

EEOC Determines Title VII Protects Transgender Workers

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In what is being called a “landmark decision,” the U.S. Equal Employment Opportunity Commission (EEOC) recently concluded that discrimination against an individual because that individual is transgender constitutes discrimination “based on sex” and therefore violates Title VII. The EEOC expressly overturned any contrary earlier decisions from the Commission.

Mia Macy, a transgender woman, had filed an appeal concerning her EEOC complaint based on the denial of a position she applied for with the Bureau of Alcohol, Tobacco, Firearms and Explosives. Significantly, the EEOC did not limit its new decision to public employers.

What This Means

Employers with 15 or more employees, even in states that do not have transgender-inclusive nondiscrimination laws, need to take note of the EEOC’s decision. Private employers also need to take note, at least until the courts provide more direction in this area.

What You Should Do

Employers should review their employment practices and proceed with caution when making hiring or workplace decisions arguably based on an individual’s transgender status.

If you have any questions about this alert, please contact your Lathrop Gage attorney or the attorney listed above.