# LEGAL UPDATE

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## HIGHLIGHTS

- On April 29, 2024, the EEOC updated its Enforcement Guidance to expand protections against harassment on the basis of gender identity and sexual orientation, among other changes.
- On May 15, 2025, a federal District Court vacated the provisions of the Enforcement Guidance related to sexual orientation and gender identity protections.
- On Jan 22, 2026, the EEOC voted to rescind the Enforcement Guidance in its entirety.

# EEOC Rescinds Enforcement Guidance on Harassment in the Workplace

On **Jan. 22, 2026**, the U.S. Equal Employment Opportunity Commission (EEOC) voted to rescind its Enforcement Guidance on Harassment in the Workplace (Enforcement Guidance). The Enforcement Guidance was most recently updated on April 29, 2024, during former President Joe Biden's administration, to expand protections against harassment on the basis of an employee's sexual orientation and gender identity, among other changes.

## Background

On **April 29, 2024**, the EEOC updated the Enforcement Guidance. Among the updates, the EEOC added protections for gender identity and sexual orientation harassment to incorporate case law, including the Supreme Court's 2020 decision in *Bostock v. Clayton County*, which holds that discrimination on the basis of sexual orientation constitutes sex discrimination under Title VII of the Civil Rights Act (Title VII). The updated Enforcement Guidance also provided guidance regarding emerging issues, such as harassment in a remote work environment.

On **May 15, 2025**, the U.S. District Court for the Northern District of Texas ruled that the EEOC exceeded its authority in expanding the definition of "sex" to include "sexual orientation" and "gender identity" and that neither Title VII nor the ruling in *Bostock* defines "sex" accordingly. In its ruling, the Texas District Court vacated related elements of the Enforcement Guidance.

## EEOC Rescission

On **Jan. 22, 2026**, the EEOC voted to rescind the Enforcement Guidance in its entirety. The rescission follows comments from EEOC Chair Andrea Lucas stating her opposition to components of the Enforcement Guidance, particularly the portions regarding protections for gender identity. However, the EEOC's vote rescinds all provisions of the Enforcement Guidance, including real-world examples of workplace harassment and employer best practices to prevent harassment claims, rather than just the provisions regarding sexual orientation and gender identity.

## Employer Takeaways

Although the EEOC's rescission of the Enforcement Guidance does not alter federal law, it does eliminate informal guidance regarding the EEOC's enforcement of federal harassment laws, which could lead to uncertainty for employers in complying with such laws. In addition, *Bostock* still prohibits employment discrimination based on sexual orientation and gender identity. Employers may also be subject to state or local laws that prohibit sexual orientation and gender identity harassment and discrimination. Therefore, employers should continue to ensure compliance with all relevant discrimination and harassment laws.

The EEOC did not specify whether it will issue new guidance, but employers should monitor for updates.

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