

# HR Leader's Guide to New York Local Law 144:

## The New York AI Bias Law



## What the heck is New York City's Local Law 144?

NYC Local Law 144 of 2021 is often also called the Automated Employment Decision Tool (AEDT) Law, or sometimes the New York AI Bias Law.

The law applies to employers who have employees in NYC who use certain automated systems in their hiring; it is likely that more than half of all companies over 20 employees will have responsibilities under the law.

There are no exemptions for small business, for businesses hiring remotely, or for non-profit or educational institutions.

The law is in effect now; it will be enforced starting on July 5, 2023.

## Wait, we don't use AI for hiring. Does this apply?

The AEDT law has been broadly written to encompass "automated decision tools" in hiring. What we might think of as artificial intelligence, with a computer learning and making decisions, is one part of that definition, but it's only a small part. Most companies using modern, sophisticated ATS, many assessments, and some interview technology will fall under the law.

## What concerns prompted the creation of the law?

There hasn't been much regulation around the use of automation in hiring. While all of the overarching hiring regulations and laws still apply to automated tools, regulators have not yet adapted them to modern technology. That's changing now.

There is concern that automated tools may be replicating some of the biases present in humans, but that the bias will be encoded in a process that's not transparent and hard to change. For example, Amazon built a [machine learning tool to rate applicants](#) for software development roles. The algorithm was trained with the resumes of successful applicants from past years. However, most of the applicants were men. As a result, the algorithm gave a higher rating to men. No one had told it to do so – the program was simply reflecting the bias that had existed previously in the hiring pool. Amazon had to shut the tool down.

As more companies use external vendors for hiring technology with automation, these concerns have become more urgent.

## How do I know if my organization must comply?

### Ask yourself the following three questions:

- ✓ Do you have employees in New York City?
- ✓ Do you use technology for hiring that helps evaluate and screen candidates?
- ✓ At any point do any of the tools:
  - Make a decision on any one part of the hiring process in absence of human choice? For example, does your ATS screen resumes and only present a subset of applicants to a human recruiter?
  - Provide a score that allows ranking of some candidates over others? Consider assessments of personality, cultural fit, and aptitude

If the answer to all 3 of these questions is yes, for ANY of the tools you use, you may have compliance obligations.

### What We Offer

The definition of an automated tool under the law is precise and complex; we can help you work through whether action must be taken.

Proceptual offers free consultations to discuss whether the law may apply to you.



## When do I need to take action? What are the penalties?

### When to Take Action:

Local Law 144 is in effect as of January 1, 2023. However, New York's Department of Consumer and Workforce Protection has delayed enforcement of the law until July 5, 2023.

### Penalties:

For noncompliance, penalties are up to \$1,500 per day, per tool.

## What does the law require? How can we comply?

### Companies that use an automated decision tool as defined by the law have two major obligations:

- 1** Conduct an independent audit of each tool used that falls under the law and post a link to the audit results on their jobs/careers page.
  - ✔ Audits must be conducted by an independent, third-party auditor. The vendor of a tool cannot conduct the audit and simply pass on to end users. Similarly, end users of a tool cannot conduct their own audit internally.
  - ✔ The auditor will require access to raw hiring data used by the tool being audited. If insufficient data exists, test data can be used.
  - ✔ An auditor produces several tables that compares the results of the hiring tool, showing results for men and women, along with 6 racial/ethnic groups defined by the statute.
  - ✔ The results will show both a “selection rate” and an “impact ratio,” which compares each of the groups against the best-performing group in the sample.
  - ✔ There is no “pass/fail” defined by the law. As of now, a company is in compliance if they have conducted and posted the audit, regardless of the results. That said, HR leaders will be attuned to results that violate the 80% rule long-established by the EEOC.\*
  - ✔ The results of the audit must be posted on your careers/jobs page, or a link to the audit results may be posted.
  - ✔ The audit is good for one year, after which the tools must be audited again.

### What We Offer

\*Proceptual audits examine the statistical significance of any results under the 80% rule, examine the data for excusable differences (for example, one high-performing group had on average more years of experience), and, if necessary, offers a mitigation plan.

**2** Post certain notifications to candidates that an automated tool will be used.

- ✓ Employers must notify applicants and employees that an automated system will be used in hiring.
- ✓ There must be contact information for applicants to request an alternative selection process.
- ✓ Certain disclosures must be made regarding what data is collected and the data retention policy.

**Does this effort fit into my broader commitments to DEI and fairness in hiring?**

We sure think so! Like with any compliance regulation, it's prudent to get compliant with new laws. But just as importantly, understanding the fairness of your hiring tools is at the center of creating a diverse workforce. And as the issue of AI bias in hiring appears more and more regularly both in the HR press and [in the general media](#), employees, customers, and investors will be looking to make sure companies are taking the right precautions.



**When should I start?**

**Enforcement Deadline:**

The enforcement deadline is July 5, 2023. It's not known how quickly or how aggressively NYC will move to enforce the law. It's also not clear whether NYC will assess penalties in arrears back to July 5, or provide warning before assessing the fine.

**When to Start:**

Companies looking to become compliant should engage with their independent auditor at least 8 weeks before the deadline.

## So I have obligations to comply in New York. Will there be similar responsibilities in other jurisdictions?

Yes. The New York law is just the first of several obligations companies will likely have to navigate in the next several years.

### Federal Level:

At the federal level, the EEOC has identified the issue of bias in automated hiring systems as one of its top 3 regulatory priorities for the next 5 years in its [2023 Strategic Enforcement Plan](#); it is highly likely that we will see federal rules in 2023.

### Proposed State Regulations:

California, Virginia, Colorado, Connecticut, and Washington, DC all have proposed regulations being considered. Seeing the rise of importance of the issue, other states are likely to start considering regulations as well.

### European Market:

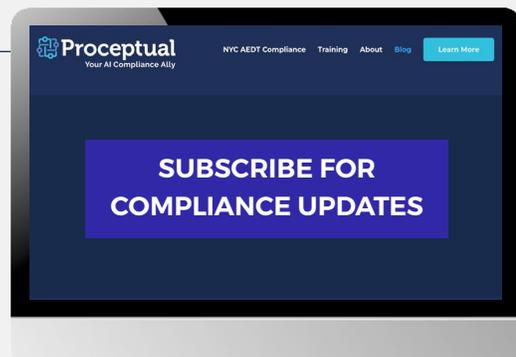
Finally, the EU is in the final stages of outlining a package of highly restrictive regulations that will apply to companies hiring or selling into the European market.

## What We Offer

### Compliance Updates

Please sign up for our newsletter to stay updated on emerging compliance obligations. Proceptual will be releasing compliance solutions for each of these regulations as they come online.

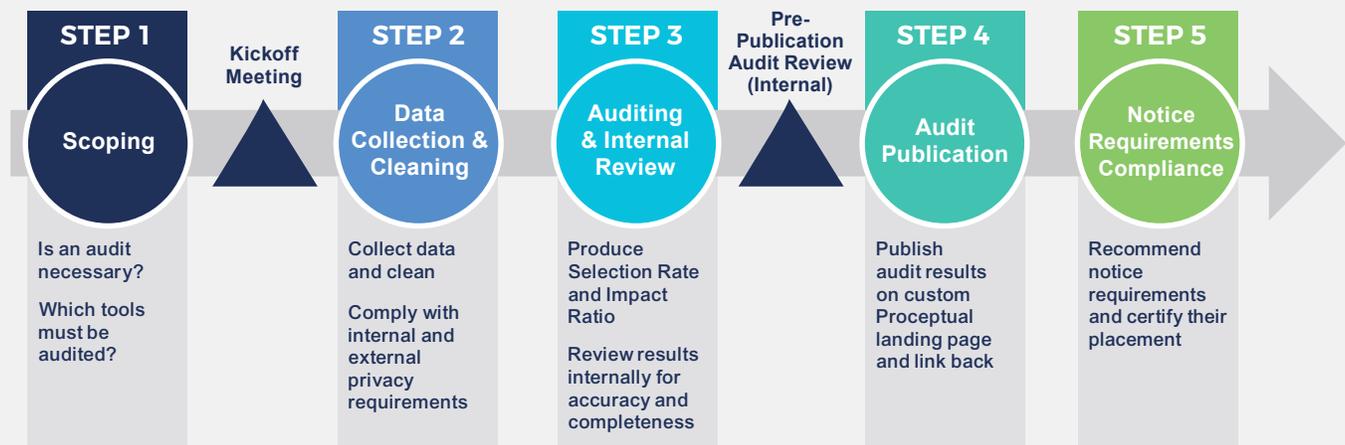
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## How can Proceptual help?

Thanks for asking! Proceptual was founded to bring a technology-based solution to the challenge of complying with these new laws as efficiently as possible. We understand that for HR leaders, executives, and small business owners there is not time set aside to comply with new laws. That's why we have engineered a software solution enabling us to conduct NYC AEDT compliance audits in a fraction of the time and cost. We take on the challenges of complying with fast-changing regulations so you don't have to.

## Proceptual Audit Process



Our goal is to help companies comply with the law as easily as possible. Our process is designed to comply with the letter of the law, as opposed to a preconceived idea of what an “AI audit” should be. Therefore, we don’t audit data or processes that are not covered by the law.

## Contact

Please contact us to learn how we can help get your company compliant with New York Local Law 144 in as little as 3 weeks.

 [info@proceptual.com](mailto:info@proceptual.com)

 [Proceptual.com](https://www.proceptual.com)

 (800) 523-7619

# Cross NYC Law 144 Off Your To-do List

The New York AI Bias Law is in effect now.  
It will be enforced starting July 5, 2023.

## Get Results in as Little as 3 Weeks

Proceptual offers technology-enabled compliance solutions which produce results in as little as three weeks with no extra work required on your end.

[Chat With a Compliance Expert](#)

### Our Growing List of Partners



### What Our Clients Are Saying



“The team at Proceptual has been great to work with, keeping us educated on this rapidly changing regulation. We are excited to have found a partner that we know will take great care of our clients!”

– James Taylor, CEO, Launchways