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News You Can Use

HR Stories You Might Have Missed

Groundbreaking AI discrimination settlement: 3 key lessons for HR

August 21, 2023

The EEOC and iTutorGroup, Inc. have reached an agreement to resolve the first AI discrimination lawsuit.

The EEOC's complaint alleged the company's hiring software automatically rejected older applicants in violation of the Age Discrimination in Employment Act (ADEA). Specifically, the lawsuit claimed the hiring program software rejected "female applicants age[d] 55 or older and male applicants age[d] 60 or older," effectively screening out more than 200 applicants.

The problem was discovered when one applicant submitted two applications that were identical – with one exception, the suit alleged. The first application listed the woman's real date of birth. On the second application, she entered a more recent date of birth. The applicant was contacted for an interview after she submitted the second application showing a younger age.

The suit sought back pay and damages for more than 200 applicants who were "denied jobs because of their age."

The company agreed to pay \$365,000 to be distributed to a group of applicants rejected on the basis of age. It also agreed to comprehensive injunctive relief. Among other things, the company:

- Is enjoined from screening applicants based on age
- Is enjoined from requesting dates of birth before a job offer is made
- Must provide four hour-long training sessions conducted by EEOC-approved third parties to all supervisory and management level employees focusing on the ADEA, Title VII and other federal EEO laws
- Must post a notice about employees' rights
- Must review and revise anti-discrimination policies
- Must incorporate the updated policies into the employee handbook
- Must implement a complaint process for employees and applicants who wish to file a complaint, and

- Must submit to EEOC monitoring for the duration of the agreement.

Why is this settlement such a big deal?

1. Trailblazing settlement

At the risk of sounding obvious: This is the first-ever AI discrimination settlement. Clearly, AI has been on the EEOC's radar.

As you may recall, the agency launched its Artificial Intelligence and Algorithmic Fairness Initiative in January. And in May, it issued a new resource that outlines important considerations when incorporating AI tools into employment decisions, which we covered as soon as it was released.

This settlement shows the agency is prioritizing AI-related discrimination and is committed to directing its enforcement resources to AI compliance.

"This case is an example of why the EEOC recently launched an Artificial Intelligence and Algorithmic Fairness Initiative," the EEOC said in a press release announcing the settlement. "Workers facing discrimination from an employer's use of technology can count on the EEOC to seek remedies."

2. Steep AI learning curve

As new and improved tech emerges, many companies have recognized AI's potential and jumped on the bandwagon, especially since productivity paranoia makes workers feel pressured to do more with less.

But there's a learning curve for using AI effectively in compliance with employment laws, as this case shows. And it's not the only one. In a similar case, Workday, a popular HCM platform, is facing a lawsuit alleging its AI screening system discriminates against Black applicants.

AI discrimination settlement: 3 takeaways specifically for HR

First things first: This is not about the general use of AI at work. Of course, you need to consider an AI policy. ([Click here for a sample policy.](#))

Here, we're focusing on key lessons specifically for HR pros who use (or plan to use) AI at work:

- 1. Employers and HR pros must talk AI.** Open communication is essential. The use of AI at work is exploding, but it's still new technology, and employees are navigating the learning curve. The truth is, HR has questions about AI even as the department implements AI tools to streamline and automate specific tasks. Employees, especially HR, must be trained on the legal risks of inappropriate AI use.
- 2. Conduct audits.** When navigating the learning curve, it's helpful to look at relevant legislation. In the case of AI, New York City passed the first law regulating the use of AI at work. And that law requires companies to arrange independent bias audits conducted by a third party. Even if you aren't in NYC, the legislation provides insight into what's considered a "best practice" under an evolving area of law. Want even more help? Check out the city's final rule, which provides additional guidance for compliance with the law.
- 3. Stay tuned to EEOC for more info.** This area of employment law is in flux – and it likely will be for a while as we navigate this new technology. On the federal level, the EEOC is the best source to stay up to date on evolving AI guidance. And even if you find yourself stumbling a bit, you can show good-faith efforts by being aware of and trying to implement EEOC guidance.

Info: Settlement in *EEOC v. iTutorGroup, Inc.*, 8/9/23.

[Read this article online](#) 

New wave of FLSA lawsuits gain steam: 3 cases to watch

August 24, 2023

When you hear "FLSA lawsuits," you probably think about wage-and-hour disputes and overtime violations. But we've spotted an interesting trend in FLSA lawsuits filed this summer. Here's what HR needs to know:

Customer service reps at three big-name companies have filed class-action lawsuits, asserting they are not being paid for all time worked in violation of the Fair Labor Standards Act (FLSA). Specifically, they allege their employers do not pay them for the time spent logging in to computer programs that are necessary to do their jobs.

Today, the complaints appear to be limited to call centers. But it's not a stretch to predict that employees in other computer-dependent jobs might file similar claims, especially if these early suits are successful.

3 FLSA lawsuits — virtually identical claims

1. Wayfair

Three customer service representatives filed a class-action lawsuit against Wayfair, alleging the company failed to pay them for time spent logging in to computer programs that were necessary for them to do their jobs. The suit alleges the company violated the FLSA and several state laws.

The three named plaintiffs are nonexempt, remote employees who work in their home states of Maine, Oregon and South Carolina.

They assert that company policy required them to have their computers connected to the network, with software programs opened and ready to work at the start of their shifts. As a result, they say they were not paid for time spent on preliminary tasks that were essential to their work. Further, they say they typically spend 10 to 15 minutes on these tasks. Moreover, on occasions where they ran into technical difficulties, they spent up to 30 minutes on these tasks.

Counts, et al. v. Wayfair LLC, No. 1:23-cv-11706 (D. Mass. filed 7/28/23).

2. Chewy

A customer service representative filed a class-action lawsuit against Chewy, alleging the company doesn't pay nonexempt call reps for all time worked. Specifically, the suit claims Chewy requires the reps to take calls and answer questions the moment their shift begins, but it does not permit them to clock in until the exact start of their shift.

According to the suit, this means the reps have to arrive before the start of their shift to turn on their computers and open software programs – before clocking in – so they are ready to take customer calls. The suit claims the policy requires reps to work an average of seven minutes per shift without pay. Moreover, the suit claims that reps at three call centers – one in Florida and two in Texas – risk disciplinary action if they clock in early or are not available at the beginning of each shift.

Millican v. Chewy Inc., No. 1:23-cv-11587-DJC (D. Mass. filed 7/14/23).

3. SiriusXM

A customer service representative filed a class-action lawsuit against SiriusXM, alleging the company violates wage-and-hour laws by not paying nonexempt employees for all hours worked.

According to the complaint, the company required reps to be “call ready” at the start of each shift but did not allow them to clock in early to boot up their computers and open necessary software programs. The suit claims the reps often faced tech issues delaying their ability to log in, which meant they ended up working about 25 minutes each day without pay. Moreover, reps were allegedly disciplined if they were not “call ready” at the start of shifts.

Mitchell v. Sirius XM Radio Inc., No. 1:23-cv-06092 (S.D.N.Y. filed 7/14/23).

Mixed rulings in similar case

These three lawsuits pose an interesting question: Do nonexempt employees have to be paid for the time spent booting up and shutting down computers?

Though the question sounds simple, it’s at the center of a long-running legal dispute with similar facts to the complaints above. We covered the [full case here](#), but here’s a quick recap:

In *Cadena v. Customer Connexx, LLC*, nonexempt call service reps in Nevada sued under the FLSA, alleging they were not paid for time spent booting up and shutting down computers. They claimed the unpaid hours also resulted in overtime violations. The long legal battle sent the case to the Ninth Circuit, which issued a partial ruling for the employees and remanded the case.

On remand, the district court granted the company’s motion for summary judgment, finding the employees failed to show the time was more than *de minimis*. Significantly, most employees testified that “it took mere seconds or a couple of minutes to turn the computer on and off.”

The court said this testimony was “consistent with common sense that pushing or clicking a button or opening a computer program typically takes little time,” and recording such small fragments of time for payroll purposes could present logistical problems. In addition, the irregularity of alleged unpaid work also favored a finding for the company. Employees had to turn on and boot up computers every day. But “the occasions when the logins or logouts took longer were irregular in both frequency and duration,” the court determined. The court granted the company’s motion for judgment.

The employees filed an appeal, sending the case to the Ninth Circuit for a second time. We’ll keep you posted.

[Read this article online](#) 

A victory for common sense: Appeals court reverses crazy Title VII ruling

August 31, 2023

When you think of prohibited sex discrimination under Title VII, what comes to mind?

How about a workplace policy that says male employees can get weekends off but females can’t do the same? Seems pretty clear that’s unlawful sex discrimination, right?

But guess what? Last August, a federal appeals court ruled that the policy was perfectly fine under Title VII.

Wait – What?

How could that possibly be so?

Under the court’s warped reasoning, the policy was OK because the females who were subject to it did not suffer an “adverse employment action.” You can’t have a Title VII violation without an adverse employment action, it said, and adverse employment actions are limited to “ultimate employment decisions” like those relating to hiring, discharge or promotion. Because a policy denying weekends off is not an adverse employment action, the female employees were out of luck, it ruled.

Of course, nothing in the text of Title VII suggests that the law be read so narrowly.

The three-judge panel that decided the case essentially said its hands were tied by previous circuit court precedent. The panel sat in the Fifth Circuit, which covers Louisiana, Mississippi and Texas. Seemingly aware of the absurdity of the result, it also said the case was an “ideal vehicle” for further review by the full Fifth Circuit Court of Appeals..

Full court reverses

Fortunately, that is exactly what happened. The full circuit reviewed the case, and in mid-August it reversed the panel’s ruling.

Kindly calling its past rule an “interpretive incongruity,” the full panel said it was time to recognize Title VII’s broad language and end the

practice of limiting winnable Title VII cases to those involving “ultimate employment decisions.”

In so doing, it took the logical approach of looking at what Title VII actually says.

And what it says is that employers cannot discriminate against anyone based on sex (and other enumerated classes) with respect to “terms, conditions or privileges” of employment.

“[A] plaintiff plausibly alleges a disparate-treatment claim under Title VII if she pleads discrimination in hiring, firing, compensation, or the ‘terms, conditions, or privileges’ of her employment,” the court said. “She need not also show an ‘ultimate employment decision,’ a phrase that appears nowhere in the statute and that thwarts legitimate claims of workplace bias.”

A claim based on a policy that gives only men full weekends off is plausible under Title VII, it ruled. Those alleged facts “paint a clear picture of disparate treatment” based on sex, it said, because denying females weekends off is an adverse employment action.

Broad, but not boundless

Title VII does not allow recovery “for *de minimis* workplace trifles,” the court said, but the policy at issue was more than that – and enough to support a claim of a Title VII violation.

With the decision, the full court reversed a decades-old Fifth Circuit rule and significantly broadened the scope of protection offered to applicants and employees within its jurisdiction.

Rulings from the Sixth Circuit and the District of Columbia Court of Appeals are consistent with this new ruling from the full Fifth Circuit Court of Appeals.

The case is a reminder of the breadth of the discrimination prohibition included within Title VII. As a general rule, courts are expected to interpret civil rights laws broadly to achieve their remedial purpose. The Fifth Circuit’s prior rule regarding the scope of Title VII’s ban on discrimination was entirely inconsistent with this principle, and the new ruling brings its interpretation of the law more in line with a broader view – and does what the statute says.

Hamilton v. Dallas County, No. 21-10133
(5th Cir. 8/8/23).

[Read this article online](#) 

Jury slams trucking company with \$36M verdict for deaf driver

September 5, 2023

A federal jury in Omaha awarded more than \$36 million in an ADA suit that claimed a truck driver was wrongfully denied a job because he is deaf.

Victor Robinson applied for a job as a truck driver with Werner Enterprises in 2016.

At the time, Robinson had completed truck driving school and obtained his commercial driver’s license. He had also been granted an exemption from federal physical qualification standards applicable to interstate drivers.

Deaf driver has application rejected

Werner rejected his application, saying he would not be able to complete the company’s over-the-road training. More specifically, it maintained that he would have to take his eyes off the road in order to communicate with the training instructor.

The EEOC disagreed, and in 2018 it filed an ADA lawsuit on Robinson’s behalf. In the suit, the agency accused Werner and Drivers Management LLC of violating the statute by refusing to hire Robinson.

Just two months earlier, the agency had filed a separate suit against Werner on behalf of another deaf applicant for a job as a truck driver. In that suit, it similarly alleged an unlawful refusal to hire under the ADA. The cases were later consolidated for resolution. In the other suit, a jury reached a verdict for Werner in June.

Similar case, very different result

Robinson’s jury did not do the same, instead reaching a mammoth verdict in his favor.

Two particularly significant developments took place before the jury reached its verdict.

First, in late March of this year the Nebraska federal district court that heard the case denied a defense motion for summary judgment on the ADA allegation.

Werner argued that Robinson was not qualified for the job, and it further asserted that it was not required to accept his exemption. But the court decided those arguments were not strong enough to warrant summary judgment in its favor.

The court also said it was for a jury to decide whether there was a reasonable accommodation that would

enable Robinson to complete Werner's over-the-road training program.

Then, at the end of August the court granted the EEOC's motion for a partial directed verdict, finding there was no question that Werner declined to hire Robinson because he is deaf. Thus, it took the issue of causation out of the jury's hands.

Jury drops the hammer

The next day, the jury needed only about two hours to return a verdict against Werner. It awarded Robinson \$75,000 in damages for "emotional pain, suffering, inconvenience, mental anguish, and loss of enjoyment of life."

It tacked on a remarkable \$36 million to that amount in punitive damages.

That amount is likely to be reduced in light of the ADA's \$300,000 cap on damages. (Federal law prohibits courts from telling jurors about this limit.)

The verdict sends a strong signal regarding the ADA's ban on disability bias – and warns employers not to assume that employees with disabilities are unqualified.

Accommodation tips

In January, the EEOC released an updated resource for employers regarding applicants and employees with hearing disabilities.

Some of the more notable points included in the document:

- Before a job offer is made, an employer may not ask a job applicant whether they have (or have had) a hearing condition or related treatment.
- Job applicants are not required to disclose the existence of a hearing impairment unless they need a related accommodation to complete the process of applying.
- If an applicant discloses the existence of hearing impairment after a conditional job offer is extended but before the job begins, the employer may ask questions about the impairment and ask whether an accommodation will be needed.
- Potential accommodations for applicants and employees with hearing impairments include sign-language interpreters, assistive technology, written memos and notes, and note-taking assistance.

- Employers may exclude people with hearing impairments from jobs for safety reasons only if employing them would pose a direct threat, which is a significant risk of substantial harm that cannot be eliminated via reasonable accommodation.

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Need some help recruiting Gen Z talent? Here are some important things to know

September 7, 2023

The World Economic Forum estimates that by 2025 – two short years away – more than 25% of the workforce will be comprised of Gen Z individuals.

These resourceful digital natives, born around the turn of the millennium, are graduating college and coming to work with unique perspectives and expectations about work, life and wellbeing that are starting to reshape the workplace.

That's according to Radina Walsh, a psychologist, remote talent advisor and founder of Vox Advisory.

In an episode of the *HRMorning* podcast [Voices of HR](#), titled "What You Need to Know About Recruiting the Newest Generation of Top Talent," she admitted that in many of her interactions with Gen Z workers, she ends up learning more from them than they do from her.

"Within eight months, I have seen people really thriving in their roles," she said.

Walsh noted that it's important to remember that for this generation Google has always existed. And because they grew up with even easier access to technology than the Millennials had, Gen Z is able to quickly grasp complex concepts and find solutions, making them valuable assets to organizations.

But to attract and retain them, employers need to understand Gen Z's preferences and adapt accordingly.

Gen Z's expectations from employers

Gen Z tends to demand transparency, open communication and inclusivity, according to Walsh. Companies with cultures not equipped to embrace

these values will have a difficult time getting them to stay more than 10 months, she said.

“(Gen Zers) are quite interested in having several different vocations ... influencer ... yoga instructor ... coding expert. ... Work is not a place. Work is not even a company anymore. We need to get used to the fact that they just see work in a different way,” she said.

“Gen Z seems to be educating all of us. They’re starting to figure out that it’s not just about going to work for 80 hours a week and constantly taking on more responsibility,” commented Voices of HR host Berta Aldrich.

As a result, hybrid work models are important to Gen Z because of the ability to flex the convenience of remote work or the benefits of in-person interactions for socializing and building relationships.

In addition, Walsh said, Gen Z values learning opportunities, such as skilling and upskilling.

And with a worldview heavily influenced by 9/11, social media, a global pandemic and the rise of AI, Gen Z tends to struggle with mental health more so than their co-workers from other generations. Walsh said that employers need to address these concerns by offering resources, encouraging open conversations and promoting mental wellbeing in the workplace.

Some of your supervisors may need to adjust their management styles, or get some training, because Gen Z prefers managers who establish an understanding, human connection and offer guidance while providing flexibility in work arrangements.

Ultimately, this generation wants to be their authentic selves at work, she said.

[Read this article online](#) 

Toxic cultures rise as employees RTO: 6 ways to clear the air



by Michele McGovern



TAMING A TOXIC CULTURE

The Return to Office (RTO) is in full swing ... and the toxic culture is sliding in right behind it.

Three-quarters of Fortune 500 company leaders want employees back in the office at least three days a week by the end of this year, according to a Fortune poll.

With that, corporate culture is changing again — and not necessarily for the better.

Some employees come back with a chip on their shoulder about having to be there. And they find colleagues to commiserate with, spreading their disenchantment. Others might have forgotten onsite etiquette and are pissing off their co-workers already.

Toxic cultures overlooked

What's worse, HR pros and managers buried in their work might not see it. At first.

"Often, HR and management are the last to know about toxic employees," says Josh Merrill, Co-founder and CEO of Confirm. "Colleagues often don't want to initiate a discussion with their manager about it, and managers don't know enough to ask."

But you can be sure it's festering with the rise in office occupancy rates that Kastle Systems has reported.

So HR will want to take steps to prevent or reel in toxicity in the workplace — whether you're on-site full-time, hybrid or fully remote.

Here are six strategies:

Know the enemy within

There are plenty of types of toxic employees. But three rise to the top of toxicity in the workplace, Merrill says. They're the type you want to

identify and whose behaviors you'll have to address:

1. **Mike The Manage-Upper.** He excels at managing his manager — doing and saying everything right when the boss is around. But he has sharp elbows — showing his true colors by doing and saying negative things when colleagues are around. The manager loves him, while his co-workers feel the opposite.
2. **Bernice The Bully.** She uses intimidation, belittlement, and aggression to control discussions and get her way. She'll do it in front of or behind the boss. But it flows out of her so easily, most people aren't ready to respond and rebound immediately.
3. **Calvin the Complainer.** He would rather complain about a problem than actually solve it. His negativity affects co-workers, workflows and overall morale.

Try a different perspective

Leaders will hear about employees who are outright bad eggs. Others will report inappropriate behaviors or the boss will witness it.

But the most under-mining toxic behaviors usually come from below the surface, and it's harder to identify. But you can dig it up.

"Traditional performance reviews don't tend to surface this type of info, because the reviews reflect primarily the opinions of direct managers," says Merrill. "So toxic employees could be receiving positive performance reviews, and that makes it harder to manage them out later. It's a cycle."

To surface potentially toxic team members, Merrill suggests an Organizational Network Analysis (ONA) — a more structured way to visualize how communication, information and decisions flow through an organization — in regular one-on-ones or in short, quarterly surveys. Questions include:

- Who do you go to for help and advice?
- Who energizes you?
- Who do you consider to be a "Gold Star" contributor?
- Who do you believe needs additional support or attention?

Get the view up, too

HR might want to use ONAs — or prescribe skip-level conversations — so employees can help identify anyone in management who might be affecting the toxicity level. (On the positive side, ONAs can also help you identify unsung heroes and rising super bosses.)

"I would ask an upward question ... for example, 'On a scale of 1-5, how likely would you recommend your manager to others?'" says Merrill. "This identifies the best and worst managers in a company. Any manager who isn't getting a four or five would be a problematic manager. There's a reason why they're getting a low rating."

Apply to hybrid, remote

It's equally — if not more — important to do regular litmus tests with hybrid or remote employees. They sometimes don't realize they're in a toxic culture because they don't have the outlets to discuss their experiences with other employees who may be having the same experience.

So you might even consider getting ONA feedback from them more often.

Consider the feedback

With regular, graded feedback, you can likely identify some toxic sources in the workplace.

ONA data helps HR and other leaders pinpoint who is contributing toward a toxic work culture and how, based on what the network says. The key here is that it can help identify employees who perform well but make the culture an unpleasant place for others to work.

"When multiple staff members identify a colleague as falling short, managers can then dig in to find out why — and if that person is contributing to a toxic workplace," says Merrill.

Look for employees who others say contribute to or are often involved in bottlenecks, conflict or other issues.

"This is different from an engagement survey. While those can identify toxicity at an organization, ONA draws it out at the individual level," says Merrill. "Managers will learn who they need to talk with directly to make real change."

Look for the bright side

When trying to weed out toxicity in the workplace — and possibly the people who cause it — you'll likely find some diamonds in the rough. These might be the people who meet expectations, but their colleagues say their attitude or behavior contribute to other successes.

"This highlights the power of networks in revealing hidden aspects of employee behavior and interactions that may go unnoticed by managers," says Merrill.

Either way — finding toxicity or sunshine — you'll likely get information that can help managers coach all employees.

For instance, Joe Bast, VP of People & Operations at Thoropass, shares this: "We are primarily focused on identifying our most valuable and impactful people, so we can focus on retention efforts. But occasionally ONA also points us to people who either need help or need to be managed out. In either case, we're collecting valuable data that was not being surfaced elsewhere."

[Read this article online](#) 

Case Study

Leadership during divestment took empathy and authenticity



Our company had several lines of services that had been underperforming for some time. Senior leadership agreed that divestment would be the wisest course of action for the bottom line. However, it would impact 700 team members, who would either be out of a job or become employees of the partners acquiring those businesses.

In my experience, whenever a major business decision like a divestment is made, the wrong thing to say to someone who is being adversely affected is “It’s nothing personal.” To them, it’s very personal.

Staying true to leadership values

Empathy is a core aspect of my leadership style. In fact, my personal mission statement is to be a fair, authentic and empathetic leader who develops and inspires others to work together to make a meaningful difference in the lives of others.

The “inspiring people to work together” part was no longer going to apply to this group of employees, but I still had a duty to treat them with kindness and caring. It goes back to the famous quote about how people will

forget what you said and what you did, but they will never forget how you made them feel. Ignoring that would be betraying another important part of my leadership style – building strong relationships to achieve buy-in and high-level performance.

Open-door and follow-through

I had gotten to know a lot of the soon-to-be displaced employees on a personal level from one-to-one check-ins. Starting with those folks, and eventually emailing the entire cohort, I let them know that I would make myself available to talk with them about career opportunities and career development to help them come up with a plan.

The conversations with those who took advantage of the opportunity were productive, and they came to realize that a door was closing but others were opening.

With help from HR and leaders from the partners taking over the divested businesses, 90% of our former employees either moved into positions with an acquiring organization or were connected with quality career development resources to find a new role with new opportunities.

This was a reminder that the keys to leadership in tough times are having the courage to:

- Be your authentic self when working with others because it gives them permission to be themselves
- Lead with your values, and
- Focus on what you can control.

(Holly Snyder, President, Nationwide Life Insurance, adapted from The Press Room from Deloitte Insights podcast)

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Social media in the workplace: Pros, cons & policies



by Alison Roller



There's no denying the importance of social media in the modern age: In a post-pandemic world, it can help bring people together to build connection and community, even when they're not face to face.

Social media in the workplace can be seen as an overt negative that distracts workers and keeps them from doing their best work. Although there are some drawbacks, social media in the workplace can have positive effects too, and HR needs to be able to create policies to balance out the positives and negatives of social media in the workplace.

To navigate the workplace in the social media age – and help decide what social media policies are right for your business – here's everything you need to know about social media in the workplace.

How is social media used in the workplace?

Employers can use social media in the workplace to help the business

financially or otherwise. Employers may use social media for a myriad of reasons, like:

- Promoting products or services
- Increasing brand recognition and awareness, and
- Recruiting candidates or clients.

Employees can also use it to help promote the brand or showcase company culture, leading to increased brand recognition.

According to the Pew Research Center, employees who use social media during the workday use it to:

ACCORDING TO THE PEW RESEARCH CENTER, EMPLOYEES THAT USE **SOCIAL MEDIA DURING THE WORKDAY** USE IT TO:

- TAKE A MENTAL BREAK
- STAY CONNECTED WITH FRIENDS AND FAMILY AT WORK
- SUPPORT PROFESSIONAL CONNECTIONS
- GET INFORMATION TO SOLVE PROBLEMS AT WORK, AND
- ASK PROFESSIONAL QUESTIONS INSIDE OR OUTSIDE OF THE ORGANIZATION.

Pros of social media usage

It's unrealistic to outright ban employees from social media usage at work – and it may not be a good business decision, either. There are many benefits of using social media in the workplace that your company could miss out on. Here are some benefits of using social media in the workplace.

Supports employee recruitment

Social media can be a valuable recruitment tool. Whether you're actively hiring or not, a consistent social media presence can help potential candidates get to know vital information like company culture, which is more important than ever.

Social media can also be an unlikely but valuable place to share job postings, especially on sites popular for job seekers like LinkedIn. It can even be a useful tool further down the recruiting pipeline to vet potential employees with any public social media profiles.

Plus, a company that builds out a solid social media profile can help encourage current employees to do the same. In turn, employee interaction can increase visibility and may even spur an increase in employee referrals.

Gives employees a mental break

It's not reasonable to expect employees to sit and work with no breaks for eight hours, and studies

show that it isn't productive, either. Productive social media use can help employees break up the workday and provide a "reset" so they can come back and do their best work.

Plus, providing flexibility and promoting a healthy work-life balance through personal use of social media can help improve employee morale and make employees less likely to burn out.

Aids in employee engagement

In a remote and hybrid world, engagement can be tricky to navigate, but employers can use social media in the workplace to promote employee engagement. For example, employers can use social media to:

- Host an "Employee Spotlight" feature to highlight workers' experience and hobbies
- Introduce new employees through social media posts, and
- Highlight big accomplishments, such as awards, certifications or major career developments.

It's important to keep any employee-focused social posts positive, as employees will be more likely to interact with content that shows them or their peers in a good light.

Plus, a social media presence that engages employees can foster employee advocacy – where employees act as a spokesperson or advocate for the company – which can make them more likely to stay with the company.

Strengthens employer brand on social media

A positive social media presence will help strengthen your brand, which can lead to a whole host of benefits.

Strategic social media marketing can certainly help the business side of your company, but it can also help recruiting efforts by strengthening your company's reputation.

In an increasingly competitive market, a strong social media presence can stand out. Here are a few best practices to elevate your social media marketing regardless of your budget:

- Take time to develop all parts of your social posts, from copy to graphics
- Track metrics that matter – like engagement – and understand that social media marketing metrics will be different from overall marketing metrics, and
- Try to get consistent engagement from employees to boost visibility.

Cons of social media in the workplace

Despite all of the pros, there are also some important cons of social media usage in the workplace that employers need to be aware of.

Can affect productivity during work hours

Small mental breaks during work hours can be the refresh that employees need to do their best work, but too much of a good thing can be a bad thing. Excessive social media usage can cut into employee productivity and affect your bottom line.

An employee who's spending too much time on social media may let tasks fall through the cracks or miss deadlines. Often, it can be due to employees spending too much time on their personal social media accounts, and those

with curated algorithms like TikTok can be especially easy to get lost in.

Consider that many spend upwards of three hours on social platforms per day, according to MixBloom.

CONSIDER THAT MANY SPEND AN UPWARDS OF **3 HOURS** ON SOCIAL PLATFORMS, ACCORDING TO MIXBLOOM.

AVERAGE AMERICANS SPEND:

- 🕒 29 MINUTES ON INSTAGRAM 
- 🕒 33 MINUTES ON TIKTOK, AND 
- 🕒 42 MINUTES ON YOUTUBE. 

Deciding when to intervene can be tricky; employers don't want to create unnecessary conflict or be accusatory. But when employee productivity is being impacted, it may be time to have a conversation and take the appropriate intervention steps.

Creates security risks

Like any other online forum, social media can create security risks. Especially when employees are using personal social media at work, viruses and malware can infect work computers and create a security issue.

If a virus does get onto the computer, it can potentially expose sensitive information. It's important to outline these potential risks and action steps and keep them aligned with your company's social media policy.

Opens up the company to legal actions

No company wants to get caught up in legal issues. But the fact of the matter is that social media can open

the company up to legal trouble since employers can't fully control when and how often employees go on social media. Nor can they control what they post.

So, an employee who harasses others or posts negative sentiments about the company can be a huge legal threat to employers or cause a diminished brand reputation.

Case in point: Before a union election, a worker called his supervisor a “nasty mother——” on Facebook, and made other explicit statements against the supervisor. The post closed with “Vote YES for the union.” When he was fired, the worker filed an unfair labor practice charge and a federal appeals court upheld a determination that the employer violated the NLRA by retaliating against the worker for engaging in protected activity.

Whether or not an employer wins a lawsuit, legal issues due to social media can be costly, so it's vital to ensure employees know what is and isn't okay to post – and consequences, like potential disciplinary action, if they go rogue.

Creating a social media policy

So how do you balance the positives of social media with the potential drawbacks? Creating a social media policy in the workplace can be a valuable way for human resources pros to help set expectations for workers.

Social media isn't going away anytime soon – in fact, it's becoming a more integral part of our lives to connect and get information, so it's important to have a detailed social media policy to protect yourself and your employees.

A solid social media policy should include:

- A point of contact for questions or concerns
- Definitions of major terms, like what is considered social media – for example, whether forums and blogs are included under the policy
- What is and isn't allowed, both for company social accounts and personal use that involves the company – as well as disciplinary action if employees violate the policy, and
- A crisis plan for handling backlash on social media, security risks or legal issues.

Your social media policy may also want to explicitly mention productivity concerns, including how employees can ensure that social media usage is not cutting into productivity, such as specifying the amount of time employees should spend for mental breaks.

Takeaways for HR

Social media can be tricky to handle, but there's no way to get around it: It's a part of our lives and will impact the workplace. Creating a social media policy can help keep everyone on the same page and avoid costly mistakes.

By keeping the pros and cons of social media in mind, HR pros can help companies strike the right balance when it comes to social media at work.

[Read this article online](#) 

The bold case for conversation: How to get more out of your 1-on-1s



by Michele McGovern

MAKING THE CASE FOR CONVERSATIONS



If handwriting is a lost art, then the art of conversation is on the endangered list.

Today in the workplace, we text, ping, slack, email and “chat” more than ever.

No one makes the case for conversation — and it’s likely something we need to have more of in the workplace: Poor communication costs companies an estimated \$37 billion a year, according to research from The Grossman Group.

How’s that possible? Consider these small things that add up: Julie waits

to act because Karen didn’t give her information. Bob doesn’t understand the text from Juan, so he makes a mistake. Abdul spends half a day sorting through useless email.

But a quick, concise conversation could’ve fixed all those expensive issues.

Tech vs. the case for conversation

A few years back, and in an effort to boost productivity, Coca-Cola once

got rid of voicemail for 94% of its employees. They encouraged people to work with others in less personal ways — email, text, chat and socials.

While those were and are convenient, technology presents a challenge to effective communication in any business: The conversation moves in just one direction at a time.

Write. Send. Wait. Receive. Repeat. Not much different from the age-old walkie-talkie or letter to Grandma.

Conversations, on the other hand, allow for real-time sharing, learning, connecting and creating.

As we rely mostly on technology to communicate, we're losing some of the ability to have effective, productive conversations. And managers need to have more of these critical one-on-one conversations regularly — not just once- or twice-a-year performance reviews.

These ideas can help leaders and their employees restore effective one-on-one conversations.

Make it clear

When you initiate a conversation with employees, bosses or colleagues, they almost always want to know three things, according to Dr. John Lund, author of *Hug the Porcupine: Dealing with Toxic and Difficult to Love Personalities*:

- Is what you want to talk about going to be painful?
- How long will this take?
- When you're done talking, what do you want from me?

So make those things informal parts of your conversations. For instance, "I know how busy you are, so I just need 10 minutes to discuss the Whitmore account and where we're headed."

Cut the distractions

One-on-one conversations in person or on the phone will be most effective if you shut off other online conversations and activities. Drop the screens. Close the tabs. Stop glancing and fiddling.

Give people you talk to full attention by getting away from devices. Take notes with a pen and paper and put down handheld devices.

Speak and move carefully

Conversations are far less about what's said and more about perception.

People interpret spoken messages:

- 55% by facial expressions and body language
- 37% by tone of voice, and
- 8% by the words said.

So "choosing the right words" is just one part of a good conversation. In fact, when you use the right words with honesty, the right body language often takes care of itself.

Listen to understand, not respond

In the sales profession, salespeople are often told to speak 10% of the time and listen 90%. That helps them understand clients' needs and give the best solutions.

While the percentages may be a little exaggerated, the advice is not. The best conversations happen when people listen long enough to understand others, rather than just wait for their turn to talk.

Effective conversations need to include clarifying questions such as: "Can you explain what you meant by ...?" and "If I understand you correctly, you want ... Is that right?"

Build trust

Conversations will improve – and people will rely on them as much as electronic chats – when trust increases.

Build trust by sharing relevant stories about your career, life and experiences. Open up, and relationships will bloom.

[Read this article online](#) 

The state of pay equity in 2023: How HR can move the needle



by Alison Roller

There's no getting around it: 2023 is the year of the worker, and workers want pay equity and pay transparency. In fact, research from the Josh Bersin Company found that employees favor fairness over compensation.

And pay equity can really pay off, with organizations that excel in pay equity reporting higher profitability and greater success in attracting and retaining top talent.

But in a competitive market, pay equity can be difficult to get right, especially as companies navigate an uncertain economy. Affirmity's State of Pay Equity 2023-24 report shines a light on how companies are handling pay equity and transparency – and where they're going wrong.

Here are the takeaways that HR needs to know about, plus action steps to improve pay equity practices.

The state of pay equity in 2023

The study defined pay equity as “the practice of compensating employees the same way for the same work, regardless of factors such as gender, race, disability, or religion. ... It may also be viewed as comparable pay for similar jobs within the same organization.”

Overall, the majority of respondents – about 7 in 10 – rated their organization as mediocre or below in the area of pay equity. But the same number are also hopeful for the future, with 7 in 10 believing



their organization will become more equitable over the next two years.

Despite the growing importance of pay equity, only about a third (34%) say it is among the top five priorities in their organizations. For those who do prioritize pay equity, they do so to:

- Retain the right talent (63%), and
- Ensure fairness (60%).

Some of the most common methods to determine pay equity were comparisons of pay among comparable jobs (77%) and comparisons within pay bands (70%).

When doing a pay equity analysis, organizations examined factors such as:

- Demographics, such as gender identity (81%) and race/ethnicity (71%)
- Job-related factors, such as role (77%) and performance (69%).

The state of pay transparency

Affirmity's study also focused on pay transparency, which it defined as “organizations communicating with employees about how their pay is determined.”

For 2023 and beyond, pay transparency is becoming more and more important as states mandate transparent salaries. Even when companies aren't in a state where they're legally required to do so, many have embraced pay transparency as a way to stay competitive.

Despite its growing importance, only one-third rate their organization's pay transparency practices as excellent (12%) or above average (22%).

And, although two-fifths say their organizations include salary ranges for all job postings, 17% only use ranges for some job postings, and 16% only do so where legally required. While a quarter do not

include salary ranges currently, 1 in 10 of those are considering doing so in the future.

Affirmity's study also uncovered an interesting discrepancy between organizations in different locations: Those that operate in a single U.S. state were more likely to include salary ranges for all job postings (66%), while those that operate in multiple states were less likely (43%). Organizations that operate in multiple countries including the U.S. were the least likely (32%) to include salary ranges in all job postings.

How HR can move the needle on transparency & equity

Fair pay practices are good for your people and your business – so how can HR help become a more equitable workplace?

Affirmity's study found some behaviors of more equitable organizations that organizations can use as a guide to work toward pay transparency and equity.

Here are a few best practices:

- Include salary ranges for all job postings

- Use various methods to determine salary ranges, such as government sources and market analysis
- Conduct routine pay equity analyses
- Find strategies to detect equity gaps, and
- Make hiring offers based on factors other than salary history.

[Read this article online](#) 

The Cost of Noncompliance



\$700K

Federal contractor agrees to pay \$700K to settle race-based hiring discrimination allegations

Who was involved: Navient Corp., a financial services company, and more than 2,000 applicants in three states.

For context, Navient services student loans for the U.S. Department of Education. The current contract ends in December 2023.

What happened: A compliance review by the DOL's Office of Federal Contract Compliance Programs determined Navient discriminated against 427 Black candidates who applied for customer service rep positions in Fishers, Indiana, and Wilkes-Barre, Pennsylvania. The review also identified alleged race-based hiring discrimination against 1,858 Black and white candidates who sought clerical positions in Austin, Texas

Result: Navient agreed to pay \$700,000 in back wages and interest to settle the matter.

Info: [DOL, Navient enter into agreement to resolve allegations of hiring discrimination, 9/11/23.](#)

[Read more of The Cost Of Noncompliance in your Membership Dashboard](#) 

Meet Our Editors

Our editors read and vet hundreds of sources and hand-select the most relevant, practical content. Then we add our seasoned perspective and deliver actionable insights to help you understand what today's trends mean for your business.



Tom D'Agostino

Tom D'Agostino is an attorney and legal editor who has more than 30 years of experience writing about employment law, disability law and education law trends. He earned his B.A. degree from Ramapo College of New Jersey and his J.D. from the Duquesne University School of Law. D'Agostino, who is a member of the Pennsylvania bar, is a past member of the American Bar Association's Section of Individual Rights and Responsibilities and the Pennsylvania Bar Association's Legal Services to Persons with Disabilities Committee. He has provided technical assistance in the production of segments for television's ABC World News and 20/20, and he has been quoted in periodicals including USA Today. He is also a past contributing author of *Legal Rights of Persons with Disabilities: An Analysis of Federal Law*, which is a comprehensive two-volume treatise addressing the legal rights of people with disabilities. Tom is passionate about baseball and authentic Italian food. When not writing, he enjoys spending time with family.



Michele McGovern

Michele McGovern writes. A lot. These days, she covers HR, digging deep into company culture, DEI, leadership, management and the everchanging world of work. In the years between getting a BA in journalism from a state school and writing about HR, she wrote about big-city crime for a wire service and small-town life for local newspapers. She's a mediocre mom, decent wife, wannabe athlete and consummate pursuer of fun - on land, snow and water. Follow her on Twitter @sheknowswork. Find her on LinkedIn @michele-mcgovern-writer



Carol Warner

Carol Warner has been a writer and editor since 2008, covering the latest trends in employment law, education law, safety and security, human resources, employee training, and emergency response plans. She attended East Carolina University and earned a Bachelor's degree from New York Institute of Technology. When she's not writing, she spends most of her free time listening to audiobooks, playing Scrabble, and solving crossword puzzles.



Alison Roller

Alison Roller is passionate about engaging and informative storytelling through writing and social media. She has been writing since 2018 on a range of topics: politics, higher education, leadership, workplace culture, and diversity, equity, & inclusion. A graduate of West Chester University in Journalism, she is currently pursuing her M.S. in Communications from Syracuse University. When she's not working, you can find her hanging out with her cat, knitting, and scrolling TikTok.



Brian Bingaman

Brian Bingaman has been a journalist in the Philadelphia area for nearly 20 years. He was a contributing editor for *ResourcefulFinancePro.com*, as well as the publications *What's Working in Human Resources* and *What's New in Benefits and Compensation*. He first became interested in HR when he started noticing a distinct lack of human interaction from the HR department of the newspaper group where he worked. In addition, Brian has 15 years of experience in the radio broadcasting industry.



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