

FIGURE 3.2  
EXCERPTS FROM TITLE VII OF THE CIVIL RIGHTS ACT OF 1964

---

SECTION 703

- (a) It shall be an unlawful practice for an employer
- (1) to fail to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or
  - (2) to limit, segregate, or classify employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect status as an employee, because of such individual's race, color, religion, sex, or national origin.
- (e) Notwithstanding any other provision of this title,
- (1) it shall not be an unlawful employment practice for an employer to hire and employ those employees . . . on the basis of religion, sex, or national origin in those certain instances where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise. . . .
- (h) Notwithstanding any other provision of this title, it shall not be an unlawful employment practice for an employer to apply different standards of compensation, or different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of race, color, religion, sex, or national origin, nor shall it be unlawful employment practice for an employer to give and act upon the results of any professionally developed ability test provided that such test, its administration or action upon the results is not designed, intended, or used to discriminate because of race, color, religion, sex, or national origin. . . .
- (j) Nothing contained in this title shall be interpreted to require any employer . . . to grant preferential treatment to any individual or to any group because of the race, color, religion, sex, or national origin of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex, or national origin employed by any employer . . . in comparison with the total number or percentage of persons of such race, color, religion, sex, or national origin in any community, State, section, or other area, or in the available work force in any community, State, section, or other area.

SECTION 704

- (a) It shall be an unlawful employment practice for an employer to discriminate against any employees or applicants for employment . . . because the employee or applicant has opposed any practice made an unlawful employment practice by this title, or because he or she has made a charge, testified, assisted, or participated in any matter in an investigation, proceeding, or hearing under this title.

**FIGURE 3.7**  
**EXCERPTS FROM THE AMERICANS WITH DISABILITIES ACT OF 1990**

---

**SECTION 102. Discrimination**

- (a) **General Rule.** No covered entity shall discriminate against a qualified individual with a disability because of the disability of such individual.
- (b) **Construction.** As used in subsection (a), the term "discrimination" includes:
- (1) limiting, segregating, or classifying a job applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of . . . disability . . .
  - (2) participating in a contractual or other arrangement or relationship that has the effect of subjecting a qualified applicant or employee with a disability to the discrimination prohibited by this title . . .
  - (5) not making reasonable accommodations to the known physical or mental limitations of a qualified individual who is an applicant or employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity, and;
  - (7) using employment tests or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the test or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and is consistent with business necessity.
- (c) **Medical Examinations and Inquiries.**
- (1) **In general.** The prohibition against discrimination as referred to in subsection (a) shall include medical examinations and inquiries.

**Section 3. Definitions**

- (2) **Disability.** The term "disability" means, with respect to an individual:
- (A) a physical or mental impairment that substantially limits one or more of the major life activities of such individual;
  - (B) a record of such an impairment, or;
  - (C) being regarded as having such an impairment.

**Section 101. Definitions**

- (7) **Qualified Individual with a Disability.** The term "qualified individual with a disability" means an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires.
- (8) **Reasonable Accommodation.** The term "reasonable accommodation" may include:
- (A) making existing facilities used by employees readily accessible to and usable by individuals with disabilities, and;
  - (B) job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.
- (9) (A) **In general.** The term "undue hardship" means an action requiring significant difficulty or expense.

Over 80 percent of the women in the U.S. workforce work in occupations that are dominated by women. For example, 96 percent of registered nurses and 99 percent of secretaries are women. Thus, the EPA has had virtually no impact on the wages of workers in female-dominated jobs and, in general, on the wage disparities between men and women across jobs. There can be little arguing the fact that the wages of female-dominated jobs (e.g., clerical) are depressed relative to the wages of male-dominated jobs (e.g., plumbing, construction). The remedy for such disparities is very controversial. There are many who maintain that wage disparities constitute illegal discrimination. A 1981 study by the National Academy of Sciences, for example, found that while there are many factors related to the wage gap between men and women, sex discrimination may account for over half of these differences.<sup>29</sup> The advocates of *comparable worth* or "pay equity" legislation call for the determination of wages based on the worth or value of a given job for an organization, and not the "market value" of the job (e.g., what other organizations pay for the job).

Numerous suits have been filed on behalf of women using the comparable worth theory to attack wage and salary discrimination under Title VII. Comparable worth cases cannot be brought under the Equal Pay Act because the jobs being compared in such cases are not similar. For example, some celebrated comparable worth cases have compared nurses and tree trimmers.<sup>30</sup>

In a comparable worth case, evidence is often presented which shows that female-dominated jobs of the same comparable value or worth to an organization as male-dominated jobs are nonetheless paid substantially less. The "worth" of a job, under the comparable worth theory, is determined by performing a job evaluation. Points are given according to the difficulty of the job, the amount of independence it gives the worker, the consequence of errors, the amount of education and/or experience it requires, etc. Job evaluations have not been viewed by the courts as reliable indicators of the worth of a job, and the courts have been reluctant to require employers to ignore the market and set salaries solely on the basis of job evaluation scores.<sup>31</sup> Federal judges have not been willing to extend Title VII to cover comparable worth claims.

While the courts have not accepted the argument that "comparable worth is required by Title VII," several states and localities have now passed legislation requiring that public jobs be paid according to their "worth" to the organization. For example, Washington State agreed to provide supplemental pay increases from 1986 to 1992 to affected employees, and the bill is estimated at \$482 million.<sup>32</sup> At this time, at least 20 states have passed some form of comparable worth legislation to raise the

pay of employees in jobs filled predominately by women.<sup>33</sup> We will discuss the issue of "comparable worth" in more detail in Chapter 11.

## THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967, AMENDED IN 1978 AND 1986

The Age Discrimination in Employment Act (ADEA) was designed to prohibit discrimination due to age in employment decisions (e.g., hiring, job retention, compensation, and other terms and conditions). The ADEA was initially applied to workers aged 40 to 65 years, but it was later amended to include workers up to age 70 (1978), and still later to include all those over age 39 (1986). Another result of the amendments was the lifting of the mandatory retirement age of 70 for federal employees. This means that, with a few exceptions to be discussed below, mandatory or forced retirement for reasons of age is illegal. The ADEA applies to employers with 20 or more employees; unions of 25 or more members; employment agencies; and federal, state, and local governments.

As we discussed in Chapter 1, due to the aging of the workforce, the number of ADEA cases has increased every year since 1978. Many ADEA lawsuits have also been filed related to an organization's downsizing efforts, where people terminated as part of a downsizing or restructuring claim to be victims of age discrimination. The EEOC possesses the authority to administer the act, and can review compliance in organizations even when no formal charge has been filed. For example, in 1992 the EEOC gave Catholic University one year to work out a settlement with a philosophy professor who had been terminated. If the university fails to comply, the EEOC says it will sue on behalf of Professor Paul Weiss, who is 90. The ADEA provides for a trial by jury, which may be important if jurors are sympathetic to older workers. The ADEA also permits employees to recover double damages if the employer's conduct is found to have been "willful," which means that plaintiffs may win more than simply lost wages if intentional discrimination is proved.

Similar to Title VII cases, there are certain requirements for establishing a *prima facie* case of age discrimination. These include showing that (1) the employee is a member of the protected age group (40 or older); (2) the employee has the ability to perform satisfactorily at some absolute or relative level (e.g., relative to other employees involved in the decision process or at an absolute standard of acceptability); (3) the employee was not hired, promoted, or compensated, or was discharged, laid off, or forced to retire; and (4) the position was filled or maintained by a younger person.<sup>34</sup> Once a *prima facie*

case has been established by the court, the defendant must present evidence that "reasonable factors" other than age were the basis of the personnel decision.

One of the most common scenarios for litigation under ADEA concerns the termination of an employee due to alleged poor performance. For example, in *Mastie v. Great Lakes Steel Corp.*,<sup>35</sup> the employer maintained that Mr. Mastie had been discharged in a reduction in force due to his poorer performance relative to other employees. Mr. Mastie presented personnel records reflecting an exemplary performance record and a history of merit-based salary increases. However, the court found for the employer and said that the controlling issue should be whether age was a *determinative* factor in the personnel decision, *not* the "absolute accuracy" or correctness of the personnel decision. Several other courts have established that it is not the role of the court to "second-guess" employers in their personnel decisions, i.e., did they really discharge the poorest performer or hire the very best person? The critical question in ADEA litigation is simply whether age was a "determinative factor" in a personnel decision. It is the plaintiff's responsibility to establish this as fact, which makes it difficult for plaintiffs to win such cases.

There is likely to be an increase in ADEA litigation not only because of the increased proportion of workers who are covered by the law (due to the aging of the workforce) but because so many companies are attempting to reduce their labor costs in increasingly competitive markets. Older workers tend to make more money than younger workers and use more health benefits. These workers at least perceive that they were victims of age discrimination during a downsizing. Their perceptions are sometimes accurate.

### The ADEA and Bona Fide Occupational Qualifications

There are occasions on which age discrimination is legal, although they apply to a limited number of employers. For example, Greyhound Bus Lines survived a court challenge to their rule that they would accept no applicants over 40 years of age to drive their buses. The company successfully contended that age was a bona fide occupational qualification (BFOQ) since it was related to the safe conduct of the bus line.<sup>36</sup> Other cases have supported the use of age as a BFOQ. In general, if public safety is relevant and the employee must be in good physical condition, the courts have supported the use of age requirements, in terms of both entry-level positions and, more commonly, mandatory retirement for certain jobs. Congress specifically exempted public safety personnel in the 1986 amendments, allowing mandatory retirement

for police officers and firefighters (usually 55 years of age). The courts have generally recognized these age ceilings as legal BFOQs, but only when the employer can demonstrate that (1) physical fitness, and especially good aerobic fitness, is important to the job and (2) the employer applies the same physical fitness standards to employees under age 40 as to older employees. The EEOC provides the following rules for the imposition of BFOQs: (1) The age limit is reasonably necessary for the business. (2) All or almost all individuals over the age are unable to perform adequately. (3) Some people over the age have a disqualifying characteristic (e.g., health) that cannot be determined independently of age. Regarding the public safety exemption imposed by Congress, the 1986 amendment also required the EEOC to conduct a study to determine whether age can be replaced by some other criterion in making retirement decisions in public safety departments. The study commenced in 1991.

### THE REHABILITATION ACT OF 1973

The Rehabilitation Act prohibits discrimination on the basis of physical or mental disability. A person with a disability is defined as one who (1) has an impairment which affects a major life activity, (2) has a history of such an impairment, or (3) is considered to have one. Major life activities refer to functions such as seeing, speaking, walking, caring for oneself, and working. Individuals with disabilities also include those with mental handicaps and may include those with illnesses making them unfit for employment (e.g., heart disease, cancer, diabetes, drug dependency, or alcoholism). Most states have similar laws protecting workers with disabilities from discrimination.

All federal agencies and federal contractors or sub-contractors of over \$2500 are required by the Rehabilitation Act to take affirmative action for the employment of qualified persons with disabilities. Enforcement is carried out by the Department of Labor's Employment Standards Administration. In recent years, increasingly more cases have been filed charging bias against workers with disabilities. For example, of the more than 7000 discrimination complaints filed against the U.S. Postal Service in 1989, nearly 20 percent involved disability bias claims.<sup>37</sup> The legal requirements entail job accommodations (physical modification of the work setting), accessibility changes (e.g., access ramps), interviewing restrictions (focus on essential functions of the job), and special training programs for nondisabled employees on disabilities and how to deal with them. Under the Rehabilitation Act, a person with a disability is considered qualified for a job if an individual analysis determines

in federal court. The complainant is given a "right-to-sue" letter, which signifies that the EEOC no longer has exclusive jurisdiction over the case. A complaining party may obtain a right-to-sue letter before the EEOC has ruled in the case as long as at least 180 days have elapsed since the individual filed with the EEOC. If probable cause is determined, the EEOC will attempt to settle the matter through a process known as *conciliation*. The objective of conciliation is to gain an agreement by all parties while avoiding litigation. If conciliation fails, the EEOC may file suit in federal district court if the employer is private, or may refer the case to the U.S. Justice Department if the employer is a public agency.

The Supreme Court has established the legal steps to be followed in a Title VII action. Although the plaintiff retains the "burden of proof," a model is used such that the burden of producing evidence shifts from the plaintiff to the defendant and back to the plaintiff. Initially the complainant or plaintiff has the burden to show that a *prima facie* case of discrimination exists. This means he or she must show that there is a high likelihood that a violation of EEO law has occurred. After the plaintiff produces sufficient evidence to establish a *prima facie* case, the burden of producing evidence shifts to the employer or defendant, who must provide some proof of a legitimate, nondiscriminatory reason for the employment decision. Finally, the burden of producing evidence shifts back to the plaintiff to show either that the reason given was a pretext for discrimination or that an alternate practice, less discriminatory in its effect, would achieve the employer's purpose equally well. Title VII cases can be brought under one of two theories: disparate impact and disparate treatment. The steps to follow for each are illustrated in Figure 3.5.

**DISPARATE TREATMENT.** Plaintiffs can demonstrate a *prima facie* case of discrimination by showing *disparate treatment*, the most frequently used theory. According to the procedures established in the 1973 *McDonnell Douglas v. Green* Supreme Court case, plaintiffs must show that an employer treats one or more members of a protected group differently.<sup>4</sup> For example, the use of different criteria for promotion depending on the candidate's sex would constitute disparate treatment. Female applicants who were not hired by a firm might show that the employer asked them questions about their marital status or child-care arrangements which were not asked of male applicants.

In disparate treatment cases, the Supreme Court established that the burden is on the plaintiff to prove that the employer *intended* to discriminate because of race, sex, color, religion, or national origin. For example, Alice Burdine claimed that she was a victim of sex discrimination by the Texas Department of Community Affairs.

Her employer was not required, said the U.S. Supreme Court, to prove that it did not discriminate against her, but needed only to "articulate some legitimate nondiscriminatory reason" for the negative decision. The Court indicated that the plaintiff has the ultimate burden of proving that an employer intentionally discriminated against the plaintiff.<sup>5</sup>

**DISPARATE IMPACT.** According to procedures established in the 1971 *Griggs v. Duke Power Company* case, plaintiffs can show that an employer's practices had a *disparate impact* on members of a protected group by showing that the employment procedures (e.g., hiring, promotions, entry into training) had a disproportionately negative effect on members of a protected group.<sup>6</sup> Such impact is illegal if the employment practice is not "job-related" or related to the employment in question. For example, if an organization hires 50 whites and 10 blacks, from 100 white and 100 black applicants, then disparate impact has occurred. Whether or not the employer had good intentions or didn't mean to discriminate is unnecessary to the courts in this type of lawsuit. After the plaintiff shows evidence of disparate impact, the employer must carry the burden of producing evidence of business necessity or "job relatedness" for the employment practice. Finally, the burden shifts back to the plaintiff, who must show that an alternative procedure is available that is equal to or better than the employer's practice and has a less discriminatory effect.

Figure 3.6 presents a list of employment practices having potential disparate impact against minorities or females. The most common examples are employment tests, educational requirements, and physical characteristics (e.g., a height requirement). Of course, whether the use of such practices constitutes illegal discrimination depends on the employment situation. Most experts on EEO law contend that recent Supreme Court rulings make it easier for employers to defend the use of such practices when they can be shown to be closely related to the job.

**DETERMINING DISPARATE OR ADVERSE IMPACT.** The yardstick recommended by the EEOC in the *Uniform Guidelines* and adopted in numerous cases for determining disparate or adverse impact is the "four-fifths" rule. This means that a selection rate (number selected/number applied) for a protected group cannot be less than four-fifths or 80 percent of the rate for the group with the highest selection rate. For example, the City of Columbus, Ohio, used a paper-and-pencil, multiple-choice examination to screen applicants for its firefighter positions. While 84 percent of the whites passed the examination, only 27 percent of the blacks did. Using the four-fifths rule, 80 percent of the highest selection rate (84 percent) is 67 percent. The 27 percent selection rate

**FIGURE 3.5**  
**EVIDENCE AND PROOF IN TITLE VII CASES**

EVIDENCE BURDEN	DISPARATE TREATMENT	DISPARATE IMPACT
<i>Plaintiff's initial burden</i> (prima facie case)	He or she belongs to the discriminated-against group He or she applied and was qualified He or she was rejected The position remained open to applicants with equal or fewer qualifications	Unequal impact of the practice(s) in question on different groups
<i>Defendant's rebuttal burden</i>	Articulate a "legitimate nondiscriminatory reason for the rejection"	Demonstrate that the challenged practice is job-related for the position in question and consistent with business necessity
<i>Plaintiff's burden in response</i>	Show that the stated reason is a pretext by demonstrating, e.g.: —the employer doesn't apply that reason equally to all —the employer has treated the plaintiff unfairly before —The employer engages in other unfair employment practices OR Show the plaintiff's group membership was a factor in the rejection decision	Show that a less discriminatory alternative practice does exist
<i>Defendant's burden in response</i>	Show that the decision would have been the same even if it had not taken plaintiff's group membership into account	

Source: Adapted from J. Ledvinka and V. G. Scarpello, *Federal regulation of personnel in human resource management*. Boston, MA: PWS-Kent, 1991, p. 54. Reprinted with permission.

for the other group (blacks) is less than 67 percent, so the test was determined to have an adverse impact on blacks.

The disparate impact theory was used in a great many cases involving "neutral employment practices" such as tests, entrance requirements, and physical requirements. In *Watson v. Fort Worth Bank & Trust*, the Supreme Court extended use of the theory in cases involving "subjective" employment practices such as interviews, performance appraisals, and job recommendations. Thus, statistical data such as the four-fifths rule can be used in a disparate impact case to establish prima facie evidence of discrimination when decisions are based on subjective employment practices.<sup>7</sup>

Despite the Court's extension of disparate impact to subjective employment practices, there is little agreement

on precisely how a plaintiff can demonstrate disparate impact, or how an employer can defend against such a charge. Although the U.S. Supreme Court ruled in 1989 that the employer need not prove that the challenged practice was a valid measure of the job requirements, Congress overturned that ruling in the Civil Rights Act of 1991. The new law, however, is unclear as to precisely what an employer must demonstrate; it simply says that the employer must demonstrate "that the challenged practice is job related for the position in question and consistent with business necessity." Open to interpretation, as well, is the new law's requirement that plaintiffs "demonstrate that each particular challenged employment practice causes a disparate impact, except that if the [plaintiff] can demonstrate to the court that the elements of [an em-

**FIGURE 7.1**  
**APPLICANT ATTRIBUTES THAT AFFECT RATING BIAS**

ATTRIBUTES	EXAMPLES OF RESEARCH FINDINGS
Gender bias	Influenced by type of job (role-congruent jobs) and competence. Female interviewers gave higher ratings than male interviewers.
First-impression effect	Early impressions were more important than factual information for interviewer judgments. Hire decisions were related to the interviewer's causal interpretation (attribution) of an applicant's past outcomes.
Contrast effect	Interviewers' evaluations of job candidates were influenced by the quality and characteristics of the previous candidates.
Nonverbal communication	Applicants who looked straight ahead, as opposed to downward, were rated as being more alert, assertive, and dependable; they were also more likely to be hired. Applicants who demonstrated a greater amount of eye contact, head moving, and smiling received higher evaluations.
Physical attractiveness	More attractive applicants received higher evaluations.

Sources: See note 2.

**FIGURE 7.2**  
**INTERVIEWER ATTRIBUTES THAT AFFECT RATING BIAS**

ATTRIBUTES	EXAMPLES OF RESEARCH FINDINGS
Similarity effect	Interviewers gave more positive ratings to applicants perceived to be similar to themselves. Interviewers resisted using additional information to evaluate applicants once they perceived the applicants to be similar to themselves.
"Likability"	Interviewers gave more positive ratings to candidates they liked. Interpersonal attraction was found to influence interviewers' perceptions of applicant qualifications.
"Ideal stereotype"	Interviewers judged applicants against their own stereotype of an "ideal" job candidate. These stereotypes may be unique to each interviewer, or they may be a common stereotype shared by a group of raters.
Information favorability	Interviewers weighted negative information more heavily than positive information. Interviewers spent more time talking when they had already formed a favorable decision.
Information utilization	Interviewers placed different importance (weights) on the information content of the interview, resulting in idiosyncratic information-weighting strategies. Discrepancies often arose between interviewers' intended (nominal) information weights and the actual information weights they used to arrive at a decision.

Sources: See note 5.

Citizens Bank of Maryland has sharply reduced interviewer involvement by combining a short, structured interview with one video developed especially for tellers and another for customer service representatives. The video provides a realistic job preview that describes the positive and negative features of the job and then tests applicants on job-related verbal, quantitative, and

interpersonal skills. The test, which costs Citizens Bank \$27 per applicant, is completed and scored on a computer. Citizens Bank reports a significant drop in turnover with this method, compared to turnover rates when hiring decisions were based on an unstructured interview in which interviewers had no formal set of questions to ask.

## Attributes of the Situation

Factors such as stress, background noise, interruptions, time pressures, and other conditions surrounding the interview can influence interviewers' attention to information.<sup>7</sup> The amount of information available to the interviewer prior to the actual interview session is an important factor. If little background information about the job is available, the decision-making process may be distorted due to irrelevant or erroneous assumptions about job requirements. The lack of job information causes the interviewer to rely on his or her assumptions about what the job requires, which may not be consistent across different interviewers or across different interview sessions. Rating errors occur because non-job-related information is collected and used in the decision-making process. Figure 7.3 contains a list of some of the situation attributes that have been found to distort the interview process.<sup>8</sup>

## Summary

In summary, applicant, interviewer, and situation attributes are factors that can potentially bias the decision-making process and result in erroneous evaluations during the interview. There are two facets to this bias: a general rating bias and a more specific discriminatory bias. The *rating bias* refers to unfair, but not necessarily illegal, distortions that are attributable to the underlying impressions and stereotypes associated with job applicants. The *discriminatory bias* refers to unfair and illegal distortions based on an applicant's sex, race, age, disabilities, or other characteristics. The factors shown in Figures 7.1 and 7.2 are some of the general perceptual influences that affect rating bias and contribute to discriminatory bias as well. Discriminatory bias will be examined more fully in the discussion on decision-making outcomes.

## Applicant Behaviors

While the discussion so far has focused on interviewer reactions to the interview process, applicant's reactions also have an impact on that process. For example, an applicant's communication skills (verbal and nonverbal) will affect the interviewer's impression and evaluation. In fact, applicants' verbal communication skills sometimes receive too much weight in an interviewer's overall judgment of applicants for jobs which do not require high levels of verbal skills. Additional characteristics of applicants, such as their own motives and expectations, can influence both their perceived and their actual interview performance. Self-perceptions influence applicants' behaviors which, in turn, influence the interviewer's judgments. In addition to self-perceptions, an applicant's perception of the interviewer also influences the decision-making process. The interviewer's behavior—verbal and nonverbal—causes applicants to form impressions about both the individual interviewer and the company as a whole. Just as impressions influence the interviewer's decision to hire, impressions also influence the applicant's decision to accept or reject a job offer. Although research in this area is limited, Figure 7.4 lists some of the factors that have been shown to influence impression formation from the applicant's perspective.<sup>9</sup> This figure also contains suggestions for how an applicant might make a favorable impression on interviewers.

## DECISION-MAKING OUTCOMES

The information obtained in an interview provides a basis for subsequent selection (and placement) decisions. Of particular interest is the overall quality of employment decisions based on interviews: How reliable is the

**FIGURE 7.3**  
**SITUATIONAL ATTRIBUTES THAT AFFECT RATING BIAS**

ATTRIBUTES	EXAMPLES OF RESEARCH FINDINGS
Job information	Interviewers who received more information about the job used it for evaluation decisions. Increased job information reduced the effect of irrelevant attributes and increased reliability between raters.
Applicant information	Interviewers' preinterview impressions of applicant qualifications had a strong influence on postinterview impressions and recommendations to hire. Interviewers with favorable preinterview impressions of applicants evaluated those applicants as having done a better job of answering the interview questions.
Decision time	Interviewers reached a final decision early in the interview process; some studies have indicated the decision is made after an average of 4 minutes. Hire decisions were made sooner than no-hire decisions.

Sources: See note 7.



**FIGURE 7.4**  
**APPLICANT EVALUATIONS AND SKILLS**

**SELF-PERCEPTIONS**

- Applicants with a high motivation to succeed were more confident of success after the interview, yet those with an intermediate motivation to succeed received higher interviewer evaluations.
- Applicants with high self-esteem had higher expectations for interview success, but they overestimated how well they performed in the interview.

**COMMUNICATION**

- Applicants who maintained direct eye contact, a smile, good posture, interpersonal distance, voice modulation, and fluency of speech were more likely to be hired.
- Verbal content generally influences interviewer evaluations more than the nonverbal communication.

**IMPRESSIONS OF INTERVIEWER**

- Applicants' impressions of the interview were better when interviewers used nonverbal approval.
- Applicants' evaluations of the interviewer and the job were influenced by their perceptions of the interviewer's personality, manner of delivery, and adequacy of information.

**"IMPRESSION MANAGEMENT"**

- Applicants' effectiveness can be increased by training procedures such as modeling, role playing, and directive feedback.
- Job offer probability can be increased if the applicant emphasizes "motivators," such as responsibility and opportunity for advancement, rather than "hygiene factors," such as salary and job security.
- Interviewers' impressions and evaluations can be enhanced if the interviewee has memberships in groups such as fraternities, sororities, and professional societies.

Sources: See notes 2 and 3.

interview information? How valid is that information for predictive purposes? That is, to what extent do interview judgments predict subsequent job performance?<sup>10</sup> In general, the validity of the employment interview has been hampered by perceptual factors such as first impressions, stereotypes, and lack of adequate job information.<sup>11</sup> The influences listed previously in Figures 7.1 to 7.3 help to explain these findings. The validity of the interview procedure has also been impaired by underlying personal perceptual bias, which affects factors such as different information utilization and different questioning content. However, recent efforts to improve interview effectiveness indicate that certain types of interviews are more reliable and valid than the typical, unstructured format. For instance, interview questions based on job analysis (see Chapter 4), as opposed to psychological or trait information, increase the validity of the interview procedure. In addition, structured interviews, which represent a standardized approach to systematically collecting and rating applicant information, have yielded substantially higher

reliability and validity results than unstructured interviews. Recent research findings suggest that the effectiveness of interview decisions can be improved by carefully defining what information is to be evaluated during the interview and by systematically evaluating that information using consistent rating standards. The most recent reviews of the subject concluded that structured interviews are more valid than unstructured interviews and, in general, that the selection interview has at least modest validity (overall validity about 0.30).<sup>12</sup>

**Discriminatory Bias**

The potential for litigation involving employment interviews is high, given the potentially biasing nature of the process.<sup>13</sup> Many cases have involved the questions which are asked at the interviews. The employment interview is in essence a "test" and is thus subject to the same laws and guidelines that prohibit discrimination on the basis of age, race, sex, religion, national origin, or disability. Some states and municipalities also have laws protecting smokers and homosexuals. Furthermore, the interview process is similar to the subjective nature of the performance appraisal process; hence, many of the court decisions concerning the use of performance appraisals apply to the interview as well.<sup>14</sup> In general, the courts have not been kind to employers that used vague, inadequate hiring standards; subjective, idiosyncratic interview evaluation criteria; or biased questions that were not job-related.<sup>15</sup> The courts have also criticized employers for inadequate interviewer training and the use of irrelevant interview questions. In essence, the courts have focused on two basic issues for determining interview discrimination: the content of the interview and the impact of the decisions.<sup>16</sup>

The first issue involves discriminatory intent: Do certain questions convey an impression of underlying discriminatory attitudes? Discriminatory intent (and discriminatory treatment) is most likely to occur when non-job-related questions are asked of only one protected group of job candidates and not others. For example, women applying for work as truck drivers at Spokane Concrete Products were questioned about child-care options and other issues not included in the interviews of male applicants. The court found disparate treatment of females and a violation of Title VII. In another example, a female applicant to a bank was questioned extensively by an interviewer about what she would do if her 6-year-old child was sick, while no such questions were directed at male applicants. She didn't get the job but did get a lawyer. The court concluded that the child-care questions constituted sex discrimination.

Some state and local laws prohibit certain types of questions. For example, over 170 complaints were filed

against Delta Airlines in 1992 by job applicants who claimed they were asked questions about marital status and sexual habits. Such questions are prohibited by New York State's human rights statute.

The second issue pertains to discriminatory impact: Does the interview inquiry result in a differential, or adverse, impact on protected groups? If so, are the interview questions valid and job-related? Discriminatory impact occurs when the questions asked of all candidates implicitly screen out a majority of the members of a protected group. Questions about arrests, for example, can have a discriminating impact on minorities. For example, questions about arrests were used by some interviewers of the Detroit Edison Company, which provided no training, job analysis information, or specific questions for its all-white staff of interviewers. The process could not be defended in light of the adverse impact which resulted from interview decisions based on answers to questions which were not job-related (including arrest record).

In summary, the inherent bias in the interview and the relatively poor validity reported for unstructured interview decisions make this selection tool vulnerable to charges of discrimination. Employers need to quantify, standardize, and document interview judgments. Furthermore, employers should train interviewers, continuously evaluate the reliability and validity of interview decisions, and monitor interviewer decisions for any discriminatory effects such as adverse impact. As mentioned earlier, many companies such as S. C. Johnson, Radisson Hotels, and Mobil Oil now have extensive training programs for interviewers, which include interviewing procedures, potential discriminatory areas, rating procedures, and role plays.

The research evidence regarding the discriminatory effects of the interview is based on the stereotyping processes that affect female and minority job applicants. The evidence, which is generally inconclusive, is summarized below.<sup>17</sup>

**SEX DISCRIMINATION.** Although early research studies indicated that female applicants generally receive lower interview evaluations than male applicants, more detailed analyses suggest that this effect is largely dependent upon the type of job in question, the amount of job information available to the interviewer, and/or the qualifications of the candidate. In some studies, research suggests that females have received higher ratings than male applicants.

**RACE DISCRIMINATION.** There is mixed evidence for racial bias in interviewer evaluations. Relatively few studies have investigated race discrimination, with some studies indicating a negative bias and others a

positive bias. There is some indication that black interviewers rate black applicants higher while white interviewers rate white applicants higher.

**AGE DISCRIMINATION.** Although the research indicates that older applicants generally receive lower evaluations than younger applicants, this effect is influenced by the type of job in question, interviewer characteristics, and the content of the interview questions (i.e., traits versus qualifications). The evidence for age bias is mixed and suggests that, like sex bias, age bias might be largely determined by the type of job under study and the particular interviewer.

**DISABILITY DISCRIMINATION.** Few research studies have examined bias against applicants with disabilities. The evidence that does exist suggests that applicants with disabilities receive lower hiring evaluations but higher ratings for personal factors such as motivation. Before any conclusions about such bias can be made, more research needs to be conducted which examines the nature of the disability and the impact of situational factors, such as the nature of the job. Because persons with disabilities are now protected by the 1990 Americans with Disabilities Act (ADA), and because individuals with legal drug dependencies and illnesses such as cancer, multiple sclerosis (MS), and acquired immune deficiency syndrome (AIDS) are included in the protection provided by the act, this form of discrimination is likely to become much more controversial than it has been in the past and litigation in this area is likely to increase substantially. Interviewers must be aware of the "reasonable accommodation" provisions of the law which apply to methods of testings and assessment. (See Chapter 3 for a discussion of the ADA.)

Overall, the research evidence on discriminatory bias is insufficient to support firm general conclusions. Nonetheless, employers should examine their interview process for discriminatory bias, train interviewers in ways to prevent biased inquiries, provide interviewers with thorough and specific job specifications, structure the interview around a thorough and up-to-date job analysis, and monitor the activities and assessments of individual interviewers.<sup>18</sup> Without question, certain interviewers can be found guilty of one or more of the discriminatory biases described above.

## SELECTION INTERVIEW GUIDELINES

The interview appears to be an institutionalized activity in the selection process. Therefore, guidelines for developing and using an interview procedure are necessary

for both practical and legal reasons. The suggestions that follow are based on over 70 years of research that has examined the process and outcomes of selection interviews. The administrative guidelines describe planning and evaluation activities, and the procedural guidelines focus on design and implementation activities. These suggestions are summarized in Figure 7.5.

### Administrative Guidelines

The issues listed at the top of Figure 7.5 focus on interview development and evaluation.<sup>19</sup> These activities are divided into four general categories: purpose, situation, training, and evaluation.

**PURPOSE.** The first step in developing, or redesigning, the employment interview is to establish the purpose of the procedure. Employers must decide whether the information collected from the interview is to be used as a screening mechanism or as a predictive measurement device. The difference between these two uses has to do with the *placement* of the interview in the selection process (a rough, initial screening tool versus a probing, specific ability assessment) and the *information* to be collected (past achievements versus potential aptitudes). An additional, often implicit purpose is that the interview is a public relations tool in which the applicants' assessments of the company are as important as the company's assessment of them. The point is that each of these objectives entails different interview procedures and methods of evaluations. For example, a selection interview should evaluate the job-related characteristics of applicants; an assessment of effectiveness should focus on reliability and validity assessments. In contrast, a public relations in-

terview is not used for selection purposes but rather for "image" purposes; an effectiveness evaluation should focus on the interviewer's credibility and public image, and should evaluate the applicant's reaction. Interviewers must be careful in what they say in a recruiting interview of this nature. An interviewer for Blue Cross and Blue Shield of Michigan discussed permanent employment with an applicant. Several years later, the applicant, who had become an employee and had later been terminated, won a judgment for contract violation because Blue Cross had discharged him in violation of the promise made by the recruiter.

**SITUATION.** The situational factors that surround the interview include both the job and the physical environment. With regard to the *job*, thorough and up-to-date job information should be collected, reviewed, and disseminated to all interviewers prior to the interview sessions. This information includes the job analysis, the job description, and/or job specifications (see Chapter 4). Based on this information, it will be possible for interviewers to identify and document the requirements of the job in question. Furthermore, a clear statement of job requirements will enable follow-up evaluations to ensure that the information collected by interviewers is in fact required for effective job performance.

Many multinational corporations use successful expatriate managers to develop and conduct interviews for the selection of managers for overseas assignments. These interviewers tend to have a better understanding of the major requirements of these jobs than do managers with no overseas experience. Many companies, including Ford, Nestlé, Procter & Gamble, Texaco, and Philip Morris, credit improvements in their expatriate placements to their interviewing processes, which involve experienced and successful expatriates who have had experience in the overseas jobs to be filled.

The *physical environment* for interviews should be maintained consistently, providing a standardized setting for the interviews. The conditions surrounding the interview might influence the decision-making process; therefore, extraneous factors such as noise, temperature, and interruptions should be controlled. As we discussed earlier, in one effort to standardize the interview process and reduce costs as well, some companies use computer interviewing. Using either a voice system or a keyboard format, companies such as Bloomingdale's use computer interviews to question applicants about work attitudes, employee theft, and other issues.

**TRAINING.** The need for interviewer training cannot be overemphasized. Our previous discussion of the decision-making process indicated that interviewers need to be trained regarding how to evaluate job candidates, the

**FIGURE 7.5**  
**INTERVIEW PROCEDURE GUIDELINES**

<b>Administrative Issues</b>	
Purpose	Screening versus selection Selection versus nonselection
Situation	Job information Physical environment
Training	Process training Instrument training
Evaluation	Overall decision effectiveness Individual decision effectiveness
<b>Procedural Issues</b>	
Content	"What" information is collected: Motivational and interpersonal factors Job-related content
Format	"How" information is collected: Types of interviews Rating forms

criteria to be used in the evaluation, how to use evaluation instruments, and how to avoid common biases and potentially illegal questions. First, *process training* should sensitize raters to inherent biases and help them to develop more effective strategies for categorizing and analyzing information. Johnson's Wax, for example, found that most interviewers made their decision about an applicant after only 5 minutes. They trained their people to withhold judgment and gather information free of the first-impression bias. Workshops and group discussions should be used to train interviewers in how to:

1. **Use job information.** Understand job requirements, and relate these requirements to their questioning content and strategy.
2. **Reduce rating bias.** Practice interviewing, and provide feedback and group discussion about rating errors and potential legal problems.
3. **Communicate effectively.** Develop rapport with applicants, "actively listen," and recognize differences in semantics.

In addition, *instrument training* should focus on using a standardized (structured) approach for conducting the information exchange. This training should focus on how to:

1. **Use interview guides or outlines.** Structure the interview content, and quantitatively rate applicant responses.
2. **Exchange information.** Focus on relevant applicant information, and provide applicants with adequate and timely information about both the job and the company.

**EVALUATION.** Once implemented, the interview procedure should be evaluated in terms of the effectiveness of the overall interview outcomes and the effectiveness of individual interviewer decisions. These outcome evaluations should include determinations of:

1. **Reliability.** The extent to which interviewers agree in their evaluations of applicants.
2. **Content validity.** The scope and job relatedness of questions.
3. **Predictive validity.** The relationship between interview decisions (predictions) and actual on-the-job performance.
4. **Interviewer validation.** Individualized validity evidence on each interviewer.
5. **Interviewer feedback.** Follow-up information about the overall validity of interviews, each interviewer's validity and applicant success patterns, and any changes in job requirements.

## Procedural Guidelines

Figure 7.5 also contains a list of issues for use in conducting an interview, focusing on content and format issues.<sup>20</sup>

The following are general suggestions based on legal and practical concerns; more specific content guidelines should be based on the specific organization and the relevant state and local laws.

1. Exclude traits that can be measured by more valid employment tests—for example, intelligence, job aptitude or ability, job skills, and knowledge.
2. Include motivational and interpersonal factors that are required for effective job performance. These two areas seem to have the most potential for both overall and interviewer validity. Interviewers should assess only those factors which are specifically exhibited in the behavior of the applicant during the interview and which are critical for performance in the job to be filled (based on a job analysis).
3. "Match" interview questions (content areas) with the job analysis data of the position to be filled and the strategic goals of the organization.
4. Avoid biased language, jokes which may detract from the formality of the interview, and inquiries that are not relevant to the job in question.
5. Limit the amount of preinterview information to complete information about applicants' qualifications and ambiguous data in need of clarification. Knowledge of test results, letters of reference, and other sources of information tends to bias the interview.
6. Word interview questions in a manner that permits the applicant to fully respond. Avoid leading (answer implied in question), argumentative, and rhetorical questions (only one answer is obvious).

The format suggestions deal with how the interview content is structured and evaluated. These suggestions describe different types of interview procedures and rating forms for standardizing and documenting interviewer evaluations.<sup>21</sup>

**TYPES OF INTERVIEWS.** There are a variety of interview formats in use. In fact, the lack of standardization has contributed to poor reliability and validity of both overall interview decisions and the decisions of individual interviewers. However, improvements in the effectiveness of the procedure have been made, based on the following types of interview formats.

*Structured interviews* range from highly structured procedures to semistructured inquiries. In a highly structured interview, interviewers ask the same questions of all candidates in the same order. These questions are based on a job analysis and are reviewed for relevance,

FORM 7.1.1

Name \_\_\_\_\_ Group \_\_\_\_\_

LAWFUL    UNLAWFUL

- \_\_\_\_\_    \_\_\_\_\_    1. Would you mind if I called you by your first name?
- \_\_\_\_\_    \_\_\_\_\_    2. Are you a citizen of the United States?
- \_\_\_\_\_    \_\_\_\_\_    3. Are you married or do you live with someone?
- \_\_\_\_\_    \_\_\_\_\_    4. Have you ever been arrested?
- \_\_\_\_\_    \_\_\_\_\_    5. What professional societies do you belong to?
- \_\_\_\_\_    \_\_\_\_\_    6. What kinds of people do you enjoy working with the most?
- \_\_\_\_\_    \_\_\_\_\_    7. Are you planning to start a family soon?
- \_\_\_\_\_    \_\_\_\_\_    8. How long do you expect your husband will remain here before changing jobs?
- \_\_\_\_\_    \_\_\_\_\_    9. I can't help but notice the great shape you've kept yourself in. How do you do it?
- \_\_\_\_\_    \_\_\_\_\_    10. We're looking for someone who can relate effectively to college students; you're 52?
- \_\_\_\_\_    \_\_\_\_\_    11. Have you ever been convicted of a crime (beyond traffic violations)?
- \_\_\_\_\_    \_\_\_\_\_    12. Will your family or personal obligations interfere with your ability to keep the hours of this job?
- \_\_\_\_\_    \_\_\_\_\_    13. How does your military experience relate to this job?
- \_\_\_\_\_    \_\_\_\_\_    14. What are your religious beliefs?
- \_\_\_\_\_    \_\_\_\_\_    15. How do you feel about getting personally involved with someone at work?
- \_\_\_\_\_    \_\_\_\_\_    16. Would you be willing to work on Yom Kippur?
- \_\_\_\_\_    \_\_\_\_\_    17. How long have you lived around here?
- \_\_\_\_\_    \_\_\_\_\_    18. Are you a smoker or a nonsmoker?
- \_\_\_\_\_    \_\_\_\_\_    19. Are you a homosexual?
- \_\_\_\_\_    \_\_\_\_\_    20. What plans do you have for taking care of the children if you get this job?
- \_\_\_\_\_    \_\_\_\_\_    21. Do you consider yourself handicapped in any way?
- \_\_\_\_\_    \_\_\_\_\_    22. Is there any history of chronic illness in your family?