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Best Practices for HR Teams in the Digital Era

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Technology is continuing to transform the way HR operates — from hiring and screening candidates to creating, maintaining and storing employee records. For HR teams, the digital era demands not only efficiency but vigilance and routine upkeep.

NEW REGULATIONS ON AUTOMATED DECISION-MAKING SYSTEMS (ADMS)

As of October 1, 2025, new California regulations on ADMS went into effect and will be enforced by its Civil Rights Department (CRD). In the simplest terms, an ADMS is any software or algorithm that helps make employment decisions. Think résumé screeners, video interview analysis tools, productivity trackers, or anything with a whiff of AI that ranks, scores, or recommends people.

The new regulations seem to be California's polite (but firm) way of telling employers, "You can't pass off the blame onto computers for what has always been your responsibility." And yes, even if that shiny AI tool came with a slick sales pitch about "bias-free decision-making," the CRD knows better. Machines learn from people, and people are often biased. People will therefore be held accountable for the machines they use.

The new regulations say that if an employer decides to use ADMS, it now has affirmative obligations under California's civil rights laws to make sure its systems aren't perpetuating discrimination based on race, gender, age, disability, and all the other categories protected from discrimination under the Fair Employment and Housing Act (FEHA).

It doesn't matter if an employer built the tool in-house, licensed it from a "reputable" vendor, or commissioned it of a family member who's "really into machine learning." If the ADMS tool influences who gets interviewed, hired, promoted, or even surveilled at work, the employer is responsible when it does so in violation of the FEHA.

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Applicants and employees also have the right to know when they are being assessed by something other than a human. Employers must therefore notify applicants and employees when using ADMS tools. If asked, employers must also give a meaningful explanation for how the tool works and is being used, without hiding behind generalities or evasive "it's proprietary" tactics.

The CRD's point is crystal clear: whether discrimination comes from a racist manager or a poorly trained AI model, it's illegal all the same. So, if an employer is going to use AI or algorithms in employment decisions, it must understand them, disclose them, and make sure they don't violate the law.

HR RECORDS IN THE CLOUD CAN CREATE A PERFECT STORM

In today's hybrid workplaces, where conversations unfold across Slack threads and performance feedback arrives via email, personnel records are no longer confined to filing cabinets. Yet too many employers still treat personnel files as static collections of paper documents and forms, ignoring the vast — and often legally relevant — trail left in digital formats.

This oversight isn't just an administrative gap; it's a compliance risk. California law, for example, gives employees the right to inspect or obtain copies of their personnel records upon request. If the HR team can't produce key performance-related documents because they lived in a deleted email account or were wiped along with a departing employee's laptop, the employer can suffer serious legal consequences.

Interpretations of the term "personnel record" can vary. In California, it means any documents used to determine an employee's qualifications for employment, promotion, additional compensation, termination or disciplinary action. Courts have recognized that emails, manager notes and even internal chats — if used to evaluate performance or justify employment decisions — can fall within the scope of a personnel record. Failing to produce these documents upon request (in California, HR has 30 days to do so) can harm an employer's credibility in litigation.

For most modern organizations, day-to-day feedback, coaching and performance management now take place digitally. A manager may never write a formal warning but might regularly send emails citing missed deadlines or poor communication. An employee might request an accommodation via Slack or raise a harassment concern informally via text. These exchanges are easy to overlook — until they become pivotal in a legal dispute. It's common practice to wipe company-issued devices, deactivate email accounts or auto-delete digital messages after a set retention period. While these steps may be sensible from an IT or privacy standpoint, they can result in the unintentional destruction of key evidence — evidence that employers are legally obligated to retain and could benefit from in litigation.

HR teams often maintain two sets of employee-related documentation: the personnel file, which may be accessible to the employee, and the legal or confidential file, which may include privileged or investigatory information. While not every piece of digital correspondence belongs in the personnel file, many should still be preserved somewhere within the company's documentation framework. For example, emails detailing performance concerns should be saved in the personnel file if they were factored into employment decisions; Slack messages involving harassment complaints may belong in a legal or investigatory file; and accommodation requests and approvals should be preserved in compliance with the Americans with Disabilities Act and similar state laws, often in both HR and (if legal counsel was sought) legal records.

There's no one-size-fits-all answer to retention periods, as different types of claims carry different statutes of limitations. However, best practice suggests keeping all potentially relevant employment documents for at least four years following an employee's separation. This includes performance documentation, disciplinary records, accommodation communications, internal complaints and exit interviews. If litigation or a government investigation is pending, a litigation hold must be issued to preserve all relevant documentation — digital or otherwise — until the matter is fully resolved.

To bridge the gap between traditional personnel files and the digital workplace, HR leaders should: (1) develop a written policy for identifying and preserving digital communications related to employee performance, conduct and complaints; (2) train managers to recognize which emails, chats or notes should be sent to HR for inclusion in the employee's record; (3) make it standard procedure to audit digital content (email, cloud storage, internal chats) before reassigning or wiping a departing employee's device; (4) create structured folders — one for general HR documentation, another for legal/investigatory content — and restrict access accordingly; and (5) set a cadence for reviewing company personnel files to ensure that digital materials are being captured.

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