

**Insights**

## **EEOC'S DEI ENFORCEMENT ACTIVITIES RAMP UP – NEW SUBPOENA ENFORCEMENT ACTION AND FIRST DEI-RELATED DISCRIMINATION CLAIM FILED POST-EO 14173**

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Less than three months after filing its [first diversity, equity, and inclusion \(“DEI”\) enforcement action](#) under the new Trump Administration, the U.S. Equal Employment Opportunity Commission (“EEOC”) is back in federal court. This time, not only is the agency seeking sweeping information regarding the DEI activities of Nike, Inc. (“Nike”), but it is also challenging outright a Coca-Cola Beverages Northeast, Inc. (“Coca-Cola”) professional development program for women as discriminatory.

Summaries of the two new cases follow below. Together with the EEOC’s subpoena enforcement action against Northwestern Mutual Insurance last November, as well as EEOC Chair Andrea Lucas’s [outreach on social media](#) to white male employees, they signal a significant shift toward targeted DEI enforcement activities by the agency.

### **EEOC v. Coca-Cola Beverages Northeast, Inc.**

The EEOC has now initiated its first DEI-related discrimination case following President Trump’s signing of [Executive Order 14173](#). On February 17, 2026, the EEOC filed [a complaint](#) in the U.S. District Court for the District of New Hampshire (the “Coca-Cola Complaint”) alleging that Coca-Cola violated Title VII of the Civil Rights Act of 1964 (“Title VII”) by denying male employees the same compensation, terms, conditions, or privileged of employment offered and provided to female employees.

At the heart of the Coca-Cola Complaint is an employer-sponsored trip and networking event that Coca-Cola hosted in September 2024 and to which male employees were allegedly excluded. Specifically, the Coca-Cola Complaint claims that Coca-Cola did the following (all of which the EEOC alleges constitutes discrimination under Title VII):

- Privately invited only female employees to attend a two-day event that featured a social reception, team-building exercises, recreational activities, and the opportunity to hear from speakers (including senior corporate executives) about their career paths;

- Excused approximately 250 female employees who attended the event from their normal work duties but continued to pay them their normal wages without requiring the attendees to use vacation or other paid time off; and
- Paid for the female attendees' accommodations and other benefits (including food and beverages).

In addition to damages, the EEOC also seeks a court order compelling Coca-Cola to “institute and carry out policies, practices, and programs which provide male employees with equal access to employer-sponsored events.”

The case is *EEOC v. Coca-Cola Beverages Northeast, Inc.*, Case No. 1:26-cv-00115.

### **EEOC v. NIKE, Inc.**

On February 4, 2026, the EEOC filed a [petition](#) and [supporting brief](#) in the U.S. District Court for the Eastern District of Missouri (the “Nike Petition”) to enforce a subpoena against Nike in connection with an underlying Commissioner’s charge of discrimination that Chair Lucas filed in May 2024 against the company for alleged race discrimination (the “Charge”).

The Nike Petition claims that the Charge allegations (which are outlined in further detail below) are based on publicly available information, including Nike’s own annual reports, proxy statements, other securities filings, EEO-1 data, and public website. This is not the first time Chair Lucas has relied on companies’ public DEI-related materials to identify potential discriminatory conduct. Last spring, Chair Lucas [sent letters](#) to 20 large law firms requesting information about their DEI-related employment practices after she analyzed their similarly public communications and disclosures. This serves as a good reminder to employers that it is vital not only to understand what DEI activities they currently and historically engaged in, but also how they communicated with employees and the public regarding the same.

According to the Nike Petition, the Charge alleges that Nike engaged in a “pattern or practice of disparate treatment against White employees, applicants, and training program participants in hiring, promotion, demotion, or separation decisions; internship programs; and mentoring, leadership development, and other career development programs.” The Charge also alleges that the company established race-based workforce representation quotas, including by setting and publishing target representation goals for leaders and the workforce generally.

Given these Charge allegations, the Nike Petition claims that the EEOC served three requests for information on Nike regarding its DEI activities. After the agency determined that Nike failed to fully respond to these requests, the EEOC served an administrative subpoena on the Company on September 30, 2025. In response, the Nike Petition alleges that Nike sought to have the subpoena revoked in its entirety on October 7, 2025. After reviewing Nike’s arguments, the EEOC slightly

modified the subpoena on January 5, 2026 and directed Nike to comply with the updated subpoena within 21 days.

According to the Nike Petition, while Nike produced some of the requested information on January 26, 2026, these responses were inadequate. As such, the Nike Petition alleges that Nike has failed to fully comply with the updated subpoena as of the filing date. Therefore, the agency is seeking an order from the Court that requires Nike to show cause for such non-compliance and, after the Court evaluates the company's response, orders Nike to fully comply with the subpoena.

The scope of the information that the EEOC is seeking from Nike in its subpoena is expansive. For example, the subpoena seeks information from Nike: (i) from as early as 2018 (which is broader than the relevant period of the Charge); (ii) about several specific internal programs, including mentorship and pipeline programs; (iii) regarding layoff and other reduction in force selection decisions; and (iv) about executive compensation policies and decisions.

The case is *EEOC v. NIKE, Inc.*, Case No. 4:26-mc-00128.

### **What These Enforcement Actions Mean for Employers**

These cases further support that the EEOC is moving full steam ahead in 2026 with their stated priority to “root[] out unlawful DEI-motivated race and sex discrimination.”

As such, it is vital that all employers continue to:

- Review all publicly available and internal communications regarding current and historical DEI practices and programs for accuracy and relevance.
- Evaluate their DEI and supplier diversity programs, policies, and communications and work with legal counsel to determine whether any potential changes are required or recommended.
- Have policies and systems in place to immediately address any questions or concerns raised internally regarding their DEI programs and policies.
- Be attentive to the potential for discrimination claims in hiring, promotions, reductions in force, and other employment decisions, as well as mentoring, leadership, and professional development programming, including from employees and applicants in traditionally majority groups (and be mindful that, regardless of jurisdiction, these individuals no longer have a heightened standard to prove such claims pursuant to a new Supreme Court decision from this summer).
- Provide training and internal guidance to leaders regarding DEI-related discrimination.
- Provide support and guidance to employee resource networks.

BCLP has a team of knowledgeable employment lawyers and other professionals who are monitoring developments in this area and can help employers evaluate their DEI programs, government contracts, and more. If you or your organization would like more information on this or any other employment issue, please contact any attorney in our Employment and Labor Practice Group.

## RELATED CAPABILITIES

- Employment & Labor

## MEET THE TEAM



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