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Regulatory Update

EEOC Reinvents Itself With a New Enforcement Plan for the Trump Administration

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On June 4, Equal Employment Opportunity Commission (EEOC) Chair Andrea R. Lucas signed the [National Enforcement Plan](#) for Fiscal Years 2025-2029 (the NEP), formally replacing the Biden-era Strategic Enforcement Plan for Fiscal Years 2024-2028 (the SEP). Although the NEP reaffirms the EEOC's foundational mission of equal employment opportunity, it represents a dramatic departure from the agency's preexisting enforcement philosophy and priorities.

The EEOC Chair's New Prioritization of Issues

One of the NEP's global principles affirms the EEOC's status as an executive branch agency and its commitment "to advance the Administration's policy objectives and comply with relevant Executive Orders." *Id.* § I(D). Accordingly, the NEP is designed around the Trump administration's political priorities for the workplace, including opposition to diversity, equity and inclusion (DEI) efforts and the recruitment of visa holders, as well as support for religious accommodation, single-sex spaces and the expression of certain beliefs about the nature of sex. Section III expressly identifies these substantive issues as the priorities of the EEOC Chair (which the NEP refers to as Chair Priorities). *Id.* § III. The Chair Priorities are:

- "Remediating DEI-related race and sex discrimination."
- "Protecting American workers from anti-American national origin discrimination."
- "Defending women's rights to single-sex spaces at work and workers' rights to express the binary nature of sex."
- "Protecting workers' religious liberty rights to receive religious accommodations and be free from religious discrimination, harassment and related retaliation."

Id.

The EEOC's New Prioritization of Cases

Section II, for its part, identifies the types of cases that the EEOC will prioritize. *Id.* § II. The new priorities "will apply, as appropriate, to investigation, conciliation and litigation, as well as the EEOC's amicus curiae and intervention representation." *Id.* § II.

First, the EEOC will prioritize cases that “present a substantial likelihood of broader enforcement significance beyond the parties to the dispute,” including cases involving “repeated or overt discrimination” or “broad-based employment policies, programs or practices that result in intentional discrimination against employees or applicants for employment.” *Id.* § II(A). In general, the NEP frames DEI efforts and similar efforts involving “guest worker visa holders” or Permanent Labor Certificate (PERM) applicants as a proxy for race- or sex-based discrimination or discrimination based on national origin against all employees or applicants for employment. *Id.* §§ II(A), III(A)-(B). The NEP provides illustrative examples:

- Job advertisements that encourage applications from “diverse candidates,” “guest worker visa holders” or “PERM applicants.” *Id.* § II(A)(1)(a).
- DEI practices, programs and policies involving race- or sex-based quotas, “including practices labeled ‘aspirational goals’ that are proxies for quotas.” *Id.* § II(A)(2)(a).
- DEI practices, programs and policies that limit access to “job training or advancement opportunities,” “employer-sponsored groups or events” or other terms, conditions or privileges of employment based on race or sex. *Id.* § II(A)(2)(b).
- Any use of race or sex in employment decisions (such as “diverse slate” or “diverse hiring panel policies,” “policies that require candidates to submit diversity statements” and “rubrics or other candidate evaluation methods that consider protected characteristics”). *Id.* § II(A)(2)(c).
- Disclosure of employee demographic data with managers, the public or other non-human resources (HR) personnel or legal representatives. *Id.*
- Executive or other employee compensation or bonuses that are tied to “demographic goals or other diversity goals.” *Id.*

Second, the EEOC will prioritize “[c]ases having the potential of promoting the development of law supporting the antidiscrimination purposes of the statutes enforced by the commission.” *Id.* § II(B). The NEP specifically calls out cases “involving the application or scope of recent Supreme Court precedent or presenting unresolved issues of statutory interpretation, including the analysis of DEI practices, programs and policies under Title VII after *Ames v. Ohio Dep’t of Youth Servs.*, 605 U.S. 303 (2025), *Muldrow v. City of St. Louis*, 601 U.S. 346 (2024) and *Students for Fair Admissions, Inc. v. President & Fellows of Harv. Coll.*, 600 U.S. 181 (2023); religious accommodation after *Groff v. DeJoy*, 600 U.S. 447 (2023) and *Bostock v. Clayton Cty.*, 590 U.S. 644 (2020); the “right to single-sex intimate spaces” and the “right to express the binary nature of sex” after *Bostock*; and the scope of liability under the Pregnant Workers Fairness Act. NEP § II(B)(1).

Third, the EEOC will prioritize cases involving “vulnerable workers,” which the NEP defines to include “teenage workers, persons with limited literacy or education, individuals employed in low-wage jobs, survivors of sexual assault and workers with developmental or intellectual disabilities.” *Id.* § II(C). This definition of “vulnerable workers” excludes many groups that were previously included in the definition. See SEP § II(C)(2).

Fourth, and finally, the EEOC will prioritize cases “involving the integrity or effectiveness of the commission’s enforcement process.” NEP § II(D). These include cases in which an employee or applicant complains of retaliation for opposing unlawful employment discrimination, as defined in the NEP; cases in which an employer’s defense is based on a challenge to EEOC policy; and cases involving a material breach of a settlement with the EEOC. *Id.* § II(D)(1)-(2), (4).

New Interpretation of Disparate Impact Liability

One of the global principles in the NEP expressly references [executive order 14281](#), which calls upon the federal government “to eliminate the use of disparate-impact liability in all contexts to the maximum degree possible.” Exec. Order No. 14281, 90 Fed. Reg. 17537 (Apr. 23, 2025), at § 2. Accordingly, the EEOC “will not commence, develop or continue to pursue litigation advancing disparate impact claims.” NEP § I(E).

It remains to be seen what role, if any, EEOC may play in matters brought under Section 703(k) of Title VII, which defines the burdens of proof for disparate impact claims. Less than a week after EEOC Chair Lucas signed the NEP, the Department of Justice (DOJ) Office of Legal Counsel (OLC) issued a [legal opinion](#) responding to her earlier inquiry about the constitutionality of the EEOC’s interpretative rules and guidance documents regarding disparate impact liability. *Constitutionality of Disparate-Impact Liability Under Title VII*, 50 Op. O.L.C. __ (June 9, 2026). According to the OLC opinion, which is binding on the EEOC, disparate impact is properly understood as “an evidentiary mechanism to smoke out intentional discrimination — imposing liability only when disproportionate adverse effects give rise to a strong inference of intentional discrimination.” *Id.* at 2.¹ The OLC concluded: “Because EEOC’s historic approach divorces liability from circumstances giving rise to a strong inference that intentional discrimination occurred, it functions as a qualified racial-proportionality mandate and spurs employers to engage in race-based decision-making to avoid liability. That approach is unlawful and unconstitutional.” *Id.* In this way, the OLC opinion further supports executive order 14281 and the EEOC’s new priorities.

Nationwide Enforcement Model

Another global principle calls upon the EEOC to “function as a national law enforcement agency” that “expects and requires collaboration, coordination and communication among agency staff in the commission’s various program offices.” *Id.* § I(C). To implement that mandate, the NEP withdraws not only the SEP but also “any District Complement Plans or other local enforcement plans or priorities.” *Id.* § IV(A). Employers should expect less regional differentiation in EEOC enforcement activities and nationwide enforcement of the Chair Priorities.

Other Departures

The NEP does not mention technology-related employment discrimination (e.g., involving artificial intelligence), equal pay or access to the legal system (e.g., restrictive covenants and arbitration agreements), all of which previously were priorities of EEOC. SEP §§ II(C)(3)-(5).

Considerations for Employers

The NEP is effective upon approval by the EEOC and will remain in effect indefinitely. Employers should revisit their employment practices, programs and policies in light of the EEOC’s new priorities. At the same time, employers should be mindful that the EEOC’s shift in enforcement priorities does not reflect a substantive change in federal anti-discrimination law and may be at odds with state and local anti-discrimination law.

Paul Hastings is actively monitoring updates to the legal landscape in this area. Please reach out to our team with any questions.



If you have any questions concerning these developing issues, please do not hesitate to contact any of the following Paul Hastings lawyers:

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¹ The OLC identified three “corrections” for the EEOC’s disparate impact analysis moving forward: lowering the bar for the business-necessity defense, raising the bar for establishing causality and requiring that plaintiffs establish that an alternative, equally effective employment practice would cause less disparate impact. *Id.*