

NYC Employers Face New Restrictions on Use of Artificial Intelligence in Hiring

Written by Christopher Feudo, James Fullmer

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As technological advances have given employers artificial intelligence (AI) based tools to assist them in the hiring process, New York City has taken note. Recently, New York City adopted a new measure restricting the use of artificial intelligence (AI) in hiring.

The law, which will go into effect on January 1, 2023, bars the use of AI-based hiring tools unless those tools have been subject to a bias audit. The goal of this audit will be to ensure that the AI-based tool does not lead to disparate outcomes on the basis of race or gender. Once the law takes effect, employers using AI-based hiring tools will be required to notify candidates that the AI-based tool is being used and identify to candidates which job qualifications and characteristics the program will review. Prospective employees will have the right to opt-out and request that a human review their application instead.

Employers will not themselves be responsible for conducting the audit; that responsibility falls to the vendor administering the hiring tool. However, employers will be subject to liability for violations of the law (including both the audit requirement and the notification requirement) for \$500 on a first violation and up to \$1,500 on subsequent violations.

In light of the January 1, 2023 effective date, New York City employers should use the coming year to review their use of AI-based hiring tools and to ensure that their use of AI in hiring is compliant with the law.

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