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NEWSALERT

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Digital Risks

Corporate Cyber Risk Outlook for 2026

CYBER RISKS are set to intensify in 2026 as artificial intelligence reshapes how attacks are launched and how organizations defend themselves.

Three new reports agree that AI is accelerating existing cyber threats and shortening the time between intrusion and impact. This shift is pushing companies into "a new era of adaptive, fast-evolving threats" where manual defenses are no longer sufficient.

This is not just a large company problem. Small businesses are increasingly targeted, often because they are seen as easier to breach than larger organizations.

AI is supercharging cybercrime, impersonation attacks

AI is now widely used by cybercriminals to scale phishing, automate efforts to find website vulnerabilities and create malware that can modify its code to evade detection.

Moody's Ratings' "2026 Cyber Risk Outlook" warns that these tools allow attackers to scan networks continuously, exploit misconfigurations at machine speed and launch campaigns against thousands of targets simultaneously.

A World Economic Forum report echoes this concern, finding that 94% of leaders surveyed said AI will be the most significant driver of cyber risk in 2026. Nearly nine in 10 respondents reported an increase in AI-related vulnerabilities over the past year.

AI-enabled social engineering is a particular concern. Advances in voice cloning and deepfake technology are making impersonation attacks more convincing, especially those targeting executives, finance teams and IT staff. These attacks can bypass technical controls by exploiting human trust rather than technical flaws.

New risks from enterprise AI use

The growing use of AI by businesses is creating new exposures. Moody's found that only 29% of surveyed organizations follow the Open Worldwide Application Security Project's (OWASP's) best practices guidance for large language model applications, leaving many vulnerable to data leakage and weak access control.

Research from Google Cloud highlights prompt injection attacks, which embed malicious instructions in data or user inputs, causing AI systems to bypass safeguards and expose sensitive data.

Ransomware an ongoing threat

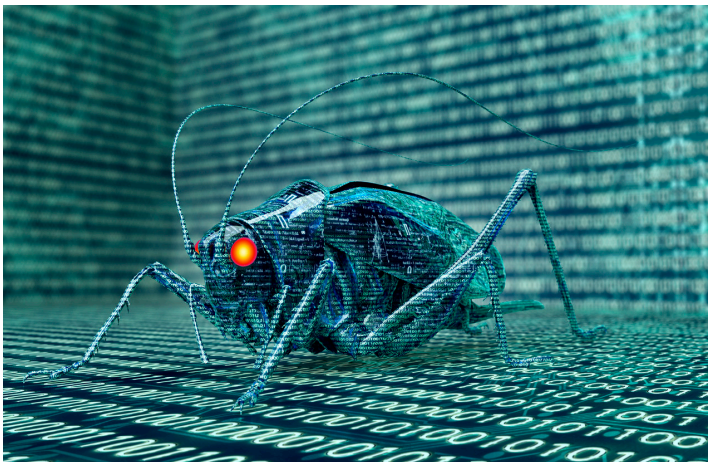
Despite improved defenses, ransomware and data-theft extortion remain among the most damaging cyber threats.

Google Cloud researchers note that ransomware, data theft and multifaceted extortion continue to generate cascading economic losses across supply chains, with incidents in 2025 resulting in hundreds of millions of dollars in total damage.

Large enterprises remain prime targets. Their complex networks create blind spots and attackers increasingly focus on extortion tactics that rely on stolen data rather than locked systems.

What businesses can do

- **Strengthen AI governance.** Limit AI system permissions, follow OWASP's guidance for large language models like ChatGPT and monitor prompt injection attacks and data leakage.
- **Accelerate detection and response.** Automated monitoring and containment tools are increasingly essential as criminals use AI to move quickly through networks.
- **Plan for data extortion.** Create an extortion response plan that addresses regulatory, legal and reputational fallout even when systems remain operational.
- **Build resilience into infrastructure.** Regularly test backups, use cloud systems in multiple locations to spread risk and conduct outage and breach simulations.
- **Control identity and access.** Give staff and applications (including AI agents) only the minimum access they need to do their jobs. Require multi-factor authentication for logins and create just-in-time access protocols so elevated permissions are granted only when needed and automatically removed once a task is complete.
- **Train employees.** Focus on phishing, vishing and executive impersonation scenarios that target human behavior.



How Cannabis Rescheduling Could Affect Workplaces

EMPLOYERS MAY eventually need to adjust some workplace policies in response to President Trump's executive order directing the federal government to move marijuana from Schedule 1 to Schedule 3 under the Controlled Substances Act.

While rescheduling cannabis does not mean people can be high at work, it would allow doctors to prescribe cannabis for medical issues. The change will likely affect employers' drug testing programs, disability accommodation obligations and safety-sensitive job requirements. It may also require increased vigilance by employers on detecting if someone is under the influence while on the job.

Employers would continue to have the right to discipline workers who are under the influence during working hours or who violate company policies, much as they do with alcohol or prescription medications.

Here's a look at the likely effects on workplaces

ADA and medical accommodation considerations

If marijuana becomes a Schedule 3 drug, some individuals could be entitled under federal law to use marijuana products prescribed to treat medical conditions.

Under the Americans with Disabilities Act, employers may need to consider reasonable accommodation requests related to prescribed cannabis, similar to how they handle other medications. This could include off-duty use or non-impairing formulations.

However, employers would not be required to accommodate marijuana use that poses a direct threat to safety or interferes with essential job duties. Rescheduling would not require employers to allow intoxication at work or tolerate unsafe behavior.

Drug testing policies may face pressure

Many employers have already moved away from pre-employment marijuana testing, particularly in states that restrict or prohibit such testing. Rescheduling could reinforce that trend, especially for non-safety-sensitive roles.

Many rules could stay in place

After rescheduling, employers would still be able to:

- Prohibit impairment during work hours.
- Test employees based on reasonable suspicion.
- Enforce zero-tolerance policies where permitted by law.

The shift, if any, would be toward impairment-based enforcement rather than blanket testing, especially as marijuana becomes more legally analogous to prescription opioids.

Transportation and safety-sensitive jobs

The most significant potential changes could affect employers regulated by the Department of Transportation, including trucking, aviation, rail and transit.

The law firm of Littler Mendelson noted in a recent blog that if marijuana is removed from Schedule 1, the federal statute authorizing the DOT to require marijuana testing for safety-sensitive transportation workers may no longer support mandatory cannabis testing. In that scenario, DOT rules requiring routine marijuana testing could eventually be invalidated unless Congress or the agency adopts new regulations.

This would be particularly consequential for the trucking industry and fleet operators. Littler cautions that any such change would not be immediate and would almost certainly prompt new regulatory action focused on safety concerns.

For now, DOT-regulated employers must continue to follow existing drug testing rules without exception.

Employer action plan

- Once marijuana is placed in Schedule 3, employees may assume that cannabis is now "legal" in the workplace. Employers should be prepared to communicate clearly that rescheduling does not eliminate workplace restrictions.
- Employers should prepare for a more nuanced regulatory environment. Practical steps include reviewing drug and alcohol policies for clarity, training supervisors to recognize impairment, monitoring federal and state developments and preparing for employee questions about what rescheduling does and does not allow.
- Rescheduling marijuana to Schedule 3 would not transform workplace norms overnight. But it may push employers toward clearer, impairment-focused policies that balance employee health needs with safety and operational requirements.

Cal/OSHA Updates Confined Spaces Regulation

UPDATED CAL/OSHA confined spaces regulations for construction took effect Jan. 1, creating a standalone set of rules that separate construction requirements from general industry standards.

The rules clarify procedures for entry permits, rescue operations and emergency medical response related to permit-required confined spaces. The changes were adopted by the California Occupational Safety and Health Standards Board and approved by the Office of Administrative Law.

Here are the changes:

- The revised rules apply specifically to confined spaces in construction and are now separate from general industry confined space standards enforced by Cal/OSHA.
- Employers are required to identify all confined spaces at a construction site and evaluate which of those spaces are permit-required confined spaces.
- Such employers are known as "entry employers," the definition of which has been broadened to include any employer whose employees enter or may enter a permit-required confined space, even if that employer did not create the space.
- Entry employers must implement a written permit-required confined space program at the construction site.
- A "permit-required confined space" is defined as one that may contain a hazardous atmosphere, present an engulfment hazard, have inwardly converging walls or sloped floors, or contain any other recognized serious safety or health hazard. Employers are required to communicate when a new confined space is discovered or created.
- A "competent person" must conduct an initial survey of the work area to identify confined spaces when work begins and when new confined spaces are discovered or created.
- The definition of "confined space" aligns with federal standards and includes spaces that are large enough for bodily entry, have limited means of entry or exit, and are not designed for continuous occupancy.
- Definitions for terms such as hazardous atmosphere, lockout, tagout and minimum explosive concentration are updated.
- Employers must maintain documentation related to confined space identification, permits and procedures, which may require changes to job-site recordkeeping practices.

Construction employers may want to review and update their confined space programs, training and inspection processes to ensure compliance with the revised regulations now in effect.

Types of confined spaces

- Tanks
- Underground vaults
- Water and sewer pipes
- Storage bins
- Pits
- Silos
- Boilers
- Hoppers

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Harassment & Discrimination

EEOC Rescinds Biden-Era Protections Guidance

THE U.S. Equal Employment Opportunity Commission in January 2026 rescinded a Biden-era workplace anti-harassment and discrimination guidance mainly focused on protections for LGBTQ+ individuals and breastfeeding and pregnancy-related issues.

The move, which came after the EEOC achieved a quorum and a Republican majority, follows through on the policy priorities of the Trump administration.

But while the rescission signals a shift in federal enforcement priorities, it does not change the underlying legal framework governing workplace harassment. Employers may still face exposure to employee lawsuits due to binding Supreme Court precedent, differing court interpretations and state and local laws.

What the rescinded guidance covered

The 2024 guidance expanded a number of protections against harassment and discrimination under Title VII. Although the guidance was not legally binding, it signaled how the EEOC intended to investigate and litigate harassment and discrimination claims.

The guidance covered:

Sexual orientation or gender identity – The guidance identified conduct that could contribute to a hostile work environment, including:

Examples of hostile conduct

- The "outing" of an employee's sexual orientation or gender identity,
- Repeated and intentional misgendering such as calling an employee a man when they identify as a woman.
- Denying access to bathrooms or other sex-segregated facilities consistent with an individual's gender identity, and
- Harassment and discrimination tied to nonconformity with sex-based stereotypes.

Sex-based harassment, discrimination – The guidance expanded the definition of sex-based discrimination under Title VII to include lactation, contraception or abortion decisions when discrimination is linked to an individual's sex.

Color or national origin – The 2024 guidance also clarified that harassment or discrimination based on "color" could occur even among employees of the same race or national origin, such as discrimination tied to skin tone.

Effect on employers

Although the guidance has been withdrawn, it was never binding law, and its repeal does not insulate employers from harassment claims. Courts — not the EEOC — ultimately determine whether conduct violates Title VII, and private plaintiffs can still pursue lawsuits even if the EEOC declines enforcement.

Importantly, the Supreme Court's decision in *Bostock v. Clayton County* remains controlling precedent, holding that adverse employment actions based on sexual orientation or gender identity are unlawful sex discrimination under federal law.

While Bostock did not resolve all harassment-related questions, it continues to shape litigation, and many state and local laws independently impose explicit protections. As a result, employers should remain acutely aware of applicable law, including federal requirements, evolving court interpretations, and state and local statutes.

If you have any questions regarding any of these articles or have a coverage question, please contact your broker at:

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