

New York City's Automated Employment Decision Tool Law: A 10-Point Checklist

By Odia Kagan



Are you hiring or promoting employees with the assistance of some sort of automated tool? Do you do business in New York City?

Starting July 5, 2023, here is what you need to do:

1. Determine whether you hire or promote employees in New York City
2. Assess all the tools you use for human resources and determine whether they are an “automated employment decision tool (AEDT)”

If Yes:

3. Assess whether this tool “substantially assists or replaces discretionary decision making” (A recent decision by an Advocates General of the European Court of Justice in a case involving SCHUFA and GDPR Art 22 automated decision-making shows that this could be very broad.)
4. Conduct a third-party bias audit of your tool for bias (It is a good idea to consider engaging an auditor and make sure the audit satisfies the requirements of the law.)
5. Publicly disclose the findings of the bias audit.
6. Draft a detailed privacy notice/disclosure of the use of the AEDT
7. Assess with labor and employment counsel whether consents are necessary under federal/states laws.
8. Develop a process to notify the employees of the use of the tool at least 10 business days in advance
9. Develop a process to re-assess the bias audit periodically (not less than annually) and when any of the processing changes
10. Develop a data retention policy for the AEDT information and disclose it



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