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Trump 2.0: How the second Trump administration has impacted employers

By **Christina M. Jepson, Parsons Behle & Latimer** // March 11, 2025

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President Donald Trump holds a signed executive order as he speaks in the Oval Office of the White House in Washington, Friday, March 7, 2025. | Associated Press

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Every employer and HR professional knows that employment laws are constantly changing, but the pace of change under the Trump administration has been

dizzying. In a matter of days, Trump issued several executive orders that significantly impact employment law. These executive orders will likely be challenged in court and the law will remain unsettled.

New EEOC chair with new agenda

Trump has named Andrea Lucas as the new chair of the Equal Employment Opportunity Commission (EEOC). Lucas has expressed her view of the mission of the EEOC stating that her priorities include:

- “...rooting out unlawful DEI-motivated race and sex discrimination”
- “...protecting American workers from anti-American national origin discrimination”
- “...defending the biological and binary reality of sex and related rights, including women’s rights to singlesex spaces at work”
- “...protecting workers from religious bias and harassment, including antisemitism”
- “...remediating other areas of recent under-enforcement”

[President Appoints Andrea R. Lucas EEOC Acting Chair | U.S. Equal Employment Opportunity Commission.](#)

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Given the changes in priorities, employers can expect more claims in the areas of reverse discrimination, gender identity issues, religious discrimination and religious accommodation.

Gender identity in the crosshairs

Trump has issued an executive order titled “Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government.” The order mandates the federal government to recognize two “biological sexes.” Among other things, the order requires the EEOC and DOL to prioritize litigation related to these issues. The EEOC has also announced that discrimination claims (i.e. charges based on sexual orientation or gender identity) that may conflict with this executive order will be kicked from the state agencies to the EEOC for review. That likely means that these claims will not be investigated, and the complaining party will simply receive a right to sue letter.

The executive order conflicts with existing EEOC guidance and Supreme Court precedent. First, EEOC workplace harassment guidance provides anti-harassment protections for LGBTQ+ employees including a statement that intentionally misgendering an employee can be harassment. Because there is no quorum at the EEOC, this guidance is in limbo.

Whether or not an employer should abide by this guidance is unclear. Moreover, it is unclear whether EEOC guidance has any value regardless of content. Last year, the Supreme Court overruled Chevron deference toward agency interpretations. *Loper Bright v. Ramondo*, 603 U.S. 369 (2024). This means that in many instances, courts are no longer required to provide deference to interpretations of federal laws by the agencies who administer the laws, such as the EEOC, which administers federal anti-discrimination laws.

Second, the executive order potentially conflicts with the Supreme Court’s decision in *Bostock v. Clayton County*, 140 S.Ct. 1731 (2020). In *Bostock*, the Supreme Court held in a 6-3 decision that Title VII protects employees from

discrimination based on sexuality or gender identity. If this issue were to come before the Supreme Court again, it could very well be reversed by the current Supreme Court.

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Employers can expect litigation around these issues including harassment, speech, religious accommodations and bathroom access.

Religious accommodations are getting trickier

The issue of when and how an employer must grant religious accommodations has just become much more complicated. New EEOC Chair Lucas has stressed that she intends to focus on “protecting workers from religious bias and harassment.” In addition, the Supreme Court recently held that employers cannot deny religious accommodations unless accommodating the employee would result in substantial increased cost to the employer in relation to the employer’s particular business. *Goff v. DeJoy*, 600 U.S. 447 (2023). These two factors are likely to cause religious accommodation requests and claims to rise.

Another issue is religion and gender identity. The EEOC’s recent harassment guidance (issued under the Biden administration) stated that employers did not need to grant religious accommodations if the accommodations would create a hostile environment for other employees. For instance, employers did not have to grant an accommodation to allow an employee to deliberately misgender people because of their religious beliefs. But, as noted above, the EEOC guidance is in limbo.

As you may recall, the Utah legislature passed a law in 2024 giving employees free speech rights in the workplace, including the right to not engage in “religiously objectionable expression.” Several members of the Utah House of Representatives have confirmed that this bill was passed in response to the EEOC’s guidance, i.e., to allow employees to misgender other employees when using certain pronouns is religiously objectionable.

For employers there will be no easy answers. Whether the employer sides with the employee with the religious accommodation request or the LGBTQ+ employee, there is a risk that the employer may be sued. Please consult with counsel regarding these tricky situations.

DEI under attack

Trump has declared war on diversity, equity and inclusion (DEI) programs which are intended to assist historically disadvantaged groups achieve fairness in the workplace. In an executive order titled “Ending Radical and Wasteful Government DEI Programs and Preferencing,” Trump ordered an end to all DEI in the federal government and termination of employees whose jobs involved DEI programs. The order does not apply to contracting preferences for military veterans and individuals with disabilities.

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In addition, Trump issued an executive order titled “[Ending Illegal Discrimination And Restoring Merit-Based Opportunity](#).” The order ends federal affirmative action programs designed to ensure equal employment opportunities for women and minorities. However, the executive order does not apply to employment and contracting preferences for veterans. In particular, Trump revoked the executive order dating back to the 1960s which requires government contractors to establish placement goals for women and minorities if they are underrepresented in the workforce. Under Trump, contractors are now required to certify that they are not carrying out illegal “DEI initiatives.” DEI is a very broad umbrella which includes many legal programs - some that will now be viewed as “illegal” by the new administration. Consult an employment attorney regarding what is legal and not legal.

Private employers may be wondering what this means for them. It should be noted that these executive orders only apply to the federal government and federal contractors. Thus, most DEI programs remain legal for the time being.

However, while the orders do not apply to private-sector employment, the second order includes a section titled “Encouraging the Private Sector to End Illegal DEI Discrimination and Preferences,” which instructs federal agencies to identify up to nine potential civil compliance investigations related to DEI of publicly-traded corporations, large non-profits, foundations with assets of \$500 million or more, state and local Bar and medical associations and institutions of higher education with endowments over \$1 billion.

If you intend to maintain your DEI program, ensure that it is legal. It is time to review and update policies.

ICE may be coming to your workplace

Trump has put enormous emphasis on deporting undocumented persons. He declared a national emergency at the Southern border, terminated a government app for scheduling asylum appointments and is attempting to end birthright citizenship (courts have blocked enforcement of the order). Trump has also ordered the Department of Homeland Security to begin deportation raids and has stated that employers who knowingly employ undocumented workers will be referred for criminal investigation. This will likely include many workplaces. Now is a good time to conduct an I-9 audit to ensure you are in compliance. You should also develop a plan for responding to a U.S. Immigration and Customs Enforcement (ICE) raid. Parsons Behle & Latimer provides these services.

On April 8, 2025, Parsons Behle & Latimer in partnership with Salt Lake SHRM offers its 37 th annual Employment Law Symposium at the Grand America Hotel. Parsons’ attorneys will cover contemporary legal topics, including DEI, wage and hour laws, AI for HR, religious accommodations, workplace investigations, reverse discrimination, policy changes and the Americans with Disabilities Act. Four HRCI recertification credits, four SHRM PDC credits and four Utah CLE credits are available. To learn more and register, [click here](#).

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