

THE GOVERNOR

Title 4—ADMINISTRATION

PART I. GOVERNOR'S OFFICE

[4 PA. CODE CH. 7]

[EXECUTIVE ORDER NO. 2023-19]

Expanding and Governing the Use of Generative Artificial Intelligence Technologies Within the Commonwealth of Pennsylvania

September 20, 2023

Whereas, the integration of Generative Artificial Intelligence (AI) into Pennsylvania's economy and the daily lives of Pennsylvanians requires the Commonwealth to ensure it is used responsibly and ethically in the Commonwealth's operations; and

Whereas, responsible use of Generative AI can help Commonwealth agencies more efficiently communicate with and serve Pennsylvania's customers, residents, visitors, and industry when the technology is made available for the agency's use; and

Whereas, Generative AI cannot and should never replace human creativity, moral judgment, or lived experiences of Pennsylvanians; and

Whereas, Generative AI's full potential can only be achieved by the Commonwealth when its use is grounded in a balanced approach prioritizing our employees, encouraging the innovative uses of technology to better serve Pennsylvanians, and aligning with industry standards on proportionate and adaptive policies; and

Whereas, responsible and ethical use of Generative AI by the Commonwealth should be conducted within a governance structure that ensures transparency, tests for bias, addresses privacy concerns, and safeguards our values.

Now, Therefore, I, Josh Shapiro, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws of the Commonwealth, do hereby create the Generative AI Governing Board and order and direct the following:



Governor

Fiscal Note: GOV-2023-19. No fiscal impact; recommends adoption.

Annex A

TITLE 4. ADMINISTRATION

PART I. GOVERNOR'S OFFICE

CHAPTER 7. MISCELLANEOUS PROVISIONS

Subchapter KKK. USE OF GENERATIVE ARTIFICIAL INTELLIGENCE TECHNOLOGIES

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§ 7.991. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

Adaptability—The resilience of policy to withstand and keep up with the natural advancement of technology.

Agency—A Commonwealth agency under the Governor's jurisdiction.

Bias—Erroneous or prejudiced assumptions in artificial intelligence and machine learning processes that may affect generative AI output.

Board—The Generative AI Governing Board.

Generative AI—Generative Artificial Intelligence—Technology or tools that use predictive algorithms to create new content including audio, code, images, text, simulations and videos.

OA—The Office of Administration.

Proportionality—The scope and scale of a policy-making response that corresponds to the context-specific needs of the end-user, the persons or entities using a tool or process, or the risk inherent in the desired outcome.

§ 7.992. Purpose.

The values, governance structures and policy in this subchapter are intended to establish responsive and responsible standards for the governance of generative AI when used by an agency and to ensure that the use of generative AI does not assist or enable activities that violate the laws of the Commonwealth or the United States.

§ 7.993. Core values governing the use of generative AI technology in this Commonwealth.

(a) An agency shall weigh the design, development, procurement and deployment of generative AI technology based on the following core values:

(1) *Accuracy*—When using generative AI, an agency shall confirm that the generative AI produces accurate and verifiable information. The OA shall develop policies on how best to audit and verify generative AI outputs to ensure clear and accurate information.

(2) *Adaptability*—The fast-evolving nature of generative AI and its potential use cases require an agency to establish and maintain an ability and willingness to recognize and adapt to shifting risks and opportunities. Moving at the speed of business requires the Commonwealth to make investments that promote continued research and diligence; engage with external stakeholders and subject matter experts; and learn from other government partners.

(3) *Employee empowerment*—While using generative AI, an agency shall ensure its employees are both better serving residents of this Commonwealth and improving their own skillset for a changing economy and professional development. The Commonwealth and the OA shall create training opportunities for employees to grow their skills in utilizing, understanding and managing generative AI tools or technology.

(4) *Equity and fairness*—An agency shall use generative AI in a way that does not unlawfully discriminate against or disparately impact individuals or communities based on or due to ancestry, disability, age, sex, national origin, familial status, race, gender, religious creed, color, sexual orientation, gender identity or gender expression. An agency shall use generative AI in a human-centered and equitable manner testing for and protecting against bias so that its use does not favor or disadvantage any demographic group over others.

(5) *Innovation*—The Commonwealth should be a public sector leader in harnessing generative AI to improve the delivery of public services to customers, residents, visitors and industry and to enable an agency to be more effective and efficient in their daily work. An agency shall proactively and iteratively evaluate and present to the board for consideration potential salient use cases of generative AI.

(6) *Mission aligned*—When using generative AI, an agency shall ensure that it is used in service of their core missions to serve customers, residents, visitors and industry, and to support Commonwealth employees.

(7) *Privacy*—The design, development, procurement and deployment of generative AI by an agency must not adversely affect the privacy rights of users. An agency shall ensure that training related to the use of generative

AI and the input of data into those tools complies with applicable laws, regulations and policies concerning the privacy rights of users.

(8) *Proportionality*—The OA shall develop policies that encourage or control the use of generative AI in a context-specific manner that is consistent with these core values, but which does not unnecessarily burden end users or an agency.

(9) *Safety and security*—The OA shall lead the development and implementation of standards, procedures and policies to safeguard and secure the data provided to the Commonwealth by customers, residents, visitors and industry against unauthorized uses and intrusions.

(10) *Transparency*—An agency shall ensure transparency and accountability in the design, development, procurement and deployment of generative AI in a manner that respects and strengthens public trust. When using generative AI tools to create content, agency external-facing services or dataset inputs or outputs shall disclose the use of generative AI; and what bias testing was done, if any.

(b) The OA shall proactively consider the core values listed in subsection (a) in all activities, policies and processes that leverage or intersect with technologies that enable automated decision-making.

§ 7.994. Generative AI Governing Board responsibilities.

The board shall recommend to the OA employee-centered guidance and direction on the design, development, procurement and deployment of generative AI in an agency, including policies on the utilization of generative AI; a mechanism that provides for internal and external feedback on policies to the extent that disclosure of these policies would not jeopardize the security of any individual or entity or Commonwealth personnel, infrastructure, systems or data; the receipt of updates and training from subject matter experts on the evolving field of generative AI technology; and the establishment of the values set forth in § 7.993 (relating to core values governing the use of generative AI technology in this Commonwealth). Specifically, the board shall have the responsibility to:

(1) Make recommendations regarding an agency's request to utilize generative AI technology, based upon a review process that evaluates the technology's bias and security, and whether the agency's requested use of generative AI adheres to the values set forward in § 7.993.

(2) Develop and recommend processes and procedures by which an agency should apply the values expressed in § 7.993 to the process of procuring and implementing generative AI tools.

(3) Encourage an agency to utilize generative AI when it improves service delivery and service administration and lead the process to identify the most efficient use cases for the implementation of generative AI.

(4) Collaborate with the Department of General Services and the OA to develop generative AI government procurement recommendations that outline problems and opportunities rather than prescriptive solutions; balance the public benefits of using generative AI against potential risks; assess the accessibility, limitations and potential historical bias of available sources to be used by generative AI; and ensure the procurement process maintains a level playing field for generative AI offerors.

(i) Provide recommendations on an agency's requested use of generative AI technology.

(ii) Engage experts in generative AI from the private sector and leading education institutions to advise, as needed, on short and long-term research goals, industry trends and ecosystem-wide best practices.

(iii) Provide labor and workforce organizations in this Commonwealth and other external stakeholders the opportunity to receive feedback or submit input to the board regarding generative AI and its use.

§ 7.995. Generative AI Governing Board composition.

- (a) The Board shall consist of 12 members including all of the following:
- (1) The Governor's Chief of Staff or the Chief of Staff's designee.
 - (2) The Governor's Director of Digital Strategy or the Director's designee.
 - (3) The Governor's Chief Transformation and Opportunity Officer or the Officer's designee.
 - (4) The Governor's Secretary of Policy and Planning or the Secretary's designee.
 - (5) The Governor's General Counsel or the General Counsel's designee.
 - (6) The Secretary of Administration or the Secretary's designee.
 - (7) The Deputy Secretary for Information Technology (Chief Information Officer) or the Deputy Secretary's designee,
 - (8) The Chief Information Security Officer or the Officer's designee.
 - (9) The Chief Data Officer or the Officer's designee.
 - (10) The Chief Privacy Officer or the Officer's designee.
 - (11) The Department of General Service's Deputy Secretary for Procurement or the Deputy Secretary's designee.
 - (12) The Department of Labor and Industry's Deputy Secretary for Workforce Development or the Deputy Secretary's designee.
- (b) The board shall meet monthly and be administratively housed within the Governor's Office.
- (c) The board shall be chaired by the Secretary of Administration.
- (d) The OA's Special Assistant for Emerging Technologies will assist in establishing an agenda, workplan, timeline and meeting schedule.

§ 7.996. Commonwealth generative AI use policy.

- (a) The OA shall convene a working group including, but not limited to, members of the board to periodically recommend updates to Information Technology policies related to generative AI in accordance with the values and guidelines expressed in this subchapter.
- (b) Upon request by Agency leadership, the working group shall recommend guidelines for the proper use of generative AI by agency employees in the execution of their work duties.
- (c) The OA shall provide comprehensive training and instruction to Commonwealth employees who utilize generative AI to ensure the employees are using generative AI tools responsibly and are prepared for the changing skills demanded of the Commonwealth's workforce due to generative AI.

§ 7.997. Implementation.

This subchapter shall be implemented consistent with applicable law. This subchapter is not intended to, and does not create, any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the Commonwealth, its departments, agencies or entities, its officers, employees or agents, or any other persons.

§ 7.998. Effective date.

This subchapter shall take effect immediately and shall remain in effect until amended or rescinded by the Governor.

[Pa.B. Doc. No. 23-1397. Filed for public inspection October 13, 2023, 9:00 a.m.]