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Municipal Liability for Drone-Related Damage: An Analysis of Recent Legal Precedents

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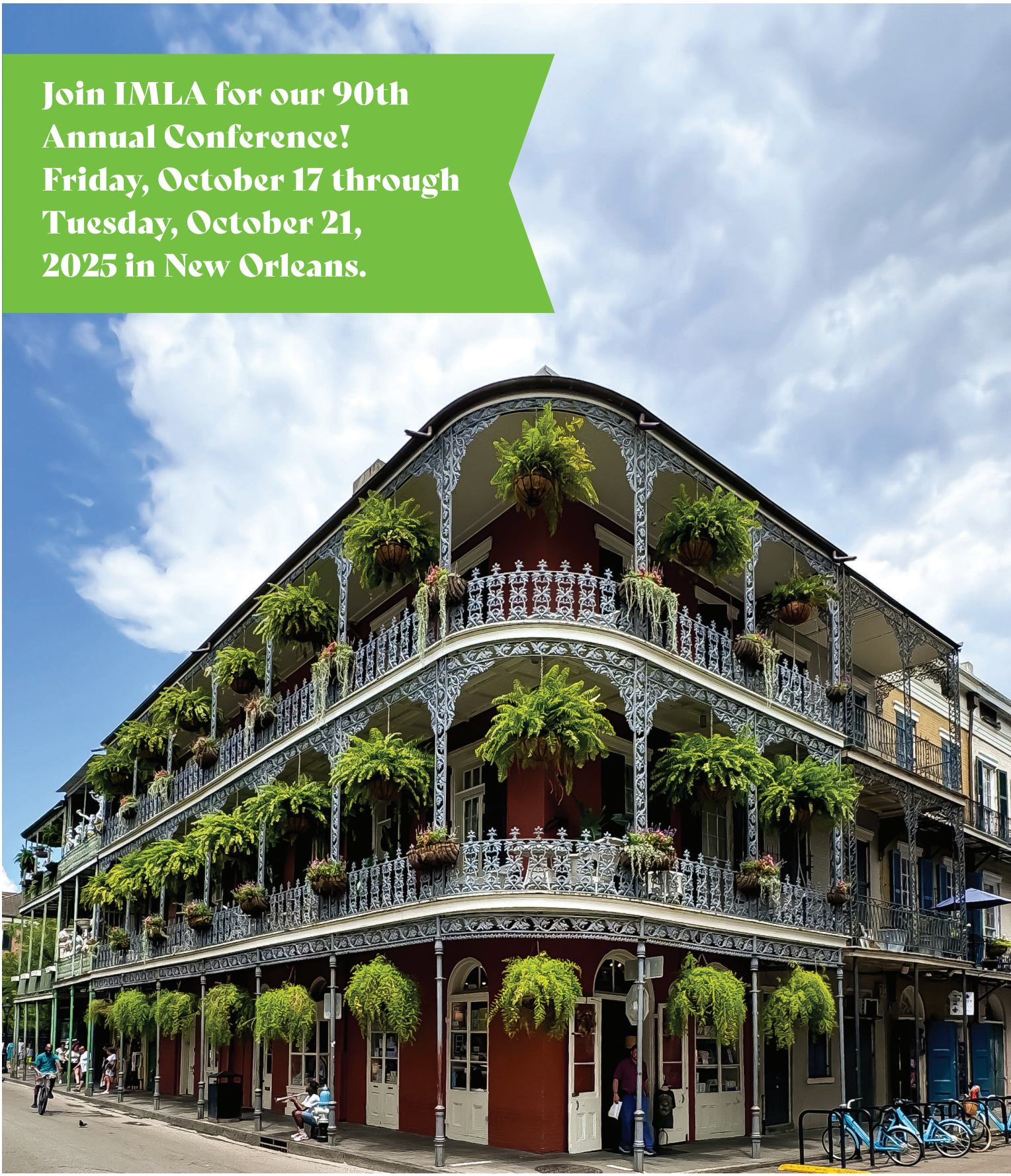

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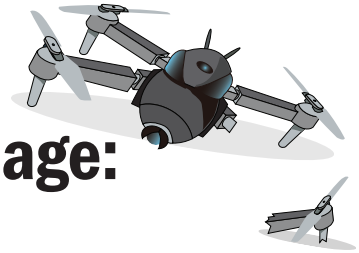

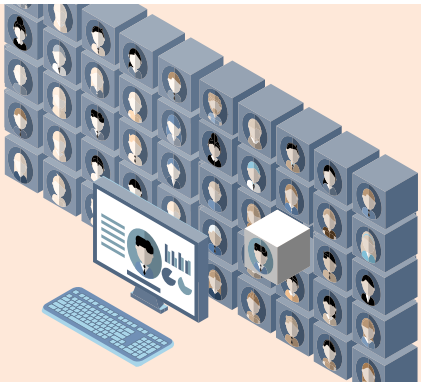

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The Seven Hot Topics and Trends in 2025 for Employers

BY
LAWRENCE LEE &
BENJAMIN M. BROWN

2025 has already witnessed a tectonic shift in how the federal government engages with foundational areas of employment law. From disparate impact to DEI initiatives, President Trump has issued a flurry of executive orders that have transformed the legal landscape and ceded much of the anti-discrimination enforcement prerogative to the states or private plaintiffs. Significantly, developing technologies, AI or artificial intelligence paramount among them, present challenges that may erode assumptions about how employers should interact with their workers. Below, we review seven prominent topics in today's employment law terrain and highlight strategic considerations for employers to review alongside their employment counsel.

AI Hiring Technology and Discrimination Claims

At first blush, utilizing artificial intelligence to assist in screening and interviewing applicants seems like it would reduce potential sources of bias. By limiting opportunities for human prejudice to sneak into the decision-making process, AI should ensure applicants are vetted based on their skills and fit for a role. However, employers across the country are learning the hard way that AIs not only smuggle in the biases of their creators,[1] but AIs' formulaic approach to what constitutes the "right" qualifications for a job can actually create novel sources of conflict with anti-discrimination laws.

As of the time this article was written, a pending collective action in United States District Court for the Northern District of California, *Mobley v. Workday*, epitomizes the risks presented to employers that use algorithmic selection or artificial intelligence to cull the large number of applications submitted for open positions.[2] The suit was filed in 2023 by Derek Mobley, a black male over the age of 40 who suffers from anxiety and depression. Mr. Mobley alleges that Workday, Inc., a tech firm specializing in "human capital management," employs algorithms that disproportionately disqualify applicants based on their race, age, and disability statuses in violation of Title VII, the ADEA, and the ADA Amendments Act of 2008. Mobley claims he applied to over 100 positions for employers utilizing the Workday hiring system but was impermissibly rejected by every single position for which he applied. Workday filed a motion to dismiss, arguing it was not the employer and not the entity making the allegedly discriminatory employment decisions. That motion to dismiss was denied in July 2024. In May 2025, the federal court granted preliminary certification under the ADEA to expand the suit to include a wide swath of other potential plaintiffs who could bring similar claims against Workday, specifically, that its algorithm "disproportionately disqualifies individuals over the age of forty (40) from securing gainful employment[.]"

Civil cases brought by private parties like *Mobley v. Workday*, as well as the judicial outcomes of those cases, will be of particular interest to all employers trying to gauge the risks and rewards of utilizing algorithmic or AI-based screening mechanisms for applicants. Since President Trump took office in January 2025, he has issued a spate of executive orders that portend a substantial decrease in federal enforcement actions addressing both AI regulation and hiring regulations more generally. His January 23rd executive order this year, titled "Removing Barriers to American Leadership in Artificial Intelligence," rescinds a 2023 executive order issued by former President Biden, itself titled "Executive Order on Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence."[3] President Trump's new executive order reverses the prior administration's more caution-driven approach to AI for a policy predicated on increasing American competitiveness in the rapidly developing AI field. Both the Equal Employment Opportunity Commission ("EEOC") and the Department of Labor ("DOL") retracted their guidance on AI in the workplace that had previously been posted on their websites.[4] Both sets of guidance cautioned about the potential for disparate impact litigation for both vendors and employers if AI tools were not compliant with discrimination laws. Given President Trump's recent executive order commanding public agencies to abandon enforcement actions predicated on disparate impact, as discussed below, it is apparent that the federal approach to this issue of whether the use of algorithms in the workplace is discriminatory will shift dramatically.

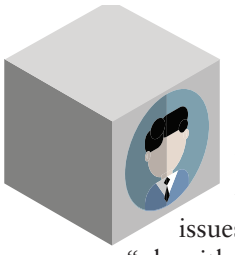
Across the country, states and cities appear ready to pick up where the prior federal administration left off. Colorado's Artificial Intelligence Act ("CAIA"), enacted in May 2024, will go into effect in February 2026. The CAIA was drafted to address the perceived risk of AI systems and their potential to engage in "algorithmic discrimination," which is defined within the act as:

> any condition in which the use of an artificial intelligence system results in an unlawful differential treatment or impact that disfavors an individual or group of individuals on the basis of their actual or perceived age, color, disability, ethnicity, genetic information, limited proficiency in the English language, national origin, race, religion, reproductive health, sex, veteran status, or other classification protected under the laws of this state or federal law.[5]

The act specifically singles out "high-risk artificial intelligence systems" that make, or are a substantial factor in making, important decisions with regard to "employment or an employment opportunity[.]" Under CAIA, employers will be required to both conduct data protection assessments and notify applicants if AI is utilized in their hiring processes. The CAIA follows in the footsteps of a similar regulation in New York. Local Law 144 of 2021, which

> prohibits employers and employment agencies from using an automated employment decision tool unless the tool has been subject to a bias audit within one year of the use of the tool, information about the bias audit is publicly available, and certain notices have been provided to employees or job candidates.[6]

In August 2024, Illinois enacted a similar law, HB 3773, which overhauls the Illinois Human Rights Act to address employment decisions made by, or with the assistance of, AI. The Illinois Department of Human Rights can implement its own regulations to enforce HB 3773. HB 3773 goes into effect in January 2026 and will operate alongside the Illinois AI Video Interview Act, which mandates employers notify and obtain consent from applicants concerning the use of AI in video interviews and the Automated



Decision Tools Act, which requires employers to perform impact assessments and disclose issues related to their systems' propensity towards "algorithmic discrimination." Meanwhile, the Utah AI Policy Act, in effect since May 2024, requires employers to disclose when generative AI is used for human relations and other purposes.

Because AI depends on algorithms and is, as of writing, less adaptable than human intelligence, misuse or overreliance on artificial intelligence may be problematic in the workplace and lead to potential employer liability. Employers that use AI to vet or interview applicants should monitor their tools to ensure they are not disproportionally rejecting applicants of a protected class. Employers should contact their employment attorneys for additional analysis and ensure AI developers have vetted their programs for bias. Employers should avoid AI-driven hiring systems that employ a "black box" decision-making process or lack transparency regarding how applicants are evaluated. If an employer does not understand how its AI reviews and ultimately rejects applicants before the system's deployment, then final decision-makers risk being named as a civil defendant in a discrimination claim or lawsuit.

Employee Data Privacy and Management

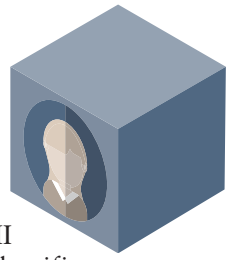
Most states have privacy laws that force employers to prioritize data privacy and management based on a growing number of laws, regulations, increased scrutiny, and public awareness. These laws impact how employers manage personal data, including biometric and health data. Compliance with privacy laws has led employers to create and execute robust security measures to protect sensitive data of all individuals and organizations saved in an employer's server and office hardware. States like Delaware, Iowa, Maryland, Minnesota, Nebraska, New Hampshire, New Jersey, and Tennessee continue to update legal controls on retention and securing personal information. Local and state governments, which have been victims of data breaches in the past, have established robust disclosures and internal controls related to cybersecurity attacks and the prevention of the same. Disclosure in the public sector includes providing transparency to the community of how employers collect and process personal information while complying with requests to exercise rights to access, correct, and delete personal data. Governmental employers are presumably aware of the potential impact of AI on handling and use of personal data in the workplace as part of hiring decisions, as stated in the prior section. Over 15 states are in the process of developing data privacy bills after 2025. Employers should continue to gain knowledge and seek employment advice and counsel on best practices regarding the storage and use of confidential data while fully protecting their servers from a potential cyber-attack.

Federal Scrutiny of DEI and Affirmative Action Initiatives

In 2025, Diversity, Equity, and Inclusion ("DEI") programs are facing increased scrutiny in courtrooms as well as the court of public opinion. Initiatives that were once considered necessary to shield organizations from traditional discrimination and disparate impact lawsuits are now being challenged by "reverse discrimination" claims. Employers are now facing a potential no-win scenario in which they must prioritize hiring and advancement of traditionally underrepresented groups while simultaneously ensuring their workplaces remain neutral with regard to race, gender, sexual orientation, and other protected classes.

On June 5th of this year, the United States Supreme Court (the "Supreme Court") handed down a unanimous decision in *Ames v. Ohio Department of Youth Services*, a decision that substantially lowers the hurdles non-minority claimants face when bringing discrimination claims.[7] In 2023, a heterosexual woman named Marlean Ames brought suit in the United States District Court for the Southern District of Ohio, alleging her employer had discriminated against her on the basis of sexual orientation by both prioritizing promotions for less-qualified gay applicants and unfairly demoting Ames because she is heterosexual. The district court reasoned that, since Ames was asserting a discrimination claim as a member of a "majority group" (i.e., heterosexuals), she must satisfy the "background circumstances" test. The background circumstances test requires a majority group claimant to demonstrate either that the challenged employment decision was made by a member of the corresponding minority group or that the employer has a history of discriminating against members of the majority group. After concluding Ames did not demonstrate additional instances of discrimination necessary to satisfy the background circumstances test, the district court granted the Department of Youth Services' (the "Department") motion for summary judgment and dismissed Ames's Title VII sex-based claims with prejudice.[8]

During oral arguments before the Supreme Court, the Department argued that the background circumstances test served a valuable role in filtering out meritless discrimination claims. The Court disagreed. Justice Jackson reasoned in her majority opinion that the background circumstances requirement was not consistent with Title VII. "By establishing the same protections for every 'individual' without regard to that individual's membership in a minority or majority group," Justice Jackson wrote, "Congress left no room for courts to impose special requirements on majority-group plaintiffs alone[.]" President Trump's administration has made it clear in 2025 that DEI initiatives, both in the public and private sectors, are in the crosshairs. On January 21 of this year, President Trump signed Executive Order 14173, titled "Ending Illegal Discrimination and Restoring Merit-Based



Opportunity."[9] The executive order revoked Executive Order 11246, signed by President Lyndon Johnson in 1965, which required federal contractors and their subcontractors to implement an affirmative action plan (AAP) to increase hiring and advancement opportunities for underrepresented groups.[10] The executive order also revoked President Obama's executive order expanding equal employment opportunity protections based on gender identity to federal employees.[11] President Trump's executive order requires federal agencies to eliminate DEI (as well as Diversity, Equity, Accessibility, and Inclusion or DEAI) policies deemed discretionary or unlawful, remove references to DEI, and promote "merit-based" personnel decisions. The executive order by President Trump also commands agency secretaries or heads to work with the U.S. Attorney General to "encourag[e] the private sector to end illegal DEI discrimination and preferences[.]" How exactly agency heads or the Attorney General will "encourage" private companies to drop DEI policies is not explained in the order. Because the executive order applies to federal contractors and subcontractors, it is unclear how the elimination of DEI policies with federal agencies might eventually affect local and state governments.

On March 19, 2025, the EEOC and the United States Department of Justice ("DOJ") issued guidance on DEI in the workplace. In a corresponding announcement,[12] the EEOC summarized its position on DEI and indicated the agency's approach to DEI initiatives going forward:

> DEI is a broad term that is not defined in Title VII of the Civil Rights Act of 1964. Title VII prohibits employment discrimination based on protected characteristics such as race and sex. Under Title VII, DEI initiatives, policies, programs, or practices may be unlawful if they involve an employer or other covered entity taking an employment action motivated—in whole or in part—by an employee's or applicant's race, sex, or another protected characteristic.

The announcement cited EEOC Acting Chair Andrea Lucas, who stated "no matter an employer's motive, there is no 'good,' or even acceptable, race or sex discrimination" as well as Justice Thomas's concurrence in the recent *Students for Fair Admissions, Inc. v. President & Fellows of Harvard College*, who opined that "two discriminatory wrongs cannot make a right." Noteworthy is the EEOC's release of two pieces of guidance on what it considers "DEI-related" discrimination: "What To Do If You Experience Discrimination Related to DEI at Work"[13] and the more technical "What You Should Know About DEI-Related Discrimination at Work."[14] This guidance clarified where DEI policies might run afoul of Title VII protections, including: hiring, firing, promotion, demotion, compensation, fringe benefits, exclusion from training, exclusion from mentoring or sponsorship programs, exclusion from fellowships, selection for interviews (including placement on candidate slates), and job duties. It also stated that Title VII prohibits any practice that limits separates or classifies "based on race, sex, or other protected characteristics in a way that affects their status or deprives them of employment opportunities," specifically noting violative conduct to include "limiting membership in workplace groups, such as Employee Resource Groups (ERG) or other employee affinity groups, to certain protected groups" and separating employees based on protected characteristics for the purposes of trainings or "privileges of employment, even if the separate groups receive the same programming content or amount of employer resources[.]" The guidance notes that DEI training that subjects employees "to unwelcome remarks or conduct based on race, sex, or other protected characteristics" can qualify as harassment that creates a hostile work environment.

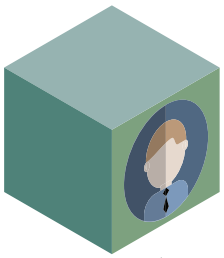
In the wake of Executive Order 14173 and recent EEOC guidance, employers must reevaluate both their training content and any other programs that separate employees based on protected categories. DEI training, while not forbidden, should not be made mandatory, but should be reviewed to ensure they do not target any particular group, *whether that group is considered a minority or a majority*. Aspirational policy statements, such as trying to establish a workforce that "mirrors the community," may be considered discriminatory depending on context. The existence of mentorship programs defined by protected characteristics is legally perilous. Between the current administration's push to scale back DEI in the workplace and the recent ruling in *Ames v. Ohio Department of Youth Services,* which significantly reduces the impediment to bringing "reverse discrimination" claims in many jurisdictions, employers should be aware of the increased risk of discrimination lawsuits from employees who are members of majority groups.

States Update their Anti-Discrimination Laws

New state laws seek to broaden anti-discrimination protections, including those related to gender identity, religion, and viewpoint discrimination. With the Trump Administration's recent executive order suspending federal enforcement of discrimination actions based on disparate impact theory, the onus of discrimination enforcement appears to be shifting to the state rather than the federal level.

On April 23, 2025, President Trump signed Executive Order 14281, titled "Restoring Equality of Opportunity and Meritocracy."[15] The executive order takes aim at disparate impact theory, one of the most influential concepts in discrimination law. According to the administration, disparate impact theory:

> holds that a near insurmountable presumption of unlawful discrimination exists where there are



any differences in outcomes in certain circumstances among different races, sexes, or similar groups, even if there is no facially discriminatory policy or practice or discriminatory intent involved, and even if everyone has an equal opportunity to succeed. Disparate-impact liability all but requires individuals and businesses to consider race and engage in racial balancing to avoid potentially crippling legal liability. It not only undermines our national values but also runs contrary to equal protection under the law and, therefore, violates our Constitution.

Critics of the executive action state that disparate impact theory is an essential tool that is necessary to ensure facially neutral policies do not result in disproportionately negative consequences for certain protected classes. Regardless, the Trump Administration has instructed both the EEOC and the Attorney General to refrain from disparate impact prosecutions. At least for the duration of President Trump's term, states and private plaintiffs will likely bring a larger proportion of discrimination claims relative to prior years.

In 2024, New York passed the Equal Rights Amendment, expanding discrimination protections to include "race, color, ethnicity, national origin, age, disability, creed, religion, or sex, including sexual orientation, gender identity, gender expression, pregnancy, pregnancy outcomes, and reproductive healthcare and autonomy." Gender identity has become a prominent issue both in the public consciousness and among legislators. Almost half of all states now prohibit discrimination based not just on gender, but gender identity. Notwithstanding, the EEOC issued a memo in May this year stating that it would no longer compensate state and local agencies for discrimination claims brought by transgender workers.

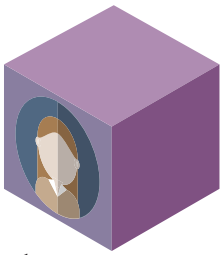
In *Groff v. DeJoy*, a case from the Supreme Court's 2023 term, the Court clarified that the "more than a de minimis cost" standard was not sufficient for demonstrating that an employer would suffer an "undue hardship" in providing an employee's religious accommodation.[16] The Supreme Court clarified that, in order to reject an employee's request for religious accommodation, the burden placed on the employer by the accommodation must "result in substantial increased costs in relation to the conduct of its particular business." The heightened undue burden standard meant it might be prudent for employers to show deference to credible religious accommodation requests rather than risk liability under a new and vaguely defined standard. In April 2024, the EEOC released guidance specifying that employers need not grant requested religious accommodations if those accommodations would contribute to a hostile work environment for other employees (for example, religious accommodations that conflict with another employee's gender expression).[17] However, Trump's EEOC has flagged this guidance as outdated, and one U.S. District Court has ruled the prior EEOC guidance impermissibly expanded the scope of "sex" under Title VII and incorrectly defined failures to recognize an employee's gender identity as "discriminatory harassment."[18] In 2024, Utah amended its Antidiscrimination Act, warning that employers must "not compel an employee to engage in religiously objectionable expression that the employee reasonably believes would burden or offend the employee's religious, moral, or conscientious beliefs[.]" Some have claimed the Utah Act was drafted at least partially in response to the EEOC and Biden Administration's position on religious accommodation and pronoun usage.

California's Worker Freedom from Employer Intimidation Act went into effect at the beginning of the year. The act creates a prohibition against "captive audience meetings" in which an employer requires its employees to attend meetings on political or religious matters, including those related to union operations. Illinois' "Worker Freedom of Speech Act," enacted in 2024 and effective as of January 2025, also prohibits employers from hosting mandatory meetings concerning religious or political matters. The Oregon state legislature passed HB 3187 this spring, which, if signed into law, would bar employers from asking for an applicant's age or dates of school attendance/graduation until the applicant has at least completed an initial interview. Oregon would join states like Colorado, prohibiting employers from asking age-related questions on initial job applications. Similar "Ban the Box" laws have continued to propagate, with nearly a dozen states prohibiting private employers from asking about criminal history on most job applications and thirty states adopting some form of "Ban the Box" inspired legislation. Colorado, for example, prohibits questions related to criminal arrests on initial employment applications. In 2024, Colorado expanded the policy to prevent state licensing boards from considering certain applicants' criminal records.

Immigration Enforcement

Immigration enforcement continues to be a high priority for the Trump Administration. For employers, this means increased scrutiny on I-9 compliance and potential ICE raids. Forty out of fifty states signed a Memorandum of Agreement for the Section 287(g) program enforcement, which has state or local law enforcement assisting in removing "criminal aliens." Many of these enforcement agreements are with local authorities in Florida and Texas, with cooperation elsewhere varying significantly. Raids by ICE are usually triggered by complaints, information provided by other governmental agencies, or ICE's own investigatory and enforcement activities in the form of I-9 audits. For example, in Colorado, as one of the forty states that are part of the MOAs for Section 287(g), ICE recently imposed over $8 million in fines on three Denver businesses for employing undocumented workers.

Employers must be cognizant of the risk of unannounced raids in the workplace, arrest of any immigrant workers, and imposition of severe penalties against employers. If an employer is the subject of an I-9 audit, then employment



counsel should be retained to either negotiate or litigate for the final decision-makers. Early preparation and best practices' prevention will likely protect employers against audits by ICE or delegated agencies and provide a strong defense if charges and major penalties are imposed against a company. Increased budgets for police officers and agents are in effect for the forty state (and local law) enforcement agencies involved with the removal of alleged criminal aliens.

FTC Ban on Non-Compete Agreements Enjoined

For those employers involved with projects or agreements that include restrictive covenants, substantial volatility remains regarding the application of both the federal and state anti-compete prohibitions. Many states throughout the country have already introduced significant limitations to these agreements,[19] with four states barring employment-based non-competes entirely.[20] In April 2024, in a 3-2 party line-vote, the Federal Trade Commission ("FTC") passed the Non-Compete Clause Rule, concluding that agreements drive down wages, stifle innovation, and harm markets. The Rule barring employment-based non-compete agreements nationwide was to go into effect in September 2024.

But in August 2024, the U.S. District Court for the Northern District of Texas found that the FTC lacked authority for implementing its Non-Compete Clause Rule and that the Rule itself was arbitrary and capricious as it was "unreasonably overbroad without a reasonable explanation."[21] The court expressed concern that "such a sweeping prohibition—that prohibits entering or enforcing virtually all non-competes" was unnecessary when the FTC could have instead "target[ed] specific, harmful non-competes[.]" As a result of *Ryan, LLC v. FTC*, the rule is currently enjoined nationwide. The FTC announced soon after it would appeal the decision and filed its opening brief in the Fifth Circuit Court of Appeals in January.

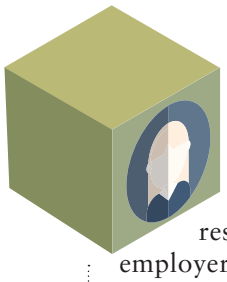
In *Villages, Inc. v. FTC*, the U.S. District Court for the Middle District of Florida agreed the FTC lacked authority to promulgate the Rule, but only enjoined the ban with respect to the plaintiff.[22] However, the U.S. District Court for the Eastern District of Pennsylvania disagreed, finding the FTC appeared to have the authority to implement the Rule and declined to grant a preliminary injunction.[23] Since *Ryan, LLC v. FTC* was decided first and enjoined the Rule nationwide, future developments in that case will likely be highly influential for the Rule's ultimate fate. For now, the Rule remains enjoined, but many states still have their own unique limitations on non-compete agreements, and their courts will continue to enforce state restrictive covenant laws.

Paid Leave and Minimum Wage Increases

States are trending for either enactment or expansion of paid sick and/or family leave benefits. At present, nine states and D.C. have active paid leave programs. In May 2024, Connecticut enacted legislation to expand its paid leave program to all non-seasonal employees. The expansion has a graduated rollout and will encompass all Connecticut employers by 2027. Delaware, Maine, Maryland, and Minnesota all have paid family leave programs that will go into effect in 2026. Washington has amended its paid sick leave program to allow employees to use that time when the employee's child's school or place of care is closed for "health-related reason[s]" or a public emergency. New York, in addition to creating requirements for paid lactation breaks and paid prenatal care, now requires employers to provide paid leave "for the health care services received by an employee during their pregnancy or related to such pregnancy, including physical examinations, medical procedures, monitoring and testing, and discussions with a health care provider related to the pregnancy." Relatedly, Illinois amended its Human Rights Act in August 2024 to add "family responsibilities" as a protected class, preventing employers from taking adverse action against employees based on the employee's caregiving responsibilities. As of January 2025, it is now unlawful for an Illinois employer to fire or refuse to hire or promote an employee because of their "actual or perceived" responsibility to provide "personal care" to a family member.

On the federal level, representatives introduced the bipartisan "More Paid Leave for More Americans Act" in May. The legislation is intended to drastically expand access to paid family leave across the country and would authorize the Department of Labor to fund family leave through a state-level program. These programs provide wage replacement between 50% and 67% of an employee's income. The Act would also coordinate an Interstate Paid Leave Action Network ("I-PLAN") that would distribute benefits to interstate workers.

There are also increasing calls to raise the federal minimum wage and adjust overtime regulations, which could impact workplace compensation practices. The federal minimum wage was last increased in 2009 and currently stands at $7.25 an hour. Legislators in both Congress and the Senate introduced the Raise the Wage Act of 2025, aiming to raise the minimum wage to $17.00 by 2030 and eliminate the lower wage floors for tipped workers. It should be noted, however, that some versions of the Raise the Wage Act have been introduced in each Congress since 2017, thus far without success. Currently, thirty states have a minimum wage exceeding the federal minimum. California, Hawaii, and Washington all have local minimum wage laws on the books that will exceed the proposed $17.00 federal minimum wage by 2030. Alaska, Arizona, California, Colorado, Michigan, and Missouri all have minimum wages that are set to increase in 2025. Of course, many municipalities have their own minimum wages that exceed the state minimum wage and drastically exceed the federal minimum wage.[24]



Conclusion:

The rise of AI usage in hiring decisions resulting in discrimination claims has forced employers to evaluate their AI-driven tools for legal compliance. New executive orders and judicial decisions have forced employers to consider the risk of maintaining DEI or affirmative action initiatives, specifically diversity training, aspirational messages, or policies (e.g., building a workplace that mirrors the demographics of its community), and mentorship or training programs targeting minority groups. Stricter enforcement of immigration laws is resulting in more frequent audits and arrests of alleged criminal aliens in the workplace. Finally, states have raised (or will soon raise) their minimum wages while also passing new laws for paid sick and family leave. Employers would be wise to ensure that their handbooks, policies, and practices are fully compliant with the plethora of updated and new employment laws at the local, state, and federal levels. **ML**

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Endnotes

1. Or training data sets.
2. *Doe v. XYZ Corp*., 3:23-cv-00770 (N.D. Cal. filed Jan. 2023).
3. Exec. Order No. 14179, 90 FR 8741 (2025).
4. U.S. Equal Emp. Opportunity Comm'n, *Assessing Adverse Impact in Software, Algorithms, and Artificial Intelligence Used in Employment Selection Procedures Under Title VII of the Civil Rights Act of 1964* (removed Jan. 2025) (on file with author).
5. Colo. Rev. Stat. § 6-1-1701 (2024).
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7. 145 S. Ct. 118 (2024).
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15. Exec. Order No. 14281, 90 FR 17537 (2025).
16. *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 447, 460, 143 S. Ct. 2279, 2289, 216 L. Ed. 2d 1041 (2023).
17. U.S. Equal Emp. Opportunity Comm'n, *Enforcement Guidance on Harassment in the Workplace*, https://www.eeoc.gov/laws/guidance/enforcement-guidance-harassment-workplace (last visited June 2, 2025).
18. *State of Tex*. v. *EEOC*, No. 2: 24- CV-0173-Z (N.D. Tex. May 15, 2025).
19. For example, Colorado and other states have limited non-compete provisions to "highly compensated" employees, requiring these agreements to be no broader than necessary and be limited in scope to the protection of trade secrets. In 2023, Maryland amended its labor codes to prohibit non-competes for employees who earn less than or equal to 150% of the state's minimum wage. Washington now prohibits non-competes for employees making less than $100,000 per year. Other states have barred employers from extending non-competes to specific types of employees. Indiana recently invalidated non-competes for primary care physicians, make it easier for other types of physicians to buy their way out of previously binding non-competes, and render unenforceable future non-compete agreements for physicians who are terminated from employment without cause or at the end of their current contracts.
20. California, Minnesota, North Dakota, and Oklahoma. A similar 2023 bill in New York was vetoed but has since been reintroduced with corresponding amendments.
21. *Ryan, LLC* v. *Fed. Trade Comm'n*, 746 F. Supp. 3d 369 (N.D. Tex. 2024).
22. *Props. of the Villages, Inc*. v. *FTC*, No. 24-CV-00316 (M.D. Fla. 2025).
23. *ATS Tree Servs., LLC* v. *Fed. Trade Comm'n*, No. CV 24-1743, 2024 WL 3511630, at *1 (E.D. Pa. July 23, 2024).
24. For example, Colorado's minimum wage increased to $14.81 per hour in 2025, more than twice the federal minimum, while the minimum wage for Denver is even higher at $18.81.