

SNIFFEN & SPELLMAN, P.A.

LABOR AND EMPLOYMENT LAW ALERT February 2025

EEOC Vows to End “Anti-American Bias”

On February 19, 2025, the acting head of the Equal Employment Opportunity Commission (EEOC) issued a statement that they would be actively seeking to use the provisions of Title VII which prohibit discrimination on the basis of national origin to investigate and prosecute employers on the basis of discriminating against U.S. citizens. Interestingly, the release seems to target both employers that employ foreign workers illegally as well as those that the EEOC has designated as “abusing our legal immigration system via illegal preferences against American workers.” While it is unclear how the EEOC will be making the determination as to whether or not the employment of a foreign national, through legal means or otherwise, was discriminatory in nature against a putative U.S. worker, we will undoubtedly be seeing more on this issue from the EEOC in the near future.

To read more, please refer [here](#).

NLRB Rescinds Numerous Orders

On February 14, 2025, the National Labor Relations Board (NLRB) rescinded a number of orders issued since 2021, including the following:

1. GC 21-06 and 21-07 which state that the NLRB shall seek full remedies in enforcement actions
2. GC 21-08 which suggests that collegiate athletes are employees of colleges and universities.
3. GC 23-02 stating that monitoring of employees may be a violation of the National Labor Relations Act where it would interfere with an employee engaging in protected activity, and suggesting that employers disclose to all employees the methods used to monitor them.
4. GC 23-05 which suggests that severance agreements including broad waivers of rights, confidentiality provisions, and anti-defamatory requirements are in violation of the National Labor Relations Act.
5. GC 23-08 and 25-01 which effectively prohibit non-compete agreements.
6. GC 24-01 which addresses when an employer needs to challenge the establishment of a new bargaining unit.

Of these, it is perhaps most important to recognize that the rescission of orders indicating that non-compete agreements and other restrictive covenants are impermissible is likely to be a goal of the NLRB during this administration.

To read more, please refer [here](#).

EEOC Announces Prioritization of Biological Sex

On January 28, 2025, Acting Chair Andrea Lucas of the Equal Employment Opportunity Commission, announced that it would be following the guidance issued by President Trump in Executive Order 14168, by removing various designations internally at the EEOC including “X” and “Mx.” gender identifications as well as removing material which have been identified by the Chair to promote “gender ideology” over biological gender. While the Acting Chair has acknowledged that she cannot unilaterally roll back guidance and opinions issued by the EEOC which run counter to her Executive Order 14168 or her views related to gender, she has announced that it is one of her priorities as Acting Chair to do so, as well as to protect women’s rights to single sex designated areas in the workplace.

To read more, please refer [here](#).

Sovereign Immunity Inapplicable in Active-Duty and Servicemember FMLA Suits

In a recent case involving the Family and Medical Leave Act (FMLA), the 11th Circuit affirmed that state sovereign immunity had been abrogated for cases related to family based leave, active-duty leave, or servicemember-family leave as provided under the FMLA. Specifically, the Court found that the provision of the FMLA providing for suit against “any employer (including state agencies)” was a valid abrogation of sovereign immunity. Moreover, state sovereign immunity does not extend when Congress exercises its power to build and maintain the Armed Forces, meaning that active-duty and servicemember leave are outside of the bounds of what may be covered by state sovereign immunity.

To read more, please refer [here](#).

Florida DOGE to Target State Universities and Colleges

On February 24, 2025, Governor DeSantis issued an executive order creating the “EOG DOGE Team” within the Office of Policy and Budget. While most of the duties of this new team are to identify government waste at both the state and local level, the orders establishing the DOGE Team specifically state that they will be targeting the State University System and State College System to eliminate “unnecessary spending, programs, courses, staff, and other inefficiencies” within these systems. While the exact nature of these proposed cuts is still unknown, we can be certain that the Florida DOGE will be proposing a number of changes throughout these programs.

To read more, please refer [here](#).

Firm News

Christie Petruzzelli attended the 2024-DRI Young Lawyers Steering Committee's "Fly-In" Meeting in Chicago on February 7-8, 2025.

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