

Risk and Reward

What Talent Teams Must Know about Using AI

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DCI: Data Driven – Client Focused

Our Mission

Advancing non-discrimination and fairness in the workplace by implementing merit-based and skill-focused employment practices.

Our Vision

We believe every person deserves equal opportunity and fair treatment in the workplace and beyond.

How DCI Can Help



Compliance

- VEVRAA and Section 503 AAPs
- Mandatory job listings
- State affirmative action and non-discrimination
- EEO-1 and VETS-4212 reports
- DOL compliance review support
- State pay reporting
- Pay transparency
- Proactive guidance on regulatory change



Selection and Assessment

- Job analysis
- Selection procedure development and validation
- Expert evaluation/bias audit of HR systems, including artificial intelligence



Workforce Analytics

- DEI risk mitigation
- EEO disparity analyses
- Damage calculations
- Non-discrimination in employment plans
- Reduction-in-force analyses
- Barrier analyses



Pay Equity and Compensation

- Pay equity studies
- EU Pay Transparency
- Pay compression studies
- Wage gap studies
- Job architecture development
- Market benchmarking
- Pay band creation
- Executive compensation reviews
- Bonus program reviews



Litigation Support

- Consulting expert in applied research in class action litigation
- Testifying expert in case strategy, expert reports, & sworn testimony
- Expert reviews of AI-based hiring procedures

Webinar Format

- Participant phone lines are **muted**
- **Submit questions** by sending an email to questions@dciconsult.com
- If you have any **technical difficulties during the call**, please email questions@dciconsult.com

Note: DCI Clients will have access to this presentation through the Client Resources Portal. Please log in to the portal from the DCI website to view archived Webinar Wednesday presentations.

Our Resources



Scan the QR code to
access resources

Client Resource Portal

The CRP contains training, checklists, infographics, webinars, and other resources to help DCI clients reach their equal employment opportunity and affirmative action goals. This redesigned Portal is categorized by topic and location for ease of navigation.

Monthly Webinars

DCI offers monthly webinars to help HR practitioners and compliance professionals stay up to date with the latest regulatory changes and best practices in implementation.

DCI Blog

The DCI blog is your source for the latest news and regulatory updates in the equal employment opportunity, affirmative action, pay equity, and HR analytics realm. These blogs are written exclusively by DCI's experts to help your organization stay in the know.

Monthly Newsletters

The DCI Digest and the EU Pay Transparency Navigator are monthly newsletters that compile everything you need to know, all in one convenient place. The Digest covers general compliance, while the Navigator specializes in news related to the European Union Pay Transparency Directive.

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06

Key Takeaways

Setting the Scene

Artificial Intelligence in Employment

AI in Organizations

62%

of organizations are currently deploying AI in their operations



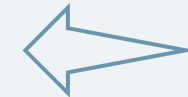
46%

have currently adopted or intend to adopt AI in their HR functions



32%

think their AI adoption in HR is well behind other organizations' HR functions



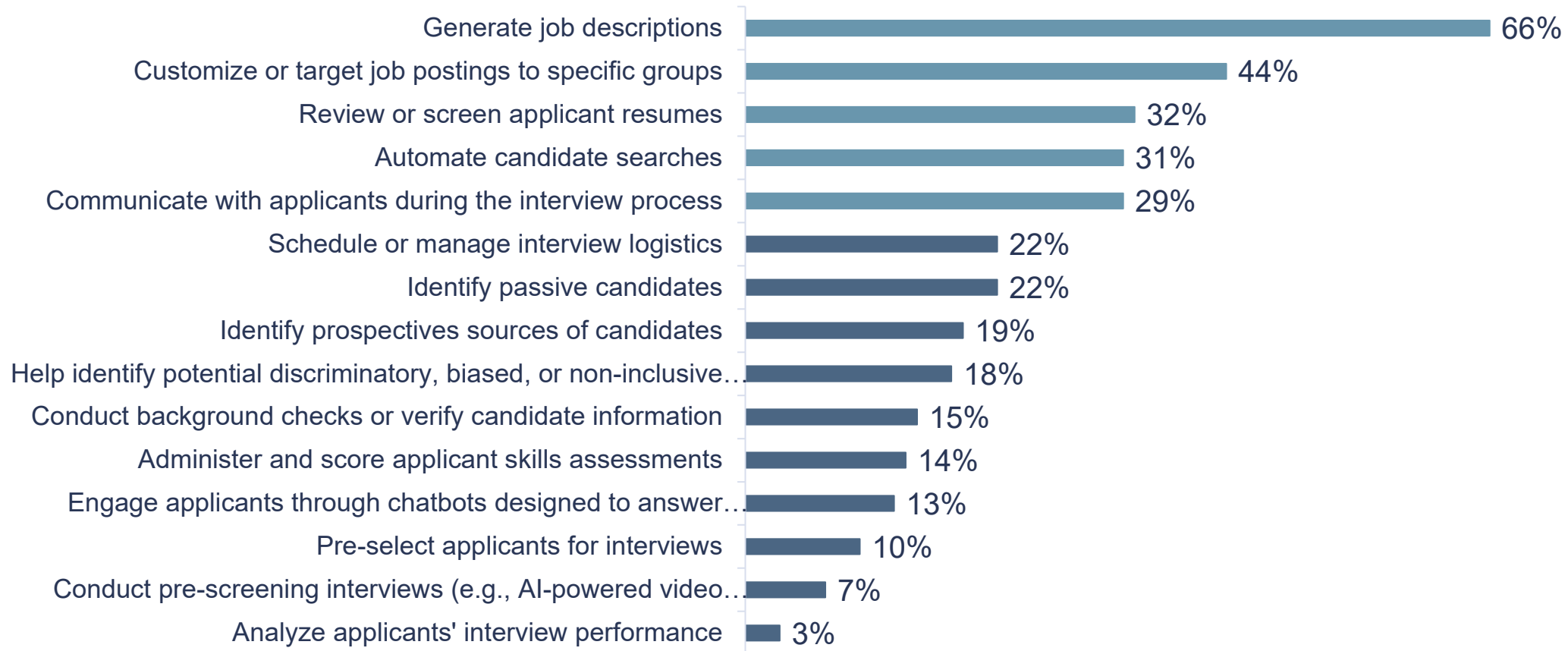
Society for Human Resources Management, The State of AI in HR (2026). <https://www.shrm.org/topics-tools/research/state-of-ai-hr-2026/full-report>

Typical Uses of AI in HR



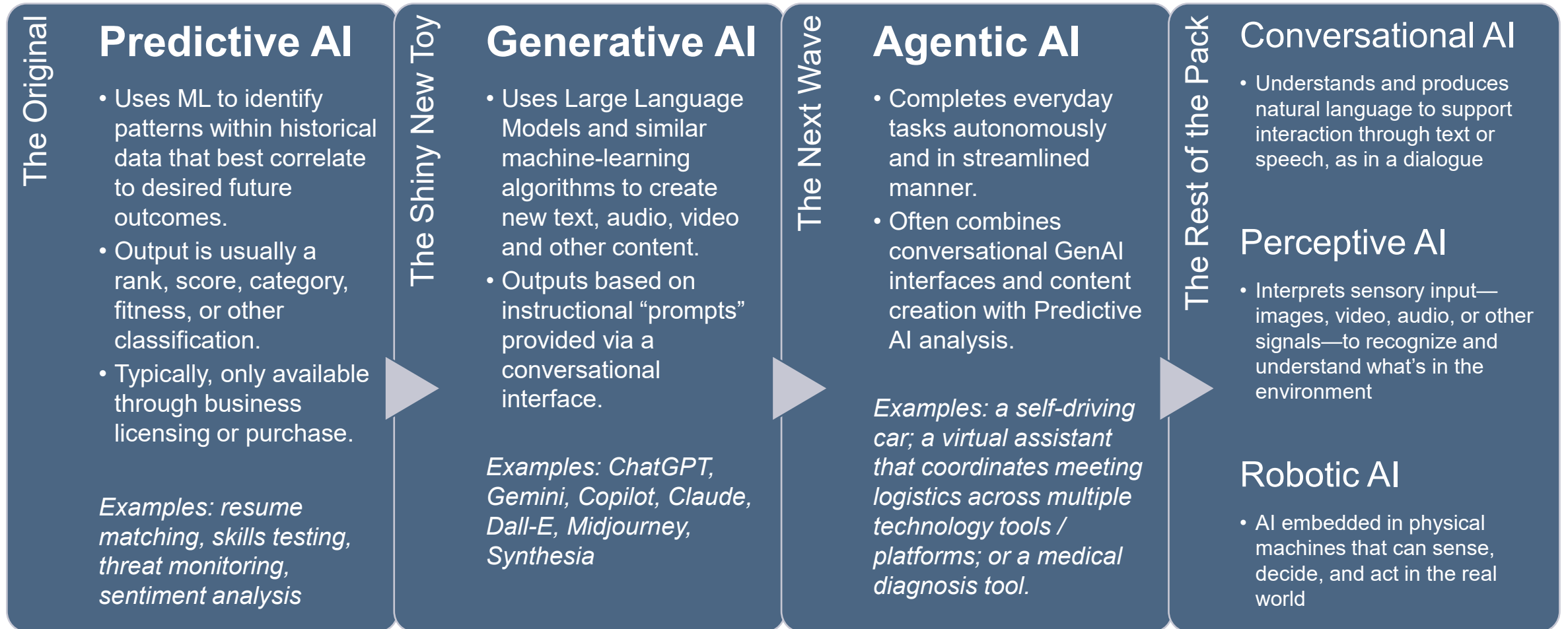
Society for Human Resources Management, 2024 Talent Trends Artificial Intelligence in HR (2024),
https://shrm-res.cloudinary.com/image/upload/Al/2024-Talent-Trends-Survey_Artificial-Intelligence-Findings.pdf

Use of AI to Support Recruiting, Interviewing and Hiring



Society for Human Resources Management, 2025 Talent Trends (2025). <https://www.shrm.org/topics-tools/research/2025-talent-trends/ai-in-hr> ;
2024 Talent Trends Artificial Intelligence in HR (2024), https://shrm-res.cloudinary.com/image/upload/AI/2024-Talent-Trends-Survey_Artificial-Intelligence-Findings.pdf

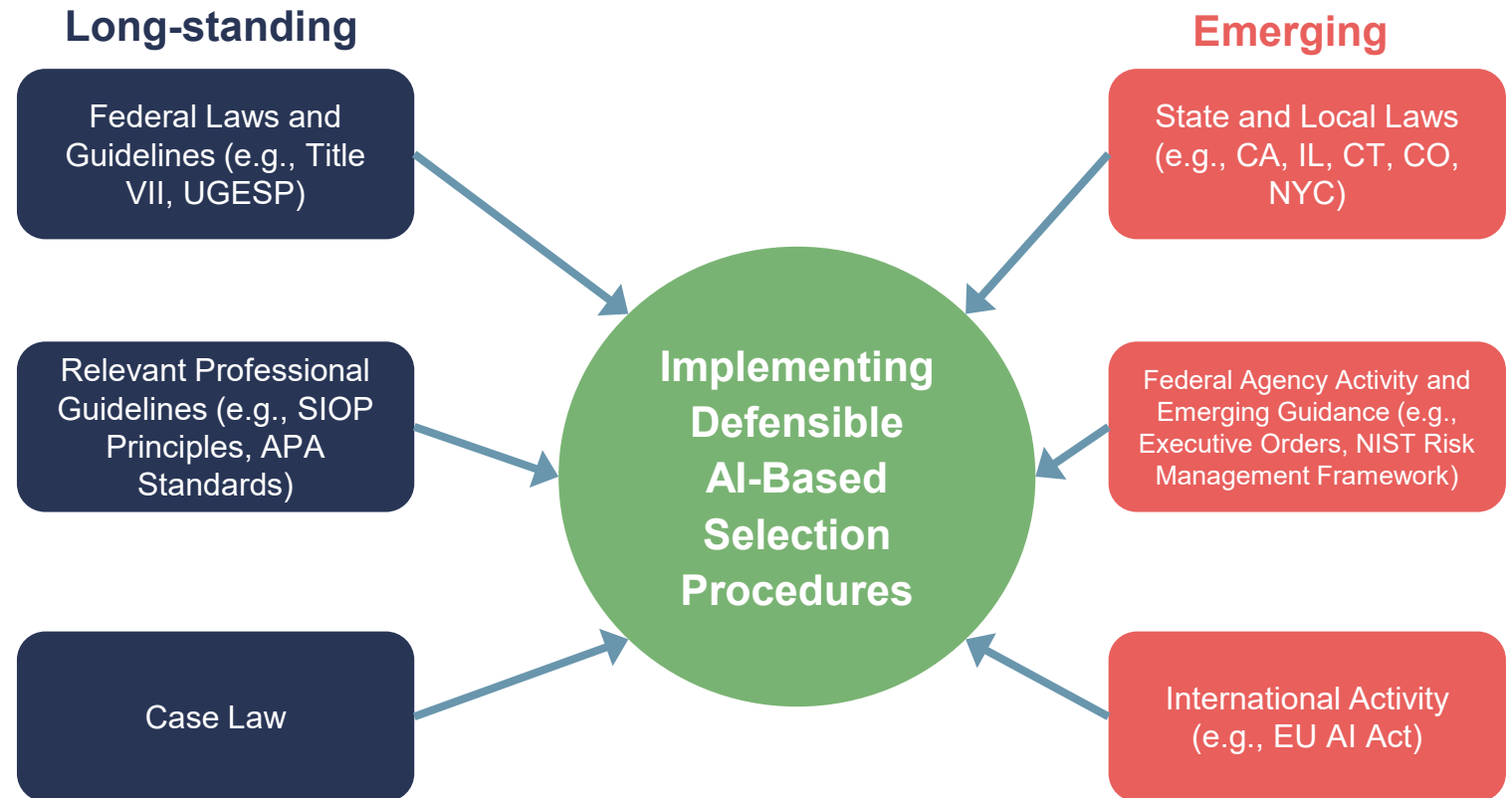
The Technology Landscape



Legal Landscape

The Legal Landscape

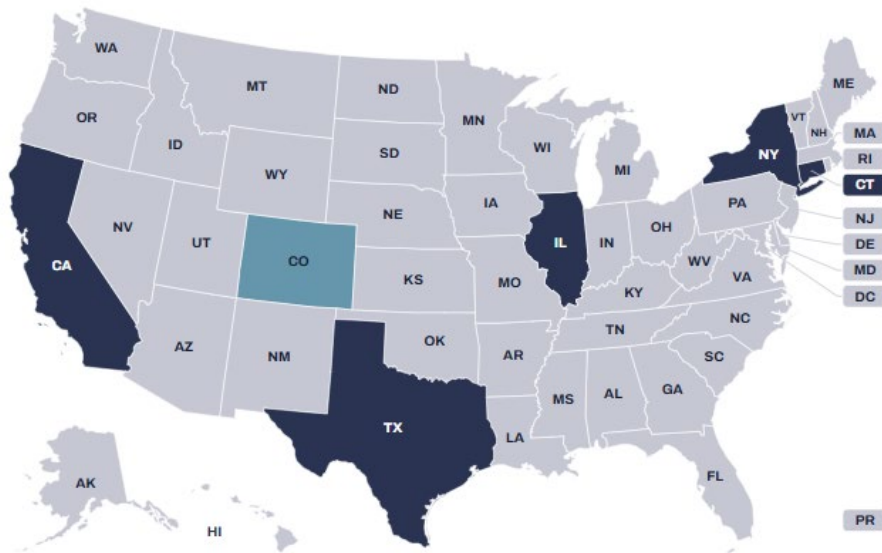
- Selection procedures (AI or not) are often subject to regulatory and compliance challenges
- AI-based systems introduce new challenges, complexities, and laws





The Patchwork of State and Local Regulations

- Many state laws are active or proposed and may become active
 - In 2025 and 2026, multiple states enacted laws related to using AI in employment decisions
- This is expected to continue to grow



- Most state/local laws include ...
 - A call for explainability and/or transparency
 - Candidate notification requirements
 - Applicability to both developers and deployers
 - Affirmative defenses or safe harbors
- Some laws also include
 - Quantitative analyses
 - Evidence of job-relatedness (validity)
 - Provision of alternative procedures
 - Data privacy/data retention clauses

State AI Employment Law Updates: California & Colorado

CALIFORNIA

Building an AI audit ecosystem



SB 813: IVO framework

- Sets how auditors qualify as Independent Verification Organizations
- Requires expertise, methods, independence, annual reports

AB 1405: Auditor registry

- Only registered auditors may conduct “covered AI audits”
- Public database; standards for independence and documented findings

SB 947: No Robo Bosses Act

Signed Sept. 30, 2026 | Operative July 1, 2027

- May not rely **solely** on an ADS for a disciplinary or termination decision
- If it **primarily relies** on ADS output, a **human must corroborate** the decision using the underlying data or other supporting information

COLORADO

SB 26-189 replaces the CO AI Act

Signed May 14, 2026 | Operative Jan. 1, 2027 | A narrower ADMT law

– Removed

- Duty of reasonable care
- Impact assessments
- Risk management program (NIST/ISO)
- AG notice of discrimination
- Public high-risk system summary
- Under-50 exemption (broader reach)

+ Added

- Advance notice of ADMT use
- Adverse-outcome disclosure within 30 days
- Human review and data correction on request
- Three-year recordkeeping
- Developer documentation for employers

Enforcement: AG only, 60-day cure, no private right of action. Title VII, ADEA, ADA and CADA disparate impact exposure remains. Developer and employer liability. Indemnification clauses voided.

Common thread: expectations to document, disclose, and validate are rising, making independent, expert evaluation of AI tools more important than ever.

Before AI: The Fundamentals of Defensible Selection

Adverse Impact, Bias, and Validation

Adverse Impact vs. Bias: A Primer



Adverse Impact

Group differences in test scores or pass rates... Regardless of source other than the underlying job-related trait (e.g., something about the test)

Answers the question:

- Are certain groups passing through your hiring process at significantly lower rates than others?
- Legal concept that does not indicate bias in itself; it calls for determining if differences are job-related.

Bias

Group differences in test scores or pass rates... Attributable to factors unrelated to the intended job-related trait or construct

Answers the questions:

- Is your tool measuring what it's supposed to be measuring (and not measuring what it should not)? **[Measurement Bias]**
- Does your tool predict job outcomes equally well for all demographic groups? **[Predictive Bias]**
- Are all candidates being evaluated under the same conditions, with the same access to accommodations and resources? **[Equitable Treatment]**
- Does your process give every candidate a fair chance to show what they can actually do without being unduly advantaged or disadvantaged? **[Equitable Access]**

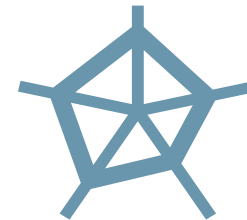
What is the Validity of a Selection Procedure?

“The degree to which accumulated evidence and theory support specific interpretations of scores from a selection procedure entailed by the proposed use of that selection procedure.”

SIOP Principles and APA Standards



Criterion-Related: Does the selection procedure effectively predict expected job-related outcomes? Does it do this equally well across subgroups [**lack of predictive bias**]



Construct: Does the selection device measure what it is intended to measure (and not measure what it was not intended for)? [**lack of measurement error**]



Content-Oriented: Is the content of the selection procedure reflective and representative of important aspects of the job?



Alternative Methods: Could prior validation evidence from another job be transported for use with a similar job (as an interim solution)?

→ Is the tool job-related? Does it work as intended?

Adverse Impact, Bias, and Validation in Practice: The Firefighter Test



OBSERVED

Women pass the physical ability test less often than men.

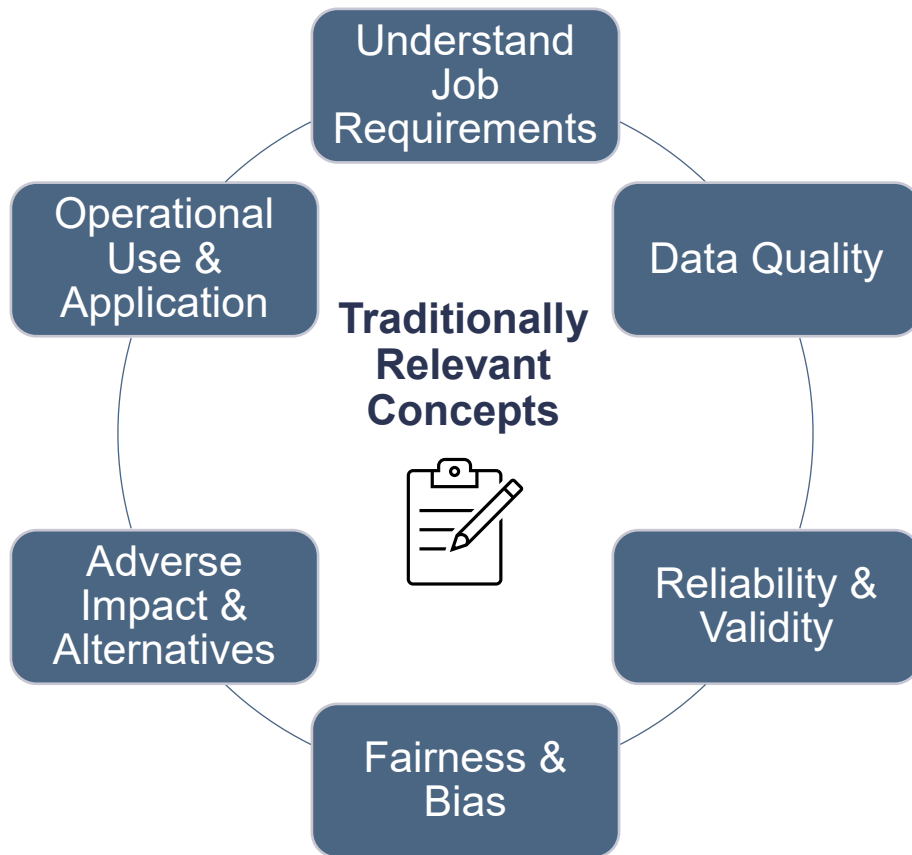
QUESTION

Is that because of legitimate job requirements or because the assessment itself is flawed?

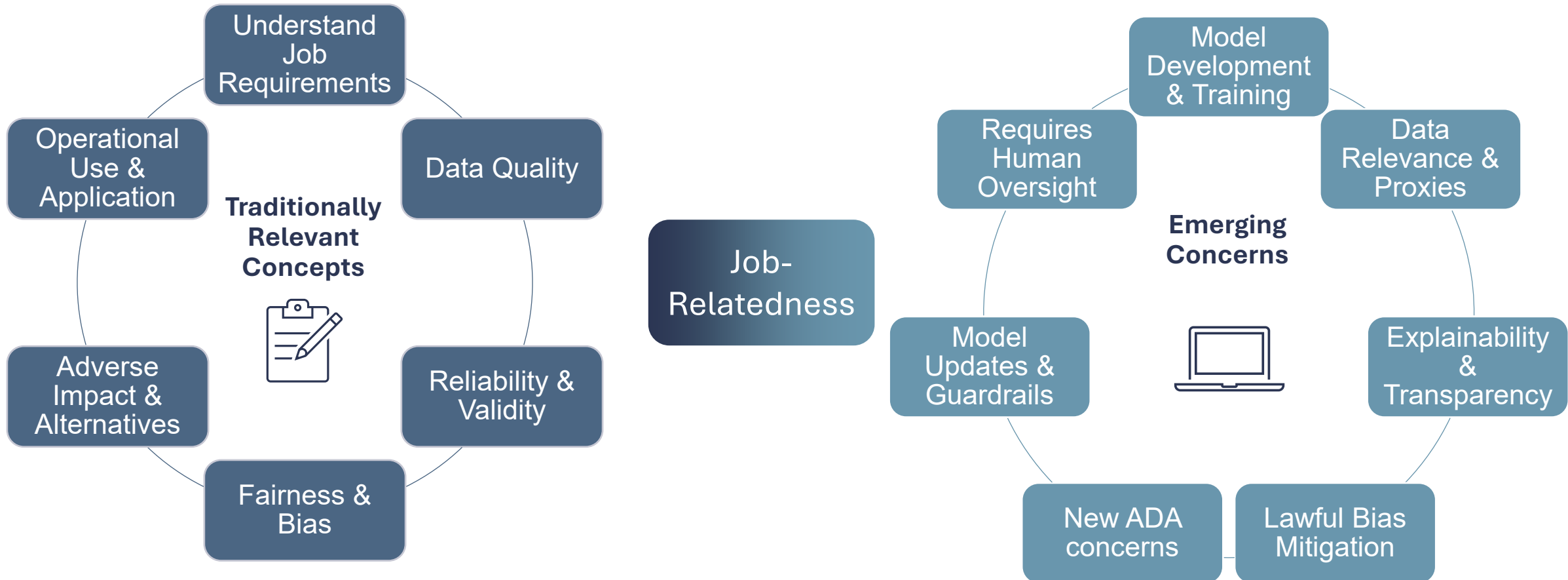
Using AI in Selection

Emerging Concerns and Audit Strategies

Hiring Tools: Traditional Concerns



AI Hiring Tools: Traditional and Emerging Concerns



Evaluating AI Hiring Tools: Approaches



AI Expert Review, includes Traditional Review +

Algorithm Development Process | Training Process, Data, & Data Representation | Transparency & Explainability | Implementation Controls such as the extent of “human in the loop”



NYC LL 144 Bias Analyses

Statistical testing for score differences by gender, race, and intersectional following the specific analyses required by NYC Local Law 144.



Expert-Algorithm Alignment Study

Compares algorithm outputs to independent expert judgment.



Other AI-Specific Evaluation Strategies

Data Inputs Review: Evaluates the quality and job-relatedness of algorithm inputs (e.g., job postings) to identify concerns and improvement opportunities.
Algorithm Feature Review: Evaluates individual algorithm features for job-relatedness, explainability, and potential demographic bias.
Operational Implementation Review: Evaluates guardrails and SOPs that protect against improper tool use and identifies opportunities for improvement.

Traditional evaluation methods still apply to AI-enabled selection tools

Deep Dive: Expert-AI Algorithm Alignment Studies

An emerging validity approach tailored for algorithmic tools that help address the question of transparency and explainability



Why it's needed: Many AI tools operate as more of a 'black box' than a 'glass box' — they use natural language processing to generate scores, which traditional content and construct validation methods can't directly evaluate.

1



Verify Job Postings / Scoring Rubrics

Confirm postings accurately capture each role's essential qualifications or that rubrics capture the full range of potential performance.



2



Independent Expert Review

Two I/O psychologists rate resumes against job postings or interviews against rubrics across a diverse range of job families.



3



Compare to AI Scores

Expert ratings are compared to the tool's outputs to measure alignment.



4



Investigate Gaps

Where results diverge, examine where the mismatch is coming from.

Reasonable or Red Flag?

1

Reasonable or Red Flag

“It's not a selection procedure – we have a ‘human in the loop’ – recruiters still review resumes.”

— Talent Acquisition



Reasonable



Red Flag

2

Reasonable or Red Flag

“We conducted adverse impact analyses and found no issues, so you don’t need to conduct local analyses.”

— AI Hiring Tool Vendor



Reasonable



Red Flag

3

Reasonable or Red Flag

“We conducted a validation study when the tool was implemented last year, so we do not need to conduct another study this year.”

— Talent Acquisition



Reasonable



Red Flag

4

Reasonable or Red Flag

“We do not share information about our algorithm or methodology because it’s proprietary.”

— AI Hiring Tool Vendor



Reasonable



Red Flag

5

Reasonable or Red Flag

“We still inform candidates that AI is being used even though humans are making the final decisions.”

— Talent Acquisition



Reasonable



Red Flag

6

Reasonable or Red Flag

“The AI tool adapts and improves automatically over time. We like this tool because it is continually learning and improving its hiring decisions everyday.”

— Talent Acquisition



Reasonable



Red Flag

Key Takeaways

Key Takeaways & Q&A



AI in hiring is already here, and the rules are moving fast



If a tool influences who moves forward, it is a selection procedure



AI needs the same foundational review as any tool, plus an AI-specific layer



Job-relatedness is paramount



You can't outsource accountability to your vendor



Access our AI in Employment Decisions Toolkit

Thank you for your attention!

Questions?

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