

§ 1607.1

29 CFR Ch. XIV (7-1-02 Edition)

- (6) Prior training or experience
- (7) Content validity of training success
- (8) Operational use
- (9) Ranking based on content validity studies
- D. Technical standards for construct validity studies
  - (1) Appropriateness of construct validity studies
  - (2) Job analysis for construct validity studies
  - (3) Relationship to the job
  - (4) Use of construct validity study without new criterion-related evidence
    - (a) Standards for use
    - (b) Determination of common work behaviors

DOCUMENTATION OF IMPACT AND VALIDITY EVIDENCE

- 1607.15. Documentation of impact and validity evidence
- A. Required information
    - (1) Simplified recordkeeping for users with less than 100 employees
    - (2) Information on impact
      - (a) Collection of information on impact
      - (b) When adverse impact has been eliminated in the total selection process
      - (c) When data insufficient to determine impact
    - (3) Documentation of validity evidence
      - (a) Types of evidence
      - (b) Form of report
      - (c) Completeness
  - B. Criterion-related validity studies
    - (1) User(s), location(s), and date(s) of study
    - (2) Problem and setting
    - (3) Job analysis or review of job information
    - (4) Job titles and codes
    - (5) Criterion measures
    - (6) Sample description
    - (7) Description of selection procedures
    - (8) Techniques and results
    - (9) Alternative procedures investigated
    - (10) Uses and applications
    - (11) Source data
    - (12) Contact person
    - (13) Accuracy and completeness
  - C. Content validity studies
    - (1) User(s), location(s), and date(s) of study
    - (2) Problem and setting
    - (3) Job analysis—Content of the job
    - (4) Selection procedure and its content
    - (5) Relationship between the selection procedure and the job
    - (6) Alternative procedures investigated
    - (7) Uses and applications
    - (8) Contact person
    - (9) Accuracy and completeness
  - D. Construct validity studies
    - (1) User(s), location(s), and date(s) of study
    - (2) Problem and setting

- (3) Construct definition
- (4) Job analysis
- (5) Job titles and codes
- (6) Selection procedure
- (7) Relationship to job performance
- (8) Alternative procedures investigated
- (9) Uses and applications
- (10) Accuracy and completeness
- (11) Source data
- (12) Contact person
- E. Evidence of validity from other studies
  - (1) Evidence from criterion-related validity studies
    - (a) Job information
    - (b) Relevance of criteria
    - (c) Other variables
    - (d) Use of the selection procedure
    - (e) Bibliography
  - (2) Evidence from content validity studies
  - (3) Evidence from construct validity studies
- F. Evidence of validity from cooperative studies
- G. Selection for higher level job
- H. Interim use of selection procedures

DEFINITIONS

- 1607.16. Definitions

APPENDIX

- 1607.17. Policy statement on affirmative action (see section 13B)
- 1607.18. Citations

AUTHORITY: Secs. 709 and 713, Civil Rights Act of 1964 (78 Stat. 265) as amended by the Equal Employment Opportunity Act of 1972 (Pub. L. 92-261); 42 U.S.C. 2000e-8, 2000e-12.

SOURCE: 43 FR 38295, 38312, Aug. 25, 1978, unless otherwise noted.

GENERAL PRINCIPLES

§ 1607.1 Statement of purpose.

A. *Need for uniformity—Issuing agencies.* The Federal government's need for a uniform set of principles on the question of the use of tests and other selection procedures has long been recognized. The Equal Employment Opportunity Commission, the Civil Service Commission, the Department of Labor, and the Department of Justice jointly have adopted these uniform guidelines to meet that need, and to apply the same principles to the Federal Government as are applied to other employers.

B. *Purpose of guidelines.* These guidelines incorporate a single set of principles which are designed to assist employers, labor organizations, employment agencies, and licensing and certification boards to comply with requirements of Federal law prohibiting employment practices which discriminate on grounds of race, color, religion, sex, and national origin. They are designed to provide a framework for determining the proper use of tests and other selection procedures. These guidelines do not require a user to conduct validity studies of selection procedures where no adverse impact results. However, all users are encouraged to use selection procedures which are valid, especially users operating under merit principles.

C. *Relation to prior guidelines.* These guidelines are based upon and supersede previously issued guidelines on employee selection procedures. These guidelines have been built upon court decisions, the previously issued guidelines of the agencies, and the practical experience of the agencies, as well as the standards of the psychological profession. These guidelines are intended to be consistent with existing law.

#### § 1607.2 Scope.

A. *Application of guidelines.* These guidelines will be applied by the Equal Employment Opportunity Commission in the enforcement of title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972 (hereinafter "title VII"); by the Department of Labor, and the contract compliance agencies until the transfer of authority contemplated by the President's Reorganization Plan No. 1 of 1978, in the administration and enforcement of Executive Order 11246, as amended by Executive Order 11375 (hereinafter "Executive Order 11246"); by the Civil Service Commission and other Federal agencies subject to section 717 of title VII; by the Civil Service Commission in exercising its responsibilities toward State and local governments under section 208(b)(1) of the Intergovernmental-Personnel Act; by the Department of Justice in exercising its responsibilities under Federal law; by the Office of Revenue Sharing of the Department of the

Treasury under the State and Local Fiscal Assistance Act of 1972, as amended; and by any other Federal agency which adopts them.

B. *Employment decisions.* These guidelines apply to tests and other selection procedures which are used as a basis for any employment decision. Employment decisions include but are not limited to hiring, promotion, demotion, membership (for example, in a labor organization), referral, retention, and licensing and certification, to the extent that licensing and certification may be covered by Federal equal employment opportunity law. Other selection decisions, such as selection for training or transfer, may also be considered employment decisions if they lead to any of the decisions listed above.

C. *Selection procedures.* These guidelines apply only to selection procedures which are used as a basis for making employment decisions. For example, the use of recruiting procedures designed to attract members of a particular race, sex, or ethnic group, which were previously denied employment opportunities or which are currently underutilized, may be necessary to bring an employer into compliance with Federal law, and is frequently an essential element of any effective affirmative action program; but recruitment practices are not considered by these guidelines to be selection procedures. Similarly, these guidelines do not pertain to the question of the lawfulness of a seniority system within the meaning of section 703(h), Executive Order 11246 or other provisions of Federal law or regulation, except to the extent that such systems utilize selection procedures to determine qualifications or abilities to perform the job. Nothing in these guidelines is intended or should be interpreted as discouraging the use of a selection procedure for the purpose of determining qualifications or for the purpose of selection on the basis of relative qualifications, if the selection procedure had been validated in accord with these guidelines for each such purpose for which it is to be used.

D. *Limitations.* These guidelines apply only to persons subject to title VII, Executive Order 11246, or other equal employment opportunity requirements of