



NEW YORK STATE WORKFORCE DEVELOPMENT SYSTEM TECHNICAL ADVISORY

Workforce Development System Technical Advisory # 11- 11

TO: Workforce Development Community

DATE: September 8, 2011

SUBJECT: Mitigating Discriminatory Content in Job Orders on the New York State Job Bank

Purpose:

To communicate policy and procedure to mitigate discriminatory content in job orders on the New York State (NYS) Job Bank

Action:

Managers must review the procedure provided in Attachment A to mitigate discriminatory content in job orders on the NYS Job Bank with all staff who perform either of the following functions:

- Intake of job orders into the One Stop Operating System (OSOS); and
- Approval of business accounts on the NYS Job Bank.

Policy:

A job order that contains discriminatory content is strictly prohibited on the NYS Job Bank.

A Job Order is deemed to be discriminatory if it contains any of the following as a requirement for the position: age, race, creed, color, national origin, sexual orientation, military status, gender, disability, predisposing genetic characteristics, marital status, arrest records, criminal convictions or current employment/unemployment status.

There are a few exceptional situations in which a business can claim a personal characteristic as an essential qualification for a job. However, in such situations, the business must be able to provide proof to substantiate that the hiring practice is necessary for the position. Examples of such exceptions would include:

- Restroom or Locker Room Attendants, by the nature of the job, may necessitate that the person being hired be of a particular gender.
 - Criminal convictions may bar a jobseeker from certain occupations. However, a job order cannot indicate that persons with a criminal conviction or arrest could not apply. The only acceptable language is "a background check will be conducted."
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Note that race, or a person's employment/unemployment status, are never a bona fide qualification for employment.

Job orders that contain discriminatory content must be suspended from the NYS Job Bank. Discriminatory job orders can be removed by contacting regional Business Services staff (contact information included in Attachment B) or by email notification to the NYS Job Bank at nysjobbank@labor.ny.gov.

Background:

The New York State Department of Labor (NYSDOL) has a responsibility to be a source for bona fide job openings available to all job seekers interested in employment. The policy and procedure communicated in this technical advisory describe the action necessary to mitigate instances of discriminatory job orders.

Inquiries:

Questions related to the content of a job order can be sent to the NYS Job Bank at nysjobbank@labor.ny.gov.

Attachments:

- A. Procedure for Mitigating Discriminatory Content in Job Orders on the New York State Job Bank**
- B. Business Services Regional Staff Listing and Contact Information**