

EEOC Confirms that Sexual Orientation Discrimination is Sex Discrimination

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On July 15, 2015, the EEOC issued an official decision that sexual orientation discrimination is sex discrimination under Title VII. The EEOC explained that "sexual orientation is inherently a sex-based consideration," and an allegation of discrimination based on sexual orientation is necessarily an allegation of sex discrimination under Title VII." According to the EEOC, a "complaint alleging that an agency took his or her sexual orientation into account in an employment action necessarily alleges that the agency took his or her sex into account." They also discussed prior holdings indicating that sexual orientation discrimination involves discrimination based on gender stereotypes.

The official EEOC ruling confirms what many observers have suspected was the EEOC's position on this issue. Though the EEOC position is not binding on courts, employers may want to revise their nondiscrimination policies to make clear that sexual orientation is included as a protected category.

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