



## Unconscious Bias in Job Descriptions

Diversity and Inclusion (D&I) within the workplace is a critical area of focus for any successful business, one which requires an ongoing investment of time and resources. Diversity recruiting initiatives and ensuring the hiring and retention of an inclusive talent community is a vital tenet of any D&I initiative. In addition to candidate selection, we must look back further in the process to ensure that we do all that we can to attract a diverse candidate pool. Unconscious bias in job descriptions can drive away strong candidates from even considering an opportunity.

We've compiled some common examples of unconscious bias in job descriptions, and our suggestions on how you can overcome them. We do not intend this list to be exhaustive, but hopefully, it will spark some conversation! Please note that the references to legislation are to US laws, but the concepts are global.

1. Title VII of the Civil Rights Act of 1964 makes it illegal to discriminate on the basis of national origin.

Replace:	With:
"Must speak good English"	"Excellent Communication Skills Required"
"Spanish speaking"	"Bilingual in English/Spanish Required"
"Legal Citizens Only"	"Must be Authorized to Work in the US"

2. The Age Discrimination in Employment Act of 1967 prohibits discrimination against people over the age of 40. Ageism is one of the more common biases in job descriptions and one which we frequently see in the legal profession.

Replace:	With:
"Recent college grad" or "Young"	"Entry level opportunity"
"Must have 3 to 5 years' experience"	"Must have a minimum of 3 years' experience"

3. With few exceptions<sup>1</sup>, businesses are required to make religious accommodations for employees. Although uncommon in today's job descriptions, we recommend avoiding statements such as "all employees must be clean-shaven," as certain religions do require facial hair (in addition to this being a gender connotation).
4. The Americans with Disabilities Act of 1990 prohibits employers from discriminating against a qualified job applicant with a substantial impairment who is capable of performing the essential functions of a job with or without reasonable accommodation. It is best practice for a job description to list as detailed as possible an overview of the essential job duties, including any physical demands required and if the work is to be performed in any hazardous conditions.

Replace:	With:
"Must be able bodied"	"Job requires 6-8 hours of physically moving 30-lb pallets in an outdoor environment where temperatures reach in excess of 100 degrees"
"Must be strong"	

<sup>1</sup> Religious Organizations under Title VII of the Civil Rights Act

5. Unconscious gender and sexual orientation bias on job descriptions can take many different forms. Some common areas for attention include:
  - a) Instead of talking about your maternity/paternity leave policies, talk about your “parental” leave.
  - b) Be more gender-fluid; move away from the use of “he/she” and incorporate by using “they/them,” away from “men or women” to “people,” or simply “the candidate.”
  - c) Although less common in the legal industry, be cautious of job titles that are gender slanted. Instead of “waitress,” use “waitstaff,” instead of “salesman,” use “sales representative.”
  - d) Popular culture’s depictions of gender roles are changing quickly, but we’d recommend using traditional male-oriented descriptions sparingly; words such as “rockstar,” “ninja,” and “superhero” are fun but can drive women away.

Sometimes as careful as we are, unconscious bias is just that... unconscious; however, we must identify it when we see it as this can help us perceive bias.

**Example:** A hedge fund in Palo Alto was recruiting for their internship program, the opportunity of a lifetime to break into that world. In the last line of the job description, they stated: “Local candidates only.” Silicon Valley’s racial demographic is almost exclusively White, Asian, or Latino (93%). While, in this case, their intention may have been to give back to a student in their local community, it was implicitly biased against candidates outside those demographics. We recommend against verbiage that discourages candidates from outside specific geography to apply. An unbiased approach, in this instance, is to allow the candidate to make their own determination, for example: “The position is campus-based and, for security reasons, working from home is not generally permitted.” Likewise, avoid “reliable transportation is necessary,” as it is unconsciously biased against candidates that rely on public transportation to get to work. Inclusion is key.

Lastly, job descriptions are a great place to let your values shine. Take a moment to highlight your diversity and inclusion initiatives, non-discriminatory benefits, affinity and ally groups, external sponsorships, community activities, and your work/life initiatives.

We hope this has proven helpful, and some given you some food for thought. If you’d like any help with your hiring or resource management needs, please don’t hesitate to reach out to us. Whether that be team design, resourcing strategy, permanent placements/search, temporary resourcing for capacity, project, specialist expertise needs, or outsourcing managed services; we’re here to help. ElevateFlex can provide the spectrum of resourcing support, including paralegals, document review professionals, attorneys of all levels of qualification through to temporary General Counsel, or legal operations professionals. With local talent and engagement management teams, we can help with your global needs in the UK, US, Hong Kong, Singapore, and Australia.

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