

Publications

Six Issues for Employers to Monitor in 2026

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CLIENT ALERT | 1.13.2026

The year 2026 is shaping up to be a critical year for employers. With new regulations, emerging technologies, and shifting cultural expectations, staying up to date with evolving legal issues is more important than ever. Below are six critical issues every employer should have on their radar this year and practical steps to prepare.

1. Diversity, Equity, and Inclusion (DEI) & Equal Employment Opportunity

The Equal Employment Opportunity Commission (EEOC) will begin 2026 with a quorum and is poised to look to modify or rescind its [Strategic Enforcement Plan](#) and [Strategic Plan](#). Less than a month ago, EEOC Chair Andrea Lucas encouraged white men, specifically, to file claims with the agency if they believe they have been discriminated against due to their race or sex. Employers should expect an increase in litigation filed by this group and others in the traditional majority alleging hostile work environment and failure to accommodate on the basis of religion. The EEOC's focus on religious accommodation creates tension with LGBTQ+ protections by forcing employers to balance employee requests to accommodate on religious beliefs against an employee's right to be free from discrimination and harassment based on sexual orientation, gender identity, and gender expression.

Employer Action Steps:

- Review and update diversity, equity, and inclusion policies and practices.
- Train managers on handling complaints from all employee groups.
- Document all employment decisions carefully.

2. AI in the Workplace

As we move into the new year, more states are enacting laws to regulate the use of AI in hiring and workplace decision-making. In addition, on December 11, the White House issued the "[Ensuring a National Policy Framework for Artificial Intelligence](#)" Executive Order,

which aims to create a unified national approach to AI by challenging state laws that conflict with federal objectives. Employers should be aware, however, that this Executive Order does not alter or supersede long-standing anti-discrimination laws. These laws focus on the substance of the employment decision, regardless of whether the decision is made by a human or through AI.

Employer Action Steps:

- Audit use of AI for potential bias.
- Ensure compliance with federal, state, and local discrimination laws.
- Be transparent with employees about how AI is used and may be used in employment decisions and employee management.

3. Remote Work and the ADA

There has been great controversy over whether employees can fulfill their job duties and responsibilities while working from home as opposed to working in office. Some employers have embraced remote work and opted to downsize traditional offices and embrace flexible workspaces. Others have argued that physical presence in the workspace is *per se* an essential function of employment. Where these claims have resulted in litigation, courts complete detailed assessments of the employees' job duties and how they align with the employer's business operations. Both managing a remote workforce and handling claims of remote work as a reasonable accommodation will continue to be issues facing employers in 2026.

Employer Action Steps:

- Clearly define essential job functions in job descriptions.
- Engage in a timely, good faith interactive process with employees requesting accommodations.
- Document and communicate decisions regarding remote requests.

4. Smart Glasses, Workplace Privacy, and the ADA

As wearable technologies like smart glasses continue to advance and gain popularity, they present new and complex legal challenges for employers. Smart glasses can discreetly record video and audio, making it easy to capture sensitive information in the workplace and raising significant privacy concerns. Employers must be vigilant about the potential for privacy violations and ensure compliance with workplace privacy laws. At the same time, smart glasses offer valuable accessibility benefits, particularly for employees with visual impairments. As these devices become more common, employers will need to carefully balance their legal obligations to protect privacy with their responsibility to provide reasonable accommodation under disability laws.

Employer Action Steps:

- Update privacy policies to address wearable technologies.
- Train employees in appropriate use of smart devices in the workplace.

- Review all employee requests for accommodation as required under the Americans with Disabilities Act (ADA)

5. Pay Transparency

Due to shifting cultural norms and the predominance of social media, it has become normal for employees to discuss their compensation details in the workplace and online. Many jurisdictions across the country are now making employers' transparent disclosure of compensation a requirement. These pay transparency laws vary widely across jurisdictions, and employers should expect an increase in pay-data reporting obligations in 2026. To prevent the likelihood of a large-scale class action claim, employers should begin auditing their practices, identifying gaps, and eliminating risky practices.

Employer Action Steps:

- Conduct a pay equity audit under the auspices of legal counsel to ensure the audit remains privileged.
- Standardize compensation practices and documentation.
- Revise job postings to ensure compliance.

6. Expansion of Paid Leave

Finally, employers should pay close attention to the evolving variety of paid (and unpaid) leave laws across jurisdictions. By the end of 2025, 21 states and 21 cities and counties required paid sick and/or "safe" leave or leave that can be used for any reason, and many states created paid family and medical leave programs. In 2026, more employees than ever will have the legal right to take time away from work to care for themselves and their loved ones.

Employer Action Steps:

- Prioritize familiarizing yourself with state, county, and city requirements.
- Train managers to handle leave requests appropriately.
- Review and update your leave policies regularly.

2026 will be a year of rapid change and increased enforcement. Employers who proactively update their policies, train their teams, and stay informed will be best positioned to avoid costly litigation and attract top talent.