

# Legal Update

Brought to you by: George Belcher Evans & Wilmer

## EEOC Releases Workplace Guidance to Prevent Harassment

On April 29, 2024, the U.S. Equal Employment Opportunity Commission (EEOC) published its [final guidance](#) on harassment in the workplace. The guidance explains how the EEOC may enforce equal employment opportunity (EEO) laws against an employer when workplace harassment is alleged or suspected.

### Background

The EEO laws are a collection of federal laws that prohibit covered employers from discriminating against or harassing individuals based on certain characteristics. These characteristics, also known as protected traits, include race, color, religion, national origin, sex (including sexual orientation, gender identity and pregnancy, childbirth, or related medical conditions), disability, age (40 and older) and genetic information (including family medical history).

Between 1987 and 1999, the EEOC issued several documents designed to guide agency staff members who investigate claims of harassment under EEO laws. The agency issued proposed enforcement guidance on these topics on Oct. 2, 2023. This final guidance consolidates and replaces the earlier documents.

### Final Guidance

In its final guidance, the EEOC provides several updated examples to reflect a wide range of modern scenarios and address emerging issues, such as how social media posting and other online content may contribute to a hostile work environment. It also incorporates current case law, including the U.S. Supreme Court's 2020 decision in *Bostock v. Clayton County*, that discrimination on the basis of sexual orientation or gender identity constitutes sex discrimination in violation of Title VII of the Civil Rights Act of 1964 (one of the EEO laws).

The final guidance focuses on three main considerations to analyze in any workplace harassment claim:

1. Whether the conduct is based on the individual's legally protected trait;
2. Whether the conduct resulted in a hostile work environment or explicit change to the terms or conditions of employment; and
3. Whether there is any legal basis for holding the employer liable.

The guidance explains that an employer may be liable for workplace harassment under several legal standards that often depend on the harasser's relationship with the employer. The guidance also describes preventive and corrective actions an employer may take to help establish defenses against liability for workplace harassment.

### Employer Next Steps

Employers subject to EEO laws should familiarize themselves with the final guidance. They may also consider reviewing and revising their policies and procedures to ensure compliance with the final guidance.



## Important Dates & Resources

---

### Oct. 2, 2023

The EEOC issued proposed guidance on harassment in the workplace.

### April 29, 2024

The EEOC issued final guidance that explains how the agency may enforce EEO laws when workplace harassment is alleged or suspected. The final guidance takes effect immediately.

### Other Resources

- [Summary of Key Provisions: EEOC Enforcement Guidance on Harassment in the Workplace](#)
- [Questions and Answers for Employees: Harassment at Work](#)
- [Small Business Fact Sheet: Harassment in the Workplace](#)

Provided by George Belcher Evans & Wilmer

This Legal Update is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. Readers should contact legal counsel for legal advice. © 2024 Zywave, Inc. All rights reserved.