

Blog Post

EEOC Powered Up: How Employers Can Level Up

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The EEOC is back on track, with a restored quorum, funding, and a well-defined agenda that aligns with the current administration’s policies. As the agency embarks on new policy initiatives, resumes rulemaking, and works to clear its case backlog, employers can take measures to ensure optimal preparedness.

Leadership Reset: A New Phase for the EEOC

After a year of limited action due to a lack of quorum, the EEOC now has a two-to-one Republican majority and is poised to advance its own strategic enforcement plan. This shift from “maintenance mode” to “mission mode” means employers should recalibrate their compliance strategies to match the agency’s renewed momentum.

Shifting Priorities: Where Enforcement Is Headed

The EEOC is expected to pivot sharply, targeting DEI practices, revisiting harassment and pregnancy accommodation guidance, and ramping up religious accommodation enforcement. The new Chair has emphasized a commitment to “evenhanded” enforcement, advancing equal opportunity, and upholding merit-based, “colorblind” workplace policies. Here’s what’s likely to be prioritized:

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- **Harassment:** Expect revised guidance that may roll back transgender and gender identity protections, with investigative resources refocused on discrimination claims based on biological sex. This could lead to a reduction, and even summary dismissal, of certain claims, potentially driving more private litigation as employees seek alternative remedies.
- **Pregnancy:** The EEOC is likely to narrow the scope of required accommodations under the Pregnant Workers Fairness Act, focusing on direct pregnancy-related needs rather than broader reproductive health issues such as infertility or menopause.
- **Religion:** Expect increased scrutiny of employer denials of religious accommodation requests, including those related to scheduling, dress/grooming, social media expression, and workplace prayer.
- **DEI:** Diversity, equity, and inclusion programs will face heightened scrutiny, especially those perceived as giving preference based on protected characteristics, regardless of DEI objectives.
- **Litigation:** The EEOC will prioritize systemic and pattern-or-practice cases with broad impact, while deprioritizing claims based solely on disparate impact theory.

Getting Ahead: Immediate Steps for HR

Employers need to get proactive. Now is the time to:

- **Monitor for new EEOC guidance**, especially on harassment, DEI, and pregnancy accommodations.
- **Review and update workplace policies** to align with the new enforcement landscape — especially DEI, religious, and pregnancy accommodations.
- **Prepare for broader data requests and more intense investigations**, including public pre-litigation demands.

- **Don't ignore disparate impact**, because even as the EEOC deprioritizes these claims, they remain actionable under Title VII, and private litigation may fill the gap.
- **Strengthen documentation and compliance** to ensure processes are robust and up to date.

The best defense is a good offense. Employers need to anticipate, not just react to, the EEOC's shifting priorities.

Enforcement Climate: What to Expect in Practice

The EEOC is signaling a tougher stance. Employers should anticipate more litigation, less tolerance for noncompliance, and a continued emphasis on education and outreach. Here's what to expect:

- **Aggressive Posture:** The EEOC is prioritizing high-profile, systemic cases, especially those aligned with administration priorities. Employers may see increased scrutiny of company-wide practices and policies.
- **Education with Enforcement:** While technical assistance and outreach will continue, the agency is placing a greater emphasis on robust enforcement and setting new legal precedents.
- **Litigation as Deterrent:** The threat of litigation is being used to drive voluntary compliance. Employers should be prepared for the possibility of public investigations with high-impact lawsuits.
- **New Directives:** Be prepared for additional executive orders or legislation that may quickly shift compliance requirements.
- **Guidance and Data:** Regularly monitor for new EEOC guidance, enforcement statistics, and public statements to stay ahead of emerging trends.
- **Court Decisions:** Stay vigilant for major rulings, such as those affecting the scope of Title VII,

which will continue to shape the agency's enforcement approach.

- **Navigating Conflicts:** Watch for potential disconnects between federal guidance and state and local laws. Strive for a balanced, supportive work environment that meets all applicable requirements.

Proactive monitoring and regular policy reviews are essential. Consider whether your current practices could withstand heightened scrutiny, and ensure your team is prepared to respond quickly to new developments.

Staying Prepared: The Road Ahead

With a refueled and empowered EEOC, employers cannot afford to sit back and wait. Now is the time to review your organization's policies and procedures before the EEOC comes knocking at the door — metaphorically or otherwise. Staying proactive, monitoring for new developments, and regularly updating compliance practices will help ensure your workplace is prepared for whatever changes may come.

The Akerman Labor and Employment team is here to help employers stay on top of emerging developments as they unfold.

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