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Beware the legal risks of résumé-screening software

Some employers turn to electronic résumé-screening services to sift through the increasing number of job applications submitted online.

The services help weed out applicants who appear to lack qualifications. But this convenient shortcut can create hidden liability.

If the screening results show a disproportionately negative impact on minority applicants or applicants over age 40, your company (not the screening service) could be liable under job anti-discrimination laws.

You typically can prevent disparate-impact lawsuits — those in which your hiring practices appear to be neutral but actually have an unequal impact on a "protected" group of people — by monitoring the results of any pre-employment test.

The federal Equal Employment Opportunity Commission suggests that you use the "80 percent" rule: If minority-pass rates for a test are less than 80 percent of the rate for majority applicants, the test is considered to exert a disparate impact on minorities.

But remember: That's a general rule, not a government regulation.

Key point: It's best to use pre-hire tests that show no disparate impact. But just because a test doesn't exert a discriminatory impact on minorities, that doesn't mean it's automatically legal. Employers can avoid liability in such cases by showing that the test serves a legitimate business purpose.

You must test how applicants will respond to real conditions on the job.

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