

This copy is for your personal, non-commercial use only. To order presentation-ready copies for distribution to your colleagues, clients or customers visit <http://www.djreprints.com>.

<https://www.wsj.com/articles/SB10000872396390443890304578006283936708970>

MANAGEMENT

Do New Job Tests Foster Bias?

As More Companies Adopt Personality Screening, Questions of Legality Emerge

By Joseph Walker

Updated Sept. 20, 2012 12:01 a.m. ET

As more companies turn to online pre-employment tests, complaints of bias are cropping up.

One came from Vicky Sandy, who in 2007 was turned down for a cashier job at a Kroger Co. supermarket in West Virginia after taking a 50-question test that asked her to rate the degree to which she was self-confident, always cheerful, and tried to sense what others thought and felt.

Put Your Work Style to the Test
Here are sample questions that job applicants may see on a pre-employment test, and a key to the personality types they reflect.

Instructions: Of the paired statements below, choose the statement that best represents you:

1. It's usually better to try to change your own behavior than try to change others. (A) I like to relax as long as it doesn't interfere with work. (B)
2. People often underestimate the hardships others have faced in their lives. (B) I prefer to jump right into a task rather than spend time planning out the details. (C)
3. I get a great deal of energy from trying new things. (C) I like setting goals and tracking progress in my activities. (D)
4. It takes a lot to really upset me. (A) It's usually best not to express your emotions at work. (B)

Answer Key: The personality traits revealed by the test give employers a sense of how a person might fit—or not—in a particular role.

(A) You're likely to be viewed as easy going and more likely to avoid conflict when possible. **Potentially good for an employee trainer job.**

(B) People who know you may think of you as thoughtful and pragmatic. **Potentially good in a Web customer service role.**

(C) Friends and coworkers tend to describe you as assertive and persistent, and as someone who doesn't shy away from taking risks. **Potentially good for a sales role.**

(D) You tend to be detail-oriented. You may view yourself as a giver and someone who thinks about the long-term implications of your actions. **Potentially good for a data-entry job.**

Source: Evolv Inc. The Wall Street Journal

The test was meant to predict whether Ms. Sandy, who is hearing and speech impaired, would be friendly and communicate well with customers. She scored 40%.

A post-test report said that she was less likely than other potential applicants to "listen carefully, understand and remember" and suggested the job interviewer listen for "correct language" and "clear enunciation," court documents say. Suggested interview questions included "Describe the hardest time you've had understanding what someone was talking about."

Ms. Sandy filed a complaint with the Equal Employment Opportunity Commission alleging she had been discriminated against because of her disability. The EEOC is investigating. Kroger declined to comment.

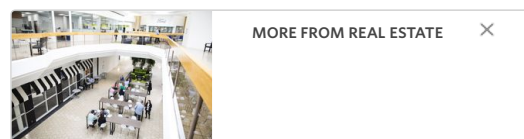
Companies are increasingly turning to firms that screen job applicants on the basis of personality tests backed up by reams of data on job performance. The practice is legal as long as it doesn't intentionally discriminate against job applicants on the basis of traits like race or gender.

Employment lawyers say that access to large data sets can help companies show that their tests are relevant to hiring. But some worry that

as the number of applicants subjected to such tests increases, so do risks that unintentional impacts on protected groups will become apparent.

"The bigger the data set, the more people being pushed through these assessments, the greater the risk for the employer," says Matthew Camardella, an employment lawyer at

<https://www.wsj.com/articles/SB10000872396390443890304578006283936708970?mg=prod/accounts-wsj>



MORE:

- Meet the New Boss: Big Data
- Big Data Upends the Way Workers Are Paid

Jackson Lewis LLP.

"What's happened is technology has caught up, and it's allowing organizations and vendors to use these tools at a much broader level and much, much more often," says Eric

Dunleavy, a principal consultant at DCI Consulting Group Inc., which advises employers on avoiding employment-discrimination claims.

Employers can be held liable even if the tests they use inadvertently exclude protected groups, a growing risk as data sets get bigger and testing firms turn up more statistical relationships. If complaints are filed, companies have to be able to prove the measured variables are linked to job performance.

On Sept. 4, the EEOC released a draft enforcement plan for the coming four years that gives claims of systemic discrimination in recruitment and hiring, including pre-employment tests, the highest enforcement priority.

"The EEOC is very aware of those products, and they're looking for the right opportunity to go after employers" who use them, says Mr. Camardella.

So far, legal challenges are relatively rare. The EEOC received 164 complaints related to testing in 2011 out of nearly 100,000 complaints. Part of the reason is that job applicants often don't get to see their test scores or application summaries.

"You don't get the results back in the employment context, so you don't know whether it was the test or what part of the test that made you fail," says employment lawyer Condon McGlothlen of Seyfarth Shaw LLP. "There are so many more unknowns, particularly in the application stage."

In July, Denver-based mozzarella maker and government contractor Leprino Foods Inc. settled Labor Department hiring-discrimination charges. It agreed to provide \$550,000 in back pay to African-American, Hispanic and Asian applicants denied laborer jobs after failing a pre-hire test called WorkKeys. A spokesman said Leprino no longer uses a pre-employment test.

The government's Office of Federal Contract Compliance Program, which enforces affirmative-action requirements among federal contractors, found that the test's focus on math and observation skills wasn't relevant to the entry-level jobs on offer.

While WorkKeys was a paper test when the complaint was filed in 2005, the subsequent rise of online testing has enabled firms to screen huge numbers of candidates.

Write to Joseph Walker at joseph.walker@dowjones.com

Copyright ©2017 Dow Jones & Company, Inc. All Rights Reserved

This copy is for your personal, non-commercial use only. To order presentation-ready copies for distribution to your colleagues, clients or customers visit <http://www.djreprints.com>.



MORE FROM REAL ESTATE

