DOL issues guidance on AI and employee well-being

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On October 16, the U.S. Department of Labor released comprehensive guidance for the use of Artificial Intelligence in the workplace. This publication is a direct response to an Executive Order issued by President Biden almost one year ago.

The DOL guidelines are "non-binding and [do] not supersede or modify any current policy, statute, or regulation." The stated intent of the guidelines is "to aid employers and developers in mitigating potential harm to employees and maximizing the potential benefits of AI." The guidance provides eight core principles that the DOL says should govern the use of AI in workplaces. (The following is taken from the DOL guidance, with some edits.)

Core principles

No. 1: Centering worker empowerment by ensuring that workers, especially those from underserved communities, are both informed about and actively involved in the design, deployment, and oversight of AI systems in the workplace.

No. 2: Ethically developing AI to protect employee rights, avoid risks to employees, and meet performance and safety standards.

No. 3: Establishing AI governance and human oversight in the use of AI systems, especially in significant employment decisions like hiring, compensation, and terminations.

No. 4: Ensuring transparency in AI use by ensuring that employees and applicants are aware of the AI systems being used, the data being collected, and the impact of the use of AI on employment decisions.

No. 5: Protecting labor and employment rights by ensuring that the AI systems do not violate or undermine the right of employees to organize, their health and safety rights, their wage and hour protections, or their protections against discrimination and retaliation.

No. 6: Using AI to enable employees. In other words, AI should help employees by reducing the time spent on certain tasks and giving employees the opportunities to enhance their skills. The DOL also recommends that employees should be rewarded for any increased productivity resulting from the use of AI.

No. 7: Supporting workers affected by AI by providing training and opportunities to help employees adapt to AI-driven changes and mitigate the risks of job displacement.

No. 8: Ensuring responsible use of employee data. The DOL recommends that use of employee data be limited to what is necessary for legitimate business purposes and that employers protect that data from internal and external threats.

Recommended practices

Not surprisingly, the DOL also encourages employers to stay aware of legislative decisions and regulations surrounding the use of AI. The following is a summary of the DOL's recommendations (again, taken from the DOL guidance, with some edits):

- Employers should allow employees to be actively involved in AI system decisions to foster transparency, worker trust, and meaningful input.

- As AI alters job functions, employers are urged to offer training programs to help employees transition to changing roles within the organization. Employers should also ensure that employees have adequate training on the proper use of AI in the workplace.
- Companies should establish governance structures to ensure that AI does not replace human decision-making in critical employment areas.

Julie Su, Acting Secretary of Labor, said in an Introductory Note to the guidance,

> The Department of Labor will remain vigilant in protecting workers from the potential harms of AI, while at the same time, *[sic]* recognizing that this is a moment of tremendous opportunity. Whether AI in the workplace creates harm for workers and deepens inequality or supports workers and unleashes expansive opportunity depends (in large part) on the decisions we make. The stakes are high. But with these best practices and principles . . . we can seize this moment and promote innovation and prosperity for all.