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EEOC and DOJ Release DEI Guidance

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On March 19, 2025, the U.S. Equal Employment Opportunity Commission (EEOC) and the U.S. Department of Justice (DOJ) released guidance focused on unlawful discrimination related to diversity, equity, and inclusion (DEI) in the workplace. The guidance details when DEI practices may be unlawful and what employees should do if they experience discrimination related to DEI at work.

The guidance states that while DEI is not defined under the law, Title VII applies "equally to all racial, ethnic, and national origin groups, as well as both sexes." Accordingly, DEI policies, programs, or practices may be unlawful if they involve an employer or other covered entity taking an employment action motivated, in whole or in part, by an employee's race, sex, or another protected characteristic. Additionally, the guidance prohibits the unlawful use of quotas or otherwise "balancing" a workforce by race, sex, or other protected traits.

Finally, the guidance outlines examples of potential DEI-related discrimination, such as:

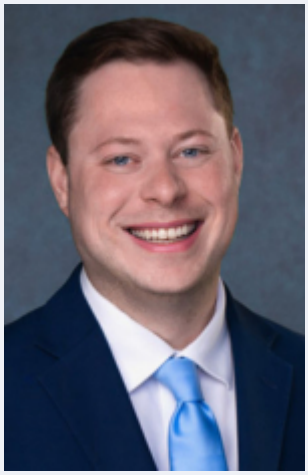
- **Disparate Treatment.** DEI-related discrimination can include an employer taking an employment action motivated (in whole or in part) by race, sex, or another protected characteristic (e.g., hiring, firing, selection for interviews, promotion, etc.).
- **Limiting, Segregating, and Classifying.** Title VII also 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. Prohibited conduct may include:
    - 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 resources.
- **Harassment.** Title VII prohibits workplace harassment, which may occur when an employee is subjected to unwelcome remarks or conduct based on race, sex, or other protected characteristics. Harassment is illegal when it results in an adverse change to a term, condition or privilege of employment, or it is so frequent or severe that a reasonable person would consider it intimidating, hostile, or abusive. Depending on the facts, DEI training may give rise to a colorable hostile work environment claim.
- **Retaliation.** Title VII prohibits retaliation by an employer because an individual has engaged in protected activity under the statute, such as objecting to or opposing employment discrimination related to DEI, participating in employer or EEOC investigations, or filing an EEOC charge. Reasonable opposition to a DEI training may constitute protected activity if the employee provides a fact-specific basis for his or her belief that the training violates Title VII.

The full guidance is available on the EEOC website.

A question-and-answer assistance document can also be found on the EEOC website.

The news release can be found on the EEOC's newsroom.

If you have any questions about DEI-related matters or need training and policy drafting, please contact your Knox Law attorney, our Labor & Employment group, or call us at 814-459-2800.



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