



News & Types: Employment, Labor & Benefits Update

EEOC Ceases Investigating Disparate Impact Claims

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Following President Trump's Executive Order "Restoring Equality of Opportunity and Meritocracy dated April 23, 2025, the Equal Employment Opportunity Commission ("EEOC") issued an internal directive to its investigators to close all pending "disparate impact" claims by September 23, 2025.

Employment discrimination claims typically fall into one of two categories: "disparate treatment" or "disparate impact." "Disparate treatment" refers to the direct unequal or unfair treatment of individuals based on protected characteristics such as race, gender, age, and so on. "Disparate impact" refers to an employment policy or practice that, while neutral on its face, disproportionately affects a protected group, leading to unequal outcomes.

The EEOC intends to discontinue its investigations into all charges alleging only "disparate impact" claims. This will end a 50-year history of the EEOC investigating "disparate impact" claims. The individuals who had pending charges alleging disparate impact claims will receive a Notice of Right to Sue by or before October 31, 2025, which would give them 90 days to file a lawsuit, if they desire. Charges that allege other claims in addition to "disparate impact" may continue through the EEOC's investigatory process, but only the other claims will be investigated.

It is important to note that state agency counterparts to the EEOC are not precluded from investigating disparate impact claims. And depending on the state, such state agencies may still impose liability on employers at the state level for disparate impact violations. For this reason, employers must continue to be cautious about and rectify any potential "disparate impact" practices at the workplace.

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