How to Create an AI Policy

The use of artificial intelligence (AI) by employees is growing rapidly, and so are the number of AI tools available in the market. To successfully leverage AI and protect the organization from risk, an employer must ensure AI is used properly and safely within the workplace. An employer can do this through an AI policy that meets its specific needs and aligns with organizational goals related to AI.

At Texas HR Team, we are here to help guide you through policy design and implementation. To craft an AI policy, an employer should consider taking the following steps:

Step 1: Identify & Consult Key Stakeholders

An AI policy will impact employee work across the organization. To ensure smooth adoption of the new policy, consult key stakeholders to obtain recommendations, feedback and buy-in. Stakeholders can shed light on what risks are associated with AI and how the employer would like to use AI to enhance the organization's work. These conversations will guide the scope of the new AI policy. More importantly, gathering information about how AI will fit into the organization's work will ensure that the policy is aligned with the organization's business goals and prevent it from creating unnecessary hurdles to AI adoption and management.

Step 2: Audit Current Policies and Practices

Before drafting a new policy, audit current policies and known practices that may impact AI in the workplace to avoid conflicts or too much overlap. The following are examples of policies that may have provisions impacting AI:

• Code of conduct;
• Equal Employment Opportunity;
• Cybersecurity;
• Workplace security;
• Proper use (of the organization's computers, network, etc.); and
• Privacy.

Step 3: Define the Purpose and Scope of the AI Policy

AI use in the workplace continues grow and evolve. An AI policy should be able to grow with these changes without becoming outdated. Carefully define the purpose and scope of the policy to encompass both current and future AI use at work.

Purpose. The purpose of the policy should state that the policy is intended to provide clear guidelines for the consistent and responsible use of and continued adoption of AI in the workplace.

Scope. In the scope of the policy, determine how the organization intends to use AI and what type of AI the policy should regulate. For example, an organization may plan to adopt only generative AI in their marketing department, or it may adopt several AI tools to enhance multiple business practices. Some organizations may decide to create their own AI for internal use.

Step 4: Include Definitions for Important Terminology

Currently, there are several - and sometimes conflicting - definitions of AI and related terms. To ensure consistent application of the policy, include definitions for important terminology so that employees can identify and understand what is covered by the policy.

Step 5: Draft Authoritative Ethics Guidelines

AI continues to present new and important ethical issues for an employer to navigate. If unchecked, employees may use AI for improper purposes. To ensure AI is used ethically in the workplace, draft authoritative AI ethics guidelines that employees must follow. This will inform employees of the organization's ethical standards and set clear expectations.

Step 6: Protect Privacy, Security and Intellectual Property

Though AI's high-powered automation and decision-making capabilities can push an organization above its competition, what AI needs to function - data, and lots of it - increases an organization's exposure to privacy and security dangers.
For example, an organization that invests in AI-powered software to enhance its DEI efforts will need to allow AI access to the organization's demographic data. While some AI vendors will offer certain measures of data security, others expressly disclose that information provided to them is not confidential.

Step 7: Formalize a Process for Adopting AI at Work

A consistent organization-wide process for reviewing new AI tools and their proper uses helps an organization adopt AI strategically, safely and in alignment with the organization's broader goals. It also allows the organization to have vision over AI practices across business functions. To create a formal process, include in the policy who must be involved, what steps employees must take to begin using AI and who will be the organization's trusted vendors.

Step 8: Define How and When AI Tools Will Be Audited for Quality and Compliance

Auditing AI prevents bias and ensures safety, compliance and overall quality. In some jurisdictions, regular audits are required by law to prevent discrimination.
In the policy, define how audits will be carried out at the organization. This includes the frequency of audits, the purposes for the audit, specific standards the AI tool must meet to pass the audit and what happens if the AI does not pass the audit.

Step 9: Prohibit AI From Interfering With DEI

Early use cases have shown that AI can inadvertently make biased decisions that discriminate against employees belonging to certain demographics. This can expose the organization to liability and undermine its DEI efforts.

Step 10: Communicate Proper and Improper Uses of AI

Though powerful, AI cannot do it all. AI tools are each designed for a specific purpose, and they vary in their capabilities and best uses. If employees use an AI tool improperly, the results can be poor quality and damaging to the organization. For example, generative AI tools provide outputs that may violate copyright protections. Though this area of copyright law is still evolving, using generative AI outputs in a way that would violate copyright law if the output had been created by human may expose the user to liability. Additionally, whether AI outputs have copyright protections themselves, and who owns the copyright, is less than clear. Depending on the law and the vendor's terms of usage, an AI output may not receive copyright protection, or the AI vendor may own the copyright either solely or jointly with the organization.

Step 11: Set Standards for Human Oversight

In addition to defining what AI should be used for, set standards in the policy for human oversight of AI tools at work. At minimum, require that all AI outputs be independently reviewed by the human AI user for accuracy and compliance. This is particularly important if an employee is using a chatbot, which does not provide sources or explanations about how it comes to its conclusions. Consider requiring employees to track and disclose when they are using AI to complete work tasks. This will promote transparency and help an employer monitor the purposes for which employees are using AI at work.

Step 12: Establish Disciplinary Actions for Violations

Adopting unsafe AI or using AI in an unsafe manner can expose an organization to cybersecurity threats, lawsuits and other costly liabilities. Deter violations of the AI policy by establishing disciplinary actions that the organization is prepared to enforce.

Step 13: Include a National Labor Relations Act Disclaimer

Section 7 of the National Labor Relations Act (NLRA) provides several protections to employees, including the protected right to engage in concerted activities. New AI tools, if used improperly, may violate the NLRA if they interfere with these rights. For example, according to the National Labor Relations Board general counsel, AI-powered employee monitoring software may interfere with an employee's right to engage in protected activities and keep those activities confidential. In addition to ensuring best practices for the use of AI are followed, include a compliant NLRA disclaimer stating that the organization's AI policy is not intended to interfere with any rights provided to employees by the NLRA.

Step 14: Continue to Review the Policy on a Regular Basis

AI is rapidly changing as more vendors enter the market, and existing AI continues to advance. Also, government bodies in various jurisdictions continue to propose and pass new laws to regulate AI and its use by employers. An organization must be prepared to adjust the AI policy to ensure that it accounts for any new technological developments and regulatory requirements. Reviewing the policy on a regular basis will keep the policy current and help the organization continue to develop and enhance its integration of AI into its business practices.

Contact us for a complimentary consultation about how Texas HR Team can support you in designing and implementing an AI policy for your organization!