

# Legal and ethical issues of discrimination



In an effort to curtail discrimination, implementing new strategies and proposing these new hiring practices are vital. It is not a good ethical policy for employees to be able to screen and pick and choose who gets to be interviewed, as in this case. Company hiring practices if done with good judgment and a strong moral and ethically correct agenda, can benefit the organization as a whole. Furthermore, discrimination in the workplace is disruptive and harmful to the effects on business operations and its culture, whether in the present or the past. By getting rid of old outdated policy and allowing for more diverse interaction with employees, we can create a multi-cultural environment. Also reciprocating this is the fact that managed correctly, the atmosphere will cause increases in retention rates and reduce turnover. Because our time was put into defining specific goals of the organization, that needed to be met to receive consideration for employment. Therefore, this organization needs a more efficient way to determine the necessary steps in the hiring procedure. The current process of hiring prospective employees is based on a biased view that too much diversity is a bad thing. New employee assessments are needed to help predict whether potential hires are motivated by the factors associated with a particular job. It is true that companies have to be cautious and should be concerned about negligent hiring but outright discrimination is an undesirable practice. Making sound hiring decisions and performing detailed background checks on qualified potential employees can decrease employment risks later caused by premature termination. (Berris, 2009) This company is small but can benefit from forming a streamline, non-negligent hiring process, by setting up a structured, non-discriminatory process for existing and new hires. Negligent hiring means the company can be put into

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legal trouble if it could have foreseen a potential issue but acts negligently by not doing a thorough check of the new employee, before hiring. This company had a tendency to overlook steps to reduce the likelihood of a hiring mistake. This company looks past a lot of qualified employees due to its biased hiring practices and may hire problem employees unknowingly. This potential failure is heightened because management chooses to hire off of appearance and fails to accurately assess a potential employee's way of thinking and handling situations or their particular skill needed for the job. Quality, knowledge and skill sets need to be the reason for hiring/not hiring someone, not their appearance and this is how you decide who to hire. (Aly & Shields, 2010)

When individuals are discriminated against because of defining characteristics such as their race, gender or age, this is some of the most blatant forms of discrimination. Personally, I believe the most qualified person should receive the job, regardless of race, ethnicity. If discrimination does not exist, it certainly has a solid historical foundation for its existence. As evidenced in this scenario, a potential employee is shut out of the hiring process, based solely on his ethnicity. When employers violate workplace discrimination laws, legally they can be sued by the person or persons and receive bad publicity and other consequences. Discrimination occurs when an employee suffers from unfair treatment due to their race, religion, national origin. Proving discrimination is difficult as it can occur in a number of work-related areas, during your initial hiring phase, during training or even after you get the job and have to participate in job evaluations. According to Smith, unfair treatment does not necessarily equal unlawful discrimination,

treating a person differently from others violates Equal Employment Opportunity (EEO) laws only when the treatment is based on the presence of a protected section under discrimination, rather than on the job performance. As far as ethnicity goes, Americans come in every colour shape and size and a successful business is one that understands its customers and knows how to meet their needs. (2010) The more diverse an organization is, the more likely it becomes a center piece of the community.

Affirmative action helps to cut down on discrimination, past and present, but it is not a complete solution. The objective of its policies include the elimination of hiring and advancement discrimination; ensuring multicultural employment and to achieve a diverse and much more representative workforce. The results guide a prospective manager about how best to motivate, manage and develop potential employees in a new role. It has helped but the effort to increase the number of minorities in upper management and leadership roles in educational institutions is still a struggle and needs to continue. Needless to say there is a long history of racism and discrimination against blacks and minorities, which went unnoticed. Where was the need to strive for equality then as it is now? The evidence of all types of discrimination against minorities led to a decisive need for action, ethics and morals were the same then as they are now. Ethics are the societal application of what is right and wrong while morals are an individual's belief of what is right and wrong. Is one to say that the U. S lacked morals and good ethical practices and this is why the need for affirmative action gave rise? Morals are instilled in every man woman and child, it is a sense of what is right and wrong and good ethical behavior

builds off of good morals. There is no doubt that affirmative action has helped with the vast gap between blacks and whites in areas such as education, employment. Those that do not share positive views on affirmative action will state that it is discrimination to harbor or give away special considerations and benefits on the foundation that people have certain characteristics. Affirmative action programs that benefit minorities have been under attack in the halls of Congress and scrutinized for reverse racism against the whites. This is a valid argument but how can one ignore the imbalance of societal benefits that are obviously lacked by minorities. (Devata & Kappelman 2010) Ethically this is thesible but morally this argument should have never existed. For years the morality of America went unquestioned in the treatment of minorities, years beyond slavery and what individual or group has a right or an ethic ground to stand against affirmative action. Legally government has tried to mandate it and courts have tried to uphold its presence but to no avail. Again I ask where the outrage was when affirmative action was white. The opposition to affirmative action argues that the foundation that the U. S is built upon requires that government treats all of its citizens as individual persons without regard to their ethical status, and again I ask where this creed was during slavery and years after. This is truly a divisive issue and one cannot employ the constitution when needed and dismiss it when not.