

Employment Law

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Judicial Pecking Order

- U.S. Constitution
 - 5th Amendment (federal government)
 - 14th Amendment (state & local governments)
- Federal Laws (CRA, ADA, ADEA, FMLA, EPA)
- Executive orders (Executive Order 11246 – Federal Contractors)
- Federal case law (interprets Constitution and federal laws)
 - U.S. Supreme Court
 - Circuit Courts of Appeal (12 circuits, Virginia is 4th)
 - U.S. District Courts
- Federal administrative guidelines
 - EEOC
 - OFCCP

Federal Regulatory Agencies Department of Labor

- Equal Opportunity Employment Commission (EEOC)
 - Director is Cari Dominguez
 - Handles complaints for federal employment laws
 - Is complaint driven
- Office of Federal Contract Compliance Programs (OFCCP)
 - Director is Charles James
 - Monitors federal contracts under EO 11246
 - Is audit driven

Problem Scope

Year	Complaints	% Unwarranted	Monetary Benefits
2005	75,428	78.6	276.1
2004	79,432	80.5	\$251.7
2003	81,300	80.0	\$269.0
2002	84,442	79.9	\$257.7
2001	80,840	77.9	\$247.8
2000	79,896	78.8	\$245.7
1999	77,444	83.6	\$210.5
1998	79,591	87.6	\$169.2
1997	80,680	89.0	\$176.7
1996	77,990	90.9	\$145.2
1995	87,259	87.9	\$136.0
1994	91,189	84.4	\$146.3

Potential Legal Problems

- Disparate treatment (intentional discrimination)
- Disparate impact (adverse impact)
- Invasion of privacy
- Illegal search
- Violation of wage & hour laws



Important Employment Laws

- Civil Rights Act (1964, 1991) – Title VII
- Age Discrimination in Employment Act
- Vietnam-Era Veterans Readjustment Act
- Disability
 - Americans with Disabilities Act
 - Vocational Rehabilitation Act
- Family Issues
 - Family Medical Leave Act
 - Pregnancy Discrimination Act
- Pay
 - Equal Pay Act
 - Fair Labor Standards Act

Employee Complaint Process

- Alleged discriminatory act
- Internal investigation
- Internal resolution process
 - Essential to have a formal policy
 - Options
 - Dictate a decision
 - Mediate a solution
 - Arbitrate a decision
 - Appeal procedure is important
- External resolution process
 - State agencies in deferral states
 - EEOC
 - Law suit



Alternative Dispute Resolution

- **Mediation**
 - Neutral third party
 - Disputants reach agreement
- **Arbitration**
 - Neutral third party
 - Arbitrator makes decision
 - Binding
 - Nonbinding
- **Dictation**
 - Third party makes decision



EEOC Complaint Process

1. Alleged discriminatory act
2. Complaint filed
 - a. 180 days for nondeferral states
 - b. 300 days for deferral states
3. Employer notified within 10 days
4. Investigation (goal is to complete in 120 days)
 - a. **Reasonable cause found**
 - 1) attempt to reach agreement
 - 2) if no agreement, EEOC can file suit
 - b. **Reasonable cause not found**
 - 1) right to sue letter issued to employee
 - 2) employee has 90 days to file suit

Civil Rights Act - Title VII

- **Who is Covered**
 - Private employers with at least 15 employees
 - Federal, state, and local governments
 - Employment agencies
 - Unions
 - Americans working abroad for American companies
- **Who is Exempt**
 - Bona fide tax exempt private clubs
 - Indian tribes
 - Individuals denied employment due to national security concerns
 - Publicly elected officials and their personal staff

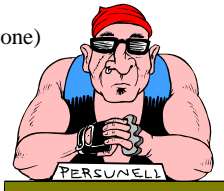
Title VII Court Ordered Remedies

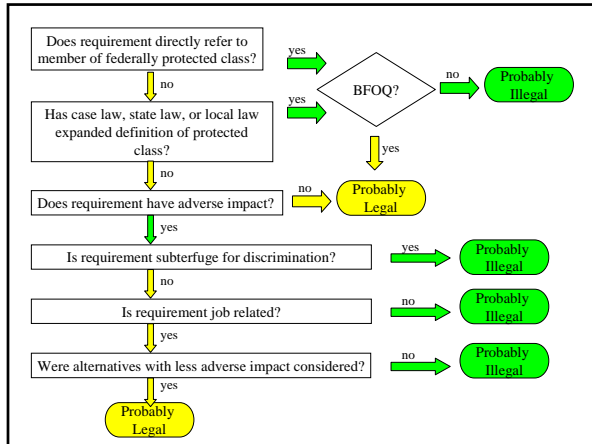
- **Disparate Impact Cases**
 - Reinstatement
 - Back pay
 - Seniority
 - Front Pay
 - Affirmative Action
 - Attorneys' Fees
- **Disparate Treatment Cases**
 - Same as disparate impact +
 - Compensatory damages
 - psychological damage
 - actual expenses
 - damage to reputation
 - Punitive damages (private sector only)
 - Damage Limits (no limit for race)

Employees	Limit
15-100	\$ 50,000
101-200	\$100,000
201-500	\$200,000
>500	\$300,000

Employment Decisions

- Hiring
- Placement
- Promotion
- Assignment (shift, patrol zone)
- Salary
- Discipline
- Training opportunities



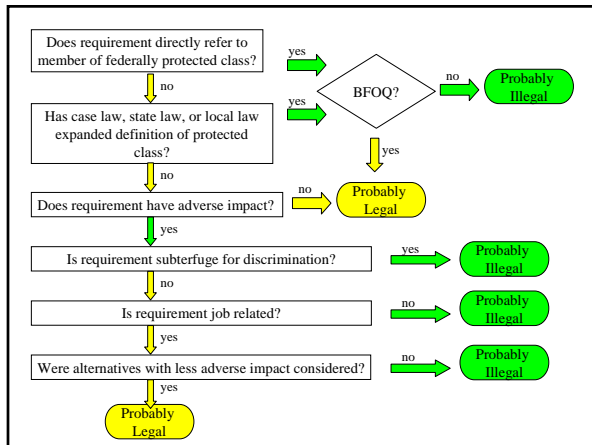


- ### Does Requirement Directly Refer to a Member of a Federally Protected Class?
- Sex (Civil Rights Act)
 - Male
 - Female
 - Race (CRA)
 - African American
 - Asian American
 - White
 - Native American
 - National origin (CRA)
 - Color (CRA)
 - Age (over 40; ADEA)
 - Religion (CRA)
 - Disability (ADA)
 - Current
 - Previous
 - Regarded as such
 - Vietnam veteran
 - Pregnant female

Federally Protected Class Exercise

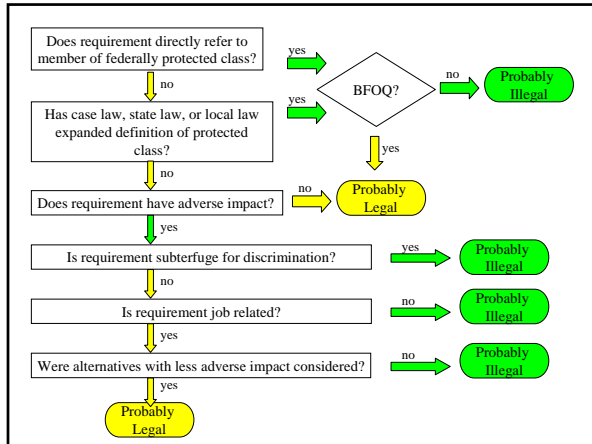
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A	A World War II veteran claims he was discriminated against because he was in the war
B	A Mormon says his religion forbids him to work on certain days
C	A person who is visually impaired claims she is disabled
D	A gay applicant wasn't hired because of his sexual preference
E	A male wasn't hired for a sales position in a retail store specializing in women's athletic shoes
F	A 24-year old woman wasn't hired for a managerial job because she was too young
G	A Norwegian applicant claimed he wasn't hired because a Chinese restaurant hired only Asians
H	A light-skinned African American would not hire a dark-skinned African American
I	A store wouldn't hire anyone with a college degree because of the belief that such people had no common sense
J	A fast food chain refused to hire men with long hair



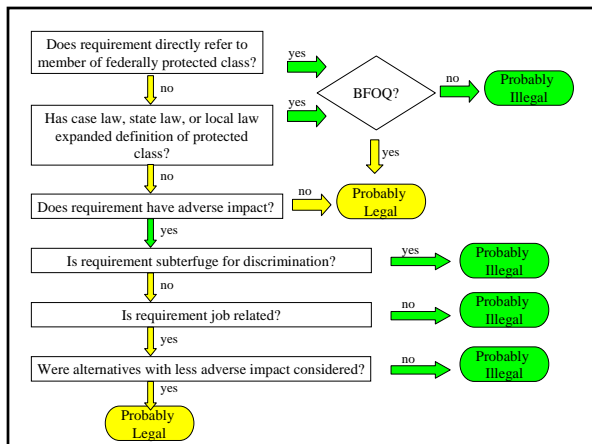
Is the Requirement a Bona Fide Occupational Qualification (BFOQ)?

- Only members of a particular class can perform the job
- There can be no exceptions
- According to the courts:
 - Race can never be a BFOQ
 - Religion has been (e.g., Nun, priest)
 - Gender seldom is
 - Customer preference doesn't matter



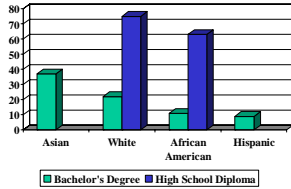
Has Local, State or Case Law Added Protected Classes?

- **State Law Examples**
 - Virginia protects marital status
 - Wisconsin protects sexual orientation
- **Local Law Examples**
 - Cincinnati protects people of Appalachian heritage
 - Santa Cruz, CA outlaws discrimination based on height and physical appearance
- **Case Law Examples**
 - Transsexuals are not a sex
 - Former drug use is not a disability



Does the Requirement Have Adverse Impact on Members of a Protected Class?

- Adverse impact occurs when a neutral employment practice affects members of a protected class at a disproportionate rate
 - Hiring
 - Promotion
 - Termination



Why Does Adverse Impact Occur?

- Chance
- Bias
 - Construct being measured
 - Content of the test items
- Actual Group Differences
 - Construct being measured
 - Test taking ability/strategy

Important Considerations

- Technically, the highest scoring group should be compared to other groups, but...
- What to analyze
 - Bottom line
 - Individual components of the selection process
- Aggregation
 - Separate for each employment decision
 - Requisition codes and disposition codes are essential
 - Sample size may be too small
 - 30 applicants
 - At least 5 expected hires in each group
 - Aggregated across jobs/years/requisition codes

Aggregating Analyses

- **Unit of Analysis**
 - By hiring decision – determine adverse impact for each requisition
 - Aggregated across hiring requisitions, jobs, years, etc.
- **Mantel-Haenszel Test**
 - Computes an overall impact ratio across a set of subgroups.
 - Measures overall disparity controlling for subgroup membership (e.g., hiring period or job position).
 - Permits multiple divisions of the data without loss of statistical power.
 - Is a multiple events test (does not just lump the groups together)
- **Breslow Day Test**
 - Used to determine if the aggregated impact ratios have similar magnitude and can be combined into one analysis.

Example

Assembler			
Sex	Selected	Not-Selected	Total
Women	66	91	157
Men	154	66	220
Total	220	157	377

Odds ratio .311 (3.2 times)
 Impact ratio .601 (.42/.70)
 Shortfall .25
 # of Std Errors 5.42

Shipping			
Sex	Selected	Not-Selected	Total
Women	3	4	7
Men	14	7	21
Total	17	11	28

Odds ratio .375 (2.7 times)
 Impact ratio .643 (.43/.67)
 Shortfall 1
 Fisher's Exact p-value .249 One-tailed

Quality Control			
Sex	Selected	Not-Selected	Total
Women	12	17	29
Men	27	5	32
Total	39	22	61

Odds ratio .131 (7.6 times)
 Impact ratio .490 (.41/.84)
 Shortfall .6
 # of Std Errors 3.49

Mantel Haenszel
 Common Impact Ratio .5848
 Test of Independence $p < .0001$

Breslow-Day
 Test for Homogeneity p-value .3899

- **Mantel Haenszel test** shows overall statistically significant association between gender and selection status across three job groups.
- **Breslow-Day test** indicates disparity is homogeneous across jobs.

Aggregating Data

Simpson's Paradox

Year	Group	Applicants	Hired	Selection Rate
2003	Men	600	300	50%
	Women	50	25	50%
2004	Men	40	10	25%
	Women	60	15	25%
TOTAL	Men	640	310	48%
	Women	110	40	36%

Important Considerations (cont.)

- Two Types of Analyses
 - Selection rate comparison
 - Availability comparison (affirmative action)
- Two Ways to Determine Adverse Impact
 - Practical significance
 - Four-fifths (80%) rule
 - Statistical significance
 - Standard deviation method

Who to Include in the Analysis Definition of an Applicant

- For an individual to be an applicant in the context of the Internet and related electronic data processing technologies, the following must have occurred:
 - The employer has acted to fill a particular position;
 - The individual has followed the employer's standard procedures for submitting applications; and
 - The individual has indicated an interest in the particular position.

Minimum Qualifications

- Must be needed to perform the job
 - Preferences are not MQs
 - Continuous scores are not MQs
- Must be formally identified and communicated prior to the search
- Must be consistently applied

Who is an Applicant?

- Count as an applicant
 - Those meeting minimum qualifications
- Remove
 - Those who did not meet minimum qualifications
 - Those who are not eligible
 - Former employees who were terminated
 - Former employees who did not wait the required time to apply
 - Duplicate applications within a specified period of time
 - Those who are no longer interested
 - Found another job
 - No longer interested in the job
 - Declined or did not show up for the interview

Who is a Hire?

- Both hires and offers count
- Hires
 - Hired and reported to work
 - Hired but did not report to work
 - Hired but failed drug test or background
- Offers
 - Offered job but declined

Four-Fifths Rule

- Occurs when the selection rate for one group is less than 80% of the rate for the highest scoring group
- History (Biddle, 2005)
 - Adverse impact first mentioned in EEOC guidelines in 1966
 - *Griggs v. Duke Power* (1971)
 - Technical Advisory Committee on Testing (TACT) of the Fair Employment Practice Commission (FEPC) of California in 1972
 - Committee of 32 specialists discussed the issue for months
 - 20 of the members discussed the need for a statistical **and** practical test of significance and decided on the 80% rule
 - Statistical not practical for most because it was difficult to compute
 - 1978 *Uniform Guidelines* discuss 80% test as a, “rule of thumb”

Four-Fifths Rule

Occurs when the selection rate for one group is less than 80% of the rate for the highest scoring group

	Male	Female
Number of applicants	50	30
Number hired	20	10
Selection ratio	.40	.33

$$.33 \div .40 = .83 > .80 \text{ (no adverse impact)}$$

Adverse Impact - Example 2

	Male	Female
Number of applicants	40	20
Number hired	20	4
Selection ratio	.50	.20

$$.20 \div .50 = .40 < .80 \text{ (adverse impact)}$$

Roanoke Article



Standard Deviation Method

1. Compute Standard Deviation

$$\sqrt{\frac{\text{female applicants}}{\text{total applicants}} \times \frac{\text{male applicants}}{\text{total applicants}} \times \text{total hired}}$$

2. Multiply standard deviation by 2
3. Compute expected number of females to be hired
(female applicants/total applicants) x total hired
4. Compute confidence interval (expected \pm 2 SD)
5. Determine if number of females hired falls within the confidence interval

Standard Deviation Example

1. Compute Standard Deviation

$$\sqrt{\frac{10}{50} \times \frac{40}{50} \times 20} = \sqrt{.20 \times .80 \times 20} = \sqrt{3.2} = 1.79$$

2. Multiply standard deviation by 2 = 1.79 * 2 = 3.58
3. Compute expected number of females to be hired
(10 \div 50) x 20 = .2 x 20 = 4
4. Compute confidence interval (.42 \leftarrow 4 \rightarrow 7.58)
5. Determine if number of females hired falls within the confidence interval

Roanoke Example

1. Compute Standard Deviation

$$\sqrt{\frac{133}{677} \times \frac{544}{677} \times 56} = \sqrt{.196 \times .804 \times 56} = \sqrt{8.83} = 2.97$$

2. Multiply standard deviation by 2 = 2.97 * 2 = 5.94
3. Compute expected number of Blacks to be hired
(133/677) x 56 = .196 x 56 = 11
4. Compute confidence interval (5.04 \leftarrow 11 \rightarrow 16.94)
5. Determine if number of Blacks hired (2) falls within the confidence interval

Computing Adverse Impact from Raw Data
Exercise 3.2



Adverse Impact
Now What?

- Shortfall
 - Equal ratios
 - No longer statistically significant
- Practical significance
 - How many “swaps” would change the results
 - If 2 or 3, difference is not practical

Estimating Adverse Impact
Potential

- Group differences in test scores
- Radford Adverse Impact Estimation Table
 - Page 114 in Aamodt (2004)
 - Based on the normal curve
 - Assumes top-down selection
 - Selection ratio and effect size are needed
 - selection ratio = hires ÷ applicants
 - effect size = (majority mean - minority mean) ÷ SD

Exercise 3.2

Determining Adverse Impact

For several years, Tubalard Bakery has required that all employees hired for cashier positions in their retail bakery store have *at least* two years of college. The company's justification for this requirement is that because their cashiers must add prices in their head, they need to be educated. Even though they are the only food store with this requirement, they are able to attract many applicants because they pay \$3 an hour more than any other store.

In May of 2005, Sarah Lee applied for a job with Tubalard and was not hired because she had never attended college. Ms. Lee, an African American woman, filed charges of discrimination with the EEOC. On the basis of the facts stated above, as well as the data below, will the EEOC investigation reveal adverse impact on the basis of either sex or race?

Applicant	Sex	Race	Years of College
Lee	Female	African American	0
Amos	Male	African American	0
McCormick	Female	White	0
Chachere	Female	African American	0
Kerr	Male	White	0
Puck	Male	White	0
Fields	Female	African American	1
Durkee	Female	African American	1
Callender	Female	White	1
Kellogg	Female	White	1
Mills	Male	African American	1
Smith	Female	White	2
Crocker	Female	White	2
Stubbs	Male	African American	2
Penzey	Female	White	2
Paul	Female	White	2
Kroger	Male	White	2
Durkin	Female	White	3
Butterworth	Female	African American	3
Hostess	Female	African American	3
Sauer	Male	African American	3
Wyler	Male	White	3
Heinz	Male	White	3
Keebler	Male	White	3
Hughes	Female	White	4

Obtaining Effect Sizes (D Scores)

- Compute from own testing data
- Compute from information in test manuals
- Estimate using meta-analysis information

Converting to D Scores Example

	Mean	Standard Deviation
Males	20.21	11.24
Females	18.56	10.89
Combined	19.39	11.07

$d = (\text{male mean} - \text{female mean}) \div \text{overall SD}$
 $d = (20.21 - 18.56) \div 11.07$
 $d = 2.35 \div 11.07$
 $d = .15$

Reducing Adverse Impact



- Use Separate Norms
 - 1991 CRA made this illegal
 - still used in physical ability testing
- Allow applicants to practice tests
- Use passing scores, rules of 3, or banding

Five Categories of Banding

- No band: Top-down selection
- Rules of “Three” or “Five”
- Passing scores
- Traditional banding
- Expectancy bands
- SEM banding (standard error of measurement)
 - Testing differences between scores for statistical significance.

The Top-Down Approach

Who will perform the best?

Applicant	Sex	Test Score
Philbin	M	99
Williams	M	98
McGraw	M	91
Letterman	M	90
Winfrey	F	88
Kilborn	M	87

Top-Down Selection

Advantages

- Higher quality of selected applicants
- Objective decision making

Disadvantages

- Less flexibility in decision making
- Adverse impact = less workforce diversity
- Ignores measurement error
- Assumes test score accounts for all the variance in performance (Zedeck, Cascio, Goldstein & Outtz, 1996).

Rules of “Three” or “Five”

Applicant	Sex	Test Score
Philbin	M	99
Williams	M	98
McGraw	M	91
Letterman	M	90
Winfrey	F	88
Kilborn	M	87

Reducing Adverse Impact Using Passing Scores

- Methods include Angoff, Nedelsky, and bookmark
- Increase choice of applicants
- May result in lower quality workforce
- Public relations problems if scores are posted



The Passing Scores Approach

Who will perform at an acceptable level?

A passing score is a point in a distribution of scores that distinguishes acceptable from unacceptable performance (Kane, 1994).

Uniform Guidelines (1978) Section 5H:

Passing scores should be reasonable and consistent with expectations of acceptable proficiency

Passing Scores

Applicant	Sex	Score
Philbin	M	98
Williams	M	80
McGraw	F	70 (passing score)
Letterman	M	69
Winfrey	F	58
Kilborn	M	40

Passing Scores

Advantages

- Increased flexibility in decision making
- Less adverse impact against protected groups

Disadvantages

- Lowered utility
- Can be difficult to set

Traditional Bands

- Based on expert judgment
- Administrative ease
 - e.g. college grading system
 - e.g. level of job qualifications

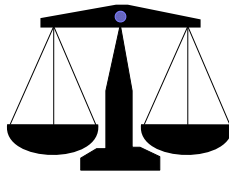


Expectancy Bands

Band	Test Score	Probability
A	522 – 574	85%
B	483 – 521	75%
C	419 – 482	66%
D	0 – 418	56%

SEM Bands “Ranges of Indifference”

- A compromise between the top-down and passing scores approach.
- It takes into account that tests are not perfectly reliable (error).



SEM Banding

- Compromise between top-down selection and passing scores
- Based on the concept of the standard error of measurement
- To compute you need the standard deviation and reliability of the test

$$\text{Standard error} = SD\sqrt{1 - \text{reliability}}$$

- Band is established by multiplying 1.96 times the standard error

Banding Example

- **Sample Test Information**
 - Reliability = .80
 - Mean = 72.85
 - Standard deviation = 9.1
- **The Band**
 - Band = Standard error * 1.96
 - Band = 4.07 * 1.96 = 7.98 ~ 8
- **The Standard Error**

$$SD\sqrt{1-reliability}$$

$$9.1\sqrt{1-.80}$$

$$9.1\sqrt{.20}$$

$$= 9.1 * .447$$

$$= 4.07$$
- **Example 1**
 - We have four openings
 - We would like to hire more females
- **Example 2**
 - Reliability = .90
 - Standard deviation = 12.8

Applicant	Sex	Score	Band 1	Band 2	Band 3	Band 4
Armstrong	m	99	x	hired	hired	hired
Glenn	m	98	x	x	hired	hired
Grissom	m	94	x	x	x	hired
Aldren	m	92	x	x	x	x
Ride	f	88			x	hired
Irwin	m	87			x	x
Carpenter	m	84				x
Gibson	m	80				
McAuliffe	f	75				
Carr	m	72				
Teshkova	f	70				
Jamison	m	65				
Pogue	m	64				
Resnick	f	61				
Anders	m	60				
Borman	m	58				
Lovell	m	57				
Slayton	m	55				
Kubasov	f	53				

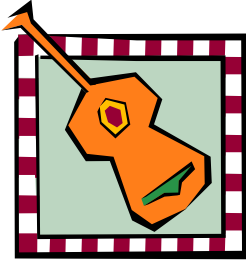
Applicant	Sex	Score	Band 1	Band 2	Band 3	Band 4	Band 5
Clancy	m	97	x	hired			
King	m	95	x	x	hired		
Koontz	m	94	x	x	x	hired	
Follot	m	92	x	x	x	x	hired
Saunders	m	88		x	x	x	x
Crichton	m	87		x	x	x	x
Sanford	m	84			x	x	x
Dixon	m	80					x
Wolfe	m	75					
Grisham	m	72					
Clussler	m	70			$12.8\sqrt{1-.90}$		
Turov	m	65			$12.8\sqrt{.10}$		
Cornwell	f	64					
Clark	f	61			$= 12.8 * .316$		
Brown	f	60			$= 4.04$		
					$Band = 4.04 * 1.96 = 7.92 \sim 8$		

Applicant	Sex	Score
Christian Dior	M	99
Tommy Hilfiger	M	98
Ralph Lauren	M	91
Giorgio Armani	M	90
Donna Karan	F	88
Roberto Cavalli	M	87
Donatella Versace	M	72
Coco Chanel	F	70 (passing score)
Vera Wang	F	68
Pierre Cardin	M	62
Kenneth Cole	M	60
Beth Schaeffer	F	57
Oscar de la Renta	M	54

Types of SEM Bands


Fixed
Sliding
Diversity-based

- Females and minorities are given preference when selecting from within a band.



Advantages of Banding

- Helps reduce adverse impact, increase workforce diversity, and increase perceptions of fairness (Zedeck et al., 1996).
- Allows you to consider secondary criteria relevant to the job (Campion et al., 2001).



Disadvantages of Banding

(Campion et al., 2001)

- Lose valuable information
- Lower the quality of people selected
- Sliding bands may be difficult to apply in the private sector
- Banding without minority preference may not reduce adverse impact



Factors to Consider When Deciding the Width of a Band

(Campion et al., 2001)

- Narrow bands are preferred
- Consequences of errors in selection
- Criterion space covered by selection device
- Reliability of selection device
- Validity evidence
- Diversity issues

Legal Issues in Banding

(Campion et al., 2001).

Banding has generally been approved by the courts

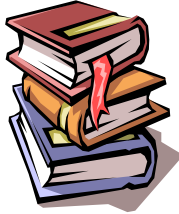
- Bridgeport Guardians v. City of Bridgeport, 1991
- Chicago Firefighters Union Local No.2 v. City of Chicago, 1999
- Officers for Justice v. Civil Service Commission, 1992

Minority Preference



What the Organization Should do to Protect Itself

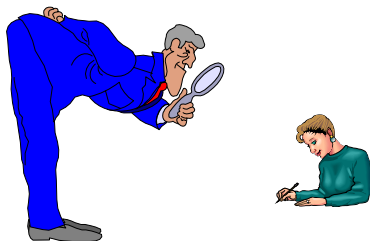
- The company should have established rules and procedures for making choices within a band
- Applicants should be informed about the use and logic behind banding in addition to company values and objectives (Campion et al., 2001).



Let's Practice Banding!



Using Banding to Reduce Adverse Impact Exercise 6.2



Making Selection Decisions

Exercise

You are the human resource manager for the Kasem Rock Company. On the basis of your most recent employment figures, you would like to hire more females in the stone grinding department. You have six openings and the results of the selection exam are shown on the next page. The reliability of your selection exam is .79 and the standard deviation is 3.33. On the basis of the data,

- a) Compute the standard error (show your calculation)

- b) Determine the width of the band using a 95% confidence interval (show your calculation)

- c) If you used a non-sliding band, which six applicants would you hire?

- d) If you used a sliding band, which six applicants would you hire?

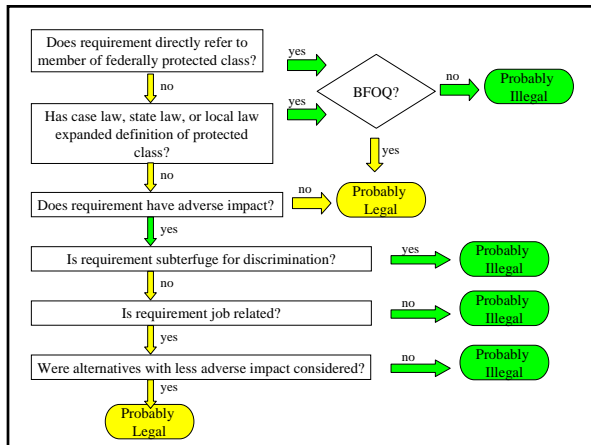
- e) If you used a passing score of 45 rather than a band, what six applicants would you hire?

Applicants to the Kasem Rock Company

Employee	Gender	Test Score	Interview observations
M. Jagger	male	60	<i>Can't get no satisfaction</i> from work, wouldn't hire
K. Richards	male	60	married a <i>honky tonk woman</i>
C. Watts	male	58	was a waiter at <i>Ruby Tuesday</i>
B. Jones	male	58	wants to get out from under supervisor's thumb
B. Wyman	male	58	used to work at the <i>Voodoo Lounge</i>
M. Taylor	male	57	worked for the <i>Brown Sugar</i> company in England
R. Wood	male	57	caught with <i>Sticky Fingers</i> at work
S. Hoffs	female	56	wore a lot of bangles to the interview
V. Peterson	female	55	<i>walked like an Egyptian</i> into the interview
M. Steele	female	54	enjoys working those <i>Manic Mondays</i>
D. Peterson	female	54	would be good <i>if she knew what she wants</i>
B. Wilson	male	52	He and his boys worked on the beach in California
A. Jardine	male	49	Drives a <i>little deuce coupe</i>
C. Wilson	male	47	Lived for a while in <i>Kokomo</i>
M. Love	male	47	Enjoyed work until they <i>took his t-bird away</i>
D. Wilson	male	47	Used to help Rhonda at work
D. Ross	female	45	did a Supreme job at the interview
M. Wilson	female	44	Stopped working her last job in the name of love
F. Ballard	female	43	Grew-up in Motown
G. Harrison	male	43	has experience repairing VW Beetles
P. McCartney	male	41	didn't wear shoes, lives on Abby Road
J. Lennon	male	40	kept saying oh no in the interview
R. Starr	male	40	believes that jobs <i>don't come easy</i>
A. Faltskug	female	39	Is from <i>Waterloo</i>
B. Ulvaeus	male	39	Is sometimes called <i>Fernando</i>
A.F. Lyngstad	female	38	Used to be a <i>dancing queen</i>
B. Andersson	male	38	Was an <i>SOS</i> signaler for the navy
P. Tork	male	37	has a history of monkeying around at work
M. Dolenz	male	35	will take the <i>last train from Clarksville</i> to work
M. Nesmitt	male	34	has experience with liquid paper
D. Jones	male	33	<i>wants to be free</i> from his current job

You are the HR manager for the law firm of Lie, Cheat, and Steele. On the basis of your most recent employment figures, you would like to hire more women attorneys. You have four openings, and the results of the selection exam are shown on the next page. The reliability of your selection exam is .83 and the standard deviation is 7.43.

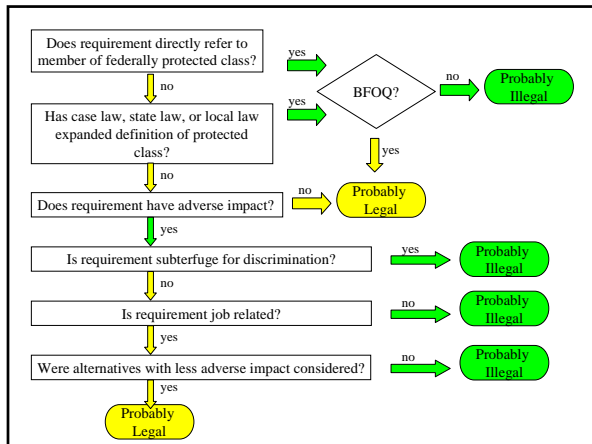
1. Compute the standard error
2. Determine the width of a band using a 95% confidence interval (1.96 times the standard error)
3. If you used a nonsliding band, which four applicants would you hire?
4. If you used a sliding band, which four applicants would you hire?
5. If you used a passing score of 80, rather than a band, what four applicants would you hire?



Was the Requirement a Subterfuge for Intentional Discrimination?


- Old voting requirements
- Residency requirements
- Height requirements






Can the Employer Prove that the Requirement is Exempt or Job Related?

<ul style="list-style-type: none"> • Exemptions <ul style="list-style-type: none"> – Bona fide seniority system – Veteran’s preference rights – National security 	<ul style="list-style-type: none"> • Job Related <ul style="list-style-type: none"> – Types <ul style="list-style-type: none"> • BFOQ • Valid testing procedure – Methods <ul style="list-style-type: none"> • Content validity • Criterion validity • Validity generalization
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Content Validity

- Based on a solid job analysis
- A method of rationally matching tasks with the necessary knowledge, skills, abilities, and other characteristics (KSAOs) to perform the job



Criterion Validity

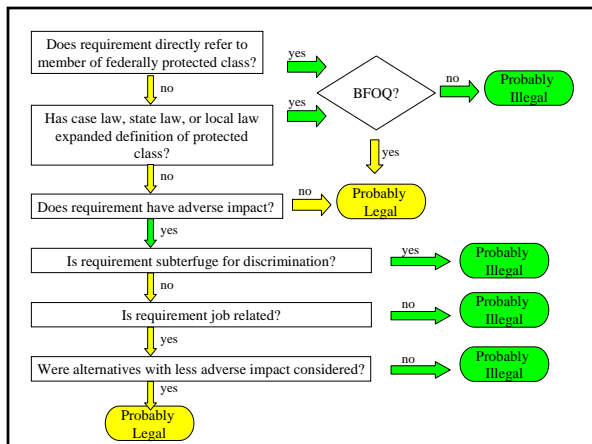
- Correlate test scores with relevant criteria
- Two types
 - Concurrent
 - Predictive
- Requirements
 - Reasonable sample size
 - Good range of test and criterion scores
 - A good criterion



Validity Generalization

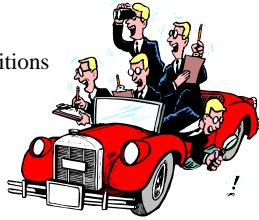
- Based on meta-analysis
- Borrows validity from other studies or organizations
- Job analysis results must be similar

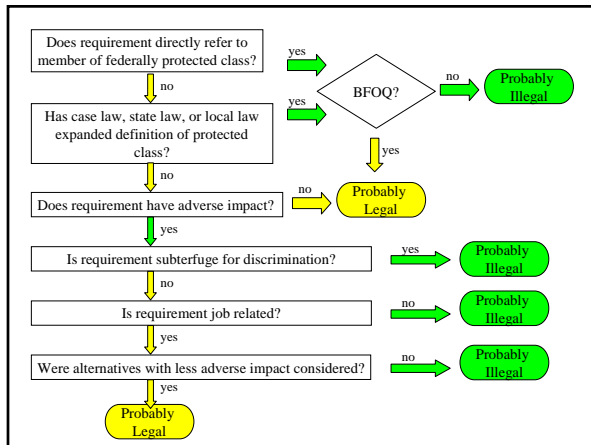




Did Employer Look for Reasonable Alternative with Less Adverse Impact?

- A different test measuring the same construct
- A different type of test
- Changes to testing conditions
 - video rather than written
 - practice exams
 - conditioning programs
- Job redesign





Responses to Adverse Impact Exercise



Flow Chart Exercise



Exercise 3.3

Responses to Adverse Impact

In the text you learned that, if adverse impact occurs, an employment practice can still be legal if it is job related (valid), is the result of a *bona fide* seniority system, is in use due to national security concerns, or was implemented to provide veterans with preferential hiring. In these examples, indicate the extent to which you think the employment practice will be found to be legal.

- A. Applicants for patrol officer positions with the city of Fort Worth, Texas, are administered a cognitive ability test. The average score on the test is 70. All applicants who served in the U.S. armed forces automatically get 10 points added to their scores. Adverse impact occurs because 20% of male applicants and 5% of female applicants are veterans. Is this practice legal? Why or why not?

- B. The cognitive ability test described above also results in adverse impact because 80% of White applicants pass the test compared to 60% of African American applicants. Scores on the test correlate significantly ($r = .45$) with performance in the police academy. Is this practice legal? Why or why not?

- C. According to the contract between the union and the company, every employment decision at the Spreewell Box Company is based on seniority. That is, the employees who have been at Spreewell the longest get first opportunity for promotions, working the day shift, and not working overtime. Due to a decline in sales, Spreewell must lay off 30 employees. On the basis of seniority, 25 of these employees are African American and 5 are White. Of the 200 employees who will keep their jobs, 190 are White and 10 are African American. Is this practice legal? Why or why not?
