Wearable AI in the Workplace

Many employers have electronic device policies. Many also have dress codes. But what happens if an employee is wearing a device? And the device has AI capabilities? Do your policies address that?

While some smart devices, such as Apple watches and Fitbits, have been around for a while, newer devices are being equipped with AI and other capabilities. This new technology, sometimes referred to as "wearable AI," raises some interesting questions for employers.

One example of wearable AI is Ray-Ban Meta AI glasses ("Meta glasses"). According to Meta's website, these glasses allow users to ask their glasses questions ("Hey Meta, what's the history of that monument?") and to direct their glasses to translate something into another language. Users can also use the glasses to make phone calls, take photos and videos from a camera in the phone, livestream to Facebook or Instagram, and listen to music from discreet speakers on the glasses.

Meta glasses are available in prescription and non-prescription lenses. Other lens options are available too, including lenses that transition to sunglasses while outside.

In addition to glasses, Bee AI has a device, called Bee Pioneer, that can be attached to a wristband or clipped onto your belt or pocket. This device can listen to the user throughout the day and can use the information it collects to create summaries of conversations, identify patterns in routines and relationships, manage professional meetings, provide meaningful insights about your day, and maintain perfect recall of your interactions.

While there does not appear to be caselaw yet analyzing wearable AI in the workplace, it may only be a matter of time. Depending on the capabilities of wearable AI and the nature of someone's job duties, wearable AI could pose privacy, security, and safety concerns if not used appropriately.

First, regarding privacy, a public-sector employee of a municipality, for example, could record and livestream videos regarding sensitive internal conversations, as well as the employee's interactions with the public. This potentially infringes on individuals' privacy rights and could violate laws regarding the recording of conversations, as some states require two parties to consent to a recording.

Meta itself recognizes the potential for privacy issues. Meta's website offers suggestions for "[h]ow to wear your Ray-Ban Meta glasses responsibly." It suggests users should "[r]espect people's preferences" since "[n]ot everyone loves being photographed." It also encourages users to "be particularly mindful of others before going live" and to "[t]urn off

your glasses in sensitive spaces like the doctor's office, locker room, public bathroom, school or place of worship." Meta's glasses are equipped with a privacy light that turns on if the user tries to take a picture or video with their glasses. However, this raises questions about whether the light is visible when outside or from a distance and if others are aware of the light's purpose.

Second, regarding security, there is a question about whether third parties can access the information being collected. If a summary of someone's workday existed, for example, is the information stored somewhere and, if so, how is it safeguarded? Bee's website assures customers that it never stores audio recordings and deletes them after processing them. According to Bee's website, it also maintains the highest security standards by having regular third-party security audits, industry-standard data protection, encryption, privacy-first architecture, and continuous security monitoring. It also assures customers that their data is not shared with third parties.

Third, regarding safety, certain features of wearable AI, such as glasses that can take pictures or play music, could potentially distract an employee while he or she is working. If an employee is operating machinery or driving a work vehicle and uses such features at the same time, the employee could be distracted and endanger the employee and/or others. In addition, state law may prohibit the use of electronic communication devices when driving, including when the device is used for streaming or accessing social media sites.

So, what options does an employer have? Some employers may decide to ban wearable AI entirely. This would raise some questions about how to craft a policy. Which particular devices are prohibited and which, if any, are permitted? Does the policy apply to all employees and not single out the employee who showed up to work wearing the wearable AI device? What are the consequences for violations?

Alternatively, employers may wish to limit the use of wearable AI devices instead of banning them entirely. For example, perhaps an employer chooses to prohibit employees from using the camera, speaker, and AI features on glasses while on duty but permits the employee to otherwise wear them since they are prescription glasses. Or, perhaps the employer permits the glasses only when employees work outside, since some versions of the glasses can provide sun protection.

Electronic device policies are common in the workplace, and courts have upheld them when fairly applied. For example, in *Barnes v. 3M Company Inc*., 2025 WL 794453 (N.D. Ala. March 12, 2025), a district court found that the employer met its burden of establishing a legitimate, nondiscriminatory reason for terminating an employee when it terminated an employee for violating a personal device policy that restricted devices to break times in specifically defined areas.

However, employers should be aware that employees could argue that they need wearable AI for a medical reason. In one case involving non-AI glasses in the workplace, *Moses v. Wayfair LLC*, No. 20-5278, 2024 WL 4100412 (D.N.J. Sept. 6, 2024), a warehouse employee filed an ADA claim alleging disability discrimination after his employer did not allow him to wear dark-tinted glasses while working inside and driving forklifts. The employee claimed he lacked vision in one eye and had sensitive eyes that did not adapt to light, which caused headaches. The court sided with the employer, finding the employee did not establish that his impairment, for which he produced no supporting medical documentation, substantially limited one or more major life activities. The court also held that the employee failed to prove that a prohibition against wearing tinted glasses constituted an adverse employment action; the court explained that an adverse employment action in the ADA disparate treatment context "is one which alters the employee's compensation, terms, conditions, or privileges of employment, deprives him or her of employment opportunities, or adversely affects his or her status as an employee."

In sum, wearable AI may pose challenges to employers, especially for certain types of jobs. Employers are encouraged to carefully think through the potential implications that AI raises when responding to an employee wearing such devices or when proactively incorporating it in its policies.

Catherine Seidelman, Clark Baird Smith