

**Alert | Labor & Employment/Artificial Intelligence**



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## **EEOC Secures First Workplace Artificial Intelligence Settlement**

On Aug. 9, 2023, a tutoring company agreed to pay \$365,000 to settle an artificial intelligence (AI) lawsuit with the Equal Employment Opportunity Commission (EEOC). The settlement comes on the heels of multiple EEOC warnings to employers about potential discrimination associated with the use of AI for hiring and workplace decisions.

According to the EEOC's complaint against iTutorGroup, the Company programmed its application review software to automatically reject female applicants aged 55 or older and male applicants aged 60 or older. One rejected applicant realized they may have been the victim of discrimination when, after resubmitting an application with a more recent birth date but which was otherwise identical to the rejected application, they were offered an interview.

In its [press release](#), EEOC Chair Charlotte A. Burrows wrote, "Even when technology automates the discrimination, the employer is still responsible ... This case is an example of why the EEOC recently launched an [Artificial Intelligence and Algorithmic Fairness Initiative](#). Workers facing discrimination from an employer's use of technology can count on the EEOC to seek remedies." (Link added.)

iTutorGroup denied engaging in any wrongdoing yet settled early, signing a [joint notice of settlement and consent decree](#) not long after the EEOC filed its lawsuit in the Eastern District of New York. Though the consent decree is awaiting the Judge's approval, once finalized, iTutorGroup will pay \$365,000, to be distributed among the applicants allegedly unlawfully rejected. iTutorGroup also agreed to adopt new

anti-discrimination policies, distribute an internal memo, conduct multiple anti-discrimination trainings, invite all applicants allegedly rejected due to their age in March and April 2020 to reapply, provide written notice to the EEOC of any complaints of discrimination from employees or applicants, and cease requesting birthdates of applicants.

According to a survey by the Society for Human Resource Management, roughly 79% of employers use some form of AI in the recruitment and hiring process. This settlement is a good reminder to ensure any AI used in making employment decisions does not result in intentional or unintentional discrimination. It's also a good reminder not to collect information about applicant ages during the pre-offer hiring process.

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