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## What the EEOC did on its Summer Vacation

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Just kidding. Like Human Resources, the EEOC does not take a summer vacation! So, here are a few things the EEOC has been up to while you were trying to stay cool.

### It is always harassment season:

The EEOC collected millions of dollars from American employers this summer stemming from harassment cases. A Washington based HVAC contractor, Air Control Heating & Air Conditioning, Inc., resolved a sexual harassment case brought by seven current and former employees alleging nearly daily harassment since 2010. The company's owner allegedly told the employees that women do not belong in the building trades and was also accused of making sexually explicit remarks, touching women without consent, asking women to wear more revealing clothing and even offering them tickets to attend a nearby strip club. The EEOC claimed that the women made multiple complaints over the years, so the company hired an HR consultant who concluded the company's culture was "like a sewer." Even still, the company did not stop the owner's behavior. The company agreed to pay \$361,000 to the seven women, plus full back pay for the employee who quit due to the behavior. The company will also be subject to a five year consent decree requiring them to have an independent consultant implement an anti-harassment policy and training and promptly investigate any complaints.

A McDonald's franchise owner and operator agreed to pay \$1,600,000 to resolve a sex discrimination and retaliation lawsuit brought by the EEOC. The EEOC alleged that the Vermont McDonald's permitted a male night shift manager to inappropriately hit and grope female employee genitals, breasts and buttocks and also subjected them to sexually explicit derogatory comments. In addition, the EEOC alleged that the employer retaliated against one of the employees who complained by revoking her accommodation for her disability and forcing her to quit. The settlement includes a \$125,000 payment for civil penalties to the state of Vermont and also requires five years of extensive anti-discrimination and harassment training and hiring an independent monitor to oversee compliance.

### COVID-19 litigation continues:

In July, the EEOC resolved a COVID-19 case brought against a Florida dermatology practice. The EEOC alleged that the practice violated the Genetic Information Non-Discrimination Act (GINA) when it collected COVID-19 test results of the practice's employees' family members. GINA makes it illegal to request, require, or acquire family medical history from employees. GINA cases represented less than 1% of all EEOC charges filed in 2021; however, employers should be careful not to inadvertently violate GINA.

### New pregnancy discrimination website launched:

The EEOC has also made it easier to find information on pregnancy discrimination by launching a new Pregnancy Discrimination Resources page: [Pregnancy Discrimination and Pregnancy-Related Disability Discrimination | U.S. Equal Employment Opportunity Commission \(eeoc.gov\)](https://www.eeoc.gov/pregnancy-discrimination). The page describes the different protections available, reminding us that pregnancy discrimination can be based on current pregnancy, past pregnancy, potential pregnancy, medical conditions related to pregnancy and childbirth (including breastfeeding), having or choosing not to have an abortion, and contraception. The website also notes that some pregnant employees may also have protections under the Americans with Disabilities Act. Be sure to read up on the EEOC's position on pregnancy discrimination if you have questions about a pregnant employee in your workplace.

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