

## Alicia J. Samolis Featured in Rhode Island Lawyers Weekly on Impact of EEOC's Updated DEI Guidance

### Description

The U.S. Equal Employment Opportunity Commission (EEOC) and Department of Justice released new guidance on Diversity, Equity and Inclusion ("DEI") in the workplace in March of 2025. In a recent *Rhode Island Lawyers Weekly* [article](#), PSH Partner and [Employment & Labor](#) Chair [Alicia J. Samolis](#) offers valuable insight into what this shift means for employers. Drawing on her deep experience in advising employers on this topic, Samolis unpacks the implications of the EEOC's latest stance and provides practical guidance for companies striving to stay compliant.

The latest guidance highlights the fact that under employment discrimination rules, employers are required to be protected class blind, meaning they can't treat employees more favorably even if the employees are in a historically disadvantaged class and even if the employee is in the minority based upon the company's employee demographics. So-called "reverse discrimination" – discrimination claimed by a member of the majority class – have always been illegal and something Samolis cautioned employers against for many years. In fact, Samolis was [interviewed](#) on this issue over five years ago.

But while the risk has always existed, it is now becoming much more treacherous. As Samolis explained to *Rhode Island Lawyers Weekly* earlier this week "[f]rom the legal context, the law isn't really changing based upon this guidance. It's more that the chances that somebody gets a lawsuit have changed, and potentially employees' attitudes have changed." Samolis explained to *Rhode Island Lawyers Weekly* that up until recently some employers either did not fully grasp what the protected class blind requirement meant or were willing to take the risk in pursuit of diversity.

"The problem is you have people who are well-intended, and they don't realize that it's equally as illegal to say 'our next CEO needs to be Black' or 'the next person we elevate to the C-suite needs to be a woman,'" Samolis said. Samolis explained disputes involving claims by an employee in the majority class can be the hardest to defend because those claims are more likely to include written evidence of discriminatory intent. As a practical piece of advice, Samolis suggests when an employer is considering whether a DEI initiative is legal, they should swap out the minority class for the majority class. For example, most employers can easily spot that an employee resource group only open to white men or only offering training or mentoring to white men as being illegal. Thus, it is still illegal if the class status is Hispanic employees or women.

Samolis also highlighted that the increased scrutiny on employee DEI programs is more likely to lead to some employees feeling frustrated in the restrictions on what DEI efforts can legally do and other employees wondering if their employer is violating the law. Samolis predicts that "the likely outcome of this sort of discussion is going to be less DEI efforts, not just somewhat modified [DEI efforts]."

Samolis urges employers to consult with their employment counsel to review current DEI initiatives and to ensure that their manager training on discrimination and harassment includes examples of illegal reverse discrimination.

Read the [full article](#) to explore Alicia Samolis' analysis on how the EEOC's latest guidance could impact your organization's DEI strategy.

### Date Created

April 7, 2025