

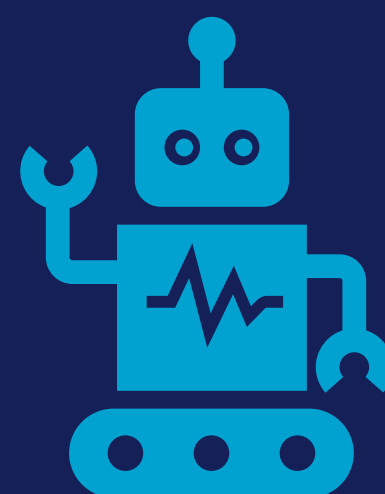


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AI & HR: Where Algorithms Meet People

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What is Artificial Intelligence?

Benefits of AI

- **Efficiency:** Automates repetitive tasks.
- **Accuracy:** Reduces human error.
- **Innovation:** Drives new solutions and technologies.
- **Forecasting:** Predict outcomes, demand, and growth.
- **Enhanced Experiences:** Instant replies, appointment reminders, and feedback.



Challenges and Dangers

- **Bias:** AI can inherit biases from training data.
- **Ethical Concerns:** Privacy, job displacement, and accountability.
- **Artificial General Intelligence (AGI):** The quest for true human-like intelligence.
- **Privacy Violations:** Confidential information (personal and business) and trade secrets at risk.
- **Deepfakes:** Spreading misinformation.



The Latest on AI

AI Statistics of Note

AI market size is currently **\$244 billion** and is expected to reach **\$1 trillion** by 2031.

47% of consumers are likely to use AI to research purchases.

One in 10 cars will be self-driving by 2030.

92% of students use generative AI.

64% of businesses expect AI to increase productivity.

AI Impact on the Workforce

- **67%** of U.S. employees actively experiment with AI at work.
- **51%** of employers use AI to enhance recruiting efforts.
- Anthropic CEO predicts: AI could replace **50%** of white-collar jobs.
- Research estimates AI will create **97 million** jobs.
- Software engineers and data engineers are being recruited for AI support.
- The manufacturing industry is expected to see the largest financial impact due to AI.

Are Businesses All-In on AI?

91% of employees report that their employers use at least one AI technology.

97% of business owners believe ChatGPT will help their business.

Over **60%** of business owners believe AI will improve customer relationships.

Over **60%** of business owners say AI will increase productivity.

43% of businesses are concerned about technology dependence.



Using AI in Employment

Recruitment and Hiring

Automated Resume Screening: AI algorithms analyze resumes, identify relevant skills, and rank candidates based on qualifications.

Chatbots and Virtual Assistants: AI-powered chatbots conduct initial interviews, answer candidate queries, and schedule interviews.

Predictive Analytics: AI predicts candidate success based on historical data and behavioral patterns.

Targeted Job Advertisements: AI analyzes data to determine most effective platforms for reaching potential candidates.

Video Interview Analysis: AI tools assess candidate responses and non-verbal cues during video interviews.

Employee Onboarding and Training

- **Automated Onboarding Tasks:** AI streamlines onboarding by automating document collection, policy distribution, and training scheduling.
- **Personalized Learning Paths:** AI tailors training programs for new hires based on their roles, skills, and learning preferences.
- **Chatbot Assistants:** AI-driven chatbots assist new hires and existing employees with onboarding information and policies.



Performance Management

- **Performance Monitoring:** AI aggregates and analyzes employee work product, digital interactions, and outcomes, providing data-driven performance evaluations.
 - **Career Pathing & Growth Recommendations:** AI suggests personalized career growth opportunities based on employee skills and company needs.
- Generative AI Summaries:** Summarizing information, drafting performance evaluations based on performance data.

Diversity and Inclusion

- **Bias Detection:** AI algorithms identify potential biases in job descriptions, interview questions, and performance evaluations.
- **Diverse Candidate Sourcing:** AI tools search for candidates from diverse backgrounds.
- **Inclusive Hiring Practices:** AI can help create inclusive job postings by suggesting gender-neutral language and avoiding biased terms.
- **DEI Chatbots:** Providing training on DEI topics.



Workforce Analytics

- **Predictive Workforce Planning:** AI forecasts staffing needs, skill gaps, and workforce trends.
- **Employee Sentiment Analysis:** AI analyzes employee surveys and sentiment to gauge workplace satisfaction.
- **Skill Matching for Career Pathways:** AI analyzes skills and experience to match employees with opportunities.

Health and Safety

- **Monitoring Workplace Safety:** AI monitors safety compliance, identifies hazards, and alerts management.
- **Mental Health Support:** AI chatbots provide mental health resources and support.
- **Virtual Reality Training:** AI creates virtual reality training to allow employees realistic training scenarios



Employee Engagement

- **Pulse Surveys:** AI analyzes real-time feedback to measure employee engagement.
- **Personalized Recommendations:** AI suggests activities or benefits based on individual preferences.
- **Automated Processes:** AI automates day-to-day processes, with sharing feedback, scheduling events, fostering collaboration with teams.
- **Shift Scheduling:** AI creates shift schedules and communicates it to manager and team.



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How have you been using AI for
HR functions?

Drafting Documents and Communications

AI can be used to draft a variety of HR documents and communication:

- Policies
- Job descriptions
- Employee Communications

Remember: Garbage in = garbage out.

Caveat: Think, review, and edit before implementation.

AI is not infallible.

AI Tools* for HR Professionals

- Leena
- Eightfold Talent Intelligence
- Metaview
- Benifex
- Lattice

* Provided by example based on online reviews. These tools have not been vetted by the presenter, and the presenter is not endorsing any of the above-listed tools.

New and Fun Challenges

- Employees feel AI-empowered to push back on HR and supervisors
- Supervisors and HR can be tempted to use AI to respond to employees and for suggestions on next steps in dealing with employees
- **PROCEED WITH CAUTION**
 - Your AI inputs and outputs are **not protected by attorney-client privilege**
 - Your AI inputs and outputs would be **discoverable in litigation**
 - **Be smart about your use – AI should not replace a gut check with your favorite lawyer.**



Recent Legal Developments in AI Use for Employment

January 23, 2025 - Removing Barriers to American Leadership in Artificial Intelligence (“AI Executive Order”)

1. Large step toward deregulation of AI at the federal level by rolling back Biden’s previous executive order and focusing on technological development as a priority.
2. Development of an AI action plan over the next 180 days.
3. Involves developing artificial intelligence (“AI”) **“free from ideological bias or engineered social agendas.”**

Impact of the January 2025 Executive Order

EEOC removed several AI-related publications:

- December 2024 Fact Sheet: Warned that the wearable tracking technology could violate the ADA
- May 2023 Technical Assistance Document: AI Compliance issues under Title VII
- May 2022 Technical Assistance Document: Potential violations of the ADA through AI use

DOL removed:

- Field Assistance Bulletin (FAB) 2024-1: Artificial Intelligence and Automated Systems in the Workplace under the Fair Labor Standards Act and Other Federal Labor Standards
- October 2024 Artificial Intelligence and Worker Well-Being: Principles and Best Practices for Developers and Employers.

July 23, 2025 – America’s AI Action Plan

Directs DOL to:

- Establish an “AI Workforce Research Hub” to lead a sustained federal effort evaluating AI’s impact on the labor market.
- Prioritize AI skills development as a core objective for education and workforce funding, especially for workers affected by AI-related job displacement.
- Identify high-priority occupations essential to AI infrastructure and collaborate with state and local governments to deliver industry-driven training programs for these roles.

Directs the National Institute of Standards and Technology (“NIST”) to:

- Revise the AI Risk Management Framework to remove references to misinformation, Diversity, Equity, and Inclusion (“DEI”), and climate change.



EEOC on AI

Technical Guidance on AI and Disability Discrimination*

The Americans with Disabilities Act and the Use of Software, Algorithms, and Artificial Intelligence to Assess Job Applicants and Employees – issued in May 2022.

Guidance on how software relying on algorithmic decision-making can violate ADA requirements.

Employers must provide reasonable accommodation to applicants or employees to be rated fairly and accurately by the algorithm.

Employers must be careful to not intentionally or unintentionally screen out an individual with a disability.

Employers must be careful to ensure no disability-related inquiries are asked by AI tools.

Focus on ensuring that AI-powered software does not discriminate against individuals with disabilities.

❖ Biden Era technical guidance has been removed from the EEOC website but has not been formally withdrawn.

Technical Guidance on Artificial Intelligence*

Select Issues: *Assessing Adverse Impact in Software, Algorithms, and Artificial Intelligence Used in Employment Selection Procedures Under Title VII of the Civil Rights Act of 1964* – issued in May 2023.

- Focused on potential disparate impact of use of AI.
- Does an employers “selection procedures,” such as hiring, promotion, and firing, disproportionately affect individuals based on a protected characteristic under Title VII?
- The Uniform Guidelines on Employee Selection Procedures under Title VII apply to AI when used to make or inform decisions.

*Biden Era technical guidance has been removed from the EEOC website but has not been formally withdrawn.

Enforcement Example: *EEOC v. iTutorGroup, Inc.*

The Company's software automatically reject:

- female applicants age 55 +
- male applicants age 60+

EEOC filed suit and reached a consent decree requiring:

- \$365,000 in monetary relief to over 200 affected applicants;
- Reapplication opportunity for those rejected due to age, with detailed reporting to EEOC on who were considered, the outcome of each application, and a detailed explanation when an offer is not made; and
- Training for all personnel involved in screening and selection.

Mobley v. Workday

Currently pending in N.D. California.

Good reminder – When using AI tools to make employment decisions, be careful that the tool does not rely on protected characteristics as it could cause a disparate impact.

Best Practices for ADA Compliance

Be prepared to offer reasonable accommodations.

- Talk to software vendor about recommended accommodations built-in to software.
- Train staff on how to provide alternative means of rating candidates and applicants.

Vet your software.

- Use tools designed with access in mind.
- Make sure the software only measures abilities and qualifications that are truly necessary for the job.
- Know what the software is asking and is designed to do.

Advise candidates and employees about the AI, how it works, and what it is being used to assess.

Wait and see what the Administration does and be mindful of the law.



DOL on AI

October 2024 AI Principles and Best Practices*

Employers should:

- Develop governance systems to ensure consistent adoption and implementation of worker-impacting AI.
- Provide AI training across the organization.
- Ensure meaningful human oversight for significant employment decisions.
- Document AI-informed decisions and maintain procedures for appeals, human review, and remedies for adverse impacts.
- Audit AI systems regularly for disparate or adverse impacts.
- Give workers advance notice of AI use, including what data is collected, stored, and its purpose.
- Allow workers to access and correct individually identifiable data used in employment decisions.
- Minimize electronic monitoring, using the least invasive methods necessary.
- Prioritize retraining and reallocation for workers displaced by AI.
- Secure and protect worker data.

❖ This document has been removed from the DOL website.

Tread Carefully

- Tracking Work Time and Break Time
- Work Performed at Multiple Geographic Locations
- Calculating Wages
- FMLA Certification and Tracking
- FLSA Classification Status



DOL's Response to the July 23, 2025 America's AI Action Plan

The DOL plans to:

- Launch the AI Workforce Hub and innovation pilots in January 2026 to process data and research AI's labor market impact;
- Partner with industry to align skills and training for AI infrastructure jobs; and
- Prioritize exposure and training across education and workforce programs.



State Laws on AI

State and Local Laws

Colorado - Effective: June 30, 2026

- Regulates “high-risk” AI systems used in employment, requiring risk management policies, bias audits, and employee notifications. Employers must use “reasonable care” to prevent algorithmic discrimination.

Texas - Effective: January 1, 2026

- Employers have a general duty to exercise reasonable care to prevent algorithmic discrimination. A disparate impact alone is not sufficient to demonstrate an intent to discriminate.

Illinois - Effective: January 1, 2026

- Prohibits AI use that results in discrimination based on protected characteristics. Employers must notify applicants and employees when AI is used in hiring, discipline, or discharge decisions. Also prohibits zip code-based discrimination via AI.

California - Effective: October 1, 2025

- Employers using automated decision systems (ADS) must avoid discriminatory outcomes. Requires retention of ADS-related records and mandates impact assessments.

New York City - Effective: July 5, 2023

- Requires bias audits and disclosures when using automated employment decision tools for hiring and promotion

States that Have or Had Proposed Legislation on AI Use in Employment

Connecticut, District of Columbia, Georgia, Hawaii, Maine, Maryland, Massachusetts, Nebraska, New Jersey, New Mexico, Rhode Island, Vermont, Virginia, and Washington

Status: Several bills have been introduced addressing AI bias, transparency, monitoring, and disclosure requirements in employment contexts. Some of these proposals remain under consideration, while others were introduced but did not advance.



Important Considerations

Privacy

Protect confidential information, trade secrets, and intellectual property.

What data is being inputted into the AI?

- Is it a public source?
- Are trade secrets being compromised?
- Is confidential information being disclosed?
- Are intellectual property rights being lost?

Workplace Culture

How does AI impact your culture?

- Increase productivity.
- Potential for less collaboration.
- Conflicting views on trusting of AI.
- In-person communication still important.

Will AI help or hurt employee engagement?

- Can you find the balance?



What Should a Company Do?



Tips for Using AI in Your Workforce



Stay Informed and Plan Ahead



Assess Technology Trends



Leverage AI for HR Functions



Be Conscientious

Tips for Using AI in Your Workforce



**Ethical
Considerations**



**Human-AI
Interaction**



**Legal review of
vendor
agreements**



**Caution: Your
Queries are
Discoverable**



**Call your
favorite lawyer**

AI Acceptable Use & Governance Policies

- Educate employees on responsible AI use.
- Explicitly address AI tools in your policy.
- Be specific on permitted and prohibited uses.
- Include data collection and storage guidelines.
- Reinforce privacy policies.



AI Governance Policy

Sets guidelines, rules, and principles for the development and use of artificial intelligence within an organization.

Ensures that AI tools and systems are safe, ethical, and aligned with the organization's values and legal requirements.

Key components typically include:

- Ethical Guidelines
- Safety Standards
- Transparency
- Accountability
- Compliance



Takeaways



Sticking your head in the sand is not an option.



Trust, but verify.



Continuous learning and responsible development are crucial.



Prepare now for rapid change.



What If? Exploring Scenarios Together

Scenario #1:

An employee is wearing AI-enabled smart glasses at work. These glasses can capture photos or videos of colleagues, confidential information, and potential safety issues. What should you do?

Scenario #2:

You are interviewing a candidate virtually and notice in the reflection of their glasses that they are using an AI chatbot to assist with answering your questions. What should you do?

Scenario #3:

You learn that employees are using various note-taking apps on their phones or computers to record and take notes during company meetings—many of which are not company-approved.

- What should you do?
 - Can you require copies of the recordings?
 - Can you demand that the recordings be deleted?

Scenario #4:

An employee sends you a photo of a severe hand injury, claiming they fell off their bike and need medical attention. Recently, you heard about a case where an employee at another company used an AI image generator to create fake injury photos to secure paid leave. What would you do?

- How would you verify the claim?
- What policies could prevent misuse of AI in cases like this?



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Thank you!

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