

SUMMARY OF THE *UNIFORM GUIDELINES ON EMPLOYEE SELECTION PROCEDURES*

APPENDIX D

The following summary of the *Uniform Guidelines on Employee Selection Procedures* has been prepared by the State Personnel Board's Test Validation and Construction Unit.

Introduction

This summary of the *Uniform Guidelines for Employee Selection Procedures* is intended to provide a brief overview of the provisions contained in the *Uniform Guidelines*. This summary should be used in conjunction with the full text of the *Uniform Guidelines* to address specific selection-related queries. The *Uniform Guidelines* are available on the U.S. Department of Labor's website at the following web address:
http://www.access.gpo.gov/nara/cfr/waisidx_00/29cfr1607_00.html.

History of the *Uniform Guidelines on Employee Selection Procedures*

The Civil Rights Act of 1964 established that employment decisions based on race, color, religion, sex, or national origin are discriminatory and illegal. In 1978, the U.S. Civil Service Commission, the Department of Labor, the Department of Justice, and the Equal Employment Opportunity Commission jointly adopted the *Uniform Guidelines on Employee Selection Procedures* to establish uniform standards for employers for the use of selection procedures and to address adverse impact, validation, and record-keeping requirements. The *Uniform Guidelines* document a uniform federal position in the area of prohibiting discrimination in employment practices on the basis of race, color, religion, sex, or national origin. The *Uniform Guidelines* outline the requirements necessary for employers to legally defend employment decisions based upon overall selection processes and specific selection procedures.

The *Uniform Guidelines* are not in and of themselves legislation or law; however, through their reference in a number of judicial decisions, they have been identified by the courts as a source of technical information and have been given deference in litigation concerning employment issues.

In addition to the *Uniform Guidelines* themselves, a separate document entitled *Questions and Answers on the Uniform Guidelines on Employee Selection Procedures* was released in 1979 to provide further clarification and a common interpretation of the *Uniform Guidelines*.

Provisions of the *Uniform Guidelines on Employee Selection Procedures*

1. What do the *Uniform Guidelines* cover?

The *Uniform Guidelines* provide standards for the proper use of employment testing, including the definition of discrimination in testing, appropriate means of validating selection procedures which may be discriminatory, acceptable methods of establishing and implementing cutoff scores (or pass points) on selection procedures, and the documentation of validity for selection procedures. The *Uniform Guidelines* pertain to any and all selection procedures that are used as the basis for any employment decision, including hiring, promotion, demotion, referral, retention, licensing and certification, training, and transfer. (Section 2B)

Further, the *Uniform Guidelines* define selection procedures to include the following: any measure, combination of measures, or procedure used as a basis for any employment decision. Selection procedures as defined by the *Uniform Guidelines* include the *full range* of assessment techniques, including written exams, performance tests, training programs, probationary periods, interviews, reviews of experience or education, work samples, and physical requirements. (Sections 2C and 16Q; Q&As 5 and 6)

2. According to the *Uniform Guidelines*, what is discrimination in employment decisions?

Employer policies or practices that have an adverse impact on employment opportunities of any race, sex, or ethnic group are said to be discriminatory and are illegal *unless* justified by business necessity. If adverse impact exists for a specific selection procedure or an overall selection process, according to the *Uniform Guidelines*, the selection procedure must be validated in terms of establishing and documenting the relationship between the procedure and successful performance on the job. (Section 3A)

3. How is discrimination or adverse impact defined by the *Uniform Guidelines*?

The *Uniform Guidelines* have adopted a practical means of determining adverse impact in a selection procedure. This “rule of thumb” established by the *Uniform Guidelines* is known as the “4/5ths” or “80 percent” rule. To determine whether a selection procedure violates the “4/5ths” or “80 percent” rule, the selection rate (or passing rate, where applicable) for the group with the highest selection rate is compared to the selection rates of the other groups. If any of the comparison groups do not have a passing rate equal to or greater than 80 percent of the passing rate of the highest group, then it generally is held that evidence of adverse impact exists for the particular selection procedure. (Section 4D; Q&As 10, 12, 16, 17, 20 - 25)

Further, under the *Uniform Guidelines*, evidence of adverse impact, absent intent to discriminate by the employer, is the same as explicit discrimination. Thus, an employer who administers selection procedures, which inadvertently result in adverse impact, is still held to the provisions and requirements of the *Uniform Guidelines*.

4. What must an employer do if it determines that the use of a selection procedure results in adverse impact?

If the use of a particular selection procedure results in adverse impact, the employer can eliminate the use of the procedure, thus eliminating the adverse impact. Or, if the employer wishes to continue to use the procedure, it must then demonstrate the “business necessity” of the selection procedure— that is, demonstrate a clear relationship between the selection procedure and performance of the job. This process is known as validation. (Section 5D)

5. What is validation and how is it demonstrated?

Validation as used in personnel psychology is the establishment of a clear relationship between a selection procedure and the requirements of successful job performance. The *Uniform Guidelines* recognize three aspects of validity: content validity, criterion validity, and construct validity. The *Uniform Guidelines* outline technical standards and documentation requirements to justify each of these three aspects of validity. (Sections 5A and 5B; Q&As 32, 37 - 39, 54, 55)

6. What is content validity?

As defined by the *Uniform Guidelines*, content validity involves justifying a selection procedure "...by showing that it representatively samples significant parts of the job..." Evidence of content validity for a selection procedure should consist of data showing that the content of the selection procedure is representative of important aspects of performance on the job. (Section 5B)

Section 14C of the *Uniform Guidelines* outlines the technical standards for content validity studies, and Section 15C outlines the corresponding documentation requirements.

7. What is criterion validity?

As defined by the *Uniform Guidelines*, criterion validity involves justifying a selection procedure "...by a statistical relationship between scores on the test [or selection procedure]...and measures of job performance." Evidence of criterion validity should consist of empirical data demonstrating that the selection procedure is predictive of or significantly correlated with important elements of job performance. (Section 5B)

Section 14B of the *Uniform Guidelines* outlines the technical standards for criterion validity studies, and Section 15B outlines the corresponding documentation requirements.

8. What is construct validity?

As defined by the *Uniform Guidelines*, "construct validity involves identifying the psychological trait (the construct) which underlies successful performance on the job and then devising a selection procedure to measure the presence and degree of the construct." Evidence of construct validity should consist of data showing that the selection procedure measures the degree to which candidates possess identifiable characteristics that have been determined to be important in successful job performance. (Section 5B)

Section 14D of the *Uniform Guidelines* outlines the technical standards for construct validity studies, and Section 15D outlines the corresponding documentation requirements.

9. Job Analysis

Any validation study should include a job analysis. The job analysis methodology needs to provide the specific job information required for the validation strategy used. (Section 14A; Q&A 58)

10. Consideration of Suitable Alternative Selection Procedures

When two or more selection procedures are available for use and those procedures are "...substantially equally valid for a given purpose..." the procedure which has been demonstrated to have less adverse impact should be used. (Section 3B; Q&As 31, 50, 52)

11. Method of Use of Selection Procedures (i.e., using selection procedures for ranking vs. pass/fail decisions)

According to the *Uniform Guidelines*, if a selection procedure is used on a ranking basis, "...and that method of use has a greater adverse impact than use on an appropriate pass/fail basis," sufficient evidence of validity and utility to support the use on a ranking basis should be demonstrated. (Section 5G; Q&As 47 and 62)

12. How should cutoff scores (or pass points) be established?

When cutoff scores (or pass points) are established for selection procedures, they should be set at a level consistent with expectations of acceptable job performance.

Further, the *Uniform Guidelines* allow for cutoff scores (or pass points) to be set higher than minimal levels of proficiency in cases where candidates scoring below the higher cut point would have little or no chance of being selected. (Section 5H)

13. Disparate Treatment

"A selection procedure – even though validated against job performance in accordance with [the *Uniform Guidelines*] – can not be imposed upon members of a race, sex, or ethnic group where other employees, applicants, or members have not been subjected to that standard." (Section 11)

14. Equal Employment Opportunity

The use of selection procedures that have been validated pursuant to these guidelines does not relieve employers of the obligation to ensure equal employment opportunities for all candidates. (Section 13A; Q&As 29 and 30)

Technical Standards for Content Validity Studies (Section 14C)

1. Appropriateness of Content Validity

Content validity is appropriate for selection procedures that are a representative sample of the content of the job. Content validity may also be used to validate selection procedures that measure knowledge, skills, and abilities (KSAs) required for successful job performance provided that those KSAs are operationally defined and are necessary prerequisites to successful job performance.

2. Job Analysis for Content Validity

To support a strategy of content validity, the job analysis should include:

- an analysis of the essential tasks required for successful job performance
- the relative importance of the essential tasks
- the identification of the critical KSAs required for successful performance of the essential job tasks, including the complexity and the difficulty level of the KSAs
- a linkage of the critical tasks of the job and the KSAs required to successfully perform those tasks

3. Standards for Demonstrating Content Validity

To demonstrate the content validity of a selection procedure, the following must be shown:

- the behavior demonstrated in the selection procedure is representative of the behavior of the job, or the selection procedure provides a representative sample of the work product of the job
- the KSAs being measured by the selection procedure are operationally defined in terms of observable work behaviors/work products to ensure that they are requisite requirements for successful performance of essential job tasks
- the selection procedure should closely approximate an observable work behavior
- the level and complexity of the selection procedure should closely approximate actual job requirements

4. Ranking on the Basis of Content-Valid Selection Procedures

If it can be demonstrated through a job analysis or another source that a higher score on a content-valid selection procedure is likely to result in better job performance, then such scores can be used to rank candidates for selection.

Documentation Requirements for Content Validity Studies (Section 15C; Q&A 89)

The following information should be documented to support content validation:

- a job analysis, detailing the content of the job
- a description of the selection procedure
- the relationship between the selection procedure and the job
- the uses and applications of the selection procedure