



EXECUTIVE SUMMARY

We are in a moment in time when civil rights and equal employment opportunity are facing waves of destructive orders, memoranda, and actions from a hostile federal executive branch.

EEO Leaders have issued a comprehensive document, [*The Time is Now: Fight Back/Move Forward*](#) to meet this moment. This document provides a summary of the Trump Administration's attacks on equal employment opportunity and the responses by EEO Leaders to those attacks.

We also seek to begin a dialogue on how we can develop new strategies that will move us forward to fully realize the promise of America's civil rights laws in even stronger and more creative ways. We will engage with a range of stakeholders in this area to strategize collectively for the future.

We are committed to fighting back and moving forward.

FIGHT BACK

Support for Employers Who Continue to Take Proactive Steps to Advance Equal Employment Opportunity

- For decades, the law has supported employers who take proactive steps to prevent, identify, and counteract discrimination that might otherwise occur in their workplaces.
- Despite these longstanding legal principles, the Trump Administration has sought to intimidate employers into abandoning lawful, proactive steps to promote equal opportunity. By fueling attacks on what it calls "unlawful DEI," the Administration has asserted that certain practices promote identity-based preferences and weaken "merit-based" treatment of employees. This broad assault on equal employment opportunity significantly undermines efforts to create discrimination-free workplaces.
- EEOC Chair Andrea Lucas has taken a series of actions to implement the Administration's views, warning employers not to engage in "DEI-related discrimination." These actions include:
 - Issuing unlawful demands to law firms for DEI information in the absence of underlying charges;
 - Issuing a misleading technical assistance document warning of legal peril if employers engage in DEI efforts;
 - Spreading fear about employers' collection and use of demographic data; and
 - Dissolving EEOC's Employee Resource groups and abolishing agency programs that celebrate different cultures and historical events
- We have [responded](#) to inaccurate warnings from the Trump Administration about "DEI-related discrimination" designed to chill employer efforts to promote equal opportunity.

- The Department of Justice (DOJ) has also amplified the Administration’s efforts to mislead employers through a [memo](#) issued in July 2025. We have [responded](#) to that memo and have underscored the lawful proactive steps that employers may take to advance equal opportunity through diversity, equity, and inclusion efforts.

Using Disparate Impact Analysis to Prevent Employment Discrimination

- Disparate impact analysis has been a core part of Title VII for decades and remains essential in making sure automated employment decisions don’t unfairly exclude qualified workers.
- The Trump Administration, via executive order, has directed agencies to eliminate the use of disparate impact analysis. This contravenes an express Congressional mandate and decades of Supreme Court precedent— depriving agencies of a critical tool to protect workers from harmful discrimination.
- EEOC Chair Andrea Lucas has taken the following steps to undercut the use of disparate impact analysis to tackle discriminatory practices:
 - Moving to dismiss the Commission’s *EEOC v. Sheetz Inc.* systemic discrimination lawsuit, which relied on disparate impact analysis to challenge alleged race discrimination in the employer’s denial of employment opportunities based on criminal records.
 - Refusing to pay state and local Fair Employment Practices Agencies (FEPAs) for their work investigating employees’ charges that allege discriminatory disparate impact;
 - Issuing a memo ordering field staff to close all pending investigations of charges relying on the disparate impact theory of liability by September 30 and informing staff that they could no longer investigate or conciliate charges premised on disparate impact liability.
 - In May 2025, EEO Leaders issued a [statement](#) explaining the importance of disparate impact analysis in employment and the legal deficiencies of efforts to undermine this tool.

Protecting LGBTQ+ Individuals from Employment Discrimination

- The Supreme Court’s 2020 decision in [Bostock v. Clayton County](#) firmly established that employment discrimination based on sexual orientation and gender identity is prohibited sex discrimination under Title VII.
- However, the Trump Administration, via executive order, has denied the existence of transgender, nonbinary, and intersex people, thus attempting to eliminate Title VII protection for them or any other workers claiming gender identity protection— directly contradicting Supreme Court precedent.
- EEOC Chair Andrea Lucas has taken the following steps to further undermine the rights of the LGBTQI+ community:
 - Moving to dismiss seven EEOC lawsuits on behalf of transgender employees and others who supported them.
 - Failing to process charges filed by LGBTQ+ people in a lawful manner. EEOC leadership initially halted investigation of these charges and then instructed staff to process on a limited category of such charges.
 - Improperly amending the EEOC’s Harassment Guidance by “shading out” all sections addressing harassment based on sexual orientation or gender identity.
 - Removing materials about discrimination against LGBTQ+ individuals from the EEOC website.
 - Denying EEOC employees the opportunity to self-identify and denying charging parties the right to designate a sex other than male or female.
 - Refusing to pay FEPAs for processing gender identity charges.

- We have explained in a series of documents how discrimination on the basis of sexual orientation or gender identity is prohibited under Title VII and how LGBTQ+ charges should be properly processed under the law. See [June 16, 2025 Statement on Harassment Guidance](#); [June 25, 2025 Open Letter to Andrea Lucas](#); and [July 21, 2025 Statement on Processing LGBTQ+ Charges](#).

Fighting for EEOC's Integrity and Effectiveness

- Title VII requires EEOC to be a bi-partisan commission of presidentially appointed and Senate confirmed experts with set statutory terms.
- President Trump, without precedent, terminated two of the Democratic EEOC Commissioners before their terms ended.
- EEOC Chair Andrea Lucas has undermined, sometimes illegally, the integrity of the agency by taking the following actions:
 - Issuing public letters demanding information from employers in the absence of a charge.
 - Allowing EEOC to be used as a tool in President Trump's retaliatory campaign against certain law firms.
 - Modifying the Commission's Harassment Guidance without a vote.
 - Denying FEPAs compensation for work performed on charges alleging gender identity discrimination or disparate impact.
 - Ignoring Commission-voted LGBTQ+ priorities in the Strategic Enforcement Plan.

MOVE FORWARD

We cannot expend all our energy fighting back against the onslaught of attacks on equal employment opportunity happening in this country today. We must also spend energy on strategies for moving forward.

- Where equal employment opportunity programs and structures have been destroyed, we need to rebuild those structures and develop strong protections to ensure their viability moving forward.
- But beyond that, we must think boldly and creatively about what is needed to achieve robust protections in the 21st century for all workers.
- We need to build an initiative that engages a broad range of stakeholders and reflects a diversity of perspectives to meet the needs of the full range of workers and employers.

As EEO Leaders, we are committed to soliciting ideas from all stakeholders, working with other efforts to strengthen civil rights enforcement, and collectively creating an energized and effective community dedicated to equal employment opportunity.

Join Us In Fighting Back and Moving Forward!