

Can a Career Center Prescreen Candidates for an Employer?

by Edward Easterly, Esq., Norris, McLaughlin, & Marcus

Can a career center prescreen candidates for an employer? Can faculty prescreen for an employer?

If the career center or faculty prescreen candidates, they are, in effect, acting as an employment agency, and the relevant laws that apply to an agency would apply to the career center or faculty member.

Although federal anti-discrimination provisions typically apply only to “employers,” many states have adopted similar provisions that encompass individual employees and third parties. These state law provisions often make it unlawful for any individual or entity to “aid or abet” discriminatory employment practices. Additionally, educational institutions that accept federal funding may run afoul of Title VI of the Civil Rights Act of 1964, as amended, and/or the Equal Protection Clause by implementing or endorsing discriminatory prescreening practices.

Once career services staff or a faculty member participate in the selection process, they may have to justify the criteria upon which the screening was based, just like an employer or an employment agency. Problems occur when the criteria are facially discriminatory or have a discriminatory impact, such as when a career services office is asked to refer only minority students or a faculty member is asked to refer just female candidates. A career services staff member or faculty member could not defend the action by saying the employer “told me to do it.”

The less directly involved the career services staff and faculty are in making choices for employers, the less likely the staff and educational institution will become embroiled in administrative claims and litigation if a student believes that he or she was discriminated against as a result of not being selected to interview.

Courtesy of the National Association of Colleges and Employers.

