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AI Transforms HR Hiring With Speed and Legal Concerns

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James Koenig

Jim Koenig, a partner in Troutman Pepper Locke's Privacy + Cyber Practice Group, was quoted in the April 24, 2025 *Rochester Business Journal* article, "AI Transforms HR Hiring With Speed and Legal Concerns."

Jim Koenig is an attorney who is a partner and co-leader of Privacy + Cyber Practice at Troutman Pepper Locke LLP, a national law firm with attorneys located in 23 U.S. cities, including Rochester.

"HR is really one of the first places that companies can use and achieve benefits from AI, machine learning, and other related technologies right away," said Koenig, who points out it's a good idea, though, to reach out to counsel before using or adding AI applications to gain an understanding of the data and jurisdictions involved and to help pinpoint legal obligations and required practices.

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" For example, the EEOC [US Equal Employment Opportunity Commission] has guidance from 2022 that makes sure that individuals who fall under the American Disabilities Act don't get negatively impacted with the use of AI tools," Koenig said.

He also encourages companies to be familiar with Colorado's AI Act – which regulates high-risk AI systems; the Illinois AI Video Interview Act, which in part requires employers to notify candidates about AI use in video interviews; and the Utah AI Policy Act, which imposes transparency obligations on companies using Generative AI.

While Koenig says it's always possible that there will be a federal movement around AI regulations like the European Union's General Data Protection Regulation and AI Act, it's not likely currently and that's why so many states and municipalities have taken up the responsibility to start adding laws to protect the citizens of their state from bias and discrimination in hiring.

"New York City was the first to actually have an AI law for hiring and the use of tools to make sure you prevent bias," said Koenig pointing to New York City's Local Law 144 which, in part, prohibits employers from using AI hiring tools unless they've undergone a bias audit within the past year and requires notification to candidates about AI use in the hiring process.

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Koenig, who co-authored Troutman Pepper's 2024 paper *AI and HR: Navigating Legal Challenges in Recruiting and Hiring* shares the following best practices from the piece for companies to take before implementing AI in the hiring processes:

Develop data maps and inventories.
Create and complete an AI Data Protection Impact Assessment (DPIA) or other impact assessments before adopting and implementing any AI hiring tool.
Form an AI governance committee/structure.
Update candidate notifications about AI use in hiring.
Ensure human oversight in final hiring decisions/no automated decisions.
Provide options for candidates to opt out of AI-driven assessments and request explanations for AI-driven hiring decisions.
Review vendor contracts to limit or eliminate their independent rights to benchmark or train their algorithms with your data.
Regularly train HR staff on AI tool use and potential bias issues.
Conduct bias audits of AI hiring tools.
Develop clear data retention and deletion policies for candidate information for both candidates being considered by AI and/or traditional means.

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