

One Year In: What We Know About The EEOC's Approach to Employer DEI Programs

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Following his inauguration in January 2025, President Trump signed a flurry of executive orders affecting diversity, equity, and inclusion (“DEI”) policies across the public and private sector. Particularly concerning for private employers who are federal contractors, Executive Order 14173, “Ending Illegal Discrimination and Restoring Merit-Based Opportunity,” addresses “illegal” private DEI and diversity, equity, inclusion, and accessibility (“DEIA”) policies by directing agencies, such as the Equal Employment Opportunity Commission (“EEOC”), to “combat illegal private-sector DEI preferences, mandates, policies, programs, and activities.” Additional information about the EEOC and its guidance is available [here](#) and [here](#). Private employers have also been taking note and updating their policies. However, the EEOC’s ability to enact this directive was hindered until it gained a quorum in October 2025. Now that it is operating at full capacity, employers have some visibility into the agency’s priorities.

After a slow start, the EEOC initiated litigation against an employer for sponsoring a female-only networking event.

The EEOC filed suit on February 17, 2026, against Coca-Cola Beverages Northeast, Inc., over its DEI initiatives, alleging that by sponsoring a two-day networking event at a casino for only female employees, Coca-Cola had discriminated against male employees on the basis of their sex. Female attendees were excused from their work duties, received their regular pay, and reimbursement for food and lodging expenses. The EEOC claims that the exclusion of male employees from attending the event was a denial of equal compensation, terms, conditions, or privileges of employment on the basis of sex.

The EEOC’s subpoena and enforcement authority has become a preferred investigative and enforcement tool in reviewing private employers.

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Although the EEOC has always had broad authority to subpoena private employer records while an investigation is pending, the agency has demonstrably increased its use of this authority. Just a month after obtaining a quorum, the EEOC sought an enforcement action against Northwestern Mutual Life Insurance Co. in Wisconsin. While investigating a claim that an employee had been discriminated against based on his sex (male), race (white), and national origin (American-Irish) in violation of Title VII, the agency sought extensive information pertaining to Northwestern's training, development, and promotion policies and initiatives over a three-year period. When Northwestern objected, the EEOC brought the lawsuit to compel compliance.

The EEOC specifically demanded the following information:

- Employee records from 2022 to 2025 for any training where race, national origin, sex, or sexual orientation was a criterion considered for participation in any employer-sponsored advisor or mentorship program.
- All reports or summary documents from 2022 to 2025 that consolidated information about diversity and inclusion at Northwestern.
- Based on a racial-equity initiative published on the company's website, documents reflecting the structure, function, budget, staffing, programs, and participation in that initiative.
- A list of employee names and contact information for anyone who had either received a "Diversity & Inclusion Champion Award," and each woman or person of color retained, promoted, or sponsored, for whom another manager received "credit" or "positive feedback."
- Documentation of Northwestern's performance management metrics and systems, including any systems used to track DEI goals and progress.

The Wisconsin court has not yet decided whether to limit the EEOC's inquiries. Other courts have found that the EEOC has broad statutory authority to investigate and request any company information relevant to a charge, which could include company-wide data and policies. For instance, in December, a California court ordered a supermarket chain operated by Vallarta Food Enterprises, Inc., to comply with an EEOC subpoena. The agency, investigating whether the company had excluded non-Hispanic individuals from employment, requested: extensive applicant and employee data (including demographic and contact information); screening questions used during the hiring process; job descriptions; and information about other race and national origin complaints.

External advocacy efforts may be contributing to EEOC-led investigations into employer DEI practices.

Although EEOC investigations are typically triggered by an individual complaint filed by a current or former employee or applicant, the EEOC can initiate investigations based on other information as well. Recent filings in the EEOC's enforcement action against Nike, Inc. reveal that the EEOC's now-Chair Andrea R. Lucas issued a Commissioner Charge against Nike in 2024 following receipt of more than 30 letters by America First Legal ("AFL") urging the agency to investigate major corporations' DEI programs. AFL is a

nonprofit organization that litigates social and corporate issues and prioritizes (among other things) “Dismantling Diversity, Equity, and Inclusion.” Nike’s campaigns and public documents commenting on social justice and inequity had previously drawn attention from policymakers. The EEOC issued wide-ranging requests for information, including:

- Nike’s organizational structure
- Programs used to increase racial and minority representation in its U.S. workforce
- The effect of minority representation on executive compensation
- Employee layoffs in 2024
- Racial and ethnic minority employee data
- Consideration, application, and selection materials and information for 16 employment-related programs

The court has not yet decided whether Nike must comply with all of the EEOC’s requests.

Employers continue to settle discrimination claims investigated by the EEOC.

Over the past few months, the EEOC has announced several settlements with employers over discrimination claims. A few notable examples include:

- A \$1.4 million settlement with LeoPalace Resort in Guam over allegations that it treated Japanese employees more favorably than non-Japanese (including those of American national origin) employees.
- A \$1.1 million settlement with Battleground Restaurants Group, Inc., which owns and operates several Kickback Jack’s restaurants in North Carolina. The lawsuit alleged the restaurants violated Title VII by intentionally failing to hire male applicants for host, bartender, and server positions.
- A \$150,000 settlement with Seward & Son, a large farming operation in Missouri accused of discriminating against American (and primarily Black) farm workers by providing foreign workers with preferential job assignments and other fringe benefits.

However, a recent decision in Missouri suggests employers may be able to limit certain legal challenges to DEI programs.

The state of Missouri sued Starbucks last February for its hiring, mentorship, and promotion policies and programs, claiming that its initiatives placed non-white, non-male, and “other preferred minorities” in an unlawful position of advantage over others in the workforce, in violation of state and federal laws. The heart of the allegations rested on Starbucks’ mentorship and employee-led affinity groups, which for a time were limited to specific employee populations. However, on February 5, 2026, the lawsuit was dismissed because the state had failed to allege its own specific injury or that of any individual or group of employees.

Other EEOC actions demonstrate continued investigations of traditional discrimination claims.

Based on these recent developments, employers might assume that the EEOC’s priorities have shifted. However, the agency continues to pursue allegations of race, sex,

disability, and pregnancy discrimination and retaliation. Recent lawsuits include a Tennessee employer accused of restricting Black employees from a breakroom reserved for white employees and firing a supervisor who “failed to restrain” one of his direct reports from making internal and external complaints of discrimination. Another involves a Michigan-based in-home health care provider who refused to assign home visits based on a nurse’s race because it believed that some residents would prefer to be cared for by a non-Black nurse. Recent settlements also involved:

- \$100,000 settlement of a former employee’s religious discrimination claim against the Young Men and Women’s Hebrew Association. The EEOC found that the employer failed to accommodate a Christian employee’s request to attend Sunday church services and retaliated against her, forcing her to resign.
- \$95,000 settlement with JACO Coach Company, LLC following an employee’s report of sexual harassment and unwanted touching by a male coworker.
- \$75,000 settlement of age discrimination and retaliation claims by workers in a long-term care facility who were mocked because of their age and treated less favorably than younger workers.

The EEOC’s focus on DEI-related enforcement is likely to continue.

Employers can expect that the EEOC’s pursuit of Title VII discrimination and retaliation claims will continue. On February 26, Chair Andrea Lucas issued a letter to 500 of the largest employers in the U.S., urging chief executive officers, general counsel, and board chairs to “reject identity politics” and hire and promote individuals based on merit rather than protected characteristics. The EEOC appears committed to this approach through education, compliance efforts, and enforcement actions. Employers facing discrimination charges or agency information requests should engage legal counsel early to evaluate and preserve potential defenses. Employers who value and promote diversity may also wish to review programs, policies, and public-facing information to assess potential risks while fostering an inclusive, respectful workplace. Dorsey’s labor and employment attorneys are well-prepared to provide guidance as employers navigate the evolving DEI landscape.

[1] Ending Illegal Discrimination And Restoring Merit-Based Opportunity – The White House

[2] <https://aflegal.org/priorities/>