

Legal Update

Brought to you by: Brooks Insurance Agency

Federal Agencies Issue Joint Statement on AI and Automated Systems

Aiming to promote responsible innovation in automated systems—including those marketed as artificial intelligence or AI—four federal agencies have issued a [joint statement](#) pledging to monitor the development and use of these systems and vigorously enforce anti-discrimination laws as they become more common. The agencies issued the statement on April 25, 2023.

Issuing Agencies and Laws Enforced

The agencies that signed on to the joint statement are:

- The Equal Employment Opportunity Commission, which enforces federal laws that prohibit employment discrimination based on certain protected traits, such as race and sex;
- The Department of Justice, which enforces federal laws that prohibit discrimination across many facets of life, including education and employment;
- The Consumer Financial Protection Bureau, which enforces federal laws that prohibit discrimination and unfair, deceptive or abusive practices in the financial marketplace; and
- The Federal Trade Commission, which enforces federal laws that protect consumers from deceptive or unfair business practices.

In the joint statement, the agencies note that existing laws and regulations addressing discrimination and other unlawful practices apply to automated systems and innovative new technology use just as they do to other practices.

Automated Systems and Discrimination Potential

The joint statement notes that potential discrimination in automated systems may come from different sources, including problems with data sets, model access, and design and use. For example, automated system outcomes can be skewed by unrepresentative or imbalanced data sets, data sets that incorporate historical bias, or data sets that contain other types of errors. Automated systems also can correlate data with protected classes, which can lead to discriminatory outcomes.

Employer Impact

The joint statement was issued for informational purposes only and does not create any new legal rights or obligations. Nevertheless, employers that use automated systems to make employment decisions should become familiar with the joint statement and ensure that their policies and practices comply with all applicable laws enforced by the signing agencies.

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IMPORTANT INFORMATION

- “Automated systems” is used broadly to mean software and algorithmic processes, including AI, that are used to automate workflows and help people complete tasks or make decisions.
- Use of automated systems may perpetuate unlawful bias, automate unlawful discrimination and produce other harmful outcomes.
- Existing laws and regulations apply to the use of automated systems and innovative new technologies just as they apply to other practices.
- The four agencies pledged to vigorously protect individuals’ rights regardless of whether legal violations occur through traditional means or advanced technologies.
- The statement does not create or change any new rights or obligations for employers.