

‘Illegal DEI’ Still Undefined in New EEOC, DOJ Guidance: Compliance Considerations for Employers

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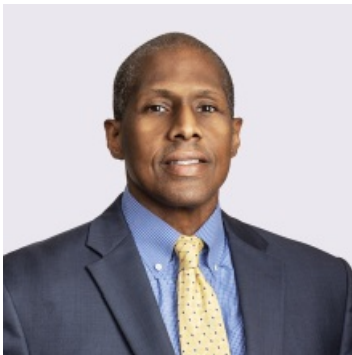
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Takeaways

- The guidance is “focused on educating the public about unlawful discrimination related to ‘diversity, equity, and inclusion’ (DEI) in the workplace.”
- DEI-related activities will be scrutinized under Title VII standards.
- Employers should ensure their DEI policies and programs align with Title VII.

Related links

- [EEOC and Justice Department Warn Against Unlawful DEI-Related Discrimination](#) (press release)
- [What To Do If You Experience Discrimination Related to DEI at Work](#)
- [What You Should Know About DEI-Related Discrimination at Work](#)

Article

The U.S. Equal Employment Opportunity Commission (EEOC) and the Department of Justice (DOJ) issued a [joint press release](#) on March 19, 2025, announcing two pieces of EEOC guidance for employers on workplace diversity, equity, and inclusion (DEI) initiatives. The guidance explains the Trump Administration’s view of how DEI actions may run afoul of anti-discrimination laws.

Key Guidance on DEI and Title VII

EEOC’s first guidance document, [What To Do If You Experience Discrimination Related to DEI at Work](#), summarizes agency’s view of the interaction between employers’ DEI programs and potential compliance with Title VII of the Civil Rights Act of 1964.

It makes clear that any employment action “motivated—in whole or in part—by an employee’s race, sex, or another protected characteristic” may be unlawful, even when the action is part of a DEI initiative. Examples from the guidance include efforts to:

- “Balance” the workforce;
- Limit, segregate, or classify employees; or
- Make employment decisions such as hiring, promoting, or diverse interview slates; compensation, access to mentoring, sponsorship, or workplace networking; and participation in internships, fellowships, or mentoring programs based on protected characteristics.



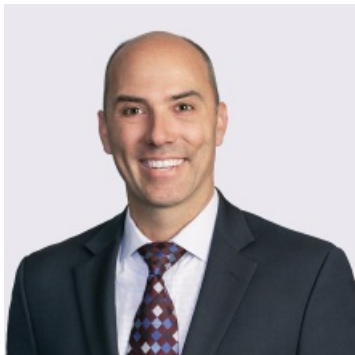
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It also highlights that “[d]epending on the facts, DEI training may give rise to a colorable hostile work environment claim” and that “[r]easonable opposition to a DEI training may constitute protected activity” that would prohibit employer retaliation.

EEOC’s second guidance document, [What You Should Know About DEI-Related Discrimination at Work](#), is structured as frequently asked questions that highlight:

- How employees can bring claims based on employer DEI-related activities;
- Title VII’s protections “apply equally to all workers” and not just to the benefit of a “minority group”;
- Anti-discrimination protections extend to employees, applicants, interns, and training or apprenticeship participants;
- Workplace trainings may create a hostile work environment under Title VII; and
- An employer’s business interest in “diversity” (including customer/client preference) does not justify practices that would otherwise be prohibited by Title VII.

Collectively, EEOC’s updated guidance acknowledges that, while the term is not defined, DEI-related activities will be scrutinized under Title VII standards.

Navigating the Evolving DEI Landscape

The EEOC and DOJ’s guidance signals heightened regulatory scrutiny of DEI-related practices. Employers should proactively take immediate steps to align DEI policies and programs with Title VII, which should help mitigate legal risks, ensure compliance, and protect the organization’s reputation.

Jackson Lewis’ attorneys are available to assist you in reviewing your policies for compliance.

Related Services

Corporate Diversity Counseling

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