

# Weekly Digest

• November 20, 2023 •

Human Resources

## Can An Employer Fire Me for My Speech Outside Work?

"Absolutely yes - depending on the circumstances. While we have grown up with the notion that free speech is sacrosanct in this country, the First Amendment actually only prohibits the government from restricting individuals' speech. The restriction on censorship does not extend to private employers and, to be clear, not-for-profit organizations are also private employers."

[Full Article](#)

*Levy Employment Law, LLC*

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#### State Compliance Updates



## How the Federal Government's AI Risk Management Practices Will Set the Standard: A Closer Look At Government Action Following President Biden's Executive Order

"Following President Biden's comprehensive Executive Order on AI, the White House announced the formation of the "US AI Safety Institute" within the Commerce Department's technology arm, the NIST. The Institute has been directed to develop technical guidance used by regulators, such as the EEOC, considering rulemaking and enforcement on discrimination related to AI." [Full Article](#)

*Seyfarth Shaw LLP*

## An Early Report on How the Supreme Court’s Affirmative Action Admissions Policies Decision is Impacting the Private Sector

“In *Students for Fair Admissions v. Harvard*, 600 U.S. \_\_\_\_ (June 29, 2023) (*SFFA*), the United States Supreme Court struck down the legality of affirmative action programs within the university setting, holding that universities may not use race by itself as a “plus factor” in college admissions decisions. Following the ruling, legal experts predicted years of litigation and discourse regarding affirmative action in workplace hiring across a wide range of industries and business sectors.”

[Full Article](#)

**Whiteford, Taylor & Preston LLP**



## Increased Protection for Employees Who Blow the Whistle on Workplace Safety

“The National Labor Relations Board (NLRB) and the Occupational Safety Health Administration (OSHA) recently memorialized their collaborative agreement to engage in information sharing between the agencies regarding the National Labor Relations Act (NLRA) and the Occupational Safety and Health Act of 1970 (OSH Act), namely its anti-retaliation provision and other whistleblower provisions.”

[Full Article](#)

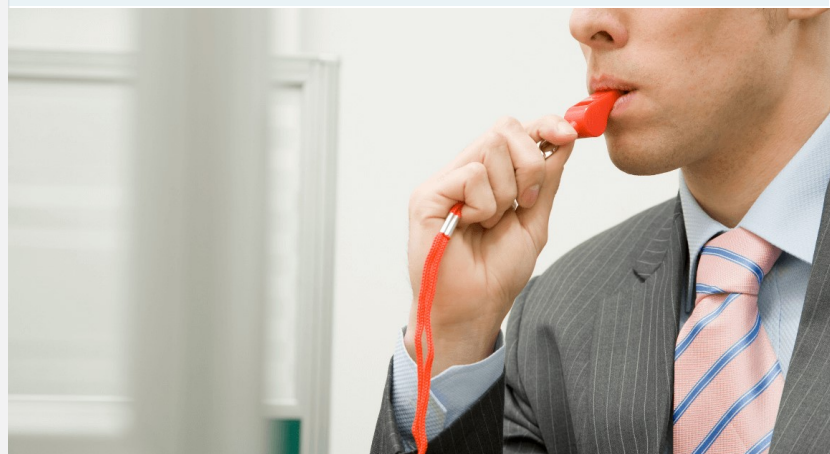
**Barnes & Thornburg LLP**

## EEOC Settles Landmark AI Discrimination Workplace Suit

“The U.S. Equal Employment Opportunity Commission (EEOC) has settled its first discrimination lawsuit involving artificial intelligence (AI) in a New York federal district court.... The EEOC alleged that iTutor’s AI hiring selection tool illegally screened out female applicants over the age of fifty-five and male applicants over the age of sixty.”

[Full Article](#)

**Hall Benefits Law, LLC**



## Engage the Workplace With A Military Mindset

“The WSJ piece about the benefit of hiring drill sergeants to double down on productivity and reduce whining makes some good points about how the private sector can profit from hiring military veterans. But the piece misses some important points about how veteran-driven values and skills can address employee engagement, a key private sector concern.”

[Full Article](#)

**Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.**

# STATE COMPLIANCE UPDATES

## CALIFORNIA

### Amendments to California’s Retaliation Law Lighten the Burden for Employees



“On October 8, 2023, Governor Gavin Newsom signed Senate Bill (SB) No. 497 into law. SB No. 497, also referred to as the Equal Pay and Anti-Retaliation Protection Act, amends California Labor Code Sections 98.6, 1102.5, and 1197.5 to lessen the burden for employees attempting to establish a prima facie case of retaliation.” [Full Article](#)

*Crowell & Moring LLP*

## NEW YORK

### How Harassment Complaints Are Handled by NYS’s Division of Human Rights

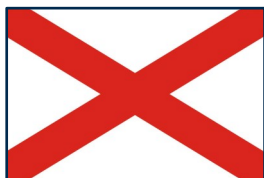


“Although intended to be less intimidating than a court proceeding, the process by which the New York State Division of Human Rights (the Division) handles complaints can be opaque and intimidating to many individuals, employers and other organizations. This article is intended to demystify things a bit.” [Full Article](#)

*Levy Employment Law, LLC*

## ALABAMA

### Changes to Alabama’s Tax Laws Impose New Reporting Requirements on Employers



“Three new rules will take effect this year that alter the overtime wages subject to Alabama withholding tax and employers’ requirements in reporting those newly exempt wages. On October 31, 2023, the Alabama Department of Revenue’s Income Tax Administration issued three final rules that take effect December 3, 2023, and will cover all tax years beginning after December 31, 2023, and ending prior to June 30, 2025.” [Full Article](#)

*Littler Mendelson P.C.*

## NEW YORK

### Revisions to New York Unemployment Notice to Take Effect



“Governor Kathy Hochul has signed a bill amending Section 590 of the New York Labor Law to require employers to provide employees, upon separation, with notice of their right to file for unemployment benefits with the New York Department of Labor (NYDOL). These changes will take effect on November 13, 2023.” [Full Article](#)

*Seyfarth Shaw LLP*

## ILLINOIS

### Proposed Regulations for the Illinois Paid Leave for All Workers Act Offer Employers a Mixed Bag for Compliance



“The Illinois Department of Labor (IDOL) published much anticipated proposed regulations interpreting the Illinois Paid Leave for All Workers Act (the “Act”) set to take effect January 1, 2024. The Act will require nearly all covered Illinois employers to provide its covered employees up to 40 hours of paid leave per year, to be used `for any purpose.” [Full Article](#)

*Littler Mendelson P.C.*