

EEOC Issues New National Enforcement Plan

June 18, 2026

On June 4, 2026, Equal Employment Opportunity Commission (EEOC) Chair Andrea Lucas signed a directive rescinding the agency's Biden-era Strategic Enforcement Plan for Fiscal Years 2024 – 2028 and replacing it with a new [National Enforcement Plan for Fiscal Years 2025 – 2029](#) (NEP). The NEP took effect immediately and guides the agency's work across outreach, public education, technical assistance, enforcement and litigation. It reflects a marked shift in substantive enforcement priorities.

Lucas identified the following enforcement areas as "Chair priorities": remedying race and sex discrimination related to diversity, equity and inclusion (DEI) efforts; 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"; and protecting workers' religious liberty rights to receive accommodations and be free from religious discrimination, harassment and related retaliation. She described the NEP as reaffirming the agency's "unwavering commitment to merit-based, evenhanded enforcement of our nation's civil rights laws."

Key priorities

The new NEP identifies several categories of substantive priorities, including the following:

Disparate treatment prioritized over disparate impact

[Consistent with executive order 14281](#), which declared a federal policy to eliminate the use of disparate impact liability "in all contexts to the maximum degree possible," the NEP explicitly deprioritizes disparate impact theory despite acknowledging its codification in Title VII. While the NEP acknowledges that Congress amended Title VII in 1991 to address disparate impact liability, it characterizes disparate treatment (intentional discrimination) as "inherently ... more egregious" than disparate impact, and states that the agency will not commence, develop or continue to pursue disparate impact litigation. Consistent with following EO 14281, the NEP also states that as "an executive branch agency," the EEOC will "use its discretion in its deployment of its enforcement authority to advance the Administration's policy objectives and comply with relevant Executive Orders."

DEI programs

The NEP targets employment policies, programs or practices framed as DEI, or "similar euphemisms," particularly those adopted by "large corporations, prominent universities, and other elite institutions." Examples cited in the NEP include race- or sex-based quotas (including aspirational goals "that are proxies for quotas or otherwise encourage or incentivize race- and sex-based decision making, in any employment action"); diverse slate policies; requirements that candidates submit diversity statements; employee race or sex data shared with managers, the public, or non-human resources or non-legal personnel; and executive compensation or bonuses tied to race- or sex-based demographic or diversity goals.

Promoting the development of law

The NEP also prioritizes development of anti-discrimination law, with particular focus on the application and scope of recent US Supreme Court decisions and unresolved issues of statutory interpretation. Priority areas include:

- The application of Title VII to DEI programs following the Supreme Court's decisions in *Ames v. Ohio Department of Youth Services*, *Muldrow v. St. Louis* and *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*.
- The "some harm" standard under *Muldrow*.

- Religious accommodation obligations under *Groff v. DeJoy*.
- The scope of *Bostock v. Clayton County* regarding single-sex spaces, the right to express the binary nature of sex and religious accommodations for sincerely held
- The scope of liability under the Pregnant Workers Fairness Act.

The NEP also states that the agency will prioritize cases involving circuit conflicts on NEP priority issues or cases presenting an opportunity for Supreme Court resolution.

Other priorities

In addition to the above priorities, the NEP states that the agency will target the following:

- Matters on an individual, class or systemic basis that raise issues presenting a substantial likelihood of broader enforcement significance beyond the parties to the dispute (including cases involving repeated or overt discrimination).
- Cases protecting “vulnerable workers,” including teenage workers, persons with limited literacy or education, individuals employed in low-wage jobs, sexual assault survivors, and workers with developmental or intellectual disabilities.
- Cases involving the integrity or effectiveness of the agency’s enforcement process, including cases where persons are retaliated against for participating in EEOC proceedings or a respondent’s defense is rooted in a challenge to EEOC policy documents.

Considerations for employers

The priorities in the NEP track the administration’s federal employment policy direction over the past 18 months. Employers should pay particular attention to the types of DEI initiatives and other employment practices the NEP identifies as targets. The agency also notes that it will collaborate with the Department of Justice, Department of Labor and Department of Education, as well as state and local agencies, through coordinated investigations, litigation, information sharing and other cooperative enforcement efforts, extending the practical reach of NEP enforcement.

In light of the NEP, employers should consider the following steps:

- **Audit programs and policies.** Review all existing DEI initiatives, hiring programs, mentorship and fellowship opportunities, and compensation structures to ensure equal access for all, regardless of protected characteristics.
- **Review job postings and recruiting materials.** Ensure that job advertisements do not use language that could discourage or encourage applicants on the basis of a protected characteristic. For example, the NEP specifically flags as “overt discrimination” job ads that, based on protected characteristics such as race or national origin, exclude or discourage certain individuals from applying, or encourage certain individuals to apply. This includes terms that function as race-based proxies (e.g., “diverse candidates”) or national origin proxies (e.g., “guest worker visa holders” or “PERM applicants”).
- **Assess immigration and visa-related hiring practices.** Programs that preference guest worker visa holders or Program Electronic Review Management (PERM) applicants may result in national origin discrimination claims or liability. Recent EEOC enforcement actions have targeted alleged anti-American bias and preferences for foreign workers.
- **Exercise caution when navigating religious accommodation requests.** Employers should confirm that their accommodation requests and interactive processes are well-documented, consistently applied and defensible under the *Groff* standard and in light of heightened EEOC scrutiny.

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