



## Newsom on GenAI: Executive Order Mandates Ethical Innovation in View of Risk

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The development of artificial intelligence (AI) and particularly Generative Artificial Intelligence (GenAI) has exploded in recent years, prompting government officials including the Biden administration to call for studies and recommendations that will likely lead to regulation on both the federal and state levels. With 35 out of 50 of the world's leading AI tech companies based in California, the state's Governor Gavin Newsom has stepped into the GenAI arena by issuing a September 6, 2023 executive order (EO) outlining steps to “foster[] a safe and responsible innovation ecosystem.”

The EO establishes several milestones that California state agencies must meet in the coming months, both to advance and support innovation in the GenAI space and to analyze and mitigate related risks. Importantly, the EO lends insight into the aspects of public services Newsom may view as particularly vulnerable in the context of GenAI deployment, as well as the state government's role in protecting the public from those risks. Key mandates from the EO include:

- **Critical Infrastructure Risk Assessment:** Beginning with the energy infrastructure, agencies must prepare a joint risk analysis of potential threats to and vulnerabilities of California's critical government infrastructures and provide public recommendations to prevent these threats and vulnerabilities.
- **Vulnerable Communities:** State agencies must develop guidelines for evaluating the impact that adopting a GenAI tool may have on vulnerable communities.
- **Public Sector GenAI Procurement:** Agencies must develop guidelines for GenAI procurement, uses, and required trainings, along with an inventory of all current high-risk uses of GenAI, which must be regularly maintained by dedicated senior-level

management personnel. The California Department of Technology must also establish an infrastructure to conduct pilots of GenAI projects and provide that infrastructure to other state agencies.

- **Collaboration with Higher Ed:** The Governor’s Office of Business and Economic Development must establish formal relationships with the University of California, Berkeley, and Stanford University to evaluate the impact of GenAI on California and promote the state as an industry leader.

The Governor’s foray into the GenAI sphere signals growing concern over the rapid expansion of this nascent technology in a largely unregulated environment. While the EO focuses on the public sector, the private sector should take notice, as the reports and recommendations that will flow from this EO will provide valuable insights into the aspects of GenAI most likely to garner regulatory scrutiny in the future.

Please contact a member of Akin’s cybersecurity, privacy and data protection team to learn more about how Governor Newsom’s executive order may impact your company’s AI use, development or deployments.

## Categories

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