

Reference Input Helps Sustain Challenged Hire

In an unreported federal district court case, an employer's checking of an applicant's references proved to be helpful in its defense against the applicant's subsequent discrimination lawsuit. A female teacher applied for an open elementary school principal's position, but the school board hired a male instead. She sued the board and the superintendent, alleging gender discrimination under Title VII of the Civil Rights Act of 1964. Her argument was that her objective credentials were superior to those of the male applicant and that the real reason for her nonselection was discrimination.

In several respects, her qualifications did exceed those of the male who was hired: she had 24 years teaching experience at the elementary school level, whereas he had eight years teaching experience but none at the elementary level; she had a masters' and an Ed.S. degree, while he had only a masters degree; she had a "AA" certificate and his certification was only at the "A" level. The defendants acknowledged these differences but contended that the decision as to which candidate was most qualified took into account other, non-objective factors, such as leadership, communication skills, interpersonal relationships, etc. The defendants obtained written responses from the candidates' present and past supervising principals addressing these qualities, and the responses were significantly less favorable for the plaintiff than for the male candidate who was selected. The defendants argued that, based on input from these sources and interviews with the candidates, they considered the plaintiff's administrative skills to be inferior, placing her behind the successful candidate in the overall assessment of their comparative qualifications.

The federal district court agreed with the defendants and granted their motion for summary judgment, dismissing the case. The court viewed the administrative skills considered by the defendants to be job-related, and the plaintiff failed to show that the defendants did not actually rely on the evaluations provided by the references. Under these circumstances, the court stated that it would not "second guess" the basis for the decision as claimed by the defendants. Clearly, the fact that the employer here had written responses from third-party references was significant in convincing the court that the hiring decision, which without the references might have appeared suspect to the court, was reasonable and nondiscriminatory.