

Is illegal bias lurking in your online job ad?

These days, most managers and HR professionals know to avoid putting blatantly discriminatory requests—such as “recent college grad” or “busboy”—into their job advertisements. But that doesn’t mean want-ad bias is dead.

Some employers are trying to use subtle online recruiting practices that have the same unlawful effect. But the courts, EEOC and legal watchdog groups are catching on.

On Sept. 18, the ACLU filed an EEOC complaint against Facebook — plus 10 employers that use Facebook to post ads — saying the social media giant used its ad-targeting features to exclusively target men in online ads for police officers, construction workers, truck drivers and sales staff.

“This type of targeting is as illegal now as it was in 1964 when the Civil Rights Act was passed,” said Galen Sherwin, an ACLU senior staff attorney. “(Facebook) essentially acts as a recruiter connecting employers with prospective employees. In this context, it should be legally accountable for both creating and delivering these discriminatory ad campaigns.”

Age-bias also targeted. Facebook and other online forums are also under fire for using age-filtering tools to restrict their job announcements to target younger candidates. Example: a Verizon job ad allegedly appeared only in news feeds for people in the Washington, D.C. area who were 25 to 36 years old and had demonstrated an interest in finance. Other large employers such as Amazon, Goldman Sachs and Target allegedly used similar online screening tactics.

The AARP recently complained that dropdown forms on some online job applications don’t allow applicants to enter information prior to the 1980s. Other forms asked for age and don’t allow applicants to skip the question.

In a recent experiment, Tulane University researchers applied for 13,000 online job postings in 12 cities. Three identical résumés were submitted for each job, differing only by the age of the applicants. The results? Identically skilled older candidates received significantly fewer calls for interviews than younger candidates.

Advice: These days, overt bias is the exception, not the rule. Regularly audit your online recruiting systems for problems that unintentionally screen out applicants based on protected characteristics (age, sex, race, national origin, religion and disability).

QUIZ: Spot the legal errors in this 1860s job ad

The EEOC wasn’t around in 1860 to hunt down discriminatory hiring practices—it was truly the wild west in terms of hiring. But what if this real-life Pony Express want ad from the 1860s was printed in your local newspaper today? See how many contemporary employment law violations you can spot.



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“Fellows.” It would be sex discrimination to consider only men for a position, unless gender is a bona fide occupational qualification—likely not the case for a Pony Express rider.

“Not over 18.” Child labor violations, anyone?

“Willing to risk death.” It is a good thing for the Pony Express that OSHA did not exist in the 1860s. It would have taken issue with a job that requires its employees to risk death as one of its essential functions.

“Orphans preferred.” Anti-discrimination statutes do not expressly protect family status. The EEOC, however, considers family status worthy of special protection.

“Wages \$25 per week.” Congress did not enact a minimum wage until 1938. Today’s federal minimum wage is \$7.25 per hour. Many states are higher. It would be hard to travel by horse from Missouri to California in 10

days with only three hours of work permitted.