

Rutter Group Practice Guide: Federal Employment Litigation

"What's New or Updated" 2026

The 2026 Edition of ***Federal Employment Litigation*** is an up-to-date guide on employment issues under Federal Law. For this edition, the authors have added new material and/or updated existing material based on relevant case and statutory developments, including, but not limited to, the following subjects:

- Presidential Removal Power: The U.S. Supreme Court overruled the 90-year old precedent of *Humphrey's Executor* and held that the President may remove Federal Trade Commission Commissioners at will, substantially expanding presidential authority and invalidating statutes that protected heads of independent agencies from being fired without cause;
- NLRB Structure and Deference: Courts continue to address constitutional challenges to the NLRB's structure and the extent to which courts should defer to NLRB decisions following *Loper Bright*;
- Religious Discrimination and Accommodation: New decisions address neutrality in determining tax exempt status, the ministerial exception, and the distinction between protected religious beliefs and purely secular preferences;
- Title VII – Reverse Discrimination: The U.S. Supreme Court ruled that majority-group plaintiffs do not bear a heightened burden when proving disparate treatment under Title VII;
- EEOC 2024 "Enforcement Guidance in the Workplace" rescinded;
- ADA and Rehabilitation Act: Developments include the confidentiality of medical information, examination and inquiries, job reassignment as an adverse action, accommodation delays and the right to an accommodation even when an employee can perform essential job functions without one;
- Rehabilitation Act Regulations: The Department of Labor has proposed substantial revisions to its implementing regulations for Section 503 of the Rehabilitation Act, including elimination of utilization-goal requirements;
- Harassment by Nonemployees: The Sixth Circuit adopted an intent requirement for employer liability for harassment by nonemployees, diverging from the negligence standard applied by most other circuits;
- Sexual Harassment Arbitration: When an employee plausibly alleges sexual harassment, the Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act (EFAA) blocks the entire lawsuit from being sent to arbitration.

Please refer to the "Update highlights and filing (PDF)" for a more comprehensive summary of the most significant developments in this edition.