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Client Alert: The EEOC's New National Enforcement Plan: What Employers Need to Know and Why Health Care Organizations Should Act Now

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On June 4, 2026, the Equal Employment Opportunity Commission (EEOC) approved a new National Enforcement Plan (NEP) for Fiscal Years 2025–2029, replacing the prior Strategic Enforcement Plan and expressly identifying Diversity, Equity, and Inclusion (DEI)-related race and sex discrimination as a Chair Priority.

Although the NEP does not outright prohibit diversity, equity, and inclusion initiatives, programs labeled or framed as DEI or similar euphemisms, will be closely scrutinized. Under the new plan, the EEOC will also prioritize disparate treatment over disparate impact theories and litigation.

The Legal Landscape

The NEP serves as the EEOC's roadmap for how it will allocate enforcement resources and prioritize investigations and litigation efforts nationwide. Although the NEP does not change existing anti-discrimination law, it provides valuable insight into the employment practices and workplace issues the agency intends to focus on most closely in the coming years.

The NEP adopts a centralized enforcement model meaning field offices will operate under a single set of national priorities with the agency retaining authority to reassign matters across districts. The agency can also self-initiate investigations through Commissioner charges without waiting for an employee complaint. The NEP's implications are not limited to large corporations or universities. Any employer with DEI related or adjacent programs or practices should understand the current enforcement posture.

For grant recipients, Executive Order 14173 (January 21, 2025) adds a separate layer by requiring certification that the organization does not operate any programs promoting DEI that violate any applicable federal anti-

discrimination laws.

Why Health Care Employers Face Heightened Risk

The NEP is particularly significant for health care employers because the industry remains one of the nation's largest and most heavily regulated workforces. The EEOC has already acted in the health care space, reaching a $500,000 conciliation with Planned Parenthood of Illinois in March 2026 involving race-segregated employee meetings, harassment via DEI trainings, and disparate treatment against white employees.

Health care organizations should review and examine:

1. **Grant and Funded Programs**. Organizations should review Health Resources and Services Administration (HRSA) Nursing Workforce Diversity grants, National Institutes of Health (NIH0 Diversity Supplements, HRSA pipeline grants to Federally Qualified Health Centers (FQHCs), residency and fellowship programs with demographic selection criteria, pipeline internships restricted by race or sex, and private foundation grants measuring success by demographic hiring outcomes. Many of these grant structures predate the current enforcement environment, and their terms may need to be reconciled with EO 14173's certification requirements. Health care employers should assess diversity hiring goals, targeted recruiting programs, and residency, fellowship, internship, and scholarship programs. The line between permissible outreach (advertising positions broadly, recruiting at Historically Black Colleges and Universities (HBCUs), removing barriers to application) and impermissible preference (reserving positions, applying different selection criteria, or using demographic filters) requires careful analysis of how each program is actually designed and administered.
2. **Recruiting and Hiring**. Health care employers should assess diversity hiring goals, targeted recruiting programs, and residency, fellowship, internship, and scholarship programs. The line between permissible and impermissible preference requires careful analysis of how each program is actually designed and administered.
3. **Promotion and Leadership Development**. Leadership pipelines focused on certain demographic groups, succession planning initiatives, and mentorship programs with race- or sex-based eligibility criteria all warrant review, especially where these programs have been memorialized in board resolutions, strategic plans, or public commitments.
4. **Compensation and Benefits**. Programs tying executive bonuses or incentive compensation to demographic hiring or promotion outcomes are expressly identified in the NEP as enforcement targets. Organizations with such structures should evaluate whether these provisions need to be restructured before the next compensation cycle.
5. **DEI Training and Communications**. Internal messaging that could be interpreted as favoring or disadvantaging employees based on protected characteristics warrants review. DEI statements that are inconsistent with actual employment practices, or that could be read as evidence of race or sex-based decision-making, present particular risk in the context of an EEOC investigation. Organizations should assess whether existing training content, internal communications, and public-facing DEI language align with their actual practices and legal obligations.

Action Items

As it relates to DEI initiatives, employers should conduct a privileged review of existing programs.

1. **Conduct a DEI Audit.** Review policies, recruiting practices, leadership programs, internships, scholarships, employee resource groups, and workforce programs.
2. **Review Eligibility Criteria.** Review employment programs as to whether such programs are restricted

based on protected characteristics.

3. **Evaluate Hiring and Promotion Processes.** Confirm decisions are based on job-related criteria and documented business considerations.
4. **Review Public Statements.** Compare public DEI statements with actual employment practices to ensure compliance and avoid becoming a target.
5. **Review Grant and Funding Obligations.** Consider the certification requirements of Executive Order 14173 and potential False Claims Act exposure.
6. **Engage Counsel for a Privileged Legal Review.** Work with legal counsel to assess specific legal exposure, including whether current grant certifications under Executive Order 14173 are accurate, whether any active programs could support an EEOC charge, whether public DEI statements create risk, and whether program eligibility criteria need to be restructured.

Key Takeaways

The NEP does not eliminate DEI initiatives or change the underlying anti-discrimination statutes. However, employers should expect increased scrutiny of programs that are labeled or framed as DEI initiatives. For health care organizations in particular, the risk is compounded by grant certification requirements and publicly stated DEI commitments.

Please reach out to Mara Rendina or Rebecca Shope if you have questions about how the new enforcement environment impacts your organization, or if you would like assistance conducting a privileged review of policies, programs, and grants.

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