

Maddin Hauser's
Employment Law
Symposium

UPDATES IN DISCRIMINATION LAW

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Overview

- Understanding the current Legal Landscape and how Various Shake-Ups in Federal Government and Workforce are Impacting the Private Sector.
- Discussing Various Techniques for Adapting to a Landscape that is Rapidly Evolving and Facing Multiple Legal Challenges.
- Addressing Rapid Changing Landscape and how to Continue to Address Discrimination, Harassment and Retaliation Concerns within your Organization.

AN OVERVIEW OF THE EEOC

- Created by the Civil Rights Act of 1964.
- Just celebrated the 60th anniversary of the Civil Rights Act.
- 2024 secured almost \$700 million for over 21,000 victims of employment discrimination.
- The EEOC currently describes its responsibilities as: enforcing federal laws that make it illegal to discriminate against a job applicant or an employee on protected status.



2025 PIVOT WITH THE TRUMP ADMINISTRATION

- Acting Chair of the EEOC, Andrea Lucas's statement in the January 21, 2025 Press Statement appointing her are a marked turn from the letter of the law:



“Consistent with the President’s Executive Orders and priorities, my priorities will 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 single-sex spaces at work; protecting workers from religious bias and harassment, including antisemitism; and remedying other areas of recent under-enforcement.”

EEOC seal by U.S. Government - Extracted from PDF file here, public domain, <https://commons.wikimedia.org/w/index.php?curid=3237004>

2025 PIVOT WITH THE TRUMP ADMINISTRATION

“Our employment civil rights laws are a matter of individual rights.

We must reject the twin lies of identity politics:

that justice is measured by group outcomes and
that civil rights exist solely to remedy harms
against certain groups.”



“I intend to dispel the notion that only the ‘right sort of’ charging party is welcome through our doors and to reinforce instead the fundamental belief enshrined in the Declaration of Independence and our civil rights laws—that all people are ‘created equal.’

I am committed to ensuring equal justice under the law and to **focusing on equal opportunity, merit, and colorblind equality.**”

EEOC seal by U.S. Government - Extracted from PDF file here, public domain, <https://commons.wikimedia.org/w/index.php?curid=3237004>

BIG CHANGE IN MICHIGAN TO ELCRA

- **MCL 37.2202 adds “gender identity or expression.”**
 - defined as “having or being perceived as having a gender-related self-identity or expression, whether or not associated with an individual’s assigned sex at birth.”
- **Also added in language regarding “sexual orientation.”**
 - defined as: “means having an orientation for heterosexuality, homosexuality, or bisexuality or having a history of such an orientation or being identified with such an orientation.”



RECENT FEDERAL CASES

- ***Murray v UBS Securities, LLC*, 2024 WL 478566 (U.S. Feb. 8, 2024)**
 - Whistleblowers bringing retaliation under SOX do not have to establish retaliatory intent.
- ***Muldrow v City of St. Louis, Missouri*, 601 US 346, 144 S Ct 967, 218 L Ed 2d 322 (2024)**
 - Employees do not have to demonstrate a “materially significant disadvantage” and instead can show they are “worse off” than before.



RECENT MICHIGAN DISCRIMINATION CASES

- ***EEOC v PACE Southeast Michigan*** – EDMI Case No: **2:24-cv-12424**
 - FMLA policies focusing on “reasonable accommodations” for employees affected by disabilities.



- **Richard Miller v Michigan Department of Corrections** – **MSC 164862**
 - “Indirect retaliation” is an allowable claim.

NEW EEOC GUIDANCE – APRIL 29, 2024

- Newly Issued Enforcement Guidance on Harassment in the Workplace – *Approved 4/29/2024*
 - Provides guidance on the three (3) components of a harassment claim
 - Covered Bases (Race, Color, National Origin, Religion, Sex, Age, Disability, Genetic Information, Retaliation) and Causation
 - Nature of the Harassment
 - Liability Basis



RECENT ADMINISTRATION & MUCH ADO ABOUT DEI

- Several firings and new appointments.
- Multiple Executive Orders seeking abolition of DEI
 - E.O. 14148 revoked 78 Biden Administration Orders meant to promote inclusion.
 - E.O. 14168 recognizes only biological males or biological females.
 - E.O. 14170 prevents hiring based on DEI
 - E.O. 14173 revoked affirmative action to restore “merit-based hiring.”



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QUESTIONS

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THANK YOU



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