

---

# New EEOC Guidance on Workplace Harassment

---

May 20, 2024

Number 24

**Written by:**

Daniel M. McElhinney

Partner

San Luis Obispo

McKenzie Hoffman

Associate

Sacramento

On April 29, 2024, the U.S. Equal Employment Opportunity Commission (EEOC) published new guidance on workplace harassment, entitled “Enforcement Guidance on Harassment in the Workplace.” The EEOC is a federal agency responsible for enforcing non-discrimination laws that protect applicants and employees from discrimination based upon race, color, religion, sex (including pregnancy and related conditions, gender identity, and sexual orientation), national origin, age, disability, or genetic information.

The guidance is the result of a bipartisan task force and replaces and consolidates the agency’s five previous guidance documents issued between 1987 and 1999, in order to create a single, comprehensive resource. The updated guidance includes best practices for preventing and remedying harassment and provides legal standards for employer liability.

Substantively, the new guidance incorporates and clarifies recent changes in the law, and recognizes the growth of the virtual work environment and impact of digital technology and social media in workplace harassment.

The guidance is structured to provide a framework for evaluating the three main components of a harassment claim: (1) whether the harassment was based on an individual’s protected characteristic; (2) whether the harassment resulted in discrimination related to employment; and (3) whether there is a basis to hold the employer liable for the harassment. Additionally, the guidance addresses systemic harassment when multiple individuals are subjected to similar forms of discrimination.

The guidance includes over 70 examples of unlawful harassment, including scenarios involving older workers, immigrant workers, and survivors of gender-based violence. The guidance also addresses scenarios in which people may be

subjected to harassment by customers, contractors, and other third parties, in addition to supervisors and coworkers.

## Takeaways

The EEOC guidance can be accessed on the EEOC website, by clicking here: [Enforcement Guidance on Harassment in the Workplace](#).

The guidance does not have the force of law, nor should it be used to prejudge the outcome of specific scenarios and facts. However, the hypothetical situations included in the guidance may be useful when evaluating best practices or investigating potential harassment.

This new guidance may provide insight into how the EEOC may respond to harassment complaints moving forward. Lozano Smith attorneys can provide advice regarding the challenges posed by this extensive new guidance and support employers in ensuring your agency is compliant. Whenever allegations of unlawful harassment come up, we encourage you to reach out to your legal counsel for support.

If you have any questions about the new EEOC guidance or for any issues related to non-discrimination policies and procedures, please contact the authors of this Client News Brief or any attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcasts](#), follow us on [Facebook](#), [Twitter](#) and [LinkedIn](#) or download our [mobile app](#).

*As the information contained herein is necessarily general, its application to a particular set of facts and circumstances may vary. For this reason, this News Brief does not constitute legal advice. We recommend that you consult with your counsel prior to acting on the information contained herein.*