

CEP Magazine – November 2023



Mary Shirley (mary.shirley@masimo.com, [linkedin.com/in/iheartcompliance/](https://www.linkedin.com/in/iheartcompliance/)) is a New Zealand-qualified lawyer with 18 years of ethics and compliance experience that includes working for data privacy and antitrust regulators, in-house and private practice/consultancy across five countries and four regions of the world.

Diversity in the hiring process: A surprisingly common pitfall

By Mary Shirley

The 2023 *State of Risk & Compliance* report issued by Navex states that diversity, equity, and inclusion (DEI) is rated to be “at least important” to 88% of organizations.^[1] As an ethics and compliance professional with multiple diversity strands, this rating is promising. And coupled with other indicators, such as overt statements and anti-discrimination assurances on company websites, this shows that companies are conscious of the value of a diverse workforce and associated stakeholders.

The empirical evidence on pro-diversity being a sound approach to building teams is also clear.^[2] Diversity shouldn't just be a fad. It's simply prudent business, and it's backed up by science.

Diversity is important! Or so we say . . .

Therefore, it came as a surprise during a recent job search to find that there were jobs for which I was qualified but unable to properly apply. Mandatory fields in electronic forms were set up in such a way that I, a foreign national, was unable to select relevant responses.

Example one: A well-known apparel company was hiring a chief compliance officer, and the application form required that candidates supply their grade point average (GPA). Putting aside the fact that it's perplexing why an organization hiring at such a level would need to consider GPA as a relevant factor, this was problematic for candidates like me. We don't use GPAs in New Zealand education.

Example two: A less well-known electrical company included robust anti-discrimination commentary within their application process documentation, but it failed to provide for any university education attained outside the United States. Their drop-down menu for selecting a college pertained only to those based in the US. In this instance, I was connected on LinkedIn with the hiring manager, so I reached out to him to let him know of the issue. He was unperturbed and referred me to his human resources (HR) person, who advised that she had fixed the issue. I reentered my information only to find that the issue had not been addressed. Perhaps it's not the worst thing in the world that I was not in the running for that role.

These examples are essentially companies that likely have good intentions and don't mean to discriminate; however, the result is that diverse candidates (in these examples, foreign-educated nationals who do have the authorization to work in the relevant jurisdiction) are unable to be considered for the role without selecting inaccurate mandatory responses. It also sends a signal that there is an acceptable group of people who will be considered for the role. How would you feel about applying to work for an organization if you got the impression you didn't belong right from the start?

Solutions for embracing a wider variety of candidates

This is a low-hanging fruit opportunity for compliance professionals to take interest in and partner with their talent acquisition teams to review the mandatory fields in your company's application forms. My advice is to make provision for an "other," with open text comment space where you must have mandatory fields. Yes, this could mean that the person reviewing applications may have to spend a little more time on each application, but isn't that a price we're willing to pay if we say that diversity is essential?

I would also suggest that if a potential candidate reaches out to advise you that your application process is preventing their application from being accepted, show some concern as well as gratitude and request their resume for personal review. It really is the least we can do as hiring managers when someone is interested in working for us (a massive compliment) and takes the time to draw an issue to our attention.

What else can we do to encourage a wider applicant pool? I think generally minimizing the number of "requirements" in the advertisement and job description is critical. Many of us are aware of the startling difference between men and women when choosing to apply for roles. According to an article by the *Harvard Business Review*, women will typically only apply for jobs when they meet 100% of the requirements, and men will tend to throw their hat in the ring if they only meet 60%.^[3] As the article encourages, women should apply anyway, even if they don't meet the requirements.

I did this in one instance and was shortlisted by HR. I made sure to point out that they required a law degree and admission to a US bar (I'm legally trained but New Zealand qualified only), and the HR representative said they had noticed but that they liked my diversity more. So go ahead and apply if you're interested and think you can do the job anyway!

A helpful trend I noticed that I think appropriately addresses this disparity on the employer side was several companies including statements in their advertisements encouraging candidates to apply even if they didn't meet all the listed requirements. Here is an example from Checkout.com—a financial services organization—on a senior legal counsel post:

Apply Without Meeting All Requirements Statement: If you don't meet all the requirements but think you might still be right for the role, please apply anyway. We're always keen to speak to people who connect with our mission and values.

Taking this simple step is an easy way to truly embrace diversity in the hiring process and help bridge the gender gap. Will you perhaps get more applications from candidates not truly qualified for the role? It's possible, but a skilled talent acquisition person should be able to scan for relevance pretty quickly, and what if you catch someone who would definitely qualify for the shortlist but would have otherwise not applied? It is more than worth the small investment.

Another huge angle of inviting diverse applicants is being disciplined about what truly is a requirement in the job description. So many job descriptions have mountains of requirements that, in reality, are only nice-to-haves or just outdated requirements that have been in the job description for years and never really questioned. We consider it a risk when the business thinks like that, right?

There's a big one for ethics and compliance professionals that I would argue is completely out of touch with what makes for a capable compliance practitioner: the requirement that every team member be legally qualified, including when the title involves the word "counsel." It is not necessary to make every compliance role a counsel role, and there are so many amazing compliance practitioners out there who aren't lawyers. Data analysts and behavioral scientists can add lots of value to compliance program effectiveness, and it's unreasonable to require

that they be a lawyer also. The same goes for requiring an American law degree and admission to a bar in good standing. These requirements are unnecessarily restrictive, and the companies subscribing to these outdated requirements are missing out on a wealth of diverse talent. Be open to anyone with the requisite level of experience to do the job.

Conclusion

If we say DEI is crucial but subvert that values statement by preventing qualified applicants in the hiring process, it's like the social justice equivalent of greenwashing.

There are small, actionable steps we can take in compliance to further diverse hiring, not only within our compliance departments but within the broader organization.

Here are three steps you can take now:

1. Review your application forms and look for mandatory drop-down menus that limit responses to a limited demographic. Consider adding an "other" option to select so anyone overlooked by the review process can still accurately select a response.
2. Critically review your job description and remove requirements that aren't necessary for the job. For example, do all your roles requiring travel state that a driver's license is required? Do you require compliance applicants to have a law degree because that's the exact profile you've been using to recruit for forever?
3. Work with HR to create a small text template for all job postings that encourages job seekers to apply even if they don't meet 100% of the requirements.

Remember, small changes can have a huge impact on one person's life. Let's help bring about positive change together.

Takeaways

- Diversity, equity, and inclusion is a stated priority across many organizations, but well-intentioned companies can inadvertently subvert their best intentions.
- Partner with human resources to review your organization's job application forms and ensure the questions don't cater only to one demographic.
- Encourage candidates to apply for the job even if they don't meet all the requirements.
- Be discerning about what is truly a requirement to be able to perform a role and remove legacy requirements in your job descriptions that are only there because they've always been there.
- For the vast majority of compliance roles, there is no genuine need for the employee to have a United States law degree and be admitted to a bar. We should promote all kinds of diversity, including educational backgrounds and skill sets, in our very own departments.

¹ Navex, *State of Risk & Compliance Report, 2023*, https://cdn.navex.com/image/upload/v1687455485/Resources%202023/Reports/NAVEX-2023-State-Risk-Compliance_Report.pdf.

² David Rock and Heidi Grant, "Why Diverse Teams Are Smarter," *Harvard Business Review*, November 4, 2016,

<https://hbr.org/2016/11/why-diverse-teams-are-smarter>.

3 Janet T. Phan, “Apply to a Job, Even If You Don’t Meet All Criteria,” *Harvard Business Review*, July 20, 2022,

<https://hbr.org/2022/07/apply-to-a-job-even-if-you-dont-meet-all-criteria>.

This publication is only available to members. To view all documents, please log in or become a member.

[Become a Member Login](#)