

Vaishali Rao Discusses Joint Attorneys General Guidance Affirming Disparate-Impact Liability

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In her latest AccountsRecovery.net *ARM Compliance Digest* column, Hinshaw partner Vaishali Rao examines [recent joint guidance](#) from the Attorneys General of Massachusetts, Maryland, New York, California, Delaware, Hawai'i, Illinois, Michigan, Minnesota, Nevada, New Mexico, Oregon, Vermont, and Washington, affirming that disparate-impact liability remains a viable enforcement theory, even as federal agencies step back from it.

Vaishali explains what the guidance means for businesses, why its legal foundations remain firm regardless of partisan origins, and how some states like New Jersey are going further with their own disparate-impact regulations.

Vaishali writes:

The joint guidance by the 14 state AGs underscores that facially neutral policies disproportionately harming a protected class remain enforceable under both state and federal law, even as federal agencies have pulled back from pursuing the theory. The key takeaway is that businesses must continue to evaluate their policies and practices for potential disparate impact risk or face enforcement action at the state level.

Notably, all fourteen signatories are Democratic attorneys general. Regardless of the partisanship, the underlying legal doctrines the guidance relies on, including the Supreme Court's longstanding recognition of disparate impact claims, are not themselves partisan and remain binding law.

Some states, like New Jersey, which did not sign the joint guidance, have gone even further by adopting its own standalone disparate impact regulations covering employment, housing, and housing finance, which are currently being challenged in federal court.

- AccountsRecovery.net *ARM Compliance Digest*: “[14 State AGs Say Disparate-Impact Liability Still Stands as Federal Agencies Retreat](#)” (October 5, 2026)

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