Press Release
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U.S. EEOC and U.S. Department of Justice Warn against Disability Discrimination

Employers' Use of Artificial Intelligence Tools Can Violate the Americans with Disabilities Act

WASHINGTON – Today the U.S. Equal Employment Opportunity Commission (EEOC) and the U.S. Department of Justice (DOJ) each released a technical assistance document about disability discrimination when employers use artificial intelligence (AI) and other software tools to make employment decisions.

Employers increasingly use AI and other software tools to help them select new employees, monitor performance, and determine pay or promotions. Employers may give computer-based tests to applicants or use computer software to score applicants' resumes. Many of these tools use algorithms or AI. These tools may result in unlawful discrimination against people with disabilities in violation of the Americans with Disabilities Act (ADA).

The EEOC released a technical assistance document, "**The Americans with Disabilities Act and the Use of Software, Algorithms, and Artificial Intelligence to Assess Job Applicants and Employees**

(https://www.eeoc.gov/laws/guidance/americans-disabilities-act-and-use-software-algorithms-and-artificial-intelligence) ," focused on preventing discrimination against job seekers and employees with disabilities. Based on the ADA, regulations, and existing policy guidance, this document outlines issues that employers should consider to ensure that the use of software tools in employment does not disadvantage workers or applicants with disabilities in ways that violate the ADA. The document highlights promising practices to reduce the likelihood of disability discrimination. The EEOC technical assistance focuses on three primary concerns under the ADA:

- Employers should have a process in place to provide reasonable accommodations when using algorithmic decision-making tools;

- Without proper safeguards, workers with disabilities may be "screened out" from consideration in a job or promotion even if they can do the job with or without a reasonable accommodation; and

- If the use of AI or algorithms results in applicants or employees having to provide information about disabilities or medical conditions, it may result in prohibited disability-related inquiries or medical exams.

The DOJ's guidance document, "**Algorithms, Artificial Intelligence, and Disability Discrimination in Hiring (https://beta.ada.gov/ai-guidance/)** ," provides a broad overview of rights and responsibilities in plain language, making it easily accessible to people without a legal or technical background. This document:

- Provides examples of the types of technological tools that employers are using;

- Clarifies that, when designing or choosing technological tools, employers must consider how their tools could impact different disabilities;

- Explains employers' obligations under the ADA when using algorithmic decision-making tools, including when an employer must provide a reasonable accommodation; and

- Provides information for employees on what to do if they believe they have experienced discrimination.

"New technologies should not become new ways to discriminate. If employers are aware of the ways AI and other technologies can discriminate against persons with

disabilities, they can take steps to prevent it," said EEOC Chair Charlotte A. Burrows. "As a nation, we can come together to create workplaces where all employees are treated fairly. This new technical assistance document will help ensure that persons with disabilities are included in the employment opportunities of the future."

"Algorithmic tools should not stand as a barrier for people with disabilities seeking access to jobs," said Assistant Attorney General Kristen Clarke for the Justice Department's Civil Rights Division. "This guidance will help the public understand how an employer's use of such tools may violate the Americans with Disabilities Act, so that people with disabilities know their rights and employers can take action to avoid discrimination."

The EEOC's technical assistance document is part of its **Artificial Intelligence and Algorithmic Fairness Initiative (https://www.eeoc.gov/artificial-intelligence-and-algorithmic-fairness-initiative)** to ensure that the use of software, including artificial intelligence (AI), used in hiring and other employment decisions complies with the federal civil rights laws that the EEOC enforces. In addition to its technical assistance, the EEOC released a summary document providing "**Tips for Job Applicants and Employees (https://www.eeoc.gov/tips-workers-americans-disabilities-act-and-use-software-algorithms-and-artificial-intelligence)** ."

The EEOC advances opportunity in the workplace by enforcing federal laws prohibiting employment discrimination. More information is available at **www.eeoc.gov (http://www.eeoc.gov/)** . Stay connected with the latest EEOC news by subscribing to our **email updates (https://public.govdelivery.com/accounts/USEEOC/subscriber/new)** .