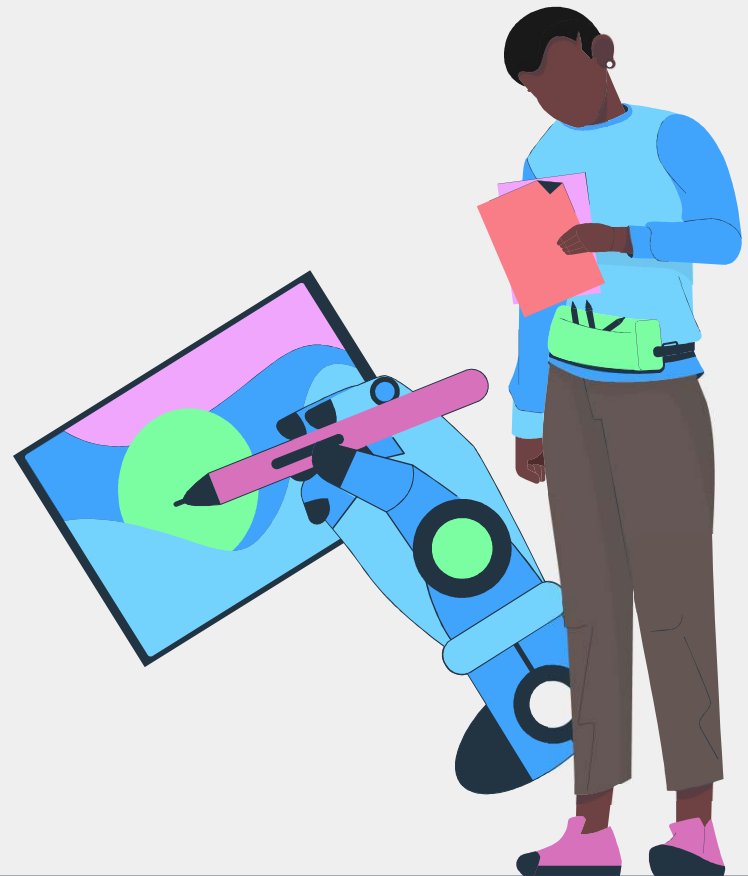


# AI Software and Discrimination in the Hiring Process

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# TODAY'S TOPICS

**01**

**AI Software – what are we talking about?**

**02**

**Anti-discrimination laws**

**03**

**Real world examples**

**04**

**Practical tips**

# AI Software – What are We Talking About?

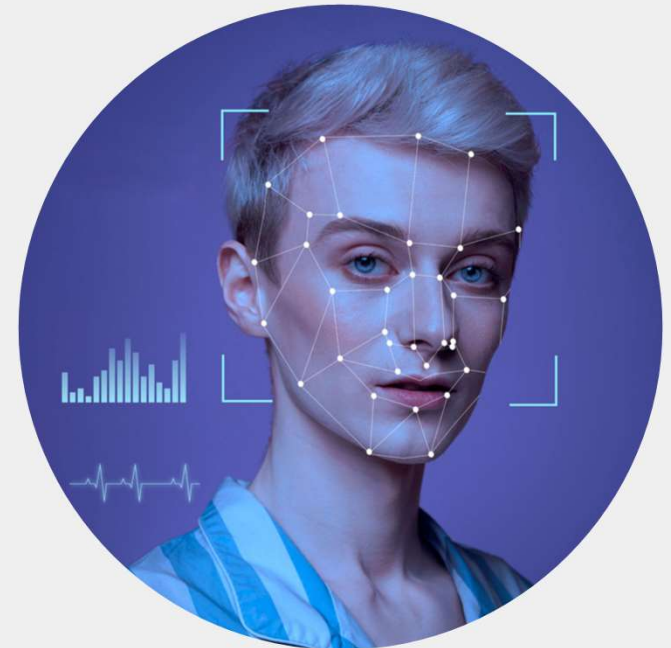
Resume Screeners

Chatbots

Personality Tests

Video-game Style Test

Video Interview



# Anti-Discrimination Laws

## Federal Law & MHRA

**Prohibit employment discrimination based on protected classes, including race, color, sex, sexual orientation or gender identity, physical or mental disability, religion, age, ancestry, national origin or familial status**

# Disparate Impact

**Neutral tests or “selection procedures” that have the negative effect of disproportionately excluding persons based on protected class**

- **Selection procedure should be associated with skills needed to perform the job successfully**
- **Potentially problematic:**
  - **Automatically excluding applicants who cannot stand for prolonged periods of time**
  - **Automatically rejecting applicants based on gaps in employment**
  - **Automatically promoting applicants with advanced degrees**

# STATE LAWS



## COLORADO

Consumer Protections for Artificial Intelligence (effective Feb. 1, 2026)



## NEW YORK CITY

Automated Employment Decision Tools Law (effective Jan. 1, 2023)



## MARYLAND

Use of Facial Recognition Services – Prohibition (effective Oct. 1, 2020)



## ILLINOIS

Artificial Intelligence Video Interview Act (effective Jan. 1, 2020)

# Amazon



Amazon started building AI tool in 2014 to review job applicants' resumes



Favored resumes that included verbs such as “executed” and “captured”

Disfavored resumes with the word “women”

Two factors most indicative of success: “Jared” and playing high school lacrosse

# Mobley v. Workday



- Mobley alleges Workday's AI-powered screening tools discriminated against him on the basis of race, age, and disability
- Mobley applied to over 100 positions with companies that use Workday's screening tools
  - Rejected from all jobs, some within an hour of submitting application
  - Federal court denied Workday's motion to dismiss (in part) and the case is headed to discovery



# ACLU v. Aon Consulting

- **FTC Complaint: “false advertising”**
- **EEOC Complaint: alleges discrimination in Aon’s personality assessment test, video interviewing platform, and cognitive ability test**

The Aon logo, consisting of the word "Aon" in a bold, red, sans-serif font, is centered within a light blue circular outline.

# EEOC v. iTutor Group



**AI hiring tool automatically rejected female applicants age 55+ and male applicants age 60+ (over 200 applicants in total)**

**EEOC settled the case in August 2023 – how much did they settle for?**



**\$365,000.00**

iTutor Settlement

# Practical Tips

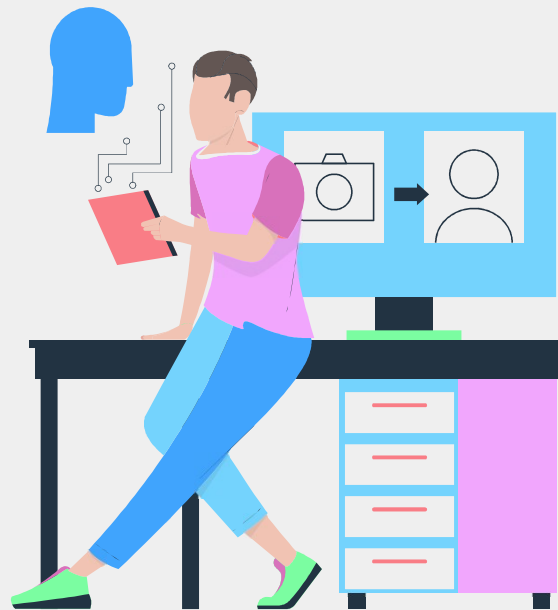
**Uncritical reliance on AI can have legal consequences**



**Tools should measure applicants' ability to fulfill essential functions**



**Ask vendor about practices**



**Be transparent and provide reasonable accommodations**



**Train staff to recognize and process requests for accommodations**

# QUESTIONS?

**Thank you!**  
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