

Equal Employment Opportunity Commission

Changes in EEOC Leadership

Changes in EEOC Leadership

Commission

- Chair Andrea Lucas (R)
- Commissioner Kalpana Kotagal (D)
- Commissioner Brittany Panuccio (R)

General Counsel

- Nominee: M. Carter Crow
 - Acting GC: Former OFCCP Director Catherine Eschbach



Commission Actions

With quorum restored, Chair Lucas moves quickly to centralize control

JANUARY

14
2026

FS Workplace
Legal Compliance

Commission Holds 1st Open Meeting: Changes Voting Procedures

- **In a 2-1 vote, the Commission:**
 - **Eliminated "Agenda" procedure** that enabled any Commissioner to call for a public hearing on proposed policy changes
 - **Eliminated timelines** for Commissioners to review documents before a vote. . . for now
- **Chair Lucas's Response to Criticism:**

“Elections have consequences, and it is entirely appropriate for a majority, including a Republican majority, to exercise its powers consistent with what the Republican majority deems necessary to implement administration priorities.”



Commission Adopts Resolution Restoring Litigation Approval Authority

- **1995** - Commission delegated most of its litigation-filing authority to the General Counsel, retaining approval for novel, significant or policy-level cases
- **2021- (Chair Janet Dhillon)**, Commission reclaimed approval for major categories (systemic, pattern-or-practice, 15+ aggrieved workers, controversial and resource-intensive matters, prior contrary positions)
- **2026 Resolution (2-1 Notation Vote)** - Commission expands approval requirements to almost all litigation filings

JANUARY

22
2026

Commission Rescinds Harassment Guidance During Second Public Meeting



- Commission voted 2-1 to rescind the Biden-era harassment guidance
 - Originally developed after Select Task Force on Harassment
 - Texas federal court vacated LGBTQ+ examples in the guidance
- Two Republican Commissioners argued EEOC does not have authority to issue guidance under Title VII
 - Legal and Practical consequences

Expected Commission Action

- Revision or elimination of current PWFA regulations
 - EEOC required to issue regulations under Act
 - Lucas objected to Biden era regulations as beyond Act
 - Courts blocked enforcement of abortion accommodations
 - Texas seeking Supreme Court review on PWFA constitutionally



Key Takeaways on Commission Actions


- Lucas consolidated authority shifting Commission toward an executive agency
- Centralized, top-down decision-making will shape policy, case selection and legal theories
- Longer timelines for litigation authorization as most matters require Commission-level review



EEOC Elevates Focus on Anti-American Discrimination

- Chair Lucas previously [cited](#) discrimination against American workers
 - Leo Palace settled national origin discrimination claims for \$1.5M
- EEOC issued [new materials](#) on discrimination against American workers and updated to National Origin Discrimination landing page


DISCRIMINATION AGAINST AMERICAN WORKERS IS AGAINST THE LAW



Title VII of the Civil Rights Act of 1964 protects employees or applicants from discrimination based on his or her national origin, including Americans. Title VII's protections apply equally to all racial, ethnic, and national origin groups. National origin discrimination involves treating workers (applicants or employees) unfavorably or favorably because they are from a particular country or part of the world. National origin discrimination can include preferring foreign workers, including workers with a particular visa status, over American workers.

Before you can sue in federal court, you first must file a charge of discrimination with the EEOC. The Equal Employment Opportunity Commission (EEOC) investigates EEOC charges and can file a lawsuit under Title VII against businesses and other private sector employers.

If you suspect you have experienced anti-American national origin discrimination, contact the EEOC promptly because there are strict time limits for filing a charge. The EEOC office nearest to you can be reached by phone at 1-800-669-4000.



www.EEOC.gov

What Can Anti-American National Origin Discrimination Look Like?

Under Title VII, employment policies, programs, or practices may be unlawful national origin discrimination if they involve an employer or other covered entity (like a staffing agency or recruiter) taking an action motivated—in whole or in part—by an applicant's or employee's national origin.

Discrimination against Americans in the workplace might include the following:

- **Discriminatory Job Advertisements:** Title VII bans discriminatory job advertisements. Evidence of discriminatory job ads can include ads that say the employer prefers or requires applicants from a particular country or with a particular visa status (for example, "H-1B preferred" or "H-1B only").
- **Disparate Treatment:** Title VII bans discrimination against applicants or employees in the terms, conditions, or privileges of employment, including, but not limited to, hiring; firing; job assignments; compensation; training; fringe benefits; promotion; and demotion.
 - Evidence of disparate treatment related to firing can include a company terminating American workers who are on the "bench" between job assignments at a much higher rate than employees who are visa guest workers.
 - Evidence of disparate treatment related to hiring can include an employer making it more difficult for applicants from one national origin to apply for positions (for example, subjecting U.S. workers to more laborious application methods than H-1B visa holders during the PERM labor certification process).
- **Harassment:** Title VII prohibits workplace harassment based on national origin, which may occur when an employee is subjected to unwelcome remarks or conduct based on national origin. 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.
- **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 national origin discrimination at work, participating in employer or EEOC investigations, or filing an EEOC charge.

Common Business Reasons Do Not Justify National Origin Discrimination

The following considerations **do not excuse** an employer's decision to hire foreign workers over American workers:

- Customer or client preference;
- Lower cost of labor (whether due to "under the table" payment, or abuse of certain visa-holder wage requirement rules);
- Beliefs that workers from one or more national origin groups are "more productive" or possess a better work ethic than another national origin group.

Continuing Enforcement of Federal Discrimination Laws

- FY 2025: EEOC filed fewest number of lawsuits in a decade
- Harassment, disabilities, sex discrimination cases continue to be filed
- Rejected pursuit of disparate impact theory and transgender-related matters
- FY 2026 budget (cut by less than 5%)

