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## EEOC Hits “Rewind”: What the Rescission of Harassment Guidance Means for Employers

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### Summary

The EEOC recently rescinded its 2024 workplace harassment guidance, removing a key resource many employers relied on for interpreting federal anti-discrimination laws. While the underlying legal obligations have not changed, the move creates uncertainty around enforcement priorities and leaves employers without a clear federal playbook. The takeaway: the rules still exist, but the instructions are less obvious. The guidance had aimed to create a single framework employers could look to in preventing harassment. Its rescission means that it is now more important than ever for employers to rely on sound policies, consistent training, and a practical, risk-aware approach.

### So, What Just Happened?

In early 2026, the EEOC voted to withdraw its 2024 Enforcement Guidance on workplace harassment. The 2024 guidance was designed to pull together the EEOC’s thinking on modern harassment issues, including examples reflecting today’s workplace realities. Its rescission doesn’t replace that guidance with something new, it simply removes it altogether.

That matters because the 2024 guidance was not just a restatement of the law. It attempted to synthesize decades of agency positions, court decisions, and emerging workplace trends into a single, user-friendly resource. It addressed everything from remote work environments to social media conduct to evolving questions about workplace interactions.

So where does that leave employers? In a familiar but slightly less comfortable place: complying with the law without the benefit of a recent, comprehensive EEOC roadmap into how the EEOC will evaluate charges. For in-house counsel in particular, that means less predictability when advising business partners on close calls

### What Didn’t Change

The rescission does not change federal law. Title VII and other anti-discrimination statutes remain firmly in place. Courts are still the ultimate decision-makers in defining what constitutes unlawful harassment, and existing precedent still controls.

In other words, this rescission does not grant employers *carte blanche* to discriminate against or harass employees. Protected characteristics are still protected; employers must still take reasonable steps to prevent and correct harassment; and employees have the same rights as they did before.

It is also worth remembering that key Supreme Court precedent continues to apply regardless of agency guidance. That means employers who were relying on those decisions to shape policy (as they should have been) are not starting from scratch.

What *has* changed is the absence of a centralized interpretive lens from the EEOC itself. And for many employers, that guidance served as a practical bridge between high-level legal standards and day-to-day decision-making.

## **Why This Still Matters**

Even though the legal standard hasn't changed, the rescission has practical implications.

For one, the 2024 guidance was a helpful tool. It provided examples, clarified gray areas, and gave employers something concrete to point to when drafting policies or making judgment calls. Without it, employers lose a layer of interpretive support.

There's also a signaling effect. The decision to rescind the guidance reflects a shift in how the EEOC may approach certain issues, particularly those that were front and center in the 2024 version (like gender identity and evolving workplace norms). That doesn't mean those issues go away. It just means employers should expect less clarity on how they will be addressed by the EEOC.

Another practical impact is litigation risk. Without updated guidance, plaintiffs' attorneys may be more willing to test novel theories, while employers may have fewer agency-backed reference points to rely on when defending decisions. In that sense, the rescission may shift some of the burden of interpretation back to the courts.

## **State Law is Still Separate and Removed**

If there's one area where employers should not relax, it's state and local compliance. The EEOC rescission does not affect state or local agencies, as it only interprets federal law. Many states and municipalities already go beyond federal law in defining protected categories and employer obligations. Those laws are still in effect and, in some cases, may carry more practical weight now that federal guidance has taken a step back. Federal law is, once again, the floor for what constitutes harassment and discrimination.

This is especially important in jurisdictions that have been more aggressive in expanding protections related to gender identity, sexual orientation, and workplace accommodations. California being the obvious example, but Colorado has taken an expansive approach as well. In those locations, the practical compliance standard may look very similar to what the 2024 EEOC guidance previously outlined.

For multi-state employers, this reinforces an ongoing challenge: consistency. A policy that works in one jurisdiction may not be sufficient in another. A common solution is to adopt a "highest standard" approach by designing policies that meet or exceed the most stringent applicable requirements. It's not always the easiest path, but it's often the safest.

## **Practical Next Steps for Employers**

Now is a good time to revisit anti-harassment policies and make sure they still reflect current law and workplace realities. Further, how employers respond to complaints remains a key factor in liability. Consistent, well-documented investigations are still one of the strongest defenses. That includes not only the outcome, but the process: timeliness, neutrality, and clear documentation all continue to matter.

Finally, employers should keep an eye on what comes next. The EEOC may issue revised guidance, shift enforcement priorities, or take positions through litigation instead of formal publications.

## **The Bottom Line**

The EEOC's decision to rescind its 2024 harassment guidance is less about changing the rules and more about removing a reference guide. Employers are still playing the same game, but without a recent rulebook from the agency. That makes fundamentals more important than ever: clear policies, effective training, and thoughtful decision-making. For in-house counsel and HR professionals, this is a moment to recalibrate and stay flexible, as this latest EEOC administration is unpredictable in what cases it chooses to pursue.

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