Overrelying on employee referrals? Beware of the legal risks

Employee-referral programs have become one of the most successful and least expensive recruiting strategies. But even with their popularity, employee-referral programs can be double-edged swords.

Relying too much on employee referrals can place your organization at risk of not only poor hiring decisions, but also discrimination charges. The problem? Employees tend to refer people like themselves, which may eliminate any chance of work force diversity. Consider these two examples:

Case 1: Carl Buddig & Co., a meat processing company, recently agreed to pay $2.5 million and change its hiring practices to end a two-year spat with the Equal Employment Opportu-nity Commission (EEOC). The EEOC sued after its investigation showed that African-American applicants were rarely hired at Buddig, and that women were steered to the lowest-paying jobs.

The EEOC said a key factor in the company's problems was an over-reliance on employee referrals when making hiring decisions. The company was much more likely to hire applicants referred by employees than from any other source.

If the employee-referral program "leads to applicants or hires who all share the same race or ethnicity, an employer may be steering into rocky waters," warned Ethan Cohen, the EEOC trial attorney who led the government lawsuit. (EEOC v. Carl Buddig & Co., No. 02 C 2240, N.D. Ill.)

Case 2: The Palm Restaurants were targeted last year by the EEOC, which said the restaurant group failed to recruit and hire women for server positions. The problem: As the restaurants grew rapidly, they recruited solely through employee referrals. The Palm settled the EEOC probe by agreeing to pay $500,000 and developing an extensive diversity program and training its managers and employees.

Legally safe referrals: 9 steps

So how can you structure a productive, yet legally sound employee-referral program? Follow these nine tips:

1. Limit the use of referrals to no more than 40 percent of hires. Don't make it your only recruiting tool. Be able to show that your recruiting process is nondiscriminatory and reaches out to a broad applicant pool.

2. Let everyone participate; don't exclude certain groups. You can encourage high performers to refer colleagues and friends, but make your program open to all employees. And don't accept referrals only for certain job types or jobs in certain departments. You don't want to risk creating a "culture club" mind-set. Too many referrals from the same group of employees can create a group apart from your "mainstream" staff.

3. Spread the word about open positions via several channels, including e-mail alerts, newsletters, your Web site, career fairs and public job advertising. Always post jobs internally and externally. A broad advertising effort is a good defense against bias charges.

4. Urge managers to resist (and don't exert) peer pressure to hire family members and friends just because of the relationship. Apply the same qualifications to all applicants and communicate the job-related reasons behind every decision.

5. Don't use referrals as a "shortcut." It's tempting to shave time off your search, but remind hiring managers that their goal is to find the best-qualified person, not the easiest option.

6. Verify referrals' qualifications just as thoroughly as you would outside candidates. Don't ease up on prescreening, reference checks or background checks just because an employee can vouch for the person.

7. Compare final candidates' rÈsumÈs prior to approving a hire to ensure that quality, and not familiarity, was the primary hiring factor.

8. Keep employee-referral rewards attractive but reasonable. Money or prizes can be a motivator, but it shouldn't be the main one.

9. Keep an ear to the ground. Even though you think your recruiting and referral methods aren't discriminating, some employees may see things differently. If an employee cries foul, take a fresh look at the referral program's fairness.

Employers fine tune their employee-referral programs

In recent years, more employers have altered their employee-referral programs. Here's a rundown of the most-popular changes and the percentage of employers taking those actions:

Increase incentive value 30%

Take the program online 7

Broaden the scope 7

Decrease incentive 3

Extend to nonemployees 2

Narrow the scope 2

Source: Society for Human Resources Man-agement/Referral Networks survey of 1,288 HR professionals

Where do new hires come from?

Internal transfer/promotion 35.0%
Internet 31.8
Employee referrals 28.5
Newspapers 3.8
Career fairs 2.8
Direct sourcing 2.6
College 2.4
Third-party recruiters 1.2
Source: CareerXroads study of 130 employers