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EEOC IDENTIFIES KEY TARGETS IN PROPOSED STRATEGIC ENFORCEMENT PLAN

The U. S. Equal Employment Opportunity Commission (“EEOC”) released a draft Strategic Enforcement Plan (“SEP”) on September 4, 2012, setting forth its key enforcement priorities and identifying the types of cases that it is most interested in pursuing against employers in the coming year. The SEP is a component of the EEOC’s broader Strategic Plan for 2012-2016, a proposal approved in February, 2012. The SEP reflects the EEOC’s attempt to maximize the effectiveness of its limited resources and identifies a focus on the following five (5) key enforcement priorities:

1. **Eliminating Systemic Barriers in Recruitment and Hiring.** The EEOC will target class-based intentional hiring discrimination and facially neutral hiring practices that adversely impact particular groups, such as the use of background screens and pre-employment tests.
2. **Protecting Immigrant, Migrant and Other Vulnerable Workers.** The EEOC will target disparate pay, job segregation, harassment and discriminatory language policies that affect workers who may be unaware of their rights or reluctant or unable to exercise them.
3. **Addressing Emerging Issues.** The EEOC will focus on emerging issues, including: (i) ADA Amendments Act issues, particularly coverage issues and the proper application of ADA defenses; (ii) potential LGBT (lesbian, gay, bisexual and transgender) coverage under Title VII sex discrimination provisions; and (iii) accommodations for pregnant employees.
4. **Preserving Access to the Legal System.** The EEOC will target policies and practices intended to discourage or prohibit individuals from exercising their rights, including retaliatory actions, overly broad waivers, settlement provisions that prohibit filing charges with or providing information to the EEOC, and failure to retain records required by EEOC regulations.
5. **Combating Harassment.** The EEOC will refocus its efforts on a national education and outreach campaign aimed at both employees and employers to prevent and appropriately respond to workplace harassment.

In addition to establishing these five (5) key enforcement priorities, the SEP calls for each of the EEOC's 15 district offices to create a local enforcement plan that identifies how each office will implement the SEP priorities and its own specific local enforcement priorities.

The EEOC released the draft SEP for public comment. In the near future, the EEOC will vote internally on whether or not to make the draft SEP official policy. As of this date, the EEOC has not released the results of the vote, or a revised draft. It is anticipated that the EEOC will be announcing its action on the draft SEP in the very near future.

The full text of the EEOC's proposed Strategic Enforcement Plan can be found at the following link: http://www.eeoc.gov/eeoc/plan/sep_public_draft.cfm

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