

What To Expect From EEOC Next Year After An Active 2024

By **Shannon Kelly** (December 20, 2024)

By any measure, 2024 was a landmark year at the U.S. Equal Employment Opportunity Commission, marked by significant enforcement efforts, sweeping guidance on workplace harassment, and implementation of the final rule under the Pregnant Workers Fairness Act.

With a second Trump administration on the horizon, the question for 2025 is whether the EEOC will sustain this momentum or shift its focus in a new direction. Let's take a look.



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Fiscal Year 2024-2028 Strategic Enforcement Plan

To anticipate what 2025 may bring at the EEOC, it is helpful first to know the current landscape. Every four years, the EEOC issues its strategic enforcement plan, outlining key enforcement priorities. For the 2024-2028 cycle, the EEOC has identified the following priorities:

- Vulnerable and underserved workers;
- Recruitment and hiring;
- Employer technology use;
- Emerging and developing issues, such as discrimination associated with pregnancy or long COVID; and
- Preservation of access to the legal system.[1]

Noteworthy Cases and Settlements

In fiscal year 2024, ending Sept. 30, the EEOC filed 110 lawsuits challenging unlawful employment discrimination, reinforcing its commitment to the priorities identified in its strategic enforcement plan. The EEOC continued to focus its resources on systemic discrimination, with 13 of those cases alleging a pattern, practice or policy of discrimination.

Further, nearly 50 of the unlawful employment discrimination lawsuits included Americans with Disabilities Act claims, and more than 40 alleged retaliation under the various statutes enforced by the commission. In addition to the 110 merits suits, the EEOC filed 18 suits for noncompliance with mandatory federal reporting requirements,[2] and a suit alleging breach of a conciliation agreement.

The EEOC also reached a number of significant settlements this year.

In two related cases, the EEOC brought suit on claims that the defendant companies failed to recruit and hire workers for low-skill positions based on race and national origin. The lawsuits further alleged that the defendants segregated jobs based on sex. In August, it announced a \$1.1 million settlement with one defendant, a commercial laundry company,

Radiant Services Corp., which also included injunctive relief.[3]

In the second case involving Baron HR LLC, a staffing agency that the EEOC alleges aided Radiant's illegal hiring practices, the EEOC obtained a settlement of \$2.2 million in April. Therefore, a total settlement of \$3.3 million will be distributed to class members if the U.S. District Court for the Central District of California approves the deal.[4]

Further, the EEOC announced in August it reached a settlement with staffing agency SmartTalent LLC for \$875,000 to settle a sex discrimination lawsuit alleging that it engaged in a pattern and practice of discrimination by complying with clients' discriminatory requests for male temporary workers.[5]

Overall, the number of cases litigated by the EEOC has continued to decline in the waning years of the pandemic. Indeed, fiscal year 2024 saw the lowest number of cases filed by the EEOC in three decades. The EEOC continues to face budgetary challenges, which has resulted in pared-down litigation efforts and emphasis on settlements through conciliation.

PWFA Regulations and Related Enforcement Efforts

In April, the EEOC published the final rule and interpretive guidance on the Pregnant Workers Fairness Act. Enacted in 2022, the PWFA requires employers to make reasonable accommodations for the known limitations of employees or applicants, unless the accommodation would cause an undue hardship, and provides a list of accommodations the EEOC considers to be presumptively reasonable, including flexible breaks to drink water, eat, rest or use the restroom.

To meet these obligations, the PWFA requires employers to engage in an interactive process with employees who are pregnant or experiencing a related medical condition — including lactation, fertility treatment or pregnancy loss — similar to the process employed under the ADA with respect to disabled employees.

In 2024, the EEOC resolved several investigations and filed its first cases under the PWFA, a clear priority for the commission.

According to the EEOC's fiscal year 2024 financial report, one investigation, where the commission determined an employer failed to provide a reasonable accommodation and forced a pregnant employee to take unpaid leave, was resolved for over \$130,000. Another investigation, where the EEOC found an employer failed to accommodate an employee's pregnancy-related medical conditions, terminated her employment, and failed to post notices describing the applicable provisions of the PWFA, was settled for over \$180,000 in monetary relief to the employee and training for both supervisory and nonsupervisory employees.[6]

In addition to these settlements, the EEOC filed its first handful of PWFA lawsuits, including one alleging that a producer of semitrailers and other commercial trucking equipment, Wabash National Corp., discriminated against an assembler by failing to accommodate pregnancy-related limitations. These included placing her on leave, subjecting her to an impermissible medical inquiry and treating her less favorably than nonpregnant workers similarly situated in their ability to work.[7]

In another case, the EEOC alleged that a water, snow and auto manufacturer, Polaris Industries, denied an operator the reasonable accommodations of no overtime work during her pregnancy and time off for pregnancy-related medical conditions and medical

appointments without accruing attendance points, resulting in her constructive discharge.[8]

Employers can expect that enforcement efforts under the PWFA will remain a priority for the EEOC in 2025. However, as explained below, there is likely to be a shift in the types of cases pursued by the EEOC.

Updates to Harassment Guidance

On April 29, the EEOC issued sweeping new guidance regarding workplace harassment. The guidance, which replaced guidance issued more than 20 years ago, provides detailed guidelines regarding every form of unlawful workplace harassment, including sex harassment, and harassment related to pregnancy, sexual orientation, and gender identity or expression.

The guidance also expands the categories of prohibited harassment to include associational harassment, as well as intersectional and interclass harassment. The guidance includes 77 factual scenarios designed to highlight real-world examples.[9]

While the harassment guidance was widely expected, many were caught off guard by its broadness. As we look to 2025, it is possible that we may see portions of the guidance be amended or eventually rescinded.

The EEOC in 2025 and Beyond

The reelection of former President Donald Trump certainly portends a significant shift in the EEOC's priorities in 2025. The only questions are: What can be expected, and how quickly will changes happen? While the EEOC currently has a Democratic majority until 2026, the incoming Trump administration is expected to make a number of changes.

First, the EEOC's general counsel, Karla Gilbride, will be replaced by a Trump-appointed general counsel. The incoming administration will also pick a new chair, widely expected to be Andrea Lucas, the EEOC's sole Republican.

Until 2026, when the Republicans gain a majority on the commission, the EEOC will be limited from taking action to reverse the 2024 workplace harassment guidance. However, in 2026, it is anticipated that the newly expanded protections for LGBTQI+ workers and portions of the PWFA rules may be subject to a rollback.

Lucas has publicly criticized the EEOC's broad interpretation of the PWFA, which includes accommodations for abortion and conditions like menopause and infertility. She also publicly opposed the harassment guidance — contending the guidelines might infringe on employees' religious freedom and free speech rights.[10]

In light of these anticipated changes, whether the momentum of EEOC's 2024 rulemaking and enforcement efforts will continue remains to be seen. However, one thing employers can reasonably expect to see is the EEOC move to a more employer-friendly regulatory environment than has existed for the past four years.

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[1] <https://www.eeoc.gov/strategic-enforcement-plan-fiscal-years-2024-2028>.

[2] EEO-1 Component 1 workforce demographic reports.

[3] <https://www.eeoc.gov/newsroom/radiant-services-pay-11-million-eeoc-hiring-discrimination-lawsuit>.

[4] EEOC v. Radiant Services Corp., BaronHR, LLC, et al, Case No. 2:22-cv-06517-GW-RAO.

[5] <https://www.eeoc.gov/newsroom/smarttalent-pay-875000-settle-eeoc-sex-discrimination-lawsuit>.

[6] https://www.eeoc.gov/sites/default/files/2024-11/24-127%20EEOC-2024%20AFR_LR111524.pdf.

[7] EEOC v. Wabash National Corporation, No. 5:24-cv-148 (W.D. Ky. filed Sept. 10, 2024).

[8] EEOC v. Polaris Industries, No. 5:24-cv-01305 (N.D. Ala. filed Sept. 25, 2024).

[9] <https://www.eeoc.gov/laws/guidance/enforcement-guidance-harassment-workplace>.

[10] https://www.linkedin.com/posts/andrea-lucas-a5b27513_a-lucas-statement-re-vote-re-pwfa-final-activity-7185711161609232387-GtB1/; https://www.linkedin.com/posts/andrea-lucas-a5b27513_commissioner-lucas-statement-re-eeoc-harassment-activity-7190752337554997249-2QPb/.