

HR BRIEF

August 2026

EEOC Rescinds Guidance on Voluntary Affirmative Action Plans



The Equal Employment Opportunity Commission (EEOC) recently voted to rescind two guidance documents that, for more than four decades, gave private employers a framework for adopting voluntary affirmative action plans under Title VII of the Civil Rights Act (Title VII), the agency's 1979 interpretive guidelines on affirmative action and the related Section 607 of its Compliance Manual.

The EEOC concluded that the guidance conflicted with the text of Title VII and with Supreme Court precedent holding that the statute protects every individual equally, rather than particular groups.

Employer Takeaway

This rescission fits into the current administration's broader push to eliminate diversity, equity and inclusion (DEI) programs and practices it considers unlawful. The rescissions follow Executive Orders [14151](#) and [14173](#), which direct federal agencies to eliminate DEI mandates, policies, programs, preferences and activities the administration views as unlawful across the federal government and private sector. On March 19, 2025, the EEOC and U.S. Department of Justice (DOJ) issued [joint guidance](#) on unlawful DEI-related discrimination, and the EEOC separately published [frequently asked questions](#) on the topic.

The legal landscape surrounding DEI initiatives evolves as courts and regulators increasingly scrutinize these programs. Employers may consider reviewing existing DEI practices to ensure they don't discriminate on the basis of a federally protected trait. Employers may wish to review existing hiring and interview selection practices, employee resource and affinity group or training program membership guidelines, and workplace training to confirm they don't discriminate against any protected class. Employers can also consult with legal counsel to ensure compliance and mitigate potential legal exposure.

Employers should expect continued EEOC and DOJ activity and monitor for further agency guidance, litigation and regulatory developments affecting DEI-related and affirmative action practices.

Contact us for more resources.

New Hire Reporting Requirements

New hire reporting is a critical component of workplace compliance. Under federal law, employers must report basic information on new or rehired employees to the state where the employee works within 20 calendar days of hire. Failure to properly report may result in costly civil monetary penalties and increased scrutiny from regulatory agencies.

Federal law requires employers to report:

- The employee's full name, address, Social Security number and date of hire
- The employer's name, address and Federal Employer Identification Number (FEIN)

States may require employees to report additional information, such as the employee's job title or wage rate. Employers must comply with data reporting requirements for the state to which they report.

Employers operating in multiple states can report new hires either to each employee's work state or, if they register with the U.S. Department of Health and Human Services (HHS) as a multistate employer and designate one reporting state, submit all new hire reports there. Employers choosing the single-state option must send new hire information electronically or by magnetic tape to their designated state no more than twice a month, spaced 12-16 days apart.

Employers should use the same FEIN to report new hires and quarterly wages. Reporting different FEINs for new hires and quarterly wages may lead to potential noncompliance issues. If an employer's worksite address is different from its payroll address, the employer is encouraged to report both their worksite and payroll office address. If employers provide only one address, they should report the address where they want potential income withholding orders sent.

Employers may provide copies of their Forms W-4 to report new hire data. Employers may also create an equivalent form or use a state reporting form. According to the HHS, electronic submission through the state's new hire website is the preferred reporting method.

For more information, visit the HHS New Hire Reporting for Employers [website](#) or review its [Q&A section](#).
