the staff members of the school or the school system or district whose current assignments require their services at the school campus or who work for the school system or district for the whole day everyday. If there are no full-time staff members in a category, enter "0" for the category.

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 department or special phases of the school system, or district or school operations. Include in this line superintendent of schools, deputy, associate, and assistant superintendent of schools; school business officials, and other professional administrative staff. (Do not include nonteaching principals, nonteaching assistant principals, or supervisors of instruction.)

Line 2.—Professional instructional staff includes: Principals; assistant principals; classroom teachers; and those staff members who are engaged in guidance and psychological work, librarians and audio visual personnel, consultants, librarians, nonclassroom teachers (homebound, etc.), TV teachers, and other professional instructional staff who can not be properly classified for reporting on lines 2a through f.

a. Principals.—Staff members performing the assigned activities of the administrative head of their respective schools (not school systems or districts) to whom it has been delegated responsibility for the coordination and direction of the activities of the school.

b. Assistant principals—Teaching.—Staff members who in addition to assisting the head of a school (normally the principal) in performing the activities of directing and managing a school are also engaged in instructing pupils in courses in classroom situations.

Nonteaching.—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.

c. 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. These are the professional staff members who instruct pupils in courses in classroom situations. Include here, 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 as one-half elementary and one-half secondary. Other applies to full-time classroom teachers who teach ungraded classes, special education, art, music, band, physical education, home economics, etc., who have not been reported as elementary or secondary.

d. Guidance and psychological.—Guidance personnel include staff members responsible for advising pupils with regard to their abilities and aptitudes, educational and occupational opportunities, personal and social adjustments, etc. Psychological personnel include psychologists and psychometrists responsible for providing psychological services to pupils including the administration and interpretation of psychological tests. Do not include here psychiatrists or psychiatric social workers. Such non-instructional professional staff should be reported on line 4 unless they are classifiable under the definition of officials/administrators/managers in which case they should be reported on line 1.

e. 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., director of audiovisual services, film inspector, projectionist, scriptwriter, graphic artists, etc.

f. Consultants and supervisors of instruction.—Include staff members performing activities of leadership, guidance, and expertise in a field of specialization for the purpose of improving the performance of teachers and other instructional staff members.

g. Other.—All other professional instructional staff members performing some instructional or related function on a full-time basis that cannot be properly classified for reporting on lines a through f, such as nonclassroom 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 noncourse (cocurricular) activities.

Line 3.—Nonprofessional instructional staff including secretarial and clerical aides: Include staff members performing activities of nonteaching nature who are not classified as professional educational, but who assist teachers to perform professional educational teaching assignments or who may assist the librarian in duties including distributive functions for the loan of materials, and assistance with organization and use of materials. Include also secretarial and clerical aides who assist the professional staff, but who can not be properly reported on line 6.

Line 4.—Professional noninstructional (not officials, administrators, etc.): Include staff members such as physicians, psychiatrists, dentists, and therapists (speech therapists, physical therapists, and psychologists whose primary function is psychotherapy) who provide services in the fields of physical health, mental health, and special education; school social workers, community workers, visiting teachers, attendance officers, attorneys, architects, engineers, and other professional noninstructional personnel employed by the school system.

Line 5.—Technicians: Occupations requiring a combination of basic scientific knowl-

edge 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, draftsmen, engineering aides, junior engineers, mathematical aides, licensed, practical or vocational nurses, dietitians, photographers, radio operators, scientific assistants, technical illustrators, technicians (medical, dental, electronic physical sciences), and similar occupations not properly classifiable in other activity assignments.

Line 6.—Clerical and secretarial: Occupations requiring skill 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. Do not include clerical or secretarial aides who can be properly reported on line 3.

Line 7.—Service workers (cafeteria maintenance, transportation, etc.): Staff members performing a service for which there are no formal qualifications including nonsupervisory personnel in cafeteria, maintenance, or transportation work, excluding custodial workers and laborers.

Line 8.—Custodial.—Include a staff member with the responsibility for cleaning the buildings of school plants or supporting services facilities; operating such equipment as heating and ventilating systems; preserving the security of school property; and keeping the school plant safe for occupancy and use. It consists of such activities as 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 watchman duties.

Line 9.—Laborers.—A staff member who performs manual labor not classified in another activity assignment classification. Includes garage laborers, car washers and greasers, gardeners and groundskeepers or activities such as lifting, digging, mixing, loading, and pulling operations.

Line 10.—Other nonprofessional, noninstructional: Any staff member that cannot be properly classified in the other nonprofessional, noninstructional activity assignment classifications as separately defined above.

B.—PART TIME

Line 1.—Professional instructional staff: Report on this line all staff members under this category who are working less than full time as defined above.

Line 2.—All others.—Report on this line all other part-time staff members who are not professional instructional.

C.—NEW HIRES

Lines 1 through 6.—Report the number of full-time staff newly hired at the school or school system between October 1, 1972, and September 30, 1973, for each of the six job categories listed on lines 1 through 6. Please use the definitions given above for reporting the full-time staff to complete this section of the report.

D.—CURRENT VACANCIES IN FULL-TIME STAFF

Lines 1 and 2.—Report the number of unfilled full-time professional instructional staff positions on line 1, and all other unfilled full-time positions on line 2.

E.—REMARKS

Enter here any information which may help clarify the data reported in any item or items.

7. *Race/ethnic identification.*—An employer may acquire the race/ethnic information necessary for this section either by visual surveys of the work force, or from postemployment records as to the identity of employees. An employee may be included in the minority group to which he or she appears to belong, or is regarded in the community as belonging.

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 postemployment records of the race or ethnic origin 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.

The concept of race as used by the Equal Employment Opportunity Commission does not denote clearcut 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 should be counted in more than one race/ethnic category.

Note.—The category "Spanish Surnamed", while not a race identification, is included as a separate ethnic category because of the employment discrimination often encountered by this group; for this reason do not include Spanish surnamed under either "white" or "black".

The category "White" should include persons of Indo-European descent including Pakistani and East Indian.

The category "White" should include persons of African descent as well as those identified as Jamaican, Trinidadian, and West Indian.

The category "Spanish surnamed" should include all persons of Mexican, Puerto Rican, Cuban, Latin American, or Spanish descent.

The category "American Indian" should include persons who identify themselves or

are known as such by virtue of tribal association.

The category "Asian American" should include persons of Japanese, Chinese, Korean, or Filipino descent.

The category "Other" should include Aleuts, Eskimos, Malaysians, Thais, and others not covered by the specific categories on the form.

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

9. *Certification.*—Enter the telephone number (include area code and extension, if any), name title, and signature of the person who is responsible for the report and can answer questions about it.

IMPORTANT NOTE.—The copy of the form which is identified for use by the Office for Civil Rights must be separately signed. A signature reflected by the use of the carbon will not be accepted on this copy of the report.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION												FORM APPROVED							
ELEMENTARY-SECONDARY STAFF INFORMATION (EEO-5) <i>(Public/private school systems/districts and schools)</i>																This is a joint requirement of the EEOC and Office for Civil Rights and Office of Education Department of Health, Education and Welfare,			
NOTE. Instructions for filing are given in the enclosed booklet. Additional copies of this form may be obtained from EEOC, ATTN: Office of Research, Washington, D. C. 20508 SEND COMPLETED COPIES OF THIS FORM TO																			
I. SCHOOL SYSTEM/DISTRICT - SCHOOL IDENTIFICATION																			
A. SCHOOL SYSTEM/DISTRICT																			
NAME												SCHOOLS WITHIN SYSTEM/DISTRICT NUMBER				PUBLIC		PRIVATE	
ADDRESS																			
NUMBER - STREET				CITY - TOWN				COUNTY				STATE - ZIP CODE							
B. SCHOOL																			
NAME																			
ADDRESS																			
NUMBER - STREET				CITY - TOWN				COUNTY				STATE - ZIP CODE							
II. AGENCY/ORGANIZATION WHICH OPERATES SYSTEM OR SCHOOL REPORTING																			
<i>(Check one)</i>																			
☐ LOCAL PUBLIC SCHOOL SYSTEM								☐ STATE EDUCATION AGENCY											
☐ OTHER STATE AGENCY <i>(Specify)</i>																			
☐ SPECIAL OR REGIONAL AREA <i>(Not part of organizations listed above)</i>								☐ NON-PUBLIC SCHOOL OR SCHOOL SYSTEM											
III. INDIVIDUAL SCHOOL REPORT																			
A. GRADES OFFERED																			
<i>(Place an "X" under each grade taught in this school)</i>																			
PRE-K	K	1	2	3	4	5	6	7	8	9	10	11	12	UNGRADED	SPECIAL EDUCATION	OCTOBER ENROLLMENT <i>(Number)</i>			
B. ASSIGNMENT OF PRINCIPAL																			
PRINCIPAL ASSIGNED TO SCHOOL												SEX							
☐ PART TIME ☐ FULL TIME												☐ MALE ☐ FEMALE							
IF FULL TIME, DOES THE PRINCIPAL HAVE A TEACHING ASSIGNMENT												RACE/ETHNIC IDENTIFY <i>(Check one)</i>							
☐ YES ☐ NO												☐ WHITE ☐ BLACK ☐ SPANISH SURNAMED AMERICAN							
												☐ ASIAN AMERICAN ☐ AMERICAN INDIAN ☐ OTHER							
IV. RESPONDENT AUTHORITY GRANTED THE OFFICE OF EDUCATION TO PUBLISH INFORMATION APPEARING IN THE GRAND TOTAL COLUMN OF ITEM V.																			
☐ YES ☐ NO																			

V. STAFF STATISTICS AS OF _____ (Do not include elected/appointed persons)													
ACTIVITY ASSIGNMENT CLASSIFICATION	STAFF TOTALS												OVERALL TOTALS (Sum of col A Thru L)
	MALE						FEMALE						
	WHITE	BLACK	SPANISH SURNAME AMERICAN	ASIAN AMERICAN	AMERICAN INDIAN	OTHER	WHITE	BLACK	SPANISH SURNAME AMERICAN	ASIAN AMERICAN	AMERICAN INDIAN	OTHER	
	A	B	C	D	E	F	G	H	I	J	K	L	M
FULL TIME STAFF													
1. OFFICIALS/ADMINISTRATORS/MANAGERS													
2. PROFESSIONAL INSTRUCTIONAL STAFF													
A. PRINCIPALS													
B. ASSISTANT PRINCIPALS													
TEACHING													
NON-TEACHING													
C. CLASSROOM TEACHERS													
ELEMENTARY													
SECONDARY													
OTHER													
D. GUIDANCE/PSYCHOLOGICAL													
E. LIBRARIANS/AUDIO VISUAL													
F. CONSULTANTS AND SUPERVISORS OF INSTRUCTION													
G. OTHER													
3. NON-PROFESSIONAL INSTRUCTIONAL STAFF (Including secretarial/clerical aids)													
4. PROFESSIONAL NON-INSTRUCTIONAL (Administrators, officials etc not included)													
5. TECHNICIANS													
6. CLERICAL/SECRETARIAL (Not aides)													
7. SERVICE WORKERS (Cafeteria, maintenance, transportation, etc)													
8. CUSTODIAL													
9. LABORERS (Exclude custodial)													
10. OTHER NON-PROFESSIONAL/NON-INSTRUCTIONAL													
TOTAL													
PART TIME													
1. PROFESSIONAL INSTRUCTIONAL STAFF													
2. ALL OTHER													
TOTAL													
NEW HIRES (Full time staff who joined the school system between 10/1/72 & 10/30/73)													
1. OFFICIALS/ADMINISTRATORS/MANAGERS													
2. CLASSROOM TEACHERS													
3. PRINCIPALS/ASSISTANT PRINCIPALS													
4. OTHER PROFESSIONAL INSTRUCTIONAL STAFF													
5. NON-PROFESSIONAL INSTRUCTIONAL STAFF													
6. TECHNICIANS													
7. OTHER													
TOTAL													
GRAND TOTAL													

CERTIFICATION. I CERTIFY THAT THE INFORMATION GIVEN IN THIS REPORT IS CORRECT AND TRUE TO THE BEST OF MY KNOWLEDGE AND WAS PREPARED IN ACCORDANCE WITH ACCOMPANYING INSTRUCTIONS. WILLFULLY FALSE STATEMENTS ON THIS REPORT ARE PUNISHABLE BY LAW, U. S. CODE, TITLE 18, SECTION 1001.

DATE	TEL. NO. (include area code)	TYPED NAME/TITLE OF PERSON PREPARING THIS REPORT	SIGNATURE
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EEOC FORM TEST 3

[FR Doc.73-11517 Filed 6-11-73;8:45 am]