REGULATORY COMPLIANCE REFERENCE

US HR AI System Obligations & Hiring Regulations

Testing and audit obligations for AI-driven hiring tools under current U.S. federal and state law, mapped by legal driver, responsible party, and required-vs-recommended status.

Asenion

Compliance & Risk Reference
Prepared for internal counsel review
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REQUIRED? LEGEND

- **M** **Mandated** — Expressly mandated
- **E** **Effectively required** — per-se violation or defense-critical, even though no statute says "audit"
- **I** **Incentivized** — evidentiary credit if done, penalty-free if skipped
- **C** **Conditional** — depends on a specific feature or jurisdiction

TEST / AUDIT	LEGAL DRIVER	APPLIES TO	REQUIRED?	WHAT ACTUALLY GETS TESTED	WHEN / CADENCE	KEY ARTIFACTS & NOTES
Independent AEDT bias audit	New York City Local Law 144 of 2021 (automated employment decision tools law, NYC Administrative Code §§ 20-870–20-874)	**Deployer** — the statutory duty sits on the employer/employment agency; in practice the developer commissions one product-level audit and supplies it to all customers.	**M** **Mandated** *Expressly mandated.*	Selection/scoring rates and impact ratios by sex, race/ethnicity, and intersectional categories (four-fifths rule as benchmark)	Before use, then annually (audit ≤ 12 months old)	Independent auditor only; public results summary; 10-business-day candidate notice; applies if any candidate resides in NYC. A failing ratio doesn't bar use — nondisclosure is the violation.
Adverse-impact analysis + validation study	Title VII of the Civil Rights Act of 1964; Uniform Guidelines on Employee Selection Procedures (29 C.F.R. Part 1607)	**Both** — deployer directly as the employer; developer through the agent theory sustained in *Mobley v. Workday*.	**E** **Effectively required** *No statute says "audit," but it is your only business-necessity defense in litigation.*	Outcome rates by protected class; if adverse impact appears, content/criterion validation of questions, rubrics, and scoring against job-relatedness	Every model/version release, plus ongoing production monitoring	The validation file is your business-necessity defense; private suits (e.g., Mobley) remain live despite EEOC deprioritization.
Disparate-impact + proxy-variable testing	Illinois HB 3773 (amending the Illinois Human Rights Act); New Jersey Law Against Discrimination (Division on Civil Rights guidance on automated decision-making tools); Connecticut SB 5 (Connecticut's AI Act)	**Deployer** under the Illinois and New Jersey regimes; **both** under Connecticut, which adds developer testing-documentation duties.	**I** **Incentivized** *Incentivized on the statutes' face, but effectively required in practice — liability attaches to unintentional discriminatory effects whether or not you tested.*	Outcomes by protected class; proxy features (ZIP codes, employment gaps, availability, current-workforce baselines)	Pre-release, plus periodic re-test	No audit mandate, but liability attaches to unintentional effects. Connecticut weighs quality, efficacy, recency, scope of testing, and your remediation response.
Anti-bias testing + record retention	California Fair Employment and Housing Act — Civil Rights Council regulations on automated-decision systems (effective October 1, 2025)	**Both** — the regulations expressly extend liability to vendors acting as the employer's "agent."	**I** **Incentivized** *Incentivized on the regulations' face, but effectively required in practice — testing (or its absence) is admissible evidence either way.*	Same statistical testing as above; agent/vendor liability reaches you as developer	Recurring; recency is explicitly weighed by courts	Testing (or its absence) is admissible evidence. Retain inputs, outputs, scoring criteria, and test results for ≥ 4 years.
Question-content audit (per-se inquiry rules)	Americans with Disabilities Act (42 U.S.C. § 12112(d), pre-offer medical inquiries); Genetic Information Nondiscrimination Act of 2008; California FEHA automated-decision system inquiry rules; state unlawful-inquiry, salary-history-ban, and fair-chance ("ban-the-box") statutes	**Both** in effect — the statutes bind the employer, but the developer's model generates the questions, so exposure runs through agent theory and contractual flow-down.	**E** **Effectively required** *Asking a prohibited question is a per-se violation regardless of outcomes, so screening is the only way to avoid it.*	Every generated question screened for disability/medical probes, family medical history, age markers, criminal-history timing, salary history, and caregiving/religion follow-ups	Continuous runtime filter, plus a red-team suite per release	Jurisdiction-aware blocklists; violations occur even with perfectly balanced outcomes — outcome audits will not catch these.
ADA screen-out & accommodation testing	Americans with Disabilities Act (screen-out and reasonable-accommodation provisions); California FEHA	**Both** — developer-as-agent is the exact posture the *Mobley* court allowed to proceed.	**E** **Effectively required** *Screen-out claims proceed against vendors, and a documented accommodation pathway is the core defense.*	Accessibility of the interview flow; alternative-format availability; whether scoring penalizes disability proxies (gaps, speech patterns)	Per release	Documented accommodation pathway.

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TEST / AUDIT	LEGAL DRIVER	APPLIES TO	REQUIRED?	WHAT ACTUALLY GETS TESTED	WHEN / CADENCE	KEY ARTIFACTS & NOTES
Video-interview consent + demographic reporting	Illinois Artificial Intelligence Video Interview Act; Illinois Biometric Information Privacy Act (if voice or facial analysis is used)	**Deployer** for the Video Interview Act (employer duties); **both** for BIPA, which binds any private entity collecting or possessing biometric identifiers — including the developer directly.	C **Conditional** *Expressly mandated, but only if the product uses video interviews in Illinois (and biometric analysis for the biometric-privacy layer).*	Consent and explanation flows; race/ethnicity data of screened-out vs. advanced candidates	Annual report to Illinois	Explicit consent records; biometric-specific consent needed if you analyze voice/facial data.
ADMT risk assessment + rights mechanics	California Consumer Privacy Act — California Privacy Protection Agency regulations on automated decision-making technology	**Deployer** — duties attach to the regulated "business" (the employer, for applicant data); developer is a service provider bound to assist, unless the job-matching platform collects candidate data for its own purposes, which would make the developer a "business" directly.	M **Mandated** *Expressly mandated.*	Pre-use risk assessment for significant employment decisions; notice, opt-out, and access flows	Before use; in-use technology must comply by January 1, 2027	Risk assessment kept on file for regulator inspection.
Adverse-decision explanation validation	Connecticut SB 5 (automated employment decision tool duties effective October 1, 2027); Colorado Automated Decision-Making Technology Act, as amended (disclosure duties effective January 1, 2027)	**Both** — deployers owe candidates the notices and explanations; developers owe deployers the documentation and disclosures needed to produce them.	M **Mandated** *Mandated once the effective dates arrive (October 1, 2027 for Connecticut; January 1, 2027 for Colorado).*	Accuracy of principal-reason statements: degree/manner of AI contribution, data types/sources, correction rights	Per release	Explanation templates; Colorado is now disclosure-only (no impact assessments). Connecticut developers must supply employers everything needed for compliance.
NIST AI RMF or ISO 42001 conformance mapping	Texas Responsible Artificial Intelligence Governance Act (Texas House Bill 149)	**Both** — the statute reaches developers and deployers directly.	I **Incentivized** *Voluntary, but substantial compliance earns an affirmative defense.*	Governance program mapped to the NIST AI RMF or ISO 42001 (its Measure/Manage functions include bias measurement)	Ongoing	Substantial NIST compliance = affirmative defense. Texas uses an intent standard, with no audit or disclosure mandate, but covers developers, with penalties up to $200k per violation.
FCRA applicability screen	Fair Credit Reporting Act (15 U.S.C. § 1681 et seq.)	**Both** — the developer risks classification as a "consumer reporting agency" if the enrichment module qualifies; the deployer would owe the user-side duties (disclosure, authorization, adverse-action process).	C **Conditional** *Expressly mandated, but only if the third-party data enrichment makes the outputs "consumer reports."*	Whether the job-matching module's third-party data enrichment makes outputs "consumer reports"; disclosure/authorization/adverse-action process	Before feature launch	Active January 2026 class-action theory against AI recruiting data products.

NOTES ON THIS MATRIX

"Developer" and "Deployer" follow the terminology used in the cited statutes and regulations: the developer builds or licenses the AI system; the deployer is the employer or employment agency using it to make hiring decisions. Several regimes (notably New York City Local Law 144, California's Civil Rights Council regulations, and the theory sustained in *Mobley v. Workday*) reach developers indirectly, through agency or vendor liability, even where the statute's text addresses only employers.

This matrix reflects obligations in effect, or with a confirmed effective date, as of September 2026. Effective dates, thresholds, and enforcement postures shift as agencies issue guidance and courts rule on pending litigation; verify current status and full statutory text before relying on this matrix for a compliance decision. This document is a compliance-planning reference, not legal advice.

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