CLIENT ALERTS & INSIGHTS

EEOC Targets Nike's DEI Programs in Early Enforcement Action

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Key Takeaways

- The EEOC has filed an enforcement action against Nike, seeking information on whether the company's DEI initiatives resulted in discrimination against white employees and applicants, marking one of the first high-profile federal investigations into corporate DEI programs.
- This action signals a new era of heightened federal scrutiny and legal risk for employers with race-based DEI targets or practices, as the EEOC and other agencies intensify enforcement following recent executive orders aimed at curbing DEI initiatives.
- Employers should promptly review their DEI policies and practices with legal counsel to ensure compliance with Title VII and other anti-discrimination laws, proactively addressing any potential risks to avoid costly investigations or enforcement actions.

On February 4, 2026, the U.S. Equal Employment Opportunity Commission ("EEOC") filed an action in Missouri federal court "to compel Nike Inc. to produce information related to allegations that the company discriminated against white workers, including as a result of Nike's Diversity, Equity and Inclusion-related 2025 targets and other DEI-related objectives." The focus of the EEOC's investigation claims that Nike's DEI program may have led to "a pattern or practice of disparate treatment" against white employees, applicants and training program participants in relation to hiring, promotions, demotions, terminations, mentoring, leadership development and other career development opportunities.

Republican EEOC Chair Andrea Lucas previously launched a commissioner's investigation against Nike in May of 2024 to investigate the Company's DEI objectives, and the EEOC's latest filing represents a recent step in heightened enforcement efforts targeting workplace DEI programs as violations of Title VII of the 1964 Civil Rights Act. The filing comes one month after Chair Lucas posted a video on social media asking, "Are you a white male who has experienced discrimination at work based on your race or sex? You may have a claim to recover money under federal civil rights laws. Contact the EEOC as soon as possible. Time limits are typically strict for filing a claim."

The EEOC's push towards enforcement activity follows on the heels of the President's 2025 Executive Order (discussed here), titled "Ending Radical and Wasteful Government DEI Programs and Preferencing," in what the Administration characterizes as illegal discrimination within the Federal Government. The President's Executive Order specifically targets Executive Order 13985,

which was issued by former President Biden and directed most federal agencies to create an "Equity Action Plan" outlining their DEI initiatives. President Trump's order mandates an immediate halt to this requirement and instructs the OMB Director and OPM Director to work together to eliminate all DEI-related mandates, policies, programs, and activities throughout federal government operations. Additionally, it requires leaders of each department, agency, or commission to shut down all DEI and "environmental justice" offices, roles, equity plans, actions, initiatives, programs, equity-focused grants or contracts, and DEI performance standards for employees, contractors and grant recipients within 60 days from when the order was signed.

In its filing, the EEOC says the charges were not triggered by internal complaints from workers but rather "based on publicly available information regarding Nike," including the Company's public pledges to employ "30% representation of racial and ethnic minorities at Director level and above in the U.S.," and 35% representation across its entire U.S. corporate workforce. Nike appears to be the most prominent organization that the EEOC has publicly confirmed it is formally investigating for DEI practices. The EEOC previously issued a comparable subpoena to Northwestern Mutual, a financial services company, in November.

Takeaway: The EEOC's investigation into Nike is likely just the beginning of a broader campaign targeting corporations with race-based workplace quotas and other DEI-related practices. As federal agencies intensify their scrutiny of employer DEI programs, employers can expect heightened oversight and potential investigations in the coming months. Employers should proactively consult with legal counsel to review their existing policies and practices, ensuring full compliance with Title VII and other applicable anti-discrimination laws. Taking preventive measures now can help organizations avoid becoming the subject of formal investigations while maintaining lawful and equitable workplace practices.

For information related to additional developments by the EEOC in the current administration, see:

Recent Guidance from the EEOC Targets DEI. So How Should Employers React?

EEOC Directs Closure of Pending Disparate Impact Charges

Trump's Anti-DEI Agenda Remains at Center Stage