

## EEOC Releases New Resource on AI and Title VII

The U.S. Equal Employment Opportunity Commission (EEOC) recently released [technical assistance](#) focusing on preventing discrimination against applicants and employees because of employers' use of algorithmic decision-making tools when making employment decisions. The document explains how key aspects of Title VII of the Civil Rights Act (Title VII) apply to an employer's automated systems, including those that incorporate artificial intelligence (AI).

**“This technical assistance resource is another step in helping employers and vendors understand how civil rights laws apply to automated systems used in employment.”**

- EEOC Chair Charlotte A. Burrows

The agency's technical assistance provides employers with insights on how to monitor new algorithmic decision-making tools to determine whether they have a disparate and adverse impact on applicants and employees based on protected characteristics, including race, color, religion, sex or national origin. The document includes questions and answers to help employers address these issues. While Title VII applies to all employment practices of covered employers, the agency's technical assistance is limited to selection procedures, such as hiring, promotion and firing.

The EEOC's technical assistance document is part of its Artificial Intelligence and Algorithmic Fairness Initiative, which helps ensure that employers' use of software and AI in hiring and other employment decisions comply with federal civil rights laws. Without proper safeguards, employers can risk violating civil rights laws, even when it's unintentional.

### Employer Takeaways

Employers are increasingly using automated systems to assist in wide-ranging employment matters. While many employers use these tools to improve efficiency and reduce bias, they can have unintentionally biased consequences when they're not properly monitored. The EEOC encourages employers to conduct ongoing self-analysis to determine whether they are using technology in a way that may have discriminatory impacts and results.

In its recently published draft Strategic Enforcement Plan for fiscal years 2023-27, the agency indicated that it is prioritizing workplace use of AI as a subject matter for enforcement. As such, employers should consider taking steps now to assess the potential disparate and adverse impact of their algorithmic decision-making tools when making employment decisions.

We will keep you apprised of any notable updates. Contact Franconia Insurance & Financial Services for more workplace resources.