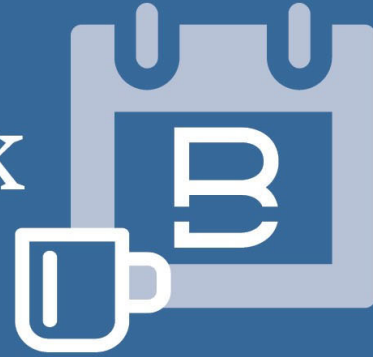


The Work Week

Bassford Remele Employment Practice Group



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Welcome to another edition of *The Work Week with Bassford Remele*. Each Monday morning, we will publish and send a new article to your inbox to hopefully assist you in jumpstarting your work week.

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Emerging AI: The White House's Executive Order and Its Impact to the Workplace

[Leah J. Christenson](#)

On Tuesday, December 12, 2023, members of the Biden administration met to discuss the implementation of its artificial intelligence (AI) executive order which was issued in October 2023. This executive order included actions that focused on privacy, equity, and civil rights. The executive order was issued as a response to the growing AI industry. Firms in the United States and Canada, alone, were projected to invest approximately \$5.6 billion in generative AI in the next 12 months. President Biden issued the executive order in hopes to get in front of the growing market and advance American presence in the AI industry on a global scale. The order, in summary:

- Requires companies, which are developing models that may pose a threat to national security, to report the models to the federal government and all of its results.
- Orders federal agencies to accelerate the development of techniques so AI systems can be trained while preserving the privacy of the training data.
- Requires support to workers by developing principles and best practices to mitigate the harms and maximize the benefits AI creates for workers.
- Applies to companies with advanced AI systems, including companies that work for the federal government.

This recent meeting of the Biden administration discussed ways to bring AI expertise to the government (mostly non-American expertise in the field), how to safely test new models, and ways to prevent risks associated with AI (fraud, discrimination, and privacy risks). The meeting also discussed new standards for safety and reporting information to the federal government about testing, results, models that may pose a risk to national security, economic security, and public health. These meetings are set to take place regularly to ensure the goals of the order are met.

There are many critiques and speculations of this AI executive order. Kjell Carlsson, head of data science strategy at Domino Data Lab, states, “[T]he order is mainly a call to action for different departments to start the process of formulating regulations and guidelines for AI . . . The order provides little direction on what regulation may look like, what time frame would be for its implementation, or, indeed, if regulation will be the ultimate outcome.” Carl Szabo, Vice President and General Counsel at NetChoice, also expressed concerns for the executive order, “Broad regulatory measures in Biden’s AI red tape wish list will result in stifling new companies and competitors from entering the marketplace and significantly expanding the power of the federal government over American innovation. . . . This order puts any investment in AI at risk of being shut down at whims of the government bureaucrats . . . That is dangerous for our global standing as the leading technological innovators and is the wrong approach to govern AI.”

Critics in human resources (HR) also have hesitations for this executive order. HR executives have pondered how they may use AI to create efficient procedures, simplify work, and find cost savings. Professionals in HR have noted that the executive order can affect HR by creating tools for workers to succeed in this new AI economy, ensuring any AI tool has undergone appropriate testing to prevent any discrimination, and increasing AI expertise from outside of America to generate new job talent. However, HR managers remain alert as they are a target to employment fraud and misused credentials through the use of AI. These managers note that AI deception is a risk to persona detection and makes many verification systems vulnerable.

To minimize the risks associated with AI, employers may consider incorporating plans for the use of AI in their business, including:

- Ensuring AI systems are safe and effective.
- Implementing safeguards to prevent, test, and identify discrimination in the system’s algorithms.
- Ensuring employees’ personal information is safeguarded.
- Disclosing to employees the AI systems that are being used.
- Providing a human “fallback” to troubleshoot and monitor the AI system.
- Implementing AI training and procedures for all employees.
- Paying attention to privacy laws to avoid potential liability.

Bassford Remele is your trusted partner for navigating new developments in employment law, including the implementation of AI. We regularly advise clients on policies and procedures to ensure they are compliant. If you’re seeking guidance or have questions or concerns regarding AI, the experienced attorneys in Bassford Remele’s [Employment Law practice group](#) are here to assist you.

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