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Client Alert: EEOC Rescinds Longstanding Affirmative Action Guidance

BY LAURA M. RAISTY • JULY 2, 2026

On June 30, 2026, the U.S. Equal Employment Opportunity Commission (EEOC) [voted to rescind two longstanding policy documents addressing voluntary affirmative action under Title VII](#): the EEOC's 1979 affirmative action guidelines and Section 607 of the EEOC Compliance Manual. The EEOC stated that the guidance was inconsistent with Title VII and later Supreme Court authority.

The rescinded materials had explained that voluntary affirmative action plans were permissible only in limited circumstances, including where they were designed to remedy discrimination or address manifest imbalances in traditionally segregated job categories. They also emphasized that any such plan had to be temporary, flexible, and narrowly tailored, and could not unnecessarily disadvantage other employees or applicants. By rescinding those materials, the EEOC has withdrawn its prior agency framework for evaluating voluntary affirmative action plans and has signaled a narrower view of when employers may consider protected characteristics in employment decisions.

The rescission does not itself overrule Supreme Court precedent recognizing that some voluntary affirmative action plans may be lawful in limited circumstances. But it does eliminate employers' ability to rely on the withdrawn EEOC materials as the basis for a Title VII good-faith reliance defense, although that defense was rarely used and may have limited practical significance.

The development reflects the EEOC's continued retreat from prior agency positions on affirmative action and DEI-related employment practices. Employers should review voluntary affirmative action plans and related employment programs in light of the EEOC's current enforcement position, while separately accounting for any other legal obligations that may apply, including state and local laws.