

of the customer. This claim might occur, for example, for the job of salesperson in women's sportswear. Another example, involving religion, is a refusal to hire people who wear turbans or hijabs, due to a fear that customers will not want to interact with them. Usually, customer preference claims cannot be successfully defended by the employer.

Pregnancy or Fertility

Exclusion of pregnant applicants could be a valid BFOQ claim, particularly in jobs where the risk of sudden incapacitation due to pregnancy poses threats to public safety (e.g., airline attendant). A threat to fertility of either sex generally cannot be used as a basis for sustaining a BFOQ claim. For example, an employer's fetal protection policy that excluded women from jobs involving exposure to lead in the manufacture of batteries was held to not be a permissible BFOQ.⁶⁷

The discussion and examples here should make clear that BFOQ claims involve complex situations and considerations. The organization should remember that the burden of proof is on it to defend BFOQ claims. BFOQ provisions in the law are and continue to be construed very narrowly. The employer thus must have an overwhelming preponderance of argument and evidence on its side in order to make and successfully defend a BFOQ claim.

SUMMARY

This chapter reviewed the processes involved in external selection and focused specifically on methods of initial assessment. Before candidates are assessed, it is important to base assessment methods on the logic of prediction and to use selection plans. The logic of prediction focuses on the requisite correspondence between elements in applicants' past situations and KSAOs critical to success on the job applied for. The selection plan involves the process of detailing the required KSAOs and indicating which selection methods will be used to assess each KSAO. The selection sequence is the means by which the selection process is used to narrow down the initial applicant pool to candidates, then finalists, and, eventually, job offer receivers.

Initial assessment methods are used during the early stages of the selection sequence to reduce the applicant pool to candidates for further assessment. The methods of initial assessment were reviewed in some detail; they include résumés and cover letters, application blanks, biographical data, letters of recommendation, reference and background checks, and initial interviews. Initial assessment methods differ widely in their usefulness. The means by which these methods can be evaluated for potential use include frequency of use, cost, reliability, validity, utility, applicant reactions, and adverse impact.