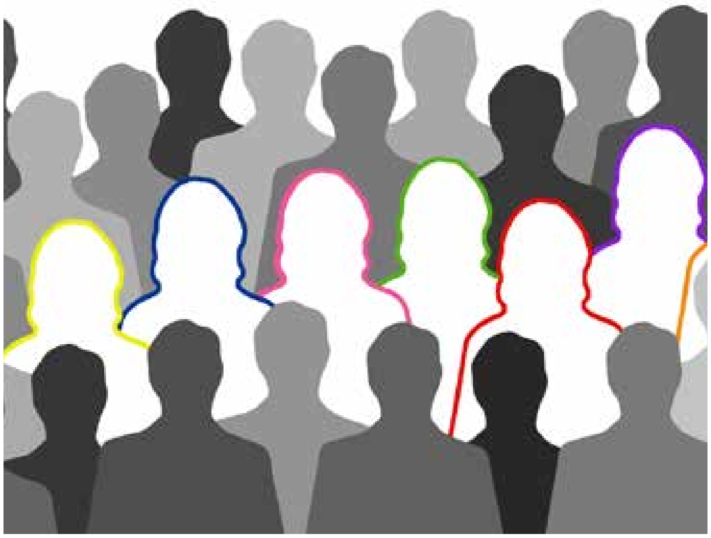
EEOC HOMES IN ON DEI, 'REVERSE DISCRIMINATION'



THE TRUMP administration has stepped up its campaign against corporate diversity, equity and inclusion initiatives and "reverse discrimination," announcing settlements and lawsuits against notable employers such as Nike as well as smaller companies.

The new push is being conducted under President Trump's executive order and Equal Employment Opportunity Commission guidance addressing when DEI-related practices may create compliance concerns under federal law. Since 2025, the Department of Justice and the EEOC have been targeting employers for these violations, alongside typical workplace discrimination claims involving gender, race and religion.

Some recent legal actions include:

- The EEOC is attempting to enforce a subpoena against Nike as part of an investigation into whether the company's workforce representation goals discriminated against white employees and applicants. The agency pointed to company statements about building a "representative" workforce and internal diversity targets.
- The agency sued Coca-Cola Beverages Northeast, alleging the company violated Title VII by holding a women-only networking event that excluded male employees while paying participating women to attend.
- The Justice Department recently settled with PayPal over a pandemic-era investment initiative focused on minority-owned businesses. Federal officials said the case reflects the administration's broader effort to eliminate what it considers unlawful DEI programs.

At the same time, employers should not assume that scaling back DEI efforts eliminates legal exposure. The EEOC continues to pursue traditional discrimination claims involving harassment, retaliation and hiring bias.

Proceed with caution

Employers that overreact by dismantling compliance programs may create new problems.

Eliminating anti-harassment training, suspending pay equity reviews or abandoning workplace complaint procedures can increase the risk of discrimination claims and weaken defenses if litigation occurs.

Instead, legal experts recommend that employers carefully review workplace policies and programs to ensure hiring, promotions, compensation and development opportunities remain merit-based and job-related.

Key steps employers may want to consider include:

- Reviewing employee handbooks and anti-discrimination policies.
- Auditing hiring and promotion practices for neutral, job-related criteria.
- Ensuring mentorship and leadership programs are open to all employees.
- Continuing anti-harassment and anti-discrimination training.
- Conducting pay equity reviews under attorney-client privilege.
- Carefully evaluating DEI language used in recruiting materials and internal communications.
- Documenting employment decisions thoroughly.
- Avoiding demographic quotas or preferences tied to protected characteristics.

Another growing concern is reverse discrimination lawsuits by white employees, which has become more common, particularly after a recent Supreme Court ruling made it easier for majority-group plaintiffs to bring discrimination claims.

Review your coverage

With employment litigation risks rising from multiple directions, employers should also review their employment practices liability coverage.

EPLI policies can help cover legal defense costs, settlements and judgments arising from discrimination, harassment and wrongful termination claims.

As enforcement activity intensifies, maintaining strong EPLI coverage may become increasingly important for businesses of all sizes.

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