Do you have a disability?
Are you applying for a job?

If so, learn about:

Artificial Intelligence (AI) Hiring Technology and Disability Discrimination

Detroit Disability Power
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BACKGROUND:

What challenges do people with disabilities face with AI technologies in the hiring process?

Employers are increasingly using artificial intelligence (AI) to make hiring decisions. These AI tools go by many names, like: predictive hiring, machine learning (ML), and algorithms.

> **Example 1:** A company posts an open job position and gets 100 applicants. Rather than have someone review all 100 applications, the company decides to purchase and use an AI tool to filter resumes for specific words that show someone may be a good fit for the role. After using the tool, only the "top" 20 applications need to be reviewed.

Many of these software tools have not been independently verified to be free from bias. Often, they are "trained" on hiring data that may or may not be discriminatory.

> **Example 1:** An automated resume screener may score applications lower when they have "gaps" in job history, even if the gap is related to a disability.
>
> **Example 2:** If a company has only promoted people who are neurotypical, the tool will "learn" to positively associate traits of neurotypical employees with job performance.
>
> **Example 3:** AI tools are usually built to work on "the majority" of the population. So if a company uses AI to evaluate job interviews, it may not accurately evaluate the tone of someone's voice. This can discriminate against candidates with accents or speech differences.

People with disabilities are employed less than half as much as people without disabilities and face systemic inequality when it comes to hiring.[1] These disparities exist despite legal protections like the Americans with Disabilities Act (ADA). Without proactive efforts to make hiring practices and software inclusive, employers risk losing out on valuable talent while AI technology deprives people with disabilities from economic opportunities.

Example Interview results

Communication	**88%**	🟢
Pace and clarity of speech	79%	🟢
Articulation	99%	🟢
Sentiments	86%	🟢
Sociability	**50%**	🟡
Emotion	0%	🟡
Energy levels	65%	🟡

DISABLED JOB SEEKERS:

Beware of Potential AI Discrimination in the Hiring Process

We know that AI technologies are usually designed without accessibility in mind.

Here are two examples of predictive hiring technologies to watch out for:[2]

1. Recorded Video Interview Submissions		
How they're used:	**Risks of using:**	**Example tools:**
Applicants may submit recorded video responses to interview questions. Employers evaluate these videos using AI software to determine "quality of fit".	Applicants could be scored negatively if they do not fit the software's definition of a "good applicant" (e.g., candidates who smile a lot and make eye contact with their cameras). Tools that analyze recorded video interview submissions may score an individual lower than average because an AI algorithm may not work for people with a stutter, for example.	• HireVue • Interviewer.AI

2. Pre-screening Personality Assessments		
How they're used:	**Risks of using:**	**Example tools:**
One way employers sift through applications is by scoring job seekers on how well their personality "fits" with a job description. Companies will attempt to predict personality traits using input such as resumes, social media profiles, or game-based assessments.	Very few of these personality assessments have been audited for disability discrimination—and companies do not disclose how job performance is evaluated. Personality assessments may be biased against those with mental-health disabilities.[3] Frequently, employers use games to evaluate individuals. These games may be inaccessible for individuals with disabilities impacting motor skills. AI tools can view disability-oriented language as less "positive."[4] If your resume or social media profiles use this language, you could potentially lose out on a job.	• Pymetrics • Humantic AI • Crystal

TAKE ACTION:

How can you protect yourself from potential hiring discrimination?

The Equal Employment Opportunity Commission (EEOC) has confirmed that employers who use predictive hiring algorithms must comply with ADA regulations. However, companies do not always comply.

Here are a few ways disabled job seekers can advocate for themselves:

1. Request Reasonable Accommodations

It is difficult to know when an organization is using a predictive hiring tool to unreasonably screen out people with disabilities. Employers rarely disclose if and when they are using AI in the hiring process. In addition, they do not perform independent assessments of the software and data they use.

You are protected and can request an accommodation. Additionally, the ADA requires stronger protections for people with disabilities. If you are worried a potential employer is using an AI tool unfairly, you are legally entitled to request a reasonable accommodation.

2. Contact Your Elected Officials

Even with the right to reasonable accommodations, there are still challenges job seekers face.

To make hiring practices in Michigan more equitable, **we need to urge our policy makers to make the following 3 changes**:

» **Disclose Reasonable Accommodations:** Michigan should require employers using AI hiring tools to explicitly provide job seekers with a way to request reasonable accommodations.

» **Demand Transparency Around Use:** There is currently no requirement in Michigan for employers to disclose how they use AI tools in hiring. Tools like resume analysis are not visible to job seekers, and employers do not share whether AI is evaluating your interview submission. Job seekers should be informed when AI is being used by a potential employer and be provided with the ability to opt-out.

» **Establish Independent Evaluations:** Michigan should establish auditing requirements for vendors of AI tools as well as employers using them to ensure no person with a disability is unreasonably screened out. The AI software employers use in hiring processes is rarely evaluated for its effectiveness or potential for disability discrimination. Michigan needs to hold employers to a higher standard.

Endnotes:

1. W. Erickson, C. Lee, and S. von Schrader, *2017 Disability Status Report: United States*, (Ithaca, NY: Yang-Tan Institute on Employment and Disability (YTI), Cornell University, 2019), https://www.disabilitystatistics.org/StatusReports/2017-PDF/2017-StatusReport_US.pdf.

2. Center for Democracy and Technology, "Algorithm-driven Hiring Tools: Innovative Recruitment or Expedited Disability Discrimination?," December 2020, https://cdt.org/wp-content/uploads/2020/12/Full-Text-Algorithm-driven-Hiring-Tools-Innovative-Recruitment-or-Expedited-Disability-Discrimination.pdf; https://www.forbes.com/sites/gusalexiou/2024/06/24/chatgpt-is-biased-against-resumes-mentioning-disability-research-shows/

3. Craig Haney, "Employment Tests and Employment Discrimination: A Dissenting Psychological Opinion," *Berkeley Journal of Employment & Labor Law* 5(1), June 1982, https://www.jstor.org/stable/24049627

4. Ben Hutchinson, et al. "Social biases in NLP models as barriers for persons with disabilities," arXiv preprint arXiv:2005.00813 (2020), https://arxiv.org/abs/2005.00813.