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AI and the New Rules of the Road

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AI and the New Rules of the Road

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LawSites – July, 2025

The Thomson Reuters Institute's third annual survey of state courts, conducted in partnership with the National Center for State Courts AI Policy Consortium, found that 68% of courts reported staff shortages and 48% of court professionals say they do not have enough time to get their work done.

Despite these pressures, however, just 17% say their court is using gen AI today.

Courts Under Strain

The survey, which gathered responses from 443 state, county, and municipal court judges and professionals between March and April 2025, paints a picture of courts under significant strain.

Seventy-one percent of state courts and 56% of county/municipal courts experienced staff shortages in the past year, with 61% anticipating continued shortages in the next 12 months.

This staffing crisis translates into demanding work schedules, with 53% of respondents saying they work between 40 and 45 hours a week on average, and an additional 38% working over 46 hours a week.

Transforming the Legal Landscape in the Age of AI: State Bar of Michigan, 2025

The integration of generative artificial intelligence (AI) into the legal profession represents both a remarkable opportunity and a formidable challenge. As AI technology continues to evolve at a rapid pace, it is reshaping the landscape of legal practice, enhancing efficiency, expanding access to justice, and revolutionizing practice management. With these advancements come critical ethical, professional, and regulatory considerations that must be addressed to ensure AI serves the public interest while upholding the integrity of the legal system and the rule of law.

State Bar of Michigan Report: Transforming the Legal Landscape in the Age of AI: June, 2025

Transforming the Legal Landscape in the Age of AI: State Bar of Michigan, 2025

With the daily changes of AI, it can be difficult to see beyond the horizon particularly when a lawyer is simply attempting to keep up with the changes. However, the rapid evolution of AI-based programs has outpaced efforts to regulate their development and use.

As of now, Michigan has only enacted two statutes concerning AI, both related to the use of AI-generated content in election materials. However, additional regulations will undoubtedly be required. Several states have already begun exploring amendments to court rules and rules of professional conduct. These efforts aim to provide guidance and regulation on how AI should be used by lawyers.

Transforming the Legal Landscape in the Age of AI: State Bar of Michigan, 2025

AI offers several benefits, such as the efficiency of electronic storage, the expediency of legal research, and the productivity boost from eDiscovery. Lawyers have already recognized these benefits and will continue to see increased returns as AI tools expand their knowledge based on input data. However, it is crucial to remember that AI tools are not infallible. Lawyers must remain aware and responsible for the tools they use, ensuring the quality of output and accuracy of results.

AI will transform the practice management area of the legal field in a variety of ways. However, artificial intelligence in the legal field further brings forth several complex ethical questions, challenging lawyers to navigate issues such as competence, diligence, confidentiality, fees, and other principles. Various state bars have issued ethics opinions and resources to help legal practitioners address these evolving ethical concerns.

Transforming the Legal Landscape in the Age of AI: State Bar of Michigan, 2025

In Michigan, several Rules of Professional Conduct (MRPC) apply to a lawyer's use and non-use of AI:

- **DUTY OF COMPETENCE:** Lawyers must have the knowledge and skill to competently use AI tools.
- **DUTY OF DILIGENCE:** Lawyers must be diligent in their use of AI, ensuring it enhances rather than diminishes their practice.
- **DUTY OF COMMUNICATION:** Lawyers must communicate clearly with clients about the use of AI and its implications.
- **DUTY OF REASONABLE FEES:** Lawyers must ensure that fees charged are reasonable, even when AI tools are used to increase efficiency.
- **DUTY OF CONFIDENTIALITY:** Lawyers must protect client information and ensure that AI tools do not compromise confidentiality.
- **CANDOR TO THE TRIBUNAL:** Lawyers must be honest and transparent about AI's role in their legal arguments and submissions.
- **DUTY OF SUPERVISION:** Lawyers must supervise the use of AI tools within their practice to ensure compliance with ethical standards.

Transforming the Legal Landscape in the Age of AI: State Bar of Michigan, 2025

AI and...

- Unauthorized practice of law
 - Access to justice
 - Equity of access
 - Tech Bias

Addressing the Legal Challenges of AI: ABA, December 2025

In this rapidly evolving landscape, judicial officers and those with whom they work must ensure that any use of AI strengthens rather than compromises the independence, integrity, and impartiality of the judiciary. Judicial officers must maintain impartiality and an open mind to ensure public confidence in the justice system. The use of AI or GenAI tools must enhance, not diminish, this essential obligation.

Although AI and GenAI can serve as valuable aids in performing certain judicial functions, judges remain solely responsible for their decisions and must maintain proficiency in understanding and appropriately using these tools. This includes recognizing that when judicial officers obtain information, analysis, or advice from AI or GenAI tools, they risk relying on extrajudicial information and influences that the parties have not had an opportunity to address or rebut.

Addressing the Legal Challenges of AI: ABA, December 2025

Particularly when used as an aid to determine pretrial release decisions, consequences following a criminal conviction, and other significant events, how the AI or GenAI tool has been trained and tested for validity, reliability, and potential bias is critically important. Users of AI or GenAI tools for these foregoing purposes should exercise great caution.

Other limitations or concerns include: The quality of a GenAI response will often depend on the quality of the prompt provided. Even responses to the same prompt can vary on different occasions.

GenAI tools may be trained on information gathered from the Internet generally, or proprietary databases, and are not always trained on non-copyrighted or authoritative legal sources. The terms of service for any GenAI tool used should always be reviewed for confidentiality, privacy, and security considerations. **GenAI tools may provide incorrect or misleading information (commonly referred to as “hallucinations”). Accordingly, the accuracy of any responses must always be verified by a human.**

Addressing the Legal Challenges of AI: ABA, December 2025

GenAI tools may be used to generate standard court notices and communications;

AI and GenAI tools may be used for court scheduling and calendar management;

AI and GenAI tools may be used for time and workload studies;

GenAI tools may be used to create unofficial/preliminary, real-time transcriptions;

GenAI tools may be used for unofficial/preliminary translation of foreign-language documents;

AI tools may be used to analyze court operational data, routine administrative workflows, and to identify efficiency improvements;

AI tools may be used for document organization and management;

AI and Gen AI tools may be used to enhance court accessibility services, including assisting self-represented litigants.

NBC News: 1/3/26

Dealing with a loved one's belongings after their death is never easy. But as Alaska's state courts have discovered, an inaccurate or misleading artificial intelligence chatbot can easily make matters worse.

For more than a year, Alaska's court system has been designing a pioneering generative AI chatbot termed the Alaska Virtual Assistant (AVA) to help residents navigate the tangled web of forms and procedures involved in probate, the judicial process of transferring property away from a deceased person.



NBC News: 1/3/26

Yet what was meant to be a quick, AI-powered leap forward in increasing access to justice has spiraled into a protracted, yearlong journey plagued by false starts and false answers.

AVA “was supposed to be a three-month project,” said Aubrie Souza, a consultant with the [National Center for State Courts](#) (NCSC) who has worked on and witnessed AVA’s evolution. “We are now at well over a year and three months, but that’s all because of the due diligence that was required to get it right.”

Designing this bespoke AI solution has illuminated the difficulties government agencies across the United States are facing in applying powerful AI systems to real-world problems where truth and reliability are paramount.



AI – Pros and Cons

Asian-American MIT student Rona Wong, also a computer science major, uploaded a photo of herself to Playground AI and asked the application to create “a professional LinkedIn profile photo” of her.

According to the *Boston Globe*:

“In just a few seconds, it produced an image that was nearly identical to her original selfie — except Wang’s appearance had been changed. It made her complexion appear lighter and her eyes blue, “features that made me look Caucasian,” she said.

“I was like, ‘Wow, does this thing think I should become white to become more professional?’” said Wang, who is Asian-American.

AI – Pros and Cons

Myriad studies and analyses, including by MIT, confirm that experts have long said that AI can have biases that lie under the surface and are not readily perceivable until a user has a result like Wang did.

This phenomenon has been true for many years, the *Globe* reported. “The troves of data used to deliver results may not always accurately reflect various racial and ethnic groups, or may reproduce existing racial biases.”

Examples of such studies can be found at the following links:

<https://www.media.mit.edu/posts/how-i-m-fighting-bias-in-algorithms/>

<https://www.bostonglobe.com/ideas/2017/07/07/why-artificial-intelligence-far-too-human/jvG77QR5xPbpwBL2ApAFAN/story.html?p1=Article> [Inline Text Link](#) and <https://news.mit.edu/2023/large-language-models-are-biased-can-logic-help-save-them-0303>

AI – Pros and Cons

New York Times reports, Steven A. Schwartz of the law firm Levidow, Levidow & Oberman, filed a “10-page brief that cited more than half a dozen relevant court decisions. There was *Martinez v. Delta Air Lines*, *Zicherman v. Korean Air Lines* and, of course, *Varghese v. China Southern Airlines*, with its learned discussion of federal law and “the tolling effect of the automatic stay on a statute of limitations.””

He used ChatGPT for legal research to find previous court decisions to help his client’s case with U.S. District Judge Castel. **The problem is that many of the court decisions cited by Mr. Schwartz in his brief to persuade the U.S. District Court for the Southern District of New York did just the opposite because the cases do not exist.**

AI translation, also known as machine translation, relies on algorithms and computational models (Forbes)

- Advantages

AI translation platforms can deliver near-instantaneous translations, enabling real-time communication across languages. In scenarios where speed and scalability are paramount, such as translating user-generated content on social media platforms. Once the initial development and training costs are incurred, the ongoing use of AI translation tools is typically more affordable.

AI translation, also known as machine translation, relies on algorithms and computational models (Forbes)

Challenges

AI tools can have difficulty capturing context and producing translations that convey the full meaning of the original text. Language is complex, and culturally specific expressions such as idioms and metaphors, as well as ambiguous or ungrammatical sentences and other context-dependent word choices, can be challenging for AI algorithms.

In some cases, such as contracts or legal documents, relying solely on AI translation could introduce errors and legal complications. Cultural sensitivity is another area where AI translation can fall short. Translations involve not only the literal meaning of words but also the cultural implications and social connotations attached to them. AI often lacks the ability to recognize cultural subtleties, which raises the risk of creating insensitive or controversial interpretations.

The court of appeals said 21 of 23 quotes in an opening brief were fake. State authorities are scrambling to grapple with widespread use of artificial intelligence: *Cal Matters, 9/22/25*

A California attorney must pay a \$10,000 fine for filing a state court appeal full of fake quotations generated by the artificial intelligence tool ChatGPT.

The fine appears to be the largest issued over AI fabrications by a California court and came with a blistering opinion stating that 21 of 23 quotes from cases cited in the attorney's opening brief were made up. It also noted that numerous out-of-state and federal courts have confronted attorneys for citing fake legal authority.

“We therefore publish this opinion as a warning,” it continued. “Simply stated, no brief, pleading, motion, or any other paper filed in any court should contain any citations— whether provided by generative AI or any other source—that the attorney responsible for submitting the pleading has not personally read and verified.”

The court of appeals said 21 of 23 quotes in an opening brief were fake. State authorities are scrambling to grapple with widespread use of artificial intelligence: *Cal Matters*, 9/22/25

The opinion, issued 10 days ago in California's 2nd District Court of Appeal, is a clear example of why the state's legal authorities are scrambling to regulate the use of AI in the judiciary. The state's Judicial Council two weeks ago issued guidelines requiring judges and court staff to either ban generative AI or adopt a generative AI use policy by Dec. 15. Meanwhile, the California Bar Association is considering whether to strengthen its code of conduct to account for various forms of AI following a request by the California Supreme Court last month.

The Los Angeles-area attorney fined last week, Amir Mostafavi, told the court that he did not read text generated by the AI model before submitting the appeal in July 2023, months after OpenAI marketed ChatGPT as capable of passing the bar exam. A three-judge panel fined him for filing a frivolous appeal, violating court rules, citing fake cases, and wasting the court's time and the taxpayers money, according to the opinion.

Mostafavi told CalMatters he wrote the appeal and then used ChatGPT to try and improve it. He said that he didn't know it would add case citations or make things up.

He thinks it is unrealistic to expect lawyers to stop using AI. It's become an important tool just as online databases largely replaced law libraries and, until AI systems stop hallucinating fake information, he suggests lawyers who use AI to proceed with caution.

Standard 10.80. Use of generative artificial intelligence by judicial officers

CA Rules of Court

A judicial officer using generative AI for any task within their adjudicative role:

(1) Should not enter confidential, personal identifying, or other nonpublic information into a public generative AI system. Personal identifying information includes driver's license numbers; dates of birth; Social Security numbers; National Crime Information and Criminal Identification and Information numbers; addresses and phone numbers of parties, victims, witnesses, and court personnel; medical or psychiatric information; financial information; account numbers; and any other content sealed by court order or deemed confidential by court rule or statute.

(2) Should not use generative AI to unlawfully discriminate against or disparately impact individuals or communities based on age, ancestry, color, ethnicity, gender, gender expression, gender identity, genetic information, marital status, medical condition, military or veteran status, national origin, physical or mental disability, political affiliation, race, religion, sex, sexual orientation, socioeconomic status, and any other classification protected by federal or state law.

Standard 10.80. Use of generative artificial intelligence by judicial officers CA Rules of Court

- (3) Should take reasonable steps to verify that generative AI material, including any material prepared on their behalf by others, is accurate, and should take reasonable steps to correct any erroneous or hallucinated output in any material used.
- (4) Should take reasonable steps to remove any biased, offensive, or harmful content in any generative AI material used, including any material prepared on their behalf by others.
- (5) Should consider whether to disclose the use of generative AI if it is used to create content provided to the public.

Prevention of Bias and Discrimination in Clinical Practice Algorithms: JAMA, January, 2023

ACA §92.210 Prohibits Use of Discriminatory Clinical Algorithms in Decision-making

Puts the burden on clinicians to be sophisticated enough about data and computer science to evaluate the algorithms available to their practice, develop protocols to identify and correct for potential bias, and ensure meaningful oversight. For example, HHS urges that “[w]hen evaluating a tool, a provider should ask whether the tool was properly validated and validated for the specific case and use, whether it was tested in different populations to identify hidden bias, and whether it allows barriers to access to be found and rectified.

Prevention of Bias and Discrimination in Clinical Practice Algorithms: JAMA, January, 2023

Importantly, **Section 1557 does NOT apply to activities that are unrelated to clinical health care decision-making** affecting patient care, such as: “automated or non-automated tools that covered entities use for administrative and billing-related activities; automated medical coding; fraud, waste and abuse; patient scheduling; facilities management; inventory and materials management; supply chain management; financial market investment management; or employment and staffing related activities.”



American Bar Association
Jerry Kang, Implicit Bias: A Primer for Courts, prepared
for the National Campaign to Ensure the Racial and
Ethnic Fairness of America's State Courts, Aug. 2009

We naturally assign people into various social categories divided by salient and chronically accessible traits, such as age, gender, race, and role. And just as we might have implicit cognitions that help us walk and drive, we have implicit social cognitions that guide our thinking about social categories.

Where do these schemas come from? They come from our experiences with other people, some of them direct (i.e., real-world encounters) but most of them vicarious (i.e., relayed to us through stories, books, movies, media, and culture).

American Bar Association
Jerry Kang, Implicit Bias: A Primer for Courts, prepared
for the National Campaign to Ensure the Racial and
Ethnic Fairness of America's State Courts, Aug. 2009

If we unpack these schemas further, we see that some of the underlying cognitions include stereotypes, which are simply traits that we associate with a category.

For instance, if we think that a particular category of human beings is frail—such as the elderly—we will not raise our guard. If we think that another category is foreign—such as Asians—we will be surprised by their fluent English.

These cognitions also include attitudes, which are overall, evaluative feelings that are positive or negative. For instance, if we identify someone as having graduated from our beloved alma mater, we will feel more at ease. The term “implicit bias” includes both implicit stereotypes and implicit attitudes.

AI is Here to Stay



AI training becomes mandatory at more US law schools

Sept 22 (Reuters) - At orientation last month, 375 new Fordham Law students were handed two summaries of rapper Drake's defamation lawsuit against his rival Kendrick Lamar's record label — one written by a law professor, the other by ChatGPT.

The students guessed which was which, then dissected the artificial intelligence chatbot's version for accuracy and nuance, finding that it included some irrelevant facts.

The exercise was part of the first-ever AI session for incoming students at the Manhattan law school, one of at least eight law schools now incorporating AI training for first-year students in orientation, legal research and writing courses, or through mandatory standalone classes.

AI training becomes mandatory at more US law schools

Many academics feared that embracing AI could undermine the teaching of core skills like legal analysis, writing and research, or that students would use it to cheat, said Case Western law professor Matt Salerno. **Now that's giving way to the recognition that generative AI is beneficial when deployed correctly, he said.**

“We wanted our students to understand that with the way AI’s evolving, they can use it as a partner but they need to learn how to use it in responsible ways,” Salerno said of the school's mandatory first-year AI course.

An AI Fail By An Elite Litigation Firm

Original Jurisdiction: 9/23/25

Boies Schiller Flexner, founded in 1997 by the celebrated trial lawyer David Boies after he left Cravath, Swaine & Moore. Today BSF is one of the most prestigious and profitable law firms in the nation. It's currently #55 in the Vault 100, the nation's 100 most prestigious law firms, and #118 in the Am Law 200, the country's 200 largest law firms based on revenue.

On appeal: "Plaintiffs' brief contains a series of troubling citation errors. The portions of the brief containing errors bear many of the hallmarks of AI-generated case citations. A table detailing the errors we identified is included as Attachment A at the end of this brief...."

[M]ultiple sections of plaintiffs' brief are filled with erroneous citations that mischaracterize holdings and refer to cases on unrelated areas of law. Some cases are mistitled such that it is difficult to determine what cases plaintiffs are intending to cite in the first place. And one case plaintiffs cite is completely made up. At minimum, this court should disregard these sections of plaintiffs' brief and find the arguments plaintiffs make forfeited."

**AN INTELLIGENT PATH FOR IMPROVING
DIVERSITY AT LAW FIRMS (UN)ARTIFICIALLY**
**Rimsha Syeda, An Intelligent Path for Improving Diversity at Law Firms
(Un)Artificially, 29 MICH. TECH. L. REV. 307 (2023).**

Law firms seeking to address diversity and inclusion issues adopt artificial intelligence (“AI”) in the hiring and retention of lawyers. AI is a term that refers to computers that accomplish tasks that would ordinarily require human intelligence. While AI is being used in other legal tasks successfully to automate routine work and cut costs, **there is an added benefit to using AI in hiring and recruiting: firms can remove human biases.**

AN INTELLIGENT PATH FOR IMPROVING DIVERSITY AT LAW FIRMS(UN)ARTIFICIALLY

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Nine out of ten top leaders at law firms are White and 81% of top leaders are men, despite women making up at least 40% of U.S. law students for years. Only about 10% of partners at law firms are people of color, although law students of color comprised 41% of the 2021 summer associate class. Additional research finds that women attorneys represent about 23% of the firm's partners and 45% of associates, with the representation of women of color being even lower. Black women and Latinx women each represent less than one percent of all partners in U.S. law firms and just over 4% of all partners are women of color.

Furthermore, female attorneys encounter the maternal wall, which occurs when colleagues stereotype women as less competent and less committed to their jobs because they are mothers or pregnant.

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Firms (Un)Artificially, 29 MICH. TECH. L. REV. 307 (2023)**

One of the biggest barriers to diversity and inclusion in law firms is bias. Bias remains present in hiring and retention, despite many firms pledging to diversity initiatives and offering special diversity scholarships. Bias can be both explicit (conscious bias) and implicit (unconscious bias). Implicit bias has been identified as the “number one roadblock” to meeting diversity initiatives.

These biases do not come with automatic turn-off switches in a professional setting, and thus the impact of bias in the legal sector is wide-reaching.

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Working together with the developers, law firms can become AI competent and use tools effectively to mitigate biases. IBM Researcher Francesca Rossi correctly notes that “in the process of recognizing our bias and teaching machines about our common values, we may improve more than AI. We might just improve ourselves.” Experts recommend that developers of AI and companies that use the tools should think beyond the minimum legal compliance requirement, and assess whether the algorithm is actually providing a more desirable and equitable outcome.²⁵⁶ Many current developers are aware of the need to eliminate bias to negate the adverse impact on their AI tools.

AN INTELLIGENT PATH FOR IMPROVING DIVERSITY AT LAW FIRMS (UN)ARTIFICIALLY

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AI offers law firms a valuable way to mitigate biases and increase the firm's diversity and inclusivity, improving services to their clients and internal operations. The advancement of AI can contribute to a firm's efforts in creating an unbiased process to recruit and retain a diverse workforce. Firms should ensure that the "human" in "human resources" remains, so that AI is effectively supporting the firm's diversity strategy without replacing the human mind. With proper guidance from human experts, AI's efficiency and accuracy can raise the lagging diversity numbers for law firms and help transform the legal industry.

AN INTELLIGENT PATH FOR IMPROVING DIVERSITY AT LAW FIRMS (UN)ARTIFICIALLY

Rimsha Syeda, *An Intelligent Path for Improving Diversity at Law Firms (Un)Artificially*, 29 MICH. TECH. L. REV. 307 (2023).

[State and local AI legislation] is a signal to be competent in AI before adopting it.²⁴⁴ AI is underpinned by computer science and complex statistics, methods not taught in law schools. Thus, the creators of AI must develop software with transparency and specify the skills and knowledge required in using it correctly.

The ABA recommends employers know the factors being considered by the program or algorithm and use appropriate contract language when working with AI developers to ensure the developer complies with all existing laws concerning the screening and hiring of applicants. The ABA also recommends auditing AI tools regularly to identify and correct biases.

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American Bar Association's Model Rule 1.1 (Competence) was amended in 2012 to include a duty of technology competence in its comments.

Comment 8 now clarifies that lawyers must stay current with changes in the law and practice, including understanding the benefits and risks of relevant technology to provide competent representation to clients. This ethical obligation applies to various technological aspects of legal practice, such as e-discovery, cybersecurity, and the use of AI.

AN INTELLIGENT PATH FOR IMPROVING DIVERSITY AT LAW FIRMS (UN)ARTIFICIALLY

Rimsha Syeda, *An Intelligent Path for Improving Diversity at Law Firms (Un)Artificially*, 29 MICH. TECH. L. REV. 307 (2023).

[Without] clear guidance from the EEOC and other state or federal agencies, it is unclear what a compliant bias [AI] audit should look like. Under New York's AI law, the bias audit must include an assessment of the tool's disparate impact based on race, ethnicity, and sex. Even though it is the developers that are creating many AI-related tools, laws such as those enacted by Illinois and Maryland, which require *employers* to seek applicant consent, reveal that regulators expect employers to be engaged responsibly in the use of their AI tools.

The Next Frontier of Legal Operations for DEI, AI and Outsourcing: *Priori* - 2023

Technology integration – As Tsisin explained, legal operations professionals and lawyers of the future will still need to address the problems of today: they will need CLM tools, matter management systems, etc. However, he hopes the way they will interact with these technologies will be much different. “She will interact with the proper ‘assistant’ and the system will decide based on the request what tools to bring into the conversation to address her needs. ... I don’t think this is really far-fetched because even today GPT is testing something similar.”

Proactive AI – He noted that AI right now is currently very reactive, requiring prompts from a human to do work. However, proactive AI is already being worked on, and Tsisin imagines a future where his daughter is able to wake up and an AI has already gone through her email (or whatever future communication channel she uses) and processed most of the requests automatically based on its knowledge of her playbook.

The Next Frontier of Legal Operations for DEI, AI and Outsourcing: *Priori* - 2023

So, what changes need to happen to improve diversity in the legal industry? From a high level, Vaughn said that even a 2% increase in diverse tenured equity partners at law firms over the next five years would be a big improvement. This is compared to the current pace, where parity for underrepresented groups will take 30-50 years to achieve.

There also needs to be an inflection point: At least one company has to publicly fire a major law firm for failing to meet DEI standards. “I don’t think anything is going to change until that happens,” Vaughn said. “That requires courage.” Beyond this, additional initiatives like accepted industry goals and benchmarks for DEI and rewards for law firms and other providers that promote DEI are necessary to bring about change.

Bloomberg Law News, May 9, 2025

Law firms that are trying to push forward with diversity efforts are focusing on initiatives they see as clearly legal to avoid attracting the ire of the administration.

The programs include affinity groups open to all, mentoring for young lawyers, and broadening candidate pools for junior and senior talent in ways that don't explicitly focus on race. The firms view the initiatives as meeting legal tests posed by a 2023 Supreme Court decision banning race-based college admissions.

The US Equal Employment Opportunity Commission in March sent letters to 20 large law firms to investigate their DEI practices, making good on a directive from Trump. Andrea Lucas, the agency's acting leader who has made targeting DEI a top priority, said she's "prepared to root out discrimination anywhere it may rear its head."

A crossroads for DEI in legal: Why it still matters *Distinct, 2025*

Recent legal and regulatory developments have introduced new challenges for DEI programs. The 2023 U.S. Supreme Court ruling on affirmative action in college admissions has prompted some major companies – including John Deere Ford, and Lowe’s to scale back their diversity effort with Meta, Walmart and McDonald’s making similar adjustments more recently.

Additionally, a recent executive order by President Trump has ended all federal DEI initiatives, sparking broader discussions about the role of such programs in private-sector organizations, including law firms.

YOUNG v. COLORADO DEPARTMENT OF CORRECTIONS, (10th Cir., 2024)

FN. 2:

Perhaps an ongoing, continuing commitment from Mr. Young's supervisors to mandatory EDI trainings with content similar to the one here may evolve into a plausible hostile workplace claim. But the single training session here is not enough. And requiring government employees to either endorse a particular race-based ideological platform or risk losing their jobs could also evolve into a plausible claim of pervasive hostility—or even venture into the realm of compelled speech.

YOUNG v. COLORADO DEPARTMENT OF CORRECTIONS, (10th Cir., 2024)

“To be sure, Mr. Young’s objections to the contents of the EDI training are not unreasonable: the racial subject matter and ideological messaging in the training is troubling on many levels. As other courts have recognized, race-based training programs can create hostile workplaces when official policy is combined with ongoing stereotyping and explicit or implicit expectations of treatment. The rhetoric of these programs sets the stage for actionable misconduct by organizations that employ them.”

Title VI of the 1964 Civil Rights Act and 14th Amendment

Is race used to advantage or disadvantage a group or individual because of race:

Title VI of the 1964 Civil Rights Act and 14th Amendment

AI is Part of Our World

The rise of advanced AI tools like large language models (LLMs) will likely encourage more employers to take advantage of the technology's benefits. However, employers must first ensure that their organizational policies regulate employee use of AI and comply with applicable laws. Failure to do so can result in loss of proprietary data, security breaches, and legal liability.

The following are common types of policies that employers should review and supplement to prepare for AI's increasing presence in the workplace:

 Employee Code of Conduct Policy. Code of conduct policies lay out the guiding principles of an organization and provide employees with general and specific expectations of an employer. Employers should consider including a statement within the policy that spells out expectations and informs employees of the employer's official stance on the use of AI both as an administrative and management tool in the workplace as well as a part of workflows.

 Device Management Policy. Device management policies regulate how employees may use their various electronic devices for work purposes. Employers should include AI-related information in these policies, such as appropriate and prohibited uses of AI on devices as well as whether AI or LLM services may be accessed on devices – regardless of whether they are used for work purposes.

AI is Part of Our World

Humans Create AI – Humans Must Oversee and Manage AI

Despite some media accounts to the contrary, AI cannot create fully interactive “human” holographic images and projections – Perhaps some day, Star Trek and Star wars WILL BE REALITY

Policies, Training, and Plans that Address AI Rules of the Road

Vet and select good technology partners

Be alert to bias infused responses and productions





AI

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