



AI in the Workplace

July 16, 2026



Agenda

The Employment AI Lifecycle

Federal Framework

State-Anti-Discrimination Overlay

Litigation Risks And Mitigation

EU / Global Considerations

Works Councils

Practical Risk Mitigation Roundtable

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AI Primer & US State Law Landscape

Where AI shows up in HR today

Across the employee lifecycle

Hiring & Recruiting

- Resume parsing
- Candidate matching
- Ranking algorithms

Assessment

- Video interview tools
- Chatbots
- Skills testing

Hiring & Onboarding

- Background checks
- Offer routing
- Automated onboarding workflows

Performance

- Productivity scoring
- Keystroke / activity tracking
- Behavioral analytics
- Pay & promotion recommendations

Workforce Analytics

- Attrition prediction
- Promotion modeling
- RIF / layoff selection

When AI use triggers legal obligations

Not every AI use carries the same legal risk. **Obligations rise as the tool shapes the decision.**

Increasing legal exposure →

01

Lower risk

Assistive · no decision

- Drafting job descriptions
- Interview scheduling
- Aggregate workforce dashboards

02

Elevated

Shapes who is seen

- Resume keyword search
- Candidate sourcing & outreach
- Applicant FAQ chatbots

03

Triggers obligations

Scores or decides

- Scoring & ranking candidates
- Automated screening & filtering
- Pay & promotion recommendations

State AI hiring laws

How each law defines the tool

New York City

In effect

Local Law 144

“AEDT” — a process using ML or AI that scores, ranks, or recommends to substantially assist or replace an employment decision.

Colorado

Jan 2027

SB 26-189

“ADMT” — automated decision-making technology that is a substantial factor in a consequential employment decision.

California

2025–2027

CCPA ADMT + CRD

“ADMT”/“ADS” — technology that processes personal data to replace or substantially replace human decisions; FEHA calls it an automated-decision system.

Connecticut

Oct 2026

Public Act 26-15

“AEDT” — an AI system that makes, or is a substantial factor in making, a consequential decision like hiring, pay, or firing.

Common obligations

What compliance regularly requires

1

Notice & disclosure

Tell applicants and employees before an AI tool is used to evaluate them.

2

Opt-out & alternative

Offer a way to decline automated processing or request a human review.

3

Explanation & appeal

Give reasons for adverse outcomes and a path to contest or correct them.

4

Bias audit & assessment

Independent bias testing or impact assessments before and during use.

5

Human oversight

Keep a person meaningfully in the loop on consequential decisions.

6

Recordkeeping

Retain notices, data, and audit results — often for four years.

Federal Framework & State Anti-Discrimination Overlay

Federal anti-discrimination framework

- Federal laws and employer must consider when evaluating AI-based employment evaluation tools include Title VII, The Equal Pay Act, ADEA, The Immigration Reform and Control Act, ADA, The Pregnant Workers Fairness Act, The Genetic Information Nondiscrimination Act.
- The Equal Employment Opportunity Commission (EEOC) treats AI and algorithmic software as a selection procedure that is subject to the same strict legal guidelines as human hiring managers.
- AI hiring tools include
 - Recruiting, screening, and hiring job applicants
 - Monitoring employees' activities, performance. and/or location
 - Assessing employee productivity or setting wages
 - Deciding whom to promote or fire

State anti-discrimination overlay

New York

NYC Local Law 144

Requires bias audits and candidate notification for the use of “Automated Employment Decision Tools.”

NY WARN Act

Employers conducting mass layoffs or plan closures must disclose whether AI contributed to the terminations.

SB 2025-S8928

Illinois

AI Video Interview Act (2020)

Employers must: (1) notify candidates that AI will be used to analyze interview video recordings; (2) provide applicants with information regarding how the used AI system works; and (3) obtain consent to use the AI system.

HB 3773

Effective January 1, 2026, the Illinois Human Rights Act prohibits the use of AI that in any way results in employment discrimination. Includes notice requirement when an employer uses AI in hiring, promotion, training, discipline, termination, and other employment decisions.

Colorado

Colorado ADMTA

Effective January 1, 2027

Employers using AI to influence employment decisions must provide disclosures, maintain compliance documentation, and allow individuals to seek meaningful human review of adverse outcomes.

California

Civil Rights Council ADMT (FEHA)

Employer liability if job ads targeting tools or resume-screening software disproportionately screen out protected applicants.

Employers are required to maintain ADS dataset descriptors and audit records for 4 years.

Evidence or lack of evidence of anti-bias testing or similar proactive efforts to avoid unlawful discrimination is relevant to discrimination claims.

New Jersey

New Jersey LAD

Applies to discrimination stemming from the use of automated decision-making tools.

This includes disparate treatment and disparate impact discrimination.

Massachusetts

MA SD 3007

Proposed legislation that would apply to any private or public organization in Massachusetts and would regulate the use of automated decision systems to ensure that they do not result in discrimination.

If enacted, it will include the imposition of new audit, transparency, and accountability requirements on covered entities that use ADS in employment decisions such as hiring, pay, and termination.

Why litigation is accelerating

Increase In litigation

- DLA Piper's AI Litigation Tracker reports 180+ AI cases filed in 2025, 400+ cumulative, with employment/bias claims among the fastest-growing categories.
- Pew Research Center Study (April 20, 2023)
 - More than eight in ten Americans express concern about bias in AI-based decision-making in the hiring context, with over half being very or extremely concerned about it.
 - About two-thirds of Americans say they would not want to apply for a job with an employer that uses AI to make hiring decisions.
- *EEOC v. iTutorGroup* (2023) — First AI enforcement settlement; \$365,000 under the ADEA for an algorithm that auto-rejected female applicants 55+ and male applicants 60+.

Key drivers of the surge

- Rapid enterprise adoption of opaque systems, combined with state-mandated bias audits that create discoverable records.
- Vendor concentration creating class-scale exposure, and generative AI introducing novel error and hallucination patterns.

Mobley v. Workday

U.S. District Court Northern District California

Claims:

- Plaintiff Derek Mobley filed a class action alleging that Workday's AI resume-screening tool discriminates based on age, race, and disability in violation of U.S. federal law.
- The disparate impact discrimination claims have been allowed to proceed on an agent-liability theory. Meaning, there is no legal distinction between human and software decision-makers.

Latest:

- July 2024 — Court holds AI service providers can face direct Title VII, ADA, and ADEA liability as an "agent" of the employer.
- May 2025 — Court conditionally certifies a nationwide ADEA collective (some tracker counts estimate ~1.1 billion rejected applications since 2020)
- August 28, 2025 — court orders Workday to produce a list of every customer that has used its AI features since September 2020.

Practical takeaways:

- Vendor selection creates added litigation risk, including discovery into system configurations, decision criteria, and audit records.
- Exposure to conditional class certification can shift settlement pressure before any ruling on the merits.
- **Key takeaway:** *Using a vendor does not insulate you — it can expand your exposure.*

Kistler, et al. v. Eightfold AI, Inc.

U.S. District Court Northern District California

Claims:

- Alleges that Eightfold AI, Inc., and AI hiring platform, made employment-related decisions before a human ever saw the plaintiffs' applications, which occurred without the disclosures required by the Fair Credit Reporting Act.
- Plaintiffs alleged that as candidates, they are not given notice and a chance to dispute any errors, which violates the FCRA and California law.

Latest:

- The case was removed from state court to federal court and is in the early stages of litigation.
- Eightfold filed a Motion to Dismiss that is scheduled for a hearing on August 4, 2026. The Motion argues that its AI platform is software, not a Consumer Reporting Agency.

Practical takeaways:

- Liability now extends beyond hiring and rejection decisions to recommendation and ranking systems — even where a human makes the final call, the system that shaped the choice can be attacked.
- Framing AI hiring scores as consumer reports, plaintiffs can bypass having to prove bias. Employers using AI for screening should expect scrutiny under the FCRA.
- **Key shift:** "The claim is no longer just that the decision was biased — it is that the system that shaped the decision was biased."

Litigation risks – expanding “creative plaintiff” theories

- 1. *Process-Based Discrimination*** – Bias in inputs, weights, ranking logic, and training data — with failure-to-audit or failure-to-validate as evidence of negligence or willfulness
- 2. *ADA / Accessibility Claims*** – HireVue-style ADA claims from Deaf plaintiffs and candidates disadvantaged by facial or voice analytics that communicate differently
- 3. *Biometric / Privacy Overlays*** – BIPA and similar biometric-consent claims attached to video interviewing, facial analysis, keystroke logging, and camera-based productivity tools
- 4. *Performance & Monitoring Claims*** – Productivity tools driving discipline or termination, including facial-recognition accuracy gaps on darker skin tones — a classic Title VII disparate impact theory
- 5. *RIF / Workforce Analytics Claims*** – AI used to select layoffs — directly tied to Connecticut's new WARN-notice disclosure obligation
- 6. *"AI Washing"*** – Marketing that overstates a tool's fairness or accuracy → consumer-protection and securities theories

The core litigation shift and what employers can do

Plaintiffs are focused on

- How the AI model was used
- What data was used to train the AI model
- How outputs are used downstream, including in human decisions

Employers should focus on

- Preservation of AI model documentation and vendor communications *from day one*
- Engage in vendor due diligence, and ensure vendor agreements contain protections such as audit-cooperation, indemnification, and litigation-hold provisions
- Being able to explain AI hiring tools through documented data sources
- Conduct regular bias audits / disparate impact analyses
- Maintain and document meaningful human oversight
- Be prepared to provide notice of the use of AI

Global Considerations & Works Council

EU & global considerations

Annex III of the EU AI Act classifies the following AI systems used in the employment cycle as “high risk”:

- Recruitment and candidate selection, including using AI to place targeted job advertisements, filter job applications, and evaluate candidates
- Workplace decisions such as promotion and termination
- Task allocation based on individual behavior or personality traits
- Performance and behavior monitoring

Mandatory obligations to implement

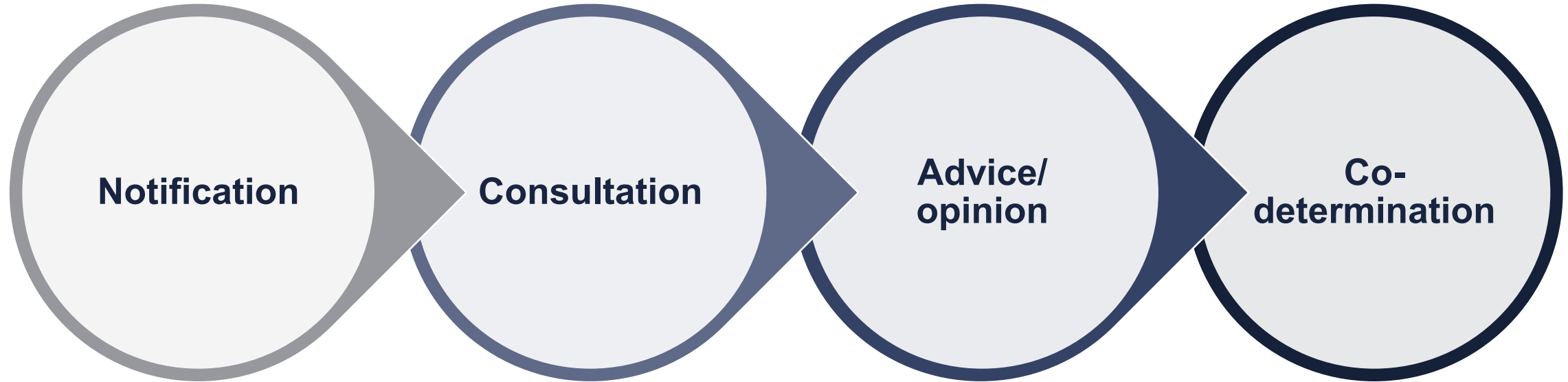
- Risk management, data governance, and technical documentation/record-keeping obligations
- Human oversight, transparency/accuracy/robustness, and post-market monitoring requirements

Deadline

- As of the end of June, the EU AI Act compliance deadline for high-risk AI systems is **December 2, 2027**

Work Councils

Before an HR AI tool can be rolled out to European workforces, the local employee representative body often has a legal right to be consulted and, in some cases, to co-decide.



Questions?

Thank you

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