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Standing Together

Newsletter: Issue 2

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In the previous issue, we discussed *Texas v. Equal Employment Opportunity Commission*, (N.D. Tex. May 15, 2025), in which a federal district court ordered the EEOC to strike portions of its guidance related to protections for transgender individuals. We now return to the broader topic of discrimination—particularly within the federal workforce—and what has shifted at the EEOC and beyond since the change in Administration.

Many federal employees are aware that model language for the Deferred Resignation Program (DRP) included waivers for Equal Employment Opportunity (EEO) claims. However, agencies often modified this language. Whether your EEO rights were waived depends entirely on the specific terms of your agreement. The EEOC issued guidance on how agencies should interpret DRP waivers in the context of pending complaints, available here: [EEOC Memo - Guidance to Agencies on Applying DRP Agreements](#).

On May 15, 2025, the EEOC Chair issued two memoranda. Neither, standing alone, might seem significant but each is really an effort to limit EEO. The first—“Ending Unauthorized Monetary Sanctions Against Federal Agencies”—claims to end the EEOC’s practice of imposing monetary sanctions on agencies that fail to comply with orders from administrative judges. In practice, these sanctions were rare to begin with. The memorandum seems aimed more at signaling a shift in posture than correcting any widespread misuse of authority.

The second memo—“Restoring and Protecting the Presumption of Innocence in the EEO Complaint Process”—encourages agencies not to deny promotions or other employment benefits to employees accused of EEO violations. While agencies must avoid presuming guilt, it is equally important that they consider credible allegations. In any event, this guidance is non-binding, and the EEOC lacks policymaking authority in this area.

So why would the EEOC Chair issue two hollow memoranda and highlight them publicly? The answer appears clearer in context. Taken together with other recent EEOC actions, these memoranda signal a troubling shift away from robust enforcement of anti-discrimination laws—particularly as they affect transgender, non-binary, and other historically marginalized employees.

For example:

- The EEOC has withdrawn funding from joint state and local investigations of transgender discrimination.
- The current EEOC Chair has directed the agency to focus on DEI-related investigations and emphasized a “binary reality of sex”—a framing that suggests DEI itself is somehow suspect, without defining what the alleged discrimination entails.

The EEOC is not alone in its retreat. The Department of the Treasury recently proposed a revision to its EEO complaint form, stating:

“Minor changes were made to previously approved EEO Forms to reflect the removal of gender identity and sexual orientation as a basis for sex discrimination.”

But no agency has the authority to erase federal EEO protections simply by deleting checkboxes from a form. The law still prohibits discrimination based on sexual orientation and gender identity.

These developments—along with illegal firings and politically driven RIFs—reflect an effort to shape a more compliant workforce, one less protected by legal rights. That makes it all the more important to stand up, know your rights, and assert them when violated.

No memo can repeal federal anti-discrimination law. No checkbox can erase legal protections. If you believe you’ve experienced discrimination or retaliation, we are here to help you explore your options.

—DC Law Collective

In Future Issues:

- **Spotlight:** A look at some of our cases.
- **Practical Tips:** What to know when filing an appeal or complaint.
- **Voices from the Workforce:** Insights from affected employees and allies.
- **Collective Announcements:** Meet those joining the mission.

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