

New Leaders, New Focus: Navigating EEOC Updates

WRITTEN BY

Jeffrey M. McPhaul | Amanda McCloskey

Since taking office, President Trump has issued a flurry of terminations and appointments at different administrative agencies, including the Equal Employment Opportunity Commission (EEOC).

As many expected, President Trump quickly appointed Commissioner Andrea Lucas as the Acting Chair of the EEOC. However, President Trump then fired two Democratic members of the EEOC, Commissioners Charlotte A. Burrows and Jocelyn Samuels. These terminations left the EEOC without a three-member majority (or “quorum”). As a result, the EEOC is limited in its ability to implement significant, immediate change, such as issuing, modifying, or revoking formal legal guidance.

Once a quorum is reinstated, employers should expect the EEOC to begin taking action that aligns with President Trump’s agenda. Based on [published comments](#) by Chair Lucas and executive orders to date, employers may anticipate EEOC action in, at minimum, the following areas.

Sex Based Rights

Gender Ideology. Upon her appointment, Chair Lucas [stated](#) that she is intent on “returning to [the EEOC’s] mission of protecting women from sexual harassment and sex-based discrimination” and rolling back the “gender identity agenda.” Consistent with that announcement, and at the heels of President Trump’s [Executive Order 14168](#), Chair Lucas removed several “materials promoting gender ideology” from the agency’s website and other agency materials, including internal documents, statements, forms, and training materials, further evidencing her priorities.

Chair Lucas has also been [vocal](#) in her opposition to the previous EEOC’s [Enforcement Guidance on Workplace Harassment](#). In particular, Chair Lucas criticized portions of that guidance relating to harassment based on gender identity — including protections for bathroom access based on an individual’s gender identity and intentional misuse of an individual’s desired gender pronouns. While Chair Lucas cannot unilaterally remove or modify this guidance, an eventual partial modification or recission of that guidance seems likely.

Pregnant Workers Fairness Act (PWFA). Chair Lucas has also [voiced](#) concerns over the previous EEOC’s [final rule](#) implementing the PWFA. Her position is that several portions of that final rule are overly burdensome, particularly those relating to the requirement that employers provide reasonable accommodations for abortion-related procedures. Once a quorum is re-established, Chair Lucas has stated that she intends for the EEOC to reconsider portions of the final rule. In the meantime, the Eighth Circuit is also considering an ongoing [legal challenge](#) to the lawfulness of the final rule. As such, employers may see changes to this final rule, and the obligations it imposes, even before a quorum of the EEOC is reinstated.

Religious Protections

The issue of when and how an employer must grant religious accommodations may be trickier now than ever under this new administration. Chair Lucas has stated that she is intent on “protecting workers from religious bias and harassment,” with a focus on [antisemitism](#) and [anti-Christian bias](#) in the workplace. Employers will have to consider how these priorities, along with the possible changes to sex-based rights noted above, may complicate balancing religious requests and safeguarding worker rights against unlawful discrimination and harassment.

National Origin Discrimination

Chair Lucas has also [announced](#) that the EEOC will target employers that “illegally prefer non-American workers” through the increased enforcement of Title VII’s national origin protections. As a result, employers may expect to see increased investigations, compliance checks, and litigation targeting employers who appear to prefer or favor immigrant workers over U.S. workers.

Employers can expect that changes to the makeup of the EEOC will come with significant shifts in policymaking and litigation initiatives pursued by the commission. Though agency guidance is a useful tool, that guidance often is subject to political influence and different priorities from administration to administration. As a result, employers should use all tools available to them to ensure legal compliance, including agency guidance (both formal and informal) and, most importantly, the law as interpreted by the courts. Now, more than ever, employers must be vigilant and flexible in their approach to compliance with federal and state discrimination laws.

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