

MAY 12, 2025 | AI/TECHNOLOGY, PRIVACY & DATA SECURITY

California Legislature and Civil Rights Agency Focus on Potential Employment Law Pitfalls in Artificial Intelligence

BY MEGAN STEVENS SHAKED

By [Megan Shaked](#)

Agency Efforts

The California Civil Rights Division has finalized regulations addressing employer use of artificial intelligence and automated decision systems. The proposed regulations, which are pending approval with the Office of Administrative Law, are explicit in confirming that “[i]t is unlawful for an employer or other covered entity to use an automated-decision system or selection criteria (including a qualification standard, employment test, or proxy) that discriminates against an applicant or employee or a class of applicants or employees on a basis protected” by the California Fair Employment and Housing Act (FEHA). The regulation further specifies that “[r]elevant to any such claim or available defense is evidence, or the lack of evidence, of anti-bias testing or similar proactive efforts to avoid unlawful discrimination, including the quality, efficacy, recency, and scope of such effort, the results of such testing or other effort, and the response to the results.”

The regulations offer further clarification on the impact of AI and automated-decision systems on existing prohibitions and other obligations, ranging from pre-employment practices to criminal history screenings and more.

Legislative Efforts

Meantime, both branches of the California legislature are attempting to establish guardrails to protect against discriminatory employment law practices involving the use of artificial intelligence.

Senate Bill 7 – known as the “No Robo Bosses” Act directly addresses the use of AI in employment-related decisions, defined as “any decision by an employer that impacts wages, wage setting, benefits, compensation, work hours, work schedule, performance evaluation, hiring, discipline, promotion, termination, job tasks, skill requirements, work responsibilities, assignment of work, access to work and training opportunities, productivity requirements, workplace health and safety, and any other terms or conditions of employment.”

The bill would require employers:

- Give written notice when an automated decision system is used in making employment-related decisions.
- Maintain a list of all automated decision systems in use.
- Provide workers notice if they are affected by an employment-related decision made by an automated decision system.
- Provide workers affected by an employment-related decision an appeal process, including review by a human meeting specified criteria to objectively evaluate the decision.
- Provide workers with access to data collected and used.

Senate Bill 7 includes antidiscrimination and antiretaliation provisions, as well as enforcement by the Labor Commissioner.

Assembly Bill 1018 also seeks to regulate AI, but is not limited to employment decisions. AB 1018 impacts the development and use of automated decision systems (ADS) used to make “consequential decisions” meaning a decision that “materially impacts the cost, terms, quality, or accessibility” of a wide-ranging number of categories from employment-related decisions, to education to healthcare and more.

An “employment-related decision” would cover a decision made by an employer, directly or through a third party, that affects “wages, benefits, other compensation, hours, work schedule, performance evaluation, hiring, discipline, promotion, termination, job tasks and responsibilities, assignment of work, access to work and training opportunities, productivity requirements, workplace health and safety, or other terms or conditions of employment.” A developer of a covered ADS would be required to take a number of specific steps, including conducting evaluations, providing certain disclosures, allowing for opt outs, providing for appeal, and submitting to audits.

Next Steps

We should expect to see additional amendments as negotiations with stakeholders continue and as these bills work their way through the committee process. The legislative session ends on September 12, at which point Governor Newsom will have until October 12 or sign or veto any bills that have passed.

Conn Maciel Carey’s California Labor & Employment group will provide an update on new legislation impacting California employers at our [Third Annual Cal/OSHA and California Employment Law Summit](#) scheduled for October 21 in Northern California and October 23 in Southern California.

Conn Maciel Carey LLP

[Disclaimer](#)

Attorney Advertising

