

LEGAL UPDATE



IMPORTANT INFORMATION

- The EEOC's new regulatory agenda reveals that finalizing regulations to implement the PWFA is a top priority for 2024.
- Other regulatory priorities include issuing proposed rules on electronic posting, electronic technology accessibility and employer recordkeeping.
- The EEOC is authorized to issue regulations under the ADEA, ADA, GINA, GERA and PWFA. Under Title VII, its regulatory authority is limited to procedural, recordkeeping and reporting matters.

EEOC Outlines 2024 Regulatory Plan

On Dec. 6, 2023, the U.S. Equal Employment Opportunity Commission (EEOC) issued a new [regulatory agenda](#) and [priority statement](#) that singles out its proposed regulations to implement the Pregnant Workers Fairness Act (PWFA) as a key priority for finalization in 2024.

The agenda, which lists all regulations scheduled for review or development during the next 12 months, was released by the [federal Office of Information and Regulatory Affairs](#) two years after the EEOC last issued one. For employers subject to EEOC-enforced federal fair employment laws, the new agenda provides a preview of the topics related to these laws that they may expect the EEOC to clarify in 2024. In addition to the PWFA, the laws enforced by the EEOC include the Americans with Disabilities Act (ADA), the Age Discrimination in Employment Act (ADEA), Title VII of the Civil Rights Act (Title VII), the Genetic Information Nondisclosure Act (GINA) and the Government Employee Rights Act (GERA).

Pending Regulatory Items

The EEOC's new agenda identifies nine pending items—five of which are in the proposed rule stage and four of which are at the final rule stage—the agency plans to address in 2024.

Topics scheduled to be addressed in the **proposed rules** include:

- Discrimination based on disability in EEOC programs/activities and accessibility of electronic and information technology;
- Fees for electronic record disclosures under the Freedom of Information Act;
- Amendments to regulations on retaliation against federal employees and additional EEO data posting and complaint processing requirements;
- Employer recordkeeping and reporting requirements under Title VII, ADA and GINA; and
- Rules for electronic posting of the "Know Your Rights" poster.

The EEOC also plans to release **final rules** on the following topics in 2024:

- Procedures for certain complaints made by employees of state or local governments covered under the GERA;
- 2024 adjustment to the penalty for failure to display poster;
- Regulations to implement the PWFA; and
- Amendments to include the PWFA in procedural and administrative rules.

Employer Action Steps

Employers should become familiar with the EEOC's regulatory agenda and monitor the EEOC's website for the release of any of the planned guidance that may be relevant to their businesses. Most federal agencies complete their highest-priority regulatory items between April and June.