

BLOGS

Archives;Discrimination;Hiring & Firing;Social Media & Technology

Dont Forget About the Digital Divide When Hiring Online

[CNN Money.com](#) reported this week that the number of wireless cell phone and tablet devices in the U.S. has outpaced the U.S. population. With all of this connectivity going on, it could be easy to forget that not everyone has equal access to the internet and an equal ability to apply for jobs online. Studies in recent years indicate that minorities and disabled individuals, as a group, have less or different access than Caucasians and non-disabled persons. As a result of this disparity, often dubbed the digital divide, employers should tread carefully in establishing exclusive online application systems and in relying too heavily on online sources and job candidates online presence to identify and select candidates.

As we noted in a [previous blog](#) entry, the U.S. Equal Employment Opportunity Commission (EEOC) has increased its enforcement efforts in the hiring area through its E-RACE initiative, which is focused on eliminating race discrimination in hiring. In particular, the EEOC is focused on applicant screening, testing, and selection devices including the use of technology in hiring – that may have an unlawful disparate impact on minorities. A disparate impact claim arises when a facially neutral practice such as an online recruiting disproportionately impacts a legally protected group and is not sufficiently job related and consistent with business necessity.

It is increasingly becoming the norm for employers to have online application systems and to search for applicants online through social media sites such as LinkedIn. Studies in recent years indicate, however, that, while progress has been made, a divide still exists in use of broadband internet. [A2010 study](#) conducted by Princeton Survey Research Associates International indicated that one in four Americans live with a disability that impacts their daily living and only 54% percent of disabled adults use the internet as compared to 81% of non-disabled adults. [A2010 report](#) published by the U.S. Department of Commerce indicated that while almost 70% of white households had high-speed internet, only 48% of Hispanic homes, 48% of American Indian or Alaskan Native, and 49% percent of African-American homes had that access. In addition, to the extent that the racial gap on internet access is narrowing, it appears that minorities are increasingly accessing the internet through cell phones or mobile devices. While increased usage is good news, it is more difficult, if not impossible in some cases, to complete online job applications or

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upload resumes and cover letters to an online application system on a mobile phone.

A divide also appears to exist in connection with individuals online presence. [Quantcast](#), a media measurement, web analytics service, has published statistics that indicate that LinkedIn, one of the leading online sites used for networking and recruiting, is predominantly white. According to Quantcast, the majority of people in the U.S. using LinkedIn are age 35 or older and 85% of U.S. users identify themselves as Caucasian. According to Quantcast, only 5% of U.S. LinkedIn users identify themselves as African American, 7% as Asian, and 4% as Hispanic.

These statistics and the EEOCs increased enforcement efforts warrant attention by employers. While online recruiting practices can and do serve legitimate business purposes, employers should take care to ensure that they consider their nondiscrimination obligations and that their practices are job-related and justified by business necessity. Employers should also consider continuing to recruit job applicants in more traditional ways, rather than just online. Employers may also need or want to establish alternative application methods for individuals who may not have internet access or, due to a disability, may be unable to apply online. In addition to non-discrimination requirements, employers with at least 15 employees have an obligation under federal law to provide reasonable accommodations during the application process to allow disabled individuals to be able to apply.