

Academic Ethics: 'Hidden' Hiring Criteria

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Any seasoned academic who has been involved with job searches knows there are two sets of criteria for some positions: the ones in the published ad and the "hidden" ones.

"The dean says we must hire a woman this time," reports the chair. Or the dean says: "The department's lack of racial diversity is becoming a problem, you've got to fix that with this year's search." Or the department's star faculty member tells the chair, "If you don't hire my spouse into a permanent line finally, we will take jobs elsewhere next year." All of those fall into the hidden-criteria column.

The published job ads connected to such searches reveal nothing of the underlying reality. For legal reasons, no job ad can say, "Only women should apply," or "This job is open only to spouses of very famous members of our department."

Sometimes there may be codes or signals that unmentioned hiring criteria are at work. Many applicants assume that a job ad for someone in "critical race theory," or "19th-century literature with an emphasis on gender issues," or "feminist philosophy" is, in fact, reserved for members of a historically disadvantaged race or gender. So, too, with a job in which the research specialty is defined very narrowly: "We seek a historian of the early-19th-century American whaling industry and its effect on families in Maine in particular." It is a reasonable bet that the department has someone in mind and will not be looking seriously at random applicants (were there any!).

Of course, every job search may involve considerations that are not part of the position's public advertisement. Unbeknownst to applicants, the search committee may be stacked in favor of quantitative candidates in international politics, rather than theorists; or in favor of corporate-law experts, rather than public-law scholars. Even more commonly, members of the search committee take seriously only applicants from certain programs, or with certain recommenders — even though the ad says nothing about either.

So why should we be concerned about the hidden criteria in some searches but not in others?

The crucial difference is that, in a worrisome case, the unadvertised consideration is decisive in the hire.

Certainly in some searches, race or gender is a hidden factor but not a decisive one. The same goes for hidden criteria based on differences in scholarship or pedigree. For example, despite the committee's leanings, an excellent theorist may prevail over a quantitative scholar, or an outstanding candidate from an unranked program may be hired by the pedigree snobs.

But when the hidden criteria involve decisive but unmentioned factors — more often demographic and personal than scholarly ones — applicants are effectively being lied to. They are led to believe that all applicants who meet the advertised criteria will be considered when, in fact, only the candidates of a certain gender or race will get serious consideration, or, in the extreme spousal-hiring case, only one candidate will get serious consideration.

That last scenario is surely the most objectionable, since the department is basically defrauding all of the applicants (except one) as well as the legal authorities (the law's equal-opportunity requirements demand a public ad and a genuinely open search). There may be circumstances under which a department should be permitted to hire, for retention reasons, the spouse of a crucial faculty member, but it should not be permitted to do so under the guise of a real job search and at the expense of soliciting hundreds of pointless applications. Any faculty member confronted with such a rigged search should report it to the institution's legal office and decline to be part of the process.

The situation is only somewhat better in the case of purportedly open searches that are, in reality, limited to candidates from a certain demographic group. Sometimes, as already noted, the ads will contain hints about the demographic preference. People "in the know" will pick up on those hints; other candidates won't and will apply pointlessly.

Here the problem is that a perhaps ethically defensible goal — adding women or racial minorities to the faculty — is in tension with the law, since the law does not permit a department to limit applications to people of a particular gender or race. The process also wastes the time and money of applicants not from the preferred demographic group. The search-committee members in those cases are being asked to violate the law and to lie to others, on behalf of a possibly just cause.

How individual faculty members should respond in these circumstances depends on their view about two questions:

- First, is complying with the law morally required? No legal philosopher who has thought about the question would answer yes. Law is a socially constructed institution, subject to diverse influences, fallible in many ways. That the law demands some action does not mean it is the morally correct thing to do, though sometimes it may be.
- But that brings us to the second question: Is gender or racial diversity the kind of objective that morally justifies both violating the applicable law and lying to applicants?

We should pause to note that "lying" is what is at stake: When you know the dean will not approve a male hire, then soliciting applications without regard to gender involves intentionally misleading — i.e., lying to — male job seekers.

In the Kantian traditions in moral philosophy, such lies are never, or almost never, permissible. We need not go into technical detail to bring out the intuitive idea underlying Kant's view. Consider: How could a department justify such a lie? The department could say: "We lie about what we want in job advertisements only when we have important criteria for candidates that we are not allowed to advertise." But embracing the "right to lie when it suits departmental goals" means that no one will ever believe a department's ads in the future. And that was Kant's point: Openly defending lies renders all assertions by the defender dubious.

Utilitarians in ethics have less trouble with secrecy so long as it improves human well-being overall. Lies that actually increase overall social welfare can be fine from a utilitarian point of view, and perhaps the lies involved in searches with hidden criteria qualify.

But that returns us to the underlying question: Can we — in the service of increasing, say, racial or gender diversity on a faculty — lie to all applicants about the real hiring criteria? Most American colleges and universities have, de facto, answered that question in the affirmative, but are they right to do so?

As I noted in [a previous column](#), the "diversity" rationale in hiring is a dubious one. The evidence that there are pedagogical benefits to having a demographically diverse faculty is close to nonexistent, even if there are morally compelling reasons to give preferences to the descendants of victims of vicious discriminatory practices as a matter of compensatory justice. The problem right now is that, legally, institutions cannot openly draw such distinctions in their hiring practices. And the result is that they regularly demand that search-committee members be complicit in breaking the law and lying to applicants.

There is at least one other possible justification for hidden-criteria searches — that they counteract biases of the existing faculty. The idea of "implicit bias," however, has been debunked, [as documented](#) in the pages of *The Chronicle*. The more important case is that of "explicit" bias, since even the courts have been receptive to the idea of demographic preferences given a history of such prejudice.

But any faculty member who suspects racial or gender bias of any kind in the hiring process should be reporting that to university lawyers. The remedy for unlawful bias in a faculty search is not lying to applicants and breaking the equal-opportunity laws. It is stymieing and removing the perpetrators of unlawful bias from the process.

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