Human Development Institute

Syracuse University
Burton Blatt Institute

Southeast ADA Center

4th Thursday ADA Talks

Webinar 8 – August 2026

Artificial Intelligence (AI) and Disability in Hiring Practices: Bias by Design

Presenter:

Monica L. Kennedy

SPHR, SHRM-SCP, PSHRA-SCP, ADAC, CPSP

Disclaimer

- The information, materials, and/or technical assistance are intended solely as informal guidance and are neither a determination of your legal rights or responsibilities under the Americans with Disabilities Act (ADA), nor binding on any agency with enforcement responsibility under the ADA.
- The contents of this presentation do not necessarily represent the policy of National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR), Administration for Community Living (ACL), Department of Health and Human Services (HHS), and you should not assume endorsement by the Federal Government.
- Any links to information and resources are provided as a courtesy, and are neither intended to, nor do they constitute, an endorsement of the linked materials.
- Questions? Contact Southeast ADA Center
  Web: ADASoutheast.org | Phone: 404-541-9001.

Artificial Intelligence (AI) and Disability in Hiring Practices: Bias by Design

Monica L. Kennedy
SPHR, SHRM-SCP, PSHRA-SCP, ADAC, CPSP

Objectives

- Understanding how Artificial Intelligence (AI) tools function in the hiring process
- Identify areas of ADA noncompliance in tech-assisted screening
- Assess vendor tools for risk
- Learn tools to mitigate risk and ensure hiring

Basics

ADA Title I - Employment

- Equal access and opportunity
- Non-discrimination
- Reasonable accommodation to perform essential functions
- Accessibility at every step
- Applies to candidates and employees
  - Recruiting, hiring, benefits, etc.

WCAG 2.1 AA – ADA Title II

- DOJ adopted a standard for ADA compliance on April 24, 2024
  - Entities with 50,000+ population: Deadline is April 26, 2027
  - Entities under 50,000 & Special Districts: Deadline is April 26, 2028
- P.O.U.R.
  - Perceivable
  - Operable
  - Understandable
  - Robust

Disability Impacts All of Us

- 26% (1 in 4) of adults in the United States has some type of disability
  - Number of children is not being recorded in a meaningful way
- 61 million adults
- Highest percentage of people living with a disability are in the South
- Common groups
  - 2 in 5 adults age 65 years and older have a disability
  - 1 in 4 women have a disability
  - 2 in 5 non-Hispanic American Indians/ Alaska Natives have a disability

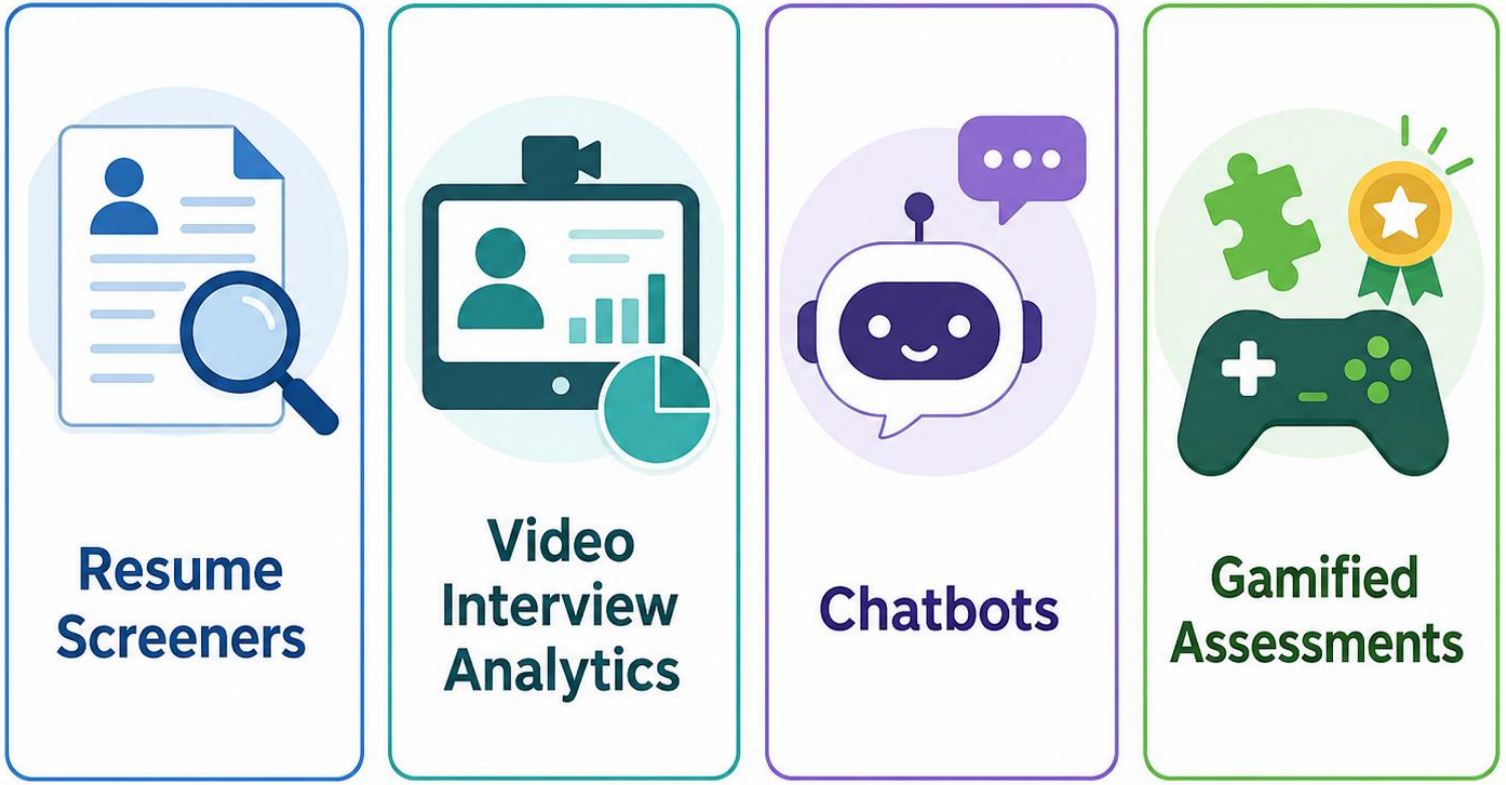
Current Landscape

- AI has transformed hiring, but ADA obligations have not shifted
  - Interactive process and reasonable accommodation apply to applicants and employees
- 68% of recruiters believe that AI can remove unconscious bias
  - This typically applies to gender, race, or national origin biases, not disability
- Growing concerns about disability bias and inaccessibility

How Automated Hiring Tools Work

- Machine learning and historical data
- Pattern recognition
- Natural Language Processing (NLP) for communication scoring
- Generative AI and chatbots (MS CoPilot, OpenAI ChatGPT, Google Gemini, Anthropic Claude)
- Voice assistants (Amazon Alexa, Apple Siri, Google Assistant)
- Behavioral modeling (Smallville, UoM Be.FM)

High-Risk Tools: Overview



Resume Screening Risk

- Keyword filtering bias
  - Non-traditional job titles or volunteer roles
  - Overlooking transferable skills
  - Accessibility-related language mismatches
- Penalizes non-linear careers
  - Misinterpreting medical leave or intermittent work as lack of commitment
  - Undervaluing flex, part-time, or remote roles used as an accommodation
- May ignore context behind gaps
  - Medical or recovery periods treated as negative indicators
  - Overlooking skill development during gaps
  - Structural accessibility issues (e.g., resume templates, online application systems)

Employment Gaps & Disability Bias

- Penalties for medical or disability-related gaps
  - Inability to interpret legitimate gaps in employment
  - Candidates are not required to disclose negative gap interpretation
  - Algorithms look for continuous work patterns as success indicators
- Automated systems flag inconsistent work histories
  - Non-linear work histories interpreted as instability
  - Candidates with disabilities may have a pattern of short-term roles (but so do military spouses!)
- Results in disparate impact
  - Without auditing, automated tools disproportionately exclude qualified candidates with disabilities

One-Way Video Interviews

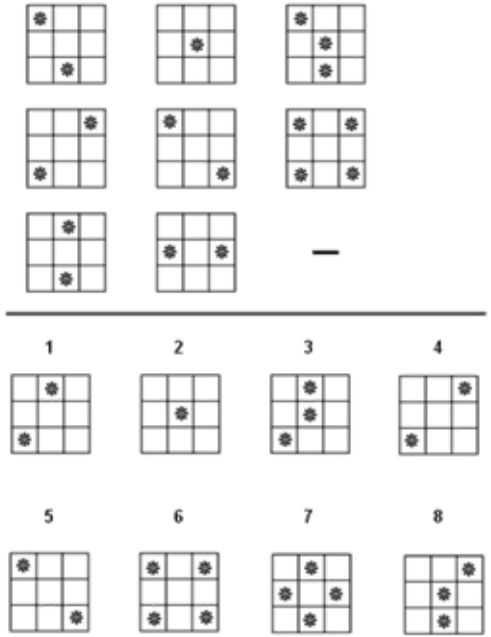
- Penalize candidates with facial tics or movement disorders
  - AI evaluates “composure” and “professionalism” using visual cues such as stillness, head position, and facial movements
- Neurodivergent candidates scored low for atypical eye contact
  - Consistent eye contact evaluated as a proxy for confidence, communication ability, and trustworthiness
  - Scoring models don’t distinguish between “low engagement” and “different engagement”
  - When looking away, generally assumed to be reading or getting prompts from another source
- Speech differences misread as low confidence
  - Stuttering, dysarthria, atypical cadence, or speech affected by assistive devices
  - AI looks for pacing, rhythm, intonation, and clarity
  - Candidate does not have real-time interaction to explain or clarify

Chatbots & Prescreening Barriers

- Rigid timing harms processing disorders
  - Limits time to read, understand, and respond
- Screen reader incompatibility
  - Not compatible with speech-to-text tools
  - Poor labeling, auto-advancing screens, visual only instructions
  - Systems auto-score incomplete answers, thus unfairly disqualifying due to barriers
- Lack of human support or accommodation options
  - Often operates in a closed system environment
  - No contact information to reach someone to request assistance or accommodation

Gamified / Cognitive Assessment Barriers

- Timed tests disadvantage neurodivergent applicants
  - Scored based on speed
  - Neurodivergent candidates may need more time to interpret instructions or navigate the interface
- Not accessible to screen readers
  - Most gamified assessments rely on visual cues, animations, or drag/drop interactions
  - No keyboard-only navigation options
- No alternative formats
  - Gamified assessments function as a one-size-fits-all
- Assessments must be job-related and correlated to success in role
  - Must be validated regularly
  - Ex. Can an INTJ do the job just as well as ESFP?



ADA Title I Requirements

- Must provide reasonable accommodations at every stage
- Selection criteria must be job-related
- Employer liable for vendor tools
- Interactive process required
- ADA Coordinator must be identified
  - Applies for Title II, but generally trained in all Titles
  - Gov’t entities with 50+ employees
  - One “responsible employee”
  - Does not have to be their only job title
  - Will receive Title I complaints related to application accessibility

Where AI and ADA Collide

- Unintentional exclusion = ADA violation
  - AI systems that screen out candidates with disabilities can create unlawful disparate impact
- AI cannot detect accommodation needs
  - AI systems treat all applicants as if they have identical abilities and communication styles
- Behavioral scoring is often tied to disability expression
  - Tools often evaluate “soft skills” by analyzing body language, facial expressions, tones, etc.
  - Metrics like confidence, engagement, emotional intelligence may be defined by behavioral norms that exclude those who disability influences movement, speech, eye contact, social cues.

Reasonable Accommodation Examples

- Alternative to a one-way interview
  - Live phone interview, written response
- Extend time for assessments
- Screen reader-friendly platforms
  - Fully navigable by keyboard commands
  - Readable text and alt-text on images
- Human review overrides
  - Allows recruiter to take context into account and apply professional judgment
  - Ensures that disability-related differences are not mistaken for lack of competency

Challenges in Digital Hiring

- Systems lack accommodation request options
  - Nowhere is a phone number or email to a real person provided
  - No prompt for “do you need an accommodation”
- Candidates unaware that accommodations are possible
  - Need proactive communication that accommodations are possible, welcomed, and protected
  - Qualified candidates will simply not apply
- Rigid vendor tools limit flexibility
  - No customization options
  - No override options for time limits or modified format

Building Accessibility into Hiring

- Include accommodation language in job postings
  - Put it at the top, make it part of your culture, and mean it
  - State that accommodations are available anytime during the hiring process
- Provide clear ADA contact information
  - Include a direct contact method for accommodations: email, phone, form
  - Pair with instructions, without asking medical details, for:
    - What info the employer needs
    - Response time the candidate can expect
    - Who manages the accommodation workflow (e.g., HR, Talent Acquisition)
- Offer alternate application formats
  - Email or phone-based applications
  - Assistance completing online forms
  - Live interviews
  - Written responses instead of gamified assessments

Risk Mitigation Strategies

- Audit tools for AI bias
  - Regularly audit as assess AI tool(s), including those that were automatically rejected
  - Some states and cities already require this or are pending regulations
- Ensure human oversight
  - Never make final hiring decision without human involvement to catch errors
- Review scoring models for disability bias
  - Challenge vendors to explain exactly what behaviors are being scored, selected, and if disability-related variations were accounted for in the training data

Vendor Due Diligence

- Require WCAG 2.1 AA compliance
  - Build this into your contracts
  - Include language for on-going compliance
- Ask for validation studies
  - Should demonstrate whether AI tool actually measures what it claims to measure
  - Measurements should be fair and job-related
  - Vendor should be able and willing to explain methodology behind validation and what populations were included
- Request Voluntary Product Accessibility Template (VPAT) and transparency
  - VPAT outlines how well the tool conforms to accessibility standards and where limitations exist
  - Look for: Narrative explanations of accessibility barriers, future remediation plans, and confirmation of compatibility with assistive technology.

Policy Updates

- Update ADA and EEO policies
  - Explicitly address the use of AI and automated tools in hiring, screening, and assessments
  - Clarify that the employer, not the vendor, is responsible for continued accessibility and nondiscrimination
  - Consistency and alignment between HR, IT, Procurement, Legal, and hiring teams
- Document accommodation processes
  - Formal document so candidates and employees know:
    - How to request an accommodation in any digital system
    - Who responds and what timeline to expect
    - Which alternative formats are available
    - How accommodation decisions are communicated and documented
- Add AI disclosures
  - What the tool does, and that it is not the sole decision-maker
  - How data is used and stored
  - Retention policy

Internal Training

- Teach staff to identify accessibility barriers
  - How to recognize digital accessibility barriers
  - How to recognize an indirect request for accommodation
  - How to respond while avoiding probing medical questions
- Interactive process procedures
  - Procedures must apply equally to digital and AI-enabled hiring steps
  - Managers should know how to spot, document, and escalate
- How to override automated decisions
  - Recognize and escalate questionable scoring or trends
  - Document when overrides happen and why

Ongoing Monitoring (1 of 2)

- Annual audits of AI tools
  - Yearly review of all AI systems to ensure they are still operating fairly
  - Testing for adverse impact on protected groups
  - Accessibility checks
  - Review algorithms as vendors often change models without flagging accessibility implications

Ongoing Monitoring (2 of 2)

- Review selection data
  - Continually monitor for patterns or changes that might indicate bias or barriers
  - Indicators include:
    - Disproportionate declines during digital assessments
    - Lower pass rates in video interviews for candidates using alternative communication styles
    - Candidate withdrawals correlated with specific tools or steps
    - Inconsistencies between human-reviewed vs AI-reviewed outcomes
  - Trends should escalate to HR, Legal, and vendor partners to trigger investigation and corrective action

- Collect user feedback after each chatbot prescreen, video interview, and assessment
  - Specifically ask if the process was accessible or if the candidate experienced barriers

Resources

- Federal Guidance: EEOC, DOL/OFCCP, NIST, DOJ
- Disability and Accessibility:
  AskJAN, ADA.gov, W3C/WCAGHR
- Practice: PSHRA, HRCI, SHRM, ADA National Network
- Legal Updates: NCSL, IAPP, state/local AI law trackers
- Vendor Review: Bias audits, validation studies, accessibility statements, human oversight policies

Let’s Connect

Monica L. Kennedy

Cell: 540-845-6292

Email: monica@ClowderConsultants.com

Web: ClowderConsultants.com

Social Media:

LinkedIn @ MonicaLynnKennedy

Clowder Consultants

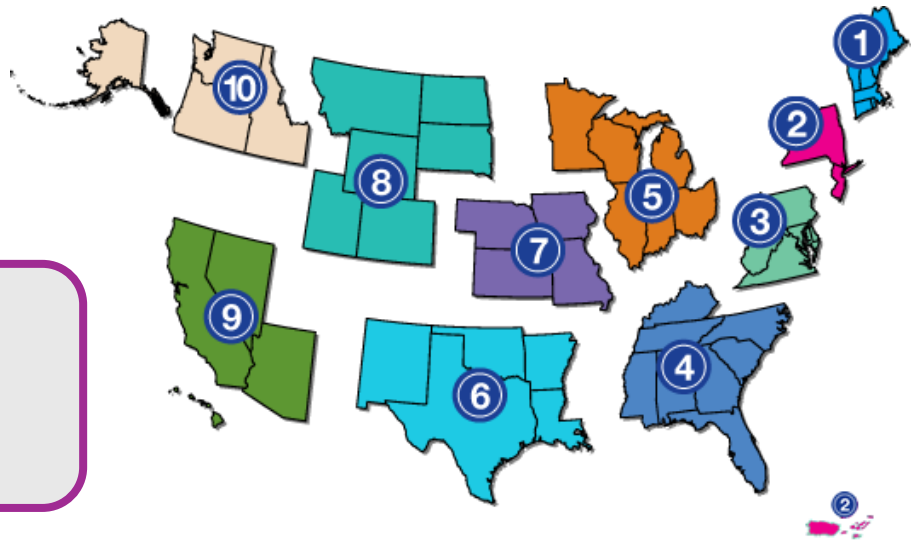
ADA National Network (ADANN)

The ADANN has 10 Regional ADA Centers.

Phone: 800-949-4232

Web: adaTA.org

[Find and Contact Your Regional ADA Center](#)
ADAta.org/find-your-region



Funded by the National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR).

Southeast ADA Center

Phone: 404-541-9001

E-mail: ADAsoutheast@syr.edu

Web: ADAsoutheast.org

Connect and Follow

- **Facebook** @SoutheastADACenter
- **BlueSky** @SoutheastADA
- **Instagram** @SoutheastADA
- **LinkedIn** @southeast-ada-center

Syracuse University
Burton Blatt Institute

Southeast ada Center

Human Development Institute

Web: hdi.uky.edu

Connect and Follow

- **Instagram** @uk_hdi
- **YouTube** @humandevelopmentinstitute8482
- **Facebook** @ukhdi
- **X (formerly Twitter)** @uk_hdi

Human Development Institute

HDI CATS
center for assistive technology services

Web: hdi.uky.edu/HDICATS

Connect

- Regional AT center of the KATS Network
- Lending Library, Training and Demonstration