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发展例外:内部流动平台与就业人工智能治理的边界

Heather Grizzle · May 21, 2025

内部流动平台会对员工晋升进行排名，这使其落入纽约市第144号地方法律和欧盟《人工智能法案》附件三的监管范围。大多数雇主以为并非如此。

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没有任何成文法划定的边界

在就业领域,机构性AI治理已经高度一致地聚合于一条在现行法律中并无依据的边界。这条边界将招聘与发展区分开来。评估外部申请人的系统被视为决策技术,相应地配备了偏见审计、申请人告知、供应商文档和法律审查等机制。而评估现有员工内部晋升机会的系统,则被当作发展技术,按照适用于学习管理平台的审查标准进行采购。

这种区分在行政管理上颇具直觉性。外部候选人对组织而言是陌生人,组织对其负有程序义务。内部候选人已经受雇,已为组织所熟知,已身处雇佣关系之内。向其提供机会呈现为一种被授予的福利,而非作出的决定。这种区分在组织层面也得到强化,因为内部流动平台通常由人才发展部门主导,预算依照敬业度和留任目标编列,其评估标准是采用率而非决策质量。

无论是技术本身,还是成文法的措辞,都不支持这种区分。一个内部流动平台根据简历、项目履历、学习记录、绩效数据和行为信号推断员工能力,进而将员工与内部空缺职位进行匹配排名,这本身就是在生成一项会实质性影响晋升、薪酬和岗位分配的评估。这是一项关乎个人的重大决定。员工自愿使用该平台、组织将其输出描述为“建议”这一情形,并不能改变该决定本身的性质。

边界实际涵盖的范围

New York City's Local Law 144 has been enforceable since July 2023 and reaches automated employment decision tools used to substantially assist or replace discretionary decision-making for employment decisions. The statute is explicit that it covers hiring **and promotion**. Its obligations are procedural rather than substantive: an independent bias audit conducted within the prior year, public posting of the audit summary, and advance notice to affected individuals. Penalties accrue per violation, and continued use is treated as a continuing violation.

一个组织若已为其外部申请人筛选系统委托进行偏见审计,却将其内部人才市场平台视为不在适用范围之内,那么它所划定的界线并不为该条例所承认。只要内部系统对构成晋升的职位空缺进行员工评分或排名,审计义务即告适用。目前尚无公开证据表明执法机构在多大程度上已将执法触及内部流动部署,但迄今缺乏执法行动,并不能成为合规立场的可靠基础,尤其是在风险敞口每天都在累积的情况下。

这种模式并不局限于纽约。伊利诺伊州HB 3773法案于2024年8月颁布,定于2026年1月1日生效,该法案修订了《伊利诺伊人权法》,禁止使用对受保护群体产生歧视性影响的人工智能,禁止将邮政编码用作受保护特征的替代指标,并要求在招聘、雇用、晋升、惩戒或解雇相关决定中使用人工智能时予以告知。该告知义务因“使用”而触发,而非因“结果”而触发。歧视条款可通过《人权法》予以执行,该法赋予了私人诉诸救济的途径。

Colorado's SB 24-205, enacted in May 2024 and scheduled to take effect February 1, 2026, identifies employment decisions as consequential decisions and imposes on deployers a duty of reasonable care against algorithmic discrimination, together with risk management programs, impact assessments, and disclosure obligations. The statute was signed with an accompanying letter from the governor urging legislative revision before implementation, and it has attracted sustained amendment pressure. Its final form is uncertain. That uncertainty is itself a governance consideration rather than a reason for deferral, because an organization that calibrates its internal controls

to whichever regime proves weakest will be recalibrating them at each legislative session.

California's Civil Rights Council has been developing regulations addressing automated decision systems in employment, and the direction of that rulemaking is consistent with the pattern above. In the European Union, Regulation (EU) 2024/1689 entered into force in August 2024 and designates artificial intelligence systems intended for use in employment, worker management, and access to self-employment as high risk under Annex III, expressly including systems used to make decisions affecting promotion, task allocation, and the evaluation of work performance. Obligations for those systems are scheduled to apply from August 2026. The Annex III language is directed at the function performed rather than the product category marketed, and internal mobility engines perform the enumerated functions.

2023年7月
纽约市第144号地方法具可执行力(涵盖招聘与晋升)

2024年8月
(EU) 2024/1689号条例生效

2026年1月1日
伊利诺伊州HB 3773法案生效

2026年2月1日
科罗拉多州SB 24-205法案生效

2026年8月
欧盟《人工智能法案》高风险义务开始适用

证据问题

支持人工智能驱动的内部流动的商业论据,其流传形式经不起采购审查的检验。那些声称此类平台可将员工流失率降低三分之一,或敬业度工具可在特定年份内将留任率提升四分之一的数字,通过供应商内容的层层聚合传播,每项说法所标注的来源最终都指向另一则聚合内容。若追溯其原始研究,通常根本不存在。

A second and more consequential distortion involves the misattribution of genuine research. LinkedIn's Workplace Learning Report and its associated Career

Development Index find that organizations scoring in the top quintile on career development maturity, measured through stated commitments, job posting language, leadership skill prevalence, and internal mobility levels, show materially higher rates of promotion into leadership, longer employee tenure, and greater learner engagement than organizations in the bottom quintile. That is a finding about organizational investment in career development. It is routinely restated in vendor materials as a finding about the effect of artificial intelligence tooling, which is not what was measured and not what the comparison groups distinguish.

可信记录所支持的结论要有限得多。包括联合利华、汇丰银行和施耐德电气在内的几家大型企业公开将自愿离职率的显著下降归因于内部人才市场平台的部署。分析师预测认为大型企业的采用率将大幅提升。案例证据显示内部职位填补速度加快、承包商支出减少。这些都是自我报告的运营结果和预测估计,而非受控评估,在任何可能被审计人员、监管机构或对方律师审阅的商业论证中,都应如实标明其性质。组织在部署后观察到的结果,与可归因于该系统的效果,二者之间的区别,正是治理存在的意义所在。

偏见主张需要证据,而非保证

为算法化内部流动提出的最常见理由是它能减少偏见。这一论点有一个站得住脚的前提。由管理者自由裁量控制的晋升存在有据可查的差异,人才囤积抑制了员工的可见度,内部空缺信息的不透明导致机会分配不均。关于哪些职位存在、谁可以申请的透明度本身具有独立的价值。

一致性不等于公平。

The conclusion does not follow from the premise. An internal mobility system trained on an organization's own advancement history will reproduce the patterns in that history with greater consistency, broader application, and less traceability than the managers whose judgment it supplements. Consistency is not equity. The scrapping of Amazon's experimental recruiting tool, after it was found to disadvantage women, remains the standing demonstration that historical training data encodes historical outcomes, and the case involved external hiring, where the training signal is comparatively sparse. Internal mobility systems operate on the accumulated record of the employment relationship itself, including performance ratings, project assignments, and manager assessments, each of which carries its own distributional history.

The governance consequence is that a claim of bias reduction is a factual assertion requiring evidence, not a design intention that may be recited. Under a disparate impact standard of the kind Illinois has adopted, an employer's good-faith belief that a tool improves fairness is not responsive to the question of whether outcomes differ across protected classes. Only outcome testing is responsive to that question.

治理层面的启示

可行的建议是:应在采购阶段而非事故发生后,将内部流动系统纳入就业AI治理的覆盖范围。

采购文档应要求供应商以合同条款的形式声明,系统输出是否被用于做出、指导或实质性影响有关晋升、薪酬、岗位分配或继续雇佣的决定。正是这一表述,而非该系统所营销的产品类别,决定了上文所述每一项监管制度下的适用范围。若供应商不愿以此措辞描述自身的输出结果,这本身就说明了一些问题。

Bias audit documentation should be required as a condition of award rather than requested after deployment, and should identify the audit methodology, the protected class categories examined, whether intersectional analysis was performed, the population on which the audit was conducted, and the date. An audit conducted on a vendor's aggregate client population is not an audit of the deploying organization's outcomes, and the distinction should be recorded rather than assumed away.

模型文档应说明训练数据的来源以及用于推断的特征,并明确确认没有任何地理、教育或任职年限衍生变量充当受保护特征的替代指标。告知及不利行动处理流程应以合同条款明确规定,而非留待实施阶段再定,因为上述各项法规所规定的告知义务,无论供应商构建了何种系统,均由部署该系统的雇主承担。赔偿条款尤其值得关注,因为各州立法正在形成的趋势是限制将歧视责任转嫁给供应商。

☐ 供应商以合同形式声明其输出是否用于做出、指导或实质性影响有关晋升、薪酬、岗位分配或继续雇佣的决定

☐ 将偏见审计文档作为授标条件,注明方法、受保护群体类别、交叉分析、样本群体及日期

☐ 模型文档说明训练数据来源及推断特征,并确认无地理、教育或任职年限衍生变量充当替代指标

☐ 以合同条款明确规定告知及不利行动处理流程

☐ 依据各州对转嫁歧视责任的限制,审查赔偿条款

这一切并非反对人工智能驱动的内部流动的论据。人才层面的理由是实实在在的,而不透明的自由裁量把关方式这一替代方案,也并不明显更优。本文的论点在于:被营销为员工体验举措的这一类系统,实际上是具有重大决策意义的基础设施,现行成文法的适用范围本已涵盖它,而那些在部署之后才发现这一点的组织,将不得不为已经影响了数个周期晋升走向的工具,事后补建治理机制。治理此类系统成本最低的时点,是在其被采购之前。

参考文献

- 欧洲议会和理事会2024年6月13日颁布的(EU) 2024/1689号条例,规定了人工智能协调统一规则,附件III(4)。
- 《纽约市行政法典》第20-870条及后续条款(2021年第144号地方法);消费者与劳工保护局最终规则,自2023年7月5日起生效。
- 伊利诺伊州众议院第3773号法案,第103届大会(2024年),修订《伊利诺伊州人权法》,自2026年1月1日起生效。
- 《科罗拉多州参议院第24-205号法案》,《关于人工智能系统交互中的消费者保护》(2024年),自2026年2月1日起生效。
- 领英学习,《2025年职场学习报告》及相关的“职业发展指数”方法论。
- Dastin, J. "Amazon scraps secret AI recruiting tool that showed bias against women." Reuters, 10 October 2018.
- McKinsey & Company, "Stave off attrition with an internal talent marketplace," McKinsey Talks Talent.

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TIPS

Know something about a sign language AI system that the public should know? Send it to tips@novaracg.com. Every tip is read by me and kept confidential. If you work in the UK, writing to us is not by itself a protected disclosure under the Public Interest Disclosure Act 1998, so before you share employer information, check your options with Protect (protect-advice.org.uk), the free whistleblowing advice line.

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