

Responsible AI Use in Employment Hiring

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Attorneys Sarah Sawyer and Russell Burger of Offit Kurman discuss the lawsuit alleging Workday's AI hiring software discriminatorily screens out certain candidates and what that headline means for employers using AI in recruiting. They outline AI risk areas such as accuracy, confidentiality, intellectual property, and especially bias. Employers who use these programs cannot delegate legal compliance to a vendor and may still face liability if a screening system is biased. They note the lawsuit's facts are unknown and will be explored in discovery, but employers should ask vendors how tools process information. Employers make screening decisions, consider contractual risk-shifting, add controls or a human review component, and evaluate settings and internal practices to mitigate bias.