



### Update Your Handbook

AI is here. Your Employee Handbook should detail how employees can and cannot use AI in the workplace.

Update your handbook to include a policy on AI use in the workplace. Please reach out to Bret or me to implement an AI policy.

If you have questions about any employment matters, call **Bret Rappaport**, who for more than three decades has worked with clients on employment law matters at 847-597-2151.

You can reach Madison at [mcastleberry@hsklaw.com](mailto:mcastleberry@hsklaw.com) or 847-597-2138.

The notice must be distributed to employees annually or within 30 days of implementing a new or updated AI system. Records of the Notice must be kept for four years. For all these reasons, employers should refrain from using AI in relation to anything employment related. Do not prepare write-ups, termination memos, and investigation reports with the assistance of AI.

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### **NEW ILLINOIS LAW ON AI IN THE WORKPLACE – DON’T USE IT FOR EMPLOYMENT MATTERS & UPDATE YOUR HANDBOOK**

Employment law (HB 3773) (1) prohibits employers from using AI in a way that has the effect of discrimination, and (2) requires notice if AI is used in employment decisions. The IDHR released draft rules on the new law, and although the rules are not final yet, they provide insight into how the new law will be enforced.

#### Potential Risks

The new law prohibits AI use that can lead to discrimination. We recommend not using generative AI for assistance in employment-related decisions. More specifically, zip-codes cannot be used to recruit or hire employees because use of zip codes can unintentionally discriminate.

AI can collect biometric data. This presents a risk. For example, a recent lawsuit alleges that an AI meeting assistant was collecting voiceprints without written consent from employees. If you are using AI transcription and summarization tools, avoid using it in sensitive meetings and obtain consent from employees to utilize AI assistants in meetings.

#### Notice Requirement

If you elect to use AI for employment decisions, employers are obligated to notify employees. The notice is required **regardless** of whether the AI's use has discriminatory effects.

These notifications requirements are very specific and must include

- AI product's name
- Which employment decisions it affects,
- Its purpose, what data it collects,
- Types of positions it will be used for, and
- Contact details for inquiries