

EEOC Technical Guidance Warns Against DEI-Related Discrimination at Work

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On March 19, 2025, the U.S. Equal Employment Opportunity Commission (EEOC) issued two technical assistance guidance documents (found [here](#) and [here](#)) focused on educating “the public about how well-established civil rights rules apply to employment policies, programs, and practices—including those labeled or framed as ‘DEI.’”ⁱ

In the *What To Do If You Experience Discrimination Related to DEI at Work* document, the EEOC explains that DEI-related discrimination can include “an employer taking an employment action motivated (in whole or in part) by race, sex, or another protected characteristic,” and states that disparate treatment, may include, for example, “exclusion from mentoring or sponsorship programs” or fellowships. The guidance also confirms that Title VII prohibits employers from “limiting, segregating or classifying employees based on race, sex or other protected characteristics in a way that affects their status or deprives them of employment opportunities” and notes that “prohibited conduct” may include the following:

Limiting membership in workplace groups, such as Employee Resource Groups (ERG) or other employee affinity groups, to certain protected groups

Separating employees into groups based on race, sex, or another protected characteristic when administering DEI or other trainings, or other privileges of employment, even if the separate groups receive the same programming content or amount of employer resourcesⁱⁱ

In the *What You Should Know About DEI-Related Discrimination at Work* document, the EEOC provides guidance regarding, for example, how to file a charge of discrimination based on an employer’s DEI-related practices and how to identify DEI-related practices which may be discriminatory in violation of Title VII. The guidance further also addresses whether Title VII protections extend only to employees who are part of a “minority group,” and confirms that “Title VII’s protections apply equally to all workers,” highlighting that “the EEOC does not require a higher showing of proof for so-called ‘reverse’ discrimination claims [and that] there is no such thing as ‘reverse’ discrimination; there is only discrimination.” Importantly, the issue of “reverse discrimination,” and standards applicable to evaluate claims of reverse discrimination, are currently pending before the Supreme Court ([Ames v. Ohio Department of Youth Services](#)).

Given the EEOC guidance and various Executive Orders issued by the new Administration concerning DEI and related matters (found, for example, [here](#) and [here](#)), employers are encouraged to carefully assess their DEI programming and to engage with legal counsel to determine the best next steps.

If you have any questions about this article, please contact **Elizabeth N. Hall** at ehall@vedderprice.com, **Marianna E. Politis** at mpolitis@vedderprice.com or any other Vedder Price attorney with whom you have worked.

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ⁱ EEOC, *EEOC and Justice Department Warn Against Unlawful DEI-Related Discrimination*, Mar. 20, 2025,

<https://www.eeoc.gov/newsroom/eeoc-and-justice-department-warn-against-unlawful-dei-related-discrimination>

ⁱⁱ EEOC, *What To Do If You Experience Discrimination Related to DEI at Work*, Mar. 20, 2025, https://www.eeoc.gov/what-do-if-you-experience-discrimination-related-dei-work?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=