

EEOC explains how Title VII applies to AI used to select job candidates

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EEOC Releases New Resource on Artificial Intelligence and Title VII

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May 18, 2023

EEOC Releases New Resource on Artificial Intelligence and Title VII

Outlines Considerations for Incorporating Automated Systems into Employment Decisions

WASHINGTON – Today the Equal Employment Opportunity Commission (EEOC) released a technical assistance document, “Assessing Adverse Impact in Software, Algorithms, and Artificial Intelligence Used in Employment Selection Procedures Under Title VII of the Civil Rights Act of 1964,” which is focused on preventing discrimination against job seekers and workers. The document explains the application of key established aspects of Title VII of the Civil Rights Act (Title VII) to an employer’s use of automated systems, including those that incorporate artificial intelligence (AI). The EEOC is the primary federal agency responsible for enforcing Title VII, which prohibits discrimination based on race, color, national origin, religion, or sex (including pregnancy, sexual orientation, and gender identity).

Employers increasingly use automated systems, including those with AI, to help them with a wide range of employment matters, such as selecting new employees, monitoring performance, and determining pay or promotions. Without proper safeguards, their use may run the risk of violating existing civil rights laws.

“As employers increasingly turn to AI and other automated systems, they must ensure that the use of these technologies aligns with the civil rights laws and our national values of fairness, justice and equality,” said EEOC Chair Charlotte A. Burrows. “This new technical assistance document will aid employers and tech developers as they design and adopt new technologies.”

The EEOC’s new technical assistance document discusses adverse impact, a key civil rights concept, to help employers prevent the use of AI from leading to discrimination in the workplace. This document builds on previous EEOC releases of technical assistance on AI and the Americans with Disabilities Act and a joint agency pledge . It also answers questions employers and tech developers may have about how Title VII applies to use of automated systems in employment decisions and assists employers in evaluating whether such systems may have an adverse or disparate impact on a basis prohibited by Title VII.

“I encourage employers to conduct an ongoing self-analysis to determine whether they are using technology in a way that could result in discrimination,” said Burrows. “This technical assistance resource is another step in helping employers and vendors understand how civil rights laws apply to automated systems used in employment.”

The EEOC’s technical assistance document is part of its Artificial Intelligence and Algorithmic Fairness Initiative , which works to ensure that software—including AI—used in hiring and other employment decisions complies with the federal civil rights laws that the EEOC enforces.

The EEOC advances opportunity in the workplace by enforcing federal laws prohibiting employment discrimination. More information about the EEOC is available at www.eeoc.gov . Stay connected with the latest EEOC news by subscribing to our email updates .

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