



AI in HR

How Artificial Intelligence is Changing the Game

Presented By:

Greg Archibald, Esq.

717.581.2310

garchibald@mcneeslaw.com

Micah Saul, Esq.

717.581.3736

msaul@mcneeslaw.com

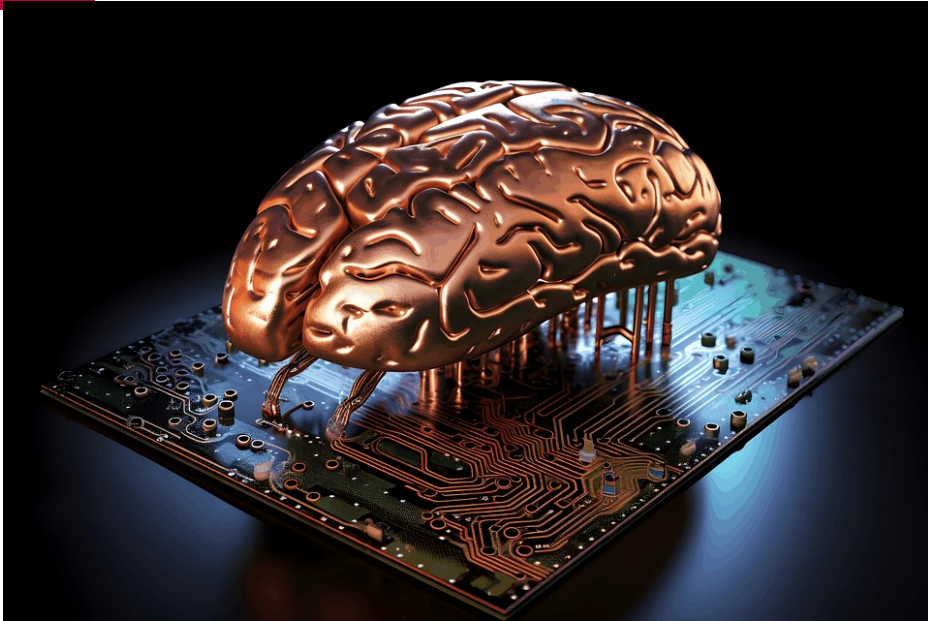


Terminology

- **Algorithm**
 - A set of instructions for a computer
 - Anything a computer does is the result of an algorithm
- **Artificial Intelligence**
 - A computer program that changes its own algorithms in response to data and feedback.
 - “Learning”

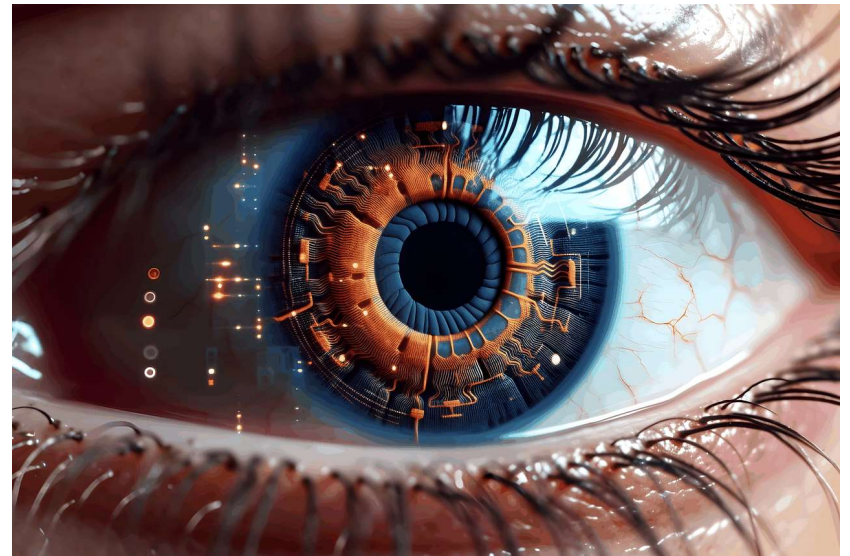


Predictive AI vs. Generative AI



Benefits of AI in HR

- **Efficiency:** Faster document drafting, performance review, and personnel management.
- **Accuracy*:** Reduced human errors.
- **Cost Savings:** Lower operational costs.
- **Scalability:** Handle larger volumes of work.



Risks and Challenges

- **Bias:** AI can inherit biases from training data.
- **Security:** Data privacy and confidentiality concerns.
- **Ethical Dilemmas:** Human judgment vs. AI-generated advice.
- **Accountability:** Who is responsible for AI-generated errors?



Things to Consider...

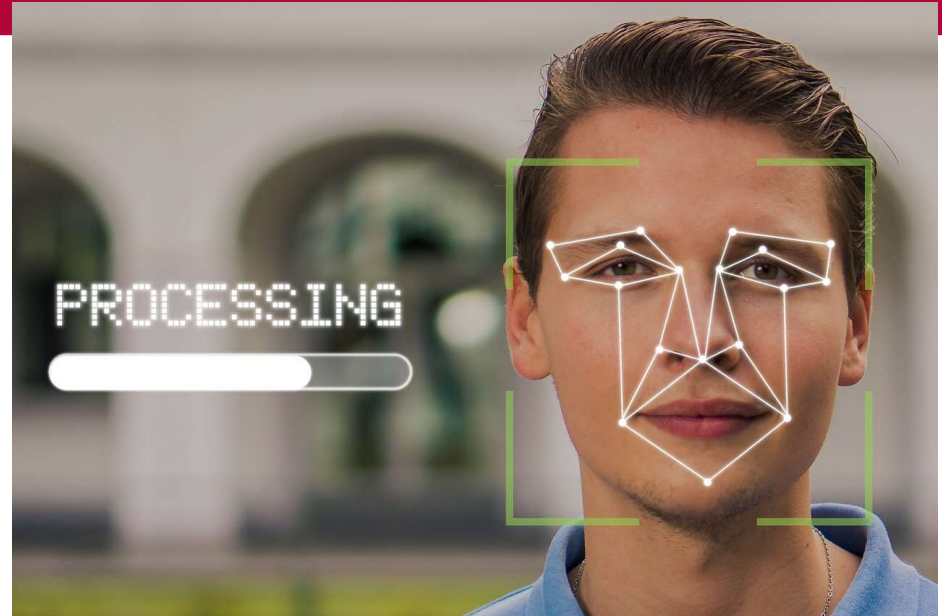
- **What are the current limitations of the technology?**
- **Should we inform employees, applicants, and customers that we are using AI?**
- **Who is accountable for errors?**
- **How much human oversight do we need?**
- **Is the data we are providing this software secure?**



Current Examples

- **AI-Generated Tests for Candidates**
- **Facial expression analysis**
- **Vocal inflection monitors**
- **Game performance tests**
- **Resume checkers**

- **Let's see it in action!**





The Prompt

There are two employees that I am considering promoting to a supervisor position. The first is always on time, works well, and gets along with everyone, but has very little experience. The second also works well and is on time, but has difficulty communicating with his peers. Which should I promote?

The Response



When considering promotions, it's important to balance current performance, potential for growth, and the specific requirements of the supervisory role. Here's a breakdown of the factors you might consider for each candidate:

Candidate 1: Reliable and Well-liked but Inexperienced

Strengths:

- Punctuality and reliability
- Good relationships with peers
- Demonstrated work ethic

Weaknesses:

- Lack of experience

Candidate 2: Experienced but Poor Communicator

Strengths:

- Punctuality and reliability
- Experience in the role

Weaknesses:

- Difficulty communicating with peers



The Response

Key Considerations for a Supervisor Role

1. **Leadership Potential:** Supervisors need to lead and inspire their team. Good interpersonal skills are crucial for maintaining team morale and productivity.
2. **Communication Skills:** Effective communication is vital for delegating tasks, providing feedback, and resolving conflicts.
3. **Experience:** While experience is valuable, it can sometimes be less critical if the candidate shows strong potential in other areas, especially if training is provided.
4. **Team Dynamics:** A supervisor should be someone who can maintain a positive team environment and facilitate collaboration.

Analysis

- **Candidate 1:** Despite the lack of experience, their strong interpersonal skills and reliability suggest they might be able to grow into the supervisory role effectively, especially if they are provided with training and mentorship. Their ability to get along with everyone is a significant asset in maintaining a cohesive team.
- **Candidate 2:** While experienced, the difficulty in communicating with peers is a red flag for a supervisory role. Supervisors must communicate effectively to lead their team. If this candidate's communication issues are significant, it could hinder team performance and morale.



The Recommendation

Recommendation

Promote **Candidate 1**. The potential for strong leadership and effective team management often outweighs the immediate benefit of experience, especially if the candidate can be trained. Investing in their development might yield a more harmonious and productive team in the long run. Additionally, it may be beneficial to provide Candidate 2 with opportunities to improve their communication skills, potentially preparing them for future leadership roles.



Message ChatGPT



ChatGPT can make mistakes. Check important info.



Scenario 1

- Wes, who is blind, is asked to take an AI-driven personality test when applying for a promotion.
- The test is taken on the test developer's website.
- Wes calls the test developer directly and tells them that he cannot take the test because he cannot see it.
- The test developer calls you and explains Wes's issue.
- What do you do?



Scenario 2

- Call Center Company LLC utilizes performance review software that evaluates service reps' performance based on tone, key words, and affect.
- For the last six months, Call Center Company has used employees' scores from this software to review performance, leading to both promotion and discipline.
- Upon review, you notice that all Caucasian employees score near the top, while all African American employees score the lowest.
- What do you do? Disparate impact?



Scenario 3

- Marketing Company plans to adopt generative AI software to assist with content creation.
- All employees are expected to familiarize themselves with the software to prepare for launch.
- Two of your employees that have been with the company for over 30 years, have not taken kindly to new technology in the past, and you fear that they will refuse to use AI.
- What do you do?

AI “Layoffs”

- **When the adoption of AI results in layoffs, must not be discriminatory.**
 - **Wimbush & Onken v. IBM (S.D.N.Y.)**
 - Plaintiffs allege they were laid off because of the perception that they would not adopt or use the new tech due to age.





Scenario 4

- We Love Tech LLC uses an AI-powered chatbot in the employee portal to handle requests for accommodation.
- After receiving input from employees, the chatbot provides HR with an overview of the concern and a suggested accommodation.
- Upon review, you notice that 70% of the time, the chatbot recommends leave as the preferred accommodation.
- What do you do?

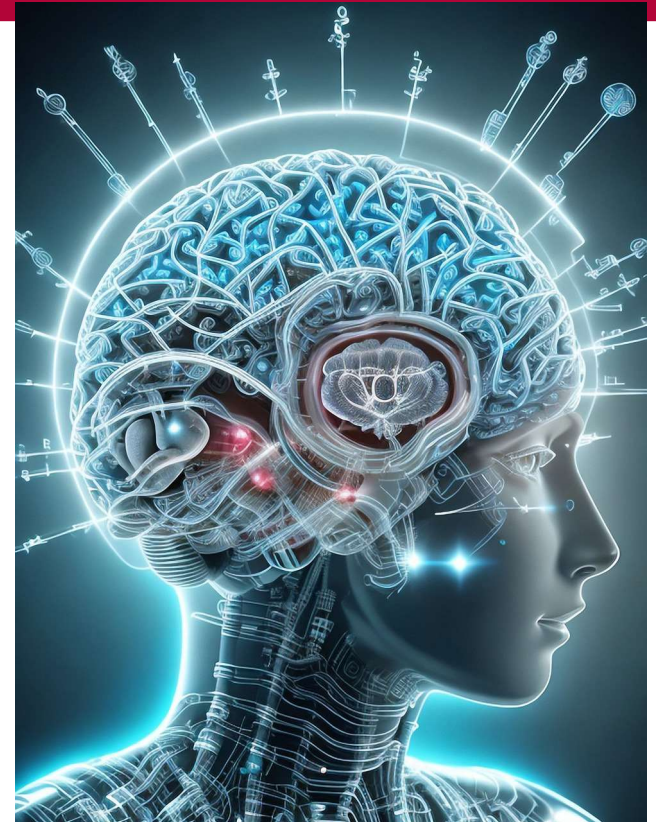
Liability?

- **“We didn’t design the software, we just use it.”**
 - Mobley v. Workday, Inc. (N.D. Cal.).
- **How do we minimize our potential liability?**
 - Audits
 - Education and training
 - Communication
 - Human judgment



Generative AI Policy Considerations

- **Encourage or forbid use of AI?**
- **Appropriate use**
- **Data security**
- **Human “checkpoints”**
- **Plagiarism**
- **Consequences for inappropriate use**
- **Transparency**
- **Reasonable expectation of privacy?**



Implementing Best Practices

- **Trainings to avoid bias**
- **Understand the algorithm**
- **Speak with your vendors**
- **AI is a tool, but not a perfect one**
- **Continuous monitoring**
 - Results
 - Use





Micah Saul, Esquire
717.581.3736
msaul@mcneeslaw.com



Greg Archibald, Esquire
717.581.2310
garchibald@mcneeslaw.com