



# General Legal Considerations for Assessments

When administering hiring assessments in your business, the most important legality to keep in mind is the possibility of disparate impact. Disparate impact occurs when policies, practices, rules, or other systems that appear to be neutral result in unintentional discrimination of a protected class (race, color, national origin, sex, religion, age (40 or older), or disability). For example, years ago a fire department made everyone take a college level math/reading comprehension test in order to apply to become a firefighter. It was found to create a disparate impact against minorities who tended to score lower on the test, and the test had no relevance with actually being a firefighter.

If you are going to use assessments in your hiring process they must be relevant to the job, validated, and administered equally to all candidates. For instance, you can't make women take an assessment, but men get to skip it and go right to an interview. STM uses [Spectrum assessments](#), which are updated and re-validated every year to be in compliance with EEOC guidelines. It is recommended that assessments should only be part of your selection process and contribute to about one third of your final decision.

## STM recommended best practices when using assessments in your selection process:

- ✓ Before anyone begins an STM assessment, they are asked to acknowledge our privacy statement, a general release, and details about how the assessments are used and so on. One can opt out of the assessment process at that point.
- ✓ It is good practice to explain to the person you are assessing that the assessment is one part of your hiring process, and that people directly involved with the hiring process will review the assessment, but there is no need to go into more detail. You can always ask STM for guidance if the candidate has specific questions.
- ✓ We do not recommend sharing the assessment results with a candidate, though this is required in some countries beyond the USA. Should they become an employee, there is value in making the assessment itself available to all employees as it can foster stronger communication. This would mean sharing the assessments of all employees, to all employees or perhaps restricted to certain levels of employees.
- ✓ We also do not recommend sharing our confidential summaries with the candidates, even if they become employees. These are written for your eyes only and should be stored in a protected file.

## From the Equal Employment Opportunity Commission (EEOC): Employer best practices for testing and selection

- ✓ Employers should administer 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. While a test vendor's documentation supporting the validity of a test may be helpful, the employer is still responsible for ensuring that its tests are valid under Uniform Guidelines on Employee Selection Procedures (UGESP).
- ✓ If a selection procedure screens out a protected group, the employer should determine whether there is an equally effective alternative selection procedure that has less adverse impact and, if so, adopt the alternative procedure. For example, if the selection procedure is a test, the employer should determine whether another test would predict job performance but not disproportionately exclude the protected group.
- ✓ 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 a clear understanding of its effectiveness and limitations for the organization, its appropriateness for a specific job, and whether it can be appropriately administered and scored.

**If you have any questions or concerns regarding the legal implications of assessments, please contact us. We're happy to answer your questions.**



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