

Why Data and Assessment Drive Clarity and Mitigate Risk in a Complex Environment

Corporate Racial Equity Alliance | PolicyLink, FSG, JUST Capital | In partnership with Working IDEAL

New federal government actions are creating uncertainty around how organizations collect and use workforce data. Questions now surround practices such as collecting demographic data, evaluating equal opportunity in hiring and promotion, conducting pay equity reviews, and assessing workplace culture.

But the core legal requirements have not changed. Pulling back on these practices not only increases compliance risk—it also creates gaps in oversight that can lead to costly litigation, reputational damage, weakened organizational culture, and missed business opportunities.

By contrast, continuing to collect and assess workforce data brings clarity in a complex environment. It equips leaders to manage risk more effectively, helps strengthen workplace culture, and reinforces organizational performance.

This guide explains why data and assessment remain indispensable tools for protecting your organization and advancing long-term success.



The Problem We Face

For decades, employers have used data and assessment tools to ensure fair employment practices. Over the last eight months, changes in the federal government's approach to anti-discrimination enforcement have created uncertainty about whether and how to continue that work. This Guide is designed to support employers navigating a complex and uncertain environment by demonstrating the importance of workforce data collection and analysis practices, as well as the risks associated with reducing these practices.

Why It Matters

Many employers have well-established protocols for collecting demographic data on employees and job applicants, tracking the fairness of decisions related to hiring, promotion, and pay, and measuring employee engagement. These practices advance business and talent objectives, protect employers from legal risk, and strengthen business reputations in the marketplace. Most importantly, these practices help employers identify and address barriers to equal employment opportunity before they result in litigation or reputational harm.

Failing to proactively address gaps in workplace practices can be costly. In 2024, the U.S. Equal Employment Opportunity Commission (EEOC) reported [recovering over \\$700 million on behalf of 21,000 workers](#), with additional costs from state, local, and private enforcement.

Although many employers are concerned about their ability to collect and analyze demographic data, **recent federal executive actions do not restrict employers who are using data to ensure their workplace practices are non-discriminatory**. Federal laws and long-standing legal requirements that mandate equal employment opportunity remain in place.

Lawful Actions You Can and Should Take	Why It Is Important to Sustain What Works
Collecting demographic data and reviewing workplace practices.	Existing laws still require organizations to collect demographic data and evaluate equal opportunity—practices that remain essential to managing legal risk.
Using data to evaluate equal opportunity in hiring and promotion.	Identifying patterns of bias, unnecessarily narrow job qualification requirements, or missed opportunities for more top talent can facilitate merit-based decisions and prevent discrimination.
Regular pay equity reviews.	Data-driven compensation reviews respond to changing laws and market expectations for greater pay transparency.
Assessing your workplace culture and analyzing engagement data.	Tracking employee metrics is key to verifying that workplace culture is respectful and inclusive for all demographic groups and free of harassment and discrimination.

Collecting demographic data and reviewing workplace practices is still required in many cases and remains essential to managing legal and other forms of risk.

Federal and state laws hold employers responsible for discrimination in hiring, promotion, pay, and other employment-related decisions. Employers can and should use workforce and applicant demographic data to proactively evaluate these workplace practices and seek to understand any patterns that may suggest potential barriers or unfairness for a particular group.¹ A pattern may be explained by a legitimate and legally sound reason—or it may indicate potential discrimination. Further analysis can help employers determine whether disparities are due to discrimination.

Failing to identify and address possible discrimination can leave employers vulnerable to [private lawsuits](#) and [state and local civil rights investigations](#). The Executive Order on “illegal DEI programs” [does not restrict collecting and analyzing this data](#). Furthermore, recent statements from the Chair of the EEOC [do not change any of the long-standing EEOC guidance or federal laws](#) that make collecting and analyzing demographic data both lawful and critical for effective talent management. There are, however, [some clear best practices](#) for handling this type of data.²



Indeed, not only is collecting this data lawful and highly recommended for risk management purposes, but in some cases, it may be legally required. Federal law requires larger employers [to file annual EEO-1 reports on employee demographics](#), and it mandates many others to keep records necessary to proactively address discrimination.³ Employers, researchers, and enforcement agencies have used this data for many years to understand and address discrimination. Some states have specific additional mandates to collect demographic data on job applicants and employees.⁴

¹ In a “disparate impact” claim, statistical evidence can reveal if a company’s employment practices tend to screen out or disfavor employees or job applicants based on race, gender, or other protected characteristics, which is discriminatory unless there is a legally acceptable justification for the disparity. 42 U.S.C. §2000e-2(k); *Griggs v. Duke Power Co.*, 401 US 424 (1973).

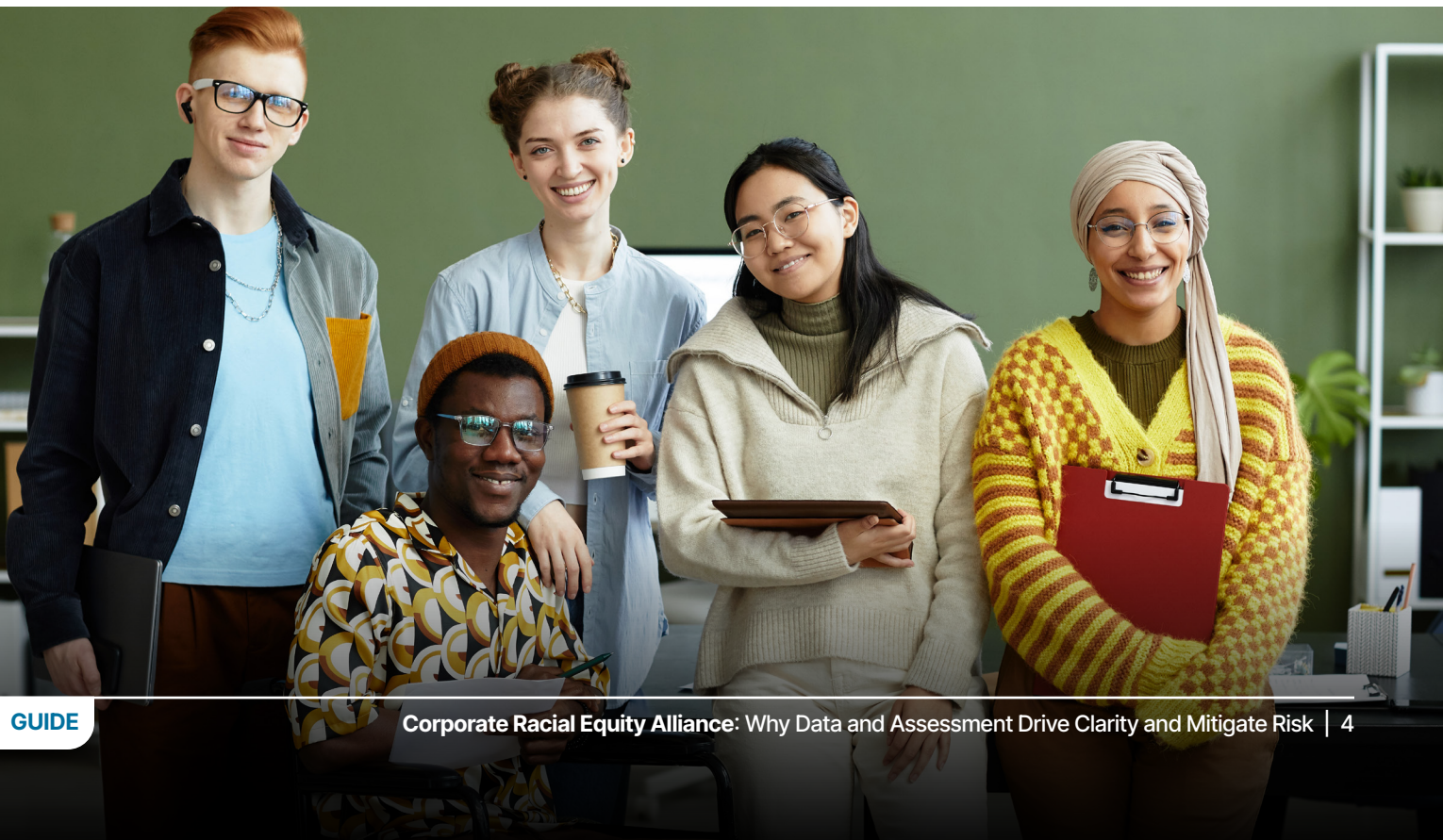
² For example, data collection should be private and voluntary, and individual demographic information should not be shared with hiring managers or other decision makers.

³ Title VII of the Civil Rights Act of 1964 requires employers to “make and keep . . . records relevant to the determinations of whether unlawful employment practices have been or are being committed.” Title VII, 42 U.S.C. § 2000e-8(c).

⁴ California requires covered employers to collect demographic data on applicants and to report pay by demographics (Cal. Code Regs. Tit. 2, § 11013). Illinois and Massachusetts have pay data reporting requirements that depend on employers maintaining demographic data on employees. (820 ILCS 112/11; Mass. Chapter 141 of the Acts of 2024).

Using data to evaluate equal opportunity in hiring and career opportunities can remove unnecessary candidate hurdles and allow true merit-based decisions.

Sometimes job requirements or other hiring practices can create unfair and unnecessary barriers to hiring the best person for the job. One example is requiring a college degree for roles that can be successfully performed by individuals who have relevant military or civilian work experience, training, or certifications. Unnecessary degree requirements [arbitrarily screen out talented individuals](#) and may make it harder for qualified applicants from certain backgrounds to secure employment. Using data to understand if the hiring process favors or disadvantages particular groups helps companies spot potential legal risk as well as the risk of overlooked talent. While in some cases a particular requirement may be justified, in other cases it creates potential discrimination liability. Updating job requirements where appropriate can improve the chances of finding the strongest match for the job and give companies a broader pool of talent to choose from. Employers should regularly analyze data on job applicants in order to make sure that they are truly selecting candidates based on the needs of the job and providing fair opportunities to all qualified candidates.



Regular pay equity reviews are increasingly important to respond to changing laws and market expectations for greater pay transparency.

Over the past 15 years, increasing U.S. and global public attention to the gender wage gap has led to [new pay equity laws](#), stronger federal and state enforcement, and new expectations for equity and transparency from workers and consumers. Workers, particularly younger workers, are [more likely to share their salaries with others and expect more transparency and equity at work](#). A few states, including California, now require companies to submit pay data reporting to the government, and the European Union's [Pay Transparency Directive](#) will soon enforce public wage gap reporting, a practice already implemented by the United Kingdom. This pressure to demonstrate pay equity, including posting pay ranges and disclosing more salary information, means compensation differences will be more visible and more likely to be challenged or criticized. Companies have responded by stepping up their efforts to conduct pay equity reviews and make public commitments to fair pay for all, regardless of race or gender. While [in 2022, only about a third of companies reported conducting pay equity analyses](#), more recent data suggests that the [trend is increasing, especially for larger companies](#). Companies should conduct regular and robust internal analyses to understand whether any pay disparities exist and develop a strategy to explain justified differences and address unjustified disparities. Our next Guide will provide tips on the “how.”



Using data and assessment helps ensure that workplace culture is respectful and inclusive for all and free of harassment and discrimination.

Companies and other organizations can also use data and assessment to understand and improve workplace culture. Many companies conduct employee engagement surveys. Having the data to review breakdowns by race, gender, and other demographics can reveal problems that overall results may obscure. Qualitative data is also important, especially to understand perceptions and experiences of a hostile work environment or concerns about safety or disrespect. Conducting focus groups and listening sessions, in addition to broad surveys, makes it easier to understand what might be creating concerns or leading to different experiences for employees of different backgrounds. This, in turn, may help address culture-related challenges like differential patterns of attrition or low morale. Doing the due diligence to proactively determine whether these problems exist can help employers prevent discrimination and harassment—and is particularly relevant to sustaining a defense to a hostile work environment action [by showing the company took reasonable action to prevent and correct harassing behavior.](#)



Workforce data collection and analysis is smart business — it protects your bottom line and your people.

Learn more

Andrew Jones, "Most Large US Companies Are Undertaking Gender Pay Gap Analyses," Conference Board, August 6, 2024, <https://www.conference-board.org/publications/Most-Large-US-Companies-Are-Undertaking-Gender-Pay-Gap-Analyses>.

Charlotte A. Burrows et al., "Statement of Former EEOC Officials on Employer DEI Programs," PDF, March 25, 2025, <https://static1.squarespace.com/static/67f14b136c5a8838cca88ae0/t/67f6caf2fc4ea152ce203d06/1744227059055/1+Statement-of-Former-EEOC-Officials-on-DEI-04.03.25-1..pdf>.

The Commonwealth of Massachusetts et al., "Multistate Guidance Concerning Diversity, Equity, Inclusion, and Accessibility Employment Initiatives," State of Massachusetts, February 13, 2025, <https://www.mass.gov/doc/multi-state-guidance-concerning-diversity-equity-inclusion-and-accessibility-employment-initiatives/download>.

"EEO Data Collections," United States Equal Employment Opportunity Commission, accessed September 4, 2025, <https://www.eeoc.gov/data/eeo-data-collections>.

"EEOC Publishes Annual Performance and General Counsel Reports for Fiscal Year 2024," United States Equal Employment Opportunity Commission, January 17, 2025, <https://www.eeoc.gov/newsroom/eeoc-publishes-annual-performance-and-general-counsel-reports-fiscal-year-2024#:~:text=For%20the%20agency%2C%20FY%202024,in%20its%20recent%20history%20and>.

"Equal Pay and Pay Transparency Map," United States Department of Labor Women's Bureau, accessed September 4, 2025, <https://www.dol.gov/agencies/wb/equal-pay-protections>.

Lynn Clements et al., "Workforce Data Considerations After DEI Order," Law 360, February 27, 2025, (detailing considerations for continuing to collect workforce data), <https://www.chaifeldblum.com/wp-content/uploads/2025/03/Workforce-Data-Collection-Considerations-After-DEI-Order-Law360.pdf>.

Matthew Nestler et al., "Despite an Uptick in 2023, Only 32% of the Largest U.S. Companies Analyze Their Gender Pay Gaps," Just Capital, March 14, 2023, <https://justcapital.com/news/equal-pay-day-2023-us-companies-analyzing-gender-wage-gaps-increased/>.

Michelle Fox, "Are You Being Paid Fairly? Young Workers Share Salary Information as Pay Transparency Gains Steam," CNBC, April 27, 2022, <https://www.cnbc.com/2022/04/27/young-workers-share-salary-information-as-pay-transparency-gains-steam.html>.

National Institute for Workers' Rights, "NIWR and NELA Warn Corporations of Increased Liability Risk in Rolling Back Diversity, Equity and Inclusion Programs," National Institute for Workers' Rights, April 8, 2025, <https://niwr.org/2025/04/08/release-risk-eliminating-dei-programs>.

Opportunity@Work, State of the Paper Ceiling: Advancing STARs in the American Workforce (Washington, DC: Opportunity@Work, 2025), https://cdn.prod.website-files.com/677c2459dcf44df291d3ed9b/68395b36b2937f23b96d7290_SOPC%202025%20Report_final_052225.pdf.

"Opportunity@Work | Advocating for a Skills-First Labor Market," Opportunity@Work, accessed September 4, 2025, <https://www.opportunityatwork.org/>.

Pamela Coukos et al., "Open Letter from Former DOL Officials to Federal Contractors," PDF, April 15, 2025, <https://static1.squarespace.com/static/67f14b136c5a8838cca88ae0/t/682e0230bd6dc64bb46010ed/1747845680395/Open-Ltr-to-Contractors-from-Former-DOL-Officials-4.15.25.pdf>.

"Workplace Harassment," United States Equal Employment Opportunity Commission, accessed September 4, 2025, <https://www.eeoc.gov/harassment>.

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