

EOC Rescinds 2024 Enforcement Guidance on Workplace Harassment

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On January 22, 2026, the U.S. Equal Employment Opportunity Commission (“EEOC”) announced that it would rescind its 2024 “Enforcement Guidance on Harassment in the Workplace” (“Guidance”). The rescission does not alter any binding law or policy. According to the EEOC, “Federal employment laws against discrimination, harassment, and retaliation, and Supreme Court precedent interpreting those laws, remain firmly in place. The EEOC is committed to evenhanded enforcement of these laws. The agency will continue to be dedicated to preventing and remedying unlawful workplace harassment.”

The 2024 Guidance focused on harassment protections for LGBTQ+ individuals in the workplace following the Supreme Court’s 2020 decision in Bostock v. Clayton County, which held that Title VII of the Civil Rights Act of 1964 prohibited employment discrimination based on sexual orientation or gender identity. The Guidance expansively defined “sex” to include sexual orientation and gender identity and stated that discriminatory or harassing conduct based on gender identity, gender expression, or sexual orientation – for example, denying someone access to a bathroom aligning with their gender identity, and the practices of “dead naming” and “outing” – violated Title VII.

The Guidance’s protections for LGBTQ+ individuals were short lived. In May 2025, a Texas federal court vacated part of the Guidance in Texas v. EEOC, holding that the Guidance improperly expanded the scope of sex beyond the “biological binary” and contravened Title VII by defining discriminatory harassment as inclusive of transgender bathroom, pronoun, and dress preferences rather than issues related to hiring and firing. Despite the decision in Texas v. EEOC, the Guidance remained in effect – without the sections discussing sexual orientation and gender identity – because the EEOC did not have a full three-member quorum until October 2025.

Although the EEOC has withdrawn the 2024 Harassment Guidance, state and local laws continue to prohibit LGBTQ+ workplace harassment. The New Jersey Law Against Discrimination, the New York State Human Rights Law, and the New York City Human Rights Law all expressly prohibit discrimination and harassment on the basis of sexual orientation and gender identity.