

# What Employers Need to Know about the White House's Executive Order on AI

Article By:

Carina L. Novell

---

President Joe Biden recently issued an executive order devised to establish minimum risk practices for use of generative artificial intelligence (“AI”) with focus on rights and safety of people, with many consequences for employers. Businesses should be aware of these directives to agencies, especially as they may result in new regulations, agency guidance and enforcements that apply to their workers.

## Executive Order Requirements Impacting Employers

Specifically, the executive order requires the Department of Justice and federal civil rights offices to coordinate on ‘best practices’ for investigating and prosecuting civil rights violations related to AI. The ‘best practices’ will address: job displacement; labor standards; workplace equity, health, and safety; and data collection. These principles and ‘best practices’ are focused on benefitting workers and “preventing employers from undercompensating workers, evaluating job applications unfairly, or impinging on workers’ ability to organize.”

The executive order also requested a report on AI’s potential labor-market impacts, and to study and identify options for strengthening federal support for workers facing labor disruptions, including from AI. Specifically, the president has directed the Chairman of the Council of Economic Advisers to “prepare and submit a report to the President on the labor-market effects of AI”. In addition, there is a requirement for the Secretary of Labor to submit “a report analyzing the abilities of agencies to support workers displaced by the adoption of AI and other technological advancements.” This report will include principles and best practices for employers that could be used to mitigate AI’s potential harms to employees’ well-being and maximize its potential benefits. Employers should expect more direction once this report is completed in April 2024.

## Increasing International Employment?

Developing and using generative AI inherently requires skilled workers, which President Biden recognizes. One of the goals of his executive order is to “[u]se existing authorities to expand the ability of highly skilled immigrants and nonimmigrants with expertise in critical areas to study, stay, and work in the United States by modernizing and streamlining visa criteria, interviews, and reviews.” While work visas have been historically difficult for employers to navigate, this executive order may make it easier for US employers to access skilled workers from overseas.

## Looking Ahead

In light of the focus of this executive order, employers using AI for recruiting or decisions about applicants (and even current employees) must be aware of the consequences of not putting a human check on the potential bias. Working closely with employment lawyers at Sheppard Mullin and having a multiple checks and balances on recruiting practices are essential when using generative AI.

While this executive order is quite limited in scope, it is only a first step. As these actions are implemented in the coming months, be sure to check back for updates.

Copyright © 2024, Sheppard Mullin Richter & Hampton LLP.

---

National Law Review, Volumess XIII, Number 320

Source URL: <https://www.natlawreview.com/article/what-employers-need-know-about-white-houses-executive-order-ai>