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# AI for Employers:

Balancing Innovation & Data Protection in  
the Workplace

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# Understanding the Workplace AI Landscape

# AI Use Cases in the Workplace

Use Case	Business Driver	Examples of AI Systems or AI Enabled Tools
Talent & Recruiting	HR	Resume screening, matching Video interviewing software Testing Onboarding Background checks
Performance Management	HR	Digitized timeclocks Productivity management tools Performance review analysis
Sales Performance Customer Support	Sales Customer support	Email scanning tools Voice/video recording Automated transcripts, recommendations, call summaries, attendance Sales training Customer/prospect sentiment analysis
IT Deployment, Cybersecurity, Workplace Investigations	IT Legal	Monitoring software MDM
Physical Security, Safety	Facilities, Bldg. Security	Motion detection Hot desk usage mapping Facial recognition/fingerprint scanners

# Legal & Regulatory Framework

# High Level Legal Overview - US



## AI Specific

- NYC Local Law 144
- Colorado AI Act
- IL Video Interviewing Act; IL Limit Predictive Analytics (2026)
- MD Labor & Employment – Video Interviewing Act
- CA Civil Right Council Regulations on ADT in Employment (DRAFT)



## AI Covered

- CCPA
- State biometric laws
- All party consent laws
- Electronic monitoring laws



## Regulates AI

- ADA
- Title VII to Civil Rights Act
- FTC Section 5, State UDAP
- FCRA
- Age Discrimination in Employment Act

# High Level Legal Overview - ROW



## AI Specific

- EU AI Act
- EU Platform Work Directive (2026)
- CN AI and Data Act (AIDA)
- China's Internet Information Service Algorithmic Recommendation Management
- India MEITY AI Advisory



## AI Covered

- GDPR/UK GDPR
- Singapore PIPL
- S. Korea PIPL



## General Laws that Regulate AI

- Employment laws
- Telecom laws

# Workplace AI Use Cases Under Laws/Regs

Use Case	Law/Regulation
Emotion recognition in the workplace (except for safety purposes)	EU AI Act (Prohibited)
Biometric categorization systems that categorize individuals based on their biometric data to deduce or infer their race, political opinions, trade union membership, religious or philosophical beliefs, sex life or sexual orientation	EU AI Act (Prohibited)
<b>AI-based interviewing</b> <small>*IL and Maryland require adequate notice and consent **IL also has limits on sharing videos, destruction requirements ***IL has demographic data reporting requirements where employer relies solely on AI analysis of video interview for selection</small>	IL Video Interview Act MD L&E Use of Facial Recognition Services
AI systems intended to be used for 1. recruitment or selection (e.g. place targeted job advertisements, analyze and filter job applications, and to evaluate candidates); 2. to make decisions affecting terms of the work-related relationships, promotion and termination of work-related contractual relationship 3. to allocate tasks based on individual behavior or personal traits or characteristics; and 4. to monitor and evaluate performance and behavior of persons in such relationships.	EU AI Act (High Risk)



# Workplace AI Use Cases Under Laws/Regs

Use Case	Law/Regulation
<p>Deploying any artificial intelligence system makes, or is a substantial factor* in making a decision that has a material legal or similarly significant effect on the provision or denial to any consumer, or the cost or terms...(b) employment or an employment opportunity...</p> <p><small>*Substantial Factor" means a factor that (i) assists in making a consequential decision; (ii) is capable of altering the outcome of a consequential decision; (iii) is generated by an artificial intelligence system. Substantial factor includes any use of an artificial intelligence system to generate any content, decision, prediction, or recommendation concerning a consumer that is used as a basis to make a consequential decision concerning the consumer.</small></p>	<p>Colorado AI Act (High Risk)</p>
<p>1. Decisions that result in access to or provision, or denial of employment, including using ADMT for employment or independent contracting opportunities or compensation includes:</p> <ul style="list-style-type: none"><li>(i) Hiring;</li><li>(ii) (ii) Allocation or assignment of work; salaries, hourly or per-assignment compensation, incentive compensation such as bonuses, or other benefits (“allocation/assignment of work and compensation”);</li><li>(iii) Promotion; and</li><li>(iv) Demotion, suspension, and termination.</li></ul> <p>2. Extensive profiling of applicants, employees through systematic observation</p>	<p>CCPA Draft Regulations*</p> <p><small>*from the draft regulations issued Oct. 4, 2024</small></p>

# Workplace AI Use Cases Under Laws/Regs

Use Case	Law/Regulation
<p>Using AI in recruitment, hiring, promotion, renewal of employment, section for training, apprenticeship, discharge, discipline tenure, or terms, privileges, or conditions of employment that:</p> <ol style="list-style-type: none"><li>1. has the effect of subjecting employees to discrimination on the basis of protected classes under this Article or to use zip codes as a proxy for protected classes.</li><li>2. employer to fail to provide notice to an employee that the employer is using artificial intelligence for the purposes described above</li></ol>	<p>IL Limit Predictive Analytics (Civil rights violation) (2026)</p>
<p>Using “automated employment decision tools” to make an employment decision*.</p> <p><small>*Employment decision means to “screen candidates for employment or employees for promotion within the city.”</small></p>	<p>NYC Local Law 144 – Automated Employment Decision Tools</p>

# Workplace Hypothetical

**Your Sales VP wants to engage a new vendor that leverages AI to speed up employee onboarding, coach employees on sales techniques, and assess performance.**

**You are the privacy lead.**

# Evaluate

Overview

**There is broad internal support to integrate this vendor ASAP. In fact, procurement is nearly finished negotiating the agreement. And, discounted pricing is about to expire.**

**How do you approach as the privacy lead?**

**There is broad internal support to integrate this vendor ASAP. In fact, procurement is nearly finished negotiating the agreement. And, discounted pricing is about to expire.**

**How do you approach as the privacy lead?**

**What processes could have helped here?**

# Integrate

Overview



**With your help, the contract is now signed and the Sales VP is eager to roll out the new tool.**

**What steps are needed before this tool is used with US workers?**

**With your help, the contract is now signed and the Sales VP is eager to roll out the new tool.**

**What steps are needed before this tool is used with US workers?**

**Does your answer change if this is planned for a global rollout?**

# Adapt

Overview

**The Sales VP has rolled out the new AI tool and has been using it for just over 2 months. You get a call from employment legal that it received an anonymous tip on the complaint hotline that sales team members are able to enter employee names into the tool's genAI feature and it is returning employee personal data including salary, performance reviews, 1:1 Slack messages.**

**What processes should be in place?**

# Improve

Overview

**With the issue mitigated, we now need to determine how to improve processes going forward.**

**What ongoing monitoring, improvement should the company be performing?**

# Best Practices Checklist

- Engage key stakeholders to gather input, buy in, and engagement
- With key stakeholders, develop workflows or processes for workplace AI/ML models, applications, and systems including how they will be reviewed, approved, and assessed
- Draft and implement AI policies and/or guidelines
- Identify existing internal policies, guidelines that can be updated to help manage workplace AI risk
- Review existing applicant and employee notices to determine whether updates for AI/ML use cases are necessary
- Develop policies, guidance for addressing where and how notice of AI/automated decision-making and consent/choice requirements are required to be disclosed (e.g. for applicants, workers where consent may be required)
- Develop guidelines, playbooks for procurement
- Develop and implement AI training and awareness targeted at the workplace

## EU AI Act:

- Text: <https://data.consilium.europa.eu/doc/document/ST-5662-2024-INIT/en/pdf>
- IAPP EU Act 101: [https://iapp.org/media/pdf/resource\\_center/eu-ai-act-101-chart.pdf](https://iapp.org/media/pdf/resource_center/eu-ai-act-101-chart.pdf)

EU Platform Work Directive: <https://data.consilium.europa.eu/doc/document/PE-89-2024-INIT/en/pdf>

## CO AI Act:

- [https://leg.colorado.gov/sites/default/files/2024a\\_205\\_signed.pdf](https://leg.colorado.gov/sites/default/files/2024a_205_signed.pdf)

## US State Laws (other):

- California Consumer Privacy [Act](#) + [Regulations](#) (latest draft [Regulations](#))
- California Civil Rights Commission Proposed [Regulations](#) to Employment Regulations regarding Automated Decision Systems
- Colorado CPA [amendment](#): Concerning Protecting the Privacy of an Individual's Biometric Data
- Illinois Biometric Privacy [Act](#)
- Illinois AI Video Interview [Act](#)
- Illinois Human Rights [Act](#) (Limit Predictive Analytics Amendment, HB-3773, effective Jan. 1. 2026)
- Maryland L&E: Use of Facial Recognition Services - [Prohibition](#)
- New York City [Local Law 144](#):
- See also state all party consent laws (wiretap, anti-eavesdropping)
- See also state laws on electronic monitoring



## US Federal Laws & Regulations

- American with Disabilities Act
  - See EEOC [Guidance](#) on AI and the ADA
- Title VII of the Civil Rights Act of 1964
  - See EEOC [Guidance](#) on AI and Title VII

## Other Resources:

- NIST AI Risk Management Framework: <https://www.nist.gov/itl/ai-risk-management-framework>
- NIST: Adversarial Machine Learning: <https://nvlpubs.nist.gov/nistpubs/ai/NIST.AI.100-2e2023.pdf>
- EU Commission Model AI Clauses (for EU procurement): <https://public-buyers-community.ec.europa.eu/communities/procurement-ai/resources/eu-model-contractual-ai-clauses-pilot-procurements-ai>
- OECD: Defining AI Incidents and Hazards: [https://airc.nist.gov/AI\\_RM\\_F\\_Knowledge\\_Base/Glossary](https://airc.nist.gov/AI_RM_F_Knowledge_Base/Glossary)
- AI Vulnerability Database (AVID): <https://avidml.org/>
- MIT AI Risk Repository: <https://airisk.mit.edu/>
- CNIL: <https://www.cnil.fr/en/carrying-out-protection-impact-assessment-if-necessary>
- UK ICO Guidance on AI and Data Protection: <https://ico.org.uk/for-organisations/uk-gdpr-guidance-and-resources/artificial-intelligence/guidance-on-ai-and-data-protection/>
- IAPP Global AI Law and Policy Tracker: [https://iapp.org/media/pdf/resource\\_center/global\\_ai\\_law\\_policy\\_tracker.pdf](https://iapp.org/media/pdf/resource_center/global_ai_law_policy_tracker.pdf)

# Questions & Contacts



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