

BUILDING BETTER ORGANIZATIONS: HIRING THE BEST AND KEEPING THE BEST

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I. THE EVOLUTION OF THE HIRING AND APPLICATION PROCESS¹:

A. At the onset of the 21st century, employers and job seekers alike relied on the newspaper's 'Help Wanted' section, cold-calling, dial-up internet, and recruiters to fill open positions. In the early 2000s, online job boards were created, allowing applicants to filter their searches by location, position, industry, and keywords. In the mid-2000s, companies and recruiters were able to reach applicants through online social media (Indeed launched in 2004); however, the employers' reach was limited to an applicant's access to a computer at their home or office. With the introduction of smartphones in the late 2000s, the job-hunting process became more fluid. In the 2010s, employers began using HR software, Applicant Tracking Systems (ATS), to collect, sort and rank resumes received for open roles. At the same time, employers began to utilize video conferencing to conduct initial screenings. From the late 2010s through present, a new focus on skills-based hiring, along with the integration of AI again transformed the hiring process.

However, like the evolution of the hiring process, so, too, has the data used to make hiring decisions². The internet revolutionized the hiring process. Employers can rely on company websites and social media sites (LinkedIn, X, Facebook, and Instagram) to reach qualified candidates. A candidate's experience, once limited to Degrees and Certificates have expanded to include data-driven tools, skills, and competencies as equally important determining factors.

Current Hiring Trends

In 2025, Glassdoor³ data reported online applications resulted in twice as many interviews and 1.5 times as many job offers as opposed to other relied upon sources such as in-person applications, use of recruiters, or referrals. However, since 2023, recruited-sourced candidates increased 72%. Referrals reported between July 2024 and July 2025 led to 7.9% of interviews. And from those referral-based interviews, applicants were 35% more likely to be extended a job offer as opposed to applicants who submitted their resumes through an online application.

SHRM⁴ reports hiring forecast for 2026 will not differ much from what occurred in 2025. According to some experts, 2026 will be slow respective to hiring, quitting, and layoffs, while other experts predict a gradual increase in hiring. In considering the current interest rates and labor shortages, while employers may have capital and opportunity to increase headcount, experts opine employers will

¹ Indeed articles: 20 Years of Job Hunting and What are Application Tracking Systems

² Spark hire article: Then vs Now _ How the Hiring Process Has Changed

³ Glassdoor article: AI has not killed the online job application yet

⁴ SHRM article: 2026 Labor Market Outlook: Stuck in Place

remain hesitant to increase headcount due to AI changes to the workforce, inflation, and economic conditions.

Of the January-November 2025 jobs reported as added to the U.S. economy, ~65% were in the health care sector, affording opportunities for applicants interested in health care support, home health care, and nursing positions. While an increase in health care sector roles was reported, the opposite was reported with respect to white-collar entry-level roles. AI workplace integration is affecting the entry-level workforce. With near historic low quit rates, employees are choosing to remain in their current positions and fixed pay.

The January – November 2025 separation data reported by Bureau of Labor Statistics (BLS) reflected a total of ~19.1 million separations, inclusive of both layoffs and discharges, as compared to the 20.2 million separations reported for 2024.

In its 2025 Talent Trends report, SHRM noted that the positions which were most difficult to fill were candidate-skilled positions including medical, trades, engineering and architecture, community and social service workers, technicians, construction and extraction, protective social workers, and transportation⁵.

In 2026, as certain organizations face hiring constraints and uncertainty, a renewed internal focus on the current organization structure will ensue as Employers will focus on employee development, employee retention and internal mobility⁶.

II. DEVELOPING CULTURE OF RETENTION AND UPSKILLING

A. Identify Business Need and Department Skills Gap Analysis

1. HR records
2. Individual interviews
3. Surveys, questionnaires, and self-assessment
4. Observation
5. Organizational changes
 - a. Succession planning
 - b. Restructuring

⁵ SHRM report: 2025 Talent Trends

⁶ SHRM article: Precision Over Scale: The New Rules of Hiring in 2026

- c. Attrition
- B. Assessing Upskilling or Reskilling Options
 - 1. Employee development
 - a. Onboarding – impacts job performance, job satisfaction, and retention⁷ Academy to Innovate HR (AIHR) computed the following statistics:
 - i. Workers who experienced a better onboarding process were 80% more likely to stay longer in their role.
 - ii. What percentage of new hires decide how long they will stay with a company in the first six months? 86%
 - iii. Hybrid onboarding, including in-person and digital elements, is 75% more likely to lead to the highest satisfaction.
 - iv. During the onboarding process, 82% of employees were presented with a structured and documented learning path.
 - v. Who is responsible for onboarding? 42.5% of HR professionals agree HR or the People Ops team is responsible for implementing this responsibility.
 - b. Annual performance reviews
 - c. 360° Reviews⁸
 - i. Definition: measures the employee’s performance to provide perspective on the employee’s strengths, weaknesses, and areas for improvement with information provided by Employee and others, including leadership and management.
 - ii. Benefits of the 360° review
 - (A) Motivates employee
 - (B) Provides well-rounded input
 - (C) Increases confidence of employee
 - (D) Defines career development and upskilling

⁷ <https://www.aihr.com/blog/employee-onboarding-statistics/>

⁸ <https://www.indeed.com/hire/c/info/360-review>

- (E) Identifies opportunities for increased training
- iii. Who participates in a 360° review
 - (A) HR or evaluation administrator
 - (B) Manager or direct supervisor
 - (C) Direct reports
 - (D) Four or five team members
 - (E) Customers or clients
- iv. Incorporating change after the 360° review
 - (A) Create individual development plan
 - (B) Identify training programs and professional development workshops
 - (C) Mentoring opportunities
 - (D) Calendar regular check-ins to monitor progress

C. Retaining Talent

1. As researched by Kaplan, employers will be faced with addressing the specific expectations and values of generations in the Workplace⁹:
 - a. Baby Boomers – 15% of the American Workforce
 - i. Monetary focus on enhanced financial security and health & wellness provisions
 - ii. Non-monetary focus includes work-life balance, continued learning, acknowledging contributions
 - b. Generation X – 31% of the American Workforce
 - i. Monetary focus on enhanced compensation structures
 - ii. Non-monetary focus includes flexibility, professional development, recognizing and rewarding achievements, and endowing autonomy

⁹ <https://kaplan.com/about/trends-insights/generations-in-workforce-industry-analysis-hr-professionals>

- c. Millennials – 36% of the American Workforce
 - i. Monetary focus not identified
 - ii. Non-monetary focus includes:
 - (A) Integrate tasks with broader mission
 - (B) Comprehensive coaching and development
 - (C) Flexible work arrangements
 - (D) Collaborative work environment
 - (E) Technology integration
 - d. Generation Z – 18% of the American Workforce
 - i. Monetary focus not identified
 - ii. Non-monetary focus includes:
 - (A) Offering remote work and flexible hours
 - (B) Commitment to social responsibility, inclusivity and sustainability
 - (C) Access to mental health resources
 - (D) Ensuring transparent communication surrounding opportunities for growth
- 2. Perform stay interviews
 - a. Improve engagement
 - b. Reduce turnover
 - 3. Build a skills-based workplace
 - 4. Companies investing in employees
 - a. Amazon¹⁰ - offerings vary by country

¹⁰ <https://www.aboutamazon.com/news/workplace/amazon-employees-upskilling-education-training>

- i. Enhancing career choice education program offering prepaid tuition program for eligible hourly employees to grow their skills for career success
 - ii. Since 2022, more than 2,000 employees have secured their high school diploma through Career Choice
 - iii. Launching new robotics training and apprenticeships in U.S. to improve participants' skill sets and earnings
 - iv. Over 425,000 U.S. Amazon employees have participated in skills training programs since 2019¹¹
 - b. Walmart¹²
 - i. Creating opportunities for frontline associates to move into higher-paying, in-demand roles including management, truck drivers, pharmacy technicians, and HVAC technicians
 - ii. Philanthropic arm to focus on helping frontline workers advance
 - iii. Skills-first workforce initiative to develop a framework for skills-first hiring for common roles
 - iv. Skills in the states to create skills-based systems in certain states (AR, AL, CO)
 - c. McDonald's¹³
 - i. Improve English skills
 - ii. High school and college degree assistance
 - iii. Management training program teaching employees leadership, operations, culture and preparing them for management and/or corporate roles
 - iv. Assistance in making education and career plans with advisors
- D. Non-Economic Offerings Attracting / Retaining Employees

¹¹ <https://www.aboutamazon.com/news/workplace/our-upskilling-2025-programs>

¹² <https://corporate.walmart.com/skillsfirst>

¹³ https://www.archwaystoopportunity.com/about_archways.html

1. Takeaways from the top 3 of the 2026 Best Places to Work as reported by Glassdoor (a car wash, a burger joint, and a tech giant)
 - a. Commitment to internal promotion
 - b. Hands-on leadership development
 - c. Flexibility “that respects life outside of work”
 - d. Clear progression for long-term career goals
 - e. Minimal bureaucracy
 - f. Empowering environment
 - g. Transparent leadership
 - h. Open communication
 - i. Autonomy to work on meaningful projects
2. Office culture / mission
3. Work Preferences - In-person, hybrid, and remote work

Gallup polling identifying work preference by generation¹⁴

Generation	Exclusively Remote	Hybrid	On-Site
Baby Boomers 1946-1964	35%	54%	10%
Gen X 1965-1979	35%	56%	60%
Millennials 1980-1996	35%	60%	4%
Gen Z 1997 – after	23%	71%	6%

- a. Return to Office trends¹⁵

¹⁴ Gallup article: “Fully Remote Work Least Popular with Gen Z”

¹⁵ <https://founderreports.com/return-to-office-statistics/>

DAYS IN OFFICE	COMPANY
5	Amazon (350,000 employees) AT&T Dell JPMorgan Chase TikTok Truist U.S. Federal Government (all) Washington Post
4	3M Southwest (*4-5 days per week)
3	IBM (management) Uber US Bank

b. A survey conducted by Resume Templates surveyed 849 companies to determine RTO trends¹⁶.

i. 2025:

- (A) 5-day in-office: 27% of companies surveyed plan to return to a full 5-day in office work schedule by end of the year
- (B) Hybrid model: 67% of companies
- (C) Fully remote: 6% of companies

ii. 2026:

- (A) 30% of companies will no longer allow for remote work in 2026
- (B) 8 out of 10 companies will increase measures to enforce the return-to-office

III. INTEGRATING AI INTO THE WORKPLACE

A. AI in HR¹⁷ - transforming traditional HR functions and processes with the application of AI

¹⁶ <https://www.resumetemplates.com/3-in-10-companies-will-enforce-a-full-5-day-in-office-workweek-this-year/>

¹⁷ <https://www.ibm.com/think/topics/ai-in-hr>

1. Presently, HR leaders are being challenged with the change AI brings forth in the workplace.
 - a. Employee expectations.
 - b. Growing skills gap.
 - c. Global labor shortage.
2. In the future, use of AI in HR departments will drastically change and streamline the current systems and processes in place.
 - a. Improve planning and management processes.
 - b. Foster a new mindset and culture to embrace change and implement new ways to work.
3. Use of AI in HR provides benefits which include:
 - a. Increase in efficiency and productivity.
 - b. Decision-making driven by data.
 - c. Improving employee experience through the personalization of an employee's needs and preferences, increase in their professional growth opportunities, and reduction in negative experiences.
 - d. Improved strategic planning.
 - e. Reduce HR department costs through a decreased time-to-hire, improvement in training, and reduction of hindering HR processes.
4. Creation of new roles¹⁸.
 - a. Chief AI Officer (CAIO). – oversees the deployment of AI technology development, while managing benefits and risks.
 - i. Responsibilities
 - (A) Identification of the opportunities where AI improves operations, enhances customer experience and increases income channels.
 - (B) Technology oversight focused on algorithms and models.

¹⁸ <https://www.ibm.com/think/topics/chief-ai-officer>

- (C) Creating teams and identifying talent to successfully execute AI initiatives.
- (D) Creating policy guidelines for use of AI and ensuring it stays in line with the governing ethics and compliance models.
- (E) Providing education to the organization regarding the approach and vision for using AI.

B. Benefits of Using AI Interview Process¹⁹:

1. Job description
 - a. Input basic information re role responsibilities, skills/qualifications, salary range / benefits.
 - b. Prompt AI to create job description (streamlined / comprehensive).
 - c. Reviewing current employees to determine the existence of in-house candidates for screening, upskilling, promotion opportunities.
2. Application screening
 - a. AI assessment of applicants' employment / skills history.
 - b. AI conducted internet searches for qualified applicants via social media platforms.
3. Interview scheduling
 - a. Minimizes delay in assessing availability and coordinating calendars.
 - b. Efficiency and speed.
4. Pre-interview analysis
 - a. Requires human professional review of AI assessments.
5. Customizing interview questions
6. Post-interview analysis
 - a. AI review provides data-driven insight for making decisions.

¹⁹ SHRM article: How to Effectively Leverage AI in Interviews

C. Benefits of Using AI in Employee Management

1. Onboarding.
2. Performance management.
3. Salary decisions.
 - a. Using AI tools for labor market trends / skills demand.
 - b. Decreased employee attrition as data can be provided to employees detailing skills/compensation align with market trends.
4. Employee performance development plans.
 - a. Objectives
 - b. Training / certifications
 - c. Skill development
 - d. Goals
 - i. Definition
 - ii. Tracking
 - iii. Measuring milestones

D. Statistics – SHRM Automation / AI Survey²⁰ conducted in March and April of 2025, with a final sample size of 20,262 U.S. workers, reported the following AI trends in the workplace.

1. 7.8% of U.S. employment - at least 50% of job performed by using generative AI
2. Top occupational groups most exposed to generative AI
 - a. Computer and mathematics
 - b. Business and financial operations
 - c. Architecture and engineering
 - d. Management

²⁰ SHRM article: Automation, Generative AI, and Job Displacement Risk in the U.S. Employment

- e. Life, physical, and social science
- 3. Occupational groups less exposed to generative AI
 - a. Food preparation and serving
 - b. Health care support
 - c. Education and library
 - d. Health care practitioners
- E. Legal Challenges
 - 1. State / Federal Cases
 - a. Cases recognizing AI discrimination liability.
 - i. *Mobley v Workday, Inc.*, 740 F.Supp.3d 796 (2024). - Derek Mobley, an African American male over 40 with disabilities, was rejected from over 100 jobs by employers using Workday’s AI-powered applicant screening tools. The court denied Workday’s motion to dismiss the disparate impact claims, holding that Workday could be treated as an “employer” under an agency theory because its clients delegated traditional hiring functions—screening and rejecting applicants—to Workday’s AI. This case establishes that AI hiring-tool vendors can face liability under Title VII, the ADEA, and the ADA, and that outsourcing hiring decisions to AI does not insulate employers or vendors from discrimination claims.
 - ii. *Baker v CVS Health Corporation, et al*, 717 F.Supp.3d 188 (2024). - Brendan Baker applied to CVS for a supply chain position, which used HireVue’s AI video-interview technology to analyze applicants’ facial expressions, voice intonation, and inflection to generate “employability scores.” The court denied CVS’s motion to dismiss and found CVS failed to provide notice required under the Massachusetts Lie Detector Statute. This case signals that AI-driven interview tools analyzing behavioral cues may trigger state lie-detector statutes, requiring employers to provide applicants with specific statutory notices.
 - b. Cases rejecting AI discrimination liability.
 - i. *Welcome v. Mabus*, 634 Fed.Appx. 256 (11th Cir. 2015): James Welcome, an African American Navy employee, applied to 33 positions through the Navy’s automated Resumix keyword-matching system and was excluded from consideration. The Eleventh Circuit affirmed summary judgment for the Navy,

finding that Resumix applied facially neutral criteria and Welcome failed to show pretext. The court noted that white applicants who were considered had affirmatively contacted HR to request manual review, which Welcome had not done. This case illustrates that automated systems applying neutral criteria will generally withstand discrimination claims absent evidence of pretext or bias in the system's design.

- ii. *Gladden v. Bolden*, 802 F.Supp.2d 209 (D.D.C. 2011): Warren Gladden, a 53-year-old African American, challenged NASA's use of the RESUMIX system, which scored and ranked applicants based on skills-based criteria without considering race or age. The court granted NASA's motion to dismiss, finding the system "blindly scored resumes" using race- and age-neutral criteria and that Gladden failed to demonstrate pretext. The court cited a consistent line of cases rejecting discrimination claims involving RESUMIX. This case reinforces that facially neutral, skills-based automated screening systems are unlikely to support discrimination claims absent affirmative evidence of bias.
 - iii. *Farver v. McCarthy*, 931 F.3d 808 (8th Cir. 2019): Tyron Farver, an African American Army employee, received a high score from the Army's Resumix software but was passed over after the selecting official manually reviewed and discounted his experience. The Eighth Circuit affirmed summary judgment for the Army, holding that "there is no requirement the hiring be done solely on the basis of the computer rankings" and that the software's purpose is primarily to screen out unqualified candidates. Farver failed to show the selecting official's independent judgment was pretextual. This case confirms that employers retain discretion to override AI screening results and are not bound by automated rankings.
 - iv. *Saas v. Major, Lindsey & Africa, LLC*, 2024 WL 2113654 (D. Md. 2024): Heidi Saas alleged that MLA, a legal recruiting firm, used algorithmic tools that discriminated against her based on sex and age by penalizing a "motherhood gap" in her resume. The court dismissed the claim as "entirely speculative," noting that Saas's allegation of AI use was based solely on her assumption that large businesses must use such tools, while MLA asserted it did not use AI. The court held that plaintiffs must identify a specific AI-based employment practice with factual support—mere speculation is insufficient. This case underscores that employers maintaining clear records about their technology use can effectively defend against speculative AI bias claims.
- c. Active litigation.
- i. *Harper v Sirius XM Radio*, U.S. District Court of Eastern Michigan, Case No. 25-cv-12403. In November 2023, Plaintiff applied for approximately 150

positions with Sirius XM, based on his education and prior experience, for which he was either minimally qualified or over-qualified. Plaintiff was rejected for all but one position. He participated in a 30-minute interview for an IT Desktop Support role in late 2023. Plaintiff's allegations include racial discrimination claims under Title VII of the Civil Rights Act and Section 1981. Plaintiff is seeking to expand this litigation into a class action for other similarly situated applicants.

- d. Discovery implications.
 - i. FRCP Rule 26 – includes “all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment.”
 - (A) ESI would include AI search histories, communications, and chat logs.

2. Title VII Discrimination.

- a. Gaps in employment history (ADA / sex discrimination).
- b. Employment history (age discrimination).

3. Background checks and FCRA Issues - How does the FCRA affect hiring?

- a. When employers run background checks through a company in the business of compiling, they must comply with the Fair Credit Reporting Act (FCRA).
- b. What is “background information?”
 - i. Credit reports.
 - ii. Criminal record checks.
 - iii. “Consumer report.”
- c. FCRA Best Practices: All applicants must sign a background check authorization form.
 - i. Do not seek background information from references or prior employers prior to obtaining this authorization.
 - ii. Place information in personnel file, except if name of person making the reference would be disclosed.
- d. State-Level FCRA Issues.

- i. In recent years, states have enacted laws that add requirements greater than FCRA policies.
 - (A) Arizona, Georgia, California, Maine, Massachusetts, Minnesota, New Jersey, New York, Oklahoma, and Washington.
 - ii. Some states, such as Minnesota and Oklahoma, require an employer to provide the subject of the check an opportunity to check a box to receive any report provided by an FCRA.
 - (A) You must be aware of any state-level FCRA requirements before requesting or acting on a background report.
- e. Notice requirements.
- i. Employers must notify a job candidate before and after adverse action is taken based on information received from a consumer report.
 - (A) Pre-Adverse Action Report.
 - (B) Adverse Action Report.
- f. FCRA Damages.
- i. Consumers may seek their actual damages arising from an FCRA violation.
 - ii. Consumers alleging a willful failure to comply with an FCRA requirement may seek actual, statutory, and punitive damages.
 - iii. May recover costs and reasonable attorneys' fees.