



Monthly Strategies

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DE&I Executive Order, Now What

You probably realize how important inclusion and diversity is to create a thriving workplace for everyone. As a result of the recent Executive Orders issued by President Trump, the landscape of DE&I is drastically shifting. It calls for the elimination of illegal and discriminatory programs and emphasizes the importance of legal, inclusive practices that benefit all employees. It focuses on compliance with legal requirements and highlights the importance of merit-based opportunities.

Next Steps for Employers:

- Examine existing policies to ensure compliance
- Clarify Title VII Interpretation
- Conduct audits to ensure EEO initiative's compliance
- Prepare for heightened vigilance from regulatory agencies
- Business owners must proactively communicate a commitment to legal compliance and workplace equity and inclusion
- Initiate comprehensive policy and training reviews

OSHA Issues Final Rule Requiring Proper Fit for Construction Industry PPE

OSHA revisions to the personal protective equipment (PPE) standard for construction workers took effect on January 13th and are aimed at improving workers' safety from hazardous conditions. The [final rule](#) "explicitly requires that the equipment must fit properly," according to OSHA.

PPE in the construction industry can include hard hats, gloves, goggles, safety shoes, safety glasses, welding helmets and goggles, hearing protection devices, respirators, coveralls, vests, harnesses, and full body suits.

These items are designed to prevent job-related injuries, illnesses, and deaths.

Safety Concerns - The construction industry had the most fatalities (1,075) among all industry sectors in 2023, its highest total since 2011, according to the [National Census of Fatal Occupational Injuries](#). Falls, slips, and trips accounted for 39.2% of all construction fatalities (421), with transportation incidents accounting for another 22.3% of fatalities (240).

Definition of Proper Fit - The final rule states that PPE must fit properly to provide appropriate protection to employees from workplace hazards. Improperly fitting PPE may fail to provide any protection, reduce the gear's effectiveness, present additional hazards, or discourage employees from using such equipment in the workplace.

According to OSHA, properly fitting PPE "does not create additional safety and health hazards arising from being either too small or too large."

What Employers Need to Do - Even when employees provide their own PPE, OSHA requires the employer to ensure the gear's adequacy through proper maintenance and sanitation.

Improperly fitting PPE can be uncomfortable for the wearer, OSHA stated, which can lead workers to modify or disregard the PPE and become vulnerable to a hazard. The employer should take an employee's expression of discomfort seriously.

With few exceptions, OSHA requires employers to pay for PPE when it is used to comply with an OSHA standard. The new OSHA penalty amounts for employers found to be in noncompliance took effect on January 16th.

- The maximum penalty for serious and other violations will increase from \$15,625 per

violation to \$16,131 per violation. The minimum penalty for other-than-serious violations is still \$0; for serious violations, it will be \$1,190 per violation.

- The minimum penalty for willful or repeated violations will be \$11,524, and the maximum penalty for willful or repeated violations will increase from \$156,259 per violation to \$161,323 per violation.

Employers are advised to audit their current PPE inventory and ensure that proper sizes are available for all workers. [The Center for Construction Research and Training](#) and the [International Safety Equipment Association](#) list manufacturers of PPE specifically for women. OSHA lists additional [PPE resources for women](#) on the agency's website.

Employers should review their practices for issuing PPE to make sure they document that the PPE is properly fitting, and potentially have employees sign off that the PPE is properly fitting. Employees need to know that they should inform their supervisors if the PPE becomes damaged on down the line and no longer fits properly.

Reasonable Accommodations for Pregnant Workers Policy

As required by the federal Pregnant Workers Fairness Act (PWFA), companies must provide reasonable accommodations to employees and applicants with limitations related to pregnancy, childbirth or related medical conditions, unless the accommodation will cause undue hardship to the company's operations.

Sample Policy

An employee or applicant may request an accommodation due to pregnancy, childbirth or a related medical condition by submitting the request in writing to _____. The accommodation request should include an explanation of the pregnancy-related limitations, the accommodation needed and any alternative accommodation(s) that might be reasonable. Depending on the nature of the

accommodation, the individual may be requested to submit a statement from a health care provider substantiating the need for the accommodation.

Upon receipt of a request for accommodation, _____ will contact the employee or applicant to discuss the request and determine if an accommodation is reasonable and can be provided without significant difficulty or expense, i.e., undue hardship.

While the reasonableness of each accommodation request will be individually assessed, possible accommodations include allowing the individual to:

- Sit while working.
- Drink water during the workday.
- Receive closer-in parking.
- Have flexible hours.
- Receive appropriately sized uniforms and safety apparel.
- Receive additional break time to use the bathroom, eat and rest.
- Take time off to recover from childbirth.
- Be excused from strenuous activities and/or activities that involve exposure to compounds deemed unsafe during pregnancy.

An employee may request paid or unpaid leave as a reasonable accommodation under this policy; however, the company will not require an employee to take time off if another reasonable accommodation can be provided that will allow the employee to continue to work.

The company prohibits any retaliation, harassment or adverse action due to an individual's request for an accommodation under this policy or for reporting or participating in an investigation of unlawful discrimination under this policy.

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