APPEARANCE DISCRIMINATION
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INTRODUCTION

In the business world, it is emphasized that in order to obtain a specific job, the candidate must meet certain qualifications. Required qualifications usually include things such as education and experience. But, there is a chance that a perfectly qualified candidate for a job may be rejected, not because there was a more experienced candidate, who applied for the same job, but a better-looking candidate. This practice of hiring applicants based on how attractive they are not uncommon. Appearance discrimination is when someone is treated differently or discriminated against because of how they look. Whether it be based on factors that cannot be controlled such as height, weight, eye color, or general unattractiveness.

Physical appearances influence hiring decisions made during the interview process.

CURRENT LEGISLATION

The Civil Rights Act of 1964
Created to prohibit discriminatory hiring practices based on race and sex. This act is pivotal because it was from Title VII of this act, that established the EEOC. Over time, more classes have been added to the short list of the protected classes of sex and race.

Equal Employment Opportunity Commission (EEOC)
A government agency delegated by the government to “enforce, interpret and administer Title VII” (Cavico, Muller, & Mutjaba, 2012). They have the power to file suit on behalf of employees that have been discriminated against.

Protected Classes
- Age
- Sex
- Race/Color
- Religion
- National Origin
- Disability
- Genetic Information

Bona Fide Occupational Qualifications (BFOQ)
There are exceptions to these protected classes in hiring. In certain industries, it is allowed to discriminate for the purposes of the designated job. It allows businesses to restrict a certain position if it is “reasonably necessary to the normal operation of an employer’s particular business.” (42 U.S.C.A. § 2000e-2(e)(1) (Equal Employment Opportunity Commission, 2002).

Americans with Disabilities Act (ADA)
This law was passed in order to protect the rights of people with disabilities. It prohibits employers from discriminating against people with disabilities in the workplace and gives people with disabilities an equal opportunity to gain employment (United States Department of Labor).

FEATURES

Weight
Weight is a physical feature NOT protected under the EEOC. It has been questioned whether obesity can be protected under the ADA (Maranto and Stenoien, 2000).

The EEOC explains what is covered as a disability within the amended ADA using a “three pronged approach”:
- “a physical or mental impairment that substantially limits one or more major life activities”
- “a record of a physical or mental impairment that substantially limited a major life activity”
- “when a covered entity takes an action prohibited by the ADA because of an actual or perceived impairment that is not both transitory and minor”

Age
A category that is protected by the Equal Employment Opportunity Commission is age. The Age Discrimination in Employment Act (ADEA) protects people aged 40 and older from being discriminated against due to their age.

Kaufmann et al. (2016) proposed that regardless of what “chronological” age an individual is, if someone has an “old” looking appearance or looks old, they may be more likely to be discriminated against by hiring managers. In the study conducted by Kaufmann et al. (2016), they sent pictures of the candidates ranging in ages to participants to see which would be hired. Their conclusions in their findings are that the participants chose to hire candidates based on appearance, not “chronological age.” This means that regardless of the actual age of the applicant, if they looked older, they were not hired.

Religion
Another class that falls within the protections of Title VII of the Civil Rights Act is religion. When a religion causes someone to look in a certain way it may impact or influence the decision of a hiring manager to hire them. According to the EEOC guidelines, to avoid religious discrimination, a company must “reasonably accommodate” the individual’s religious belief unless it is an “undue hardship.” An undue hardship would be something that hurt the company or its employees such as interfering with safety regulations.

Abercrombie & Fitch has had many, many instances of discrimination against appearance. In 2010, an incident involved a teenager interviewing with them after applying for the job. She was rejected from the job because she did not have the “Abercrombie look” because she wore a head covering due to her being Muslim. Abercrombie & Fitch has a policy that they require employees to follow including not wearing hats or head coverings (Aslam, 2011).

FAMOUS INCIDENTS

Abercrombie & Fitch: incidents regarding sex, religion, race, as well as weight and attractiveness. Many of these controversies come from the company’s “Look Policy”.

Citibank: an incident occurred in 2010. There was a case where an employee filed suit against Citibank for firing her due to her appearance. The part that makes this case different was that instead of being fired for being unattractive, she was fired for being “too attractive”.

Pan American World Airways and Southwest Airlines: attempted to claim that being female and “female sex appeal” was a BFOQ of being a flight attendant.

CONCLUSION

There is sufficient evidence to conclude: physical appearance does impact the decisions of hiring managers. Whether it be something as general as being overweight, to something that was federally legislated not to be discriminated against, such as age and religion, it does not prevent hiring managers from hiring based on what they deem “fit” for their appearance standards. This practice seems to be a normal part of the business world to where it is common knowledge that dressing well to interviews is an integral part of trying to get hired.

Legislation to protect physical appearance from discrimination is unlikely because there is no way to prove such discrimination without establishing what can be considered attractive or not.

REFERENCES

Southwest Airlines Flight Attendants Retrieved from: Google.com