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## **Equal Employment Opportunity Commission Provides Guidance to Employers on Tests and Selection Procedures**

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Employers often use tests and other selection procedures to screen applicants for hire and employees for promotion. There are many different types of tests and selection procedures, including cognitive tests, personality tests, medical examinations, credit checks, and criminal background checks. The use of tests and other selection procedures can be a very effective means of determining which applicants or employees are most qualified for a particular job. However, use of these tools can violate the federal anti-discrimination laws if an employer intentionally uses them to discriminate based on race, color, sex, national origin, religion, disability, or age (40 or older). Use of tests and other selection procedures can also violate the federal anti-discrimination laws if they disproportionately exclude people in a particular group by race, sex, or another covered basis, unless the employer can justify the test or procedure under the law.

In December 2007, the EEOC issued updated guidance regarding employment tests and selection procedures. The guidance offers information to employers on the topic of employee testing and covers all forms of employee testing. While testing is acceptable, the testing procedure must not be designed or intended to produce discriminatory results. Moreover, tests producing discriminatory results may violate the law even if such results were unintended. The “best practices” suggested by the EEOC include administering tests and other selection procedures without regard to race, color, national origin, sex, religion, age (40 or older), or disability. Employers should ensure that employment tests and other selection procedures are properly validated for the positions and purposes for which they are used. The test or selection procedure must be job-related and its results appropriate for the employer’s purpose. To ensure that a test or selection procedure remains predictive of success in a job, employers should keep abreast of changes in job requirements and should update the test specifications or selection procedures. Accordingly, employers should ensure that tests and selection procedures are not adopted casually by managers who know little about these processes. A test or selection procedure can be an effective management tool, but no test or selection procedure should be implemented without an understanding of its effectiveness and limitations for the organization, its appropriateness for a specific job, and whether it can be appropriately administered and scored. For further information, please visit <http://www.eeoc.gov> and our web site at [www.joettedoran.com](http://www.joettedoran.com).

*\*This article is not intended as legal advice. You should consult with an attorney for individual advice regarding your own situation.*

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