Preparing for Potentially Shorter Deadlines in EEOC Charge Responses

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The Equal Employment Opportunity Commission ("EEOC") has traditionally given employers 30 days to respond to a charge of discrimination by submitting a position statement. However, recent reports suggest that some EEOC field offices are shortening that deadline to 15 days and becoming less willing to grant extensions. While the EEOC has not announced a nationwide change to its procedures, employers should be aware of these developments and be prepared to respond more quickly.

A shorter deadline leaves employers with less time to investigate the allegations, gather relevant documents, interview witnesses, and prepare a thorough response. Employers should review how they handle EEOC charges to make sure they have procedures in place to respond promptly.

What Employers Should Do

1. Keep Employment Records Organized.

When an EEOC charge is filed, one of the first steps is gathering the documents needed to investigate the allegations. These may include personnel files, performance evaluations, disciplinary records, company policies, emails, text messages, and other communications relating to the employment decision at issue.

Employers should have a system in place to locate and preserve these records quickly. Having to track down documents from different departments or former supervisors can take considerable time, particularly when the response deadline is only 15 days away.

2. Implement a Process in Place for Handling EEOC Charges.

Employers should have a clear procedure for what happens when an EEOC charge is received. This includes identifying who is responsible for reviewing the charge, notifying the appropriate individuals, preserving documents, and coordinating the response.

HR personnel and supervisors should also understand that requests for information relating to an EEOC charge need to be addressed promptly. Delays in gathering

information can make it difficult to prepare a complete position statement within a shortened deadline.

3. Involve Employment Counsel Early.

Employers should involve employment counsel as soon as an EEOC charge is received, rather than waiting until the response deadline approaches. Early involvement gives counsel time to review the allegations, identify the relevant legal issues, interview witnesses, and determine what documents are needed. It also allows time to address inconsistencies or gaps in the information before submitting the position statement.

A rushed response can result in important facts being overlooked or positions being taken without a complete understanding of the circumstances.

4. Request Extensions When Necessary.

There will be situations where additional time is needed, particularly when the allegations involve multiple employees, extensive records, or individuals who are no longer employed by the company. When additional time is necessary, employers should submit a written extension request as early as possible and explain why the extension is needed. Although recent reports suggest that some EEOC field offices have become less willing to grant extensions, employers should still request them when warranted.

Unless the EEOC confirms that an extension has been granted, employers should continue preparing their position statement to meet the original deadline.

Whether the reported 15-day deadlines become more widespread remains to be seen. In the meantime, employers should pay close attention to the deadlines provided by the EEOC and be prepared to respond within a shorter timeframe. Having an established process for handling charges, preserving records, and coordinating with employment counsel can make a significant difference in an employer's ability to submit a timely and well-supported response.