



AI and Employment Law Compliance: Laws, Legislation, and Trends

November 13th, 2025

Agenda

1 Legal Updates
AI Regulation

2 Creating an
AI Policy

3 Using AI
Effectively and
Compliantly

4 Q&A

Regulation of AI in HR

Typical pattern for regulation:

Increased use → Increased regulation

AI use has exploded in all areas, including HR, and the wave of regulations is coming.

States and localities are often the first movers and that has been the case in the regulation of AI in HR.



The first mover: NYC

New York City Local Law 144

- Enacted December 11, 2021
- Enforcement began on July 3, 2023
- Regulates the use of automated employment decision tools (AEDTs) for assessing candidates for hiring or promotion.
- Applies to jobs performed in NYC and fully remote positions that are associated with an office location in NYC



NYC Local Law 144

Organizations that use AEDTs to “**to substantially assist or replace discretionary decision making**” must:

1. Conduct an independent bias audit before they use the AEDT and at least once a year;
2. Publish the results of their bias audits; and
3. Provide notice to job candidates and employees that the organization is using an AEDT to make employment decisions.



The great AI regulation race

Two states raced to be the first to regulate the use of AI in employment decisions.

Can you guess which states?



And the winner was:

...it depends on where you draw the finish line!

- **Colorado** enacted the Colorado AI Act on May 17, 2024, and it takes effect on June 30, 2026.
- **Illinois** enacted its AI law on August 9, 2024, but it takes effect on January 1, 2026.



Colorado's Artificial Intelligence Act

- First **comprehensive regulation of AI** at the state level
- Regulates both “Developers” and “Deployers” of AI systems
- No private right of action
 - Will be enforced exclusively by the Colorado Attorney General’s Office
- Takes effect June 30, 2026



Who qualifies as a “deployer” of AI?

A “deployer” is a person doing business in Colorado that uses an AI system to help make decisions that have a substantial effect on:

- Employment or employment opportunity
- Education enrollment or opportunity
- Financial or lending services
- Essential government services
- Healthcare services
- Housing
- Insurance
- Legal services



Deployer responsibilities

Deployers of AI have an obligation to use “reasonable care” to prevent “algorithmic discrimination.”

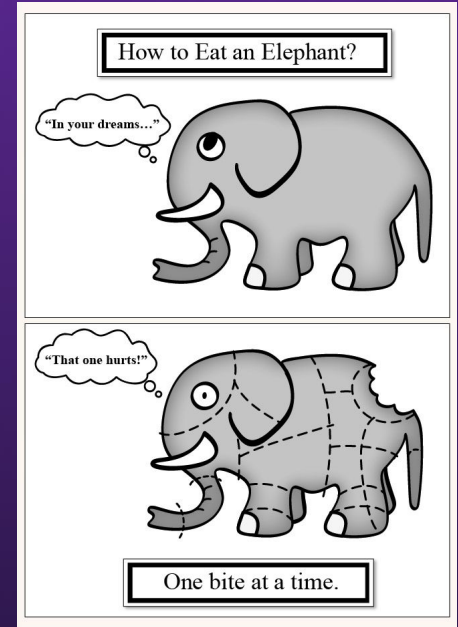
There is a rebuttable presumption that deployers used reasonable care if they take certain steps, including:

- Implementing a risk management policy and program for high-risk AI systems
- Completing an impact assessment of high-risk AI systems
- Notifying consumers that could be affected by decisions made by high-risk AI systems
- Making a publicly available statement summarizing the types of high-risk systems that the deployer currently deploys
- Disclosing to the attorney general the discovery of algorithmic discrimination within 90 days of discovery

What do regulating AI and eating elephants have in common?

Answer: Both are best done one bite at a time

- Governments don't have a great handle on what AI is yet
 - Or how to regulate it
- Some might try to eat the whole elephant in one bite
 - Like the EU, Colorado, and Texas (sort of) did
- But more likely to regulate one facet of AI at a time
 - Like in California and Illinois



What is “AI”?

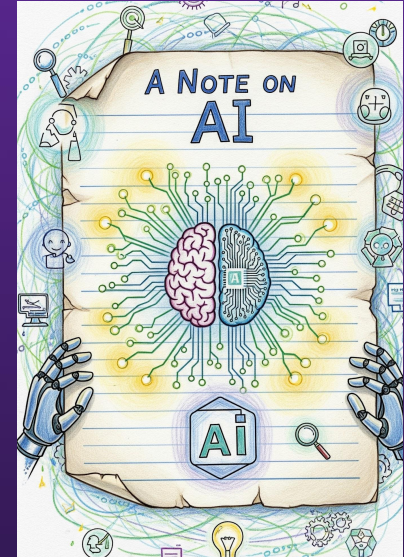
“Artificial Intelligence” includes more than just programs that imitate human intelligence (e.g., chatGPT)

- It includes any machine-based system that analyzes data to generate outputs in service of an objective (e.g., predictions, recommendations, or decisions)

Common examples include algorithms, applicant screening tools, and certain types of performance monitoring technology

- Anything that takes in employee/applicant data and uses it to predict performance or suitability for a role

Laws often refer to it as “automated decision-making technology” rather than “Artificial Intelligence” for this reason



California's Fair Employment and Housing Act



New regulations (effective October 1, 2025) prohibit employers from using AI tools to discriminate on the basis of any FEHA-protected classes

- Including assessments that make predictions about applicants or that measure their characteristics

Protects employers who use bias testing or other audit techniques to prevent their AI from discriminating

- Bias testing is a best practice in all states, even those without a safe harbor

Requires businesses to keep records of all data fed to the AI system and the decisions/recommendations it made for 4 years

FEHA isn't the only CA law that restricts how AI is used to make decisions

Illinois Artificial Intelligence Law

- Is an amendment to the Illinois Human Rights Act and takes effect January 1, 2026.
- Applies to any employer that has one or more employees located in Illinois for 20 or more calendar weeks.
- Prohibits employers from using AI in connection with “**recruitment, hiring, promotion, renewal of employment, selection for training or apprenticeship, discharge, discipline, tenure, or the terms, privileges, or conditions of employment**” in a way that subjects an employee to any discrimination based on protected characteristics or zip code.
- Requires employers to notify employees that AI is being used to make employment decisions.
- Enforced by the Illinois Department of Human Rights.

New Jersey's "Guidance on Algorithmic Discrimination"

Explains that existing NJ law imposes liability on employers who discriminate against employees using any method, including AI

- Regardless of whether the employer developed the AI tool

"Disparate Impact" claims mean employers can be liable for AI tools that have discriminatory impact even if they acted in good faith

- Discrimination can result from errors in designing, training, or deploying the AI

AI use can also be illegal if it "impedes or precludes" employees from getting reasonable accommodations



Does this mean you shouldn't use AI?

No—it just means you should be cognizant of when and how you use it

- A total ban on AI is unlikely in any context*

Future laws are more likely to require businesses to:

- Test AI tools for discriminatory impact;
- Make robust disclosures about how AI is deployed and the logic it uses; and (potentially)
- Allow people opt-out

Businesses that use AI to make decisions can get a head start by making sure you
1) understand the logic behind your AI tools and 2) test them for bias



What's next?

- Over 30 states have formed AI working groups. These working groups have begun issuing their reports and recommendations, many of which will eventually become proposed legislation.
- California and New York are two states to watch. Both nearly passed state-wide AI regulations in 2024.
- **Future changes could come from privacy or human rights law, so keep an eye on states that are active in those areas**
 - E.g. the 19 states with consumer privacy laws)



A note on biometric data

- Seven states currently regulate the use of biometric data
 - Legislation pending in four more
- Some laws look like traditional privacy schemes
- But others focus on use of AI to analyze biometric data
 - MD: Can't use facial recognition service during job interviews without consent
 - OR: Can't use any facial recognition technology in public businesses
- Could be the next trend in AI regulation



The big question: “Is AI going to replace my job?”

- Some jobs may eventually be replaced by AI, but other new jobs will be created.
- A common thought has emerged among many technology and thought leaders:
 - AI is not going to replace high skilled jobs.
 - *But* those who use AI to do their jobs better and more efficiently are going to replace those who don't use AI.
- **Understanding the strengths of AI can help you apply it in your organization and industry**



Using AI effectively

- Understand the specific strengths and weaknesses of the tools you use
 - AI is a tool and is only as effective as its wielder
- All AI output should be reviewed by a human for accuracy (AI should never be the last step)
 - Don't use it to mindlessly make decisions for you (potential employment discrimination)
- Tools should be auditable with transparent reasoning



Finding the right AI tools

- Common free tools—like ChatGPT and Gemini—do some tasks well, but struggle with other tasks
- Remember: If something is free, *you* are the product
- Paid tools will have more advanced features and data privacy options
- The best AI will be one that you customize to your needs, potentially using your own data set

Making an AI policy

Defining AI

Legal: “Automated decision-making technology”

NASA

- A system that performs tasks w/out significant human oversight, or that can learn when exposed to data
- A system solves tasks requiring human-like perception, cognition, planning, learning, etc.
- A system designed to think or act like a human, including cognitive architectures and neural networks.

Making an AI policy

- Include all relevant laws
- Decide how you want employees to use it
 - Drafting vs. final product
 - Internal vs. external
 - Permissions/communication
 - Approved tools
 - Sensitive data/anonymizing data
 - Disciplinary action for misuse



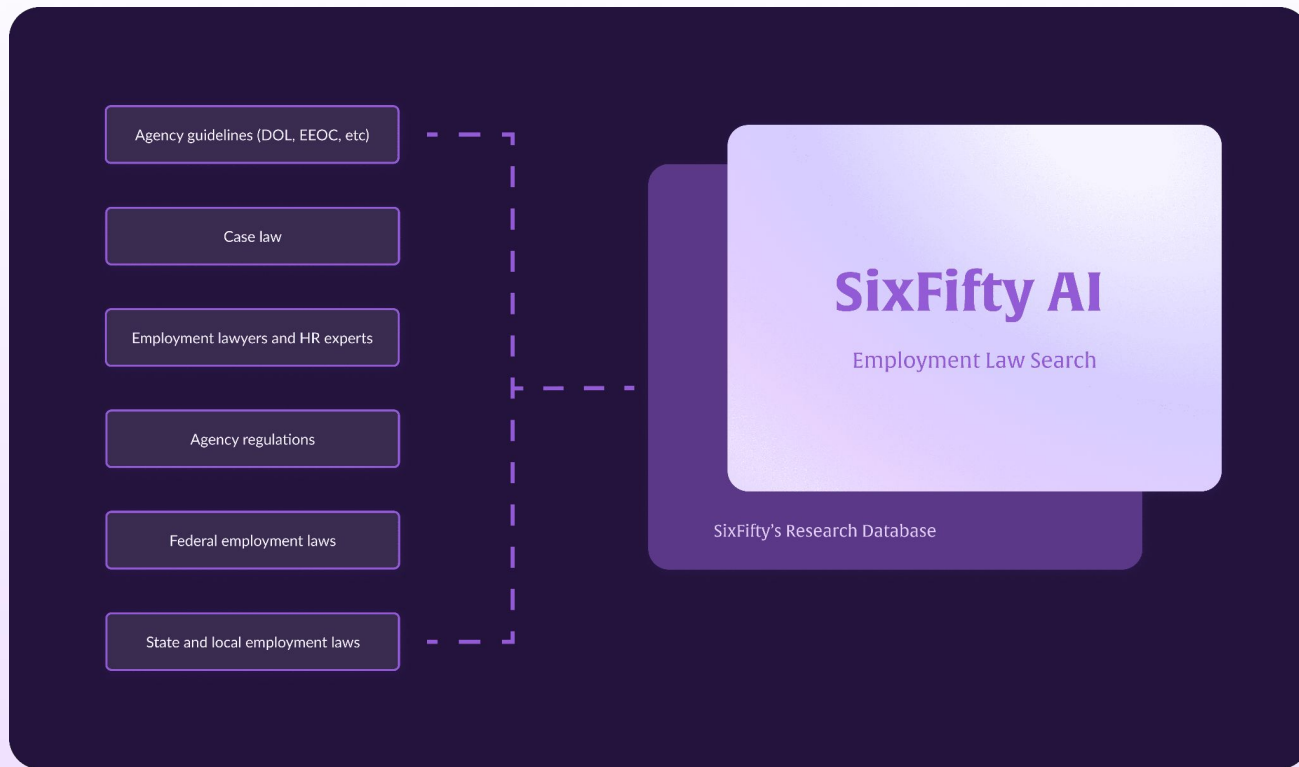
Create your own
AI in the Workplace Policy
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Next steps to take

- ❑ Stay current on the rules governing the use of AI in employment.
- ❑ Have frequent conversations about AI use, security, and compliance at all levels of your organization.
- ❑ Consider how you can use AI tools responsibly to do your job more efficiently—while being cautious of “junk” tools that will introduce more risk.
- ❑ Create an AI Use Policy that meets your business’ specific needs



SixFifty's approach to AI



Thank you for joining!

What questions do
you have?



Schedule a **personalized demo** of
SixFifty's AI-powered employment
compliance platform