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# EEOC Rescinds Affirmative Action Guidance, Marking Further Shift Toward Neutral Employment Decision-Making

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On June 29, 2026, the U.S. Equal Employment Opportunity Commission ("EEOC") voted to rescind its longstanding interpretive guidelines on voluntary affirmative action under Title VII, along with the related compliance manual section. This represents another shift away from race- or sex- conscious employment practices.

The rescinded documents are the agency interpretive guidelines titled "Affirmative Action Appropriate Under Title VII of the Civil Rights Act of 1964 as Amended" (Affirmative Action Guidelines) and the related "Compliance Manual Section 607 on Affirmative Action" (Compliance Manual on Affirmative Action) (the "Guidelines"). The Guidelines were issued in 1979 and provided a framework under which employers could voluntarily adopt affirmative action plans that took race, sex, or national origin into account in limited circumstances. The Guidelines also functioned as a partial "safe harbor," offering employers some protection when implementing such measures in good faith reliance on the agency's interpretation.

The EEOC explained that the Guidelines were inconsistent with the text of Title VII and no longer aligned with subsequent Supreme Court precedent. In particular, the EEOC emphasized that Title VII guarantees equal treatment for all individuals, rather than permitting employment decisions that explicitly consider protected characteristics, regardless of whether the intention and application expanded opportunities.

In rescinding the guidance, EEOC leadership underscored a return to what it characterized as a core statutory principle: that employment decisions should be made without regard to race, sex, or other protected traits.

The recission of the Guidelines comes mere weeks after the Department of Justice ("DOJ") issued its opinion concluding that key aspects of the EEOC's current approach to disparate-impact liability under Title VII are unconstitutional ("Opinion"). Both developments reflect a broader federal shift away from frameworks that encourage or permit race-conscious decision-making, even when designed to address statistical disparities or historical imbalances.



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**What This Means for Employers**

As with the DOJ Opinion, the rescission of the Guidelines does not amend Title VII or overrule Supreme Court precedent permitting certain narrowly tailored affirmative action plans. However, it has several practical implications:

- Loss of agency safe harbor: Employers can no longer rely on EEOC interpretive guidance as a defense when implementing voluntary affirmative action programs.
- Increased scrutiny of Diversity, Equity and Inclusion ("DEI") initiatives: Policies or programs that involve race- or sex-conscious decision-making may face heightened enforcement risk and legal challenge.
- Continued legal ambiguity: While Supreme Court precedent remains intact, the removal of agency guidance creates uncertainty regarding how such programs will be evaluated in practice.
- Alignment with enforcement trends: The rescission of the Guidelines further confirms a broader shift in federal enforcement priorities toward race-neutral approaches to compliance.

The rescission of the Guidelines marks a significant departure from decades of agency guidance supporting voluntary affirmative action under Title VII. When viewed alongside the DOJ's Opinion on disparate impact liability, it reflects an accelerating trend toward limiting both the justification for and defensibility of sex- and race-conscious employment practices.

*Disclaimer: This summary is provided for educational and informational purposes only and is not legal advice. Any specific questions about these topics should be directed to attorney(s) J. Allen Holland and Ashley M. Berger.*

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