

EMPLOYER LAW BLOG

ALERT: EEOC Announces Plan to Add Nonbinary Gender Language to Charge of Discrimination Forms

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In its press release, the EEOC states it seeks to “promote greater equity and inclusion for members of the LGBTQI+ community” by incorporating these changes into its public-facing forms. The EEOC states the changes reflect the recognition that “the binary construction of gender as either ‘male’ or ‘female’ does not reflect the full range of gender identities.”

EEOC Chair Charlotte A. Burrows added: “To advance our mission to prevent and remedy employment discrimination, we must serve all workers, including those who do not identify as male or female.”

The EEOC also noted the White House released its own statement today indicating the federal government will also introduce a nonbinary “X” gender marker on various forms. According to the White House release, this will include U.S. passport applications.

Both the EEOC and White House releases note these changes are being made today—the Transgender Day of Visibility—to “recognize the resilience and accomplishments of the transgender community.”

The changes comport with the landmark decision of the United States Supreme Court in 2020—*Bostock v. Clayton County*. In *Bostock*, the Supreme Court held, for the first time, Title VII protected employees against discrimination because they are gay or transgender. Given the change announced today and the *Bostock* decision, it is fair to expect more changes to come. Stay tuned.