

## Employment Law Update: EEOC Strategic Enforcement Plan Provides Employers Advance Warning Of The Agency's Target Issues

10/03/23

The [United States Equal Employment Opportunity Commission](#) ("EEOC") is a federal agency tasked by Congress to enforce the laws against employment discrimination. It was created by [The Civil Rights Act of 1964](#). The EEOC has the authority to investigate charges of discrimination against employers who are covered (generally, employers who have 15 or more employees). If the EEOC finds discrimination has occurred, the agency will try to settle the charge. If the EEOC cannot settle the charge, the agency has the power to file a lawsuit.

On September 21, 2023, the EEOC [announced](#) its [Strategic Enforcement Plan for Fiscal Years 2024-2028](#) ("Plan"). The Plan provides notice to employers of specific issues that the EEOC will concentrate on in upcoming years. Employers should note these concerns to be prepared for potential EEOC scrutiny in these areas.

### The Plan prioritizes the following goals for the agency:

- **Expand the vulnerable and underserved worker priority.** This includes ensuring that certain types of workers who may be unaware of their rights or reluctant to exercise them are served by the EEOC. These workers include those with intellectual and developmental disabilities, mental health disabilities, arrest or conviction records, members of the LGBTQ+ community, and those who have limited literacy or English proficiency. It also includes older, low-wage, and teenage workers.
- **Refine the recruitment and hiring priority** to address policies and practices that limit access to on-the-job training, pre-apprentice and apprenticeship programs, temp-to-hire positions, internships, or other training or advancement opportunities for workers.
- **Recognize employers' increasing use of technology**, such as artificial intelligence and machine learning, to hire applicants or make other employment decisions about workers, and protect workers from discrimination that may occur from these technologies.
- **Update the emerging and developing issues priority** to protect workers from discrimination affected by pregnancy and childbirth or related conditions (under the recently passed Pregnant Workers Fairness Act), and the long-term effects of COVID-19.
- **Preserve access to the legal system by** focusing on overly broad waivers, releases, non-disclosure agreements, and non-disparagement agreements.

**TAKEAWAY:** Prudent employers will review the EEOC's Strategic Plan to ensure their business withstands the EEOC's focus on the concerns the agency has announced as a priority. If you are an employer and need help navigating the EEOC's Strategic Plan and what it means for your business, or any other federal or New Jersey employment law, contact [Stephanie Gironda](#) or any member of the Wilentz [Employment Law](#) Team.

#### Attorney

- Stephanie D. Gironda

#### Practice

- Employment Law