

Can You Afford to Forgo an Applicant Tracking System?

By Jill McFarland

After being fined as much as \$20 million in discrimination lawsuits, companies are implementing applicant tracking systems to prevent discriminatory behavior and ensure consistency in hiring and promoting practices. These lawsuits seem to confirm that the courts believe applicant tracking systems play a significant role to support fair hiring practices. Wouldn't it make sense to spend a little money to put this type of 'insurance' in place and avoid the financial ramifications along with reputation damage?

On top of owing \$20 million and other significant relief, a 10-year consent decree requires Pure Weight Loss to use an electronic applicant tracking system. In December 2008 The U.S. Equal Employment Opportunity Commission (EEOC) announced that it had resolved its pattern or practice sex discrimination lawsuit against LA Weight Loss Centers, Inc., (renamed Pure Weight Loss, Inc., in early 2007), for \$20 million and other significant relief. Along with the monetary relief to the class members, a 10-year consent decree provides for significant injunctive relief. The decree applies to all Pure Weight Loss centers or to any successor resuming business operations. The decree requires Pure Weight Loss to use an electronic applicant tracking system for each person hired and for any person who submits an application, and to provide specific information on applicants by sex and other categories defined by the EEOC.

In addition to paying \$19 million to settle a class-action discrimination lawsuit Outback must institute an online application system. The Outback Steakhouse parent company, OSI Restaurant Partners LLC, has agreed to pay \$19 million to settle a class-action lawsuit filed by women claiming that corporate promotions were tainted by sex discrimination. In addition to the \$19 million in the four-year consent decree, Outback must institute an online application system for employees interested in managerial and other supervisory positions and hire an outside consultant for at least two years to determine compliance with the decree and analyze data from the online application system to determine if women are being provided equal opportunities for promotion.

Used correctly, an ATS allows for a broader mix of candidates to apply for a job, takes each candidate through the same process having them provide the same pieces of information, and rates candidates based on fit for the position or promotion without bias of sex, ethnicity, or handicap, provided they can perform the job responsibilities. A hiring manager must comply with steps built into the ATS ensuring that they cannot make decisions based on their own biases. In addition, capturing data throughout the hiring process with an ATS creates a database of information that can be reviewed in order to show that each candidate was given the same consideration and went through the same process.

Not only can an applicant tracking system help you avoid costly and embarrassing lawsuits but there are also many other benefits to your company. Applicant tracking systems should be able to capture and report where your candidates are coming from. Are they coming from Monster, Career Builder, Snag-a-Job or maybe Facebook, which you don't even pay for? You can then look at where your *successful* candidates came from and decide where you should be investing your resources. An ATS can save you a great deal of time in the hiring process by screening out unqualified candidates and bringing more qualified candidates to your attention. Different systems have different features but I don't think there is any argument; the benefits far outweigh the financial and reputational damage of a lawsuit.

Sources:

Press Release: **LA WEIGHT LOSS SETTLES NATIONWIDE SEX DISCRIMINATION LAWSUIT WITH EEOC**
12-2-08 <http://www.eeoc.gov/eeoc/newsroom/release/archive/12-2-08.html>

Nation's Restaurant News: **OSI settles suit for \$19M** 12-30-09
<http://www.nrn.com/breakingNews.aspx?id=377536>