CLIENT ALERTS & INSIGHTS

EEOC Directs Closure of Pending Disparate Impact Charges

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Key Takeaways:

- *The EEOC has directed its investigators to close all pending disparate impact discrimination charges by September 30, 2025, unless special permission is granted to continue, following an executive order from President Trump deprioritizing disparate impact enforcement.*
- *Courts may experience a spike in lawsuits alleging disparate impact discrimination as impacted charging parties receive Notices of Right to Sue.*

The U.S. Equal Employment Opportunity Commission issued an internal directive that its investigators close all pending charges for disparate impact claims by the end of the month or seek special permission from EEOC leadership to continue investigating.

Employment discrimination claims typically fall into one of two categories: disparate treatment or disparate impact. Disparate treatment claims are those where an employee alleges that he or she suffered harm specifically because of the employee's race, gender, age, or other protected characteristics. Disparate impact claims are those where a group of employees in a protected class were unintentionally but adversely impacted by a seemingly neutral policy or practice. For example, in *Dothard v. Rawlinson*, 433 U.S. 321 (1977), the U.S. Supreme Court found that a correctional facility's minimum weight and height requirements for employees violated Title VII because of disparate impact to female applicants.

Now, the EEOC intends to discontinue its investigations into all charges that allege only disparate impact. According to an internal EEOC memo obtained by Bloomberg Law, all disparate impact cases must be closed by September 30, 2025. The individuals who filed those charges will receive a Notice of Right to Sue, which gives them a limited amount of time to file a lawsuit. Charges that allege both disparate treatment and disparate impact may continue through the EEOC's investigatory process, but only the disparate treatment claims will be investigated. The memo directs that an investigator with a charge of disparate impact, which could proceed as a disparate treatment claim, must have requested special permission from a director overseeing one of the EEOC's 15 districts across the U.S. by September 19, 2025.

The EEOC's memo follows an April 23, 2025, Executive Order issued by President Trump. The order dictated that all federal agencies should "deprioritize enforcement of all statutes and regulations to

the extent they include disparate-impact liability" and specifically directed that the EEOC "take appropriate action" on all pending investigations arising from disparate impact claims.

After the Notices of Right to Sue are issued, district courts will likely see a rise in disparate impact lawsuits filed by individuals whose charges were dismissed by the EEOC. However, the EEOC's stance indicates that the chances of success on these claims will likely decrease for the foreseeable future.