

THE RISKS OF RECRUITING ON FACEBOOK

Heed new legal risk of recruiting via Facebook, LinkedIn

There's a famous quote by a criminal who said he robbed banks, "Because that's where the money is."

In the same way, employers seeking Internet-savvy candidates have been flocking to social media sites in the past year because that's where the web-smart candidates are.

But employers (and their lawyers) are discovering a hidden problem in that recruiting-by-Facebook strategy: Depending too much on the sites could leave your organization vulnerable to age and race discrimination lawsuits.

That's because heavy use of social networking sites may skew your job applicant pool to contain few minorities and older people.

Social media users: young and white

Statistics show that sites such as Twitter and LinkedIn tend to have relatively few minority users.

For example, 2% of LinkedIn users are Hispanic and 5% are black, according to a study by Quantcast Corp. that measures digital audiences. LinkedIn users are typically white males ages 20 to 40.

"If a disparate impact (of hiring through social media) is shown, the employer would have the duty to prove it was a business necessity," says Louis DiLorenzo, co-chair of the Labor and Employment Law Department at Bond, Schoeneck & King law firm in New York.

Using social networking sites as part of an employee referral program may contribute to a less diverse applicant pool. Employees tend to refer people they know, who often possess similar characteristics and skills.

Screening risks

Plus, screening applicants by reviewing their blogs, Facebook walls, LinkedIn profiles and MySpace pages also presents legal risks. You may come across personal information such as age, sexual orientation, religion and pregnancy that candidates aren't obliged to reveal on job applications due to federal laws.

Our advice:

- **Draft a policy** for social media recruiting and screening.
- **Periodically analyze applicant pools** resulting from social networking sites to ensure they aren't too homogeneous.
- **Keep records** of social media recruitment efforts to avoid ending up with a lack of documentation if a discrimination lawsuit strikes.
- **Divide and conquer.** Make sure HR staff who screen applicants through social media aren't involved in hiring decisions. "Insulate those who do the hiring and don't inform them of any protected information," says DiLorenzo