



U.S. Equal Employment Opportunity Commission

Questions and Answers for Respondents on EEOC's New Position Statement Procedures

EEOC has implemented nationwide procedures that provide for the release of Respondent position statements and non-confidential attachments to a Charging Party or her representative upon request during the investigation of her charge of discrimination.

These procedures apply to all EEOC requests for position statements made to Respondents on or after January 1, 2016.

The new procedures provide for a consistent approach to be followed in all of EEOC's offices, which enhances service to the public. The procedures will also provide EEOC with better information from the parties to strengthen our investigations.

Summary of Position Statement Procedures

During the investigation of a charge, EEOC may request that the Respondent employer submit a position statement and documents supporting its position. EEOC's resource guide for Respondents, "[Effective Position Statements](#)," advises Respondents to focus their position statements on the facts relevant to the charge of discrimination and to identify the specific documents and evidence supporting its position. A position statement focused on the allegations of the charge helps EEOC accelerate the investigation and tailor its requests for additional information.

A Respondent generally has 30 days to gather the information requested and to submit its position statement and attachments to the EEOC. If the Respondent relies on confidential information in its position statement, it should provide such information in separately labeled attachments. With EEOC's new [Digital Charge System](#), Respondents can upload their position statement and attachments into the digital charge file rather than faxing or mailing the documents.

After EEOC reviews the Respondent's position statement and attachments on a specific charge, EEOC staff may redact confidential information as necessary prior to releasing the information to a Charging Party or her representative.

EEOC will provide the Respondent's position statement and non-confidential attachments to Charging Parties upon request and provide them an opportunity to respond within 20 days. The Charging Party's response will not be provided to Respondent during the investigation.

Questions and Answers for Respondents

1. What do Respondents need to do to comply with these new procedures?

It is in the Respondent's interest to provide an effective position statement that focuses on the facts. An effective position statement is clear, concise, complete and responsive. It should clearly explain the Respondent's version of the facts and identify the specific documents and evidence supporting its position. A position statement that addresses all the allegations in the charge and provides relevant evidence to support the Respondent's position can help EEOC accelerate the investigation and tailor its requests for additional information.

2. How should Respondent handle confidential information when submitting the position statement and attachments to the EEOC?

The position statement should refer to, but not identify, information the Respondent asserts is sensitive medical information, confidential commercial or confidential financial information. If the Respondent relies on confidential information in its position statement, it should provide such information in separate attachments to the position statement labeled "Sensitive Medical Information," "Confidential Commercial Information" or "Confidential Financial Information," or "Trade Secret Information" as applicable. Respondent should provide an explanation justifying the confidential nature of the information contained in the attachments. Medical information about the Charging Party shall not be deemed sensitive or confidential medical information in

relation to the investigation.

3. What type of information is "confidential" that should be put into separately labeled attachments?

Respondent should segregate the following information into separate attachments and designate them as follows:

- o Sensitive medical information (except for the Charging Party's medical information).*
- o Social Security Numbers.*
- o Confidential commercial or confidential financial information.*
- o Trade secrets information.*
- o Non-relevant personally identifiable information of witnesses, comparators or third parties, for example, social security numbers, dates of birth in non-age cases, home addresses, personal phone numbers, personal email addresses, etc.*
- o Any reference to charges filed against the Respondent by other charging parties.*

EEOC will review attachments designated as confidential and consider the justification provided, as the agency will not accept blanket or unsupported assertions of confidentiality.

4. Who should sign the position statement?

The position statement should be signed by an officer, agent or representative of Respondent authorized to speak officially on its behalf.

5. What if Respondent needs additional time to submit its position statement?

If Respondent believes it requires more than 30 days to submit its position statement, it must, at the earliest possible time, make a request for an extension, setting forth good cause for the extension and the amount of additional time requested. Submitting a request for extension of time does not automatically extend the deadline for providing the position statement.

6. Can I call the investigator and request an extension of time for submission of the position statement?

Yes. We encourage you to contact the investigator as early as possible and also request that you follow up in writing (by letter or email) confirming your request for an extension and the agreed upon due date.

7. Under what circumstances would EEOC grant an extension of time?

A brief extension of time may be allowed in particular cases, but only when it is clear that the Respondent is working with due diligence to supply all of the necessary information. Evidence of due diligence would include a partial submission of information related to the allegations in the charge.

8. How should the position statement and attachments be submitted?

Respondents should upload the position statement and attachments into the Respondent Portal using the + Upload Documents button. Select the "Position Statement" Document Type and click the Save Upload button to send the Position Statement and attachments to EEOC. Once the Position Statement has been submitted, you will not be able to retract it via the Portal.

9. Will Respondents receive a copy of the Charging Party's response to its position statement?

No, the Charging Party's response will not be provided to Respondent during the investigation. The Commission is releasing the first formal document received from the Charging Party, the Charge, and the first formal document received from the Respondent, the Position Statement. No other disclosures are contemplated at this time. If during the course of the investigation, EEOC determines that it needs additional evidence from the Respondent, including information to address the Charging Party's rebuttal to the position statement, the Investigator will contact the Respondent. This supports effective and efficient management of the charge workload to focus the agency's resources where government enforcement can have the greatest impact.