

# EEOC Updates Religious Discrimination Guidance

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## Practices

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Over the past 10 years, there have been several significant changes related to how federal courts handle alleged religious discrimination. Catching up to those changes, this week the Equal Employment Opportunity Commission (EEOC) issued draft guidance covering important issues such as the balance of religious expression and LGBT anti-bias protections.

The EEOC publishes written guidance about the laws it enforces, including Title VII's prohibition against religious discrimination in the workplace. The guidance document about religious discrimination was last updated in 2008. On November 17, 2020, the EEOC issued revisions to the guidance document and invited public comment through mid-December, afterwards the guidance will be finalized. Through the new, draft guidance, the EEOC carefully addresses topics such as:

- Possibility that the Religious Freedom Restoration Act of 1993 might superseded Title VII's religious discrimination protections in some situations;
- Discussion of the Supreme Court's decisions regarding anti-discrimination protections of LGBT workers; and
- Scope of the "ministerial" exception to religious anti-discrimination laws for certain religious entities such as churches and church schools.

The EEOC seeks public input about the revised guidance through December 17, 2020. A copy of the draft is available for review at <https://beta.regulations.gov/document/EEOC-2020-0007-0001>.