



Risk & Insurance | Employee Benefits | Retirement & Private Wealth

The AI Blueprint: Developing a Smart AI Policy

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Agenda

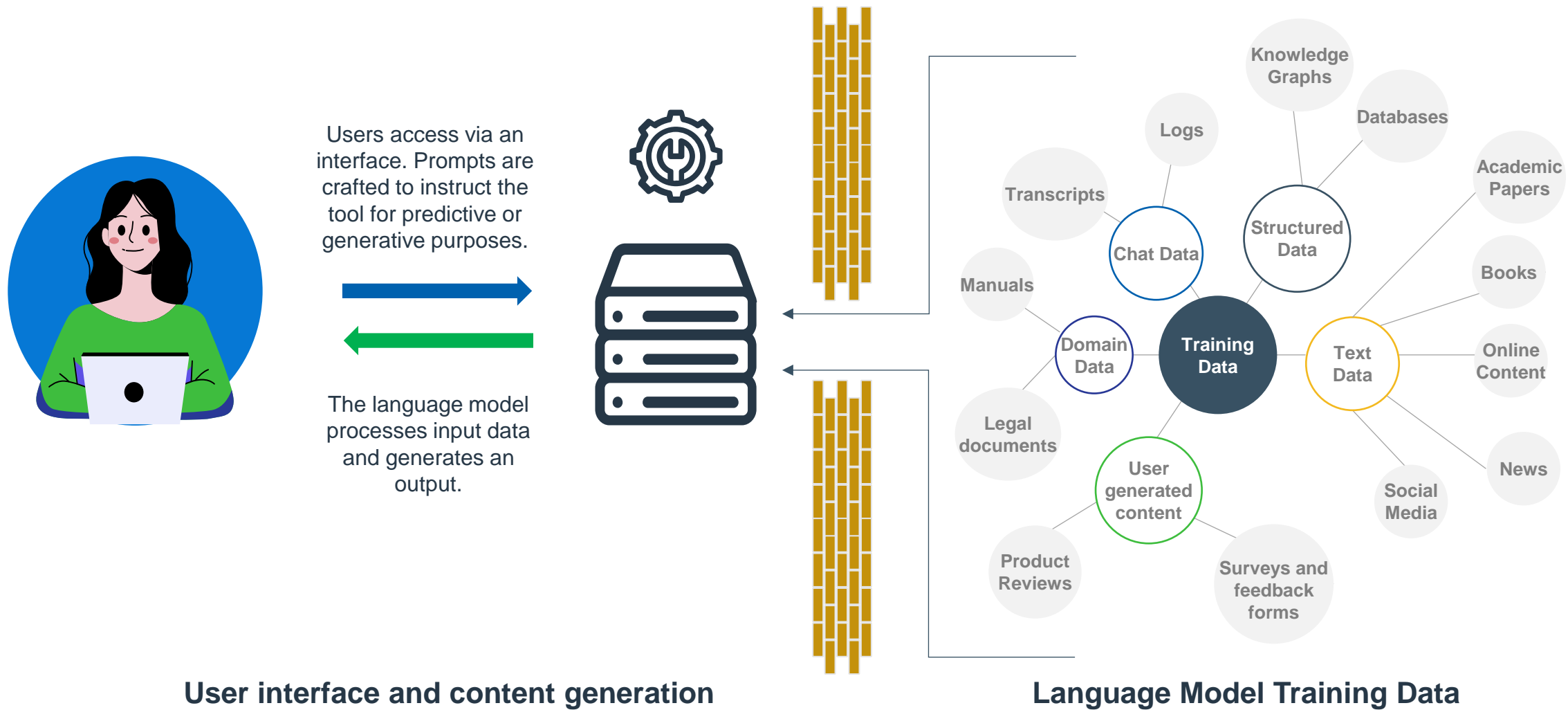
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AI and Cybersecurity







How Does AI Work?

Any use of AI relies on a user interface with prompt injects to drive the tool, programming code, and a data set which is used to train language models.



Inherent Risks of AI Adoption

NIST AI 100 states that “there are no information-theoretic security proofs for the widely used machine learning algorithms.” Any use of AI relies on the relationship between the AI tool or platform, and the training data which is leverages for its predictive and generative processes.

Data Protection	Accuracy	Security Operations	TPRM
			
<p>Users leveraging AI risk sharing sensitive information with the LLM via prompts.</p> <p>LLMs are being integrated with corporate databases to enable Retrieval Augmented Generation (RAG), allowing the LLM to call upon current and factual data related to the organizations enterprise. This efficiency introduces risks that must be managed.</p>	<p>AI tools leverage LLMs as its source of truth. AI systems are prone to hallucination, with outputs that are convincing but inaccurate.</p> <p>There are risks associated with the training data used to program LLMs. Sources such as Wikipedia or Social Media may result in the accuracy or authenticity of LLMs being challenged.</p>	<p>As with any new technology, it must be managed appropriately. An organization must:</p> <ul style="list-style-type: none">• Define its policy for using AI, including what is considered acceptable use?• Establish approved services made available to employees.• Manage who has access to approved services• What monitoring capabilities exist to provide oversight of the use of the AI?	<p>Very few organizations will build their own technologies. Most will leverage existing LLMs and APIs, so the due diligence of third-parties becomes the focus to ensure that the solution meets the security requirements of the organization.</p>

Top Tips for Managing AI Risks

Organizations must develop and implement policies and processes to secure the use of AI so that the clear benefits of efficiency and profitability can be achieved. HR professionals can support IT security teams by socializing policies and ensuring that users receive the necessary training and support to use AI technology securely.

Data Protection



- Ensure that users remove sensitive information from prompts or inputs.
 - Update data classification and handling policies.
 - Update acceptable use policies.
 - Provide awareness training for users.
 - Configure AI tools to not use inputs to train language models.
- Ensure that proper attribution is given to AI to ensure compliance with copyright laws.

Accuracy



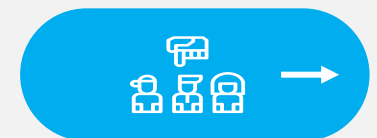
- Ensure that users are validating outputs from AI.
 - Train users on misinformation, and how to determine what a reputable source of information is.
 - Implement a peer review process for work which is leveraging AI.
 - Ensure that extra due diligence is in place for any information relating to legal, accounting, tax, or other specialized outputs.

Security Operations



- Access Management
 - Restrict users from using corporate identities for public AI tools.
 - Restrict access to approved AI tools before employees have completed training and reviewed policies.
 - Block unapproved AI solutions via deny-listing policies.
- Monitor the use of AI systems, in accordance with regulation, to ensure compliance with policies.

TPRM



- Develop a due diligence assessment for AI providers:
 - How are the models secured?
 - What data is used to train the models?
 - How are data sources validated for accuracy before being used?
 - How will customer inputs impact their models?
 - What processes exist to monitor for poisoning attacks?
 - How is the solution assessed for hallucinations?

AI and HR



AI Platform Examples in HR

Recruiting and onboarding



Performance, engagement, career development, goals, compensation strategies



Video interviewing and skills testing



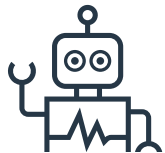
AI-generated courses and guides



Personalized/tailored learning programs and paths



AI based automated content creation



This slide was created with the assistance of AI

Ways HR is using AI

HUB

Recruiting

- Screening resumes
- Candidate interviews – analyzing facial expressions and speech patterns
- Predictive analysis for the success of the candidate
- Video Interviewing

New Hire Onboarding

Deploy chatbots to assist new hires navigate onboarding

Performance Management

Capture and aggregate performance-related data

Employee engagement

Capture and aggregate employee activity and engagement

Learning and Development

Developing individual specific programs and follow-up

Hidden Bias

Little visibility into the “engine” behind the AI machine

- What data has trained the AI?
- Which factors are weighed more heavily?
- Does the developer conduct impact assessments of worker-impacting AI and publish its results?
- Does the developer meet the DOL AI design standards?
- Does the system have ways to compensate for or mitigate potential impacts caused by age, disability, or other protected characteristics?
- Does the developer have processes for workers to report issues including employment law violations?



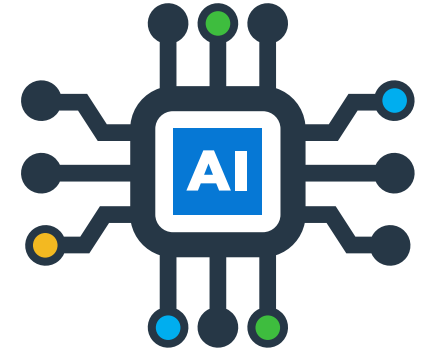
What about human unconscious bias?

AI Policies – Protecting Workers' Rights

- Begin with a cross-functional committee
- Develop human oversight and AI governance
- Issue clear procurement policies and ongoing monitoring requirements
- AI will not interfere with workers' Section 7 rights
- Reaffirm commitment to anti-discrimination, harassment and no retaliation
- Provide easy access to a person for appeals, accommodations, remedies and assistance
- Be clear that AI will not make any employee-related decisions
- Employers should provide their own AI use notice to employees
- Should bargain with unions when considering using AI in the workplace

“Workers and their representatives, especially those from underserved communities, should be informed of and have genuine input in the design, development, testing, training, use, and oversight of AI systems for use in the workplace.” – DOL 2024

AI General Policy Tips



- Transparent & widely distributed
- Apply consistently – establish performance standards for enforcement
- Strictly prohibit any intellectual property, copyright, and/or trademark infringement
- AI users should be required to verify and authenticate all findings and answers
- Encourage employee feedback
- Notice and disclosure requirements
 - What's the purpose and scope of the policy and AI usage?
- Provide data security assurances and data gathering limitations
 - Limit all data gathered by the AI non-confidential / non-identity information
 - Remind users the importance of not entering confidential and / or identity information

White House Blueprint for AI Employee Bill of Rights

Five Principles



**Safe and Effective
Systems**



**Algorithmic
Discrimination
Protections**



Data Privacy



**Notice and
Explanation**



**Human Alternative,
Consideration and Fallback**
Human alternatives and
other remedies

First AI Class Action

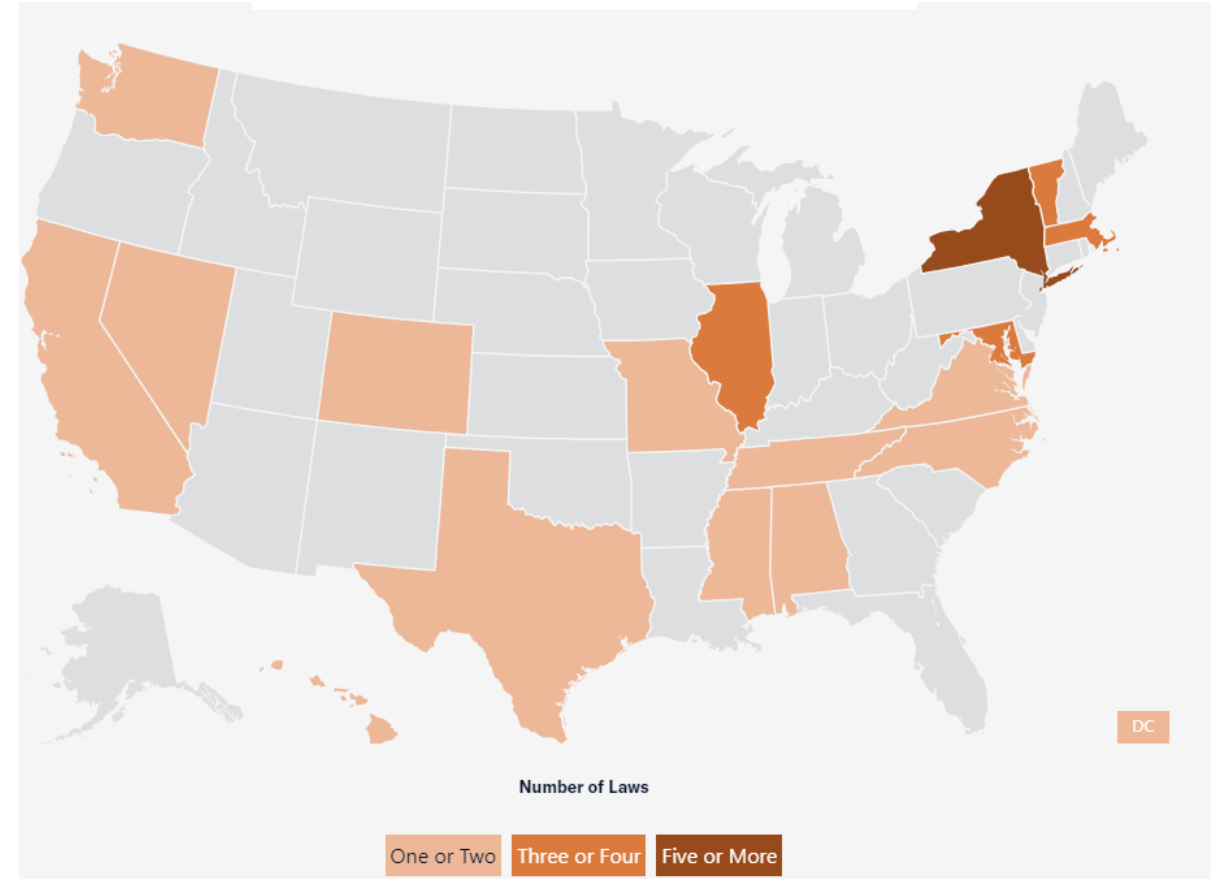
- Filed against Workday
- **Plaintiff alleges:**
“Since 2017, he has applied to over 100 positions at companies that use Workday screening tools for recruiting. He has been rejected from every position, despite having the relevant qualifications.”
- Plaintiff claimed disparate impact based on disability, race, and age
- Workday does not simply manage data – it makes candidate recommendations and sorts results
- Therefore, it is not a passive technology in the recruitment process

State Legislation

Over the past five years, 17 states have enacted 29 bills that focus on AI regulation:

California, Colorado, Connecticut, Delaware, Illinois, Indiana, Iowa, Louisiana, Maryland, Montana, New York, Oregon, Tennessee, Texas, Vermont, Virginia and Washington

US Chamber of Commerce State AI Activity in 2021



AI Statute – New York City

Enforcement began July 5, 2023

- **York City must comply with Local Law 144 of 2021, which regulates the use of automated employment decision tools (AEDTs). What exactly is an AEDT? The law defines it as a computer-based tool that:**
 - Uses machine learning, statistical modeling, data analytics, or artificial intelligence;
 - Helps employers and employment agencies make employment decisions; and
 - Substantially assists or replaces discretionary decision-making.
- **Requires employers to:**
 - Select an independent auditor to perform an annual, independent bias audit of the AEDTs used during the hiring or promotion process to assess disparate impact based on race, ethnicity, and sex;
 - Publish the audit results; and
 - Provide notice about organization's use of AEDTs to candidates or employees that reside in NYC.

Department of Labor AI & Inclusive Hiring Framework



Leaders
Overseeing
AI

HR, Hiring
Managers &
DEIA

IT
Accessibility
Programs

Procurement
& Vendor
Relations

Legal &
Compliance

AI & Inclusive Hiring Framework – Ten Focus Areas



Focus Area 1

Identify Legal Requirements



Focus Area 2

Establish Staff Roles



Focus Area 3

Inventory Technology



Focus Area 4

Work With Vendors



Focus Area 5

Assess Impacts



Focus Area 6

Provide Accommodations



Focus Area 7

Use Explainable AI



Focus Area 8

Ensure Human Oversight



Focus Area 9

Manage Incidents



Focus Area 10

Monitor Regularly

EEOC Artificial Intelligence and Algorithmic Fairness Initiative

- Agency-wide initiative to ensure that the use of software, including artificial intelligence (AI), machine learning, and other emerging technologies used in hiring and other employment decisions comply with the federal civil rights laws that the EEOC enforces.
- The EEOC believes that AI systems may have the potential to discriminate.
- The EEOC will examine how existing and developing technologies fundamentally change the ways employment decisions are made.
- The initiative's goal is to guide employers, employees, job applicants, and vendors to ensure that these technologies are used fairly and consistently with federal equal employment opportunity laws.



First EEOC AI Settlement

- An applicant rejected from a position at iTutorGroup thought something was fishy when they allegedly submitted their same resume again, but this time included a younger birthdate – and secured an interview.
- EEOC filed a lawsuit against the employer on behalf of more than 200 applicants alleging age and gender discrimination.
- The lawsuit alleged that the company illegally screened out women applicants over 55 and men over 60.
- Paid out \$365,000 to the group of over 200 rejected applicants.
- iTutor agreed to adopt anti-discrimination policies and conduct trainings to ensure compliance with equal employment opportunity laws.
- The company must also re-consider all applicants that were purportedly rejected because of their age.

iTutorGroup

AI and Benefits



AI Platform Examples in Benefits

Communication



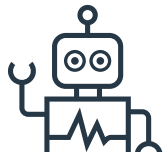
Decision Support Tools



Dependent Audits



Benefits Research



This slide was created with the assistance of AI

Ways Benefit Teams Are Using AI

Harnessing the Power of Data

Use data to understand your employees and what benefits they value

Benefits Education/Communication

Utilize chatbots to answer benefits questions

Decision Support

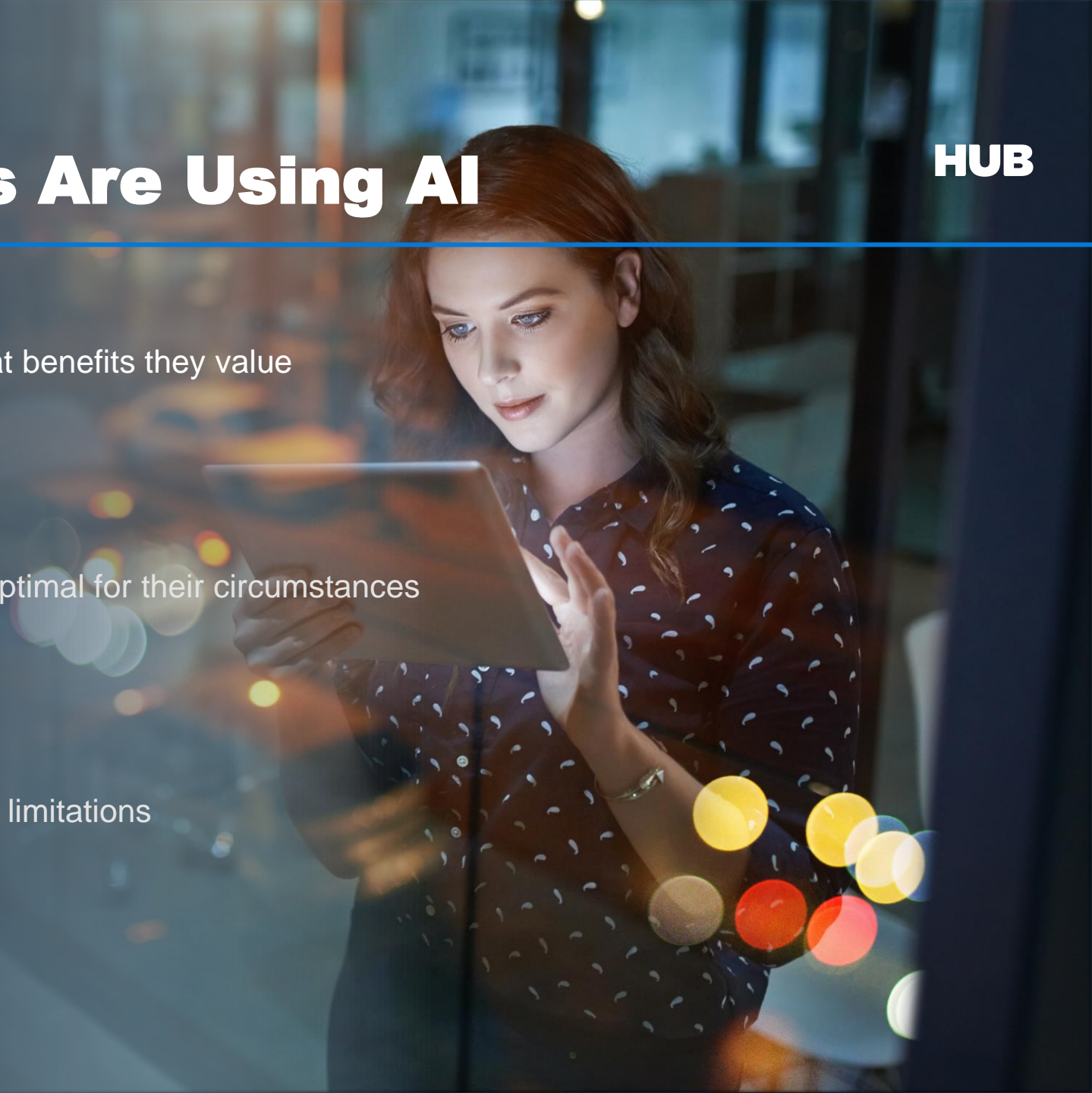
Help your employees choose the benefits most optimal for their circumstances

Dependent Audits

Verify plan eligibility to aid in controlling costs

Compliance Research

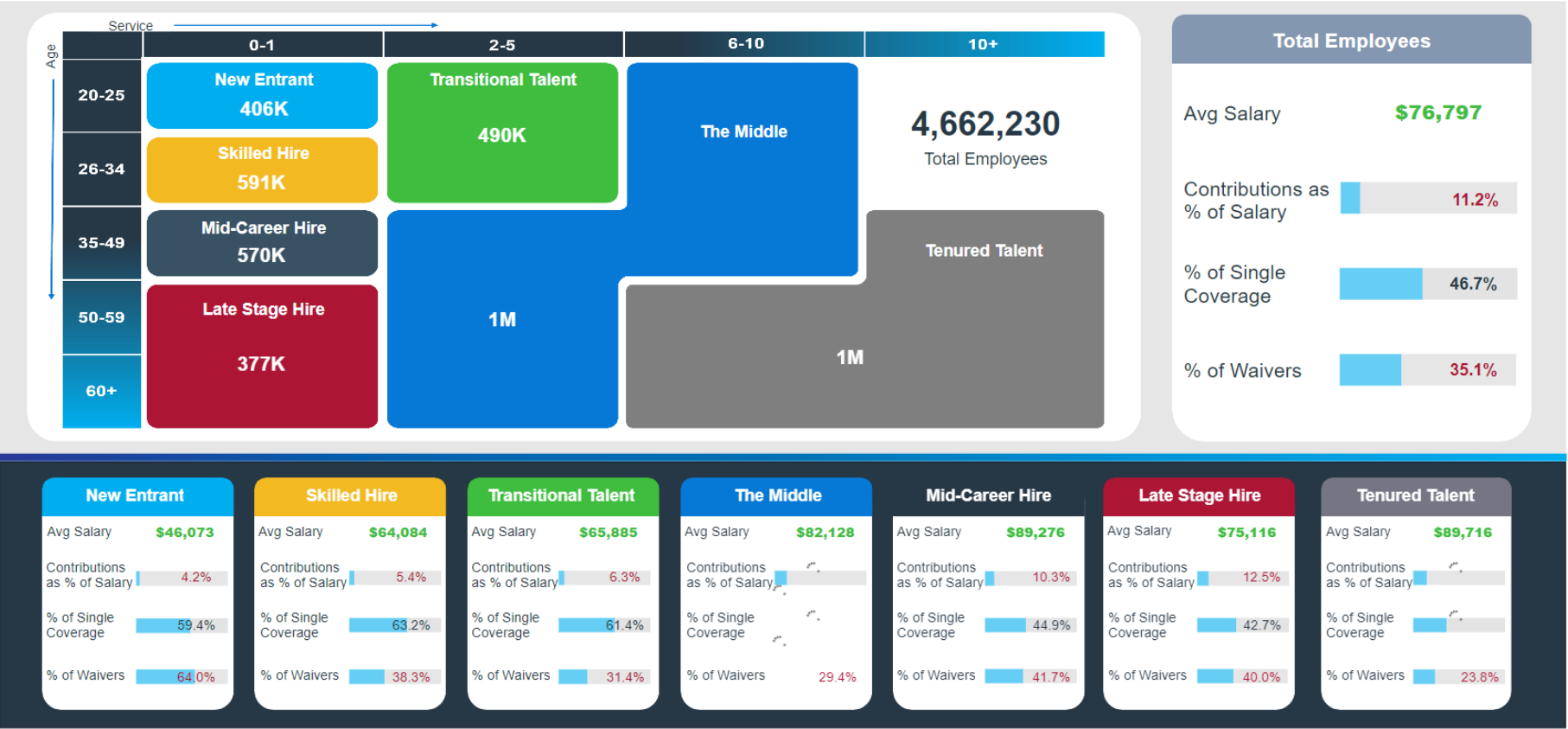
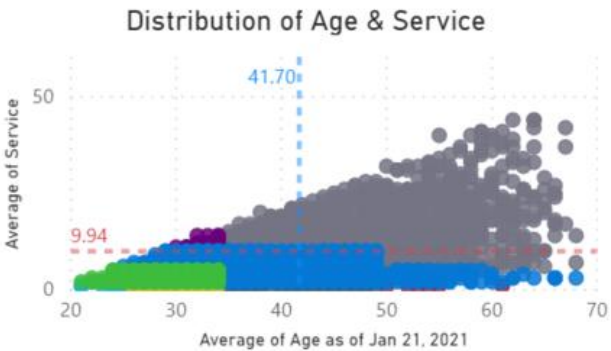
Use AI to conduct research while recognizing the limitations



The Power of Data

WHAT IT ACCOMPLISHES:

Foundational understanding of your population. Identify HR Policies, Services, Products and User Experiences that complete your offering and positively impact productivity.



39%
8.7%
Financially Fragile



17%
7.9%
Empty Nesters



52%
6.1%
Sole Earners

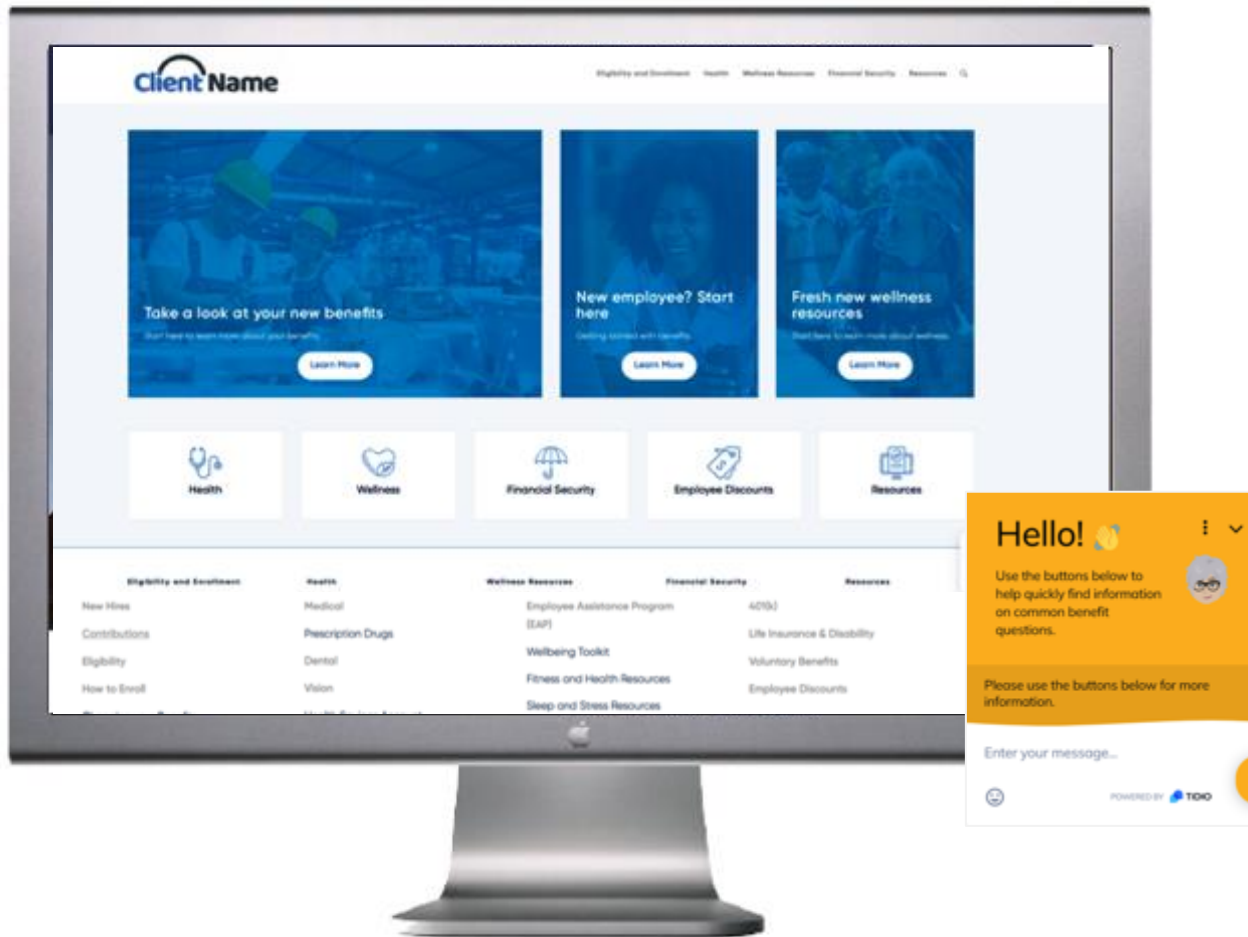


22%
6.3%
Single Parents

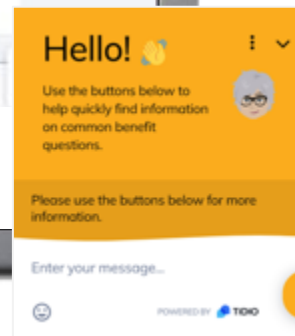


1%
2.4%
High Net Worth

Education and Communication



Sample: <https://samplesite.gobenefits.net/>



Web Guide Features—

- Replaces the need for a traditional or hard-copy Benefit Guide
- Designated URL for your individual site
- Benefits information organized in one clean, user-friendly place
- Video and document storage
- Accessible from any computer, smartphone or tablet
- Designed in your company brand
- Team WordPress training for easy updates and document uploads

Chat Bot Features—

- Connect employees to benefits information instantly with AI technology
- Customized chat bot answers employee questions, freeing up more of your time
- Optional customizable avatar “spokescharacter” that matches your branding & voice

Analytics provided quarterly—

- Includes number of site visits, most popular pages, session duration, device used to access and more

“I translate with a click!”

Decision Support Tools



- Many employees experience anxiety when electing their benefits
- Employers have employees with different benefit needs... which is why they offer multiple plan options
- The right plan for one employee may not be the right plan for another
- AI powered decision support tools can help employees make educated decisions about their benefits.

Compliance Research

- Generative AI programs can be a great tool to research benefits compliance... however it has limitations
- Answers are only as good as the question... garbage in/garbage out
- Results may not be accurate or timely – certain annual contribution limit amounts are adjusted each year
- Results may show rules, but not account for exceptions to the rules – in most cases, individuals enrolled in a high deductible health plan who have other health coverage not eligible for HSA contributions; however, treatment for a service-connected disability through the VA is an exception
- Results may not be in the correct context – a request for "Nondiscrimination rules applicable to ERISA plans" may provide a response applicable to retirement plans, health and welfare plans or both

Fiduciary Duties

- Under ERISA, every plan must “provide for one or more named fiduciaries who jointly and severally shall have authority to control and manage the operation and administration of the plan.”

Fiduciaries are those with “discretionary authority or discretionary responsibility in the administration” of the plan within the meaning of ERISA

- Personal liability for fiduciaries – individually named in lawsuits
- Recent health and welfare cases against Johnson & Johnson and Wells Fargo
- Duty to pay reasonable expenses of the plan
- Duty to monitor service providers

Fiduciary Duties + AI

- Carriers and TPAs using AI to process claims under employer sponsored plans
- AI can also be used to process Prior Authorizations and make Medical Necessity determinations
- Several lawsuits filed related to automatic and potentially improper claims denial
- Certain claims may see high denial rates and high rates of turnover on appeal
- Lawsuits don't specifically focus on the use of AI, but AI increases media attention

Fiduciary Duties + AI Tips

Understand whether your carriers and TPAs are using AI

Assume they are using it today or soon will be

How are they using it?

Are they monitoring and testing it?

Does contractual language protect the plan sponsor?

Monitor the carrier/TPA to understand how their use of AI will evolve

Cybersecurity Best Practices Under ERISA



DOL ISSUED CYBERSECURITY
GUIDANCE FOR RETIREMENT
PLANS IN 2021



EXPANDED APPLICABILITY
TO HEALTH AND WELFARE
PLANS IN 2024



RETIREMENT PLANS HAVE
MORE MONEY AND ARE OFTEN
GIVEN PRIORITY



BEST PRACTICES ARE
MORE SPECIFIC THAN
HIPAA



CERTAIN APPLICABLE INFORMATION
ALREADY PROTECTED BY HIPAA –
DOES NOT APPLY TO ALL HEALTH
AND WELFARE PLANS



HEALTH AND WELFARE
PLANS HAVE LESS MONEY,
BUT MORE DATA

DOL Cybersecurity Best Practices

Have a formal, well documented cybersecurity program.

Conduct prudent annual risk assessments.

Have a reliable annual third-party audit of security controls.

Clearly define and assign information security roles and responsibilities.

Have strong access control procedures.

Ensure that assets or data stored in a cloud or managed by a third-party are subject to security reviews and independent security assessments.

DOL Cybersecurity Best Practices

Conduct periodic cybersecurity awareness training.

Implement and manage a secure system development life cycle (SDLC) program.

Have an effective business resiliency program addressing business continuity, disaster recovery, and incident response.

Encrypt sensitive data, stored and in transit.

Implement strong technical controls in accordance with best security practices.

Appropriately respond to any past cybersecurity incidents.

Key Takeaways



Key Takeaways

- Adoption of AI technologies is increasing, fueled by the efficiency and profitability benefits that can support an organization's business objectives
- AI technologies come with inherent risks that must be managed through effective corporate governance. HR professionals have a role to play
- Support your organization to design and implement governance controls, including policies, standards, guidelines, and training, to enable users to maximize the benefits of AI technology while doing so in a way that protects the organization
- HR can embrace AI opportunities but must ensure that they validate and pressure test all AI results
- AI should never be the “decider” – keep the “human” in Human Resources
- Trust... but verify

Q&A

Thank you

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