

Pay Equity Issues & Insights Blog



EEOC's Acting Chair Victoria Lipnic Comments on Equal Pay Laws and the Modified EEO-1 Report

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Seyfarth Synopsis: Employers across the country have been closely monitoring the legal landscape for signs of the changes that the business community is expecting from President Trump's administration. We have previously provided insights as to potential changes [here](#) and [here](#). One of the most talked about areas is the U.S. Equal Employment Opportunity Commission's enforcement of equal pay laws and the [modified annual Employer Information Report \(EEO-1\)](#). On February 9th, Seyfarth Shaw had the pleasure of hosting EEOC Acting Chair Victoria Lipnic, who [spoke to a packed room](#), along with Seyfarth's own Jerry Maatman who [debuted the 13th Annual Workplace Class Action Report](#).

As this was one of the first times EEOC Acting Chair Lipnic has made public remarks since her appointment to this role by President Trump two weeks ago, we wanted to share our front row seat as to the direction of the EEOC on pay equity enforcement and the EEO-1 report.

Acting Chair Lipnic began her remarks by stating that the top priority of President Trump's Administration is "jobs, jobs, jobs, jobs" and that she views the mission of the EEOC as being in line with this priority. Consistent with this view, Acting Chair Lipnic noted that the name of the Agency is the "Equal Employment Opportunity Commission — *underscore Employment Opportunity*," suggesting a shift away from policies that are misaligned with job creation.

However, when asked to comment on the EEOC's priorities under the Trump Administration, Acting Chair Lipnic immediately listed pay equity as among the top priorities, stating "I am very interested in equal pay issues," and noting that this interest is in line with the [EEOC's Strategic Enforcement Plan](#).

While this may be an Agency priority continuing into this next Administration, Acting Chair Lipnic acknowledged that the EEOC has not historically brought a significant number of Equal Pay Act cases, which is in line with the EEOC's Office of General Counsel Fiscal Year 2016 Annual Report, which provides that of the 86 merits suits filed in 2016, only 5 (or 5.8%) of these suits were brought under the EPA.

The Future of the EEO-1 Compensation Report Remains a Mystery

The EEOC previously announced a plan, which was approved by the Office of Management and Budget (OMB), that starting in March 2018 all employers with more than 100 employees would have to file compensation data reports with the EEOC as part of their EEO-1 filings. Amid criticism of the modified EEO-1 reporting requirements, there has been considerable speculation as to whether the new EEO-1 would be revised or even rescinded prior to the first reporting period. The mystery continues . . .

Acting Chair Lipnic first restated her public vote against the collection of pay data as part of the EEO-1 modifications. She also noted that although the EEO-1 report was modified pursuant to the Paperwork Reduction Act, she believes that it is appropriate to reexamine the benefit to burden analysis given President Trump's direction to federal agencies. By way of example, Acting Chair Lipnic pointed to the collection of W-2 wages as opposed to base salary as an area that may call for further review.

However, Acting Chair Lipnic did note that the EEOC operates by a majority vote and that it is currently a 4-member Commission. She further noted that she is the only sitting member of the Commission to vote against the revisions to the EEO-1 report. As such, while there may be further discussions on the future of the modified EEO-1 report, employers should not expect to see changes to the report until there is a shift in the make-up of the EEOC Commissioners.

To view the exclusive discussion between Victoria Lipnic and Gerald Maatman please click here: [Webcast Recording](#).

Seyfarth Shaw's Pay Equity Group is on the forefront of compensation issues that impact employers and will continue to be thought leaders on proposed legislation and regulations. We will also continue to closely monitor these issues and provide updates as appropriate.

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