

# AI Hiring Tools Can Violate Disability Protections, Government Warns; Justice Department, Equal Employment Opportunity Commission say companies whose use of AI tools leads to discrimination could face legal trouble

Vanderford, Richard . Wall Street Journal (Online) ; New York, N.Y. [New York, N.Y]. 12 May 2022.

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## FULL TEXT

Employers that use artificial intelligence to assess workers and job seekers need to be careful to comply with laws protecting disabled people, two U.S. federal agencies said, expressing skepticism about a technology that many businesses have tapped amid widespread labor shortages .

Companies whose AI or machine-learning technology leads to discrimination could face legal repercussions, the U.S. Justice Department and the Equal Employment Opportunity Commission said Thursday.

"We are sounding an alarm regarding the dangers tied to blind reliance on AI and other technologies that we are seeing increasingly used by employers," Kristen Clarke, assistant attorney general at the Justice Department's civil-rights division, said in a press conference. "As technology continues to rapidly advance, so too must our enforcement efforts to ensure that people with disabilities are not marginalized and left behind in the digital world," she said.

AI tools help companies to winnow down applicant pools more quickly and with less human intervention than in the past, and they can be used to assess workers companies have already hired. Some tools, for example, can listen in on interviews and summarize key themes, while others use games to try to gauge someone's skills or temperament.

An AI tool meant to assess a candidate for optimism might exclude someone with depression, a protected disability, EEOC Chair Charlotte Burrows said. Candidates with speech impediments, autism or arthritis that affects typing on a keyboard might also be unfairly excluded from a job, the agencies said.

Boosters of the use of AI tools for hiring have argued that, by reducing the role of potentially biased hiring staff , such technology can actually help companies build more diverse teams. But the EEOC, the front-line enforcer of U.S. civil-rights laws in workplaces, has been leery of such claims, and in 2021 announced it would closely monitor the emerging area.

Thursday's warning from the two agencies came as they released new technical guidance flagging potential pitfalls for employers that use AI and similar tools.

These tools tend to be developed by outside software vendors, but a business that uses them can nonetheless be liable under the law if the technology has a discriminatory impact, the EEOC said. The agency urged companies to determine whether an AI developer has given consideration to how any algorithms might disadvantage disabled people, and to make it clear to individuals being assessed that they can seek a reasonable accommodation for their disability.

Ms. Clarke said that the Justice Department is committed to holding employers accountable, including under the Americans with Disabilities Act, which government lawyers have used to take action against violators of

protections for disabled people.

Less than a fifth of working-age disabled people work, and those seeking jobs have an unemployment rate about double the rest of the population, according to figures from the U.S. Bureau of Labor Statistics for 2021.

"There's enormous potential with these technologies," Ms. Burrows said. "But we have got to make sure that, as we look to the future, we don't leave anyone out."

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AI Hiring Tools Can Violate Disability Protections, Government Warns

Credit: By Richard Vanderford

## DETAILS

<b>Subject:</b>	Hiring; Americans with Disabilities Act 1990-US; Employers; Disabled people; Disability; Affirmative action
<b>Business indexing term:</b>	Subject: Hiring Employers
<b>Location:</b>	United States--US
<b>Company / organization:</b>	Name: Equal Employment Opportunity Commission--EEOC; NAICS: 921190
<b>Publication title:</b>	Wall Street Journal (Online); New York, N.Y.
<b>Publication year:</b>	2022
<b>Publication date:</b>	May 12, 2022
<b>column:</b>	Risk & Compliance Journal
<b>Section:</b>	C Suite
<b>Publisher:</b>	Dow Jones & Company Inc
<b>Place of publication:</b>	New York, N.Y.
<b>Country of publication:</b>	United States, New York, N.Y.
<b>Publication subject:</b>	Business And Economics
<b>e-ISSN:</b>	25749579
<b>Source type:</b>	Newspaper
<b>Language of publication:</b>	English
<b>Document type:</b>	News
<b>ProQuest document ID:</b>	2663043688
<b>Document URL:</b>	<a href="https://www.proquest.com/newspapers/ai-hiring-tools-can-violate-disability/docview/2663043688/se-2?accountid=44910">https://www.proquest.com/newspapers/ai-hiring-tools-can-violate-disability/docview/2663043688/se-2?accountid=44910</a>

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**Last updated:** 2022-05-13

**Database:** ABI/INFORM Collection, U.S. Major Dailies

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