

Blog Post

What's in Store for the Next Four Years? The EEOC's Strategic Plan

January 10, 2023

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The EEOC promises to secure greater equitable relief, to better investigate systematic discrimination, and to improve its customer service over the next four years, among other New Year's resolutions. In its draft [EEOC Strategic Plan 2022-2026](#) (released November 4, 2022), the agency sets forth 3 overarching goals and 15 identified performance measures for the purpose of achieving those goals. Although the comment period has ended, the EEOC has not yet published the final version of its Strategic Plan. Aside from potential changes to its preliminary plan, the EEOC concedes that budgetary, demographic, legal, and technological factors may impact its success in achieving its stated goals. Employers should brace themselves for the impact the EEOC's manifestation of its performance measures may have over the next four years.

Goal 1: Combat and Prevent Employment Discrimination Through the Strategic Application of the EEOC's Law Enforcement Authorities

To accomplish its first goal, the EEOC has set an objective to use administrative and litigation mechanisms to identify and eradicate discriminatory policies and practices, including systemic practices. To meet this objective, the EEOC will aim for 90 percent of EEOC conciliations and resolutions to "contain targeted, equitable relief" by 2025. This performance

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measure “is designed to encourage the EEOC to seek relief that goes beyond monetary damages for individual victims of discrimination.” Targeted, equitable relief may include non-monetary and non-generic relief, such as customized training for supervisors and employees, development of policies and practices to deter future discrimination, and external monitoring of employer actions. Employers should expect these types of remedies to become more common in EEOC conciliations and resolutions.

Additionally, the EEOC seeks to increase its capacity to conduct investigations of systemic discrimination through training and other resources, with a goal of at least 90 percent of investigators and trial attorneys participating in systemic training each year. As a result, employers should be prepared for investigations into single claims expanding into larger systemic investigations.

Furthermore, the EEOC seeks to enhance its intake services to potential charging parties, respondents, and representatives, thereby making it easier to manage processes for handling EEOC charges. In 2023, the EEOC will evaluate its intake services, determine baseline levels of service, and identify technological solutions and other resources to improve and expand accessibility to those services. Employers should expect that in the coming years the EEOC may make it even easier for employees to bring a charge.

Goal 2: Prevent Employment Discrimination and Advance Equal Employment Opportunities Through Education and Outreach

The EEOC plans to update its existing guidance and training materials, and create new resource tools to address and prevent workplace discrimination to reach its second goal. Starting in 2023, the EEOC will create or review and update at least two resources or guidance documents each year through 2026. Employers should anticipate these changes and stay up to date with

EEOC guidance and resources as these changes are being made.

The EEOC also aims to develop a federal government-wide network and repository to share EEO resources and leading practices occurring across federal government agencies in fiscal year 2025. Employers should anticipate that the proactive prevention and remedial measures taken at the federal agency level may serve as an example for positive impact upon equal employment opportunity in the workplace overall.

Goal 3: Strive For Organizational Excellence Through Its People, Practices, and Technology

Although the third EEOC goal addresses making changes internally for improved EEOC function, employers can expect the objectives set forth to achieve goal 3 to impact the ways in which charges are handled. Several objectives address improving the technology used by the EEOC for the purpose of improving the agency's charge and case management system (the "ARC"). Earlier in 2022, the ARC was rolled out for 145 EEOC and state and local "FEPA" offices – and the agency aims to completely deploy the ARC system for the rest of the agency's offices in 2023. Employers can anticipate this rollout to impact how the EEOC interacts with employers, and affect the process by which charges are handled.

New Year Refresh—The EEOC's Substantive Area Priorities

The EEOC will also be updating its "substantive area priorities," most likely this year. The agency's last Strategic Enforcement Plan (SEP) Fiscal Years 2017-2021, remains in force until a new report is released. The agency's SEP provides insight as to the nature and types of charges (i.e. race, sex, national origin, religion, disability, age, retaliation, systematic/pattern and practice) where the EEOC will prioritize and direct its resources. For the past several years, the EEOC's priorities have included the elimination of barriers in recruitment and

hiring, protecting vulnerable workers, including immigrant and migrant workers and “underserved communities” from discrimination, ensuring equal pay protections, preserving access to the legal system, and preventing systemic harassment.

We will be monitoring the EEOC’s release of any updates to its substantive area priorities. In the meantime, employers with questions or concerns about the EEOC’s strategic plan or substantive area priorities can check with their Akerman Labor & Employment attorney.

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