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COMPLIANCE FIELD GUIDE

AI in Hiring and Resume Parsing: The US Legal Landscape

Federal and state laws, court cases, and the compliance steps that matter for employers using AI to screen, score, and contact candidates.

October 2026 edition
Updated October 11, 2026.

BEFORE YOU READ

> Comprehensive research report. General information, not legal advice. The legal landscape here is moving quickly - see Caveats. Counsel should review any deployment, and bias testing should be structured with counsel to preserve privilege. Labels used in this guide: "pending" means proposed or filed but not final; "unsettled" means no controlling authority; "inference" means our reading of text or sources with no authority applying it. Statuses are stated as of October 7, 2026 unless another date is given, and some primary sources were checked through October 11, 2026. Bracketed numbers point to the Sources list at the end.

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Our Take: Keep a Human in the Loop

The rest of this guide covers what the law says. This page covers how we build AI into hiring for our clients, and why.

When 300 people apply for one job, most teams read the first 50 and hope the best candidate is in that group. Candidate 212 never gets seen by a person. Not rejected. Never seen.

AI fixes that part. It reads every resume against the actual job requirements and writes a short summary: why this person fits, and what's missing. Your recruiters read the summaries and decide who gets a call.

The AI reads the resumes. The humans read the people.

A human in the loop is not a courtesy

- **It keeps you on the right side of the new rules.** The Colorado and California rules that take effect January 1, 2027 are built around human review. Colorado gives a candidate who is turned down the right to ask for meaningful human review and reconsideration. California's rules treat a tool differently when a reviewer with the knowledge and authority to change the outcome is part of the decision. A system that rejects people with no person involved is the highest-risk design in this guide (Sections 2 and 6).
- **It treats every applicant fairly.** Every resume gets read against the same requirements. A person who can weigh context makes the final call, no matter where the resume sat in the stack.
- **It gives you a record you can defend.** A decision made by a named person, based on a written summary, is the record your counsel will want if a hire is ever challenged.

Strip out bias signals before the AI reads anything - then keep them

Before a resume reaches the AI step, have your automation remove the details that point to a protected class or stand in for one:

- Name, photo and contact details
- Date of birth, age and graduation years
- Home address and zip code (Illinois already bans using zip codes as a stand-in for protected classes)
- Gender, pronouns, and marital or family status
- Citizenship and national origin (ask only whether the person is authorized to work and needs sponsorship - see Section 8)
- Health, disability, religion, and group memberships that reveal them

Don't throw those details away. Save them in a separate database the AI step can't reach, tied to each resume by a candidate ID. The AI reads only the anonymized resume: skills, experience and results against the job requirements. After your recruiters decide who moves forward, the system joins the two

back together.

That separate record is your documentation, and this guide comes back to documentation again and again. It shows exactly what the AI saw and what it didn't. It gives your counsel the data to compare selection rates across groups. And it lets you keep each record as long as the law requires. Limit who can open it, and set its retention and deletion rules with your counsel (Section 8).

Removing these details lowers the risk. It does not replace bias testing. School names and total years of experience can still point to race or age, so test the results on a schedule with your counsel (Section 5).

What the process looks like

1. The candidate gets notice that AI is part of your process, where the law requires it.
2. A resume arrives, and automation pulls the data into your applicant tracking system with no typing.
3. Automation strips out the bias signals and saves them in a separate database, linked by a candidate ID.
4. AI reads the anonymized resume against the job requirements and writes a two-line summary.
5. A recruiter reads every summary and decides who moves forward. No one is turned down automatically.
6. The system joins the full record back together and logs every step - the notice, the summary, the decision and who made it - and keeps those records as long as the longest rule that applies to you.

Automation first, then AI, and people make the call. We build the process. You and your employment counsel decide the rules it follows. The TL;DR on the next page is the short version of the law behind it.

If you'd like us to build this process for your team, grab a time at 4SpotConsulting.com/30.

TL;DR

- **Parsing inbound recruiting email and resumes is still low risk under federal wiretap and privacy law, but two limits apply.** The employer is a party to the communication (one-party consent, 18 U.S.C. § 2511(2)(d))[1], and a later pull from a stored mailbox is generally not an "interception" in the circuits that require acquisition during transmission[2, 3]. "Already delivered, so no interception" is not a safe harbor for every parser: a copy made within one second of arrival was held contemporaneous[4], and an AI vendor that keeps and trains on the data can lose the party exception at the pleading stage[5]. The real exposure is anti-discrimination law and a fast-moving state patchwork of AI, privacy, biometric, recording and data-security statutes.
- **Federal agencies have walked away from disparate-impact enforcement, but the statutes did not change.** EEOC's AI guidance has been off its website since January 2025[6]. On June 4, 2026 EEOC adopted a National Enforcement Plan saying it will not commence or pursue disparate-impact litigation[7]; DOJ's Office of Legal Counsel concluded on June 9, 2026 that EEOC's disparate-impact guidelines are unconstitutional[8]; and the FTC said on August 7, 2026 that it will no longer pursue disparate-impact claims[9]. Title VII, the ADA and the ADEA remain on the books, private plaintiffs still sue (*Mobley v. Workday*), and states carry the weight. Federal energy has moved to intentional or facial rules keyed to visa, citizenship or national origin[10, 11].
- **Preemption has not happened.** EO 14365 preempts nothing[12]; as of October 11, 2026 no public Commerce evaluation of "onerous" state AI laws and no BEAD notice tied to state AI laws had been located (a search result, not proof)[432, 443]; the only DOJ court filing we found that touches an employment-related AI law is its April 24, 2026 intervention in *X.AI v. Weiser* (Colorado)[13], and DOJ also filed an August 18, 2026 statement of interest in xAI's challenge to Minnesota's nudification law, which is not an employment case[428]; we found no DOJ or Commerce action aimed at the California, Illinois, Texas or New Jersey AI-employment rules[431, 488]; no federal statute exists; and none of the FY2027 NDAA or funding texts we read carries AI preemption[14, 15, 16]. Follow each state law by its own terms and effective dates. The next dated checkpoint is December 11, 2026, when the current funding law expires[16].
- **Compliance is a documentation game, and the list grew:** candidate notice, bias testing under privilege, 4-year recordkeeping (California), human review on adverse decisions, airtight vendor contracts, and now vendor security terms, AI-contact consent for voice and text outreach, and care with any filter keyed to visa or citizenship. These controls hold whichever way the preemption fight breaks.

We build this for HR and recruiting teams. 4Spot Consulting builds the automations that put this guide into practice: candidate notices that go out on time, a human review step before any automated rejection, records kept as long as the law requires, and an audit trail across the hiring tools you already use. We don't give legal advice. We build what you and your employment counsel decide on. **Book a free consult: 4SpotConsulting.com/30**

What changed in 2026

Newest first. Statuses are as of October 7, 2026 unless another date is stated.

- **2026-10-07 - *Mobley v. Workday* status.** The newest order (Dkt. 435, a discovery order) says more than 15,000 people have opted into the ADEA collective, which it still calls "conditionally certified"[17]. Plaintiffs moved for Rule 23 class certification on 2026-09-14 (hearing noticed 2027-03-09), and Workday's opposition is due 2026-11-10[17, 18]. No merits ruling and no settlement.
- **2026-10-06 - Colorado Attorney General interim draft rules.** The draft adds a rebuttable presumption that an ADMT ranking, score or recommendation "materially influences" a decision, and treats an employer as the deployer when a staffing company runs the ADMT. These are drafts; the formal hearing is October 26, 2026[20, 21].
- **2026-10-05 - EEOC El Dorado Furniture conciliation ($1.3 million)** for a companywide practice of favoring Hispanic applicants, and **2026-10-01 - Novadoz ($116,666)**, a remote-work and retaliation matter for an existing employee[22, 23].
- **2026-10-05 and 2026-10-01 - New York City.** The Council held an AI oversight hearing on October 5. No pending bill we found amends Local Law 144. On October 1, DCWP, the Commission on Human Rights and the TLC issued a joint AI enforcement policy statement that does not mention Local Law 144 and announces no new standards[24, 25].
- **2026-10-01 - FCC 26-67 released** (adopted 2026-09-30). It changes the TCPA revocation rules: callers may designate an exclusive revocation method if they disclose it, and a revocation of an informational message can be limited to that category. It takes effect 30 days after Federal Register publication, which had not occurred by October 7[27].
- **2026-10-01 - New Jersey S4075** (AI-based electronic monitoring) was reported by the Senate Labor Committee 5-0. No New Jersey AI-hiring bill has passed a chamber[249].
- **2026-09-30 - California signed SB 947, SB 951, AB 1331 and AB 1883**[28]. SB 947 bars sole reliance on an automated decision system for employee discipline or termination (operative 2027-07-01) and applies to employees, not applicant screening[29]. SB 690 was also signed and removes private suits for pen-register claims over website and app conduct while leaving wiretap and recording claims in place[30].
- **2026-09-30 - *Harper v. Sirius XM* dismissed without prejudice** on the pleadings (not "summary judgment")[31]. **EEOC v. Sibitalent** was filed the same day: a Title VII suit over an "ONLY H-1B" recruiter notice[11].
- **2026-09-27 - California SB 923 signed** (effective 2027-01-01): the right to delete reaches personal information a business got from third parties[32].
- **2026-09-23 - H-1B Proclamation 11069 and EO 14431 published** (signed 2026-09-18)[33, 34].
- **2026-09-02 - FY2027 continuing resolution (P.L. 119-103)** funds the government through 2026-12-11 and contains no AI or preemption text[16].
- **2026-08-21 - DOL/OFCCP final rule** rescinding the Executive Order 11246 regulations, including 41 CFR part 60-3 (OFCCP's copy of the Uniform Guidelines), effective 2026-10-26[35].

- **2026-08-18 - DOJ statement of interest** in *X.AI LLC v. Ellison* (D. Minn.), xAI's challenge to Minnesota's nudification law. It is not an employment case. Besides the April 24 Colorado intervention, it is the only DOJ court filing in a state-AI-law dispute that we found[428].
- **2026-08-13 - *In re Otter.AI Privacy Litigation*** (N.D. Cal.): Wiretap Act and CIPA § 631 claims survived dismissal against an AI vendor that allegedly retained and trained on recorded conversations[5].
- **2026-08-07 - FTC policy statement on disparate impact** (2-0): the FTC will no longer pursue disparate-impact claims in any context[9].
- **2026-08-04 - DOJ OpenAI/Statsig PERM settlement** ($3.2 million; applicant-tracking capture is a remedy term)[36].
- **2026-07-31 - Illinois SB 3777 signed** (P.A. 104-0744, effective 2027-06-01), a general disparate-impact statute for employers; and **OPM interim final rule** removing Uniform Guidelines references from federal personnel rules[37, 38].
- **2026-07-23 - H.R. 9925 (FRONTIER Act) introduced**; **2026-07-22 House passed the FY2027 NDAA** with no AI preemption[14, 39].
- **2026-07-07 - FTC proposed AI accuracy policy statement published** (91 FR 41638; comments closed 2026-07-31; no final version)[40].
- **2026-07-02 - *Mobley*: interlocutory appeal denied.** The ADEA applicant question is left for a post-judgment appeal[41].
- **2026-06-22 - *Mobley*: FEHA claims proceed** against Workday as the employer's agent for its own California-based conduct[42].
- **2026-06-09 - OLC opinion** on Title VII disparate impact[8]. **2026-06-04 - EEOC National Enforcement Plan**[7].
- **2026-05-29 - Colorado HB 26-1263 signed** (conversational AI services; duties begin 2027-01-01)[43]. *Mobley* privilege order on bias-testing data issued the same day[44].
- **2026-05-27 - Connecticut Public Act 26-15 signed.** It regulates employers' use of automated employment-related decision technology (Section 2)[45].
- **2026-04-27 - Colorado enforcement stay** in *X.AI LLC v. Weiser* (stipulated, not a merits ruling), after DOJ intervened on 2026-04-24[46].
- **2025-12-11 - EO 14365 text.** It names only Colorado; California appears in the White House fact sheet, not in the order[12, 47].

Points that are easy to get wrong:

- **Wiretap reasoning.** *Councilman* does not support the post-delivery rule; it is the limit on it[48]. The party exception, not contemporaneity, is the main protection for an employer.
- **CAN-SPAM.** The transactional-message clause covers an employment relationship in which the recipient is "currently involved"; pre-offer applicant acknowledgments are better described as not "commercial" email[49].
- **ADEA.** Applicant disparate-impact claims are contested; the Seventh and Eleventh Circuits reject them[50, 51].

- **iTutorGroup.** $365,000 is a fund to be distributed to claimants, not a payment already made to each of 200+ people; the decree is not an adjudication[52].
- **EEOC and DOL guidance.** The ADA and Title VII technical assistance pages return 404; the EEOC's still-hosted April 2024 explainer lists them with dead links[53]. OFCCP's April 2024 contractor AI guide is also gone[54].
- **NYC.** Coverage turns on job location, not candidate residency; no 0.80 pass/fail threshold exists in the rule; the rule does not require an employer to offer an alternative process[55, 56].
- **California.** The FEHA agent definition rests on *Raines*, not *Mobley*; anti-bias testing is relevant evidence, not mandated; the ADMT opt-out has a hiring exception; risk assessments go to the Agency as a summary and attestation, not in full[57, 58].
- **Colorado.** SB 24-205 was repealed and reenacted by SB 26-189 (effective 2027-01-01); its operative date passed, but it was never enforced[59].
- **Maryland.** HB 1202 reaches facial templates only, not voice[60].
- **Texas.** Penalties are tiered; NIST framework compliance is one route to a no-liability protection, not a blanket safe harbor; the intent standard governs only the Attorney General's TRAIGA claim[61].
- **Governors' statements.** California's governor opposed EO 14365 but made no express pledge to keep enforcing state AI laws (see Section 1, Executive Orders)[62].
- **Deletion and correction.** The ADMT regulations create pre-use notice, opt-out and access rights, not a right to correct data an ADMT used[58].

Key Findings

1. **Email parsing itself is rarely the legal problem, and the protection rests on three things.** (a) The employer is a party or has consent (18 U.S.C. § 2511(2)(d))[1]; (b) the vendor acts only as the employer's tool; and (c) a post-delivery pull from stored mail adds margin in the circuits that require interception during transmission (*Konop*, *Fraser*, *Steve Jackson Games*)[2, 3, 63]. *Councilman* is the limit on that rule, not support for it[48]. Real-time duplication on arrival is the *Szymuszkiewicz* pattern and should not be assumed safe[4]. The Stored Communications Act exception in § 2701(c) fits an employer reading mail intended for it on its own system[64].
2. **Disparate-impact discrimination is still the largest private and state-law risk, but federal agency enforcement of it has stopped.** Resume scanners, chatbots and scoring tools can be "selection procedures"; the four-fifths rule is a heuristic, not a federally enforced standard[65]. Liability can attach even when a third-party vendor built the tool, and *Mobley v. Workday* (N.D. Cal.) is a preliminarily certified nationwide ADEA collective against the vendor, with no liability finding[17, 19].
3. **State law is where the binding obligations live, and they diverge.** NYC requires published bias audits; Colorado, Illinois and Connecticut impose notice duties; California imposes recordkeeping, anti-bias-testing evidence rules and, from 2027, ADMT duties; Texas requires intent for its own claim; New Jersey applies disparate-impact rules to automated tools. Several dates fall in 2027.

4. **Privacy law is converging on "automated decision-making technology" (ADMT), but only California reaches applicants.** California's CCPA regulations and the FEHA ADS rules create notice, opt-out or appeal, risk-assessment and 4-year retention duties. Every other comprehensive state privacy law we checked excludes employment-context individuals, with Delaware's 2027 amendment the one exception found[66].
5. **Data security is a live theory against recruiting vendors.** The 2025 McHire/Paradox exposure, the 2026 Mercor breach class action, and the CCPA breach private right of action (which reaches applicants) put vendor security terms on the required list[67, 68, 69].
6. **The federal-state conflict is unsettled.** Treat it as a live risk, not a resolved question[12].

Details

1. Federal Layer

ECPA / Wiretap Act (18 U.S.C. § 2511) and Stored Communications Act (§ 2701). Automated parsing of inbound recruiting email is still low risk, resting on three defenses. (a) *Party/consent exception.* When a candidate emails a resume to the employer's careers inbox, the employer is the intended recipient and a party to the communication. Section 2511(2)(d) allows interception by a party, or with one party's consent, unless it is done "for the purpose of committing any criminal or tortious act"[1]. Routine hiring does not trigger that carve-out for the employer's use of its own mail, but the point now depends on what a third-party vendor does with the data: in *In re Otter.AI Privacy Litigation* (N.D. Cal. Aug. 13, 2026, Judge Lee) the court held the crime-tort exception plausibly pleaded where a vendor allegedly trained its models on recorded conversations for its own gain. That was a pleading-stage ruling in a meeting-recorder case, not an email-parsing case[5]. (b) *Contemporaneity.* Several circuits hold that an "intercept" must be acquired during transmission, not from storage: *Konop v. Hawaiian Airlines*, 302 F.3d 868 (9th Cir. 2002) (cite only this opinion; it replaced a withdrawn 2001 opinion that went the other way), *Fraser v. Nationwide*, 352 F.3d 107 (3d Cir. 2003), and *Steve Jackson Games*, 36 F.3d 457 (5th Cir. 1994)[2, 3, 63]. A parser that pulls mail from a stored mailbox after delivery is generally not intercepting in those circuits. Two limits apply. *United States v. Councilman*, 418 F.3d 67 (1st Cir. 2005) (en banc) held that email in transient storage while in transit can be intercepted, so it narrows the storage-based reasoning[48]. And *United States v. Szymuszkiewicz*, 622 F.3d 701 (7th Cir. 2010), held that a server rule copying each message within the same second of arrival was contemporaneous[4]. A server-side forwarding rule, journaling feed or webhook that duplicates mail on arrival fits that pattern (inference). A post-delivery pull is a design choice that adds margin, not a safe harbor. (c) *SCA § 2701(c)* excepts conduct authorized by the service provider, and by a user for communications intended for that user[64]; *Fraser* applied the provider exception to an employer administering its own email system[3].

State recording statutes. California CIPA and other all-party-consent laws are the residual risk. For a parser that pulls delivered mail, the storage distinction usually applies (inference). Courts treat real-time duplication as "in transit": *Limas v. Wayfair* (C.D. Cal. Aug. 13, 2026), known to us through a secondary report, let a CIPA § 631 claim proceed on allegations of contemporaneous duplicates[70]. Outcomes in the website-pixel and chat wave are mixed. *Ramos v. The Gap* (N.D. Cal. July 29, 2025) dismissed claims over pixels in marketing emails the retailer itself sent[71]. *Popa v. Microsoft*, 153 F.4th 784 (9th Cir. 2025), found no concrete injury from session replay (as described in the *Otter* order)[5]. *Gutierrez v. Converse* (9th Cir. July 9, 2025, unpublished) affirmed summary judgment because the evidence showed a chat vendor "could read" messages, not that it did[72]. California SB 690 (signed 2026-09-30, Chapter 976) removes private suits only for pen-register and trap-and-trace claims about website, app and mobile-app conduct, leaves Penal Code §§ 631, 632 and 632.7 in place, and appears to take effect 2027-01-01 (not confirmed against the enrolled text)[30, 73].

Third-party SaaS parsing vendors. A vendor parsing resumes solely on the employer's behalf is protected only to the extent it acts as the employer's tool; the protection weakens if the vendor independently uses applicant data. The "ordinary course of business" exception (§ 2510(5)(a)(ii)) is read narrowly: *In re Google Inc. Gmail Litigation*, No. 13-MD-02430-LHK (N.D. Cal. Sept. 26, 2013), refused at the pleading stage to dismiss Wiretap Act claims where scanning for ad profiles was not instrumental to providing email[74]. Under California's all-party-consent statute, N.D. Cal. judges split on when a vendor is a separate "third party": *Graham v. Noom* (2021) treats a tool-only vendor as the client's "extension," while *Javier v. Assurance IQ* (2023), *Turner v. Nuance* (2024), *Ambriz v. Google* (Feb. 10, 2025; known to us through a secondary report) and *Taylor v. ConverseNow* (Aug. 11, 2025) ask whether the vendor has the capability to use the data for itself[75, 76]. *Otter* rested on alleged independent retention and use[5]. No Ninth Circuit published opinion resolves the split. Contract limits on vendor use are necessary but not sufficient; pair them with technical enforcement such as no retention beyond processing, no model training or human review of applicant data, and tenant isolation (inference). All of these are pleading-stage orders, and none involves email or resume parsing. A July 30, 2026 complaint against an AI voice vendor, *Thompson v. SoundHound AI*, relies on *Ambriz* and *Taylor* for the same third-party theory (Section 7)[447, 448].

CFAA (18 U.S.C. § 1030). Minimal relevance to parsing email the employer lawfully receives. Exposure comes from password-gated or credentialed access "without authorization." After *Van Buren v. United States*, 593 U.S. 374 (2021) (a "gates-up-or-down" test)[77] and *hiQ Labs v. LinkedIn*, 31 F.4th 1180 (9th Cir. 2022) (preliminary-injunction stage; accessing publicly available data likely is not "without authorization," while circumventing username and password gates is)[78], scraping public data in breach of site terms is not by itself a CFAA violation in the Ninth Circuit's reasoning, and breach-of-contract exposure is separate. *Otter* dismissed the CFAA counts with leave to amend because the access allegations were conclusory[5], and *Amazon.com Services v. Perplexity AI*, No. 26-1444 (9th Cir. Aug. 4, 2026), vacated a CFAA injunction because the AI vendor likely did not itself "access" the computers; the user did[79].

Title VII (Civil Rights Act). The EEOC's May 2023 technical assistance ("Assessing Adverse Impact in Software, Algorithms, and Artificial Intelligence Used in Employment Selection Procedures Under Title VII") treated algorithmic tools as "selection procedures" under the 1978 Uniform Guidelines (UGESP) and applied the four-fifths rule. The page returns HTTP 404 today; Internet Archive captures show it live in late January 2025 and gone within days. The January 27, 2025 removal date comes from law-firm reports, not an EEOC statement[6, 80]. The statute is unchanged: 42 U.S.C. § 2000e-2(k) still puts the burden on the respondent to show a challenged practice is job related and consistent with business necessity[81]. The four-fifths rule remains only a rule of thumb: a tool can pass it and still produce unlawful adverse impact if the disparity is statistically significant. The text of 29 CFR § 1607.4(D) and the broad "selection procedure" definition in § 1607.16(Q) are still in the Code of Federal Regulations, unamended since 2017[82]. What changed is who enforces them (next paragraph). Employers remain exposed to private suits and state enforcement even when a vendor built the tool.

Federal disparate-impact posture.

- *Executive Order 14281* (April 23, 2025; 90 FR 17537) tells all agencies to "deprioritize enforcement" of statutes and regulations to the extent they include disparate-impact liability, naming 42 U.S.C. § 2000e-2 (Sec. 4), and directs the Attorney General to determine whether federal law preempts state disparate-

impact laws (Sec. 7(a)). We found no Section 7(a) determination. An executive order cannot amend Title VII[83].

- *EEOC.* A September 15, 2025 memo (as described in the *Cross* complaint) directed staff to close pending disparate-impact charges by September 30, 2025. A charging party's challenge (*Cross v. EEOC*, D.D.C. No. 1:25-cv-03702) was dismissed on November 25, 2025 for lack of standing without reaching the merits[84], and *FreeState Justice v. EEOC* (D. Md., June 12, 2026), a challenge to a different EEOC charge policy, was dismissed on the same ground[85]. The National Enforcement Plan FY2025-2029, approved 2-1 on June 3, 2026 and signed June 4, 2026, rescinds the FY2024-2028 Strategic Enforcement Plan, says EEOC "will not commence, develop, or continue to pursue litigation advancing disparate impact claims," and contains no reference to artificial intelligence, algorithms or automated tools[7, 86]. The old plan, which did name AI in recruiting and hiring, is still posted without a rescission notice[87].
- *DOJ Office of Legal Counsel*, "Constitutionality of Disparate-Impact Liability Under Title VII," 50 Op. O.L.C. _ (June 9, 2026), answers a February 2, 2026 request from the EEOC Chair. It concludes EEOC's disparate-impact interpretations, including UGESP, embrace an unconstitutional reading of Title VII, and uses constitutional avoidance to read the statute narrowly (business necessity needs only a rational business purpose; plaintiffs must prove specific causation and an equally effective, less-disparate alternative). It does not hold 42 U.S.C. § 2000e-2(k) invalid, does not mention AI or the four-fifths rule, expressly leaves ADEA disparate impact alone (footnote 11), and binds the executive branch, not courts or private plaintiffs[8, 38].
- *Conforming agency actions.* OPM's interim final rule removing UGESP references from federal personnel rules (91 FR 48234; effective July 31, 2026; comments closed September 29, 2026)[38]. DOL/OFCCP's final rule rescinding the Executive Order 11246 regulations, including 41 CFR part 60-3 (91 FR 54444; published August 21, 2026; effective October 26, 2026), which says it does not affect other agencies' use of UGESP[35]. EEOC's July 6, 2026 rescission of its affirmative action guidelines, 29 CFR part 1608 (91 FR 40879)[88], and a July 23, 2026 proposal to rescind EEO-1 through EEO-6 reporting (91 FR 46332)[89]. EEOC's own UGESP rescissions appear on the regulatory agenda (final action targeted November 2026, effective January 2027 for the interpretive provisions) but we found no Federal Register publication; 29 CFR part 1607 remains in force on paper[90]. EEOC Chair Lucas said at the July 21, 2026 meeting that the OLC opinion binds the agency[91].
- *FTC.* On August 7, 2026 the FTC voted 2-0 on a policy statement saying it "will no longer pursue disparate-impact claims in any context" and will not bring such claims under Section 5. The statement is non-binding and does not preempt state or local law[9, 92].
- *Courts.* As of October 11, 2026, we found no court ruling that holds Title VII disparate-impact liability unconstitutional or adopts the OLC opinion, and no filing made after the June 9, 2026 opinion that asks a court to do either. We read the *Mobley v. Workday* filings available in the public RECAP archive (several Workday filings are not there, and its next major filing is due November 10, 2026), among other dockets[388]. The argument has been made once before: in *Luevano v. Ezell* (D.D.C.), groups seeking to intervene argued in May 2025 that Title VII disparate-impact liability is unconstitutional, but the court dismissed the case in August 2025 and denied their motion as moot without ruling on it[450, 451, 452]. The Supreme Court decisions the OLC leans on, *Louisiana v. Callais* (April 29, 2026) and *Allen v. Milligan* (June 2, 2026, a stay order), are Voting Rights Act cases[93, 94]. This is a negative finding limited to the sources we could search; full-text docket search was unavailable to us.

- *Net effect (inference).* Expect no federal agency disparate-impact enforcement against AI tools for now. Exposure comes from private suits, state law and disparate-treatment theories. The policy could reverse under a later administration.
- *Race-conscious remediation is its own risk.* Title VII § 703(l), 42 U.S.C. § 2000e-2(l), makes it unlawful to adjust scores, use different cutoffs, or otherwise alter test results on the basis of race, color, religion, sex or national origin[81]. EEOC's plan lists "diverse slate policies" and rubrics that "consider protected characteristics" as disparate-treatment targets[7], and EO 14398 (March 26, 2026) adds False Claims Act exposure for federal contractors for race- or ethnicity-based disparate treatment[95]. Whether § 703(l) reaches an AI ranking tool is unsettled. Pair bias testing with job-related, neutral fixes (changing criteria, removing proxies, retraining) rather than demographic score adjustments or group-specific cutoffs (analysis).

ADA. The EEOC's May 2022 ADA guidance warned that AI screening (gamified assessments, video analysis of facial expressions or speech) can screen out people with disabilities and that employers must provide accommodations and alternatives. That page and its worker tip sheet were removed from the EEOC website in January 2025 (per law-firm reports) and now return 404; no replacement has issued[96]. DOJ's parallel May 12, 2022 guidance, "Algorithms, Artificial Intelligence, and Disability Discrimination in Hiring," is still live at ada.gov[97]. The statutory duties are unchanged: 42 U.S.C. § 12112(b)(5) (reasonable accommodation), (b)(6) (screening criteria that screen out unless job related and consistent with business necessity) and (b)(7) (tests that measure the skill, not an impaired sensory, manual or speaking skill)[98]. The (b)(6) screen-out theory is disparate-impact in character and falls inside EEOC's current deprioritization; individual failure-to-accommodate claims do not (inference). In *Mobley*, Hughes's ADA disparate-impact claim, based on proxy indicators of illness such as medical leave, survived on June 22, 2026[42]. The complaint the ACLU, Public Justice and co-counsel brought for D.K. against Intuit and HireVue (announced March 19, 2025; Public Justice's case page gave March 14, 2025 as the filing date) is an administrative charge filed with the Colorado Civil Rights Division and the EEOC for a deaf, Indigenous current Intuit employee seeking an internal promotion; it alleges ADA, Title VII and Colorado Anti-Discrimination Act violations. Both companies deny the allegations. Agencies keep charge files confidential, and as of October 11, 2026 no public finding, right-to-sue notice, settlement or court case has been found, so describe it as "no public resolution found," not as pending or resolved (Section 7)[99, 100, 495, 498, 499].

ADEA. Intentional age discrimination against applicants is actionable (*EEOC v. iTutorGroup*). Whether outside applicants can bring ADEA *disparate-impact* claims is contested. The en banc Seventh Circuit (*Kleber v. CareFusion*, 914 F.3d 480 (2019)) and en banc Eleventh Circuit (*Villarreal v. R.J. Reynolds*, 839 F.3d 958 (2016)) say no; the Supreme Court denied certiorari in both (June 26, 2017 and October 7, 2019)[50, 51, 101, 102]. The Northern District of California says yes (*Rabin v. PricewaterhouseCoopers*, 2017; *Mobley v. Workday*, 740 F. Supp. 3d 796 (2024) and the March 6, 2026 order)[103, 104]. The Ninth Circuit has not decided it. Judge Lin found "substantial ground for difference of opinion" but denied interlocutory review on July 2, 2026, saying clarity is "best pursued through a post-judgment appeal"[41]. Who is bound: Kleber governs federal courts in Illinois, Indiana and Wisconsin and Villarreal in Alabama, Florida and Georgia, so an applicant there has no federal ADEA disparate-impact claim (disparate-treatment and state-law claims remain); in the Ninth Circuit no appellate ruling controls, and *Mobley* binds only its parties, with Workday as the sole defendant. The OLC opinion does not address ADEA disparate impact. We found no pending or granted certiorari petition on the question, but the Court's docket search does not index subject matter, so a

pending petition cannot be ruled out. *EEOC v. iTutorGroup, Inc.*, No. 1:22-cv-02565 (E.D.N.Y.): the EEOC alleged software was programmed to reject female applicants 55 or older and male applicants 60 or older and that more than 200 qualified U.S. applicants were rejected. Judge Chen so-ordered the consent decree on September 8, 2023: $365,000 paid into a fund to be distributed to claimants who come forward, EEOC monitoring for at least five years, and a denial of liability by the defendants. The EEOC release does not call it an "AI" or "first" case; those labels are commentary, and the mechanism was hard-coded age cutoffs, an intentional-treatment theory that applicants can bring everywhere[52, 105].

FCRA and the CFPB. If a vendor's output is a "consumer report" from a "consumer reporting agency" used for employment purposes, the Fair Credit Reporting Act gives applicants a stand-alone disclosure and authorization before procurement and a copy of the report and a rights summary before adverse action (15 U.S.C. § 1681b(b))[106]. Whether AI hiring vendors are consumer reporting agencies is unsettled. The CFPB's Circular 2024-06, which said algorithmic scores and background dossiers can be consumer reports, was withdrawn effective May 12, 2025 (90 FR 20084)[107], and the CFPB withdrew its proposed data-broker rule on May 15, 2025[108]. The test case is *Kistler v. Eightfold AI Inc.* (filed January 20, 2026 in Contra Costa County Superior Court under the FCRA, the California Investigative Consumer Reporting Agencies Act and the UCL; removed to N.D. Cal., No. 4:26-cv-01768-YGR). Plaintiffs allege Eightfold's 0-to-5 match scores are consumer reports. Eightfold's motion to dismiss was fully briefed by July 9, the August 4 hearing was vacated on July 24, and the docket shows no ruling as of its September 24 update[109, 110, 111]. It is a transparency theory, not a discrimination claim.

CAN-SPAM Act. Automated acknowledgment, rejection and status emails to applicants usually fall outside CAN-SPAM's opt-out, postal-address and ad-label duties. Those duties (15 U.S.C. § 7704(a)(5)(A)) apply only to a "commercial electronic mail message," whose primary purpose is the commercial advertisement or promotion of a commercial product or service (§ 7702(2)(A))[112, 113]. The transactional/relationship clause, § 7702(17)(A)(iv), covers an employment relationship "in which the recipient is currently involved, participating, or enrolled," which fits current employees and, per the FTC, a prospective employee who has received a bona fide offer. The FTC's 2008 rule preamble says an employer email to a prospective employee whose primary purpose is not promoting a product or service is not commercial email, and that job-opening emails that do not promote a product or service "fall outside the Act"[49]. The ban on materially false or misleading header information in § 7704(a)(1) names commercial and transactional/relationship messages, so a pre-offer reply that is neither may be outside it, but keep From, reply-to and routing data accurate anyway. **Caution:** under 16 CFR § 316.3(a)(2), a message that mixes commercial promotion with transactional content is commercial if the subject line would lead a reasonable reader to see an advertisement, *or* the transactional content does not appear at the beginning of the body[114]. What flips a message is promotion of a commercial product or service (a course, a fee-based service), not mention of open jobs.

TCPA: AI voice, text and phone recruiters.

- *AI voices are "artificial."* FCC 24-17 (adopted February 2, 2024) confirmed that voices generated by AI, including cloned voices, are an "artificial or prerecorded voice" under 47 U.S.C. § 227(b). A call to a cell number needs the called party's prior express consent (written consent only if the call has an advertisement or is telemarketing), and the caller must identify itself at the start and give a callback number during or after the message (47 CFR § 64.1200(b)). The ruling concerns voice; it does not hold that AI-written text messages are covered[115, 116]. After *McLaughlin Chiropractic v. McKesson* (U.S. June

20, 2025), district courts decide the statute's meaning independently, so FCC 24-17 is persuasive, not binding[117].

- *Texts.* Under *Facebook v. Duguid* (U.S. April 1, 2021), an autodialer must use a random or sequential number generator, so a platform that texts a stored candidate list is generally not an autodialer; artificial-voice calls remain covered regardless[118]. State mini-TCPAs without an autodialer element fill that space (Section 4).
- *Consent for recruiting.* For non-telemarketing calls and texts, prior express consent is required but no specific method is; a person who knowingly gives a phone number has invited calls at it, within the purpose for which it was given (FCC 15-72, para. 49)[119]. "Prior express written consent" is an advertising and telemarketing requirement (47 CFR § 64.1200(f)(9))[116]. The FCC's bureau has said a recruiter's call about potential employment is not a "telephone solicitation" if the called party will not be asked to buy, rent or invest in anything (DA 21-69)[120]. A message that also pitches a paid product or fee can change that answer. The Do-Not-Call rules in § 227(c) protect residential subscribers and reach only telephone solicitations. Whether a text is a "call" under § 227(c)(5) is split: the Seventh Circuit said no in *Steidinger v. Blackstone Medical Services* (July 14, 2026)[121], and district courts have gone both ways (as reported by TCPAWorld)[122].
- *Revocation (47 CFR § 64.1200(a)(10)-(12)).* In force since April 11, 2025 for the core rule: any reasonable method; "stop," "quit," "end," "revoke," "opt out," "cancel" and "unsubscribe" are reasonable per se; honor within ten business days; one confirmation text allowed. The "revoke all" effect is waived until January 31, 2027[123, 124]. On September 30, 2026 the FCC adopted FCC 26-67: callers may designate an exclusive revocation method (key-press, standardized reply words, or a designated website or number) if they disclose it clearly and conspicuously; a revocation of an informational message can be limited to that category; the ten-business-day limit stays; the changes take effect 30 days after Federal Register publication, not yet published as of October 7[27]. An AI recruiter must recognize free-text "stop"-style replies and propagate them in time.
- *Damages and who can sue.* The statute protects the "called party" and regulates "any person," with no consumer limit and no marketing requirement, so applicants are protected. Remedy: $500 per violation or actual loss, up to three times that if willful or knowing[125].
- *Pending.* The FCC's 2024 AI notice (FCC 24-84; CG Docket 23-362) would require disclosure at the start of each AI-generated voice call and written consent forms that say AI will be used. It sits on the long-term agenda; no final rule exists[126, 127]. The one-to-one consent rule was vacated (*Insurance Marketing Coalition v. FCC*, 11th Cir. Jan. 24, 2025; FCC conforming rule effective August 29, 2025)[128, 129], and a bill to revive it (H.R. 10610, introduced September 24, 2026) is at an early stage[130]. In the Fifth Circuit, *Bradford v. Sovereign Pest Control* (Feb. 25, 2026) held the statute requires only prior express consent, not written consent, even for prerecorded telemarketing calls[131].

FTC Act Section 5. The FTC retains deception authority over misstatements about what an AI hiring product does or how accurate or unbiased it is. The FTC's own July 2026 statement cites recent AI-claims cases (Workado, DoNotPay, IntelliVision)[132]. The "deploying biased tools" theory is gone at the FTC for now (August 7, 2026 statement, above)[9]. EO 14365 Sec. 7 required a Section 5 policy statement within 90 days (about March 11, 2026). The FTC missed that date and issued a *proposed* "Policy Statement Concerning the Suppression of Accuracy in Artificial Intelligence Systems" on July 1, 2026 (91 FR 41638, July 7, 2026;

comments closed July 31, 2026). It says steering AI outputs toward undisclosed objectives, even to comply with a state law such as Colorado's revised AI Act, can deceive consumers, and that state law "is impliedly preempted to the extent it conflicts with a Federal regulatory scheme." It is a policy statement, not a rule, and cannot itself preempt anything; we found no final version[40, 132].

NLRA. Limited relevance. General Counsel memo GC 23-02 (October 31, 2022) on electronic monitoring and algorithmic management was rescinded by GC 25-05 (February 14, 2025)[133]. General Counsel Crystal Carey's August 26, 2026 priorities memo (GC 26-04) does not mention AI, algorithms or surveillance[134]. We found no replacement guidance; employee monitoring now rests on existing Section 7 law, and resume parsing itself has negligible NLRA exposure (analysis).

EEOC and DOL guidance status. The May 2022 and May 2023 EEOC AI pages are gone and the April 2024 EEOC explainer ("What is the EEOC's role in AI?") still lists them with dead links[53]. DOL's Field Assistance Bulletin 2024-1 (AI under the FLSA) was withdrawn after EO 14110 was revoked, and DOL's "AI and Worker Well-being" principles page returns "Page Not Found"[135]. The September 2024 PEAT inclusive-hiring framework file is still hosted by PEAT, and the related DOL news releases carry DOL's generic out-of-date banner[136, 137]. OFCCP's April 2024 contractor AI guide was still posted in late January 2025, was reported removed by February 2025, and now returns "Page Not Found"[54, 80]. Federal contractor nondiscrimination duties changed: EO 14173 (January 21, 2025) revoked EO 11246 and OFCCP's rescission rule takes effect October 26, 2026, but Section 503 and VEVRAA obligations continue under separate rules, most of them effective September 21, 2026[35, 138]. OFCCP still exists: FY2026 funding was enacted at $100,976K and 138 FTE, and the FY2027 budget proposes eliminating it (a proposal, not law)[139]. We found no AI-specific replacement guidance from EEOC, DOL or OFCCP. EEOC's 2026 AI mentions are limited to a dissenting Commissioner's remarks and a forward-looking note in its FY2026-2030 Strategic Plan[91, 140]. DOL's 2026 AI activity is workforce-skills oriented, such as the February 13, 2026 AI Literacy Framework[141]. New federal guidance does exist in the adjacent national-origin area (below). EEOC regained a quorum when Commissioner Panuccio was sworn in on October 27, 2025; it has three members and acts by 2-1 votes[142].

Executive Orders. EO 14110 (October 30, 2023) was revoked by EO 14148 (January 20, 2025)[143]. EO 14179, "Removing Barriers to American Leadership in Artificial Intelligence" (January 23, 2025), set a deregulatory policy and a review of EO 14110 actions; it did not re-create them[144]. The July 23, 2025 AI Action Plan followed, with companion orders including EO 14319 (federal procurement of language models that meet "truth-seeking" and "ideological neutrality" principles)[145, 146]. The most significant order is **EO 14365, "Ensuring a National Policy Framework for Artificial Intelligence"** (signed December 11, 2025; 90 FR 58499). In summary: Sec. 3 created a DOJ AI Litigation Task Force (the Attorney General's memorandum is dated January 9, 2026)[147]; Sec. 4 required Commerce to publish within 90 days (about March 11, 2026) an evaluation of "onerous" state AI laws; Sec. 5 tied BEAD non-deployment funds to that list and told agencies to assess conditioning discretionary grants; Sec. 6 starts an FCC proceeding 90 days after the Commerce list is published; Sec. 7 calls for the FTC statement; Sec. 8 asks for a legislative recommendation, which may not propose preempting state laws on child safety, AI compute and data center infrastructure, state procurement and use of AI, and other topics to be determined. It creates no enforceable rights (Sec. 9(c)) and preempts nothing[12]. The order's text names only Colorado ("a new Colorado law banning 'algorithmic discrimination'"); California appears in the White House fact sheet, not in the order[12, 47]. **Status:** as of October 11, 2026, no public Commerce evaluation of "onerous" state AI laws (due about March 11, 2026) and

no BEAD policy notice tied to state AI laws have been located. This is a search result, not a confirmed fact: the Federal Register shows no Commerce or NTIA document on the evaluation, Commerce's press-release list through September 30, 2026 shows none, and the order says "publish" without saying where[12, 432]. The evaluation was reported as missed in March and April 2026 and again in September 2026, and K&L Gates (May 26, 2026) and Holland & Knight (March 2026) said it had not been released[148, 149, 433, 445]. NTIA's September 3, 2026 notice does not mention AI and says other uses of BEAD funding will be addressed in later guidance, and as of September 30, 2026 Commerce had not issued replacement guidance for BEAD non-deployment funds, the category the order ties to state AI laws[150, 443, 444]. The FCC proceeding keyed to that list therefore has not formally started. The order does not itself invalidate any state law, so follow each state's AI law by its own terms and effective date, and watch for either document[446]. The only DOJ court filing we found that touches an employment-related AI law is its April 24, 2026 intervention in *X.AI LLC v. Weiser* (D. Colo.) on an Equal Protection theory[13]; DOJ's papers do not mention the Task Force by name[151]. DOJ also filed an August 18, 2026 statement of interest in *X.AI LLC v. Ellison* (D. Minn.), xAI's challenge to Minnesota's nudification law, which is not an employment case; it cites the Task Force memorandum, but we could not confirm the Task Force itself filed it[428]. As of October 11, 2026 we found no DOJ suit, intervention or statement of interest against the California, Illinois, Texas or New Jersey AI-employment rules. We checked DOJ's news index, the Attorney General's select-publications page and the Civil Division's affirmative-litigation press page, but those pages are not complete lists of DOJ filings (neither index page lists the Minnesota filing), so this is a dated search result, not proof that nothing is pending[431, 488, 489]. The closest federal pressure we found on Illinois is a delay in approving its BEAD broadband plan, which Governor Pritzker called "unusual and targeted" in a May 12, 2026 letter; the plan was approved in late August 2026, and we found no source tying the delay to HB 3773[491, 492]. Governors: California's governor opposed the order on December 11, 2025 without an express pledge to keep enforcing[62]; Colorado's Attorney General stipulated to a stay of enforcement and the legislature replaced the law[46, 152]. Related: H-1B Proclamation 11069 (signed September 18, 2026; 91 FR 60497) extends the $100,000 payment condition for new petitions for workers outside the U.S. to September 21, 2027, and EO 14431 (91 FR 60501) directs State, Labor and Homeland Security to coordinate H-1B enforcement, including INA section 274B[33, 34]. Neither regulates resume screening.

Pending federal legislation. No comprehensive federal AI-in-hiring statute exists as of October 2026. The 10-year state-AI moratorium in the House-passed reconciliation bill (H.R. 1, Sec. 43201) covered "automated decision systems" with no employment or civil-rights carve-out; the Senate struck it 99-1 on July 1, 2025 and P.L. 119-21 has no such text[153, 154]. House Republican leaders and the White House tried again, beginning in mid-November 2025 (first reported November 17), to attach a ban on state AI laws to the FY2026 NDAA[453, 454]. House Majority Leader Scalise said on December 2, 2025 that the NDAA was not the right place for it, and neither the December 7 compromise text nor the enacted law (P.L. 119-60, signed December 18, 2025) contains any state-AI preemption or moratorium[155, 455, 456]. We found no published text for the provision; reporting described it as language leaders were shopping. For FY2027: the House passed the NDAA (H.R. 8800) on July 22, 2026, 216-212, with no AI preemption text[14]. The Senate bill (S. 4784) has none either and failed cloture on the motion to proceed on July 14, 2026, 50-46; there is no conference[15, 156]. The FY2027 continuing resolution (P.L. 119-103, approved September 2, 2026) runs to December 11, 2026 with

no AI text[16]. We checked at least ten of the twelve House FY2027 appropriations bills and found no state-AI rider (two could not be located in one check); Senate bills were not located. No omnibus text exists, and a December add-on cannot be ruled out. Live standalone proposals, none scheduled for a floor vote:

- *H.R. 9925, FRONTIER Act* (Obernolte, with Trahan and others; introduced July 23, 2026): preempts only new state obligations on AI *developers* in three frontier-risk areas (risk transparency, third-party auditing, incident reporting). Sec. 9(c)(2) preserves state regulation of AI use or deployment by deployers or users "including via consumer protection, civil rights, contract, criminal, or privacy laws." Employment is not named. It is the only 2026 bill we found that names civil-rights laws in a savings clause. Referred to House committees; no action[39].
- *Great American AI Act* discussion draft (June 4, 2026; not introduced): Sec. 121 would preempt state laws "specifically regulating the development of any artificial intelligence model" for three years, and saves generally applicable and post-deployment use laws[157].
- *H.R. 5388* (Baumgartner, 2025): a five-year moratorium on state laws regulating AI models, systems or automated decision systems, with no employment or civil-rights carve-out; stalled since December 2025[158].
- *H.R. 8413, SECURE Data Act* (Joyce; April 21, 2026): a federal privacy bill whose Sec. 15 preempts any state law that "relates to" the Act, with no savings clause; employment-context individuals are outside its "consumer" definition[159].
- *White House legislative recommendations* (March 20, 2026; non-binding): asks Congress to preempt state AI laws that impose undue burdens, with no employment or civil-rights carve-out[160]. Senator Blackburn's "TRUMP AMERICA AI Act" is a discussion draft only[161].
- *Opposing bills:* the GUARDRAILS Act (H.R. 8031; S. 4216) would void EO 14365; S. 3557 would bar funds to implement it; the No Robot Bosses Act (H.R. 6371; S. 4833) and the Algorithmic Accountability Act (H.R. 5511; S. 2164) would add employer duties. All are introduced only[162, 163, 164, 165, 166]. On September 23, 2026, 26 state attorneys general wrote Congress urging federal AI rules that do not preempt state law[167].

National origin, citizenship status and visa filters. The Immigration and Nationality Act's anti-discrimination provision matters most for any parser rule that keys on visa, citizenship or work-authorization language.

- *The statute (8 U.S.C. § 1324b, INA § 274B).* It bars discrimination in hiring, recruitment or referral for a fee, and discharge, because of national origin and, for "protected individuals" only, citizenship status. Protected individuals are U.S. citizens and nationals, lawful permanent residents, refugees, asylees and certain temporary residents (subject to naturalization-timing exclusions). Employers with three or fewer employees are exempt. National-origin claims go to the Department of Justice's Immigrant and Employee Rights Section (IER) for employers with 4 to 14 employees and to EEOC under Title VII for 15 or more; the same facts cannot be charged in both. Citizenship-status claims under the INA go only to IER. Charges must be filed within 180 days. Document abuse is actionable only if done "for the purpose or with the intent of discriminating." An employer may prefer an equally qualified U.S. citizen or national. Civil penalties per individual are inflation-adjusted (for a first order, $590 to $4,730)[168, 169]. Title VII can

also reach citizenship rules that operate as national-origin discrimination (below), so the INA is not the only route.

- *Refusing to sponsor.* IER's 2010, 2013, 2014 and 2016 technical-assistance letters say declining to hire someone because they need visa sponsorship generally does not violate the INA citizenship-status provision, because H-1B and F-1/OPT holders are not protected individuals. The 2016 letter says an employer that asks every applicant whether they will now or in the future need sponsorship and rejects those who do "would likely not violate" the statute. The same letters say all work-authorized people stay protected from national-origin discrimination, document abuse and retaliation. These letters are not advisory opinions; IER's index (last updated September 27, 2022) still lists them and we found no withdrawal[170, 171, 172, 173, 174].
- *Screening questions.* IER's September 9, 2022 letter, its latest on pre-screening, calls two questions appropriate ("Are you legally authorized to work in the United States?" and "Will you now or in the future require sponsorship for employment visa status?") and cautions against anything broader. Asking about "permanent" authorization, for example, could deter asylees and refugees with indefinite work authorization, and basing hiring decisions on answers to additional questions "risks discriminating"[175]. The same logic points to the riskier design: a parser that infers status from words in the resume (such as "citizen," "green card," "EAD," "OPT" or "visa") rather than using the applicant's own answers to the two standard questions can wrongly reject protected asylees, refugees and permanent residents (inference). IER's August 21, 2012 letter cautions against software that asks applicants for citizenship or immigration status at the application stage even when it reduces the answer to a work-authorized flag, and against software that inaccurately determines work eligibility, "particularly for individuals with less common immigration statuses"[176]. Its December 22, 2010 letter says an applicant-tracking question asking whether the applicant can "submit proof" of the right to work after employment can look like prescreening, and recommends asking whether the applicant is currently authorized to work[177].
- *What clearly crosses the line.* IER's Best Practices page (updated December 19, 2023) lists "Only U.S. Citizens," "Citizenship Required," "H-1Bs Only," "H-1Bs and OPT Preferred" and "Must have a green card" as limits that "violate the law that IER enforces unless there is a legal requirement." It also says not to assume only U.S. citizens may work and to avoid unnecessary hurdles such as requiring a Social Security number to apply[178]. Export-control rules (ITAR, EAR) do not require limiting jobs to U.S. citizens[179]. Settlements include Cox Communications (November 2023, $459,895; more than 100 ads that excluded asylees, refugees and permanent residents) and Jonal Laboratories (November 2025; positions limited to citizens and permanent residents)[10].
- *Title VII overlay. Espinoza v. Farah Mfg.*, 414 U.S. 86 (1973): Title VII does not itself bar citizenship discrimination, but it is violated whenever a citizenship rule has the purpose or effect of national-origin discrimination[180]. EEOC's 2016 national-origin guidance repeats that (Examples 31 and 32) and says screening out candidates who lack a Social Security number implicates Title VII if it disproportionately screens out work-authorized people of one national origin[181]. That Social Security theory is a disparate-impact theory, which EEOC now says it will not pursue (above).
- *The anti-American-bias push.* On February 19, 2025 the EEOC's then-Acting Chair announced increased enforcement against employers that prefer non-American workers and against staffing agencies that comply with client preferences[182]. On November 19, 2025 EEOC issued technical assistance ("Discrimination Against American Workers Is Against The Law") saying national-origin discrimination

can include preferring workers with a particular visa status, that "H-1B preferred" and "H-1B only" ads are evidence, and that customer preference, lower cost and beliefs about productivity do not excuse it[183, 184]. The National Enforcement Plan lists ads and policies that favor "guest worker visa holders" or "PERM applicants," staffing agencies, and "Protecting American workers from anti-American national origin discrimination" as priorities (the plan is silent on employers that simply decline to sponsor, so do not read it as exempting sponsorship rules)[7]. *EEOC v. Sibitalent Corp.*, No. 3:26-cv-11106 (N.D. Cal., announced September 30, 2026), alleges a staffing agency's "ONLY H-1B" notice and refusal to refer an American applicant violated Title VII; no screening software is involved[11]. EEOC and DOL are coordinating on DOL's "Project Firewall," launched September 19, 2025[185].

- *DOJ's Protecting U.S. Workers Initiative* (relaunched 2025) has produced 13 announced settlements and one complaint as of the IER page updated August 4, 2026. The pattern is job ads limited to H-1B, OPT or H-4 holders and PERM recruitment that disadvantaged U.S. workers[10, 186]. Examples: Epik Solutions (June 2025, $71,916); H-2A Complete II (July 2025, $25,000, unjustified experience requirements in job orders); TekisHub (September 2025, $200,000); Compunnel (April 2026, $313,420 including back pay); OpenAI and Statsig (August 2026, $3.2 million); and *United States v. Cloudera* (OCAHO complaint, April 28, 2026)[10].
- *Enforcement involving software.* We found no IER or EEOC action in which a resume parser, applicant-tracking filter or screening score keyed to sponsorship or citizenship keywords was itself the violation. The closest matters: Elegant Enterprise-Wide Solutions (settled February 23, 2026, $9,460), where two job ads generated by an AI tool restricted jobs to H-1B, OPT or H-4 holders and DOJ said it would not tolerate discrimination "no matter who - or what - drafts a job advertisement"[187, 188]; OpenAI and Statsig, where U.S. workers had to apply by mail, and the remedy requires the applicant tracking system to capture all PERM applications and keep them searchable "in the same manner" as other applicants[36, 189]; and Cloudera, where applicants were told to email an address that bounced all outside email[190]. In each, the problem was a separate or broken intake route or an AI-drafted ad, not a parser filter. This is a negative finding limited to IER's public list, and private suits and EEOC actions were not exhaustively searched. We also found no case against a software vendor (as opposed to a recruiter or employer) under either statute; whether a parser vendor is an "agent" or "employment agency" for national-origin or § 1324b purposes is unanswered.
- *Document abuse and onboarding.* If automation extends into I-9 paperwork, IER's June 15, 2026 Whirlpool settlement ($125,000 plus a $100,000 back-pay fund) is the current example of requiring non-citizens to supply extra documents[10].
- *Proxy list for bias testing.* Add federal national-origin and citizenship proxies: a required Social Security number to apply (IER Best Practices; EEOC 2016 guidance), a required U.S. degree (the August 6, 2013 letter from OSC, IER's predecessor, says a facially neutral requirement can violate the statute if purposely adopted or selectively applied to discriminate by citizenship status, and did not decide the degree question)[191], and experience-year thresholds set to exclude U.S. workers (H-2A Complete II). Names and attendance at schools used by one national-origin group are listed in 29 CFR § 1606.1[192].
- *State overlay.* California's FEHA regulation, 2 CCR § 11028(f)(3), makes it unlawful to discriminate against an applicant because of immigration status unless the employer shows by clear and convincing evidence that federal immigration law requires it[193]. Illinois law names "citizenship status" and "work authorization status" as protected, but also says nothing in the Act requires an employer to sponsor a

worker unless federal law does[194]. Application of either rule to a sponsorship question or parser default is untested; ask local counsel. Federal IER guidance does not preempt state law.

- *Policy backdrop is not a rule.* Proclamation 11069 and EO 14431 do not regulate screening, and we found no source tying them to the spread of "no sponsorship" defaults.

2. State-by-State Layer

The binding obligations live here. Effective dates are collected in Recommendation 6.

New York City - Local Law 144 (AEDT). In force since January 1, 2023 and enforced by DCWP since July 5, 2023[55, 195]. No amendment to the law or to DCWP's rules after 2023 turned up.

- *Coverage.* The law applies to AEDT use "in the city": the job is based at an office in NYC (at least part time); or the job is fully remote but tied to an NYC office; or the employment agency using the tool is in NYC. **Coverage turns on the job's location, not where the candidate lives.** Residency matters only for notice, which goes to candidates and employees who reside in the city.[55]
- *What counts as an AEDT.* A tool "substantially assists or replaces" discretionary decision-making only if it (i) relies solely on a simplified output (score, tag, classification, ranking), (ii) uses that output as one of a set of criteria and weights it more than any other, or (iii) uses it to overrule other conclusions, including human decisions. Output of tools that translate or transcribe existing text, such as converting a resume from a PDF, is not a simplified output. The rule's own example treats a resume-screening and interview-scheduling tool as covered even though it makes no final decision. DCWP's FAQ says the law does not apply to scanning a resume bank, outreach, or inviting applications; it covers people who applied for a specific position. DCWP told the State Comptroller the same tool can be an AEDT for one employer and not another[26, 55, 56]. A parser that only converts or extracts fields for a human reviewer, without scoring or ranking that outweighs other factors, is likely outside the definition, but that is a fact-specific call.
- *Bias audit.* No more than one year before use, on a rolling basis (6 RCNY 5-301(a)). The auditor must be independent: not involved in using, developing or distributing the tool, with no employment relationship or financial interest in the employer or vendor. DCWP does not approve auditors. A vendor can commission an independent audit of its tool, but the employer remains responsible; so the rule is "no in-house or conflicted auditor," not "a vendor cannot obtain an audit". The audit must use historical data of the tool. An employer can rely on an audit built on other employers' data only if it supplied its own historical data or has never used the tool; test data is allowed only when historical data is insufficient for a statistically significant audit; inferred or imputed demographic data cannot be used[55, 56].
- *Public summary.* The date of the audit, a summary of results (data source, number of individuals in unknown categories, number of applicants, selection or scoring rates, and impact ratios for all categories, calculated separately for sex, race/ethnicity and intersectional sex-by-race/ethnicity categories) and the tool's distribution date, posted clearly on the employment section of the website and kept at least six months after the last use. A category under 2% of the data may be excluded with a stated justification. **The rule sets no pass/fail threshold.** The 0.80 benchmark is a Title VII rule of thumb that an employer may apply on its own; DCWP's FAQ says the law does not require any specific action based on audit results[55, 56].

- *Notice.* At least ten business days before use, to NYC-resident candidates and employees: that an AEDT will be used and the job qualifications and characteristics it will assess, delivered through the employment section of the website, a job posting, or mail or email. The notice must include instructions for requesting an alternative selection process or a reasonable accommodation under other laws, "if available"; **the rule states that nothing in it requires an employer to provide an alternative process**. The employer must also post (or, on written request, provide within 30 days) its data retention policy and the type and source of data collected[56, 195].
- *Penalties.* The statute sets up to $500 for a first violation and each additional violation on the same day, and $500 to $1,500 for each subsequent violation; each day of unlawful use and each missing notice is a separate violation[195]. DCWP's schedule (6 RCNY 6-81) lists $375, $1,350 and $1,500 for first, second and third repeat violations of the same provision within two years[196]. Enforcement is by DCWP and the Corporation Counsel. The statute creates no private right of action but preserves other civil claims and Human Rights Law enforcement (§ 20-874)[195].
- *Enforcement record.* The State Comptroller's report 2024-N-6 (December 2, 2025; period July 2023 to June 2025) found DCWP's system ineffective: two complaints received; 3 of 12 test calls to 311 routed to DCWP; DCWP found one issue in 32 company reviews where the auditors found at least 17. DCWP's September 26, 2025 response said it "can adopt" most procedural recommendations but rejected the recommendations for research on the low complaint count and for proactive, resource-intensive enforcement, and noted it received no added resources. DCWP has not announced tougher 2026 enforcement; predictions of tougher enforcement came from law-firm commentary[26, 197]. As of October 11, 2026, we found no publicly announced Local Law 144 penalty or settlement: DCWP's press releases (January 2025 to October 6, 2026), its Recent Settlements and Lawsuits page and the City's public enforcement data (OATH hearing records and DCWP charges) list none, no State Comptroller follow-up to audit 2024-N-6 has been published, and DCWP's 180-day response to the Comptroller (due about May 31, 2026) is not public[26, 500, 501, 502, 503, 504]. At the October 5, 2026 City Council hearing NYU's Julia Stoyanovich said the law had produced two complaints and no penalties in three years (amNY's paraphrase); that is a witness's claim, not a DCWP figure[198]. Non-public investigations or settlements cannot be ruled out. On October 1, 2026 DCWP, the Commission on Human Rights and the TLC issued a joint AI enforcement policy statement that says existing laws apply whether or not AI is used, says employers are responsible for ensuring their technologies do not result in unlawful discrimination under the Human Rights Law, never mentions LL144 and announces no new standards[24, 199].
- *Council activity.* A package of AI bills was heard on October 5, 2026; none of the bills we read amends LL144[25]. Local Law 25 of 2026 requires only a study of algorithmic and automated employment decision tools used on city employees[200]. Local Laws 188, 193 and 195 of 2025 create an Office of Algorithmic Accountability for city agencies, not private employers[201].

Illinois. Three employment layers plus biometrics.

- *AI Video Interview Act* (820 ILCS 42; effective 2020). For Illinois-based positions where an employer asks applicants to record video interviews and uses AI to analyze them: notify the applicant that AI may be used to consider fitness, explain how the AI works and what general characteristics it evaluates, and obtain consent before the interview; do not use AI on applicants who have not consented; share videos only with people whose expertise or technology is needed to evaluate fitness; delete a video within 30

days of the applicant's request, and instruct recipients to delete their copies. Section 20 (P.A. 102-47, effective 2022) adds that an employer relying solely on AI analysis to decide who gets an in-person interview must collect race and ethnicity data on who is and is not advanced and hired, and report it to DCEO by December 31 each year. The Act has no penalty or private-action section and has not been amended since 2022; web claims of "2026 amendments" adding written consent or a $5,000 penalty do not appear in the statute[202].

- *HB 3773* (P.A. 103-0804), adding 775 ILCS 5/2-102(L) to the Human Rights Act, **effective January 1, 2026**. For recruitment, hiring, promotion, renewal, training selection, discharge, discipline, tenure and terms of employment, it is a civil-rights violation to use AI that "has the effect of subjecting employees to discrimination" on protected classes, to use zip codes as a proxy for protected classes, or to fail to give an employee notice that AI is being used. The statute defines AI broadly (including generative AI), covers employers with one or more Illinois employees for 20 or more weeks, and tells IDHR to adopt rules on when, how and in what time period notice must be given. Liability is effect-based by the statute's wording; "intent is not a defense" is a fair reading, not quoted text[203, 204]. **IDHR has no notice rules.** IDHR proposed AI-notice rules (a new Subpart J, 56 Ill. Adm. Code 2520.900 and 2520.910) on May 15, 2026 (50 Ill. Reg. 6794), announced on June 2 that the June 10 hearing was postponed, and formally withdrew the proposal in the Illinois Register on June 26, 2026 (50 Ill. Reg. 8755) "to further consult and collaborate with other State agencies"[205, 206, 207, 457, 458]. As of October 9, 2026 (Register issues through Issue 41), no IDHR rules implementing the AI provision are adopted or re-proposed, so the notice duty in § 2-102(L) applies with no rule on timing, format or content[460, 461]. IDHR's July 2026 regulatory agenda lists a Part 2520 rulemaking with first notice anticipated November 10, 2026; it gives the same date for its other rulemakings and the entry does not mention AI, so treat the date as a placeholder and re-check the Illinois Register after it[459]. The withdrawn draft would have required annual notice to current employees and notice within 30 days of adopting a new or substantially updated system, notice to applicants in the job posting, and 3-year (not 1-year) record retention; treat it as a template only. The notice duty runs to an "employee"; whether it reaches ordinary applicants is unsettled (the withdrawn draft would have extended it)[208]. A charge must be filed with IDHR within two years (775 ILCS 5/7A-102(A)(1)); 300 days applies only to charges first filed with the EEOC[209]. As of October 11, 2026, no public enforcement action, Human Rights Commission decision or court case under § 2-102(L) has been found: none of the 204 Commission decisions dated 2026 (through October 6) mentions the AI provision, IDHR's news releases announce no AI charge, and the only court filing located that mentions the provision is Eightfold's motion to dismiss in *Kistler v. Eightfold AI*, a federal credit-reporting case, which cites it in passing[483, 484, 485]. IDHR investigation reports and position statements are confidential by statute (775 ILCS 5/7A-102), so a pending charge cannot be ruled out; the accurate statement is "no public enforcement or case law found," not "none exists"[209].
- *SB 3777, Civil Rights Safeguard Act* (P.A. 104-0744; Governor approved July 31, 2026; **effective June 1, 2027**), adding 775 ILCS 5/2-103.5. It is a civil-rights violation for an employer, employment agency or labor organization to use "criteria or methods" that have the effect of subjecting individuals to discrimination on a protected basis (the list includes citizenship status, family responsibilities, work authorization status, arrest record and conviction record) unless the respondent shows the criteria are job related and consistent with business necessity, and a complainant can still prevail by showing a less discriminatory alternative. This codifies disparate-impact burden-shifting in the Human Rights Act

without an intent requirement. The enrolled text never uses the words artificial intelligence, algorithm or automated; its reach to resume parsers and scoring tools rests on reading them as "practices or policies" (inference)[37, 210].

- *BIPA* (740 ILCS 14). P.A. 103-0769 (SB 2979, effective August 2, 2024) limits a person to one recovery for repeated collection of the same biometric identifier by the same method and defines a "written release" to include an electronic signature; liquidated damages of $1,000 (negligent) or $5,000 (intentional or reckless) per person stay[211, 212]. The Seventh Circuit held on April 1, 2026 (*Clay v. Union Pacific*, No. 25-2185) that the amendment applies to cases pending when it was enacted[213]. A Lake County class settlement with HireVue over video-interview models that may have captured facial and voice biometrics ($3.75 million fund; class period January 27, 2017 to June 25, 2026) has a final approval hearing on October 28, 2026; the notice states no admission of wrongdoing[214].
- *Other 2026 session results.* Public Act 104-0565 (SB 2909, effective January 1, 2027) bars evaluators from using AI tools to score teacher-evaluation components; it does not reach hiring[215]. Public Act 104-0538 (SB 315) covers large frontier AI developers, with whistleblower protections[216]. Other AI-employment bills (SB 2203, HB 4980, HB 4987, SB 3571 and others) stalled in committee; the General Assembly runs through January 2027, so none is formally dead[215].

Colorado. SB 24-205 was signed May 17, 2024[217]. SB 25B-004 (signed August 28, 2025) moved its duties from February 1, 2026 to June 30, 2026[218]. **SB 26-189, "Automated Decision-Making Technology,"** was signed May 14, 2026 (Session Laws ch. 131). It repeals and reenacts Part 17 of Article 1 of Title 6, takes effect January 1, 2027 (a few rulemaking and appropriation sections took effect on passage), and applies to consequential decisions made on or after January 1, 2027[59, 219]. The old law's June 30, 2026 operative date stayed in the statute until January 1, 2027, but it was never enforced.

- *The federal case. X.AI LLC v. Weiser*, No. 1:26-cv-01515-DDD-CYC (D. Colo.), filed April 9, 2026 with six constitutional counts against SB 24-205. DOJ intervened on April 24, 2026 (Equal Protection, 42 U.S.C. § 2000h-2); its complaint uses a job-applicant screening algorithm as a worked example of compelled discrimination[13, 151]. On April 27, 2026 the court entered a stipulated order (ECF 24): the Attorney General "shall not initiate enforcement, including … an investigation" for violations of SB 24-205 "or any legislation replacing or amending SB24-205 enacted during this legislative session" that occurred or may occur through 14 days after the court rules on xAI's preliminary-injunction motion, which xAI need not file until 28 days after final rulemaking. It is not a merits ruling or injunction. It does not name SB 26-189 but appears to reach it, and no later filing confirms that. The docket shows only an October 2, 2026 attorney withdrawal after the order[46, 220, 221].
- *Substance.* "ADMT" is technology that uses computation to generate predictions, recommendations, classifications, rankings, scores or other output used to make, guide or assist a decision. "Covered ADMT" is ADMT used to "materially influence" a consequential decision: a non-de minimis output that affects the outcome, including by constraining, ranking, scoring, recommending or classifying (incidental, trivial or clerical uses excluded). Employment is a covered domain, and "consumer" expressly includes employees and Colorado-resident job applicants. The bill drops the high-risk classification, the duty of care, risk-management programs and impact assessments, and nothing is filed with the Attorney General[59, 222]. **Parsing versus scoring.** ADMT excludes a tool used solely to summarize, organize, translate, draft, route or present information for human review, and "consequential decision" excludes uses that only

summarize or present information and produce no score, ranking, recommendation or other inference that materially influences the outcome. So extraction-only parsing that feeds a human reviewer is likely outside the law, while match scores, rankings, knockout filters and auto-rejects are likely inside it (inference from the text; the Attorney General's draft rules presume a threshold or ranking output is influential, rebuttably).

- *Duties from January 1, 2027.* Developers give deployers documentation (intended uses, training-data categories, limits, instructions for use and human review) and keep records three years. Deployers keep compliance records three years and, before using covered ADMT, give clear and conspicuous notice, which a prominent public notice reasonably accessible at points of consumer interaction can satisfy. Within 30 days after an adverse outcome they give a plain-language description of the decision and the ADMT's role, instructions for requesting more information, and an explanation of consumer rights. On request after an adverse outcome, they must provide instructions to correct inaccurate personal data and "an opportunity for meaningful human review and reconsideration of the consequential decision, to the extent commercially reasonable." Opinions, predictions and scores need not be corrected. **This is a request-triggered post-decision right, not a mandate to put a human in every decision.**
- *Liability and enforcement.* Developers and deployers can be liable under Colorado's Anti-Discrimination Act for decisions materially influenced by covered ADMT, with fault allocated by relative fault. SB 26-189 (C.R.S. § 6-1-1707(7)) voids a contract clause that indemnifies a party for liability for damages from its own acts or omissions in violating the Colorado Anti-Discrimination Act or other Colorado anti-discrimination law. It does not void the clause for a developer where the deployer used the ADMT in a way the developer did not intend, document, market, advertise, configure or contract for and the developer complied with § 6-1-1702. Other commercial contract terms and insurance claims are unaffected. Enforcement is by the Attorney General alone under the Consumer Protection Act, with a 60-day cure opportunity for curable violations (not required for knowing or repeated violations) until January 1, 2030; there is no new private right of action[59].
- *Rulemaking.* The Attorney General must adopt rules on post-adverse-outcome disclosures and consumer rights by January 1, 2027; other rules are discretionary. Proposed rules (4 CCR 904-6) were filed August 11, 2026; an interim draft followed October 6; written comments and the formal hearing are set for October 26, 2026. The interim draft adds a rebuttable presumption that an output is materially influential if it constrains options, sets a threshold, or produces a rank, score, classification or recommendation the decision-maker reviews; and Rule 4.3 makes an employer the deployer when a staffing company runs ADMT to narrow its applicants. Disclosure content, the 15-day response period and the human-review standards in the Aug. 11 and Oct. 6 drafts differ; do not rely on either until the rules are final[20, 21].
- *Related.* Colorado's biometric amendments (HB 24-1130) and the conversational-AI statute (HB 26-1263) are covered in Section 4. The FTC's proposed July 2026 policy statement targets Colorado's revised law (Section 1).

California. Two parallel regimes, plus 2026 legislation.

(a) FEHA automated-decision-system (ADS) regulations, approved by OAL June 27, 2025 and **effective October 1, 2025**[223, 224].

- Employers with five or more employees; part-time workers and employees on leave count, as do employees outside California; government entities are covered regardless of size[225].
- ADS means a computational process that "makes a decision or facilitates human decision making" regarding an employment benefit; the listed tasks include "screening resumes for particular terms or patterns." The text does not say "resume parsing," and ordinary tools (spreadsheets, databases, spam filters) are excluded if they do not make a decision regarding an employment benefit. Because the definition reaches tools that facilitate human decisions, human review does not take a screening tool outside FEHA[225].
- Agents: a person acting on an employer's behalf to exercise a function traditionally exercised by the employer, including recruitment, screening and hiring through an ADS, is an agent and an "employer." **The Council built this on *Raines v. U.S. Healthworks (Cal. 2023), not on Mobley***. Agent status does not on its own establish liability; a software vendor is covered only if it meets the definition. A separate "employment agency" definition reaches anyone who procures applicants for compensation, including through an ADS[57].
- Anti-bias testing: § 11009(f) makes evidence, "or the lack of evidence," of anti-bias testing or similar proactive efforts relevant to a claim or defense, including the quality, efficacy, recency and scope of the effort, the results and the response. **It makes testing relevant; it does not mandate it or create a presumption against an employer that skipped it**. The Council declined to require publishing results, so there is no public-posting mandate; the regulation does not address privilege. The FEHA rules contain no ADS-specific applicant notice requirement[57, 225].
- Records: four years from the record or the personnel action, whichever is later, expressly including selection criteria and "automated-decision system data" (§ 11013(c))[225].
- Housekeeping: a sentence on the Council's rulemaking page describing a January 7, 2026 filing with an April 1, 2026 effective date refers to its contractor-nondiscrimination rules, not the ADS rules; no ADS amendments are pending[226].

(b) CCPA/CPRA regulations on ADMT, risk assessments and cybersecurity audits: the Board adopted them July 24, 2025, OAL approved them September 22, 2025 (the CPPA announced it September 23), and they are **effective January 1, 2026**[227, 228]. The CPPA now styles itself CalPrivacy. The CCPA binds only a for-profit "business" doing business in California that meets a threshold: gross revenue over $25 million (CPI-adjusted to $26,625,000), personal information of 100,000 or more consumers or households, or 50% of revenue from selling or sharing[69, 229].

- *ADMT definition.* Technology that replaces or substantially replaces human decisionmaking; "substantially replace" means using the output without human involvement. Human involvement requires a reviewer who knows how to interpret and use the output, reviews and analyzes it with other relevant information, and has authority to change the decision. Hiring, promotion, work allocation and compensation, and demotion, suspension and termination are "significant decisions"[58].
- *Compliance date January 1, 2027* for ADMT used for significant decisions (11 CCR 7200(b)): a pre-use notice (§ 7220: plain language, specific purpose, not generic wording such as "to make a significant decision"; may sit in the Notice at Collection; the regulation's example covers resume-screening software and software that evaluates vocal intonation, facial expression and gestures); an opt-out right (§ 7221)

unless the business offers a human appeal to a designated reviewer with authority to overturn, **or**, for hiring, the ADMT is used solely to assess ability to perform the job, works for the business's purpose and does not unlawfully discriminate (a similar exception covers work allocation and compensation; none covers promotion, demotion, suspension or termination); and an access right (§ 7222: purpose, logic and outcome including how the output was used; an aggregate response is allowed for the "logic" item if the ADMT was used on the consumer more than four times in 12 months). The notice must name any exception relied on. After an opt-out, processing stops within 15 business days[58].

- *Risk assessments* (§§ 7150-7157). Required before starting covered processing from January 1, 2026; processing already underway must be assessed by December 31, 2027. Triggers relevant to hiring: processing sensitive personal information (the employee carve-out covers only pay, employment authorization, benefits, legally required accommodation and wage reporting, not applicant screening), using ADMT for a significant decision, inferring a job applicant's aptitude or reliability from systematic observation (video or audio recording counts), and training ADMT or facial or emotion recognition. The regulation's own example is video interviews scored by emotion recognition with no human involvement. Review every three years, update within 45 days of a material change, keep for the life of the processing or five years, whichever is later. **What goes to the Agency is a summary and an executive attestation under penalty of perjury (due April 1, 2028 for 2026-2027 assessments), not the assessments themselves**; the Agency or Attorney General may demand the full reports, due within 30 days. Reports are not published[58].
- *Cybersecurity audits* (§§ 7120-7124, new to this guide). Required of businesses whose processing presents significant security risk (50% of revenue from selling or sharing, or the revenue threshold plus personal information of 250,000 consumers or sensitive personal information of 50,000). Applicants count as consumers. First audit reports are due April 1, 2028 (2026 revenue over $100 million), April 1, 2029 ($50 to $100 million) or April 1, 2030 (under $50 million), with an annual executive certification to the Agency. The auditor must be qualified, objective and independent; components include multi-factor authentication, strong unique passwords, encryption, least-privilege access, service-provider oversight, retention and disposal, and incident response[58].
- *Employee data rulemaking.* CalPrivacy took preliminary comments (April 20 to May 20, 2026) on notices and rights for employees, applicants and contractors; nothing has been proposed[230, 231, 232].

(c) 2026 legislation and earlier bills.

- **SB 947** (McNerney; Chapter 859; signed September 30, 2026; operative July 1, 2027): adds Labor Code §§ 1520 et seq. An employer may not rely solely on an automated decision system for a disciplinary or termination decision; where it primarily relies on ADS output, a human must corroborate it; the employee gets a post-use notice and can request a description of their own data used; an ADS cannot be used to violate employment law, infer protected status or predict and punish the exercise of legal rights. $500 civil penalty per violation; Labor Commissioner and public prosecutors enforce; no express private right of action. It dropped the pre-use notice and applicant provisions of the vetoed SB 7 and covers employees, not applicant screening. Section 1522(a)(1) is not expressly limited to discipline and termination, so do not say it can never touch hiring tools[28, 29].
- **SB 951** (Chapter 860): Cal-WARN notices for layoffs caused in whole or substantial part by AI or automation must say so; effective January 1, 2027 per law-firm sources (the chaptered text was not read)

[233]. **AB 1883** (Chapter 853) bans workplace surveillance tools that collect neural data or recognize emotional state, and **AB 1331** (Chapter 851) restricts workplace surveillance (including in bathrooms), both effective January 1, 2027 with $500 civil penalties; whether AB 1883 reaches applicant video-interview tools is unconfirmed (review any client use of emotion or sentiment analysis on candidates) [234, 235].

- **SB 690** (Chapter 976): see Section 1. **SB 923** (Chapter 482, signed September 27, 2026, effective January 1, 2027): see Section 3. **AB 1405** (Chapter 178, signed September 9, 2026): the Government Operations Agency must create an AI Auditor Registry by January 1, 2029, after which unregistered persons cannot conduct "covered AI audits"; whether that term includes hiring-tool bias audits is unconfirmed[236].
- Did not pass: SB 7 (vetoed October 13, 2025)[237]; AB 331 (failed February 2024)[238]; AB 1018 (last action August 30, 2026; not on any signed or vetoed list; reported as failed)[239]; AB 1221 (failed)[240].

(d) Mobley and FEHA. On June 22, 2026 Judge Lin held FEHA claims against Workday proceed because the tools are allegedly designed and run from its California headquarters, applying *Raines* to treat Workday as directly liable for its own FEHA-regulated conduct as the employer's agent. She expressly did not decide when an out-of-state employer using the platform for non-California hires could be liable under FEHA, and left choice of law for later[42].

(e) Challenges and federal action. As of October 11, 2026, no lawsuit, stay or injunction is known against the FEHA ADS regulations (effective October 1, 2025) or the CCPA ADMT regulations (effective January 1, 2026, with ADMT compliance due January 1, 2027), and no DOJ or Commerce action against them or SB 947 (signed September 30, 2026, operative July 1, 2027) is known. We checked the Civil Rights Council and CPPA rulemaking pages, the CalPrivacy newsroom (newest item September 27, 2026), DOJ's news index and Commerce's press releases; we could not search California state-court dockets, so this is a dated finding, not proof[223, 226, 227, 228, 429, 431, 432]. DOJ's reported court filings against state AI laws involve Colorado (April 24, 2026) and Minnesota (August 18, 2026), and Commerce's state-law evaluation, due March 11, 2026, had not been publicly released as far as we could find (Section 1)[13, 428]. The one pending case we found that invokes the FEHA ADS rules, *Doe v. Meta*, cites them against Meta as an employer, and Meta's opposition does not attack their validity (Section 7)[434, 435]. Gibson Dunn's October 2026 employment newsletter treats both California regimes as enforceable[430]. Treat the California rules as enforceable.

Texas - TRAIGA (HB 149). Effective January 1, 2026 (Act Sec. 10); adds Business & Commerce Code chs. 551-554. Section 552.056(b) bars developing or deploying an AI system "with the intent to unlawfully discriminate against a protected class in violation of state or federal law," and § 552.056(c) says "a disparate impact is not sufficient by itself to demonstrate an intent to discriminate"; the section is general, not employment-specific. The Attorney General has exclusive enforcement, there is no private right of action, and a violation can be cured within 60 days of notice. Penalties after a failed cure are tiered: $10,000 to $12,000 per curable violation, $80,000 to $200,000 per uncurable violation, and $2,000 to $40,000 per day of a continuing violation. **NIST AI RMF compliance is not a blanket safe harbor**: § 552.105(e)(2) says a defendant "may not be found liable" if it discovers a violation through an internal review process while substantially complying with the NIST framework (or similar), or through feedback, testing or state-agency guidelines. The disclosure duty (§ 552.051) applies only to governmental agencies and health-care providers, and "consumer" excludes an individual acting in a commercial or employment context, so an

applicant is not a TRAIGA "consumer." **Texas is not an overall intent-only state:** the intent standard governs only the Attorney General's TRAIGA claim. The Texas Commission on Human Rights Act (Labor Code § 21.122) recognizes disparate-impact employment claims (age follows the ADEA), and Title VII and the ADEA still apply[61, 241]. TRAIGA directs the Attorney General to post an online complaint mechanism by September 1, 2026; archived copies show the Attorney General's Consumer AI Rights page with a "File An AI Complaint" link live by July 2, 2026. It is consumer-facing and probably does not admit applicants[61, 242, 487]. As of October 11, 2026, the Attorney General has not publicly announced any enforcement action, lawsuit, notice of violation or civil investigative demand under TRAIGA: none appears in its 230 news releases from November 6, 2025 through October 9, 2026 or on its Consumer AI Rights page[242, 486]. A civil investigative demand or notice of violation would not necessarily be announced, so this means none has been publicly reported, not that none exists. Texas also has a biometric statute (CUBI) covered in Section 4.

Maryland - HB 1202 (Chapter 446; effective October 1, 2020; Lab. & Empl. § 3-717). An employer may not use a "facial recognition service" to create a "facial template" during an applicant's interview unless the applicant signs a waiver stating in plain language the applicant's name, the interview date, that the applicant consents to facial recognition during the interview, and whether the applicant read the waiver. It covers faces only, not voice; it has no penalty or enforcement clause; and it applies where a tool creates a facial template during the interview, not to every video-interview tool. A 2023 bill to extend it to government employers (HB 720) did not pass, and we found no Maryland AI-employment law enacted in the 2026 session[60, 243, 244].

New Jersey. No AI-in-hiring statute has been enacted. (a) The AG/DCR **Guidance on Algorithmic Discrimination** (January 9, 2025) says a covered entity "can violate the LAD even if it has no intent to discriminate, and even if a third-party was responsible for developing the automated decision-making tool"; it states it creates no new requirements[245]. (b) DCR's disparate-impact rules, **N.J.A.C. 13:16**, were adopted November 5, 2025 and took effect December 15, 2025. They define "automated employment decision tools" and say such tools used in advertising, recruiting, screening, interviewing, hiring or compensation may have a disparate impact (13:16-3.2(c)); a tool not "adequately tested and shown to not adversely affect people in a protected class before its use" may have one (illustrated by facial-analysis scoring of virtual interviews); a schedule-based screen must include a way to request accommodation; and a respondent relying on a vendor's systems must "take reasonable steps" to ensure LAD consistency (13:16-2.4(e)), which DCR says is "not a complete defense." DCR declined to add notice requirements, so New Jersey has no AI-use notice mandate. DCR's March 2026 FAQs say the rules do not create new liability; they apply existing LAD standards[246, 247, 248]. (c) Pending bills; none has passed a chamber, and the newest action is that S4075 was reported by the Senate Labor Committee 5-0 on October 1, 2026: A2726 and A1021 (automated employment decision tools and bias audits; introduced and referred to committee January 13, 2026, with no later action), S3263 (AI video interviews), S4075 (AI-based electronic monitoring; as introduced it would also require a pre-deployment impact assessment of automated employment decision systems by an "independent auditor," with a public registry; after the committee vote it went to Senate Budget and Appropriations), and S1840 (high-risk AI including employment)[249, 438, 439, 440]. (d) A private federal suit, *Mortgage Bankers Association v. Davenport* (D.N.J.), filed September 3, 2026 by the Pacific Legal Foundation, challenges the disparate-impact rules; we found no DOJ filing in it and no federal action against the rules as of October 11, 2026[493, 494].

Connecticut. Public Act 26-15 (Substitute SB 5, "An Act Concerning Online Safety"), signed May 27, 2026, regulates "automated employment-related decision technology" - technology that processes personal data and generates output that is a "substantial factor" in a hiring, promotion, discipline, discharge or similar decision[45, 250].

- *In force since October 1, 2026:* using such technology is not a defense to a Connecticut Fair Employment Practices Act discrimination complaint (CGS § 46a-60(b)(1); § 46a-81c), and the commission or court "may consider evidence of anti-bias testing or similar proactive efforts," including its quality, efficacy, recency and scope, results and the response. The text is permissive and has no clause treating the lack of testing as relevant, so do not say Connecticut penalizes an absence of testing (inference). Also from October 1, 2026, an employer serving a federal WARN notice must tell the Labor Department whether the layoffs relate to AI or other technological change (Sec. 26).
- *Duties for technology deployed on or after October 1, 2027:* developers give deployers the information needed (Sec. 8); deployers disclose in plain language when an employee or applicant interacts with such technology unless obvious (Sec. 9) and, before the decision, give written notice of the deployment, purpose and nature of the decision, trade name, categories and sources of personal data, and deployer contact (Sec. 10). Trade secrets may be withheld with notice (Sec. 11).
- *Enforcement:* Attorney General only, as a CUTPA violation; no private right of action; for violations through December 31, 2027 the Attorney General may (at its discretion) issue a notice of violation and may sue only if not cured within 60 days. No audit mandate, adverse-decision explanation, appeal or opt-out appears in Secs. 7-12.
- Related Connecticut 2026 laws not about AI hiring: PA 26-64 (SB 4) amends the Data Privacy Act but left out the proposed employment-profiling rights, and the "consumer" definition still excludes employment-context individuals[251]; PA 26-73 tightens electronic-monitoring notices from October 1, 2026[252]. SB 435 (employee automated decision systems) and the governor's SB 86 died[253, 254]; the 2024 and 2025 versions of SB 2 passed the Senate and died in the House[255, 256].

New York State. No statute regulating private employers' use of automated employment decision tools was enacted in the 2025 or 2026 sessions. Enacted law covers the public sector only (the LOADinG Act chain: Chapters 674 of 2024, 96 and 711 of 2025, 86 of 2026)[257]. Pending: S8706B/A9581B (proposed Labor Law § 201-j, a reporting law: employers with more than 50 employees, and publicly traded businesses, report annually to the Department of Labor on AI's effect on hiring and displacement, with penalties up to $500 per day) passed both houses on June 3-4, 2026 and, as of the records we read, has not been delivered to the Governor[258, 259]; the New York AI Act (S1169B/A8884A), which passed only the Senate on June 3, 2026 and has an independent-audit requirement and Attorney General enforcement[260]; the Bossware and Oppressive Technology Act (S185A and S10290 in Senate Labor, which would require an independent impact assessment of each tool; its Assembly version A3779A reached the Assembly floor calendar in May 2026 without a vote)[261, 262]; A9601 (human review of resume screening) and A10251, in Labor Committee[263]; and the Biometric Identifier Privacy Act (S1422A/A6031A), which passed the Senate 41-20 on June 3, 2026 and is covered in Section 4[264]. The 2025-26 term ends December 31, 2026, when unpassed bills die.

Washington, Virginia, Massachusetts, Nevada, Florida. None has an enacted AI-in-hiring-specific employment statute as of October 2026. Washington's Colorado-style HB 2157 (covering "access to employment") went to the House Rules "X" file on February 19, 2026 and was never voted on; its 2026 enactments are companion-chatbot and AI-provenance laws, not hiring laws[265, 266]. Virginia's high-risk AI bill (HB 2094) was vetoed March 24, 2025; in 2026 SB 365 and HB 1451 were continued to 2027 and HB 1514 (automated decision systems in employment decisions) failed[267, 268]. Massachusetts has no AI-hiring or enacted privacy statute; its Data Privacy Act is in conference (Section 3), and its lie-detector statute is a live theory against AI interview tools (Section 4)[269]. Nevada had no 2026 session; its 2025 AI omnibus (SB 199) died in committee[270]. Florida's AI Bill of Rights (SB 482) died in the House on March 13, 2026 and its special-session version (SB 2D) died in a House subcommittee on April 29, 2026[271].

Other states and localities. The table covers jurisdictions beyond those above. Entries come from legislature records read in October 2026; searches by bill title can miss a hiring provision inside a bill with another title. Among the jurisdictions in this table, none has enacted an AI-specific employment statute by October 10, 2026; Maine's LD 61 is a general electronic-surveillance notice law.

Jurisdiction	AI-in-employment law or bills	Comprehensive privacy law and applicants
Pennsylvania	None enacted. HB 594 (NYC-style: 10-day notice, consent, bias audit within a year) and HB 2321 (job postings must say how AI is used) sit in House Labor and Industry, no action[272, 273]	HB 78 passed the House 127-76 (Oct. 1, 2025); a Senate committee reported it June 24, 2026; one year after enactment; excludes applicants[274]
Michigan	SB 1077 and HB 5579 (notice, written consent, annual impact assessments, applicants covered, private action): committee, no action[275, 276]	SB 359 stalled since June 2025; excludes applicants[277]
Ohio	HB 828 (no sole reliance on automated tool, human review, 10-day notice): committee. HB 801 and HB 798 are not consumer-privacy bills[278]	None
North Carolina	HB 1161 "Fair AI Hiring Act" (bias audit, 10-business-day notice, Attorney General penalties, private action): House Appropriations since May 4, 2026; its stated October 1, 2026 date has passed[279]	SB 757 and SB 1022 in committee; exclude applicants[279]
Maine	LD 61 (P.L. 2025, ch. 524) employer electronic-surveillance notice, including to prospective employees in the interview process; $100-$500 per violation; law since Jan. 11, 2026 without signature; general effective date July 29, 2026 (inferred; the chaptered law prints none)[280, 281]	Privacy bills failed[280]
District of Columbia	Stop Discrimination by Algorithms Act introduced 2021 (B24-0558) and 2023 (B25-0114); no hearing; no 2025-26 reintroduction found[282]	None
Hawaii	SB 59 carried over, no 2026 action; HB 2500 and SB 2967 deferred; session adjourned May 8, 2026[283]	None enacted

Jurisdiction	AI-in-employment law or bills	Comprehensive privacy law and applicants
New Mexico, Wisconsin, Arizona	AI bills died or were held; Arizona vetoed non-hiring AI bills June 19, 2026[284, 285, 286]	None enacted (New Mexico HB 214 and Wisconsin AB 172 failed; Arizona SB 1815 held)
Tennessee, Kentucky, Indiana, Iowa, Nebraska, New Hampshire, Rhode Island, Montana	No AI-hiring law found. Indiana HB 1421 (ban on employer automated decision systems) referred Jan. 8, 2026, no action. Rhode Island S 2499 Sub A passed the Senate June 4, 2026, no House action[287]	Laws in force exclude employment-context individuals or applicant data[288, 289, 290, 291, 292, 293, 294, 295]
Utah, Minnesota, Vermont, Oregon, Georgia	No hiring law in 2026 (Utah, Oregon and Georgia enacted chatbot or other AI laws)[296, 297, 298, 299]	Minnesota and Oregon laws exclude employment context; Vermont Act 145 (effective Jan. 1, 2028) excludes it[297, 300, 301]
Oklahoma, Louisiana	-	Oklahoma SB 546 and Louisiana Act 502 (both effective Jan. 1, 2027) exclude applicants[302, 303]
Delaware	-	HB 380 (effective Jan. 1, 2027) narrows the applicant and employee exemption for profiling and certain reports (Section 3)[66]

Local ordinances outside NYC. We did not find an AEDT-style ordinance in searches of 26 city and county legislative systems and Chicago's clerk system, but that is not established: there is no registry of local codes, and Philadelphia, Los Angeles, Portland, Austin, Houston, Atlanta and Honolulu were not checked. Verify local code where a client hires[304].

3. Data Privacy Layer

- **Applicant data is in scope in California.** Under the CCPA/CPRA, the employee and applicant exemption in Civ. Code § 1798.145(m) became inoperative on January 1, 2023 (§ 1798.145(m)(4)); the CPPA's FAQ says the exemptions "expired on December 31, 2022"[69, 305]. The CPPA's Tractor Supply decision (order dated September 26, 2025, announced September 30; $1,350,000) was the agency's first to address job applicants' privacy notices and rights: no notice to California applicants of their rights, no effective opt-out (including for Global Privacy Control), and disclosure of personal information to other companies without contracts containing privacy protections. It also requires annual officer certifications for four years[306, 307]. On July 21, 2026 CalPrivacy launched its first sectoral audit, of gig-economy platforms, covering access rights for workers and applicants, including the 45-day response window[308]. The CCPA binds only a for-profit "business" over the thresholds in Section 2.
- **Other states' comprehensive privacy laws generally exclude applicants; California is the outlier among the statutes we checked.** Employment-context individuals are outside "consumer," or applicant and employee data is exempt "to the extent … used within the context of that role," in Virginia (§ 59.1-576(C)(14)(i))[309], Colorado (§ 6-1-1303(6)(b) names "a job applicant")[310], Texas[311], Connecticut (PA 26-64)[251], Oregon[300], Minnesota[297], Rhode Island[294], Tennessee[288], Indiana[290], Iowa[291], Nebraska[292], New

Hampshire[293], Kentucky[289], Montana[295] and the 2026 laws in Oklahoma (effective 2027-01-01), Louisiana (Act 502, effective 2027-01-01) and Vermont (Act 145, effective 2028-01-01)[301, 302, 303]. The Massachusetts bill in conference (S.2619/H.5479; Senate 40-0 on 2025-09-25, House 146-0 on 2026-06-04) and Pennsylvania HB 78 would exclude them too[269, 274]. **One exception: Delaware HB 380** (signed September 2, 2026; effective January 1, 2027) carves "personal data processed in connection with profiling and reports under 12D-106(f)" out of the applicant and employee exemption and widens the profiling opt-out from "solely automated" to "automated" decisions. New § 12D-106(f) applies when a controller discloses a report used in a decision with legal or similarly significant effects (employment opportunities are listed) and gives the resident adverse-action notice, a description of the data, a human-review statement, 30-day access and a correction right. Delaware's "consumer" definition still excludes the employment context, so the interaction is untested[66, 312]. We did not check Utah, Maryland, New Jersey or the other comprehensive-privacy states. Practical consequence: outside California (and Delaware from 2027), resume parsing is governed mainly by anti-discrimination, AI-in-employment, recording, biometric and data-security law, not privacy statutes.

- **Sensitive personal information (SPI).** Under Civ. Code § 1798.140(ae), SPI includes Social Security, driver's license, state ID and passport numbers, citizenship or immigration status, racial or ethnic origin, genetic data, neural data, and "the processing of biometric information for the purpose of uniquely identifying a consumer"; the regulations' definition adds union membership, religious beliefs and health. "Biometric information" includes imagery of the face and voice recordings from which a faceprint or voiceprint can be extracted (§ 1798.140(c))[58, 69]. Face or voice data analyzed only to score a candidate, with no identification purpose, is not SPI under (ae)(2)(A) but triggers the risk-assessment and ADMT rules; face-match identity verification of applicants fits SPI (analysis). Email contents are SPI only when the business is not the intended recipient, so a candidate's email to the employer is not SPI on that ground alone. The right-to-limit exception for fraud prevention (11 CCR 7027(m)(3)) does not permit indefinite retention or unrelated reuse[58].
- **Notice and disclosure.** A CCPA notice at collection is required at or before collection; the ADMT rules add a pre-use notice when ADMT drives significant employment decisions (Section 2).
- **Consent.** The CCPA is generally opt-out; ADMT use for significant decisions requires an opt-out unless an exception applies (Section 2). Email parsing where the employer is the recipient needs no separate ECPA consent (party exception). Biometric statutes can require explicit consent for face and voice analysis (Section 4).
- **Retention and deletion.** FEHA requires four years of ADS and personnel records (§ 11013(c))[225], which sits in tension with data minimization, so retention schedules must be reconciled. The right to delete in Civ. Code § 1798.105 has a legal-obligation exception (§ 1798.105(d)(8)), which is how a four-year retention duty coexists with deletion requests[69]. **SB 923** (Chapter 482, signed September 27, 2026, effective January 1, 2027) extends deletion from information collected "from the consumer" to information collected "about the consumer," lets a business keep a suppression record, and requires businesses operating exclusively online to offer a web form or portal; a recruiter or enrichment vendor that is itself a "business" will have to delete third-party enrichment on a verified request[32, 313]. A service provider acts at the business's direction (§ 1798.105(c)(3)). Other retention clocks: risk assessments for the life of the processing or five years after completion, whichever is later (11 CCR 7155(c)); cybersecurity-audit documents five years (§ 7122(g))[58]; Colorado deployer records three years (SB 26-189); Colorado

biometric identifiers deleted at the earliest of purpose satisfied, 24 months after last interaction, or 45 days after an annual review (C.R.S. § 6-1-1314(2))[314]. The ADMT regulations (Article 11) create pre-use notice, opt-out and access rights and nothing specific to correcting data an ADMT used; the correction right comes from the general CCPA and, in Colorado, SB 26-189[58].

- **Opt-out, appeal and access.** From January 1, 2027 in California, candidates can opt out of ADMT for significant decisions unless an exception applies (Section 2) and can obtain the ADMT's purpose, logic and how its output was used. "Appeal" exists only as the alternative to offering an opt-out, not as a general right[58].

Security and breach exposure. Recruiting platforms hold concentrated applicant records, and 2025-2026 produced the first incidents and lawsuits aimed at them.

- *McHire / Paradox.ai (2025).* Researchers Ian Carroll and Sam Curry reported on June 30, 2025 that McDonald's McHire sign-in accepted the credentials 123456:123456 through a "Paradox team members" link, opening a test restaurant account, and that an insecure direct object reference on a lead-lookup call let a logged-in user step through applicant records. Fields returned: name, email, phone, address, candidacy status and form inputs, plus a token for the applicant chat history. The researchers said the data of "more than 64 million" applicants was reachable; that is potential exposure, not a count of records taken. They also reported that no public disclosure contact existed. Paradox said the issue was fixed within hours (July 1, 2025), that "at no point was candidate information leaked online or made publicly available," that the account had not been logged into since 2019 and should have been decommissioned, and that the researchers viewed seven chat records, five containing candidate contact data and IP addresses and none containing Social Security numbers. Paradox's security page lists ISO 27001 and SOC 2 Type II; certification did not prevent a default-credential failure[67, 315, 316, 317]. We found no class action, state Attorney General action, FTC action or CalPrivacy action over the McHire exposure through October 8, 2026 (searches of CourtListener, the FTC release index, CalPrivacy decisions and the JPML docket; state courts are not indexed, so "none found" is not "none exists")[318, 319].
- *Mercor (2026). In re Mercor.IO Corporation Data Breach Litigation*, No. 3:26-cv-02821-WHO (N.D. Cal., Judge Orrick), consolidates seven class actions filed April 1-21, 2026 over a breach of the AI recruiting and expert-vetting platform. The consolidated complaint (June 18, 2026) alleges the breach began about March 24, 2026 through the LiteLLM open-source supply-chain compromise and that about 4 TB was taken, including interview recordings and identity documents; those are allegations quoting third-party reports. It pleads negligence, implied contract, unjust enrichment, California constitutional privacy, CCPA § 1798.150 (California subclass; a 30-day notice letter was mailed April 27, 2026 and no cure is alleged) and the UCL, for a nationwide class that includes applicants who never worked for Mercor. The court granted a stay for confidential mediation on July 21, 2026; no motion to dismiss ruling, class certification or settlement exists. No JPML proceeding exists for Mercor[68, 319, 320, 321, 322].
- *Other HR-vendor incidents.* DISA Global Solutions (screening): an intruder entered February 9, 2024, DISA discovered it April 22, 2024 and notified in February 2025, affecting more than 3.3 million people (Social Security, financial account and ID data); class actions were filed in the Southern District of Texas on February 25, 2025[323, 324]. Workday disclosed in August 2025 that a third-party customer-relationship database holding mainly business contact details was stolen by social engineering; Workday saw "no indication of access to customer tenants or the data within them"[325, 326].

- *CCPA breach private right of action (Civ. Code § 1798.150).* A consumer whose nonencrypted, nonredacted personal information (as defined in § 1798.81.5(d)(1)(A)), or whose email address plus a password or security question and answer, is subject to unauthorized access and exfiltration, theft or disclosure as a result of the business's failure to maintain reasonable security may sue for statutory damages, injunctive relief or actual damages. Statutory damages are $100 to $750 per consumer per incident, CPI-adjusted to $107 to $799 since January 1, 2025 (next adjustment 2027). The consumer must give 30 days' written notice before seeking statutory damages; a business that actually cures and says so in writing avoids them, and adopting reasonable security after a breach is not a cure. **This cause of action never fell inside the employee and applicant exemption** (§ 1798.145(m)(3) carved out § 1798.150), so applicants and employees could sue for breaches from 2020. Example involving workers: *In re California Pizza Kitchen Data Breach Litigation*, 129 F.4th 667 (9th Cir. 2025), a ransomware breach of about 103,767 current and former employees[69, 327]. We found no published decision applying § 1798.150 to applicant data specifically. Section 1798.145(i) says a business is not liable for a service provider's CCPA violations absent knowledge or reason to believe, and a service provider is liable for its own; we found no authority on how that allocates § 1798.150 liability when a vendor's systems are breached[69].
- *What data triggers the statutes.* Section 1798.150 and the breach-notice statute (§ 1798.82) turn on a defined set: first name or initial plus last name combined with Social Security, driver's license, state ID, passport or other government ID number, financial account number with access code, medical or health insurance information, unique biometric data or genetic data (§ 1798.82 also lists license-plate-recognition data), or an email address (§ 1798.150) or username or email address (§ 1798.82) with a password or security question and answer. Name, email, phone and address alone are not on the list. On the fields the McHire researchers reported, a similar exposure would not by itself meet either definition; whether a chat-session token could count as the "password" element is untested. Negligence and UCL theories remain, but the CCPA security duty (§ 1798.100(e)) is enforced by the CPPA and Attorney General, not by private plaintiffs (§ 1798.150(c)). A platform holding Social Security numbers, ID documents, background-check results or biometric interview data is inside the definition. Classify which of those elements a parsing or applicant-tracking vendor stores and for how long[69, 328, 329].
- *Breach-notification deadlines (individual notice).* California: within 30 calendar days of discovery (SB 446, Chapter 319, effective January 1, 2026), with an Attorney General sample notice within 15 days after notifying consumers when more than 500 residents are affected[328, 330]. New York: within 30 days after discovery, with notice also to the Attorney General, Department of State, State Police and Department of Financial Services[331]. Illinois: "most expedient time possible and without unreasonable delay," with Attorney General notice when more than 500 residents are affected[332]. Florida: 30 days[333]. Maryland and Oregon: 45 days[334, 335].
- *Vendor-to-owner notice.* California, New York and Illinois require a vendor that maintains data it does not own to notify the owner "immediately" (New York, within 30 days at the outside). Three states set a hard outer limit of 10 days: Florida (third-party agent, from determination of the breach), Maryland (from discovery or notice) and Oregon[333, 334, 335]. Hour counts such as 24, 48 or 72 hours are negotiated terms inside those ceilings, not legal minimums. A contract's vendor-notice window should not exceed the shortest ceiling that applies to affected residents (analysis).

- *Data-security statutes.* California Civ. Code § 1798.81.5(b) requires reasonable security for California residents' personal information, and (c) requires a business that discloses it to a nonaffiliated third party by contract to require reasonable security by contract[329]. Illinois 815 ILCS 530/45 requires reasonable security measures and a contract provision requiring the recipient to do the same[332]. New York GBL § 899-bb (SHIELD Act) requires reasonable safeguards, including selecting capable service providers and requiring safeguards by contract; businesses with fewer than 50 employees, under $3 million revenue or under $5 million assets may scale them; enforcement is by the Attorney General with no private right of action[336]. Massachusetts 201 CMR 17.03 requires a written information security program and service-provider oversight by contract[337].
- *What "reasonable security" looks like.* The FTC's "Start with Security" guidance: need-to-know access, strong authentication (passwords like 121212 or qwerty "aren't much better than no passwords at all"), security terms in service-provider contracts with verification, patching, a channel for vulnerability reports, and secure disposal[338]. The California Attorney General's 2016 breach report called the CIS Critical Security Controls a minimum level and said failing to implement all applicable controls "constitutes a lack of reasonable security" (an informational, non-binding view that plaintiffs still cite)[339]. The CCPA cybersecurity-audit rules (Section 2) now give a written California checklist for businesses over their thresholds.
- *SOC 2 is a verification tool, not a legal requirement.* No statute or regulation we read requires SOC 2. The CCPA audit rules accept procedures "such as" those of AICPA, PCAOB, ISACA or ISO and let a business reuse another audit only if it meets every requirement[58]. In March-April 2026 an anonymous whistleblower accused compliance-automation startup Delve of fabricating compliance evidence (Delve denies it); the open-source project LiteLLM, hit by credential-stealing malware, had displayed SOC 2 and ISO 27001 obtained through Delve and said it would switch auditors; Y Combinator and Delve parted ways; and Context AI, tied to the Vercel intrusion, confirmed it used Delve. These are allegations and press reports[340, 341, 342, 343]. Ask for the full current SOC 2 Type II report with scope, period, exceptions and auditor name, a bridge letter, and a right to test, not a logo (inference).
- *Required CCPA contract terms for service providers* (11 CCR 7051; Civ. Code § 1798.100(d)). The contract must prohibit selling or sharing; identify specific business purposes; prohibit retaining, using or disclosing the data for any other purpose or outside the direct business relationship (including combining it with other sources); require CCPA compliance and the same level of protection; give the business the right to take reasonable steps to verify use (which "may include" scans and audits or testing "at least once every 12 months"); require notice if the vendor can no longer comply; and let the business stop and remediate unauthorized use. A subcontractor needs a contract that complies with the same rules (§ 7051(b)). A business that never exercises its audit rights may lose the "no reason to believe" defense (§ 7051(c)). Reasonable security is required by contract under Civ. Code § 1798.81.5(c), not by § 7051 itself[58, 69]. Vendors must cooperate with the customer's cybersecurity audit and risk assessment (§ 7050(h)), and an ADMT provider must give the customer the facts it needs for the customer's own risk assessment (§ 7153)[58]. The Tractor Supply order cited "disclosing personal information to other companies without entering into contracts that contain privacy protections"[306]. A deletion cascade to subprocessors on a consumer request is required by § 1798.105(c)(3); we found no CCPA provision that mandates deletion on contract termination, so that remains a contract term[69].

4. Consent & Notice Requirements

Explicit consent: biometric, face, voice and recording laws. Signed consent is not a universal cure. The jurisdictions differ on whether consent, notice or neither is the operative control:

- *Maryland* (signed waiver with prescribed contents; facial templates during the interview only)[60].
- *Illinois AIVIA* (notice, explanation of how the AI works, and consent before the interview; the Act does not say consent must be written)[202]. *Illinois BIPA*: a written disclosure that biometric data is collected, its specific purpose and length of term, a "written release" (informed written consent, electronic signature, or an employment release as a condition of employment since the August 2, 2024 amendment), and a public retention policy; covers face geometry and voiceprints[212].
- *Texas CUBI* (Bus. & Com. Code § 503.001): no capture of a retina or iris scan, fingerprint, voiceprint, or record of hand or face geometry "for a commercial purpose" without informing the individual and obtaining consent; destruction within a reasonable time, no later than one year after the purpose expires; civil penalty up to $25,000 per violation, recoverable only by the Attorney General. HB 149 added exemptions for AI training (unless used to uniquely identify a person) and for security and fraud-prevention AI. Whether an employer's capture from applicants is a "commercial purpose" is unsettled[344].
- *Colorado* C.R.S. § 6-1-1314 (HB 24-1130, signed May 31, 2024; effective July 1, 2025)[345, 346]. A controller that processes any amount of biometric identifiers needs a written, public (except employee-only) policy with a retention schedule, breach protocol and deletion rules (earliest of purpose satisfied, 24 months after last interaction, or 45 days after an annual review); before collection it must give clear notice of the collection, specific purpose, retention period and any processor disclosure; it may not sell or lease the data; and it needs consent under § 6-1-1308(7). "Biometric identifier" covers voiceprints and facial maps, geometry or templates, and is capability-based, so facial-geometry data extracted for emotion or engagement scoring can qualify even if never used to identify anyone (inference); "biometric data" excludes photographs and audio or video recordings and data generated from them unless used for identification. The statute shows no amendment in the 2025 or 2026 sessions[464, 465]. **Employer rule (§ 6-1-1314(6)), which names "prospective employees":** an employer may require biometric consent as a condition of employment only for secure access, recording the work day, workplace safety or security, or public safety in an emergency; for any other use, collection needs consent that the employer "may not require" as a condition of employment and cannot retaliate for refusing. Subsection (6)(d) preserves uses aligned with a prospective employee's reasonable expectations "based on a reasonable background check, an application, or identification requirements in accordance with this section," so a face-match used only to verify identity has a plausible footing, while a mandatory face or voice template step in an AI interview is hard to square with (6)(b) (inference, which the Attorney General's Rule 7.08(D)(2), below, supports). **Open question:** the Privacy Act's general "consumer" definition excludes "a job applicant" and was not amended, and § 6-1-1304(2)(k) exempts "data maintained for employment records purposes," so whether the notice and policy duties reach applicants is unresolved; treat the employer rule as binding on applicants and assume the rest may be. Enforcement is by the Attorney General and district attorneys, with no private right of action, no cure period for the biometric provisions, and civil penalties up to $20,000 per violation counted per consumer or transaction. **Attorney General rules.** The Colorado Privacy Act rules (4 CCR 904-3, Rules 7.08(D) and 7.09, effective January 30, 2025 and carried forward unchanged in the version effective December 1, 2025) apply to employees and prospective employees.

Rule 7.09(A) lets an employer require an employee or prospective employee to consent to biometric collection as a condition of employment only consistent with § 6-1-1314(6). For uses outside the four purposes in (6)(a), where consent cannot be required as a condition of employment, Rule 7.08(D)(2) says the consent must come from an Employee and consent obtained from a prospective employee during the hiring process is not enough[462, 463]. As of October 11, 2026 we found no separate Attorney General biometric FAQ or interpretive guidance for employers on the Attorney General's Colorado Privacy Act pages, and no reported enforcement action[314, 466].

- *Washington*: RCW 19.375 requires notice, consent or an opt-out mechanism only to enroll a biometric identifier in a database "for a commercial purpose" (selling or disclosing it to a third party for marketing unrelated goods or services); it excludes photographs, video and audio recordings, and says no notice or consent is needed to enroll an identifier "in furtherance of a security purpose," which includes preventing fraud. Only the Attorney General enforces it. The My Health My Data Act (RCW 19.373) excludes "an individual acting in an employment context" from "consumer"; whether it covers pre-hire applicants is untested[347, 348, 349].
- *California*: biometric information used to identify is sensitive personal information (Section 3); the regime is notice, risk assessment and ADMT rights, not a consent statute.
- *New York*: the Biometric Identifier Privacy Act (S1422A/A6031A) is pending. It would be a BIPA-style regime with a private right of action ($1,000 negligent, $5,000 intentional or reckless per violation), and an employment release would count only if the entity first documents in writing that collection is strictly necessary to essential job functions or business operations that "cannot reasonably be accomplished by non-biometric means," or to protect employees, facilities or systems. It speaks of "employees," not applicants[264].
- *Massachusetts lie-detector statute* (G.L. c. 149, § 19B) and the federal Employee Polygraph Protection Act: see the next item. Consent does not cure a § 19B violation.

Lie-detector statutes applied to AI interview and assessment tools.

- *M.G.L. c. 149, § 19B.* A "lie detector test" is "any test utilizing a polygraph or any other device, mechanism, instrument or written examination" that is operated, or whose results are used or interpreted by an examiner, for the purpose of purporting to assist in or enable detecting deception, verifying truthfulness, or rendering a diagnostic opinion about an individual's candor (our paraphrase of the closing clause). An employer may not subject an applicant to one or request that the applicant take one, inside or outside Massachusetts. Every employment application in the Commonwealth must carry a prescribed notice. Criminal fines are $300 to $1,000 ($1,500 and up to 90 days for repeat violations). Any "person aggrieved" may sue within three years, for themselves and others similarly situated, for injunctive relief and damages including treble lost wages, with a $500 minimum per violation and attorney's fees. **"No waiver … by an employee or prospective employee shall be a defense to either criminal prosecution or civil liability."** The statute is purpose-based; exposure turns on what the tool is used for and how the vendor markets it, not on its label[350].
- *Cases. Baker v. CVS Health*, 717 F. Supp. 3d 188 (D. Mass. Feb. 16, 2024), alleged a HireVue interview analyzed by Affectiva for facial expressions and voice intonation, producing an "employability score," was a lie detector and that CVS's application lacked the notice. CVS challenged only the notice count; the court denied its motions (a private right exists to enforce the notice provision; standing existed because

the plaintiff took the interview without notice). It did not decide that the tool is a lie detector[351]. *Saint Cyr v. JPMorgan Chase* (D. Mass. Oct. 22, 2025) dismissed the lie-detector count as conclusory (allegations showed only that HireVue interviews "could" be used that way) and remanded the notice-only count for lack of Article III standing[352]. *Korn v. Amazon.com* (D. Mass. Feb. 18, 2026) denied a motion to dismiss over a written "Workstyle Assessment" that warned of "suspicious test behavior," holding the plaintiff plausibly pleaded a lie detector, use of its results, and that he is a "person aggrieved" because the notice violation was combined with administration of the test; it is a pleading-stage ruling[353]. The 2025-26 wave of notice-only suits is mostly failing: federal courts remand for lack of standing (*Crane v. Cheesecake Factory*, Dec. 8, 2025; *Forbes v. Macy's*, Mar. 13, 2026)[354, 355], and Massachusetts Superior Court judges hold notice-only plaintiffs are not "persons aggrieved" (*Ababio v. Nike Retail Services*, Nov. 25, 2025, and others); a federal court in Pennsylvania reached a similar result under § 19B (*Harraghy v. Aramark*, June 25, 2026)[356]. The *Ababio* footnote, adopted in *Korn*, says the result is likely different when the notice violation is combined with use of a lie-detector test, which is the fact pattern AI interview vendors create. On appeal, *Crane* (First Cir. No. 26-1044) was dismissed on the appellant's own motion on January 28, 2026 with no ruling on the merits, while *Saint Cyr* (No. 25-2129) was argued July 28, 2026 and had no decision posted as of October 9, 2026[467, 468, 469, 470]. We found no Massachusetts Supreme Judicial Court or Appeals Court decision on who is a "person aggrieved" under § 19B, but an Appeals Court appeal in *Whitney v. Hertz* (No. 2026-P-0324), a notice-only case dismissed in Superior Court on December 1, 2025, is calendared for argument on November 5, 2026, and the *Ababio* plaintiffs reportedly appealed too (a paywalled report we saw only as a search snippet)[471, 472]. *Korn v. Amazon* was dismissed by stipulation on September 23, 2026 on terms we could not see[473]. *Baker v. CVS* was dismissed with prejudice on September 20, 2024 after a settlement, and the CVS settlement terms are not public[474].

- *Federal Employee Polygraph Protection Act* (29 U.S.C. §§ 2001-2009). "Lie detector" includes a polygraph, deceptograph, "voice stress analyzer, psychological stress evaluator, or any other similar device" used to render a diagnostic opinion about whether a person is being truthful; an employer may not "directly or indirectly, require, request, suggest, or cause" an employee or prospective employee to take one, subject to statutory exemptions we did not review. Remedies: civil penalties (the statutory $10,000 figure is adjusted for inflation to $26,262 per violation, 29 CFR § 801.42) and a private action by the affected employee or prospective employee. We found no decision applying it to an AI interview tool; application to voice-analysis tools is untested[357, 358, 359, 360].
- *Other states.* Rhode Island (R.I. Gen. Laws ch. 28-6.1) defines "lie detector test" nearly word for word like Massachusetts and makes subjecting an applicant to one a misdemeanor with punitive damages available; Connecticut (§ 31-51g) bars requiring a "polygraph" (any mechanical or electrical instrument used to determine truthfulness) of a prospective employee; Pennsylvania (18 Pa.C.S. § 7321) makes it a misdemeanor to require a polygraph or "any form of a mechanical or electrical lie detector test" as a condition of employment. New Jersey and Oregon were not verified. We found no decision applying any of these to AI voice or video analysis[361, 362, 363].

AI-contact consent, bots and recruiting outreach.

Channel	What attaches
AI voice call to a cell phone	TCPA prior express consent (FCC 24-17); caller identification at the start; revocation by any reasonable method within ten business days; $500 to $1,500 per call[115, 125]
AI text message	TCPA only if the platform is an autodialer (*Duguid*); same consent and revocation rules if so[118]. State rules: Washington CEMA (below), Florida § 501.059 and Texas SB 140 reach texts that solicit sales, not plain job offers. No statute found requires telling a candidate a text was AI-written
AI-written email reply	CAN-SPAM header accuracy only where the message is commercial or transactional/relationship (Section 1); no AI-authorship disclosure statute found
AI chat on a careers page	No state bot-disclosure statute clearly applies; the CIPA chat-transcript theory is the litigation risk (Section 1)
AI that also scores or screens	The AI-in-employment notice laws in Section 2 apply by function, not by channel

- *Utah* (Code ch. 13-77, effective May 7, 2025; the 2024 section 13-2-12 was repealed). A supplier using generative AI with an individual "in connection with a consumer transaction" must disclose it is AI only if the individual clearly and unambiguously asks; a licensed occupation must disclose high-risk AI interactions up front; a safe harbor applies if the AI discloses clearly at the outset and throughout; fines up to $2,500 per violation. "Generative AI" means non-scripted output with "limited or no human oversight," so an AI-drafted message reviewed by a human recruiter may not be covered; "consumer transaction" means a personal, family or household purchase or a pay-to-join business opportunity, so ordinary employee recruiting is likely outside. The Utah AI Policy Act (ch. 72) is repealed July 1, 2027[364, 365, 366, 367].
- *Maine* (10 MRSA § 1500-DD, reallocated from § 1500-Y; P.L. 2025, ch. 294). No AI chatbot or other computer technology may be used "to engage in trade and commerce with a consumer" in a manner that may mislead a reasonable consumer into believing they are dealing with a human, unless clearly and conspicuously notified; a violation is an Unfair Trade Practices Act violation. "Consumer" is not defined; whether recruiting a job candidate is "trade and commerce" is unresolved. We did not confirm an effective date[368].
- *California.* The B.O.T. Act (Bus. & Prof. Code §§ 17940-17943) covers a bot used online to mislead about its artificial identity "to incentivize a purchase or sale of goods or services in a commercial transaction or to influence a vote in an election," with a safe harbor for disclosure; recruiting is outside on its face[369]. SB 243 (§§ 22601-22605, effective January 1, 2026) covers "companion chatbots" and excludes bots used only for customer service or a business's operational purposes[370, 371].
- *Colorado.* HB 26-1263 (signed May 29, 2026; Chapter 208; duties from January 1, 2027) requires operators of publicly accessible "conversational AI services" to disclose that the service is AI at the first interaction each day, at least every three hours in a continuous session, and when asked, and adds minor-safety duties. It excludes systems primarily designed for commerce-related or transactional assistance or customer support, for business operations, or used solely internally, so a recruiting chatbot on a careers page most likely falls outside; no authority applies it to recruiting. The signed act has no

stand-alone penalty clause, and how it is codified alongside SB 26-189's reenactment of the same Part 17 should be confirmed before relying on either[43]. The superseded SB 24-205 text (C.R.S. § 6-1-1704) also required telling consumers they were interacting with an AI system; whether any of it applied to employer recruiting chatbots between June 30 and December 31, 2026 is unresolved, so treat it as live risk[217].

- *Texas* TRAIGA's disclosure duty reaches only government agencies and health-care providers (Section 2). *Washington* (ESHB 2225, effective January 1, 2027) and *Oregon* (SB 1546) enacted companion-chatbot laws that exclude customer-service and business-operations tools[266, 298]. *Georgia* SB 540 (Act 518, signed May 11, 2026, effective July 1, 2027) also regulates AI companion chatbots, with Attorney General enforcement; we did not confirm whether it excludes business-operations tools, so do not assume a recruiting chatbot falls outside it[299].
- *Are applicants "consumers"?* It depends on the law. Under the TCPA the protected party is the "called party," so yes. TRAIGA expressly excludes the employment context. Utah and Maine reach recruiting only if it is a "consumer transaction" or "trade and commerce," which is unresolved. The California B.O.T. Act is limited by purpose. SB 243 and HB 26-1263 exclude business-operations tools. Colorado SB 26-189 and the CCPA/ADMT rules cover employment decisions with broader "consumer" language but are decision-technology laws, not bot-disclosure laws. Net: no state bot-disclosure statute we read clearly treats an applicant as a protected consumer[61, 125].
- *State mini-TCPAs.* Washington's Commercial Electronic Mail Act bars a commercial text message to a Washington cell number without clear, affirmative advance consent and has no autodialer element; "commercial" means sent to promote property, goods or services. A reported 2025 Court of Appeals decision treated a recruiter's text as promoting the recruiter's business; we did not obtain the opinion, so confirm before relying on it. Statutory damages fell from $500 to $100 per violation for actions commenced on or after June 11, 2026 (ESHB 2274, Chapter 135, Laws of 2026)[372, 373, 374]. Florida's § 501.059 covers calls, texts or voicemails that solicit sales of consumer goods or services ($500, trebled if willful)[375]. Texas SB 140 (effective September 1, 2025) adds texts that "induce a person to purchase, rent, claim, or receive an item" to its telephone-solicitation law, enforceable under the DTPA[376]. Pennsylvania's Act 47 of 2026 (SB 992) amends its telemarketer law, effective about October 18, 2026, and addresses telemarketing only[377]. These apply to recruiting only if the outreach also sells something (training, a business opportunity, a staffing service).

Notice (not necessarily consent) is the dominant obligation: NYC LL 144 (at least ten business days), Illinois HB 3773 (AI-use notice; the rules are withdrawn), Colorado SB 26-189 (pre-use notice plus adverse-outcome explanation, from 2027), Connecticut PA 26-15 (written pre-decision notice, from October 2027), California (CCPA pre-use ADMT notice, from 2027; SB 947 post-use notice for discipline and termination, from July 2027), and the Massachusetts § 19B notice on every application. Greenhouse's May 2026 vendor survey of 1,200 U.S. job seekers found 70% were never clearly told upfront that AI would evaluate them, a reason these notices are the most likely to be missed (that last inference is ours)[378].

Deepfake candidates and identity verification. The FBI's IC3 warned in June 2022 of deepfakes and stolen personal data used to apply for remote jobs, including voice spoofing in online interviews, and on June 30, 2025 DOJ announced actions against North Korean remote-IT-worker schemes, including searches of 29 suspected laptop farms in 16 states[379, 380]. ATS vendors now sell identity checks: Greenhouse made Real

Talent generally available in February 2026, says it has run more than 10.2 million fraud checks, and verifies identity through CLEAR "using biometric signals, document validation and trusted data sources," with the selfie and ID staying at CLEAR and candidates able to decline without it counting as a failure. Neither Greenhouse page says a face template is created or how long it is kept; template creation and retention are unverified, but an employer should assume face-geometry processing occurs at the vendor[381, 382]. Legal map for a selfie-to-ID check (our reading from statute text; we found no case law): Colorado's reasonable-expectations clause gives a plausible footing but notice, purpose and retention duties may still run and the applicant-coverage question is open; Washington's security-purpose carve-out and its "commercial purpose" limit take it outside RCW 19.375's consent rule; Maryland covers only template creation "during an applicant's interview," so timing matters; in California the data is SPI and a risk assessment is required; Massachusetts § 19B is not triggered by a pure identity check, but a vendor that labels face or voice signals as truthfulness or deception scores would change that, and a liveness or deepfake detector arguably "detects deception" in a literal sense, so "outside § 19B" is a risk judgment, not a safe harbor; BIPA and Texas CUBI apply to the same templates[58, 60, 314, 348, 350].

Employer vs. third-party-parser liability. The employer cannot outsource liability to its vendor, and vendors can face liability as the employer's "agent." The rule runs through *Mobley*, California's FEHA ADS rules (which define an agent as an "employer"), New Jersey's guidance and rules ("not a complete defense" to rely on reasonable steps), and Connecticut (use of the technology is no defense)[42, 45, 225, 247]. In *Mobley*, the June 22, 2026 order (applying *Raines*) says agent liability "neither delegates the employer's FEHA obligations nor abrogates the employer's FEHA liability" and "increases the number of defendants that might share liability." It is a pleading-stage ruling; Workday is the only defendant, and out-of-state employers' liability is not at issue[42]. Qualifiers: Texas § 552.105(e)(1) says a defendant may not be found liable if another person uses the AI system in a prohibited manner[61]; Colorado allocates fault between developers and deployers by relative fault, makes a developer liable only to the extent its ADMT was used as intended or documented, and voids a contract clause that indemnifies a party for liability for damages from its own violation of Colorado anti-discrimination law (C.R.S. § 6-1-1707(7)), except that the voiding rule does not reach a developer whose deployer used the ADMT in a way the developer did not intend, document, market, advertise, configure or contract for and the developer complied with § 6-1-1702[59]. Federal law gives an employer no implied right of contribution from third parties for Title VII liability (*Northwest Airlines v. Transport Workers*, 451 U.S. 77 (1981), a case about unions, not an express indemnity), and California Civ. Code § 1668 treats contracts that exempt a party from responsibility for its own violation of law as against policy[383, 384]. District courts have refused to let an employer shift its own Title VII or ADEA liability to a vendor through an indemnity clause (*EEOC v. TCI of Alabama*, N.D. Ala. 2026; *EEOC v. Blockbuster*, D. Md. 2010; *Baltimore County v. Buck Consultants*, D. Md. 2016), but we found no Supreme Court or circuit ruling on vendor indemnity under those statutes and no ruling under California's FEHA, and the Second Circuit has enforced an indemnity clause for a settled civil rights claim where the indemnitee's own discrimination was not found (*Gibbs-Alfano v. Burton*, 2002)[479, 480, 481, 482]. We found no such decision involving an AI vendor.

5. Bias Audit Requirements

- **Mandated, published audit:** as of October 11, 2026, **NYC LL 144** is the only U.S. law we identified that requires employers to obtain an *independent* bias audit of an AI hiring tool and post a summary of the

results publicly (audit no more than a year before use; selection or scoring rates and impact ratios across sex, race/ethnicity and their intersections)[56, 437]. The auditor must be independent, which excludes the vendor's own staff and any conflicted party (not a bar on a vendor commissioning one). Colorado, Connecticut, California and Illinois have enacted AI hiring rules, but none requires such an audit, and the bills that would add one (including New Jersey A2726, A1021 and S4075, and Pennsylvania HB 594) have not been enacted[45, 59, 249, 272, 438, 439, 440]. This is a best-effort finding: no official list of audit mandates exists, and we did not check every city or county. Laws a reader could mistake for counterexamples do not require employers to audit hiring tools: Illinois SB 315 (P.A. 104-0538) requires annual independent third-party audits only of large frontier AI developers, and California's AB 1405 (an AI auditor registry from 2029) and SB 813 (independent verification organizations) require no employer to obtain an audit[216, 236, 442].

- **Impact assessments and testing evidence (not public):** Colorado SB 26-189 has **no** impact-assessment or risk-management requirement and nothing is filed with the Attorney General. The superseded SB 24-205, whose June 30, 2026 operative date stays in the statute until SB 26-189 replaces it on January 1, 2027, has "a deployer, or a third party contracted by the deployer" complete an impact assessment that need not be independent or published (it was never enforced; Section 2)[218, 441]. California's CCPA risk assessments are documented internally, with only a summary and executive attestation submitted to the Agency by April 1, 2028 and full reports produced on request within 30 days[58]. California FEHA makes anti-bias testing relevant evidence, not a mandate[225]; Connecticut's Fair Employment Practices Act amendment lets the commission or court consider testing evidence (permissive)[45]. California's AB 1405 will register AI auditors by 2029; its reach to hiring audits is unconfirmed[236].
- **What a NYC-compliant audit computes:** per-group selection or scoring rates, impact ratios by sex, race/ethnicity and intersections, number of unknown-category individuals, historical data where the employer or its vendor has it, a documented methodology, and an independent auditor. **The 0.80 benchmark is not part of LL 144.** The rule sets no pass/fail test; 0.80 is a Title VII rule of thumb from the Uniform Guidelines that remains a sound internal benchmark[56, 82].
- **Privilege.** Outside NYC, testing under attorney-client privilege is advisable. The one ruling we found on point is narrow (we could not confirm it is the first): on May 28-29, 2026 Magistrate Judge Beeler held Workday's bias-testing data privileged because its attorneys curated the underlying data and used the results to give legal advice, and held that pointing to the existence of testing in an AI fact sheet did not waive privilege. Workday did not claim privilege over a separate 2023 consultant's testing, and the court held that any waiver there did not reach all of its bias-testing data. The ruling is a non-precedential discovery order that turned on Workday's representations (including that the data was not submitted to a regulator); Judge Lin left the privilege part in place on June 24 only because plaintiffs did not challenge it. The court did not decide whether legally mandated or published audits can be privileged. The same order compelled Workday's EEO-1 and OFCCP documents and denied plaintiffs access to customers' applicant data[44, 385]. Whether sharing results with insurers or customers waives privilege is unaddressed (analysis).
- **Remediate with neutral fixes.** Adjusting results by protected class is itself unlawful under Title VII § 703(l) (Section 1).

6. Automated Decision-Making Specifically

- **Human review.** It is **not** a pre-decision mandate in the laws we read. Colorado SB 26-189 gives a request-triggered right after an adverse outcome to "meaningful human review and reconsideration," "to the extent commercially reasonable," with a defined reviewer (designated by the deployer, with authority to approve, modify or override, who considers primary evidence, is trained, does not default to the system output, and understands the output's limits)[59]. California's ADMT definition turns on whether a reviewer with knowledge, analysis and authority is involved; a human-appeal path excuses the opt-out, and for hiring the evaluation exception can excuse both (Section 2)[58]. FEHA treats a tool that merely facilitates human decisions as an ADS. SB 947 requires human corroboration for discipline and termination decisions, not hiring. NYC does not require an alternative process. Connecticut has no appeal or human-review right. The practical advice (keep humans in the loop on adverse decisions) is unchanged. Pure auto-reject pipelines remain the highest-risk design, but the two reference fact patterns carry different theories: *iTutorGroup* was intentional (hard-coded age cutoffs), the theory federal agencies still pursue; *Mobley* alleges disparate impact, now mainly a private and state risk[7, 52].
- **Right to explanation or appeal.** Colorado SB 26-189 (30-day adverse-outcome disclosure, a disclosure of the ADMT's role and a process to ask for more information, not a full reasons letter); California access rights under § 7222; FCRA rights if a vendor is a consumer reporting agency (Section 1). The Colorado Attorney General's interim draft strikes earlier proposals to require "principal reasons" and keeps the disclosure to a specific description of the ADMT's role, including any human reviewers. No general federal right to explanation exists[21, 59].
- **Disparate-impact testing remains the through-line, with weaker federal enforcement behind it:** private Title VII analysis, NYC's audit, California's evidentiary framework, NJ's rules, and Illinois's effect-based statutes. Texas's TRAIGA requires intent, but Texas employment law and Title VII still reach disparate impact. Two 2026 dismissals show what pleadings need: *Harper v. Sirius XM* (E.D. Mich., Sept. 30, 2026; judgment on the pleadings; bare allegations that a vendor's AI proxies for race, with only the plaintiff's own rejections, failed) and *Griffin v. PepsiCo and iCIMS* (W.D. Tex., Aug. 19, 2026; pro se; conclusory algorithmic-bias allegations and an EEOC charge limited to individual treatment did not state a disparate-impact claim)[31, 386].

7. Recent Enforcement & Case Law

Where things stand. No court has found liability against an AI hiring vendor or employer in *Mobley*, and we did not verify a broader statement that no court anywhere has found an AI hiring tool unlawful[17]. In our checks, the EEOC newsroom's 24 most recent items (September 29 to October 9, 2026) included no AI-hiring matter, and we found no state Attorney General enforcement action or settlement against an AI hiring vendor or employer from January to October 2026. Those are searches of agency, court and trade-press pages, not proof that nothing exists, and a docket-level search should be re-run before treating "none found" as complete.

Private litigation

- **EEOC v. iTutorGroup** (E.D.N.Y. No. 1:22-cv-2565-PKC-PK; filed May 5, 2022 under the ADEA). Judge Chen entered the consent decree on September 8, 2023, and the EEOC announced it on September 11. The

EEOC alleged the tutor-application software was programmed to reject women aged 55 or older and men aged 60 or older, and that in early 2020 the defendants rejected more than 200 qualified U.S. applicants aged 55 and over[52, 105]. Details that matter: (1) the $365,000 is paid into a claims fund to be distributed, at the EEOC's discretion, among rejected applicants who come forward and qualify; neither the decree nor the EEOC release says all 200-plus were paid, and the number actually paid is not public. (2) The term is not a flat five years: the decree runs five years from its effective date or three years from the date a defendant resumes soliciting U.S. tutor applicants, whichever is later, so "at least five years, to roughly September 2028" is the safe wording. (3) "First EEOC AI-related settlement" is press and tracker commentary, not EEOC or decree language. (4) The conduct was a hard-coded age and sex cutoff, not a machine-learning model, and the defendants denied liability, so the decree is not an adjudication[387]. The tracker shows the matter as settled, with no developments found after 2023.

- **Mobley v. Workday, Inc.** (N.D. Cal. No. 3:23-cv-00770-RFL, Judge Rita Lin). Status as of the October 7, 2026 order (Dkt. 435): Workday is the only defendant; no employer customer is named; no court has found liability; there is no merits ruling, no summary judgment motion or ruling, no trial date and no settlement entry. The case proceeds on disparate-impact theories only: Title VII (race, with gender added in 2026), the ADA, the ADEA and, since 2026, California FEHA[17, 388].
- *July 12, 2024 (Dkt. 80, 740 F. Supp. 3d 796).* At the pleading stage a third-party agent may be liable as an "employer" under Title VII, the ADEA and the ADA where the employer delegated functions traditionally exercised by an employer, and the complaint plausibly alleged Workday acted as its customers' agent through its screening tools. The court dismissed the intentional-discrimination claims (Title VII, ADEA, Section 1981) and the employment-agency theory without leave to amend, and did not reach the indirect-employer theory because agency sufficed. The EEOC's April 9, 2024 amicus brief had argued all three theories; the court accepted only agency[103, 389].
- *May 16, 2025 (Dkt. 128).* Preliminary (conditional) certification of a nationwide ADEA collective: people aged 40 and over who, from September 24, 2020, applied through Workday's platform and were "denied employment recommendations" (the application was scored, sorted, ranked or screened by Workday's AI, the result was not a recommendation to hire, and the result was communicated to the employer or was an automatic rejection). Workday may later move to decertify[19]. The October 7, 2026 order still calls it a "conditionally certified" collective[17].
- *July 29, 2025 (Dkt. 158).* The order holds the existing collective already covers applicants scored, sorted, ranked or screened by HiredScore AI features (Spotlight and Fetch), because the collective runs from September 24, 2020 to the present and is not limited to Workday Recruiting. That clarified the collective's scope rather than expanding it[390].
- *Customer list.* Workday had to produce a list of customers that enabled its AI features (Candidate Skills Match, Spotlight, Fetch) since September 24, 2020. Dkt. 175 (October 2, 2025) set delivery to plaintiffs' counsel by October 7, 2025 on an attorneys'-eyes-only basis, and a customer's own statement that it did not use an enabled feature is not a definitive determination. The January 14, 2026 order (Dkt. 235) recites that plaintiffs received the list on October 7, 2025[391, 392, 393].

- *Opt-in.* Notice ran January 6 to March 7, 2026 (Dkt. 211). Late forms were accepted through April 14, 2026, with leave and an individualized good-cause showing needed after that (Dkt. 305). The Sept. 8, 2026 order (Dkt. 415) says about 15,154 people filed consent forms, and the Oct. 7 order says "more than 15,000"; secondary sources citing about 14,000 do not match the court's orders[17, 394, 395, 396]. The court compelled all opt-ins to respond to Workday's Special Interrogatory No. 2 and Request for Production No. 1 (Dkt. 368; relief denied, Dkt. 402) and set production to finish by November 30, 2026; the parties separately agreed a roughly 425-person sample for decertification discovery[396].
- *March 6, 2026 (Dkt. 267, 2026 WL 636719).* The court again denied dismissal of the ADEA claim, rejecting Workday's argument that applicants cannot bring ADEA disparate-impact claims under § 623(a)(2) (following *Rabin v. PricewaterhouseCoopers*, 236 F. Supp. 3d 1126 (N.D. Cal. 2017), and its 2024 ruling; it rejected the argument that Congress's failed amendments show applicants were never covered and the argument that *Loper Bright* undercuts *Rabin*). The same order let AARP file an amicus brief, dismissed the new FEHA claims and Hughes's ADA claim with leave to amend, and denied the motions on punitive damages and on the recruitment and promotion allegations[104].
- *June 22, 2026 (Dkt. 360).* The FEHA claims survive because the tools are allegedly designed and run from Workday's Pleasanton, California headquarters; applying *Raines*, Workday is not derivatively liable through its customers but may be directly liable for its own FEHA-regulated conduct, and conduct in California is not extraterritorial wherever the applicant lives. Not decided: choice of law for out-of-state applicants, whether California development alone satisfies the nexus, and when an out-of-state employer hiring non-California employees could be liable for its California-based agent's conduct. Hughes's ADA claim (proxy indicators of illness such as medical leave) stands. Rowe's new race disparate-impact claim and the new theory that Workday is a direct employer were dismissed and stricken, without further leave to amend; the Fourth Amended Complaint followed on July 10[42].
- *July 2, 2026 (Dkt. 376).* The court denied certification of an interlocutory appeal under 28 U.S.C. § 1292(b). It found "substantial ground for difference of opinion" (comparing *Kleber v. CareFusion*, 914 F.3d 480 (7th Cir. 2019) (en banc), with *Rabin*) but held an immediate appeal would not materially advance the case, and said clarity is best pursued through a post-judgment appeal. We found no Ninth Circuit ruling[41].
- *Discovery rulings.* May 28-29, 2026 (Dkt. 340): bias-testing data privileged; customers' applicant data denied for lack of shown Rule 34 control (Section 5 gives the detail). June 24 (Dkt. 366): Judge Lin left the privilege ruling untouched because plaintiffs did not challenge it, and sent the customer-data question back to consider possession as well as control. July 13 (Dkt. 394, as described in Dkt. 407): Judge Beeler found plaintiffs had not shown Workday possesses customer data held in segregated, password-protected customer tenants. July 28 (Dkt. 407): Judge Lin denied relief and said the ruling does not reach aggregated anonymized statistics Workday uses for its own purposes[44, 385, 397].
- *Class certification and schedule.* Plaintiffs moved on September 14, 2026 (Dkt. 418) for Rule 23 certification of classes of people subject to Workday's AI-based screening tools (HiredScore/Spotlight, Fetch, Candidate Skills Match), with four subclasses: African American, female, age (FEHA) and disability. Hearing noticed for March 9, 2027. Under the July 13, 2026 schedule (Dkt. 395), Workday's opposition and its motion to decertify the ADEA collective are due November 10, 2026; plaintiffs' reply December 8;

the decertification opposition January 6, 2027; the reply February 10, 2027. Dkt. 435 lets Workday depose 15 of the 38 opt-in declarants between October 15 and 30, 2026. A clerk's notice (Dkt. 413) still shows a December 8, 2026 hearing from a superseded schedule and is stale. On January 14, 2026 (Dkt. 235) Judge Lin wrote that plaintiffs' counsel's conduct raised serious questions about their likely adequacy to represent the proposed class and collective absent a significant change in approach or the addition of other counsel; additional counsel were admitted afterward[17, 18, 393, 398].

- *Reading it for clients. Mobley* shows a software vendor can be sued as an employer's agent and a nationwide ADEA collective can be preliminarily certified. It does not show any tool was biased[17].
- **Kistler and Bhaumik v. Eightfold AI Inc.** Filed January 20, 2026 in Contra Costa County Superior Court as a proposed class action under the FCRA, the California Investigative Consumer Reporting Agencies Act and the UCL (counsel: Outten & Golden and Towards Justice); the plaintiffs allege hidden 0-to-5 "likelihood of success" scores are consumer reports[109, 399]. It was removed to N.D. Cal. on March 2, 2026 (No. 4:26-cv-01768-YGR, Judge Gonzalez Rogers). Per secondary sources, Eightfold moved to dismiss on April 20 (a software licensor, not a consumer reporting agency); the motion was fully briefed by July 9, the August 4 hearing was vacated July 24, and no ruling had issued by October 8, 2026. Dates after removal rest on the AI Lawsuit Tracker and Open Class Actions because no court record was retrievable. It is a transparency theory under the FCRA (Section 1), not a discrimination claim[400, 401].
- **Harper v. Sirius XM Radio, LLC** (E.D. Mich. No. 2:25-cv-12403; plaintiff Arshon Harper). On September 30, 2026 Judge Berg granted judgment on the pleadings and dismissed the complaint without prejudice. The plaintiff alleged intentional discrimination and disparate impact from iCIMS screening, based on about 149 rejections out of 150 applications. The court found no facts supporting an inference of intent, and for disparate impact no comparator class, statistics or causal link ("data collection is not the same thing as data discrimination"). It assumed without deciding that Sirius XM uses AI, excluded Sirius XM's EEOC position statement and declined to convert the motion to summary judgment, so trade-press reports of "summary judgment" are wrong. Sirius XM is the only defendant; iCIMS is not. We found no amended complaint, appeal or later docket activity through October 9, but could not pull the full docket[31, 402].
- **Griffin v. PepsiCo, Inc. and iCIMS, Inc.** (W.D. Tex. No. 1:26-cv-00160-ADA-DH). A pro se plaintiff alleged AI-driven applicant tracking screened out Black and non-Indian-origin applicants and older applicants. On August 19, 2026 Judge Albright adopted a July 20 magistrate-judge recommendation and dismissed every claim with prejudice except one claim under 8 U.S.C. § 1324b, dismissed without prejudice, and closed the case. The reasons: her EEOC charges described only her own treatment, so they did not exhaust a group-based disparate-impact claim; the complaint alleged no statistical disparity; and the disparate-treatment and age claims named no comparator hired outside her protected class (age claims also failed to plead but-for causation). Lesson: an EEOC charge limited to individual treatment does not exhaust a disparate-impact claim, and conclusory bias allegations do not state one. It is a district-court ruling in a pro se case and sets no precedent. We could not check for a Fifth Circuit appeal[386, 403].
- **Charge against Intuit and HireVue (ACLU and Public Justice, for D.K.).** Announced March 19, 2025; Public Justice's case page gave March 14, 2025 as the date it was filed with the Colorado Civil Rights Division and the EEOC, under the ADA, Title VII and the Colorado Anti-Discrimination Act[495, 496, 497]. It is an administrative charge, not a lawsuit. The complainant is a deaf, Indigenous current Intuit employee

who sought an internal promotion, not an outside applicant; she alleges Intuit denied human-generated captioning and she relied on less accurate automated captions in a HireVue video interview. HireVue's CEO said the complaint is without merit and that Intuit did not use a HireVue AI-based assessment, and Intuit called the allegations "entirely without merit," so whether AI was used is disputed. The allegations are unproven. Agencies keep charge files confidential (EEOC disclosure limits; Colorado Civil Rights Commission Rule 10.5(E)), and as of October 11, 2026 no public finding, right-to-sue notice, settlement or court case has been found, so describe it as "no public resolution found," not as pending or resolved[498, 499]. The ACLU's press release and Public Justice's case page have both been taken down with no reason given, which does not show the matter was resolved; the facts rest on archived copies of those pages, the complaint copy at classaction.org, HR Dive and Fisher Phillips[99, 100, 495, 496, 497].

- **Doe 1 through 26 v. Meta Platforms, Inc.** (N.D. Cal., Judge Orrick; filed July 13, 2026). A layoff-selection case, adjacent to hiring: 26 anonymous current and former employees allege Meta used internal AI systems (an LLM assistant, activity and keystroke monitoring, token-usage dashboards, productivity scoring) to pick people for a May 2026 layoff of about 8,000 jobs, penalizing workers on protected medical, disability, pregnancy or family leave, and failed to bias-test the systems as required by "recently adopted California and New York City laws" (the complaint cites the FEHA ADS rules, 2 CCR §§ 11008 and 11008.1; tying it to Local Law 144 is an inference)[434]. Judge Orrick denied a temporary restraining order on July 17, heard the preliminary-injunction motion on August 24, 2026 and took it under submission; the docket showed no ruling through September 1, 2026, so any later ruling is unconfirmed[436]. Meta says people, not AI, made the decisions. The allegations are unproven[404, 405, 406].
- **Thompson v. SoundHound AI, Inc.** (Alameda County Superior Court, No. 26-cv-202181, filed July 30, 2026). A putative California class action alleging that SoundHound's AI phone-ordering system, which answered a Chipotle restaurant's calls, recorded and transcribed callers without their consent in violation of the California Invasion of Privacy Act (Penal Code §§ 631(a), 632 and 632.7), with intrusion and UCL claims; the restaurant is not a defendant. The claims are unproven allegations taken from law-firm and commentary summaries of the complaint; the court's civil docket requires a login and we did not open the complaint, and no response or ruling had been publicly reported as of October 11, 2026. It is a signal that the AI vendor, not only the business using the tool, can be the named defendant in a voice-AI case[447, 448, 449].
- **Data, privacy and recording suits aimed at recruiting platforms:** the *Mercor* breach class action and the McHire/Paradox exposure (Section 3); the AI-interview lie-detector suits *Baker v. CVS*, *Saint Cyr*, *Korn* and others (Section 4); the *Otter.AI* wiretap ruling (Section 1); and a Lake County BIPA class settlement with HireVue (Section 2).
- **Wiretap and pixel litigation.** The CIPA and Wiretap Act wave continued through 2026 and is spreading from website pixels and session-replay tools to AI tools, and Otter.AI shows an AI vendor can be sued under the Wiretap Act (Section 1). We found no wiretap or CIPA case aimed at AI resume parsing, which is absence of evidence only. Court results vary: the Ninth Circuit in *Popa v. Microsoft* (August 26, 2025) affirmed dismissal of a session-replay claim for lack of Article III standing, and California state courts have increasingly dismissed § 638.51 pen-register claims, but federal results are mixed. New: SB 690, signed September 30, 2026, appears to take effect January 1, 2027 (not confirmed against the enrolled text). It ends private actions under Penal Code § 638.51 for conduct on websites and apps (the Attorney General alone may sue) and applies to pending claims, but leaves §§ 631 and 632 intact, so session-

replay and chat-wiretap claims continue. Retroactivity details differ among law-firm summaries; confirm against the chaptered text[73, 407, 408, 409]. The caution stands as a caution against tracking technologies on careers pages and chatbots, not against parsing itself.

Government action

- **Federal.** The agency posture is in Section 1: the EEOC's National Enforcement Plan (June 4, 2026) says it will not commence or pursue disparate-impact litigation and contains no reference to AI[7, 410]; the OLC opinion of June 9, 2026 binds the executive branch, not courts, does not discuss AI, and leaves 29 CFR part 1607 unchanged[8, 411]; the OPM interim final rule (91 FR 48234, July 31, 2026) removes Uniform Guidelines references from federal personnel rules, and the EEOC's July 6, 2026 rescission of its affirmative-action guidelines (29 CFR part 1608) relied on the same opinion, so OPM's was not the first agency rule implementing it[38, 88]; DOL's final rule (91 FR 54444, August 21, 2026, effective October 26) rescinds the Executive Order 11246 regulations including 41 CFR part 60-3, without affecting the Uniform Guidelines at 29 CFR part 1607 or mentioning AI[35]; and the FTC's proposed AI-accuracy statement (91 FR 41638, July 7, 2026; no final version through October 9) concerns deception, not hiring[40, 412]. The agencies' live enforcement is on intentional and facial theories, particularly citizenship and national origin (Section 1): *EEOC v. Sibitalent* (filed September 30, 2026), the El Dorado Furniture conciliation ($1.3 million, October 5), and the DOJ Immigrant and Employee Rights Section settlements[10, 11, 22]. The only DOJ court filing we found that touches an employment-related AI law is its April 24, 2026 intervention against Colorado (Section 2)[13]; DOJ also filed an August 18, 2026 statement of interest in xAI's challenge to Minnesota's nudification law, which is not an employment case[428]. As of October 11, 2026 we found no DOJ action against the California, Illinois, Texas or New Jersey AI-employment rules (Section 1)[488].
- **State and local.**
- *New Jersey.* The Division on Civil Rights adopted N.J.A.C. 13:16 on November 5, 2025 (published and effective December 15, 2025); it reaches automated employment decision tools. "Most aggressive" is the Attorney General's own characterization ("most comprehensive disparate impact rules in the country"), not a legal fact[247, 413].
- *Texas.* The Attorney General has exclusive TRAIGA enforcement with a 60-day cure period; as of October 11, 2026 its news releases announce no TRAIGA action, and a non-public demand cannot be ruled out (Section 2)[61, 486].
- *Colorado.* The Attorney General enforces SB 26-189 through the Consumer Protection Act from January 1, 2027, with a 60-day cure right before January 1, 2030; the rulemaking hearing is October 26, 2026 (Section 2)[20, 59].
- *New York City.* No publicly announced LL144 penalty or settlement as of October 11, 2026 (Section 2) [26, 500].
- *California.* The CPPA's Tractor Supply order ($1,350,000) was the agency's first to address job applicants' privacy rights, and CalPrivacy's July 2026 gig-economy audit covers worker and applicant access rights (Section 3)[306, 308].

8. Best Practices for Compliance

A compliant email/resume parsing and AI screening program should:

1. **Inventory** every AI or automated tool touching recruitment, scoped by jurisdiction, and classify each as *parse and route only* or *score, rank, recommend or filter*. The line matters in NYC (a tool that substantially assists or replaces discretionary decisions), Colorado (covered ADMT that materially influences a decision), California (ADMT replacing or substantially replacing human decisions; FEHA ADS reaches tools that merely facilitate decisions) and Connecticut (a "substantial factor" in a decision). Jurisdiction triggers: an NYC job location (not the candidate's residence); Illinois employees; California applicants (FEHA at five employees; CCPA over its thresholds); Colorado-resident applicants from January 1, 2027; a Massachusetts, Illinois, Maryland, Colorado or Texas applicant for any video or voice analysis.
2. **Run bias and adverse-impact testing** before deployment and at least annually, independent and published where NYC applies and under attorney-client privilege elsewhere (Section 5 for the limits of the one ruling on point). Test for proxies (Illinois bans zip codes as a proxy for protected classes). Remediate with neutral fixes, never by adjusting results by protected class (Title VII § 703(l)). Keep the testing record: California treats evidence of anti-bias testing as relevant to a claim or defense, and Connecticut lets a court consider it.
3. **Provide candidate notice** that AI or ADMT is used, its purpose, data elements and, where applicable, the alternative, human-review or appeal option, built to satisfy together: NYC (at least ten business days before use, to NYC-resident candidates); Illinois HB 3773 (notice of AI use; the Department's notice rules are withdrawn, so the form is unsettled); Illinois AI Video Interview Act (notice, explanation and consent before the interview); Colorado from January 1, 2027 (pre-use notice, and a 30-day post-adverse-outcome description); California CCPA ADMT from January 1, 2027 (pre-use notice naming any exception relied on); Connecticut for technology deployed on or after October 1, 2027 (written pre-decision notice); and the Massachusetts lie-detector notice on every application if any tool could be characterized as detecting deception. California SB 947 adds a post-use notice for discipline and termination from July 1, 2027.
4. **Keep a human in the loop** for adverse decisions and avoid instantaneous auto-rejection. Colorado gives a request-triggered right to human review and reconsideration "to the extent commercially reasonable"; California's ADMT rules turn on a reviewer with knowledge, analysis and authority to change the decision; no federal or NYC law requires a pre-decision human. Build an appeal and correction path anyway (Colorado requires instructions to correct inaccurate personal data after an adverse outcome).
5. **Retain records** to the longest clock that applies and reconcile it with deletion rights: four years in California for selection criteria and ADS data; the life of the processing or five years, whichever is later, for CCPA risk assessments; three years for Colorado developer and deployer records; notice-delivery logs. Deletion requests and biometric destruction clocks (Colorado: earliest of purpose satisfied, 24 months after last interaction, or 45 days after an annual review; Texas: within one year after the purpose expires) must be mapped against them; the CCPA's legal-obligation exception is how a four-year retention duty coexists with a deletion request.

6. **Vendor contracts** should include: warranties of legal compliance; a plain statement of whether the tool scores, ranks, recommends or filters; cooperation and data access for audits (*Mobley* shows a vendor may hold no right to customers' applicant data, so the customer must hold it); bias-testing obligations and results sharing; transparency (no "black box"); annual third-party audit rights; data-use restrictions barring repurposing of applicant data and training on it (an AI vendor that keeps and trains on data can lose the party exception, as in *Otter.AI*); and the terms below. - *CCPA service-provider terms* (11 CCR 7051): prohibit selling or sharing; specific business purposes; no retention, use or disclosure outside the direct relationship; same level of protection; verification rights (reasonable steps that "may include" scans, audits or testing at least once every 12 months); notice if the vendor can no longer comply; the right to stop and remediate; a compliant subcontractor flow-down; cooperation with the customer's cybersecurity audit and risk assessment (§§ 7050(h), 7153); and a deletion cascade to subprocessors.

- *Security terms:* reasonable-security covenants that mirror Civ. Code § 1798.81.5(c), Illinois 815 ILCS 530/45, New York GBL § 899-bb and 201 CMR 17.03; named controls (multi-factor authentication, no default credentials, least-privilege access, encryption, retention and disposal, a vulnerability-reporting channel); a current SOC 2 Type II report with scope, period, exceptions and auditor name, a bridge letter, and a right to test; incident notice to the customer inside the shortest ceiling that applies to affected residents (10 days outer limit in Florida, Maryland and Oregon; "immediately" in California, New York and Illinois; hour counts are negotiated); and cost allocation for notification and remediation.
- *Indemnity and insurance.* Indemnity does not move legal liability: the employer remains liable, and *Mobley* adds agent liability on top. Colorado SB 26-189 (C.R.S. § 6-1-1707(7)) will, from January 1, 2027, void a contract clause that indemnifies a party for liability for damages from its own acts or omissions in violating the Colorado Anti-Discrimination Act or other Colorado anti-discrimination law, but it does not void the clause for a developer where the deployer used the ADMT in a way the developer did not intend, document, market, advertise, configure or contract for and the developer complied with § 6-1-1702, and other commercial terms and insurance claims are unaffected; Civ. Code § 1668 treats contracts that exempt a party from responsibility for violating the law as against California policy; and *Northwest Airlines v. Transport Workers* (451 U.S. 77 (1981)) denied an employer contribution from unions for its Title VII and Equal Pay Act liability (a case about unions and implied contribution, not an express indemnity). District courts have refused to let an employer shift its own Title VII or ADEA liability to a vendor through an express indemnity clause, while the Second Circuit enforced one for a settled civil rights claim where the indemnitee's own discrimination was not found (Section 4); we found no circuit ruling on vendor indemnity under Title VII or the ADEA, no FEHA ruling, and no such decision involving an AI vendor[479, 480, 481, 482]. Require proof that the vendor's coverage is not excluded for the contracted AI services, and treat additional-insured status as protection only to the extent the underlying policy covers the loss. As of October 11, 2026 we found no authoritative source setting minimum limits or additional-insured wording for AI-hiring vendors, so limits, carve-backs and retro-date terms are practitioner analysis for counsel review, not a published standard[383, 384, 414].

7. **Documentation and audit trail:** maintain dated impact assessments and bias-test records, model and dataset cards, notice templates and delivery proof, and remediation records - the main defense in *Mobley*-style litigation and under intent-based laws like Texas's. Add vendor due-diligence files (security reports, subprocessor lists, contract versions).

8. **Notice templates:** a careers-page AEDT/ADMT disclosure block; a pre-use candidate notice that meets the ten-business-day NYC clock; an applicant acknowledgment email kept purely transactional (no promotional content; an acknowledgment to a pre-offer applicant is better described as not "commercial" email than as covered by the transactional clause); and an adverse-outcome explanation plus appeal notice (Colorado and California model).
9. **Review insurance now.** Ask the broker for the actual forms and read for AI, algorithm, automated-decision and generative-AI exclusions in employment practices (EPLI), D&O, E&O, cyber and general liability, for the definition of wrongful employment practice, and for statutory-violation and contractual-liability exclusions. - Verisk/ISO's optional January 2026 endorsements (CG 40 47 01 26, CG 40 48 01 26 and CG 35 08 01 26) exclude injury arising out of "generative artificial intelligence" on general liability forms only; they do not amend EPLI, D&O, E&O or cyber. CGL is not the usual line for hiring-discrimination claims, so they matter mainly as a market signal. Whether a pure ranking model falls inside the definition ("content or responses") is uncertain[414, 415].

- Some insurers now attach absolute AI exclusions to management liability packages[416, 477]. Law-firm notes describe W.R. Berkley's "absolute" AI exclusion as reaching D&O, E&O and fiduciary products, barring claims based upon, arising out of or attributable to any use, deployment or development of AI, with a definition that includes "predictions, content, recommendations, or decisions"[416, 417]. The form itself, endorsement PC 51380 00 (06-24), amends Berkley's D&O, employment practices (EPL) and fiduciary liability coverage parts (PC 51000 DO, EPL and FLI) and, when attached, bars any claim arising out of AI use by any person or entity, which on its face reaches a vendor-built hiring tool. It is an endorsement, so it applies only to policies it is attached to, and the copy we read is a blank specimen[475, 476].
- For EPL specifically, one broker put AI exclusions at closer to 10% of the EPL market in July 2026, a Travelers representative (Chris Williams) said the vast majority of EPL policies do not distinguish human from AI employment practices, and one carrier offers affirmative wording confirming coverage whether or not AI contributed. The 10% figure is one broker's estimate, not filing data[418]. Beyond the Berkley form we found no named EPL AI-exclusion form; a filings aggregator reports that Berkley filed the form across its private-company management liability program, which is secondary only, and we found no filing number[477]. As of October 11, 2026 we found no court decision or public coverage ruling on whether EPL insurance responds to a disparate-impact claim over a vendor's tool, or on coverage when a vendor is sued as the employer's agent (a best-effort search). The working rule: most EPL policies are silent and would respond, a minority exclude AI, and each employer should confirm the AI wording in its own EPL policy with its broker[418].
- A webinar summary of more than 40,000 forms filed from January 1 to April 21, 2026 reports that 38% of filings were exclusions, that about 40% of generative-AI exclusions were filed on umbrella and excess lines, that seven insurers account for over 60% of the generative-AI exclusion filings, and that regulators approved over 41% and disapproved under 1%. These are vendor webinar figures, not the dataset, and a filed form is not necessarily in use[419].
- Affirmative AI coverage is emerging (Armilla, Testudo and Munich Re's aiSure are examples), but none of the pages we read shows it covers disparate-impact claims from hiring tools; Munich Re lists discrimination among insurable AI risks. These are vendor marketing pages, not policy forms[420, 421,

422, 423].

- Workday's 10-K for the year ended January 31, 2026 says its insurance, including errors and omissions coverage, "may be inadequate or may not be available" on acceptable terms and "may not cover all claims"; the language is generic, and no public source shows insurance backing any AI-hiring vendor's customer indemnity. Its latest 10-Q does not mention *Mobley*, AI, discrimination or insurance in its contingencies note; in that 10-Q's risk factors, the insurance-may-be-inadequate language sits in a factor on contract breaches and service disruptions, while the AI discrimination suit appears in a separate factor that says the plaintiff may pursue Workday's customers. Nothing was verified for HireVue, Eightfold, iCIMS or other vendors[424, 425, 478].
- As of October 11, 2026 we found no reported decision applying an AI exclusion (a best-effort search); a law-firm note lists policyholder arguments (narrow construction of exclusions, the duty to defend mixed claims, illusory coverage, and earlier policy years without the exclusion)[417].

10. **Keep filters keyed to visa, citizenship or national origin off the parser.** The Immigrant and Employee Rights Section's September 9, 2022 letter treats two questions as appropriate (authorization to work and need for sponsorship) and cautions against anything broader. Do not build rules that infer status from keywords, do not post "ONLY H-1B" or similar restrictions (the subject of *EEOC v. Sibitalent*), and note that the DOJ OpenAI/Statsig PERM settlement ($3.2 million) made applicant-tracking capture a remedy term (Section 1)[11, 36, 175].
11. **Get the right consent for outreach.** AI voice calls to a cell phone need TCPA prior express consent and caller identification, and revocation must be honored by any reasonable method; keep recruiting texts non-promotional; check state mini-TCPA rules (Washington's CEMA, Florida, Texas) if outreach also sells anything; and know that no state bot-disclosure statute we read clearly treats an applicant as a protected consumer (Section 4)[115, 125].
12. **Treat any facial or voice analysis of candidates as a separate project.** Obtain the written release Illinois BIPA requires, meet Colorado's employer rule (consent that cannot be required as a condition of employment for uses beyond the listed ones and, under the Attorney General's Rule 7.08(D)(2), cannot be obtained from a prospective employee during hiring for those uses[462]), use Maryland's waiver, and avoid features or marketing that describe truthfulness, deception or "integrity" scoring: in Massachusetts a waiver is no defense. Colorado, Washington, Maryland, Texas and California treat selfie-to-ID identity checks differently (Section 4)[60, 212, 314, 350].
13. **Minimize what the parser keeps.** The classification that matters under the breach statutes is which data elements the vendor stores (Social Security and ID numbers, background-check results, biometric data, credentials) and for how long; limit and delete accordingly (Section 3)[328, 329].

Recommendations

1. **Adopt the strictest-common-denominator baseline now.** Build to NYC Local Law 144 (where a job is based in the city) plus California FEHA and CCPA, Illinois HB 3773, and the Colorado and Connecticut notice duties at the same time: candidate notice, annual independent or privileged bias testing, human review of adverse actions, 4-year retention, and proxy screening (no zip codes). The federal retreat from disparate-impact enforcement does not change this baseline, because the binding duties are in state law and private litigation[7, 45, 59]. Add three more items: vendor security terms, insurance review, and care with filters keyed to visa, citizenship or national origin (Section 8).
2. **Lock down vendor contracts immediately** - the highest-return single action. A contract allocates cost; it does not move legal liability, and it does not address *Mobley* agency liability, which attaches to the vendor directly and leaves the employer's own liability in place[42]. What a contract can do: require compliance warranties; audit cooperation and data access (a vendor may hold no right to customers' data, as in *Mobley*[44]); no secondary use and no training on applicant data; the CCPA service-provider terms; named security controls, a current SOC 2 Type II report and breach notice inside the shortest applicable ceiling; and proof that the vendor's insurance is not excluded for the contracted AI services. From January 1, 2027, Colorado SB 26-189 (C.R.S. § 6-1-1707(7)) voids a contract clause that indemnifies a party for liability for damages from its own acts or omissions in violating the Colorado Anti-Discrimination Act or other Colorado anti-discrimination law. It does not void the clause for a developer where the deployer used the ADMT in a way the developer did not intend, document, market, advertise, configure or contract for and the developer complied with § 6-1-1702, and other commercial terms and insurance claims are unaffected. Elsewhere, district courts have refused to let an employer shift its own Title VII or ADEA liability to a vendor through an indemnity clause, the Second Circuit has enforced one where the indemnitee's own discrimination was not found, and we found no such decision involving an AI vendor (Section 4)[59, 384, 479, 482].
3. **Default to privileged bias testing** (engage counsel to commission the testing) everywhere except NYC, where an independent audit and a public summary are mandatory. Document scope, recency, results and remediation. California makes anti-bias testing, or its absence, relevant to a claim or defense, and does not mandate it or create a presumption[225]. The one ruling on privilege for AI bias-testing data is a narrow, non-precedential discovery order that turned on how the vendor's counsel ran the testing[44].
4. **Keep email parsing architecturally post-delivery and party-only.** Parse only mail the client lawfully receives in its own systems; bar vendors from repurposing or training on the data (an AI vendor that keeps and trains on recordings can lose the party exception[5]); avoid real-time duplication or forwarding to third parties on arrival[4]; and keep applicant auto-replies purely transactional. On facial or voice analysis, signed consent is not a universal cure: Massachusetts allows no waiver as a defense to a lie-detector claim[350], Colorado bars requiring biometric consent as a condition of employment for most uses[314], and Illinois requires a written release[212]. Treat any such analysis as a separate legal project (Section 4).
5. **Monitor the preemption fight as a gating variable.** Benchmarks that would change the plan, with their status as of October 9, 2026 (items (a) and (e) checked again October 11): - *(a) A court enjoins a state AI*

law, or DOJ's Task Force wins a challenge. Not yet. The only DOJ court filing we found that touches an employment-related AI law is its April 24, 2026 intervention in *X.AI v. Weiser*; DOJ also filed an August 18, 2026 statement of interest in xAI's challenge to Minnesota's nudification law, which is not an employment case[428]. The April 27 stipulated order bars Colorado enforcement until 14 days after a ruling on xAI's preliminary-injunction motion, which xAI need not file until 28 days after final rulemaking. It is not a merits ruling, and Colorado has since replaced that law with SB 26-189, effective January 1, 2027[13, 46, 59, 490]. As of October 11, 2026 no benchmark had been triggered for California, Illinois, Texas or New Jersey: we found no lawsuit, stay or injunction against California's FEHA ADS or CCPA ADMT regulations, and no DOJ suit, intervention or statement of interest or Commerce action aimed at those rules, California SB 947 or the Illinois, Texas and New Jersey AI-employment laws (a private suit challenges New Jersey's disparate-impact rules; Section 2). These are dated search results, not proof that nothing is pending, so keep complying with those laws[226, 431, 488, 493].

- *(b) Congress passes a preemptive framework or moratorium.* Not yet. No federal statute exists; the House-passed FY2027 NDAA and the Senate bill carry no AI preemption text, the Senate bill failed cloture on July 14, 2026, and the continuing resolution funds the government only to December 11, 2026 with no AI text. A December funding vehicle is the next place to watch[14, 15, 16].
- *(c) Colorado's rulemaking concludes.* In progress. The Attorney General must adopt post-adverse-outcome disclosure rules by January 1, 2027; comments and the formal hearing are set for October 26, 2026; the interim draft dated October 6 differs from the August 11 proposal[20, 21].
- *(d) A* Mobley *merits ruling or settlement.* Not yet. Next dates: Workday's class-certification opposition and decertification motion on November 10, 2026, and the class-certification hearing on March 9, 2027[17, 18].
- *(e) The Commerce list of "onerous" state laws, an FCC proceeding or an AI-linked BEAD condition.* As of October 11, 2026 none had been located (a search result, not proof; Section 1); the FCC step would start 90 days after the Commerce list[12, 150, 432, 444].
- *(f) A final FTC AI-accuracy policy statement.* Proposed July 7, 2026 and not final; it concerns deception, not hiring[40]. Until any of these occurs, **follow each state's AI law by its own terms and effective dates**: EO 14365 preempts nothing, does not itself invalidate any state law, and creates no enforceable rights[12, 446].

6. **Stage the rollout to the calendar.** Statuses as of October 9, 2026 (some sources checked through October 11). - *Live now:*
    - NYC Local Law 144, enforced since July 5, 2023[195].
    - Illinois AI Video Interview Act (2020) and BIPA[202, 212].
    - Maryland HB 1202 (since October 1, 2020)[60].
    - California FEHA ADS rules (October 1, 2025)[223].
    - New Jersey's disparate-impact rules, N.J.A.C. 13:16 (December 15, 2025); a private federal challenge filed September 3, 2026 is pending[247, 493].

- Colorado biometric amendments (HB 24-1130) (July 1, 2025)[345].
- Illinois HB 3773 (January 1, 2026; the Department's notice rules are withdrawn)[203, 206].
- Texas TRAIGA (January 1, 2026)[61].
- The CCPA/CPRA regulations (January 1, 2026): risk assessments are required before new covered processing, and cybersecurity-audit rules apply on the schedule below[58].
- Connecticut's Public Act 26-15 provisions that took effect October 1, 2026 (use of the technology is no defense to a Fair Employment Practices Act complaint; testing evidence may be considered; an employer serving a federal WARN notice must tell the Labor Department whether the layoffs relate to AI or other technological change)[45].
- The federal TCPA rules on AI voice calls (FCC 24-17)[115].
- The CCPA breach private right of action, which has always reached applicants[69].

- *Coming, in date order:*
  - About 2026-10-18: Pennsylvania Act 47 of 2026 (SB 992) takes effect, 90 days after enactment; it amends the Telemarketer Registration Act, and we found no recruiting provision[377].
  - 2026-10-26: Colorado Attorney General rulemaking hearing[20]; DOL's rescission of the Executive Order 11246 regulations takes effect[35].
  - 2026-10-28: final approval hearing on the HireVue BIPA settlement in Lake County[214].
  - 2026-11-05: Massachusetts Appeals Court argument in *Whitney v. Hertz* on who is a "person aggrieved" under the lie-detector statute[471].
  - 2026-11-10: Workday's *Mobley* filings due[17]; also the first-notice date IDHR's July 2026 agenda gives for a Part 2520 rulemaking, a placeholder whose entry does not mention AI (Section 2)[459].
  - 2026-12-11: current federal funding law expires[16].
  - 2026-12-21: the amendment to 41 CFR part 60-30 in OFCCP's Section 503 final rule (91 FR 54482) takes effect; the rest of that rule took effect September 21, 2026 and Section 503 obligations continue[427].
  - 2027-01-01:
  - Colorado SB 26-189 takes effect[59].
  - California ADMT compliance date for significant decisions[58].
  - California SB 923 and, per law-firm sources, SB 951, AB 1883 and AB 1331 take effect; SB 690 appears to take effect January 1, 2027 (not confirmed against the enrolled text)[32, 73, 233, 234, 235].
  - Colorado HB 26-1263 duties begin[43].
  - Delaware HB 380 takes effect[66].

- Washington's companion-chatbot law (ESHB 2225) takes effect[266].
- The Oklahoma (SB 546) and Louisiana (SB 386, Act 502) comprehensive privacy laws take effect; both exempt applicant and employee data[302, 303].
- 2027-03-09: *Mobley* class-certification hearing noticed[18].
- 2027-06-01: Illinois SB 3777 takes effect[37].
- 2027-07-01: California SB 947 becomes operative[29]; Georgia SB 540 (AI companion chatbots; Act 518) takes effect, and we did not confirm whether it excludes business-operations tools[299].
- 2027-10-01: Connecticut deployer and developer duties for technology deployed on or after that date[45].
- 2027-12-31: deadline to assess CCPA covered processing that was already underway on January 1, 2026[58].
- 2028-01-01: Vermont Act 145 (comprehensive privacy law) takes effect; it exempts applicant and employee data[301].
- 2028-04-01: first CCPA risk-assessment summaries and attestations, and first cybersecurity-audit reports for businesses with 2026 revenue over $100 million (later tiers April 1, 2029 and 2030)[58].
- 2029-01-01: California's AI Auditor Registry deadline (reach to hiring audits unconfirmed)[236].
- 2030-01-01: the Colorado cure-period right ends[59].
- *Date not set:* the FCC 26-67 TCPA revocation changes take effect 30 days after Federal Register publication, which had not occurred by October 7[27].

- *Left out of the calendar on purpose:* California SB 1119 (companion chatbots, children's safety), chaptered September 10, 2026 as Chapter 190. It is not a hiring law, and the July 1, 2027 date reported for its new risk-assessment and audit duties is an operative date from a secondary source that we could not check against the bill text, so we did not date it here.

Caveats

- **Rapidly evolving and unsettled areas (labeled):** (1) *Federal preemption.* The December 11, 2025 order and DOJ's Task Force create uncertainty but preempt nothing; the dated checkpoints are in Recommendation 5. (2) *Colorado.* SB 24-205 was repealed and reenacted as SB 26-189 (effective January 1, 2027); the Attorney General's rules are drafts, the stipulated enforcement stay in *X.AI v. Weiser* is not a merits ruling, and how HB 26-1263 is codified alongside SB 26-189 should be confirmed before relying on either. (3) *Mobley v. Workday.* The collective is preliminarily certified, there is no merits ruling, the agency theory has been accepted only at the pleading stage, and whether applicants may bring ADEA disparate-impact claims is contested (the Seventh and Eleventh Circuits say no; the Ninth Circuit has not ruled). (4) *Recording and wiretap law as applied to AI. Otter.AI* is a pleading-stage ruling; SB 690 removes only the private pen-register claims, and its retroactivity details differ among law-firm summaries. (5) *Federal guidance.* The EEOC and DOL AI materials are gone and not replaced, the EEOC says it will not pursue disparate-impact litigation, and the OLC opinion calls the Uniform Guidelines unconstitutional while 29 CFR part 1607 remains in the regulations; the statutes themselves did not change[7, 8, 82]. (6) *Massachusetts lie-detector claims.* The First Circuit had not decided *Saint Cyr* as of October 9, 2026 (the *Crane* appeal was voluntarily dismissed), and we found no Massachusetts appellate ruling on who is a "person aggrieved"; the *Whitney v. Hertz* Appeals Court argument is set for November 5, 2026.
- **Statuses are dated.** They are stated as of October 7, 2026 unless another date is given, with some primary sources checked through October 11, 2026. Developments after those dates are not captured.
- **"We found no..." statements are limited searches.** They describe what agency, court, legislature and trade-press pages showed us, not proof that nothing exists; state courts and many agency charge files are not searchable.
- **Source quality varies.** Statutes, regulations, court orders and dockets control where they conflict with anything else. Several points rest on law-firm alerts, trade press, trackers or vendor pages and are labeled where they appear: for example the McHire exposure figures, the *Mercor* and *Meta* allegations, the Delve reports, post-removal dates in *Eightfold*, the insurance-market estimates, and effective dates taken from law-firm summaries (SB 951; SB 690 effective date and retroactivity). Allegations in complaints are unproven.
- **Chaptered texts not read.** We did not read the chaptered text of several 2026 California bills (SB 951 effective date, SB 690 effective date and retroactivity); confirm against the enrolled text before relying on those details.

This guide is provided for general informational purposes only and does not constitute legal advice. Laws referenced here change frequently and vary by jurisdiction; 4Spot Consulting makes no representations or warranties as to the accuracy or completeness of this information as applied to your specific situation, and you should consult your own qualified employment counsel before relying on it or taking any action.

AI HIRING COMPLIANCE FIELD GUIDE

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Knowing the rules is the first step. Building them into a hiring process that runs every day is the work. 4Spot Consulting designs and builds that layer for HR and recruiting teams, connected to the tools you already use:

- Candidate notice and consent steps that fire from your ATS at the right point in the process
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Book a free consult. We'll map where AI and automation touch your hiring process today and which of these rules apply to you. **4SpotConsulting.com/30**

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