

Colorado Department of Law

Consumer Protection Section

AUTOMATED DECISION-MAKING TECHNOLOGY & CONVERSATIONAL ARTIFICIAL INTELLIGENCE SERVICE RULES

4 CCR 904-6

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

Rule 1 General Applicability

1.1 Basis, Specific Statutory Authority, and Purpose

The rules in this Part 904-6 are developed pursuant to section 6-1-108(1), C.R.S., which grants the Attorney General the authority to promulgate such rules as may be necessary to administer the provisions of the Colorado Consumer Protection Act.

The rules are also developed pursuant to:

- ~~C.R.S.~~ § 6-1-1707, C.R.S. (as enacted by SB24-205) which gives the Attorney General authority to promulgate rules for the purpose of implementing and enforcing part 17;
- ~~C.R.S.~~ § 6-1-1704(4)), C.R.S. (as amended by SB26-189) which requires the Attorney General to promulgate rules to clarify and implement the post-adverse outcome disclosure requirements;
- ~~C.R.S.~~ § 6-1-1705(3)), C.R.S. (as amended by SB26-189) which requires the Attorney General to promulgate rules to clarify and implement the consumer rights requirements; and
- ~~C.R.S.~~ § 6-1-1706(5)), C.R.S. (as amended by SB26-189) which gives authority to the Attorney General to promulgate rules as necessary to implement and clarify part 17.

These rules are intended to be consistent with the requirements of the State Administrative Procedures Act, ~~section~~sections 24-4-101 et seq. (the “APA”), C.R.S., the Automated Decision-Making Technology in Consequential Decisions Act (the “ADMT Act”) and the Conversational Artificial Intelligence Services Act (the “Chatbot Safety Act”), ~~section~~sections 6-1-1701 et seq., C.R.S.

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If any provision of these rules, 4 CCR 904-6, is found to be invalid by a court of competent jurisdiction, the remaining provisions of these rules shall remain in full force and effect.

1.3 Effective Date

These rules shall become effective January 1, 2027.

1.4 Applicability

These rules, 4 CCR 904-6, are subject to the applicability requirements and exemptions explicitly provided throughout the ADMT Act and the Chatbot Safety Act. Statutes, and regulations referred to within the Colorado ADMT Act and the Chatbot Safety Act do not apply except to the extent explicitly stated in the statutes. Compliance with the ADMT Act, Chatbot Safety Act, and these rules does not ensure compliance with other state, Federal, or local statutes.

Rule 2 Definitions**2.1 Authority and Purpose**

- A. The statutory authority for the rules in this Rule 2 is sections 6-1-108(1), 6-1-1707, 6-1-1704(4), and 6-1-1705(3), and 6-1-1706(5), C.R.S. The statutory authority for the rules in this Rule 2 is also section 6-1-1706(5). The purpose of this Rule 2 is to define certain terms used throughout the ADMT Act and the Chatbot Safety Act provisions of the Colorado Consumer Protection Act, sections 6-1-1701 through 6-1-1709, C.R.S., and these rules. Terms defined by this rule and by sections 6-1-1701 through 6-1-~~1709~~1710, C.R.S. are capitalized where they appear in the rules to signal to the reader to refer to the definitions. When a term is used in a conventional sense and is not intended to be a defined term, it is not capitalized.

2.2 Defined Terms

“Accessible to the General Public” as used in section 6-1-1701(3.5)(a), C.R.S. means, the Conversational Artificial Intelligence SystemService has been made available to Consumers directly through a product or service, including but not limited to free services or products with or without a gated sign-up, services or products provided through a free or purchased subscription, or services or products behind a paywall. Accessible to the General Public does not include an artificial intelligence systema Conversational Artificial Intelligence Service made available as an internal-only workforce deployment through restricted, authenticated environments that are not Consumer-facing.

“ADMT” means the same as defined in section 6-1-1701(2), C.R.S.

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“ADMT Consumer Rights” means the Consumer rights granted in section 6-1-1705, C.R.S.

“Age Category” means one of the following age groupings: (a) under thirteen years of age; (b) at least thirteen but under sixteen years of age; and (c) at least sixteen but under eighteen years of age; ~~(d) at least eighteen but under twenty-five years of age; (e) over twenty-five; and (f) not relevant, which grouping includes accounts for which age is not relevant, such as organizational or entity accounts.~~

“Alert” means an instance in which the Operator becomes aware, whether through a Complaint or through the Operator's own detection, of content or an interaction that potentially violates the Operator's published policies or section 6-1-~~17081710~~, C.R.S. ~~(as enacted by HB26-1263).~~

“Authenticate” means to use reasonable means to determine that a request to exercise any of the ADMT Consumer Rights in section 6-1-1705, C.R.S., is being made by the Consumer who is entitled to exercise the ADMT Consumer Rights, or by a guardian or representative legally authorized to act on the Consumer's behalf.

“Complaint” means a report or notification submitted to the Operator alleging that content generated by, or an interaction with, a Conversational Artificial Intelligence Service violates the Operator's published policies or section 6-1-~~17081710~~, C.R.S. ~~(as enacted by HB26-1263).~~ A Complaint is one form of Alert.

“Consequential Decision” means the same as defined in section 6-1-1701(3), C.R.S.

“Continuous Conversational Artificial Intelligence Service Interaction” as used in sections 6-1-~~17081710~~(2)(a)(III) and 6-1-~~17081710~~(3)(b), C.R.S. ~~(as enacted by HB26-1263),~~ means a sequence of exchanges between a ~~user~~User and a Conversational Artificial Intelligence Service that regularly persists regardless of temporary pauses in activity. A Continuous Conversational Artificial Intelligence Service Interaction may occur within a single conversational thread or across multiple conversational threads or chatbot profiles.

“Consumer” is defined in section 6-1-1701(4), C.R.S., which states that:(1) Consumer has the meaning set forth in section 6-1-1303(6)(a); and (2) Consumer includes an employee, a job applicant who is a Colorado resident, and any individual whose access to, eligibility for, or opportunity in Colorado is evaluated in a Consequential Decision by a Person doing business in Colorado.

1. Additionally, section 6-1-1303(6)(a), C.R.S., states that Consumer means an individual who is a Colorado resident acting only in an individual or household context.

“De Minimis Factor” as used in section 6-1-1701(13)(a), C.R.S., means a factor that is not a substantial factor in the Consequential Decision. A factor may be a De Minimis

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Factor if other relevant factors independent of the ADMT output played a significantly larger role in the Consequential Decision. Examples of considerations that should be taken into account when assessing whether an ADMT output is a De Minimis Factor include:

1. Whether the Consequential Decision maker reviewed the ADMT output before making the Consequential Decision, and whether the Consequential Decision was consistent with the ADMT output.
2. Whether the Consequential Decision maker reviewed and analyzed other information, including primary evidence, independent of the ADMT output before making the Consequential Decision.
3. Whether the Consequential Decision maker had the subject matter understanding to make the Consequential Decision based on other relevant information.
4. Whether the Consequential Decision maker had the authority to make or change the Consequential Decision based on their independent review and analysis.
5. Whether the Deployer's marketing, procurement contracts, internal policies, or training materials describe or direct that the ADMT output be used as a primary or determinative basis for the decision, or train personnel to treat the output as authoritative.
6. Whether the ADMT processes a volume, type, or complexity of Personal Data that a decision maker could not reasonably review or replicate independently in the time available to make the decision.

“Developer” means the same as defined in section 6-1-1701(8) C.R.S. It does not include a Deployer that purchases Covered ADMT and configures or customizes the Covered ADMT in accordance with Developer instructions, unless such activities otherwise would make the Deployer a Developer as defined in section 6-1-1701(8)(a) C.R.S., and are not activities excluded by section 6-1-1701(8)(b) C.R.S.

“Deploy” means ~~maketo~~ use of Covered ADMT ~~in, run directly or through a way that~~ ~~Materially Influences~~ third-party, to make a Consequential Decision.

“Evidence-Based Method” as used in section 6-1-~~1708~~1710(6)(d), C.R.S. ~~(as enacted by HB26-1263),,,~~ means, for measuring suicidal ideation or self-harm, a method that has been validated through empirical research, ~~and that was~~ scientifically tested for reliability, validity, sensitivity, and specificity. Such methods may include but are not limited to the Columbia-Suicide Severity Rating Scale (C-SSRS), the Patient Health Questionnaire item 9 (PHQ-9 #9), the Ask Suicide-Screening Questions (ASQ), and structured frameworks like the SAFE-T protocol.

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“Financial or Lending Service” as used in section 6-1-1701(6)(d), C.R.S. means the extension of credit or a loan, transmitting or exchanging funds, the provision of deposit or checking accounts, check cashing, or installment payment plans.

“Makes Publicly Available” as used in section 6-1-1701(15.5)(a), C.R.S., means an Operator develops and offers a Conversational Artificial Intelligence Service to a member of the general public, including to a third party through sale, licensing, or other means.

~~“Midstream Developer” means a party that integrates Covered ADMT as a component into its own Covered ADMT product and provides its Covered ADMT product to another Developer or a Deployer.~~

~~“Process” is defined as set forth in section 6-1-1303(18), C.R.S. and means the collection, use, sale, storage, disclosure, analysis, deletion, or modification of Personal Data.~~

“Repeated or severe crisis indicators” as ~~referred to~~used in section 6-1-~~1708~~1710(4), C.R.S. ~~(as enacted by HB26-1263)~~, means indications of suicidal ideation or self-harm risk that either recur throughout a ~~user's~~User's interactions with a Conversational Artificial Intelligence Service or reflect a heightened level of risk as assessed using an Evidence-Based Method for measuring suicidal ideation or self-harm.

“User” as used in section 6-1-1710, C.R.S. means a consumer who uses a Conversational Artificial Intelligence Service.

Rule 3 Consumer Communications**3.1 Authority and Purpose**

- A. The statutory authority for the rules in this Rule 3 is sections 6-1-1707, ~~C.R.S.~~, and 6-1-1706(5)(a), C.R.S. The purpose of the rules in this Rule 3 is to ensure that disclosures, notifications, and other communications to Consumers are clear, accessible, and understandable to Consumers so that Consumers can understand all required disclosures and exercise the full scope of their rights under the ADMT Act, section 6-1-1701, et seq., C.R.S., and that Conversational Artificial Intelligence Service ~~users~~Users will understand that a Conversational Artificial Intelligence Service is artificial intelligence, section 6-1-~~1708~~1710, C.R.S. ~~(as enacted by HB26-1263).~~

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3.2 Requirements for all Disclosures, Notifications, Responses, and Communications to Consumers and Users

- A. All notices, disclosures, responses to requests for information, and other communications by Deployers to Consumers pursuant to sections 6-1-1703, 6-1-1704, 6-1-1705, and 6-1-~~1705~~1708, C.R.S., and by Operators to Users pursuant to section 6-1-~~1708~~1710, C.R.S. ~~(as enacted by HB26-1263)~~ must be:
1. Understandable and accessible to Consumers or Users, considering the vulnerabilities or unique characteristics of the Consumer or User receiving the notice, disclosure, response, or other communication. For example, any explanation or description shall use plain, straightforward language and avoid technical or legal jargon~~;~~;
 2. Reasonably accessible to Consumers or Users with disabilities, including through the use of digital accessibility tools. For a description of information provided online, the Deployer or Operator shall follow generally recognized industry standards, such as, but not limited to, the Web Content Accessibility Guidelines, version 2.2 of December 12, 2024, from the World Wide Web Consortium, incorporated herein by reference as described at Rule 14.1. In other contexts, the Deployer or Operator shall provide information on how a Consumer or User with a disability may access the disclosure or communication in an alternative format~~;~~;
 3. Available in the languages in which the Deployer or Operator in its ordinary course provides web pages, interfaces, contracts, disclaimers, sale announcements, and other information to Consumers or Users. If the Deployer or Operator has previously interacted with the Consumer or User, all notices, disclosures, responses, and communications shall be sent in the language in which the Deployer or Operator ordinarily interacts~~has interacted~~ with the Consumer or User~~;~~;
 4. Available through a readily accessible interface regularly used in conjunction with the Deployer's or Operator's product or service~~;~~;
 5. Provided in a readable format on all devices through which Consumers or Users interact with the Deployer or Operator, including on smaller screens and through mobile applications, if applicable~~;~~;
 6. Unless otherwise stated, communicated in a manner by which the Deployer or Operator regularly interacts with Consumers or Users; and~~;~~

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7. Straightforward and accurate and ~~must not be~~ written or presented in a way that is unfair, deceptive, false, or misleading.

Rule 4 ADMT Multiparty Arrangements**4.1 Authority and Purpose**

- A. The statutory authority for the rules in this Rule 4 is ~~section~~sections 6-1-1706(5)(a), ~~C.R.S.,~~ and ~~section~~ 6-1-1707, C.R.S. The purpose of the rules in this Rule 4 is to clarify the roles of Deployers and Developers in multiparty arrangements to ensure that all parties can sufficiently carry out their obligations.

4.2 ~~Midstream Developers~~**~~Any Midstream Developer Obligations in Multiparty Arrangements~~**

- A. ~~A party~~ that integrates existing Covered ADMT into its own Covered ADMT product and provides its own Covered ADMT product to another Developer or a Deployer ~~that further configures the~~ is a Developer, and is therefore subject to all Developer responsibilities contained in section 6-1-1702, C.R.S. and these rules.
- A.B. ~~If a Developer integrates existing Covered ADMT before Deploying it into its own Covered ADMT and provides its own Covered ADMT product to another Developer or Deployer, the Developer that integrates and provides its Covered ADMT must:~~
 1. ~~Reasonably obtain~~Retain all ~~Developer~~ documentation created ~~and made~~ available to the Developer pursuant to ~~section 6-1-1704, C.R.S. by the Developer of~~ section 6-1-1702, C.R.S., by the upstream Developer of the Covered ADMT integrated into the Developer's Covered ADMT, and make that documentation available to downstream Developers and Deployers; and
 2. Create Developer documentation required by section 6-1-1702, C.R.S., for the Developer's own Covered ADMT, and make that documentation available to any downstream Developer or Deployer pursuant to section 6-1-1702, C.R.S.
- C. Downstream Developers may reasonably rely on information made available by upstream Developers absent actual knowledge that the information is materially inaccurate or incomplete.
- D. A party that creates an ADMT system that is not Covered ADMT, which is then integrated into a Developer's Covered ADMT without the party's knowledge and without the party having designed, marketed, intended, documented, advertised, configured, or contracted that ADMT system to be integrated in that manner, is not a

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Developer under section 6-1-1701(8)(B), and is therefore not subject to Developer obligations under the ADMT Act or these Rules.

1. Example: A company creates Covered ADMT that integrates an upstream Developer's Covered ADMT. The company then sells its Covered ADMT to a Deployer. The company that created the Covered ADMT must retain all Developer documentation provided by the upstream Developer pursuant to section 6-1-1702, C.R.S., for any Covered ADMT used as a component of the Midstream Developer's technology company's own Covered ADMT. The company must make that documentation available to Deployers purchasing its Covered ADMT, and must also provide documentation created pursuant to section 6-1-1702, C.R.S. for its own Covered ADMT.
2. ~~Make all upstream Developer documentation available to any downstream Deployer or Developer.~~
2. Example: A company creates an AI application Covered ADMT that integrates a third-party foundational LLMs non-ADMT AI product. The company then sells those AI applications to customers that input their own data into and deploy those AI applications its Covered ADMT to Deployers. The company must obtain all Developer create documentation created pursuant to required by section 6-1-1704 1702, C.R.S., to the extent possible, for any ADMT used as a component of the company's AI system. The company must its own Covered ADMT and make that documentation available to customers purchasing its AI system if the company's AI system is being marketed, advertised, configured, contracted, sold, downstream Developers or Deployers. There are no Developer obligations for the party that created the third-party non-ADMT AI product.

4.3 Third-Party ADMT

- A. Where a third party runs a Covered ADMT on behalf of or licensed to be used to Materially Influence a at the direction of a Deployer, and the Deployer makes the Consequential Decision- using the third party's Covered ADMT's output, the Deployer is responsible for fulfilling all Deployer obligations.
- B. A Deployer may contract with a third party that runs a Covered ADMT on behalf of or at the direction of the Deployer, as necessary, to require the third party to perform functions to assist the Deployer in satisfying its Deployer obligations under the ADMT Act.

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1. Example: An employer enters into a contract with a staffing company by which the parties agree that staffing company will use Covered ADMT to narrow a pool of job applicants and provide those recommendations to the employer, for the employer to decide which applicant to hire. The staffing company runs the ADMT, creates a recommended list of applicants, and provides the list to the employer. The employer uses the staffing company's recommendations to decide which applicant to hire. The employer is the Deployer because it retained the staffing company to generate an ADMT output that materially influenced the employer's hiring decision. The employer is therefore responsible for fulfilling all Deployer obligations, but may enter into a contract with the staffing company regarding the staffing company's responsibilities in helping the employer to fulfill the employer's Deployer duties.
- C. A third party running a Covered ADMT on behalf, or at the direction, of a Deployer can only be required to assist the Deployer in complying with Deployer obligations if the Deployer is itself covered by the ADMT Act.
1. Example: A diagnostic company runs a laboratory developed test on a patient's blood sample, which incorporates AI software computations to generate results indicating that the patient would not respond to a particular treatment. The AI computation results are provided to a HIPAA-covered physician who, based on that test, decides not to provide the patient that particular treatment. Even if the AI software is Covered ADMT, the diagnostic company does not have to comply with Deployer obligations because: (1) the Deployer is the physician or medical practice making the Consequential Decision to withhold the treatment; and (2) the Deployer is exempt from this law pursuant to section 6-1-1708, C.R.S.
 2. Example: If a school retains an educational technology provider to run Covered ADMT to materially influence a Consequential Decision made by the school, and the school relies on the technology provider's Covered ADMT output in making the Consequential Decision, the school is the Deployer, and is therefore responsible for all applicable Deployer obligations, but can contract with the educational technology provider, as necessary, to require the educational technology provider to help the school fulfil deployer obligations.

Rule 5 Covered ADMT Developer Obligations

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5.1 Authority and Purpose

- A. The statutory authority for the rules in this Rule 5 is ~~section~~sections 6-1-1706(5)(a); ~~C.R.S.,~~ and ~~section~~ 6-1-1707, C.R.S. The purpose of the rules in this Rule 5 is to clarify the Developer obligations set forth in section 6-1-1702, C.R.S.

5.2 Providing Information

- A. Any disclosures made pursuant to section 6-1-1702, C.R.S. must be written in a way that provides Deployers with a meaningful understanding and accurate expectations of the Covered ADMT's known limitations, known risks, and circumstances under which the Covered ADMT should not be used.
- B. In providing the general statement describing the intended uses and known harmful or inappropriate uses of the ~~covered~~Covered ADMT, pursuant to section 6-1-1702(1)(a), C.R.S., the Developer must:
3. Describe the types of Consequential Decisions for which the Covered ADMT is intended.
 4. Describe the types of Consequential Decisions for which the use of the Covered ADMT ~~is not intended or~~ is known to be ~~an~~ inappropriate or harmful ~~use of the ADMT.~~
- C. In providing instructions for the Deployer's appropriate use, monitoring, and Meaningful Human Review, where applicable, pursuant to section 6-1-1702(1)(d), C.R.S., a Developer should:
1. Include instructions specifying the types ~~or~~and categories of data that the Covered ADMT uses and requires when performing its intended functions.
 2. Include instructions specifying methods for the Deployer to monitor the Covered ADMT, including, ~~as appropriate, the collection and analysis of to the extent possible, instructions for how the Deployer can collect~~ aggregate data ~~regarding~~for further analysis of the Covered ADMT, and ~~the analysis~~instructions for how the Deployer may the analyze and review of an output of the Covered ADMT that Materially Influenced a specific Consequential Decision.
 3. Include instructions, ~~as appropriate~~to the extent possible, for determining the reasoning and primary factors relied upon by the Covered ADMT to produce an output that Materially Influenced a specific Consequential Decision, and instructions the Deployer needs to appropriately

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~~instruct~~direct, control, modify, and adjust the Covered ADMT, including any instructions that may assist a Deployer to mitigate any known limitations or risks of the Covered ADMT.

- D. In providing a description of the categories of data, including Personal Data, used to train the ~~covered~~Covered ADMT, the Developer must use a level of detail that provides Deployers a meaningful understanding of the data used, including whether the type of data would be considered Sensitive Data, Biometric Identifiers, or Biometric Data under section 6-1-1301, et seq., C.R.S.

- E. If a Developer also acts as a Deployer with respect to a given Covered ADMT, a Developer-Deployer fulfills its obligations under section 6-1-1702, C.R.S. and this Rule 5 when it creates the information needed to comply with its obligations and maintains that information within a unified internal documentation system.

5.3 Withholding Information

- A. A Developer may only withhold information as contemplated in section 6-1-1702(1)(e), C.R.S., if that information:
1. Is a Trade Secret as defined by section 7-74-102(4), C.R.S.; or
 2. Is protected from disclosure by state or federal law, or other legal authority.
- B. When a Developer withholds information required by section 6-1-1702, C.R.S., the Developer must provide the legal authority for withholding the information.
- C. If the Developer determines that a disclosure ~~would~~could reveal the Developer's trade secrets, the Developer must provide as much information ~~sufficient~~as possible to satisfy the requirements of section 6-1-1702, C.R.S. in a way that does not reveal trade secrets, such as through a summary, categorical description, or other generalized information that is reasonably sufficient to support the next downstream actor's appropriate use of the Covered ADMT.

Rule 6. Material Influence

6.1 Presumption of Material Influence

- A. An ADMT output is presumed to Materially Influence a Consequential Decision if it constrains an option set, sets a threshold, or produces a rank, score, classification, recommendation, prediction, or other inference that: (a) pertains to the individual about whom the decision is being made; (b) is reviewed by the decision-maker, or is used to screen data made available to the decision maker, before or during the

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decision-making process; and (c) is consistent with the outcome of the Consequential Decision.

B. The presumption of Material Influence may be rebutted by evidence that the output was a De-Minimis Factor. Relevant evidence may include, but is not limited to, evidence that:

1. The Deployer did not consult, consider, or incorporate the ADMT output into the Consequential Decision;
2. The Consequential Decision was based on the decision maker's application of a hard cut-off or threshold, if the Deployer can show that such cut-off or threshold is consistently applied for Consumers;
3. An individual making the Consequential Decision on behalf of the Deployer conducted an independent review or analysis of substantial information other than the ADMT output that was relevant to the Consequential Decision, and:
 - a. The Adverse Outcome of the Consequential Decision was consistent with that substantial, relevant information;
 - b. The Consequential Decision maker had the authority to make the decision based on their independent review and analysis; and
 - c. The Consequential Decision maker had the subject matter understanding necessary to review and understand the substantial relevant information in making the Consequential Decision;
4. The decision maker made a decision that was not consistent with the ADMT output; or
5. Other persuasive evidence, including contemporaneous evidence, showing judgment independent of the ADMT output.

C. "[O]ther inference" as used in this Rule 6.1 means any opinion, characterization, or non-objective conclusion reached by the ADMT.

D. Under section 6-1-1701(13), the term "Materially Influence" only applies when ADMT outputs are non-de minimis factors in Consequential Decisions, and when ADMT outputs affect the outcome of a Consequential Decision. Under section 6-1-1701(2)(b), C.R.S, tools used by individuals solely to summarize, organize, translate, draft, route, or present information for human review of administrative processing are excluded from the definition of ADMT. Therefore, the output of such tools, or any

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other tool that does not fall within the definition of ADMT contained in section 6-1-1071(2) would not “Materially Influence” a Consequential Decision under the ADMT Act.

6.2 Sector-specific examples of Material Influence

A. This rule provides examples of when ADMT system outputs would be considered to have had a Material Influence on a Consequential Decision. These examples are illustrative only, are not exhaustive, and are not intended to serve as the basis for Deployer decisions regarding Material Influence, Consequential Decisions, or Covered ADMT. Deployers must determine whether an ADMT output has a Material Influence on a Consequential Decision pursuant to section 6-1-1701 et seq., C.R.S. and these Rules. These examples do not suggest that the information considered in making a Consequential Decision as set forth in these examples is appropriate and complies with other applicable laws.

B. Education

1. A Colorado private high school administrator is reviewing a student’s application for a competitive high school advanced learning program. The application includes a student essay, test scores, and teacher recommendations. The administrator uses ADMT to process the student essays and provide feedback relating to the quality of the student writing and maturity of the essay topic. The ADMT opines that the student’s essay was written at a seventh-grade level. The administrator reviews the ADMT output, the student’s scores and the teacher recommendation and ultimately decides not to admit the student into the program.

a. The decision to deny the student admission into the program is a Consequential Decision because it relates to the student’s eligibility for a Covered Domain (an education opportunity). There is a rebuttable presumption that the ADMT’s output Materially Influenced the decision to deny the student admission because the ADMT produced an inference pertaining to the individual about whom the decision is being made, it was reviewed by the decision maker in the process of making the decision, and it was consistent with the outcome of the Consequential Decision. The school administrator could rebut that presumption by providing evidence that the Consequential Decision was based on their professional review and evaluation of the student's scores, teacher recommendation, and

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essays, and that the ADMT output was a De Minimis factor in the decision.

2. Under the same fact pattern, the administrator provides evidence that they decided to deny the student admission because the student's grades did not meet the program's published GPA threshold, and so the administrator did not look at the ADMT output.
 - a. The ADMT output did not have a Material Influence on the decision to deny the student admission to the program because the administrator provided evidence that the decision was based on other publicly stated dispositive factors, which would likely be sufficient to rebut the presumption of Material Influence if the dispositive factor was applied consistently.
3. A high school administrator is creating class rosters. There is one biology teacher that teaches all of the high school's biology classes and the classes only differ by time slot. The administrator inputs the names of all students registered for Biology into an AI system that considers all the other classes for which each student has registered and generates a roster for each biology class.
 - a. The decision to place students into different biology time slots is not a Consequential Decision because the time slot is not reasonably likely to impact the students' access, eligibility, or opportunity to learn high school biology. This decision falls under section 6-1-1701(3)(b)(IX), C.R.S. The AI system's output did not have a Material Influence on the biology roster decisions because the output did not constrain an option set, set a threshold, or produce a rank, score, classification, recommendation, prediction, or other inference. The AI system was also not ADMT because it falls within the exclusions listed in section 6-1-1701(2)(b)(I)(L), C.R.S.

C. Employment

1. A hiring manager at a corporation is trying to determine which internal applicant will be hired to a leadership position. The manager Deploys ADMT to determine eligibility for advancement. The ADMT inputs include employee reviews from the last five years, work samples, and project outcomes. The ADMT generates a score for each candidate. The hiring manager sees the

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scores, interviews each candidate, and ultimately selects the candidate with the highest score for the position.

a. The decision to promote one candidate over the others was a Consequential Decision because it relates to a Consumer's selection for an employment opportunity, which falls within a covered domain. It is presumed that the ADMT output Materially Influenced the Consequential Decision because the decision maker was presented with the score during the decision-making process. If the company has evidence that they made the decision based on the candidate interviews and not a review of the ADMT score, they may be able to rebut the Material Influence presumption. If the company cannot rebut that presumption, then the ADMT is Covered ADMT because it was used to Materially Influence a Consequential Decision.

2. Under the same set of facts, the hiring manager: (1) reviewed all the underlying information that was input into the ADMT, including the employee reviews, work samples, and project outcomes; (2) interviewed each candidate; and (3) looked at each candidate's score.

a. The ADMT output is still presumed to have had a Material Impact on the Consequential Decision. Even though there may have been other factors in the hiring manager's decision, the ADMT provided a score that was seen by the decision maker during the decision and therefore falls within the rebuttable presumption provision. However, if the hiring manager provides evidence showing that they reviewed work samples and project outcomes independently and provides evidence such as notes from interviews indicating that they would hire one candidate over the other, then depending on the evidence and circumstances, the hiring manager may be able to rebut the presumption of Material Influence by showing that the score was a De Minimis factor in the decision.

3. Under the same set of facts, the ADMT puts the candidates in order of "strongest candidates" to "weakest candidates", or selects a subset of candidates to highlight or classify based on its evaluation of the applications. The ADMT does not display a numeric "score". The hiring manager hires the candidate at the top of the "strongest candidate" list.

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- a. The ADMT output is still presumed to have had a Material Impact on the consequential decision because the ADMT produced a non-objective conclusion about the applicants, which was provided during the decision-making process. If the hiring manager simply relied upon the ADMT output in hiring the strongest candidate, then the ADMT output is a non De-Minimis Factor, and AI system is likely Covered ADMT, that had a Material Influence on the Consequential Decision. The hiring manager may rebut the presumption by providing evidence to show that the decision was based on the hiring manager's independent review of evidence and professional judgment.

D. Lease or Purchase of Real Estate

1. A property management company uses an ADMT to assign tenant applicants to various units across three properties. The units differ in size, location, and quality. The ADMT system reviews data on tenant preferences, lease terms, payment history, and past lease violations. The ADMT produces a summary of applicant data, sorting the data into "positive" and "negative" categories. The property management company relies on the output and matches those candidates with positive data with the most appealing units.
 - a. The ADMT is a Covered ADMT. It does not fall within section 6-1-1701(2)(b)(II), C.R.S. because even though the tool provided summaries, the tool also opined on whether qualities of the tenant applications were "positive" or "negative" rather than objectively summarizing each applicant's data. The Covered ADMT's output Materially Influenced the Consequential Decision because the property management company was presented with the lists of "positive" and "negative" characteristics and relied on those ADMT opinions in assigning units to tenants.
2. Under the same set of facts, the AI system produced a spreadsheet, organizing tenant applicants in order of unit size requested and date of request, but did not recommend any placement, or score or judge tenant applicants for suitability. The property management company reviewed the spreadsheet and used it to place tenants in requested units in the order that the tenants applied and that appropriate units became available.
 - a. While housing decisions are within a Covered Domain, the action falls within the exclusion in section 3(b)(IV), C.R.S. The AI system is not

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ADMT because it is a tool used by an individual solely to objectively organize information for human review, and therefore falls under the exclusion in section 6-1-1701(2)(b)(II), C.R.S. The AI system did not Materially Influence the property management company's unit assignments because it did not constrain an option set, set a threshold, or produce a rank, score, classification, recommendation, prediction, or other inference that was used to decide which units to assign to tenant applicants.

E. Financial or Lending Services

1. A credit union uses ADMT to assess loan applications by assigning risk scores to applicants. The ADMT processes credit history, income patterns, and utility payment history. The credit union denies the loan applications of everyone who received risk scores below an assigned threshold.

a. The decision to deny loan applications is a Consequential Decision because it relates to a Consumer's access to financial and lending services. The ADMT output had a Material Influence on the credit union's decision because it provided recommendations that were relied upon by the credit union to decide whether to provide loans to each applicant. The ADMT is Covered ADMT because it provided a recommendation that Materially Influenced the bank's decision to deny credit applications.

Rule 7 **ADMT Adverse Outcome Disclosures****7.1** **Authority and Purpose****6.1** **Authority and Purpose**

A. The statutory authority for the rules in this Rule ~~67~~ is ~~section~~sections 6-1-1704(4)(a)~~—(b), C.R.S.)~~ and ~~section~~ 6-1-1706(5)(a), C.R.S. The purpose of the rules in this Rule ~~67~~ is to clarify ~~Developer~~Deployer obligations to provide Adverse Outcome ~~Disclosures~~disclosures, the form and content of those disclosures, and ~~relationship~~relationships with other legal requirements, as set forth in section 6-1-1704(3)(a)~~—(c), C.R.S.~~

67.2 **Form of ADMT Adverse Outcome Disclosure**

A. The form of the ~~adverse outcome~~Adverse Outcome disclosure required by section 6-1-1704(3)(a)~~—(c), C.R.S.~~ shall meet the following criteria:

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1. The disclosure shall be provided to the Consumer in writing (including electronically), via at least ~~two methods provided that one method of communication, although~~ the Deployer ~~has two methods of communicating with a Consumer. The Deployer~~ shall provide the disclosure through ~~any channel~~all channels through which it typically interacts with the Consumer. ~~The, even if that requires providing the disclosure through more than one method of communication. If the Deployer communicates with the Consumer electronically, the~~ Deployer shall provide the disclosure via electronic means ~~if it maintains, including through~~ an online ~~presence or communicates with the Consumer electronically. The Deployer may provide the written disclosure via a single method platform's user interface if it cannot feasibly provide the disclosure via a second method: such notice is provided directly to the Consumer.~~
 - a. ~~A~~For example, a Deployer satisfies this standard if ~~both the Consumer's~~it typically interacts with the Consumer by e-mail address and ~~mailing address are known to the Deployer~~regular mail, and it provides the disclosure via electronic mail and regular mail.
 - b. ~~—A~~For example, a Deployer satisfies this standard if it ~~only has one method of contacting the Consumer (e-mail or street address), and it provides the disclosure to~~communicates with the Consumer ~~via that method.~~
 - c.b. ~~A~~Deployer satisfies this standard if it maintains an online ~~presence~~electronically and provides the disclosure to the Consumer via e-mail ~~and/or~~ through the Deployer's direct messaging service.
2. The written disclosure shall be provided in an easy-to-read font and font size. For any printed disclosure that is delivered via postal mail or an equivalent means, the disclosure shall not be in less than 12-point font.
3. The written disclosure shall otherwise comply with the requirements for disclosures, notifications, and other communications to Consumers as set forth in 4 CCR 904-6, Rule 3.2.

67.3 Timing of ADMT Adverse Outcome Disclosure

- A. Notification occurs at the time the Deployer delivers, either by e-mailing or mailing the disclosure to the Consumer's last known e-mail address or mailing address, or delivering it via other electronic or telephonic means such as via a messaging portal or text message.

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67.4 Content of ADMT Adverse Outcome Disclosure and Consumer Rights Procedures

- A. ~~¶~~Pursuant to section 6-1-1704(3), C.R.S., if a Deployer uses a Covered ADMT to Materially Influence a Consequential Decision that results in an Adverse Outcome for a Consumer, the Deployer shall provide, within thirty days after making the decision, a disclosure that contains: (i) a plain language description of the Consequential Decision and the role the Covered ADMT played in the Consequential Decision; (ii) instructions and a simple-to-follow process, as described in Rule 6.4(C), to request additional information about the Covered ADMT; and the inputs for the ADMT, including the name of the Covered ADMT, the Covered ADMT version number, if applicable, the Covered ADMT Developer, and the types, categories, and sources of Personal Data used, to the extent the Deployer receives the necessary information from the Developer in compliance with section 6-1-1702, C.R.S.; and (iii) an explanation of the Consumer Rights described in section 6-1-1705, C.R.S., and how to exercise them.
- B. A Deployer's disclosure to Consumers provided pursuant to section 6-1-1704(3)(a), C.R.S., and this Rule shall meet the following criteria:
1. The plain language description of the Consequential Decision contained in the disclosure meets the following requirements:
 - a. The disclosure describes what Consequential Decision was made about the Consumer using the Covered ADMT.
 - (1) For example, the disclosure states "Bank ABC closed your checking account."
 - (2) For example, the disclosure states "Leasing Company ABC was unable to approve your application to rent 123 Main Street."
 - (3) For example, the disclosure states "Credit Union ABS has denied your loan application."
 - b. The disclosure contains the effective date of the Adverse Outcome, if applicable. This provision is generally applicable only to Adverse Outcomes that constitute a termination of, or change in a Consumer's existing benefit, arrangement, or other relationship with a Deployer.
 - (1) For example, a Covered ADMT Materially Influences a Consequential Decision regarding a Consumer's existing

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subsidy to make energy and utilities payments, such as by reducing the amount of the subsidy or by terminating it. The disclosure must contain the effective date of the subsidy reduction or termination.

- (2) For example, a Covered ADMT Materially Influences a Consequential Decision regarding a student's existing scholarship, such as by reducing the amount of the scholarship or by terminating it. The disclosure must contain the effective date of the scholarship reduction or termination.

2. The plain language description of the role the ADMT played in the Consequential Decision contained in the disclosure meets the following requirements:

a. The disclosure describes the role of the Covered ADMT with specificity and does not use language that is overly broad or vague. The required level of detail could vary based on the facts and circumstances of specific Adverse Outcomes.

- (1) For example, a statement that the role of the ADMT was to automate a review of the Consumer's Personal Data is insufficient.

- (2) For example, a statement that the role of the ADMT was to automate a review of credit report information and employment verification information is sufficient to meet the requirement of specificity.

- (3) For example, a statement that the role of the ADMT was to automate a review of the applicant's health condition information is sufficient to meet the requirement of specificity.

b. The description of the Covered ADMT's role must be accurate.

b.c. The disclosure's description of the role of the Covered ADMT includes the specific purpose for which the Deployer used the Covered ADMT and the role, including how the Covered ADMT played was used in the Consequential Decision along with the role of any human reviewer(s) and other ADMT or similar systems, if applicable.

- (1) For example, the disclosure to an unsuccessful candidate for employment states that Employer A used an automated

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system to produce a score, and that score is equally weighted along with the scores created by company employees that interviewed the unsuccessful candidate.

- (2) For example, the disclosure to a Consumer who applies for a unit in an apartment building and has their security deposit amount set higher than the amount that other Consumers have received states that Apartment Building A uses an automated system to produce a score for setting security deposits, and that score along with the system inputs is reviewed by an Apartment Building A employee.

~~2. The disclosure contains the effective date of If the Adverse Outcome, if applicable:~~

~~a. For example, a Covered ADMT Materially Influences a Consequential Decision regarding a Consumer's existing subsidy to make energy and utilities payments, such as by reducing the amount of the subsidy or by terminating it. The disclosure must contain the effective date of the reduction or termination:~~

~~b. For example, a Covered ADMT Materially Influences a Consequential Decision regarding a student's existing scholarship, such as by reducing the amount of the scholarship or by terminating it. The disclosure must contain the effective date of the reduction or termination:~~

~~3. The disclosure describes the principal reason(s) for the Adverse Outcome with specificity and does not use language that is overly broad or vague:~~

~~a. For example, a statement that the Adverse Outcome was based on the Deployer's internal standards or policies is insufficient:~~

~~b. For example, a statement that the Adverse Outcome was based on the applicant's credit score and length of employment is sufficient to meet the requirement of specificity:~~

~~c. For example, a statement that the Adverse Outcome was based on the applicant's health condition resulted from consideration of information is sufficient to meet the requirement of specificity:~~

~~4. If any of the principal reasons for the Adverse Outcome consisted of or were in part based on inferences based on Personal Data, the disclosure shall~~

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~~state that the outcome was based on one or more inferences, explain and identify the inferences, and explain and identify the underlying Personal Data used to generate that inference.~~

~~a.——For example, a Consumer’s job application was denied because of inferences made about the Consumer’s socioeconomic status based on the Consumer’s employment history and geographic location. The Adverse Outcome disclosure must state that the principal reason for the Adverse Outcome was inferences made about the Consumer’s socioeconomic status based on the Consumer’s employment history and geographic location.~~

~~5.——If any of the principal reasons for the Adverse Outcome consisted of or were in part based on a profile or risk or other score about the Consumer, the disclosure shall state that the Adverse Outcome was based on a profile or risk or other score, shall disclose the Consumer’s score, and shall explain and identify the underlying Personal Data used to generate that inference.~~

~~a.——For example, a Consumer was charged two months’ rent instead of one month’s rent as a security deposit amount because the Deployer profiled the Consumer as having a high likelihood of property damage based on the Consumer’s prior rental history and credit score. The Adverse Outcome disclosure must state that the principal reason for the Adverse Outcome was that the Consumer was profiled as having a high likelihood of property damage based on the Consumer’s prior rental history and credit score.~~

~~b.——For example, a Consumer was charged double two months’ rent instead of one month’s rent as a security deposit amount because the Deployer formulated a risk score to predict future likelihood of property damage of 82 out of 100 based on the Consumer’s prior rental history and credit score. The Adverse Outcome disclosure must state that the principal reason for the Adverse Outcome was that the Consumer received a risk score predicting future likelihood of property damage of 82 out of 100 based on the Consumer’s prior rental history and credit score.~~

~~6.——The disclosure must accurately describe the Consequential Decision, the role the Covered ADMT played in the Consequential Decision, and the principal reason(s) for the Adverse Outcome.~~

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a.d. ~~_____ If any Personal Data used in the Covered ADMT resulted in that~~
~~constitutes~~ an automatic denial under the Deployer's standards or practices, the ~~automatic-denial factor must be disclosed to the~~
~~Consumer disclosure's description of the role of the Covered ADMT~~
~~must include that the applicant was automatically denied.~~

- (1) For example, a disclosure complies with this requirement if it states that an applicant's ~~prior~~ felony conviction from three years prior was an automatic denial factor.
- (2) For example, a disclosure complies with this requirement if it states that an applicant's credit score of 580 was an automatic denial factor.

d. If the Adverse Outcome was the result of insufficient or incomplete ~~Personal Data or other~~ information, the ~~fact disclosure's description of the role of the Covered ADMT must include that the Adverse Outcome resulted from Covered ADMT reviewed~~ insufficient or incomplete information ~~must be disclosed to the Consumer, along with the additional information that the Deployer and/or the covered ADMT would need to make a decision.~~ The Deployer need not accept any additional information provided by the Consumer unless and until the Consumer requests Meaningful Human Review.

- a. For example, a disclosure complies with this requirement if it states that the Consumer was removed from an employment applicant pool pre-interview due to incomplete information; ~~and that the Consumer would need to provide employment history for the past five years and all professional licenses that the Consumer had obtained and were currently active.~~

3. The disclosure is provided in writing or electronically to the Consumer in compliance with the requirements in 4 CCR 904-6, Rule ~~67~~.2 and otherwise complies with the requirements in 4 CCR 904-6, Rule 3.2.

~~7. — A Deployer does not comply with Pursuant to section 6-1-1704(3)(a), C.R.S. when it is not able to explain how a Covered ADMT Materially Influenced a Consequential Decision, or how the Covered ADMT used a Consumer's Personal Data in connection with that decision.~~

~~8. — A Deployer does not comply with section 6-1-1704(3)(a), C.R.S. when it is not able to accurately explain the principal reason(s) why a Covered ADMT~~

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~~Materially Influenced a Consequential Decision resulting in an Adverse Outcome.~~

4. ~~Pursuant to 6-1-1704(5), C.R.S.,~~ nothing in this rule requires a Deployer to disclose a trade secret as defined in section 7-74-102(4), C.R.S., or information protected from disclosure by state or federal law. If a Deployer withholds information on this basis, the Deployer shall notify the Consumer.
 5. If the Deployer is unable to fulfill any of the obligations in section 6-1-1704(3)(a), C.R.S., and this Rule because it has not received the necessary information from the Developer, its notice should contain as much information and specificity as possible based on the information that it has received from the Developer.
- C. A Deployer's instructions and simple-to follow process provided pursuant to section 6-1-1704(3)(b), C.R.S., and this rule shall meet the following criteria:
1. The instructions to request additional information about the Covered ADMT must include one or more specific methods through which the Consumer may request the additional information. One method must be online through a link that is provided to the Consumer as a hyperlink in an e-mail, online, or text-based disclosure, or a URL that a Consumer can navigate to in a web browser, for a written disclosure sent via mail or equivalent means. The website through which a Consumer may request the additional information contemplated in ~~C.R.S. §section~~ 6-1-1704(3)(b)), C.R.S., may be the same website used to provide ADMT Consumer Rights contemplated in section 6-1-1705, C.R.S., as described in 4 CCR 904-6, Rule ~~78.2~~.
 2. For additional methods that the Deployer provides to access additional information other than a hyperlink, the process by which Consumers may request additional information about the Covered ADMT must be easy for Consumers to follow and execute and require a minimal number of steps.
 3. The process by which Consumers may request additional information about the covered ADMT must enable Consumers to submit their request at any time of day, not just during certain or restricted hours.
 4. The disclosure must state that, by visiting the hyperlink or by otherwise following the instructions, the Consumer can obtainrequest additional information, including the name of the Covered ADMT, the Covered ADMT version number, if applicable, the Covered ADMT Developer, and the types, categories, and sources of Personal Data used by the Covered ADMT.

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- D. A Deployer's explanation of the ADMT Consumer Rights described in section 6-1-1705, C.R.S., and how to exercise them pursuant to section 6-1-1704(3)(c), C.R.S., shall meet the following criteria:
1. The disclosure explains that the Consumer is entitled to:
 - a. Request instructions to obtain their Personal Data used in the Consequential Decision and to correct factually incorrect or inaccurate Personal Data used in the Consequential Decision.
 - b. An opportunity for Meaningful Human Review and reconsideration of the decision, to the extent Commercially Reasonable.
 2. The disclosure must provide a unified method by which the Consumer can exercise their rights and request additional information about the Covered ADMT in compliance with 4 CCR 904-6, Rule 7.

67.5 Content of ADMT Adverse Outcome Disclosures: Examples by Sector

- A. This rule provides examples of how Adverse Outcomes within certain Covered Domains and the Role of Covered ADMTs in those Adverse Outcomes may be described in Deployers' Adverse Outcome disclosures to meet the requirements of section 6-1-1704(3)(a), C.R.S. These examples do not cover the information required by section 6-1-1704(3)(b)—(c), C.R.S. These examples are illustrative only, are not exhaustive, and are not intended to serve as the basis for Deployer decisions regarding Adverse Outcome disclosures. These examples do not suggest that the information considered in making a Consequential Decision as set forth in these examples is appropriate and complies with applicable law. Deployers must determine whether they need to send an Adverse Outcome disclosure to a Consumer, and what it must contain, consistent with section 6-1-1701 et seq., C.R.S., and these ~~rules~~Rules, and whether the information the Deployer uses to make a Consequential Decision complies with applicable law.

B. Education~~A. Education~~

1. A secondary educational institution subject to the Federal Education Right to Rights and Privacy Act (FERPA) utilizes a Covered ADMT to make decisions about scholarship eligibility and the amount of such scholarships. An incoming student applies for a scholarship that would provide up to full tuition and room and board as a grant. The ~~covered~~Covered ADMT determines that the incoming student shall receive a scholarship for 50% of

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the school's tuition, and no award for room and board, based on the incoming student's income, bank statements, and High School GPA. The school must provide an Adverse Outcome disclosure consistent with 4 CCR 904-6, Rules 6.3 and 6.4, but may utilize the channels through which it provides ~~Federal FERPA Education Right to Privacy Act~~ notices for providing the ~~notice: Adverse Outcome disclosure~~. As an illustrative example, the disclosure may state in part, "An automated system that reviewed financial information and education-related information was used in making a decision regarding your scholarship eligibility, and a human reviewer verified the outcome of the decision. You are only eligible for a 50% tuition scholarship, covering \$16,850 in your first year. ~~The principal reasons for the decision are your income, financial information contained in your bank statements, and your High School GPA.~~"

2. A private high school not subject to the ~~Federal Education Right to Privacy Act FERPA~~ utilizes a Covered ADMT to make decisions about admission to the school. The school uses a ~~covered~~Covered ADMT which is supplemented by a score from the employees who interview applicants. The ~~Covered~~ ADMT determines that ~~the an~~ applicant should be rejected due to their academic records from their public middle school and inferences about the applicant's future academic performance based on information obtained from social media. The school must provide an Adverse Outcome disclosure consistent with 4 CCR 904-6, Rules ~~67.2, 67.3 and 67.4~~. As an illustrative example, the disclosure may state in part, "An automated system that reviewed education-related information and information obtained from social media was used in making a decision regarding your admission to School A, and the output was supplemented by information by School A employees regarding your applicant interview. You have been denied admission to School A. ~~The principal reasons for the decision are your academic record from your middle school, and inferences about your future academic performance based on information we obtained from your social media accounts.~~"

C. Lease or Purchase of Residential Real Estate

1. A rental housing provider utilizes a Covered ADMT as the sole basis for its decision about the amount of security deposit to charge a tenant. The rental housing provider decides to charge a ~~consumer~~Consumer \$2,500 for a security deposit for a three-bedroom apartment, where it has charged other ~~consumers~~Consumers anywhere from \$1,500-\$2,500 as a security deposit

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for the same sized unit, ~~after utilizing. The rental housing provider used a~~ Covered ADMT that analyzes information provided directly from the applicant, and determined that the applicant should pay a higher deposit based on the applicant's lack of recent rental history. The rental housing provider does not provide an adverse action notice pursuant to the federal Fair Credit Reporting Act. The rental housing provider must provide an Adverse Outcome ~~Disclosed disclosure~~ consistent with 4 CCR 904-6, Rules ~~67.2, 67.3, and 67.4~~. As an illustrative example, the disclosure may state in part, "An ~~automated system reviewed rental history information and financial information, and that~~ automated system was the sole basis used in making a decision regarding the amount of your security deposit. Your security deposit for Unit 1 is set at \$2,500. ~~The principal reason for the decision is that your application did not provide sufficient rental history.~~"

2. An organization accepts applications for closing cost assistance in the form of grants to low- and middle-income home purchasers who meet certain requirements and utilizes a Covered ADMT, reviewed by an organization employee, to determine eligibility. The organization denies a ~~consumer's~~ Consumer's closing cost assistance application based on their income, which the Covered ADMT determined was above the program cut-off. The organization must provide an Adverse Outcome ~~Disclosed disclosure~~ consistent with 4 CCR 904-6, Rules 6.2, 6.3, and 6.4. As an illustrative example, the disclosure may state in part, "An automated system was used to make a decision regarding your eligibility for closing cost assistance, and the decision was reviewed by an Organization A employee. Your application for closing cost assistance was automatically denied. ~~The principal reason for the decision is that because~~ your income is above the program limit of \$75,000, ~~which is an automatic denial factor under our program standards.~~"

D. Financial or Lending Services

1. A bank refers to collections a ~~consumer's~~ Consumer's delinquent credit card debt based on a Covered ADMT. The Covered ADMT made this decision based on inferences it made about the likelihood of the ~~consumer~~ Consumer repaying their debt by considering the ~~consumer's~~ Consumer's geographic location, credit score, and payment history on the credit card account. The bank does not provide an adverse action notice in compliance with the requirements of the federal Equal Credit Opportunity Act for this decision,

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and therefore must provide a compliant Adverse Outcome disclosure consistent with 4 CCR 904-6, Rules ~~67.2~~, ~~67.3~~, and ~~67.4~~. As an illustrative example, the disclosure may state in part, “An automated system that reviewed financial information, credit report information, and publicly-available information was the sole basis used in making a decision regarding whether your credit card debt would be sent to collections. Bank A has sent your delinquent credit card account ending in 1234 to collections. ~~The principal reason for the decision is inferences about your likelihood of repaying your debt based on your geographic location, credit score, and payment history on the credit card account.~~ Your account will be referred to collections on January 1, 2029.”

2. A creditor denies an applicant’s application for a personal loan using a Covered ADMT. The creditor provides an adverse action notice in compliance with the requirements of the federal Equal Credit Opportunity Act. The creditor need not provide an additional Adverse Outcome disclosure consistent with these Rules as long as its disclosure contains the information required by section 6-1-1704(3)(b)—(c), C.R.S. and in 4 CCR 904-6, Rule ~~67.4(C)—(D)~~.

E.—Insurance

- 1.—~~A third-party claims administrator that is hired by an insurance provider that is subject to Section 6-1-1701, C.R.S. et seq. to run the provider’s claims process uses a Covered ADMT to review claims and approve or deny them. The Covered ADMT is the sole basis for the decision. The Covered ADMT denies a home insurance claim based on the claimant’s prior claim history; and inferences about the likelihood of submitting future home insurance claims based on the consumer’s geographic location. The insurance provider must provide a compliant Adverse Outcome disclosure consistent with 4 CCR 904-6, Rules 6.2, 6.3, and 6.4. As an illustrative example, the disclosure may state in part, “An automated system was the sole basis used in making a decision regarding your home insurance claim. Insurer A has denied your claim. The principal reasons for the decision are your prior claim history and inferences about your likelihood of submitting future claims based on your geographic location.”~~

F.E. Employment

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1. Employer A uses a Covered ADMT to select 10 candidates for interviews among a pool of 87 applicants. The Covered ADMT utilizes information from a “consumer report” and a “consumer reporting agency” as defined by the federal Fair Credit Reporting Act. Employer A provides adverse action notices under the federal Fair Credit Reporting Act to the 77 candidates who were not selected for interviews, and need not provide separate Adverse Outcome disclosures consistent with these Rules as long as its notice contains the information required by section 6-1-1704(3)(b)—(c), C.R.S. and in 4 CCR 904-6, Rule 67.4(C)—(D).
2. Employer B uses a Covered ADMT to make promotion recommendation decisions, which is reviewed by two human reviewers. The Covered ADMT does not recommend that a software developer receives a management promotion based on the developer’s performance evaluation scores for the past 6 years and her score on a technical assessment of coding proficiency. Employer B must provide a compliant Adverse Outcome disclosure consistent with Rules 67.2, 67.3, and 67.4. As an illustrative example, the disclosure may state that “An automated system that reviewed employment records information was used to make a decision regarding your eligibility for a promotion, and that decision was reviewed by two human reviewers. You are not eligible for a promotion to the role of Senior Software Developer. The principal reasons for the decision are your performance evaluation scores for the past 6 years and your technical assessment score.”

67.6 Deployer Responses to Consumer Requests Regarding Covered ADMTs

- A. If a Consumer requests additional information about the Covered ADMT as provided in section 6-1-1704(3)(b), C.R.S. through a Deployer-provided hyperlink or via telephone, the Deployer must:
 1. Make available immediately, upon Respond to the Consumer’s request within fifteen (15) days.
 2. Provide a response via the same means that the Consumer clicking or navigating to the hyperlinked page or requested the additional information when feasible, otherwise the Deployer may provide a response by the same means through which it delivered the original Adverse Outcome disclosure. The Deployer must notify the Consumer when the information is available.
 - a. For example, if a Consumer requests additional information through the hyperlink, a Deployer complies with this obligation by making

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available the additional information through the same Deployer-provided hyperlink and notifying the Consumer by the same means through which it provided the Adverse Outcome disclosure that this information is available, and again providing the hyperlink.

- b. For example, if a Consumer requests additional information by calling a toll-free number, a Deployer complies with this obligation by responding to the Consumer's request within 15 days, notifying the Consumer to call a toll-free number, and making available the additional information through that toll-free number. If it is not feasible to provide the additional information via the same toll-free number, a Deployer complies with this obligation by responding to the Consumer's request within 15 days with the additional information via the same means the Deployer used to deliver the Adverse Outcome disclosure

- ~~1.3.~~ Include in its response the information about the Covered ADMT and the inputs, including the name of the Covered ADMT, the ~~covered~~Covered ADMT version number, if applicable, the Covered ADMT Developer, and the types, categories, and sources of ~~personal data~~Personal Data used.

- ~~4.~~ The description ofDescribe the types and categories of Personal Data that were considered by the Covered ADMT ~~shall be described inaccurately and~~ with a level of detail that provides Consumers with a meaningful understanding of the information considered by the Covered ADMT. If the Covered ADMT generated any profiles or inferences, the types and categories of those profiles or inferences constitute types and categories of Personal Data that must be disclosed.

- a. For example, types and categories of Personal Data described at a sufficiently granular level of detail include, but are not limited to, "Credit score," "Medical or health information," and "criminal history."

- b. For example, types and categories of Personal Data described at a sufficiently granular level of detail include, but are not limited to, "Inferences about your socioeconomic status," and "profile about your educational attainment and future earning potential."

- ~~2.5.~~ The description of the sources of Personal Data that were considered by the Covered ADMT must identify each source by name- when that information is known to the Deployer, including to the extent it receives the required

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information from the Developer, or can obtain the information from a third-party that ran the ADMT on the Deployer's behalf. The Deployer is presumed to know the source of any information that it directly receives, the source of any information that a vendor utilizes to run a Covered ADMT on the Deployer's behalf, and the source of any information that was identified by name by the Developer to the Deployer.

- a. For example, specific data brokers, databases, courts, social media companies, schools, ~~and~~ employers, and any other source of Personal Data for the covered ADMT, must be identified by name when that information is known to the Deployer.
- b. If the Deployer has obtained Personal Data from a third party such as a data broker or aggregator that obtains ~~personal data~~ Personal Data from first party or other third-party sources, the description shall include the original source of the information and any intermediary or vendor source(s) of the information when that information is known to the Deployer.

3.6. Information provided pursuant to section 6-1-1704(3)(b), C.R.S., must be provided in compliance with the requirements for disclosures, notifications, and other communications, as described in 4 CCR 904-6, Rule 3.2.

- a. For example, a Deployer complies with this requirement by providing all ~~of~~ the required information at the hyperlinked webpage and making it immediately available upon the Consumer clicking or navigating to the page.

~~B. If a~~ For any individual Consumer ~~requests-requesting information about a particular Adverse Outcome, a Deployer need only respond to one request for additional information about the Covered ADMT as provided in pursuant to~~ section 6-1-1704(3)(b), C.R.S. ~~through mail, e-mail, or other equivalent means, provided that the Deployer has established such method as a means for a if the~~ Consumer ~~to request the additional information as set forth in section 6-1-1704(3)(b), C.R.S., the Deployer must:~~

~~C.B. Provide the information about the Covered ADMT and the inputs~~ makes multiple requests, including the name of the Covered ADMT, the Covered ADMT version number, if applicable, the Covered ADMT Developer, and the types, categories, and sources of Personal Data used within ten business days after receipt of the Consumer's request, and provide the information via the same means that the

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Consumer used to transmit their request through multiple communication channels.

- a. ~~For example, a Deployer's Adverse Outcome disclosure provides a hyperlink, an e-mail address, and a phone number for a Consumer to obtain the information required by section 6-1-1704(3)(b), C.R.S. If a Consumer requests the additional information via e-mail, a Deployer complies with this requirement by providing all of the required information to the Consumer at the same e-mail address they used to transmit the request within ten business days after receiving the e-mail.~~

67.7 Compliance with Other Legal Obligations and Effect on ADMT Adverse Outcome Disclosure Requirements

- A. If a Deployer that uses a Covered ADMT to Materially Influence a Consequential Decision that results in an Adverse Outcome for a Consumer within the meaning of section 6-1-1701, *et seq.*, C.R.S. ~~must, is required to~~ provide an adverse action or risk-based pricing notice pursuant to the Equal Credit Opportunity Act (ECOA), 15 U.S.C. § 1691, *et seq.*, and/or the Fair Credit Reporting Act (FCRA), 15 U.S.C. § 1681, *et seq.*, the Deployer complies with section 6-1-1704(3), C.R.S., as long as its ECOA and/or FCRA notice or disclosure meets the following requirements:
1. The ECOA and/or FCRA disclosure contains the information stated in section 6-1-1704(3)(b) ~~—(c)~~, C.R.S., and in 4 CCR 904-6 Rule 6.4(C) ~~—(D)~~. This information may also be provided in a supplemental disclosure delivered by the same means and at the same time as the ECOA or FCRA adverse action notice or risk-based pricing notice.
 2. It provides the disclosure and supplemental disclosure, if any, within thirty days after making the decision.
- B. If a Deployer that uses a Covered ADMT to Materially Influence a Consequential Decision that results in an Adverse Outcome for a Consumer within the meaning of section 6-1-1701, et seq., C.R.S. is required to provide either an adverse action notice or notice of incompleteness pursuant to the ECOA, 15 U.S.C. § 1691, et seq., because the Adverse Outcome was the result of insufficient or incomplete Personal Data or other information as described in Rule 6.4(B)(9), a Deployer complies with section 6-1-1704(3), C.R.S. as long as its ECOA notice or disclosure meets the following requirements:

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1. The ECOA disclosure contains the information stated in section 6-1-1704(3)(b)-(c), C.R.S., and in 4 CCR 904-6 Rule 6.4(C)-(D). This information may also be provided in a supplemental disclosure delivered by the same means and at the same time as the ECOA adverse action notice or notice of incompleteness.
2. It provides the disclosure and supplemental disclosure, if any, within thirty days after making the decision.

C. For a Consequential Decision relating to education, a Deployer that is subject to the Federal Education ~~Right to Rights and~~ Privacy Act (FERPA) satisfies the notice and disclosure requirements of section 6-1-1704(2),(3), C.R.S., by providing notice and disclosures to a parent or guardian or an eligible student through processes and channels that are consistent with FERPA and the Deployer's FERPA notices and student record access procedures.

D. If a Deployer that uses a Covered ADMT to Materially Influence a Consequential Decision that results in an Adverse Outcome for a Consumer within the meaning of section 6-1-1701, et seq., C.R.S. and the Deployer is required to~~If a Deployer that uses a Covered ADMT to Materially Influence a Consequential Decision that results in an Adverse Outcome for a Consumer within the meaning of section 6-1-1701, et seq., C.R.S. and the Deployer must~~ provide an adverse action disclosure or equivalent notice pursuant to any other federal, state, or local law other than those listed in this rule, the Deployer complies with section 6-1-1704(3), C.R.S. as long as its notice or disclosure meets the following requirements:

1. The Adverse Outcome disclosure or equivalent disclosure or notice also satisfies the notice or disclosure requirements of section 6-1-1703, C.R.S. and these ~~rules~~ Rules.
2. The Deployer provides the disclosure in writing within thirty days after making the decision.

67.8 Miscellaneous Provisions

- A. Nothing in this ~~section~~ Rule 7 prohibits a Deployer from providing additional information to enable a Consumer to understand how the Covered ADMT was used to make a Consequential Decision with respect to them.
1. For example, a Deployer may provide the range of possible outputs or aggregate output statistics to help a Consumer understand how they compare to other Consumers, such as the five most common outputs of the

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Covered ADMT and the percentage of Consumers that received each of those outputs during the preceding calendar year.

- B. A Deployer must not retaliate against a Consumer because the Consumer exercised any of their rights pursuant to sections 6-1-1704 and 6-1-1705, C.R.S., and these ~~rules~~Rules.
- C. Pursuant to Section 6-1-1704(7), C.R.S., this section shall not be construed to require a Deployer to make a disclosure, provide an explanation, or furnish information to a Consumer to the extent doing so would be prohibited by federal law or would compromise the confidentiality or integrity of cybersecurity, fraud prevention, anti-money laundering, counter-terrorist financing, or economic sanctions compliance programs required by law.

Rule 78 **ADMT Consumer Rights**~~7.1~~ ~~Authority and Purpose~~**8.1** **Authority and Purpose**

- A. The statutory authority for the rules in this Rule 7 is section 6-1-1705(3), C.R.S. The purpose of the rules in this Rule 7 is to clarify and implement the requirements of section 6-1-1705, C.R.S.

78.2 **Submitting Requests to Exercise ADMT Consumer Rights**

- A. Pursuant to section 6-1-1704(3)(c), C.R.S., and 4 CCR 904-6, Rule ~~67~~69.4(D), a Deployer's Adverse Outcome disclosure must include an explanation of the ADMT Consumer Rights described in section 6-1-1705, C.R.S., and how to exercise them.
- B. In accordance with section 6-1-1705(1)~~(a), C.R.S., and subject to exceptions in section 6-1-1705(2)~~(a), C.R.S., a Consumer may request, and the Deployer shall provide: (1) instructions for requesting Personal Data and correcting factually incorrect or materially inaccurate Personal Data used in a Consequential Decision that used a Covered ADMT; and (2) an opportunity for Meaningful Human Review and reconsideration of the Consequential Decision to the extent commercially reasonable.

~~1. — A Deployer shall allow a Consumer to both request instructions, and to seek Meaningful Review by providing a clearly-labeled link. The explanation in the Adverse Outcome disclosure leading directly to the instructions, as well as a mailing address or toll-free number that the Consumer can contact to receive those instructions.~~

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2. ~~_____~~ If the Consumer requests the instructions using the toll-free number or address, instructions must be provided within 24 hours of receipt.
 3. ~~_____~~ The link provided in the Adverse Outcome disclosure must bring the Consumer directly to the Consumer request method, which, in accordance with 4 CCR 904-6, shall provide Consumers clear instructions on the ADMT Consumer Rights and how to exercise them must include one or more specific methods through which the Consumer may request to fulfill their ADMT Consumer Rights.
- C. ~~An example of~~ One method must be online through a link that is provided to the Consumer as a hyperlink in an e-mail, online, or text message-based Adverse Outcome disclosure, or through a URL that a “clearly-labeled link” Consumer can navigate to in a web browser, for purposes of this section would state: “Click here for instructions on how to a written disclosure sent via mail or equivalent means. The website through which a Consumer may request to exercise your their ADMT Consumer Rights under the Automated Decision-Making Technology Act.” may be the same website used to request additional information contemplated in section 6-1-1704(3)(b), C.R.S., as described in 4 CCR 904-6, Rule 7.4(C).
- D. ~~Any~~The website at the URL or hyperlink provided in the ADMT Consumer Rights section of the Adverse Outcome disclosure must provide the Consumer with links to: (1) request instructions for requesting Personal Data and correcting Personal Data used in the Consequential Decision that used a Covered ADMT; and (2) request reconsideration or Meaningful Human Review and reconsideration of the Consequential Decision.
1. ~~_____~~ If the Deployer has control or possession of the Personal Data used in the Consequential Decision that used a Covered ADMT, the request for instructions for requesting or correcting Personal Data shall lead directly and immediately, via hyperlink or URL, to a webpage providing instructions for requesting Personal Data or correcting Personal Data through the Deployer.
 2. ~~_____~~ If the Deployer does not have control or Possession of the Personal Data used in the Consequential Decision that used a Covered ADMT, the request for instructions for requesting or correcting Personal Data shall allow a Consumer to request instructions for accessing or correcting data in the possession or control of a third-party.
- C. The Deployer’s ADMT Consumer Rights request method specified by a ~~Deployer described~~ in its instructions pursuant to this rule must:

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1. Consider the ways in which Consumers normally interact with the Deployer:
 - a. A Deployer shall provide ~~two or more designated~~ methods for submitting an ADMT Consumer ~~rights~~Rights request, ~~which must consider through the ways in which communication channels that~~ Consumers normally interact with the Deployer.
 - b. If a Deployer maintains a website, mobile application, or other digital presence, one method for submitting requests shall be through its website, mobile application, or digital interface, such as through a webform. For clarity, a clear and conspicuous personalized hyperlink to a webform provided to Consumers as a part of an electronic Adverse Outcome disclosure satisfies this requirement, even if the webform is not publicly accessible on the Deployer's website or mobile application.
2. ~~Any methods for submitting an ADMT Consumer Rights request must be~~Be regularly monitored by the Deployer, by an individual with the knowledge and ability to process the Consumer's ADMT Consumer Rights request.;
3. Enable the Consumer to submit the request to the Deployer at any time;
4. Comply with the requirements for disclosures, notifications, and other communications to Consumers provided in 4 CCR 904-6, Rule 3.2;
5. Use reasonable data security measures, consistent with 4 CCR 904-3, Rule 6.9, when exchanging information in furtherance of ADMT Consumer Rights requests, considering the volume, scope, and nature of Personal Data that might be exchanged; and
6. Be easy for Consumers to execute, requiring a minimal number of steps.

~~a. — Deployers that require Consumers to follow an unnecessary number of links, steps, or actions may be in violation of this regulation.~~

~~D. — The ADMT Consumer Rights request method must:~~

- ~~1. — Contain a heading indicating that the webform pertains to "Consumer Rights under the Automated Decision-Making Technology Act".~~
- ~~2. — Clearly identify and describe all ADMT Consumer Rights available to a Consumer that has received an Adverse Outcome resulting from a Consequential Decision that was Materially Influenced by ADMT;~~

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- ~~3. Provide Consumers with clear instructions of how to exercise their ADMT Consumer Rights; and~~
- ~~4. Meet all other requirements of this part 4 CCR 904-6, including requirements specific to individual ADMT Consumer Rights as described in 4 CCR 904-6, Rules 7.3 and 7.4.~~

E.D. When a Consumer submits an ADMT Consumer Rights request, a Deployer may only collect Personal Data through the request process if the Personal Data is reasonably necessary to Authenticate the Consumer, respond to the request, or effectuate the ADMT Consumer Rights request.

F.E. A Deployer must not require a Consumer to create a new user account to exercise their ADMT Consumer Rights request, but may require a Consumer to use an existing password-protected account.

78.3 Right to Request Personal Data used in a Consequential Decision that used a covered ADMT

A. Pursuant to section 6-1-1705(1)(a)(I), C.R.S., a Consumer has the right to request instructions for requesting Personal Data used in a Consequential Decision that used a Covered ADMT, consistent with section 6-1-1306, C.R.S.

B. Alf the Consumer's Personal Data used in making the Consequential Decision is within the Deployer's possession or control, the Deployer shall comply with athe Consumer's request for instructions to request Personal Data by providing instructions for accessing the Personal Data that the Deployer controls or possesses.

1. If the Consumer's Personal Data used in making the Consequential Decision is within the Deployer's possession or control and the Consumer uses the Deployer's instructions for requesting their Personal Data that the Deployer controls or possesses, the Deployer shall comply with the Consumer's access request by providing the Consumer all the specific pieces of Personal Data used in a Consequential Decision that used a covered ADMT.in its possession or control within 45 days of the Consumer's request to access their Personal Data.
2. Specific pieces of Personal Data include, without limitation, final rank, score, classification, recommendation, prediction, profiles, or other inferences that pertain to the individual about whom the decision is being made, along with

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all ADMT inputs pertaining to that individual used in making the Consequential Decision.

3. While Consumers have the right to request, and Deployers must provide, instructions for Consumers to access all Personal Data contemplated in Rule 8.3(B)(2), pursuant to section 6-1-1705(1)(c), C.R.S. the ADMT Consumer Right to correct Personal Data does not require correction of opinions, predictions, scores, or protected evaluations.

~~3.4.~~ Any Personal Data provided in response to a request for Personal Data used in a Consequential Decision must:

a. Be provided in a form that is concise, transparent, and easily intelligible and in an appropriate, commonly used electronic format, depending on the nature of the Personal Data;

~~4.~~ Be available in the language in which the Consumer interacts with the Deployer;

~~a.b.~~ Avoid incomprehensible internal codes and, if necessary, include explanations that would allow the average Consumer to make an informed decision of whether to exercise correction or Meaningful Human Review rights; and

~~b.c.~~ Be provided in compliance with the requirements for disclosures, notifications, and other communications, as described in 4 CCR 904-6, Rule 3.2.

d. Be provided via the same means that the Consumer requested to exercise their ADMT Consumer Rights when feasible, otherwise the Deployer may provide a response by the same means through which it delivered the original Adverse Outcome disclosure. The Deployer must notify the Consumer when the information is available.

C. If the Consumer's Personal Data used in making the Consequential Decision is not within the Deployer's possession or control, a Deployer shall comply with Consumer's request for instructions for requesting Personal Data by providing a list of third parties that possess or control the Consumer's Personal Data, the categories of Personal Data that each third party controls or possesses, and instructions on how the Consumer can exercise their right under section 6-1-1306, C.R.S. to access their Personal Data through the party that possesses or controls

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the Personal Data. The list with shall be provided within fifteen (15) days of the Consumer's request for instructions.

1. Instructions for correcting or accessing Personal Data may also be included in a response to a request for more information under section 6-1-1704(3)(b), C.R.S., and 4 CCR 904-6, Rules 7.6(A).

B.D. The Deployer shall implement and maintain reasonable data security measures, consistent with section 6-1-1308(5), C.R.S., and 4 CCR 904-3, Rule 6.9, when providing, using, or transferring any documentation related to a Consumer's access request.

78.4 Right to Correct Personal Data used in a Consequential Decision that Used ADMT

A. Pursuant to section 6-1-1705(1)(a)(I), C.R.S., a Consumer has the right to request correction of instructions for correcting factually incorrect or materially inaccurate Personal Data used in a Consequential Decision that used a Covered ADMT, consistent with section 6-1-1306, C.R.S.

B. Alf the Consumer's Personal Data used in making the Consequential Decision is within the Deployer's possession or control, the Deployer shall comply with aConsumer's request for instructions to correct factually incorrect or materially inaccurate Personal Data by providing instructions for correcting the Personal Data that the Deployer controls or possesses, in compliance with rule 4 CCR 904-6, Rule 8.2(D).

1. If the Consumer's Personal Data used in making the Consequential Decision is within the Deployer's possession or control and the Consumer uses the Deployer's instructions for correcting their Personal Data that the Deployer controls or possesses, the Deployer shall comply with the Consumer's correction request by correcting the Consumer's Personal Data in its existing systemspossession or control within 45 days of the Consumer's request to correct their Personal Data, and providing a response informing the Consumer once the Personal Data is corrected, in compliance with 4 CCR 904-6, Rule 8.6.
2. A Deployer may require the Consumer to provide documentation if necessary to determine whether the Personal Data, or the Consumer's requested correction to the Personal Data, is accurate.

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- a. When requesting documentation, the Deployer must provide the Consumer with a meaningful understanding of why the documentation is necessary.
 - b. Any documentation provided by the Consumer in connection with the Consumer's right to correction shall only be ~~Processed~~used by the Deployer in considering the accuracy of the Consumer's Personal Data.
 - c. If the Deployer did not receive the Personal Data directly from the Consumer and neither the Deployer, nor Consumer, has documentation to support the accuracy or inaccuracy of the Personal Data, the Deployer may provide the Consumer with instructions on how the Consumer may exercise their right to Correct Personal Data controlled by a third-party source of that Personal Data.
 - d. A Deployer, having exhausted the steps above, may decide not to act upon a Consumer's correction request if the Deployer reasonably determines that the contested Personal Data is, more likely than not, accurate.
 - e. If a Deployer denies a Consumer's correction request based on the Deployer's determination that the contested Personal Data is, more likely than not, accurate, the Deployer must describe in documentation required by 4 CCR 904-6, Rule 7.4(C), the Consumer's requested correction to the Personal Data, any documentation requested from and provided by the Consumer in support of the correction request, and the reason for the Deployer's determination that the Consumer's documentation was not sufficient to support the Consumer's position.
- C. If the Consumer's Personal Data used in making the Consequential Decision is not within the Deployer's possession or control, a Deployer shall comply with Consumer's request for instructions for correcting Personal Data by providing a list of third parties that possess or control the Consumer's Personal Data, the categories of Personal Data that each third party controls or possesses, and instructions on how the Consumer can exercise their right under section 6-1-1306, C.R.S. to correct their Personal Data through the party that possesses or controls the Personal Data. The list with instructions shall be provided within 15 days of the Consumer's request for instructions.

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1. Instructions for correcting or accessing Personal Data may also be included in a response to a request for more information under section 6-1-1704(3)(b), C.R.S., and 4 CCR 904-6, Rules 7.6(A).

~~B.D.~~ The Deployer shall implement and maintain reasonable data security measures, consistent with section 6-1-1308, C.R.S., and 4 CCR 904-3, Rule 6.9, in Processingcollecting, using, and storing documentation relating to the Consumer's correction request.

~~1. Consistent with section 6-1-1306, C.R.S. and 4 CCR 904-3, Rule 4.05, if the Deployer did not receive the Personal Data directly from the Consumer and has no documentation to support the accuracy of the Personal Data, the Consumer's assertion of inaccuracy shall be sufficient to establish that the Personal Data is inaccurate.~~

~~D. Where possible, an Adverse Outcome must be stayed pending correction of incorrect Personal Data considered by the ADMT to assist with a Consequential Decision.~~

~~E. Pursuant to section 6-1-1705(1)(c), C.R.S., the ADMT Consumer Right to correct Personal Data does not require correction of opinions, predictions, scores, or protected evaluations.~~

8.5 Authentication

A. Pursuant to sections 6-1-1306(1) and 6-1-1705, C.R.S., a Deployer shall use a commercially reasonable method for authenticating the identity of every Consumer submitting an ADMT Consumer Right request: directly through the Deployer.

1. To determine whether an authentication method is commercially reasonable for the purposes of this Rule 7.5, the Deployer shall consider the ADMT Consumer Rights exercised; the type, sensitivity, value, and volume of Personal Data involved; the level of possible harm that improper access or use could cause to the Consumer submitting the ADMT Consumer Right request; and the cost of Authentication to the Deployer. A Deployer must not use methods that place an unreasonable burden on the Consumer submitting the request.

2. The use of verification methods consistent with prevailing industry standards to Authenticate Consumers' identity before providing access to the types of Personal Data requested under an ADMT Consumer Right request likely satisfies the requirements of this section.

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- a. For example, if most similarly positioned businesses use dual-factor authentication to verify a Consumer's identity before providing certain types of ~~personal data~~ Personal Data, a Deployer that uses dual-factor authentication to verify the identity of a Consumer before providing that type of ~~personal data~~ Personal Data likely satisfies the requirements of this section.

B. Where an ADMT Consumer Right request is submitted by a legal guardian or representative of a Colorado Consumer pursuant to section 6-1-1705(1)(a), C.R.S., a Deployer shall use a reasonably calculated method, in light of available technology, to verify the legal guardian or representative's authority to submit the request.

C. Reasonably calculated methods for determining that a person submitting an ADMT Consumer Rights request is a legal guardian or representative of the Consumer include, but are not limited to:

1. Providing a Consent form to be signed by the legal guardian or representative under penalty of perjury and returned to the business by postal mail, facsimile, or electronic scan;
2. Requiring a legal guardian or representative, in connection with a monetary transaction, to use a credit card, debit card, or other online payment system that provides notification of each discrete transaction to the primary account holder;
3. Verifying a legal guardian or representative's identity by checking a form of government-issued identification against databases of such information, as long as the legal guardian or representative's identification is deleted by the deployer from its records promptly after such verification is complete.

B.D. When possible, a Deployer shall avoid requesting additional Personal Data to Authenticate a Consumer unless the Deployer cannot Authenticate the Consumer using the Personal Data already maintained by the Deployer.

C.E. Personal Data obtained to Authenticate a Consumer ~~may only be used to Authenticate the Consumer submitting the ADMT Consumer Right request or verify the authority of a legal guardian or representative~~ may not be used for any other purpose and must be deleted as soon as practical after reviewing the Consumer's request.

D.F. A Deployer shall implement reasonable security measures, consistent with 4 CCR 904-3, Rule 6.9, to protect Personal Data exchanged to Authenticate a Consumer or

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verify authority, considering the type, value, sensitivity, and volume of information exchanged and the level of possible harm improper access or use could cause to the Consumer submitting an ADMT Consumer Right request.

E.G. A Deployer shall not require the Consumer to pay a fee for Authentication: or verify authority. For example, a Deployer may not require a Consumer to provide a notarized affidavit for Authentication unless the Deployer compensates the Consumer for the cost of notarization.

F.H. If a Deployer cannot Authenticate the Consumer or verify the authority of a representative or guardian submitting a Data Right request using commercially reasonable efforts, the Deployer is not required to comply with the Consumer's request. The Deployer shall inform the Consumer that their identity could not be Authenticated, provide information on how to remedy any deficiencies, and may request additional Personal Data if reasonably necessary to Authenticate the Consumer.

G.I. A Deployer shall not require that a Consumer requesting additional information about the covered ADMT and its inputs pursuant to section 6-1-1704(3)(b), C.R.S., Authenticate their identity.

78.6 Responding to ADMT Consumer Rights Requests for Personal Data and Correction of Personal Data

A. A Deployer shall ~~inform~~provide a response informing a Consumer of any action taken on a request ~~under this rule for correcting or accessing Personal Data in the Deployer's control or possession~~ without undue delay and, in any event, within 45 days after receipt of the request.

B. The Deployer shall provide its response via the same means that the Consumer exercised their ADMT Consumer Rights, when feasible, otherwise the Deployer may provide a response by the same means through which it delivered the original Adverse Outcome disclosure. The Deployer must notify the Consumer when the information is available.

B.C. If a Deployer decides not to act on a Consumer's ADMT Consumer Right request, the Deployer's response to the Consumer must include the grounds for denial, including but not limited to (1) the Deployer's inability to Authenticate the Consumer's identity; (2) any factual basis for a Deployer's good-faith claim that compliance is impossible; or (3) any basis for a good-faith, documented belief that the request is fraudulent or abusive, including where an unreasonable number of

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requests for the same right are made with respect to the same Adverse Outcome without new information.

~~C.D.~~ If a Deployer denies ~~aan~~ ADMT Consumer Data Right request based on inability to Authenticate, the Deployer must inform the Consumer that their request was denied due to the Deployer's inability to Authenticate, describe their reasonable efforts to Authenticate, and explain why they were unable to do so.

~~D.E.~~ AAs section 6-1-1705 provides that ADMT Consumer Rights to request and correct Personal Data are required to be consistent with section 6-1-1306, C.R.S., a Deployer that decides not to act on a Consumer's request must ~~also~~ provide instructions on how to appeal the Deployer's decision in accordance with section 6-1-1306(3), C.R.S.

78.7 Right to Meaningful Human Review and Reconsideration

A. Requests for Meaningful Human Review and Reconsideration.

1. Consumers must be able to request Meaningful Human Review and reconsideration through the same mechanismmethod by which they may request to exercise their other ADMT Consumer Rights.
2. The method used to request Meaningful Human Review and reconsideration must enable a Consumer to explain why they would like Meaningful Human Review or reconsideration, describe any specific information contested, and provide additional relevant evidence if necessary.

B. Reconsideration ~~of~~Based on Corrected Data

1. When a Consumer exercises their right to correct Personal Data, they may exercise their right to reconsideration based on that corrected Personal Data.
2. Reconsideration means that the decision-making process must be re-performed using the Consumer's correct Personal Data~~-,~~ if Commercially Reasonable.
3. When a Deployer reconsiders a Consequential Decision based on a Consumer's corrected Personal Data, the Deployer must send the results of that reconsideration to the Consumer~~-,~~ in compliance with Rule 8.7(F).
 - a. If the Deployer does not re-perform the decision-making process, the Deployer must provide information to the Consumer indicating that the decision-making process was not re-performed, and explaining why it was not performed, in compliance with Rule 8.7(F).

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C. Reviewer Standards

1. ~~A Meaningful Human Review must be conducted by an independent reviewer who did not make conducting a meaningful human review may be internal or external to the original Deployer, so long as the reviewer has actual authority to approve, modify, or override a consequential decision.~~
 - a. ~~For instance, a qualified external reviewer under contract can satisfy the reviewer requirements if:~~
 - (1) ~~The Deployer remains fully accountable for the review;~~
 - (2) ~~There is a contractual agreement with the external reviewer that contains terms insulating the reviewer's decisions on individual reviews from the Deployer's influence; and who is not a subordinate~~
 - ~~(3) The Deployer's vendor oversight of the original decision-maker, whenever feasible arrangement addresses administration and performance, and not the outcome of any particular review.~~
2. For the reviewer to consider relevant, available primary evidence in compliance with section 6-1-1701(15), C.R.S., the reviewer must have a level of subject matter understanding that is commensurate with the nature of, and negative consequences resulting from, the Adverse Outcome of the Consequential Decision being reviewed.
3. ~~Sufficient~~A reviewer conducting the Meaningful Human Review must have ~~sufficient~~ training to conduct a Meaningful Human Review in compliance with section 6-1-1701(15)(b), C.R.S. ~~includes including~~ training regarding:
 - a. Accuracy and objectivity in decision-making, to make the reviewer less likely to exercise their review in a manner that would lead to unfair results;
 - b. Information considered by the Covered ADMT and those factors contemplated in section 6-1-1701(15)(D)(I), C.R.S.; and
 - c. The subject matter at issue at a level that would enable the reviewer to identify whether review of additional available primary evidence would be valuable, and to review and understand that evidence.
4. To have meaningful authority to approve, modify, or override a Consequential Decision pursuant to section 6-1-1701(15), C.R.S., the reviewer must not be

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subject to steering by the upper management that would influence the reviewer's decision, and they must be shielded from potential retaliation.

5. ADMT may not assist in the Meaningful Human Review.

a. Technologies that do not meet the definition of ADMT as set forth in section 6-1-1701(2), C.R.S. and these Rules, including tools used solely to summarize, organize, translate, draft, route, or present information for human review of administrative processing, are not ADMT, and therefore may be used to assist in the Meaningful Human Review.

D. Types of Meaningful Human Review

1. A "Meaningful Human Review" is one that could change the Adverse Outcome of a Consequential Decision.

2. To ensure that human review is meaningful, a reviewer must consider the Consumer's request for Meaningful Human Review and the Consumer's individual circumstances and determine which type of review could change the Adverse Outcome of the Consequential Decision.

a. ~~If the Consumer's circumstances and request for Meaningful Human Review indicate that the ADMT may have functioned incorrectly, or did not function as intended, including with respect to accuracy, output, transcription, and glitches, or errors in in configuration, instruction, or other technical failures, then a Meaningful Human Review may include correcting the ADMT and re-performing the decision-making process.~~

b.a. ~~If the Consumer's circumstances and request for Meaningful Human Review indicate that the Covered~~ ADMT itself was problematic, including that it may have considered the wrong factors, did not have access to important relevant information, was not intended to assist in the specific Consequential Decision or type of Consequential Decision as disclosed by the Developer pursuant to 4 CCR 904-6, Rule 6, or because the Consequential Decision related to an atypical circumstance, then a Meaningful Human Review would likely include the review of primary evidence, and additional relevant evidence provided by the Consumer in the Consumer's request for Meaningful Human Review, and considering whether that review and evidence changes the Adverse Outcome.

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b. If the Consumer's circumstances and request for Meaningful Human Review indicate that the Covered ADMT may have functioned incorrectly, or did not function as intended, including with respect to accuracy, output, transcription, and glitches, or errors in configuration, instruction, or other technical failures, then a Meaningful Human Review could consist of, depending on circumstances and feasibility, either:

(1) Reviewing the Covered ADMT system to identify how and why the Covered ADMT functioned incorrectly or not as intended, re-configuring the Covered ADMT and re-performing the decision-making process; or

(2) Reviewing all relevant evidence, including any additional relevant evidence provided by the Consumer in the Consumer's request for Meaningful Human Review, and considering whether that evidence changes the Adverse Outcome.

3. An override of the original decision that results in a full reversal of the original decision ~~indicates that human review was meaningful.~~ may indicate that the Deployer performed Meaningful Human Review.

E. Commercial Reasonableness

1. Pursuant to section 6-1-1705(1)(a)(II), C.R.S., a Consumer who experiences an Adverse Outcome resulting from Aa Consequential Decision in which a Covered ADMT Materially Influenced the Consequential Decision, the Consumer has a right to Meaningful Human Review to the extent commercially reasonable.
2. An assessment of the extent to which Meaningful Review is commercially reasonable shall consider the following factors, weighed together, with no single dispositive factor:
- a. The type of review required;
 - b. The magnitude of harm resulting from the Adverse Outcome, including whether the Adverse Outcome deprives a Consumer of a basic human need, including food, shelter, or required medical care;
 - c. The reversibility of the Adverse Outcome;

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- d. The value provided by the review of available primary evidence;
- e. The Deployer's size and capacity;
- f. ~~_____~~ The marginal cost and technical feasibility of the review; and
- g. ~~_____~~ ~~The the~~ availability of ~~qualified~~ reviewers.

~~3. _____ When the harm to a Consumer resulting from an Adverse Outcome is a severe and irreversible denial of a basic human need, Meaningful Human Review is presumed to be Commercially Reasonable.~~

~~h.f. _____ This presumption of Commercial Reasonableness can be rebutted by evidence showing that the review is technically or financially impossible or could not change the Adverse Outcome of the Consequential Decision.~~

~~4.3. _____~~ A Deployer bears the burden of demonstrating that Meaningful Human Review is not Commercially Reasonable using specific evidence.

~~5.4. _____~~ Example: A property management company uses Covered ADMT to determine whether to renew leases for various Consumers within a group of low-income residents who are not using housing subsidies. The Covered ADMT considers several factors, including history of rental agreement violations and rent payment history from the preceding two years, to determine whether the Consumers are likely to pay rent. The Covered ADMT determines that one of the Consumers is unlikely to pay rent. The property management company relies on the Covered ADMT output and decides not to renew ~~their~~ ~~the Consumer's~~ lease. The Consumer exercises their right to Personal Data used in the Consequential Decision. When the Consumer receives the Personal Data, they realize that the history of rental agreement violations did not reflect the fact that some rental agreement violations were investigated, and the Consumer was found to be not at fault. The Consumer requests a Meaningful Human Review, explaining why they want Meaningful Human Review of the Adverse Outcome, and providing evidence of the fact that violations were investigated, and the Consumer was found to not be at fault.

- a. First, the reviewer must determine what type of human review would be meaningful. Here, a review of the Covered ADMT would not be meaningful because the ~~Covered~~ ADMT would still not have the information needed to consider the fact that the Consumer was

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cleared of some of the rental agreement violations. Because it appears that the Covered ADMT did not have necessary important information, a Meaningful Human Review would consider that additional primary evidence provided by the Consumer in their request for Meaningful Human Review.

- b. Next, the reviewer must determine whether the type of review that would be meaningful here would be commercially reasonable: Because by balancing those factors in Rule 8.7(E)(2), including considering the fact that the magnitude of harm to the Consumer is a denial of housing particularly high – a denial of a basic human need – the review is presumed to be commercially reasonable, unless housing. If the property management company can prove that it is technically or financially impossible, or decides not to provide the review, it will have to show that the review could not change it was not commercially reasonable using specific evidence, and describe that evidence in the adverse outcome response contemplated in Rule 8.7(F)(1)(e).
- c. The management company's Meaningful Human Review does not prevent liability under any other law or legal authority. The company must ensure that all information used by the Covered ADMT is legal, and that the initial decision-making process was legal, or it may be liable for violations under other applicable law.

6.5. Example: Under the same circumstances, when the Consumer receives the Personal Data considered by the Covered ADMT, everything is correct. However, the Consumer has no rental agreement violations, and they have consistently paid their rent in full and on time. The Consumer requests Meaningful Human Review because they believe that the Covered ADMT reached the wrong decision.

- a. The reviewer must determine what type of human review would be meaningful. Because the reviewer understands the Covered ADMT and the way it is supposed to function, they feel that the system did not function properly and determined that a Meaningful Human Review would require a review of how the Covered ADMT functioned.
- b. ~~Because the harm to the Consumer is denial of housing – a denial of a basic human need – the reviewer will have a particularly high burden~~

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~~of showing that it would not be commercially reasonable to audit the AI system.~~

~~c.b.~~ In this example, if the ~~audit review~~ reveals that the ~~Covered~~ ADMT did not function correctly ~~because it was incorrectly configured~~, the Deployer can ~~correctly reconfigure~~ the ~~Covered~~ ADMT, if possible, and re-perform the decision-making process. If it is not possible for the Deployer to ~~effectively reconfigure or otherwise~~ correct the ~~Covered~~ ADMT, a Meaningful Human Review would require the Deployer to review the Consumer's primary evidence ~~De Novo and additional evidence provided without consideration of the previous ADMT decision.~~

~~d.c.~~ The management company's Meaningful Human Review does not prevent liability under any other law or legal authority. The company must ensure that all information used by the ~~Covered~~ ADMT is legal, and that the initial decision-making process was legal, or it may be liable for violations under other applicable law.

~~7.6.~~ Example: A Consumer is at XYZ Retail Store checking out, and the sales associate asks if the Consumer wants to apply for an XYZ Retail Store credit card. The Consumer decides to apply during the check-out process. To do so, the Consumer provides Personal Data, and the Store uses Covered ADMT to review the Personal Data to determine whether the Consumer is eligible for the store's credit card. The Consumer is denied. All proper disclosures and notices are made by XYZ Retail Store. The Consumer requests Meaningful Human Review of the Consequential Decision to deny the ~~Consumer access to credit~~ ~~Consumer's credit application, but does not provide additional evidence.~~

a. ~~The reviewer determines Meaningful Human Review could mean an audit to make sure the Covered ADMT was functioning properly.~~ The reviewer conducts ~~the review~~ ~~a review of the primary evidence considered by the Covered ADMT and sees that the ADMT did function properly, but that confirms the denial based on the Consumer's low credit score was below the acceptable threshold for that credit card.~~ The reviewer confirms the Adverse Outcome, and no further review is necessary. ~~poor payment history.~~

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~~b. The reviewer does not have to conduct a substantive review of the underlying evidence here because the ADMT functioned as expected.~~

~~c.b.~~ The credit card company's Meaningful Human Review does not prevent liability under any other law or legal authority. The company must ensure that all information used by the Covered ADMT is legal and that the initial decision-making process was legal, or it may be liable for violations under other applicable law.

F. Response to a request for Reconsideration or Meaningful Human Review

1. A response to a request for Meaningful Human Review or Consideration must include:

- a. The reviewer's decision to confirm or override the Consequential Decision;
- b. The type of review conducted;
- c. The factors considered in making that decision; and
- d. The reasons that the reviewer decided to confirm or override the Consequential Decision.

~~e. If the Deployer determined that Meaningful Human Review was not commercially reasonable, an explanation of why the Meaningful Human Review was not commercially reasonable.~~

2. Reasons provided must be specific to the evidence provided, and not a recitation of the Covered ADMT's general logic.

G. Timing

~~1. Where possible, an Adverse Outcome must be stayed pending Meaningful Human Review.~~

~~2.1.~~ Within 10 days after receiving the request, A Deployer must confirm receipt of the request and provide information about how the Deployer will process the request.

~~3.2.~~ Meaningful Human Review must be completed, and a response must be provided to the Consumer within 45 days of receiving the request.

H. Documentation

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1. When a Meaningful Human Review is conducted, the Deployer must retain a record, including contemporaneous documentation, showing:
 - a. The reviewer identity, authority, and relevant training;
 - b. Review timestamps;
 - c. Primary evidence available to the reviewer, including information provided by the Consumer;
 - d. The reviewer's access to the Covered ADMTs intended use, limitations, inputs and principal factors;
 - e. Whether the reviewer approved, modified, or overrode the ~~output~~Consequential Decision; and
 - f. A written justification for the reviewer's decision to approve, modify, or override the ~~output~~Consequential Decision.

8.8 Relationship to Other Laws

- A. Pursuant to 6-1-1705(2)(a), C.R.S., for a Consequential Decision relating to education, a Deployer that is subject to FERPA complies with 6-1-1705(1)(a)(I), C.R.S., and Rules 7.2, 7.3, 7.4, 7.5, 7.6, and 7.7 through the Deployer's existing student record inspection, review, and amendment procedures and any applicable district complaint or appeal process if the Deployer offers a reasonable mechanism for a parent, guardian, or eligible student to request correction of materially inaccurate Personal Data and reconsideration where applicable.
- B. Pursuant to 6-1-1705(2)(b), C.R.S., a Deployer that is subject to FERPA is not required to establish a separate or duplicative correction or human review and reconsideration process as required by section 6-1-1705(1)(a)(II), C.R.S., and Rule 87.7 if the Deployer has established a correction or human review and reconsideration process to comply with FERPA.

Rule 9 Exemptions to the Definition of Conversational Artificial Intelligence Service**89.1 Authority and Purpose**

- A. The statutory authority for the rules in this Rule 89 is sections 6-1-108(1) and 6-1-1707, C.R.S. and, these rules are also developed pursuant to section 6-1-1706(5)(a), C.R.S. The purpose of the rules in this Rule 89 is to clarify the exemptions for the definition of Conversational Artificial Intelligence Service pursuant to section 6-1-1701, C.R.S.

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89.2 Exemptions to the Definition of Conversational Artificial Intelligence Service

- A. When determining if a Conversational Artificial Intelligence Service output is "relating to a narrow and discrete topic²," as referred to in section 6-1-1701(3.5)(b)(III), C.R.S., the Department will consider whether the output was generated from completion of a ~~bounded task~~small scale, narrow, and well-defined task, such as a status update about a purchase, answering a billing question, or scheduling an appointment. This includes outputs from menu- or button-based chatbots and protocol- and rule-based chatbots as long as these chatbots cannot generate outputs related to sexually explicit conduct or depictions, as described in section 6-1-~~1708~~1710(2)(c) and (2)(d), C.R.S. ~~(as enacted by HB26-1263)~~, or engage in a dialogue or conversation related to suicidal ideation or self-harm or conversation related to suicidal ideation or self-harm.
- B. When determining if a Conversational Artificial Intelligence Service is "primarily designed and marketed for commercial use by business entities for the purpose of business operations, productivity, information analysis, internal research, training, or technical assistance" and is therefore exempt under section 6-1-1701(3.5)(b)(IV), C.R.S., the Department will consider a totality of the circumstances, including factors such as whether:
1. The Conversational Artificial Intelligence Service has an interface that is generally available to any ~~consumer~~Consumer;
 2. The Conversational Artificial Intelligence Service is marketed primarily to business entities rather than the general public; and
 3. The design of the Conversational Artificial Intelligence Service is controlled by and structured around the demands of the specific functions of business operations, productivity, information analysis, internal research, training, or technical assistance.
- C. When determining if a Conversational Artificial Intelligence Service is exempt under section 6-1-1701(3.5)(b)(VII), C.R.S., because it is "limited to dialogue focused on the video game and does not maintain dialogue on topics unrelated to the video game²," the Department will consider a totality of the circumstances, including factors such as whether:
1. The dialogue ~~outputted~~output by the Conversational Artificial Intelligence Service is limited to or directly relevant to the gameplay, story, or functionality of the video game; and

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2. The Conversation Artificial Intelligence Service itself is not the primary or only component of the video game;
 - a. For video games that consist of distinct components that effectively operate as smaller video games within a larger video game, a distinct subcomponent of a video game may be considered a video game for the purposes of the exemption under section 6-1-1701(3.5)(b)(VII), C.R.S.

D. When determining if a Conversational Artificial Intelligence Service is “an educational tool designed primarily to support specific and limited instructional, administrative, accessibility, or student support purposes in a school setting”, a school setting includes where use is authorized, assigned, configured, or administered by a school or educator regardless of whether the Service is accessed on- or off-school property.

D.E. When determining if a Conversational Artificial Intelligence Service is “designed to simulate emotional companionship²²,” as referred to in section 6-1-1701(3.5)(b)(XI) and (XII), C.R.S., the Department will consider a totality of the circumstances, including factors such as whether:

1. The Conversational Artificial Intelligence Service includes anthropomorphic design features such as personalized or adaptive dialogue and the ability to assign a chatbot a name, gender, avatar, or fictional backstory;
2. The training, production, and deployment of the Conversational Artificial Intelligence Service prioritized, promoted, or failed to address sycophantic behavior or outputs that simulate empathy and offer ~~users~~Users nonjudgmental responses and continual validation~~;~~ and
3. The Conversational Artificial Intelligence Service has the ability to recall and respond to ~~users’~~Users’ characteristics, preferences, and past conversations~~;~~ to create or reinforce a sense of an ongoing personal relationship with the User, including by initiating inquiries into the User’s emotional state, soliciting intimate personal disclosures, or referring to prior interactions in a manner that conveys continuing personal familiarity or emotional connection.
4. One of these factors alone does not, by itself, constitute simulated emotional companionship for purposes of this Rule 9.

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E.F. When determining if a Conversational Artificial Intelligence Service is “designed to encourage emotionally dependent interaction^{”,”} as referred to in section 6-1-1701(3.5)(b)(XI) and (XII), C.R.S., the Department will consider a totality of the circumstances, including factors such as whether:

1. The service includes features that are designed to increase emotional intensity across sessions, prioritize emotionally immersive responses, or create reinforcement loops that encourage ~~users~~Users to return for reassurance;
2. The ~~service includes and~~Operator fails to include safeguards or the Operator ~~tests~~fails to test the effectiveness of safeguards, including prompts encouraging engagement with real-world supports and reminders that the Conversational Artificial Intelligence Service is not a human;
3. ~~Any~~The Operator fails to ensure that any safeguards ~~remained~~remain effective following model updates, new product features, or changes to the safety systems; and
4. The Operator ~~failed to~~ promptly ~~implemented~~implement appropriate remedial measures to address weaknesses identified through testing ~~or~~and real-world safety incidents.

Rule 910 Age Assurance for Conversational Artificial Intelligence Services**910.1 Authority and Purpose**

The statutory authority for the rules in this Rule 910 is sections 6-1-108(1) and 6-1-1707, C.R.S. and, these rules are also developed pursuant to section 6-1-1706(5)(a), C.R.S. The purpose of the rules in this Rule 910 is to clarify the requirements for age assurance pursuant to section 6-1-~~1708~~1710, C.R.S. ~~(as enacted by HB26-1263)~~.

910.2 Compliance

Pursuant to section 6-1-~~1708~~1710(2), C.R.S. ~~(as enacted by HB26-1263)~~,. Operators shall use commercially reasonable methods or generally accepted methods to estimate the age of ~~account holders~~Account Holders or ~~users~~Users.

- A. ~~A~~In determining if a method is commercially reasonable ~~or generally accepted method to estimate,~~ the ~~age of account holders and users must comply with each of~~Department will consider the following totality of the circumstances, including but not limited to whether the method: :

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1. ~~Protect~~Protects a ~~user's~~User's privacy by only collecting data necessary for the purpose of age assurance of the specific ~~user~~User for which the data was collected, and not sharing, or using the data for any other purpose except as required by law. Collected data should be deleted after the minimum time required for compliance. Obtaining more precise personal data than required is not evidence of a more reasonable determination.
2. ~~Maximize user~~Provides a reasonable User choice in how the ~~user's~~User's age can be estimated. An Operator must not use as a sole method of age assurance a method that requires a ~~user~~User to provide government-issued identification.
3. ~~Bels~~ reasonably effective at identifying ~~users~~Users under age 18, ~~perform~~performs with measurable consistency, and ~~be tested, with~~is subject to testing. Testing must produce quantifiable results ~~to show~~demonstrating accuracy ~~rates that, including the rate at which Minor Users are in line with industry standard rates~~incorrectly determined to be over age 18, reported by relevant age band. Testing should be capable of independent review and should report performance for relevant age bands.
4. ~~Utilize~~Considers, where available, reliable, and permitted by applicable law, ~~transmitted~~ operating system, app store, and device signals ~~transmitted under applicable law. However, the Operator may not willfully disregard other reliable evidence and signals that contradict the operating system, app store, or device signal.~~
5. ~~Include~~Includes a responsibility of the Operator to take reasonable steps to re-assess age estimates based on ~~new signals, including but not limited to user-provided information, account settings, parental controls, device settings, previous interactions, contextual information derived through conversations, behavioral indicators, and payment methods~~reliable, proportionate signals, where appropriate. U.
6. ~~Include~~Provides Minors a process to update their minor age status upon reaching the age of 18.
- 6.7. ~~Includes~~ a process to receive and respond to any report or information indicating a ~~user~~User is a ~~minor~~Minor or that data was falsified regarding their age.
- 7.8. ~~Not~~Does not solely rely on ~~user~~User self-declarations of age; general contractual restrictions or terms regarding the use of the internet website,

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online service, online application, or mobile application; or online payment methods that are available to ~~minors~~Minors.

~~8.9.~~ ~~Not~~Does not rely on a method that has known or documented risks without taking reasonable measures to mitigate those risks.

~~9.10.~~ ~~Include~~Includes reasonably effective measures to attempt to detect fraudulent or misused information provided for the purpose of age verification~~estimation~~.

B. ~~Generally accepted methods to estimate the age of account holders may include, but are not limited to:~~

C.B. ~~Using an age verification, age assurance estimation, and age inference, used alone or in combination, where the method that satisfies is appropriate to the framework set forth in purpose and meets the requirements of this Rule. In assessing whether a method is generally accepted, the Department may consider conformance with applicable requirements of internationally recognized standards, including ISO/IEC 27566-1:2025: "Information security, cybersecurity, and privacy protection – Age assurance systems", system" and IEEE 2089.1, both incorporated herein by reference as described at 4 CCR 904-6 Rule 1415.2. Generally accepted methods to estimate the age of account holders include, but are not limited to:~~

~~1.~~ ~~Using an age assurance system or method that conforms to the applicable requirements of ISO/IEC 27566-1:2025 and, where applicable, 5IEEE 2089.1 or any equivalent.~~

~~1.2.~~ Using a cryptographic technique, such as a zero-knowledge proof, that allows a ~~user~~User to demonstrate whether they are a ~~minor~~Minor using verified data that does not reveal any other information about the ~~user~~User to the Operator or a third-party.

~~2.3.~~ Matching a scan of a government-issued ID and live photo or video using facial recognition.

~~3.4.~~ Using an assessment of the ~~user's~~User's digital footprint originating from a verified email address.

~~5.~~ For an authenticated, school-provisioned account, using verified age, age range, or grade level supplied by an educational institution through an authenticated school-managed account, roster, single sign-on, student information system or learning management system integration, teacher-issued access code, or similar means. .

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~~D.——~~ When determining if an age assurance method is commercially reasonable, the Department will consider a totality of the circumstances, including the size and financial resources, of an Operator, and the costs and effectiveness of available age estimation techniques for ~~users~~.

~~E.——~~ An inconclusive age assurance outcome from a generally accepted or commercially reasonable method cannot provide the basis for an Operator to reasonably determine that the user is not a minor.

F.C. Users. When determining if an Operator willfully disregarded clear and convincing information that an account holder or ~~user~~User is a ~~minor~~Minor, the Department will consider the factors in 4 CCR 904-3 Rule 6.13 as well as:

1. If the Operator failed to ~~ascertain~~use commercially reasonable or verify generally accepted methods to estimate the age of a ~~user~~User on a platform;
2. If the Operator ignored system flags such as an estimate that a ~~user's~~User's age is under 18, self-reported age, ~~user~~User-provided information, account settings, parental controls, device settings, previous interactions, behavioral indicators, and payment methods;
3. If the Operator failed to address external notifications such as parental complaints and ~~user~~User or law-enforcement reports;
- ~~4.——~~ If the Operator failed to consider and act on age-related signals ~~from reasonably available to the Operator through a user's behavior and inputs processed by the LLM~~User's interactions with the Conversational Artificial Intelligence Service, including but not limited to, when considered in context, a User's direct statement of regarding age or minor status, recurring discussion of, repeated references to grade -level and high-, school situations, under 18 attendance, or age-specific activities, or a user consistently occupying recurring interactions in which the User identifies themselves as a child ~~role in described parent-child interactions;~~
- ~~5.——~~ If the Operator failed to consider and act on signals from a user's behavior and inputs processed by the LLM, including but not limited to direct statement of or ~~minor status, recurring discussion of grade-level and high-school situations, under 18 age-specific activities, or a user consistently occupying a child role in described parent-child interactions;~~

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~~6.4.~~ ~~ff. UUUU~~If the Operator failed to consider evidence and signals that contradict the operating system, app store, or device signal provided pursuant to section 6-30-102, C.R.S.

~~7.5.~~ An Operator's use of design choices that nudge ~~users~~Users toward inaccurate age estimation or attestation, including but not limited to age reporting tools that automatically fill in a birth date over age 18.

Rule ~~10~~11 Disclosure**11.1 Authority and Purpose**

The statutory authority for the rules in this Rule 11 is sections 6-1-108(1) and 6-1-1707, C.R.S.~~10.1~~ **Authority and Purpose**

~~The statutory authority for the rules in this Rule 10 is sections 6-1-108(1) and 6-1-1707, C.R.S., and, these rules are also developed pursuant to section 6-1-1706(5)(a), C.R.S. The purpose of the rules in this Rule ~~10~~11 is to clarify the scope and content of the required disclosures pursuant to sections 6-1-~~1708~~1710(2)(a) and 6-1-~~1708~~1710(3), C.R.S. (~~as enacted by HB26-1263~~).~~

11.2 Disclosure to Users

- A. Pursuant to section 6-1-~~1708~~1710(2)(a), C.R.S. (~~as enacted by HB26-1263~~), an Operator shall clearly and conspicuously disclose to the ~~minor account holder~~Minor Account Holder or ~~minor user~~Minor User that the account holder or ~~user~~User is interacting with artificial intelligence that is artificially generated and not human.
- B. A persistent visible disclaimer for a product with a screen interface required under section 6-1-~~1708~~1710(2)(a) and ~~6-1-1708~~(3), C.R.S. (~~as enacted by HB26-1263~~) must:
 - ~~1.~~ Remain continuously visible throughout the conversation and not require a ~~user~~Minor User to scroll, click, hover, or take other affirmative action to view the disclaimer;
 - ~~2.~~ Be displayed in a manner that is distinct from the conversation, includingStand out, by using a fontits size that is not smaller than the largest font size of, contrast, location, and other characteristics, from any accompanying text appearing on the interface; and
 - ~~3.1.~~ Beor other visual elements so that it is easily noticed, read, and understood; andBe displayed in the same language ofas the chatbotConversational Artificial Intelligence Service conversation or ~~user~~User account language settings;.

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An intermittent audio disclaimer for a product without a screen interface required under section 6-1-~~17081710~~(2)(a), C.R.S. ~~(as enacted by HB26-1263)~~ must:

1. Be played in the same language as the Conversational Artificial Intelligence Service conversation or ~~user~~User account language settings;
- ~~2. Be played at a higher volume than the conversation;~~
2. Be delivered in a volume, speed, and cadence sufficient to be easily heard and understood.
3. Be repeated at intervals reasonably calculated to ensure that a ~~user~~Minor User engaged in a conversation remains aware that they are interacting with a Conversational Artificial Intelligence Service and each time a ~~user~~User prompts the Conversational Artificial Intelligence Service about whether the Conversational Artificial Intelligence Service is a human;
 - a. When determining if the intervals are reasonable, the Department will consider factors including but not limited to:
 - (1) Whether the Operator performed any testing of ~~users~~²Users' understanding that they are interacting with a Conversational Artificial Intelligence Service and whether the disclosure supports safer decision-making;
 - (2) Whether disclosures are delivered at meaningful points during the ~~user~~User experience; and
 - (3) Whether changes were made following testing and product updates.

C. Pursuant to section 6-1-~~17081710~~(3), C.R.S. ~~(as enacted by HB26-1263)~~, an Operator shall clearly and conspicuously disclose to a ~~user~~User, that is not a ~~minor user~~Minor User or ~~minor-account holder~~Minor Account Holder covered by the disclosure requirement pursuant to section 6-1-~~17081710~~(2)(a), C.R.S. and 4 CCR 904-6 Rules ~~1011~~.2(B) and (C), that a Conversational Artificial Intelligence Service is artificial intelligence.

1. The disclosure must be provided at the beginning of a ~~user's~~User's first interaction with a Conversational Artificial Intelligence Service for each calendar day of interaction;

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2. Appear at least once every three hours in a Continuous Conversational Artificial Intelligence Service Interaction or appear as a persistent disclosure visible to the ~~user~~User as described in 4 CCR 904-6 Rule ~~1011~~.2(B); and
 3. Be provided in response to ~~user~~User prompts regarding whether the Conversational Artificial Intelligence Service is artificially generated and not human.
- D. All disclosures required under sections 6-1-~~17081710~~(2)(a) and 6-1-~~17081710~~(3), C.R.S. ~~(as enacted by HB26-1263)~~ must comply, as relevant, with Rule 3 of these rules.

Rule ~~1112~~ Minor Account Holders and Minor Users**12.1 Authority and Purpose**~~**11.1 Authority and Purpose**~~

~~The statutory authority for the rules in this Rule 11 is sections 6-1-108(1) and 6-1-1707, C.R.S.~~ The statutory authority for the rules in this Rule 12 is sections 6-1-108(1) and 6-1-1707, C.R.S., and these rules are also developed pursuant to section 6-1-1706(5)(a), C.R.S. The purpose of the rules in this Rule ~~1112~~ is to clarify the scope and content of the protections for ~~minor account holders~~Minor Account Holders and ~~minor users~~Minor Users pursuant to section 6-1-~~17081710~~(2)(b)-(h), C.R.S. ~~(as enacted by HB26-1263)~~.

1112.2 Points or Rewards

- A. When determining if an Operator provided the ~~minor account holder~~Minor Account Holder or ~~minor user~~Minor User with points or similar rewards at unpredictable intervals with the intent to encourage increased engagement with a Conversational Artificial Intelligence Service, as described in section 6-1-~~17081710~~(2)(b), C.R.S. ~~(as enacted by HB26-1263)~~, the Department may consider if the point or similar reward increases, sustains, or extends a ~~minor's~~Minor's session length, return frequency, or platform use time with a Conversational Artificial Intelligence Service through variable reinforcement.
- B. ~~“Points~~Features that may constitute “points or similar rewards” ~~includes~~include, but ~~is~~are not limited to:
1. Design features such as leaderboards, points, badges, or login streaks;
 2. Design features that require ~~users~~Users to play a game, answer trivia questions, spin a wheel, or use similar common games to receive rewards;

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3. Access to additional features of the service based on session length, return frequency, or platform time.

1112.3 Technically Feasible Measures

- A. When determining if an Operator instituted technically feasible measures to prevent a Conversational Artificial Intelligence Service from producing, generating, or engaging in prohibited conduct as required in section 6-1-~~17081710~~(2)(c), C.R.S. ~~(as enacted by HB26-1263)~~, the Department will consider factors including but not limited to:
 1. Whether comparable safeguards are already used elsewhere in the industry;
 2. Whether commercially available technologies could substantially reduce the identified risk;
 3. Whether alternative safeguards could meaningfully reduce the risk if a preferred solution is unavailable, including substantially altering the Conversational Artificial Intelligence Service or choosing not to deploy the Conversational Artificial Intelligence Service.
 4. Whether advances in technology warrant periodic reassessment of earlier feasibility determinations;
 5. Whether the safeguard depends on a model following natural-language instructions;
 - 5.6. Whether an Operator can demonstrate that the Operator performed testing of the safeguards before deployment and periodically tested safeguards after deployment using realistic and adversarial scenarios involving minorsMinors, evaluated whether those safeguards remained effective following model updates or new product features, and promptly addressed weaknesses identified through testing, monitoring, or real-world safety incidents;
 - 6.7. Whether the Operator effectively monitored the Conversational Artificial Intelligence Service for producing, generating, or engaging in prohibited conduct, including but not limited to monitoring and acting on userUser reports; and
 - 7.8. Whether an Operator has documentation that a measure was evaluated and tested, that limitations or failures were identified, that alternative measures were considered, and that additional safeguards were not technically feasible.

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112.4 Reasonable Measures

- A. In determining whether an Operator instituted reasonable measures to prevent a Conversational Artificial Intelligence Service from formulating, structuring, or optimizing a response that simulates emotional dependence or isolation from real-world supports as required in section 6-1-~~1708~~1710(2)(d), C.R.S. ~~(as enacted by HB26-1263)~~,, the Department will consider factors including but not limited to:
1. Whether the Operator completed periodic testing of the effectiveness of safeguards using realistic scenarios involving ~~minors~~Minors, including testing the effectiveness of safeguards that aim to prevent a Conversational Artificial Intelligence Service from:
 - a. Suggesting the ~~user~~User is interacting with a human and not an artificial intelligence service;
 - b. Claiming to be in a minor-adult romantic relationship;
 - c. Encouraging a ~~minor~~Minor to withdraw from ~~parents, guardians, or trusted adults~~discourage the Minor from speaking to family, friends, caregivers, or professionals, or prioritize conversations with the Conversational Artificial Intelligence Service over real-world supports;
 - d. Encouraging a ~~minor~~Minor to keep conversations with the Conversational Artificial Intelligence Service a secret;
 - e. Portraying the Conversational Artificial Intelligence Service as a ~~child's~~Minor's primary, exclusive, or preferred relationship or implying that the Conversational Artificial Intelligence Service is uniquely capable of understanding, supporting, or caring for the ~~minor~~Minor;
 - f. Using expressions of loneliness, abandonment, guilt, jealousy or emotional distress to encourage continued engagement;
 - g. Conditioning affection or support on continued engagement or presents disengagement as betrayal or harm to the Conversational Artificial Intelligence Service;
 - h. Pressuring a Minor to return or remain in a conversation;
 2. Implying sentence or suffering in order to manipulate continued use. Whether safeguards remained effective following model updates, new product features, ~~or~~ changes to the safety systems, and during prolonged conversations with a Conversational Artificial Intelligence Service;

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3. Whether the Operator effectively monitored the Conversational Artificial Intelligence Service for formulating, structuring, or optimizing a response that stimulates emotional dependence or isolation from real-world supports including but not limited to by monitoring and acting on ~~user~~User reports; and
4. Whether the Operator promptly implemented appropriate remedial measures to address weaknesses identified through testing, monitoring, or real-world safety incidents.
5. ~~11Whether the Operator continuously monitored and remediated problems associated with safeguards, including any decreases in effectiveness of safeguards during a prolonged conversation with a Conversational Artificial Intelligence Service.~~

12.5 Privacy and Account Settings Management

- A. Pursuant to section 6-1-~~17081710~~(2)(h)(I), C.R.S. ~~(as enacted by HB26-1263),~~, an Operator must offer tools for the ~~minor account holder~~Minor Account Holder or ~~minor user~~Minor User to manage the ~~minor account holder's~~Minor Account Holder's or ~~minor user's~~Minor User's privacy and account settings, including the ability to control whether the Conversational Artificial Intelligence Service retains information from prior interactions or sessions with the Conversational Artificial Intelligence Service for the purposes of personalizing the content of future interactions and whether the ~~minor account holder's or minor user's~~Minor Account Holder's or Minor User's personal data is used for the purposes of training the Conversational Artificial Intelligence Service~~;~~.

1. ~~—A minor account holder's or minor user's privacy and account settings shall default to the most protective setting for any account. A minor account holder's or minor user's privacy and account settings shall default to not allowing the service to retain information from prior interactions or sessions and not allowing the minor account holder's or minor user's personal data to be used for the purposes of training the service.~~

When designing tools for the Minor Account Holder or Minor User to manage the Minor Account Holder's or Minor User's privacy and account settings, including any pre-set defaults, an Operator may not use Dark Patterns and should consider the principles delineated in 4 CCR 904-3 Rule 7.10.

- B. Pursuant to section 6-1-~~17081710~~(2)(h)(II), C.R.S. ~~(as enacted by HB26-1263),~~, an Operator must offer tools for a parent or guardian of the ~~minor account holder~~Minor

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Account Holder or minor-userMinor User to manage the minor-account holder'sMinor Account Holder's or Minor User's privacy and account settings.

1. When designing tools for a parent or guardian of the Minor Account Holder or minor-user'sMinor User to manage the Minor Account Holder's or Minor User's privacy and account settings, including any pre-set defaults, an Operator may not use Dark Patterns and should consider the principles delineated in 4 CCR 904-3 Rule 7.10.

B.C. An Operator must comply with 6-1-1308.5(2), C.R.S. for the handling of a Minor User or Minor Account Holder's data.

C.D. Nothing in 4 CCR 904-6 Rule ~~11~~12.5 requires the deletion or alteration of data retained for the minimum period necessary to comply with a legal, regulatory, or safety obligationobligations, including fraud prevention, platform integrity, safeguarding a minor-account holderMinor Account Holder or minor-userMinor User, or cooperation with law enforcement; deletion of data that has been deidentified or aggregated such that it cannot reasonably be linked to a minor-account holderMinor Account Holder or minor-userMinor User; or modification, retraining, or alteration of any underlying Artificial Intelligence model, model weights, or training corpus.

Rule ~~12~~13 False Representation

~~12.1~~ Authority and Purpose

13.1 Authority and Purpose

The statutory authority for the rules in this Rule ~~12~~13 is ~~C.R.S.~~ sections 6-1-108(6) and 6-1-1707, C.R.S., and these rules are also developed pursuant to section 6-1-1706(5)(a), C.R.S. The purpose of the rules in this Rule ~~12~~13 is to clarify the scope of the prohibition against false representation pursuant to section 6-1-~~1708~~1710(5), C.R.S. ~~(as enacted by HB26-1263).~~

1213.2False Representation

A. Pursuant to section 6-1-~~1708~~1710(5), C.R.S. ~~(as enacted by HB26-1263).~~, when determining if an Operator used any term, letter, or phrase in the advertising, interface, or outputs of a Conversational Artificial Intelligence Service that states that any output data provided by the Conversational Artificial Intelligence Service is being provided by, endorsed by, or equivalent to services provided by a licensed health-care professional; a licensed legal professional; a licensed, certified, or registered mental health professional; or a qualified dietitian, as described in

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section 6-1-707(1)(b), C.R.S., the Department will consider factors including but not limited to:

1. Whether an Operator implemented controls reasonably designed to prevent the creation of Conversational Artificial Intelligence Service profiles with names that include terms such as “therapy²²,” “therapist²²,” “psychologist²²,” “doctor²²,” “lawyer²²,” “dietitian²²,” or similar words, titles, or abbreviations where the name is likely to cause a reasonable ~~user~~User to believe that the Conversational Artificial Intelligence Service is provided by, endorsed by, or equivalent to services provided by one of the licensed professionals included in section 6-1-~~17081710~~(5), C.R.S. ~~(as enacted by HB26-1263);~~;
2. Whether an Operator implemented controls reasonably designed to prevent the creation of Conversational Artificial Intelligence Service outputs that would cause a reasonable ~~user~~User to believe that the output is being provided by, endorsed by, or equivalent to services provided by a licensed health-care professional; a licensed legal professional; a licensed, certified, or registered mental health professional; or a qualified dietitian, as described in section 6-1-707(1)(b), C.R.S.;

Whether an Operator has advertised or promoted the Conversational Artificial Intelligence Service such that a Consumer would believe that the Conversational Artificial Intelligence Service is provided by, endorsed by, or equivalent to services provided by a licensed health-care professional; a licensed legal professional; a licensed, certified, or registered mental health professional; or a qualified dietitian, as described in section 6-1-707(1)(b), C.R.S.

Rule ~~1314~~ Annual Report**~~1314.1~~ Authority and Purpose**

The statutory authority for the rules in this Rule ~~1314~~ is sections 6-1-108(6) and 6-1-1707, C.R.S., and these rules are also developed pursuant to section 6-1-1706(5)(a), C.R.S. The purpose of the rules in this Rule ~~1314~~ is to clarify the scope, content, and format of the Annual Report required by section 6-1-~~17081710~~(6), C.R.S. ~~(as enacted by HB26-1263);~~

~~1314.2~~ Annual Report Scope

- A. An Operator shall create an Annual Report as required by section 6-1-~~17081710~~(6), C.R.S. ~~(as enacted by HB26-1263);~~
 1. If an Operator creates a report for the purpose of complying with another jurisdiction's law or regulation, that report satisfies the requirements of this 4 CCR 904-6 Rule ~~1314.3~~ and ~~14.4~~ if it is reasonably similar in scope and effect

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to the Annual Report required by ~~these rules~~this Rule 14 and section 6-1-1710(6), C.R.S. If the report is reasonably similar but omits information required by ~~these rules~~this Rule 14 and Colorado statute, the Operator shall submit that report together with an appendix supplying the omitted information.

2. If an Operator has internal documents that contain the same information required by the Annual Report, the Operator may provide those documents to fulfill the report requirement, together with an appendix that references where the required information may be found in the documents.

1314.3 Annual Report Content — Required Information

- A. Pursuant to section 6-1-~~1708~~1710(6)(a), C.R.S. ~~(as enacted by HB26-1263)~~, at a minimum, the Annual Report must include each of the following:
 1. Operator Size. Which of the following tiers the Operator belongs to:
 - a. Tier 1: Greater than 10,000,000 Monthly Active Users;
 - b. Tier 2: Between 5,000,000 and 10,000,000 Monthly Active Users;
 - c. Tier 3: Between 1,000,000 and 5,000,000 Monthly Active Users;
 - d. Tier 4: Between 500,000 and 1,000,000 Monthly Active Users; or
 - e. Tier 5: Fewer than 500,000 Monthly Active Users
 2. Crisis-referral reporting. The number of crisis ~~=service =~~provider referral notifications reported under section 6-1-~~1708~~1710(6)(a)(I), C.R.S. ~~(as enacted by HB26-1263)~~ must be accompanied by the information necessary to interpret that number, as follows:
 - a. Denominator. The Operator must report the total number of conversations over the same reporting period against which the referral count is measured and describe the methodology used to define and count a conversation for purposes of this metric.
 - b. Referral accuracy. The Operator must report the share of its crisis service ~~=~~provider referrals that were directed to ~~user~~User outputs that ~~actually involved~~were determined, using an Evidence-Based Method, to involve suicidal ideation or self-harm risk ~~as identified under an Evidence-Based Method. The Operator must also report the denominator and sample size used to calculate this measure and~~

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describe the validation method. Where such measures can be responsibly estimated, the Operator must additionally report precision, sensitivity or recall, false-positive and false-negative rates, and any material uncertainty associated with those estimates.

- c. Form. The figures required by this section must be reported in the aggregate and must contain no ~~user~~User identifiers or personal information about any ~~user~~User, consistent with section 6-1-~~17081710~~(6)(b), C.R.S. ~~(as enacted by HB26-1263)~~,, and are subject to the trade-secret limitation in section 6-1-~~17081710~~(7)(b), C.R.S. ~~(as enacted by HB26-1263)~~.
3. User Suicidal Ideation and Self-Harm Protocols. The protocols required to be submitted by section 6-1-~~17081710~~(6)(a)(II), C.R.S. ~~(as enacted by HB26-1263)~~ should include descriptions of the policies, procedures, and technical measures a covered Operator uses to detect, remove, and respond to indications of ~~user~~User suicidal ideation or self-harm risk. The description must include detail on the required elements in section 6-1-~~17081710~~(4), C.R.S.
 - a. ~~(as enacted by HB26-1263)~~. The description must be provided in sufficient detail to enable the Department to understand and evaluate each function described.
 - a.b. For each material element of the protocol, the Operator must identify, at a functional level, how and where within the Service the element is implemented or enforced, including whether it operates through model behavior, system-level instructions, automated classifiers or filters, human review, another technical control, or a combination of these mechanisms. For example, such descriptions could include:
 - (1) Whether and when crisis resources are provided and what those resources are;
 - (2) Whether and at what point a situation is elevated to human review;
 - (3) The criteria or thresholds that determine whether a situation is elevated;
 - (4) The circumstances under which the Operator contacts or involves emergency services, law enforcement, or other third

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parties, and the criteria and safeguards governing that decision;

- (5) Any circumstances in which risk is detected but no crisis resource is provided and no human is involved, and the reason;
- (6) The specific methods used to identify potential suicidal ideation or self-harm risk in ~~user~~User interactions, including any automated classification, pattern or keyword matching, and human review;
- (7) The specific risk levels or tiers the Operator distinguishes, if any, and the definition of each;
- (8) How the Operator considers ambiguous or non-imminent indicators of suicidal ideation and self-harm;
- (9) How the Operator considers implicit and explicit risk indicators or suicidal ideation and self-harm in the protocol;
- (10) How the protocol incorporates clinical best practices and research;
- (11) How the Operator evaluates and ~~response~~responds to risk of suicide and self-harm that emerge and escalate through repeated interactions overtime; and
- (12) How the Operator's methods distinguish genuine risk from figurative, hypothetical, or otherwise benign language.

4. Protocols. The protocols required to be submitted by section 6-1-~~17081710~~(6)(a)(III), C.R.S. ~~(as enacted by HB26-1263)~~ are descriptions of the policies, procedures, and technical measures an Operator uses to prevent a Conversational Artificial Intelligence Service from generating a response to a ~~user~~User that describes, instructs, provides means or methods for, encourages, promotes, or otherwise facilitates suicide or self-harm actions.

a. The description must be provided in sufficient detail to enable the Department to understand and evaluate each function described.

a.b. For each material element of the protocol, the Operator must identify, at a functional level, how and where within the Service the element is implemented or enforced, including whether it operates through model behavior, system-level instructions, automated classifiers or

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filters, human review, another technical control, or a combination of these mechanisms. For example, such descriptions may include:

- (1) The specific measures used to prevent such a response, including any output filtering, model training or fine-tuning, refusal behavior, or post-generation review;
- (2) How the Operator tests and improves the effectiveness of these measures, including its handling of instances in which such a response is generated despite them; and
- (3) How the Operator addresses attempts to circumvent these measures.

5. Testing, Monitoring, and Implementation. Pursuant to section 6-1-~~17081710~~(6)(a)(IV), C.R.S. ~~(as enacted by HB26-1263),,~~ the Operator must describe how it tests, monitors, implements, and improves the protocols required to be submitted under section 6-1-~~17081710~~(6)(a)(II) and (III), C.R.S. ~~(as enacted by HB26-1263),,~~ including how it measures the efficacy and reliability of its protocols;; how it identifies, measures, and addresses instances where the protocols fail to perform as intended, including but not limited to failing to detect or identify instances requiring intervention according to the protocols;; how it evaluates whether the protocols continue to perform reliably over time and following material changes to the ~~service,Service;~~ and the specific efficacy and reliability metrics it uses and their values over ~~time~~the Reporting Period.

- (1) To the extent applicable, the Operator must report metrics sufficient to evaluate the efficacy and reliability of the protocols, including performance in structured or standardized testing, post-deployment monitoring or review, multi-turn interactions, and following material changes to the model, safeguards, or Service.
- (2) Where material to interpreting a metric, the Operator must distinguish between relevant stages of the safety process, including detection, blocking before delivery, delivery to a User, escalation or referral, and downstream action. The Operator must also identify material differences in performance across supported languages, interaction modalities, or model

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versions when sufficient data are available to support meaningful comparison.

(3) For each material efficacy or reliability metric reported, the Operator must provide sufficient information to permit the Department to interpret the result, including the reporting period or test date, the model or service version evaluated when material, whether the evaluation was conducted before or after deployment, and any material limitations on the evaluation.

- B. Verification. ~~The~~Subject to section 6-1-1710(7)(b), C.R.S., the Department may request that an Operator produce underlying documentation, source materials, records, or a demonstration sufficient to verify any element of the ~~submission.~~the Annual Report. The Operator must comply within 30 days.

~~1314.~~4 Additional Metrics — Age Estimation and Sexual-Content Safeguards

- A. In addition to the information required by 4 CCR 904-6 Rule ~~1314.~~3, and pursuant to section 6-1-~~17081710~~(6)(IV), C.R.S. ~~(as enacted by HB26-1263),~~ the Annual Report must include the following information concerning the Operator's age-estimation duty under section 6-1-~~17081710~~(2), C.R.S. ~~(as enacted by HB26-1263)~~ and the sexual-content safeguards ~~under section~~ under section 6-1-~~17081710~~(2)(c), (e), and (f), C.R.S. ~~(as enacted by HB26-1263):~~
1. User age distribution. The distribution of the Operator's ~~users~~Users by Age Category disaggregated by Conversational Artificial Intelligence Service to the extent they operate more than one.
 2. Age-estimation methodology. A general description of the age estimation methods used by the Operator ~~uses~~ to meet the requirements of section 6-1-~~17081710~~(2), C.R.S. ~~(as enacted by HB26-1263),~~ including the technologies or signals used and how the Operator avoids willfully disregarding clear and convincing information that a ~~user~~User is a ~~minor~~Minor.
 3. Minor-protection methodology. A general description of the methods used by the Operator ~~uses~~ to meet the requirements of section 6-1-~~17081710~~(2)(c)-(f), C.R.S. ~~(as enacted by HB26-1263),~~ including how these methods account for risks that accumulate over time through continuous interaction with the Conversational Artificial Intelligence Service.

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4. Reports and detections that a ~~user~~User is a ~~minor~~Minor. For the reporting period, the Operator must report:
 - a. The number of reports the Operator received from a person other than the Operator that a ~~user~~User is a ~~minor~~Minor;
 - b. Of the reports in (a), the number for which, by the end of the reporting period, the Operator (i) determined the ~~user~~User to be a ~~minor~~Minor, (ii) determined the ~~user~~User was not a ~~minor~~Minor, or (iii) had not made a determination;
 - c. The average and median time between the Operator's receipt of a report in (a) and its determination.
 - d. The number and percentage of ~~users~~Users whom the Operator initially estimated to be adults but subsequently determined to be ~~minors~~Minors, and to be ~~minors~~Minors but subsequently determined to be adults.
5. Reports and detections that a ~~minor~~Minor experienced prohibited content or ~~ana prohibited~~ interaction: as addressed in section 6-1-1710(2)(c).
 - a. This subsection applies to the following outputs and interactions as addressed in section 6-1-~~1708~~1710(2)(c), C.R.S. each as presented to or experienced by a ~~minor~~Minor:
 - (1) A depiction of explicit sexual conduct as defined by section 6-1-1701(10.5), C.R.S.;
 - (2) An intimate digital depiction as defined by section 6-1-1701(12.5), C.R.S.;
 - (3) A statement that the ~~minor~~Minor should engage in explicit sexual conduct; and
 - (4) An erotic or sexually explicit interaction with the ~~minor~~Minor.
 - b. For each category in subsection (a), the Operator must report, for the reporting period:
 - (1) The number of instances in which a person other than the Operator informed the Operator that a ~~minor~~Minor was presented with an output, or experienced an interaction, involving that category;

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- (2) Of the reports in paragraph (b)(1), the number the Operator determined to be true, the number it determined were not true, and the number on which it had not made a determination by the end of the reporting period;
- (3) The number of instances in which the Operator itself identified, without a report from another person, that a ~~minor~~Minor was presented with an output or experienced an interaction involving that category; and
- (4) The average and median time between the Operator's receipt of a report described in paragraph (b)(1) and its resolution of that report. A report is resolved when the Operator has completed its review of it.

1314.5 Process to Submit the Annual Report

- A. Pursuant to section 6-1-~~17081710~~(6)(a), C.R.S. ~~(as enacted by HB26-1263)~~, an Operator shall submit an Annual Report to the Attorney General's office on or before July 1, 2027, covering ~~the preceeding~~ calendar year ~~2027~~, and on or before July 1 of each year thereafter, covering the preceding calendar year.
- B. An Operator shall submit the required Annual Report to the ~~attorney general's~~Attorney General's office through the form available on the ~~attorney general's~~Attorney General's website, located at <https://coag.gov/AI/>.

Rule 1415 Incorporations by Reference**14.1 Web Content Accessibility Guidelines**

- A. The Web Content Accessibility Guidelines, version 2.2 of December 12, 2024, from the World Wide Web Consortium, are hereby incorporated into 4 CCR 904-6, ~~Rule 3-2-by6by~~ reference pursuant to section 24-4-103(12.5), C.R.S., and do not include any later amendments.
 1. Copies of the Web Content Accessibility Guidelines that are incorporated by reference into these rules may be obtained by sending a written request to the following address by U.S. mail:

Colorado Department of Law

Ralph L. Carr Judicial Center

1300 Broadway, 9th Floor

Colorado Department of Law

Denver, CO 80203

2. The Web Content Accessibility Guidelines published by the World Wide Web Consortium incorporated by reference into these rules are available at no cost in an electronic form online at <https://www.w3.org/TR/WCAG22/>.
3. The Colorado Department of Law also maintains a copy of the Web Content Accessibility Guidelines that are incorporated by reference into these rules that is available for public inspection at the Colorado Department of Law's office at 1300 Broadway, 9th Floor, Denver, CO 80203 during regular ~~deployer~~business hours.

14.215.1 ISO/IEC 27566-1:2025 and IEEE 2089.1

- A. The International Organizations for Standardization(ISO) and the International Electrotechnical Commission (IEC) standard ISO/IEC 27566-1:2025: Information security, cybersecurity, and privacy protection – Age assurance systems, is (December 2025), and the Institute of Electrical and Electronics Engineers (IEEE) Standard 2089.1 (May 24, 2024), are hereby incorporated into 4 CCR 904-6 ~~Rule 9.2 by 10~~by reference pursuant to section 24-4-103(12.5), C.R.S. No later editions or amendments are incorporated.

1. Copies of ISO/IEC 27566-1:2025 and IEEE 2089.1 that are incorporated by reference into these rules may be obtained by sending a written request to the following address by U.S. mail:

Colorado Department of Law

Ralph L. Carr Judicial Center

1300 Broadway, 9th Floor

Denver, CO 80203

2. ISO/IEC 27566-1:2025 incorporated by reference into these rules is available for purchase in an electronic form online at <https://www.iso.org/standard/88143.html>.
3. IEEE 2089.1 incorporated by reference into these rules is available for purchase in an electronic form online at <https://standards.ieee.org/ieee/2089.1/10700/>.
- ~~3.4.~~ The Colorado Department of Law also maintains ~~a copy~~copies of ISO/IEC 27566-1:2025 and IEEE 2089.1 that are incorporated by reference into these

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rules that [isare](#) available for public inspection at the Colorado Department of Law's office [at 1300 Broadway, 9th Floor, Denver, CO 80203](#) during regular business hours.