# Labor & Employment

From revolutionizing the hiring process to improving performance management, the integration of AI within the labor and employment landscape is dramatically transforming human resources and personnel management. These cutting-edge tools are helping organizations optimize operations and decision-making processes, improving the overall employee experience. However, the adoption of AI brings forth new legal considerations and challenges for employers to navigate. Michael Best's nationally recognized Labor & Employment Relations group helps organizations of all sizes navigate the nuances of AI integration.

Key Contacts

Ashley Felton
Partner
984.220.8764
alfelton@michaelbest.com
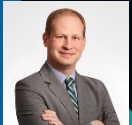
Brian Paul
Partner
312.527.6843
bppaul@michaelbest.com

Mitigating Bias in AI-driven Hiring and Performance Evaluation Processes: While using AI can add efficiency to both the hiring and performance evaluation processes, employers should be aware of potential liability related to inadvertent biases and discrimination. AI algorithms learn from historical data sets, which may perpetuate systemic biases or discrimination against protected groups if not properly audited or vetted. Our team can provide guidance on minimizing this risk, including:

- Vetting HRIS technology algorithms and data sets.
- Assisting with defining fairness metrics.
- Conducting bias audits to identify potential disparities.
- Providing ongoing monitoring for potential biases in your organization's algorithmic decision-making.
- Navigating EEOC and related local and state guidance.

Crafting Comprehensive AI Policies: Regardless of where employers stand on the use of artificial intelligence for recruiting and performance, all employers should start adopting policies on the use of generative AI technology in the workplace. Our team can assist with:

- Reviewing existing policies to ensure compliance with federal, state, and local labor laws and regulations.
- Developing new and customized policies regarding use of AI and generative AI within the workplace.
- Updating handbooks and employment agreement templates to include AI-specific policy language.
- Updating confidentiality and proprietary information agreements to restrict disclosure of protected information in generative AI technologies.

Safeguarding Employee and Company Privacy: As organizations begin to utilize AI in the workplace, they must find a balance between capitalizing on AI's benefits and protecting sensitive information, of both the company and employees. Our team can assist with:

- Providing guidance on compliance relating to privacy regulations (such as GDPR, state consumer privacy laws, and biometric laws).
- Providing data management advice and counsel, developing policies, and employee trainings on responsible and ethical use of AI.

Integrating AI Technology to Promote Safety and Security in the Workplace: AI technology will enable workers to operate equipment from safe distances away from noise, chemicals; and airborne contaminants; help reduce ergonomic risks; and provide warnings, much like the driverless technology in automobiles. This technology will manage many of the risks that are injuring workers today, by adding a layer of protection for employees while further preventing costly workplace injuries. Our team can help employers introduce this technology to employees by:

- Evaluating risk and advising clients on safety and security opportunities presented by AI-enhanced equipment.
- Updating current safety manuals to reflect added technology.
- Designing training programs and materials for employees and supervisors on proper use of AI technology.

Navigating the Complex Legal and Regulatory Landscape: Regulations and laws surrounding AI are evolving rapidly, with many states introducing legislation regulating the use of certain AI technology and resulting job loss through AI adoption. Our team is committed to ensuring your organization remains in compliance with laws in all jurisdictions, by:

- Monitoring new developments in the legal and regulatory landscape that affect employers, and providing our clients with timely updates and guidance.
- Providing strategic guidance on President Biden's Executive Order on AI.
- Addressing fiduciary risks and other compliance issues associated with using AI in benefits open enrollment, retirement, health, and welfare plans.