

AI in the Workplace: President Biden's Executive Order and What Employers Need to Know

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Ten years ago, the thought of a presidential "Executive order on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence" might still have seemed in the realm of science fiction, but today AI has become commonplace. Virtual assistants are used daily by millions, e-mail spam filters are using algorithms to filter out garbage from our inboxes, and online platforms are all employing AI-powered recommendation systems to personalize content and shopping suggestions.

While it may not be obvious at first glance, AI is present at almost all levels of the employment relationship. Tools that filter and pre-screen candidates rely on AI-based algorithms to highlight only the best candidates, productivity tools can utilize AI to streamline or automate repetitive tasks, and advanced AI may end up replacing certain jobs in the same way that assembly lines replaced factory workers in the past.

President Biden's executive order, signed Oct. 30, 2023, broadly targets the role of AI in America's future. The order covers a wide range of topics, and while the executive order is not a legally enforceable set of rules, it does set the stage for the government to

become more involved in the regulation of AI in the future - including its effect on the workplace.

The executive order expresses concern that AI could be used "in ways that undermine rights, worsen job quality, encourage undue worker surveillance, lessen market competition, introduce new health and safety risks, or cause harmful labor-force disruptions."

As the executive order goes on to say, "AI reflects the principles of the people who build it, the people who use it, and the data upon which it is built." When improperly used or developed, even the most innocuous of AI can result in unintended discriminatory conduct.

Providing guidance in these areas, the executive order (and its accompanying [fact sheet](#)) are intended to "ensure that AI complies with all federal laws and to promote robust technical evaluations, careful oversight, engagement with affected communities, and rigorous regulation." The order goes on to provide specific instructions to the U.S. Department of Labor and Attorney General to mitigate AI's potential harm to employees and ensure existing federal discrimination laws are enforced in light of AI developments.

This is not the first effort made to regulate AI in the workplace. The EEOC has also identified discriminatory AI usage as a focus of its strategic enforcement priorities over the next five years, and individual states and cities have already begun rolling out rules of their own. It is clear that employers can expect ongoing guidance and requirements regarding the use of AI.

On the other hand, the executive order also [promotes the immigration of highly skilled workers familiar with the technology.](#)

While it remains unclear what the final form these federal requirements may take, it is abundantly clear that the government has acknowledged some risks and effects of AI in the workplace. For today, employers should begin monitoring and tracking what AI systems they are using. In order to prepare for future regulations, the best step employers can take is to be mindful and aware of where AI is currently being used in their workplaces.

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