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The Expanded Focus Series: Artificial Intelligence

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Scope and Usage of the Information

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The Institute for Workplace Equality

Employer Membership Association, formed to assist the contractor community in responding to rapidly changing compliance challenges. The Institute provides national training programs and webinars addressing the latest EEO developments and strategies for effective compliance.

For more information on The Institute for Workplace Equality, visit: www.theinstitute4workplaceequality.org

Institute Membership Offers Many Benefits

Monthly Members-Only Roundtable & Exclusive Benefits

Our monthly members-only roundtable addresses the most pressing and cutting-edge issues in workplace compliance, offering insights and practical takeaways for senior HR, legal, and compliance professionals. Key benefits include:

- Insights from Washington insiders on policy, enforcement initiatives, and emerging trends
- Updates on the growing patchwork of domestic and international pay equity laws
- Strategic and practical key takeaways; each roundtable includes a Takeaways PDF for easy sharing within your organization
- Unique opportunities to engage directly with federal EEO Agency leadership

Institute Webinars and Conferences

- Complimentary registration for all Take 5's and webinars
- Access to programming led by our 18-person faculty of nationally recognized EEO attorneys and statisticians
- Four or more complimentary conference registrations annually (*depending on membership tier*)
- Member organizations are exempt from additional conference registration fees beyond annual dues

Member Resources and Networking

- Access to The Institute's extensive Member Resources Library
- Access to the Member Directory for networking, sharing best practices, and guidance
- White papers authored by The Institute addressing members' compliance concerns and priorities
- Opportunities to collaborate and participate in brainstorming sessions with federal EEO Agency leadership
- Semiannual meetings with the Institute's Advisory Board, U.S. Department of Labor, and EEO Agency leadership

AI in the Workplace

**Navigating Federal Policy and the
Growing Patchwork of State Laws**

Where We Are Headed: Shifting AI Regulation and Enforcement: From End Result to Process + Results



Traditional EEO AI Framework: Look At The End Result

- 1) Is there evidence of disparate treatment?
- 2) Is there evidence of disparate impact?
- If so, validation is required



Shifting Framework:

Transparency
Opt-Out or Appeal
Distinct obligations for developers and deployers
Meaningful human review
Documentation and recordkeeping

State AI Law Themes

Even as existing discrimination laws apply to AI use cases, State AI laws emerge along the following themes:

Coverage

**Notice &
Transparency**

**Opt-Out &
Appeals**

**Risk
Assessment**

**Bias
Assessments**

Reporting*

*** Reporting now reaches workforce reductions.**

From Legal Requirements to Governance Controls

Which jurisdictions impose each requirement – tracking enacted state AI laws

Notice	California CCPA	Colorado	Connecticut	Illinois	Illinois AIVIA	Maryland	NYC
Opt-Out	California CCPA	Illinois AIVIA	Maryland				
Appeal	California CCPA	Colorado					
Bias Assessment	NYC						
Risk Assessment	California CCPA						
Reporting*	California CCPA	NYC	Connecticut*	New York*			

* AI-related layoff reporting

Governance turns law into practice: enterprise approval clears a tool to deploy – employment AI governance is what operationalizes each of these controls.

Looking Around the Corner

How far will regulation reach?

Hiring, workplace surveillance, performance management, and AI-related job displacement

When are safeguards insufficient?

Notice and assessments versus limits on particular uses or decisions made solely through AI

Who bears responsibility?

Obligations for developers and employers, and the meaning of meaningful human involvement

Will the patchwork converge or deepen?

Common standards versus differing federal and state definitions, requirements, and enforcement

AI Hiring Tools on Trial

**Lessons from the Growing Wave of
Algorithmic Bias Litigation**

Agenda

- Welcome
- Traditional foundation: disparate impact under Title VII, ADEA, and ADA
- Innovation #1: Suing the vendor
- Innovation #2: New use of existing law
 - Fair Credit Reporting Act
 - Lie detector statutes applied to AI interviews and assessments
- Q&A

From Risk to Readiness

**Best Practices for AI-Driven Monitoring,
Performance Management, and
Employment Decisions**

Unified AI Governance Framework



Enterprise AI Governance is essential, but not sufficient:

For HR tools, approval to deploy should be followed by employment-specific controls over use, oversight, outcomes, and legal risk.

Enterprise AI Governance

- Approves or rejects AI systems for enterprise deployment
- Enterprise-wide, technology and risk focused
- Addresses security, privacy, procurement, data, and vendor risk
- Oversees model and operational risk at the platform level
- Often owned by a central AI governance body

Employment AI Implementation Governance

- Governs use in hiring, promotion, performance, pay, and other HR workflows
- Employment-specific and decision-making focused
- Defines who may use the tool, for what purpose, and with what human oversight
- Monitors fairness, accuracy, drift, job fit, notice, and legal compliance
- Often owned jointly by HR, employment

***Enterprise governance asks whether the tool can be used.
Employment implementation governance asks how it will be used in actual HR processes.***

Practical Implementation Framework for HR AI Tools

Tailor the depth of review and controls to the tool's capabilities, data, intended use, decision impact, and applicable law.

Understand the Risk

- Inventory where AI tools touch people
- Determine Risk & Legal Requirements
- Ensure alignment with business objectives
- Assess validity, reliability, and bias as appropriate
- Address vendor terms, data usage, privacy, security

Implement Guardrails

- Define permitted uses and how much weight reviewers may give the output
- Implement meaningful human oversight
- Establish training, accountability, and use policies
- Ensure decisions can be explained and documented
- Create feedback channels

Operationalize & Scale

- Monitor outcomes for reliability and adverse impact
- Reassess when jobs, data, vendors, or models change
- Refine and retrain
- Investigate and escalate unexpected results
- Maintain consistent and compliant use

What Should Employers Deploying AI Tools Do Now?

1. Establish enterprise AI governance

- Define organizational standards for AI acquisition, approval, risk review, and oversight
- Ensure employment-related AI uses are subject to governance review before deployment

2. Inventory employment AI use cases

- Identify AI tools used across recruiting, hiring, promotion, performance management, compensation, and workforce management
- Include embedded AI features, GenAI tools, and employee-developed solutions

3. Establish employment implementation governance

- Assign accountable owners and define decision rights, review processes, and escalation paths
- Align employment AI oversight with legal, privacy, EEO, labor, and business requirements

What Should Employers Do Now? (cont.)

4. Understand how AI influences employment decisions

- Map where tools affect candidates, applicants, employees, managers, or employment outcomes
- Prioritize higher-risk uses for additional review

5. Validate vendor claims and controls

- Pressure-test bias testing, validation, explainability, and human oversight claims
- Confirm that vendor documentation supports the organization's intended use

6. Document, monitor, and reassess

- Record decision logic, human review, and governance controls
- Monitor for drift and adverse impacts and periodically reapprove continued use

Thank You