

October 13, 2014

Letter to the Editor
Wall Street Journal

Re: Article Clarifications

Dear Editor:

We represent the Association of Test Publishers (“ATP”). ATP is a highly respected resource and its members include over 150 of the largest test publishers within North America, Europe and Asia. In our opinion, the recently published article entitled “Are Workplace Personality Tests Fair” contained confusing information; we think your readers would be interested in the following insights.

First, it is important to distinguish between the two main types of personality tests. Broadly speaking, there are clinical personality tests that have been developed to identify and assess emotional stability, often in medical settings. These tests typically ask questions and provide data on a person’s disabilities. Pursuant to the Americans with Disabilities Act, because such tests focus on disabilities, they can only be administered to job applicants after a conditional offer of employment has been tendered. Moreover, these tests are used almost exclusively for screening for safety-sensitive jobs (e.g., commercial pilot, police officer), where emotional stability is a strong and critical job-related requirement, which justifies their use in these limited settings.

In contrast, the personality tests, on which the article focuses, are assessments that were developed specifically for workplace hiring and are designed to provide insight on such things as human relations skills, leadership ability, turnover propensity, customer service skills, rule compliance, motivation and sales skills. Parenthetically, contrary to the article’s assertion that these tests are based on a psychological model from the 1930s, they are typically based on the currently, well accepted Big 5 Model, which gained prominence in the 1990s. Moreover, professional publishers review and research their test items to help ensure that they do not identify or penalize individuals on the basis of a disability. The Equal Employment Opportunity Commission (“EEOC”) provides extensive guidance (e.g., *Enforcement Guidance: Preemployment Disability-Related Questions and Medical Examinations*, 10/10/95) that is used by test publishers and their customers in helping ensure compliance. Even if such testing was shown to discriminate inadvertently against a disabled individual, the legal framework for justifying the use of these personality tests is the same as that for other forms of discrimination (e.g., race, gender), namely, there must be a showing of validity to justify the assessment’s use.

As a final note, the article implies that there is a rather significant backlash against employers’ use of personality tests. This implication is apparently based on a single complaint filed by the ACLU with the Rhode Island Commission for Human Rights and

8 EEOC complaints filed in the last 7 years. Just to provide some perspective, the EEOC typically receives between 80,000 and 100,000 complaints per year. Also, while the article characterizes the father filing the seven suits on behalf of his son as a retired lawyer, according to LinkedIn, for over 3 years he has been: “Leading an interdisciplinary group of professionals challenging the use of pre-employment personality testing and other elements of workforce science and talent analytics.” Obviously, this individual has a significant bias against personality testing.

While these comments are not exhaustive, we believe they should provide a bit more insight regarding the article’s subject matter. In the future, if you are interested in developing an article focusing on testing (employment, certification, educational, clinical), we or any of our members would be willing to assist you in identifying the most accurate and fact-based information possible.

Very truly yours,

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