



NYC

# Algorithmic Hiring Law

## Bias Audit Primer

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# NYC Algorithmic Hiring Law

## How Will NYC's New Algorithmic Hiring Law Impact You?



### What is the new algorithmic hiring law in New York City?

In December 2021, the New York City legislature passed Local Law No. 144, which amends the administrative code of the city of New York in relation to automated employment decision tools. The law regulates the use of these tools in hiring and promotion decisions for candidates and employees within the city. Put simply, if you are building or using these tools to help decide who to hire or promote in New York City, this new law is going to apply to you.

The law defines an automated employment decision tool as a computational process which issues simplified output (for example a score, classification, recommendation or ranking) used to assist or automate discretionary decision making for making employment decisions.

The law requires that such tools used on NYC-based candidates and employees must undergo an annual independent bias audit, and the summary of these audits must be made publicly available. Additionally, there are new requirements for employers and employment agencies to notify candidates and employees when an automated employment decision tool is being used as part of the hiring or promotion process.



### When does the new law go into effect?

The law will go into effect on **January 1, 2023**, giving New York City employers and HR vendors **one year** to get into compliance by conducting the first bias audits.

This law does not limit any right of any candidate or employee to bring a civil action in any court of competent jurisdiction for an employment decision, and it also does not limit the authority of the New York City Division of Human Rights to enforce the provisions of NYC Administrative Code Title 8.

# What is your responsibility as an employer or employment agency?



If you are using automated employment decision tools that fall under the remit of the law, you as an employer cannot use a tool unless it has undergone an annual independent bias audit no more than one year prior to your use of the tool. While the law does not provide significant detail around what should be included in this bias audit, it does specify that you must assess disparate impact based on race, ethnicity, and sex.

In addition to the bias audit itself, there are several new notification requirements for employers. First, you are required to publish a summary of the results of the most recent bias audit of any tools you're using and the distribution date of the tool before you make use of said tools. Additionally, you must make available the job qualifications and characteristics that any tool will use in the assessment of candidates or employees. Candidates and employees must be given the option to opt out and request accommodation or an alternative selection process.

Because the legislation focuses on "tools" and not the recruitment or hiring process as a whole, this means that there will be separate audit and notice requirements for each tool, if multiple automated employment decision tools are being used.

## Penalties

The penalties to employers and employment agencies who do not comply with this law include a civil penalty of up to \$500 for a first violation and each additional violation occurring on the same day as the first violation, with a minimum of \$500 and maximum of \$1,500 incurred for each subsequent violation. Each day that an automated employment decision tool is in use in violation of this law will generate a violation—and penalty.

## Responsibilities

### ○ Annual Bias Audit

Assessing disparate impact based on race, ethnicity, and sex.

### ○ Published Results

A summary of the results of the most recent bias audit of any tools you're using.

### ○ Qualifications & Characteristics

Provide insight into what the tool assesses from candidates or employees.

### ○ Opt-Out

Candidates and employees must be given the option to opt out and request accommodation or an alternative selection process.

# What is your responsibility as an HR vendor?

While this law requires the Employers to ensure a bias audit is completed and results are published, HR vendors may need to be involved in the audit process for customers who are hiring or evaluating candidates in New York City. Bias audits will require input about your models, and accurate representation of processes and controls.

Additionally, because the audit results will be made publicly available, HR vendors may want to be actively involved in these audits to make sure that their tool is audited in a way that is reflective of its functionality and capabilities.

## Best Practices

### ○ Audit Involvement

Execute independently formulated audit criteria on your product, or any of your tailored models.

### ○ Ensure Accuracy

To ensure public information is accurate, it's in the vendor's best interest to assist customers.

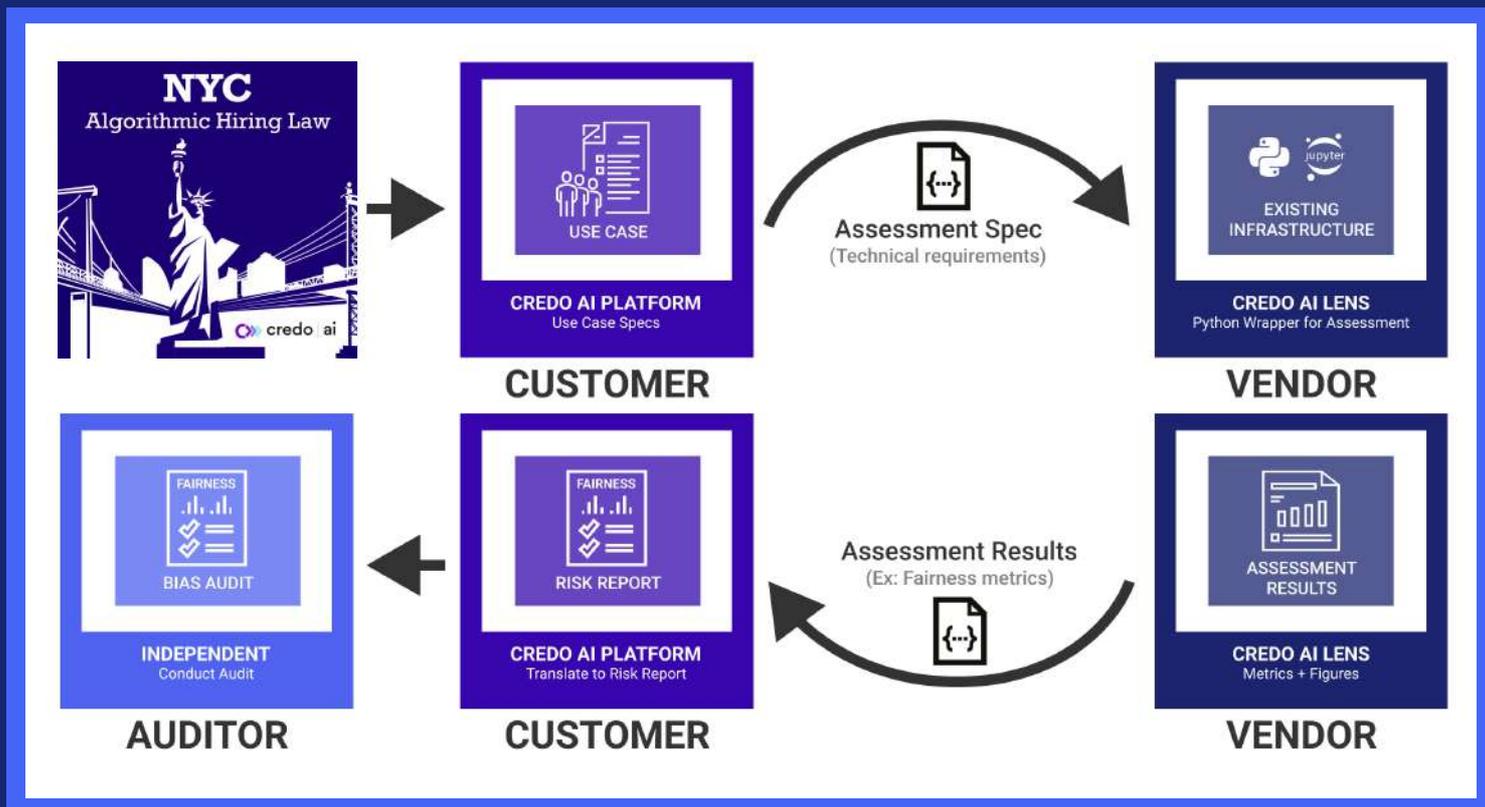
## What is left undefined by the law as currently written?

While this law is a good first step towards regulating high-risk AI applications in the HR space, there is a lot that is left undefined—and therefore up to interpretation by those who are trying to get in compliance and those who are enforcing the law. Below are the aspects of the law and its enforcement that are not clearly defined yet:

- **Bias & Audit:** The law does not define what it means by “bias” or “audit” beyond guidance that an assessment of disparate impact for sex, race, and ethnicity is required. Notably, assessment on age and ability status are not required.
- **Independent auditor:** The law does not specify whether bias audits must be conducted by external auditors or whether they can be conducted by an internal independent auditor, nor does the law delineate any kind of certification process for auditors conducting bias audits.
- **Summary report:** There is no guidance on what information employers should include in the required public summary report of the bias audit.
- **“Within City”:** Exactly who is included in the reach of this law is unclear—anybody applying for a New York City-based position or only current residents of New York City who have applied to any position. Until this is more clear, employers may want to take a more extensive view and apply whichever definition covers more candidates or employees.
- **Notice Process:** The law does not specify whether a separate notice process is required for each tool if multiple automated tools are used during the hiring or promotion process. However it does require the notice to include “job qualifications and characteristics that tool will use in the assessment of candidate or employee”.

# Credo AI Can Help

Our product can help ensure you are ready for audit



## How can Credo AI help?

With a lot left undefined, many organizations are looking for help understanding how they can start to work towards getting in compliance with New York City's new algorithmic hiring law. Credo AI is here to help.

Credo AI can provide automated adverse impact test results for machine learning models with the Credo AI Lens Assessment Framework, which can be used by internal or external auditors to evaluate disparate impact and other key measures of bias.

### For employers and employment agencies

Credo AI provides a centralized repository for any audit artifacts and bias assessment results, making it easy to store and manage many audits across all of your hiring and promotion-related AI use cases.

### For vendors selling hiring products

Credo AI makes it easier to provide transparency to clients related to model design, development, and deployment through automatic report generation and AI risk scoring.

## Credo AI is available to help you! [hello@credo.ai](mailto:hello@credo.ai)

Our team is available to help you develop the processes and capabilities needed to get in compliance with this new law, as well as the many more that lie ahead in 2022 and beyond. Reach out to learn more about how we can help you get started on your AI risk and compliance journey.