

Can Employers Be Held Liable For AI Discrimination?

05/13/25

Earlier this year, New Jersey's Attorney General and the Division on Civil Rights issued guidance concerning Artificial Intelligence ("AI") discrimination in hiring and employer liability for AI decisions under the New Jersey Law Against Discrimination ("NJLAD"). The guidance is intended to address the risk of bias-based harassment and discrimination resulting from the use of AI.

Automated hiring systems and AI-driven decision-making tools are increasingly used by employers, particularly relative to hiring employees. Using AI tools to automate decision-making processes is reflective of the criteria created and set within an algorithm and can arise from designing, training and deploying the AI tool. When AI hiring tools lead to discriminatory outcomes the NJLAD is applicable and the individuals and/or entities behind the use of the AI tools are subject to exposure for violations, even if it was developed by a third party. This is particularly true considering intent is not a requirement under the law for a finding of disparate impact discrimination (an unintended negative impact on a particular protected class).

Review NJLAD Guidance on AI Discrimination Risks

The new guidance confirms that the NJLAD prohibits algorithmic discrimination and discriminatory outcomes. Accordingly, it is important for New Jersey employers to understand the potential risks associated with using AI in hiring and other employment practices, including claims, lawsuits and administrative actions by the EEOC or DCR.

Need legal counsel on AI discrimination in hiring? Contact [Meghan Chrisner-Keefe](#) or any member of the [Wilentz Employment Law Team](#) to understand your obligations under the New Jersey Law Against Discrimination and how to protect your business from costly claims.

Attorney

- Meghan Chrisner-Keefe

Practice

- Employment Law