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## The use and abuse of pre-employment personality tests

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### **KEYWORDS**

Pre-employment tests; Personality tests; Job discrimination; Americans with Disabilities Act: Title VII discrimination; XQ factor

Employers are using pre-employment personality tests with increased frequency to identify the candidates best equipped to perform certain jobs and to eliminate the candidates least likely to succeed. While these tests promise higher retention rates and increased objectivity in hiring, they can also expose employers to litigation for violation of federal anti-discrimination statutes. This installment of Accounting Matters explores several recent lawsuits and the laws governing the discrimination claims, and concludes by offering several best practices for reducing the risk of litigation when using pre-employment personality tests.

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### Personality tests in employment decision making

Personality testing has come a long way since the introduction of the Rorschach inkblot test in 1921, the Myers-Briggs Type Indicator personality inventory in 1962, and their World-War-I-era military precursors used to identify soldiers for special missions. These tests, in turn, have spawned countless derivatives. In recent years, employers have evolved in their approach to such testing. Once satisfied with measures of a job applicant's intelligence quotient (IQ) or even emotional intelligence (EQ), many employers are now keenly interested in assessing and evaluating what Time recently labeled XQ: that certain something that makes some people succeed where others do not, which is measured by testing for personality traits that correlate with success in particular jobs (Gray, 2015). In other words, companies are looking for job candidates with the highest 'excellence quotient.'

The growing popularity of personality tests in screening applicants for hiring and promotions is a double-edged sword. On one hand, it fosters hope for improved hiring, both for employers seeking the candidate who is the best fit for a position as well as for candidates hoping for an impartial process and a triumph of objectivity over the 'good ol' boy' network. Yet at the same time, the ubiquity of workplace personality testing raises concerns that the tests could—whether inadvertently or otherwise be used to discriminate among job applicants based

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on disability, race, gender, or other legally impermissible bases.

In this article, I explore current uses of personality tests by businesses as they make hiring, assignment, and promotion decisions. I then review various legal challenges that disappointed applicants have raised and summarize the law governing those claims, as well as the conclusions to be drawn from the resulting court decisions. Finally, I conclude with recommendations for best practices in using personality tests to inform employment decisions.

# Current trends in pre-employment personality tests

Standardized, data-driven personality assessments appeal to employers for myriad reasons, not the least of which is the high cost of recovering from bad—and really bad—hiring decisions. Replacing an employee who simply did not succeed can be pricey in terms of an employer's resources spent repeating the process of interviewing, hiring, training, and integrating a new staff member. Employers can incur even greater costs when an employee's malfeasance extends beyond mediocre performance to involve destructive behaviors such as negligence, fraud, theft, harassment of fellow employees, or substance abuse. Each of these behaviors can result in additional costs associated with employee absenteeism, insurance claims, and lawsuits filed by injured third parties (Stabile, 2002).

A tool that can successfully cull candidates who are prone to such behaviors while at the same time identifying those with attributes that make them most likely to perform well in a particular job would provide enormous value to an employer. Some promising options, however, have not delivered a complete solution. For instance, the use of polygraphs for hiring purposes was banned by the U.S. Employee Polygraph Protection Act of 1988, as well as by state statutes that ban honesty tests (Stabile, 2002). Reference checks have become less useful as employers scale back the information they are willing to provide for fear of defamation lawsuits by former employees (Stabile, 2002). Some employers have tried using brainteaser questions (e.g., "Why are manhole covers round?") to identify the brightest and most creative candidates, but with little empirical evidence of a connection to success at any particular job. As one Google executive explained: "[B]rainteasers are a waste of time. . . . They don't predict anything. They serve primarily to make the interviewer feel smart" (Highhouse, Doverspike, & Guion, 2016, p. 3). Accordingly, employers have continued to explore methods to identify best candidates.

Despite their checkered history, pre-employment tests—cognitive, physical, psychological, and personality—are beginning to fill the void. Personality tests focused on identifying which candidates have specific desirable and undesirable traits have become particularly popular. *The Wall Street Journal* recently reported that, as of 2013, 57% of employers—including "[e]ight of the top ten U.S. private employers"—use such tests to pre-screen applicants (Weber, 2015) and, as of 2014, 467 of the Fortune 500 companies were using one particular test, Gallup's Clifton StrengthsFinder, as a way to measure candidates' talents (Feintzeig, 2015).

The availability of a wide range of tests, combined with reduced costs and the ease of online application processes, may have contributed to their popularity. A burgeoning industry is responding to the demand by creating, tailoring, administering, and interpreting pre-employment personality tests for employers. The tests may be long or short, consist of objectively-scored multiple-choice questions or subjectively-scored personalized responses, and be administered online or during an interview. They may ask questions focused on identifying undesirable social behavior, standard behavior, or occupational factors (Black, 1994). They may be standardized or customized to a particular employer or even a particular position. They typically ask questions that, while seemingly unrelated to the actual job at stake, are in fact carefully designed to identify candidates with the same attributes as current employees who are most successful in the position. In other cases, tests are calibrated to identify and eliminate candidates with attributes particularly unsuitable for the job.

Many of the questions may leave test takers scratching their heads, wondering how they could possibly relate to the job for which they are applying. But in fact, that incongruity—the seeming randomness of the questions—is often designed to prevent applicants from gaming the system by trying to figure out the best answers to get hired and providing that answer rather than a candid one (Weber, 2015). For instance, a question that asks, "Would you agree that our postal system is inefficient?" has no obvious right answer and might seem unrelated to a software design or high-tech engineering job. Yet a company may have determined that its employees who are most successful at perfecting new technologies are those who are most sensitive to their environment, who are willing to voice concerns to others, and who tend to agree with that statement (Gray, 2015). Another company

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