

## NYC AI Audit Law Becomes Effective July 2023

### FEATURED ATTORNEY



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#### ***From the desk of Rachel Demarest Gold***

As mentioned in the April Risk Alert, NYC is preparing to implement the new AI Audit Law, discussed more below. The NYC Department of Consumer and Worker Protection was scheduled to begin enforcement on Saturday April 15th . They have moved those plans to July 5, but the Department has adopted the final rule, which becomes effective May 6.

You can read the full text of the Final Rule here: <https://rules.cityofnewyork.us/wp-content/uploads/2023/04/DCWP-NOA-for-Use-ofAutomated-Employment-Decisionmaking-Tools-2.pdf>

You can read the full text of the Law here:

<https://legistar.council.nyc.gov/LegislationDetail.aspxTD=4344524&GUID=B051915DA9AC451E81F86596032FA3F9&Options=ID%7CText%7C&Search=>

#### ***Here is some of what you need to know:***

**To whom does the Audit requirement apply?** All Employers and Employment Agencies hiring for NYC positions.

**Who enforces it?** The NYC Department of Consumer and Worker Protection.

**What is an AEDT?** An Automated Employment Decision-Making Tool is an algorithm that matches what an employer is looking for to resumes and applications. To be covered by this law, the Employer must use the AI to categorize or prioritize resume characteristics.

**What does the Audit requirement entail?** The Audit must assess whether the tool's selection criteria result in disparate impact on candidates based upon protected classes such as race, ethnicity, and gender (the "impact ratio").

**Who must perform the Audit?** An independent auditor.

**When must the Audit be performed? How often?** Bias audits must be conducted before the AEDT is used and it must be audited every year.

**What Notice is required?** Every candidate for employment or promotion whose resume will be evaluated or ranked by an AEDT must be given notice within 10 days of the AEDT's use. The Notice must include what criteria are being assessed and can be provided by either: Posting it on the Employer's website; or sending it to the candidate by Email or US Mail; or including it in the Job Listing. The Notice must also include the fact that the candidate has the right to request that an alternative method of evaluation be used (this does NOT mean that you must provide one).

**What are the penalties for failure to comply?** \$500 for the first violation; \$500 – 1,500 for each subsequent violation (per each incident; per each section of the law violated).

**What should Employers do next?** First, determine if you're covered by the law: Do you use AI tools to weed out candidates for you? If so, find a vendor who provides the required audit services. Make sure the auditor is assuming responsibility to defend and indemnify. Then figure out how you want to handle notice: On-line, per applicant, or in the job listings. Establish the criteria you will be using the AI to evaluate, and then draft the required notice. Please let us know if we can be helpful as you prepare for the July 5th, compliance deadline.

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