Selection Processes: Legal or Illegal?

1. You are the vice-president of a large corporation involved in the manufacture of electric vehicles. You are currently looking for an administrative assistant, and you have a strong belief in using the zodiac to predict success on this job. In fact, your experience has been that only Leos and Scorpios can be effective administrative assistants. Therefore, your selection system consists of one question: “What’s your sign?”

Legal \_\_\_\_\_\_ Illegal \_\_\_\_\_\_

1. A Chinese family runs a small Chinese restaurant. Employees include one dishwasher, three waiters, two busboys, and one cashier/hostess. They are looking for another waiter for the lunch shift, and they refuse to hire anyone who is not Chinese.

Legal \_\_\_\_\_\_ Illegal \_\_\_\_\_\_

1. A large chain of gentlemen’s clubs named “Bear Nakeds” has a staff of 400 strippers nationwide. Recently, they were approached by a male cross-dresser interested in stripping for the club. He was denied an interview because he was told he had “the wrong equipment for the job.”

Legal \_\_\_\_\_\_ Illegal \_\_\_\_\_\_

1. John had been a manager for the Texas Roadhouse restaurant chain for over 10 years. His chance for advancement had finally come when the regional manager was transferred to another office. The rejection letter John received included the statement: “Texas Roadhouse is committed to increasing diversity in upper-management. As a White male, you do not have the characteristics that help us move toward our goal of greater diversity in the executive ranks.”

Legal \_\_\_\_\_\_ Illegal \_\_\_\_\_\_

1. You are given an application for a job at Uber. One of the questions on the application reads: “Have you ever been arrested?”

Legal \_\_\_\_\_\_ Illegal \_\_\_\_\_\_

1. Ken, a 35 year-old professional, applied for an executive job Stark Industries. Although his skills and experience matched the competencies necessary for the job, he did not get the job. Privately, he was told that, although the company liked his qualifications, he simply looked too young to be an executive.

Legal \_\_\_\_\_\_ Illegal \_\_\_\_\_\_

## Exercise 3.1 Federally Protected Classes

Your text indicated that several groups were protected by federal equal opportunity legislation. In these examples, indicate whether the group in question would be considered a *federally* protected class. In making your decision, do not take into account who you think would win the case. Instead, base your answer only on whether the person making the complaint is in a federally protected class. Assume that each organization has at least 15 employees.

Federally Protected Class?

|  |  |  |
| --- | --- | --- |
| 1. A recently retired military veteran was not offered a job for which she was qualified. | No | Yes |
| 2. A Mormon says his religion forbids him to work on certain days. | No | Yes |
| 3. A person who is hearing impaired claims she is disabled. | No | Yes |
| 4. A gay applicant wasn’t hired because of his sexual orientation. | No | Yes |
| 5. A male wasn’t hired for a sales position in a retail store specializing in women’s shoes. | No | Yes |
| 6. A 24-year old woman wasn’t hired for a managerial position because she was too young. | No | Yes |
| 7. A Norwegian applicant claimed he wasn’t hired because a Chinese restaurant hired only Asians. | No | Yes |
| 8. A light-skinned African American would not hire a dark-skinned African American. | No | Yes |
| 9. A store wouldn’t hire anyone with a college degree because it thought they were snobs. | No | Yes |
| 10. A fast-food chain refused to hire any males with long hair. | No | Yes |

## Exercise 3.3 Responses to Adverse Impact

In the text you learned that, if adverse impact occurs, an employment practice can still be legal if it is job related (valid), is the result of a *bona fide* seniority system, is in use due to national security concerns, or was implemented to provide veterans with preferential hiring. In these examples, indicate the extent to which you think the employment practice will be found to be legal.

1. Applicants for patrol officer positions with the city of Fort Worth, Texas, are administered a cognitive ability test. The average score on the test is 70. All applicants who served in the U.S. armed forces automatically get 5 points added to their scores. Adverse impact occurs because 20% of male applicants and 5% of female applicants are veterans. Is this practice legal? Why or why not?
2. The cognitive ability test described above also results in adverse impact because 80% of White applicants passed the test compared to 60% of African American applicants. Scores on the test correlate significantly (r

= .45) with performance in the police academy. None of the other tests looked at by the City predicted academy or job performance. Is this practice legal? Why or why not?

1. According to the contract between the union and the company, every employment decision at the Lohan School of Driving is based on seniority. That is, the employees who have been at Lohan the longest get first opportunity for promotions, working the day shift, and not working overtime. Due to a decline in business, Lohan must lay off 20 employees. On the basis of seniority, 10 of these employees are African American and 10 are White. Of the 200 employees who will keep their jobs, 180 are White and 20 are African American. Is this practice legal? Why or why not?

## Exercise 3.4

**Legality of Employment Practices**

Use the legal issues flowchart in Figure 3.2 on page 83 of your text to decide if the following situations would be legal. Be sure to state your logic at *each stage* of the flowchart.

1. Chef Gordon Ramsey is boiling mad at his HR manager. The manager will not hire anyone whose shoes are not well polished when they come to the interview. Ramsey doesn’t know how the manager cooked up such a requirement and has been stewing about whether the requirement is legal. What would you tell him?
2. A court system is about to fill an opening for the position of Victim’s Advocate. The position involves working with women who have been sexually assaulted. The court has decided that it will only fill the position with a female because all of the victims are women and the crimes were sexual in nature. Would this be legal?
3. To get a job at the Arsonville Fire Department, applicants must pass a mechanical ability test. An extensive study found that the test correlates significantly (r = .30) with performance. During the current testing period, 20% of male applicants and 10% of female applicants passed the test. The Fire Department tried to find a test with less adverse impact but was unable to do so. Would the use of the test be legal?

## Exercise 3.5 Sexual Harassment

In Chapter 3, you learned that there are two types of sexual harassment, quid pro quo and hostile environment. In the situations below, indicate if the situation represents a case of quid pro quo, hostile environment, or no sexual harassment.

1. A supervisor tells his assistant that if she won't sleep with him, she will never get a raise or a promotion.

Quid pro quo Hostile environment No sexual harassment

1. At least twice a week during work hours, Fred tells Britney that she looks nice. Britney is a bit of a flirt and seems to like the attention Fred gives her.

Quid pro quo Hostile environment No sexual harassment

1. Emma asks Ethan out on a date. He is not really interested in her and he declines. For the next two months, Emma asks Ethan out every week and each time he says no. He is so tired of the situation that he brings the matter to his supervisor.

Quid pro quo Hostile environment No sexual harassment

1. Jacob usually addresses his female coworkers as “honey.”

Quid pro quo Hostile environment No sexual harassment

## Exercise 3.7 Employee Privacy Issues

In Chapter 3, you learned that drug testing, office and locker searches, psychological testing, and electronic surveillance can pose potential legal problems due to invasion of privacy. In the following examples, indicate whether you think an invasion of privacy occurred.

1. A retail store places cameras in each corner of the store to prevent shoplifting and employee theft. The only place the cameras can't see are the dressing rooms. Is this an invasion of privacy? Why or why not?
2. During a polygraph test, a police department asks applicants how many people they slept with in the past five years. Is this an invasion of privacy? Why or why not?
3. A manufacturing company assigns each employee a locker and requires that the employees provide their own combination locks. The company suspects that several of the employees are drinking on the job, so it cuts the locks and inspects the lockers. Is this an invasion of privacy? Why or why not?
4. Siesta County has a new drug testing policy in which, weekly, it will require 30 randomly chosen employees to provide a urine sample. To ensure that the employees are not cheating, a monitor will observe the employee as he or she provides the urine specimen. Is this an invasion of privacy? Why or why not?

## Exercise 3.8

**Testing Your Legal Knowledge**

You have just been hired as the employment law expert for a new NBC call-in show, *Can I Sue?* What would you tell the caller asking the following questions? Be sure to include the rationale for your answer as well as the law on which you are basing your answer.

* 1. I am one of 25 employees in my company. I want to have a baby but my boss says that the company will not grant me leave. Can they do this?
  2. I was burned badly as a child, and as a result, I have scars all over my face. I can’t seem to get a job at McDonald’s, Wendy’s, or Burger King because they think my looks will turn off the customers. Can they do that to me?
  3. My male supervisor walks behind all of his employees and rubs their shoulders before asking, “How is it going today?” Isn’t this sexual harassment?
  4. A woman at work has sent me 15 love letters. After the third letter, I told her to stop. She continued sending the letters that included such statements as “I have enjoyed watching you so much over these past few months” and “I constantly imagine us in bed together.” Isn’t this sexual harassment?
  5. Nine months ago I was refused a job. I think it was because I am Italian. Can I file a complaint with the EEOC?