



SOCIETY FOR INDUSTRIAL AND ORGANIZATIONAL PSYCHOLOGY  
Division 14, American Psychological Association  
440 East Poe Road, Suite 101, Bowling Green, OH 43402  
T: (419) 353-0032 – F: (419) 352-2645 – [www.siop.org](http://www.siop.org)

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**VIA: [Public.Comments.RegulatoryReview@eoc.gov](mailto:Public.Comments.RegulatoryReview@eoc.gov) & U.S. Mail, First Class**

U.S. Equal Employment Opportunity Commission  
131 M Street, NE  
Washington, DC 20507

**RE:** Request for Public Comment on Plan for Retrospective Analysis of Significant Regulations pursuant to Executive Order 13563, which applies across the federal government. 76 Fed. Reg. 3821 (Jan. 21, 2011), <http://federalregister.gov/a/2011-1385>.

Dear Commissioners:

The Society for Industrial and Organizational Psychology (SIOP) welcomes the opportunity to provide a response to the Equal Employment Opportunity Commission's ("EEOC") request for public comment on the plan for retrospective analysis of significant regulations. We commend the EEOC for offering the opportunity to provide suggestions regarding the regulations that should be reviewed and the factors to be considered as the review is conducted.

SIOP is a Division of the American Psychological Association (APA), an organizational affiliate of the American Psychological Society, and includes over 3,900 member industrial-organizational psychologists and 3,000 student affiliates. The Society's mission is to enhance human well-being and performance in organizational and work settings by promoting the science, practice, and teaching of industrial-organizational psychology.

On behalf of SIOP, I am writing to express our view that the *Uniform Guidelines on Employee Selection Procedures*<sup>1</sup> (the "Guidelines") and their corresponding *Questions and Answers*<sup>2</sup> should be included among the initial regulations to be reviewed in the retrospective analysis.

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<sup>1</sup> [http://www.access.gpo.gov/nara/cfr/waisidx\\_10/29cfr1607\\_10.html](http://www.access.gpo.gov/nara/cfr/waisidx_10/29cfr1607_10.html)

<sup>2</sup> [http://www.eeoc.gov/policy/docs/qanda\\_clarify\\_procedures.html](http://www.eeoc.gov/policy/docs/qanda_clarify_procedures.html)

The Guidelines are a critical source of guidance for employers who intend to select and manage their workforce using fair and valid selection processes. According to Section 1(B) of the Guidelines, their purpose is clear: “*These guidelines incorporate a single set of principles which are designed to assist employers, labor organizations, employment agencies, and licensing and certification boards to comply with requirements of Federal law prohibiting employment practices which discriminate on grounds of race, color, religion, sex, and national origin and provide a framework for determining the proper use of tests and other selection procedures.*”

Furthermore, the Guidelines describe research strategies (i.e., validation research) that can be used to determine whether a selection procedure is sufficiently job-related, a critical question when a selection process has the potential to adversely impact protected classes. Determining whether a selection procedure is sufficiently job-related is a research question that SIOP members are particularly well suited to help answer; I-O Psychologists have been conducting research on this topic for many decades. Our members work for and consult with both the federal government and many of the nation's largest private employers. SIOP members also conduct scientific research and provide expert testimony on behalf of agencies, plaintiffs and defendants in legal proceedings that involve employee selection and validation methods.

The science of personnel assessment and employee selection has evolved substantially since the Guidelines were published in 1978. Advancements in scientific research and innovations in the practice of employee selection have been incorporated into the SIOP *Principles for the Validation and Use of Personnel Selection Procedures*<sup>3</sup> (“Principles”). The Principles have been revised three times since the Guidelines were published, most recently in 2003. The Principles specify established scientific findings and generally accepted professional practices from the field of personnel selection psychology related to the choice, development, evaluation, and use of personnel selection procedures. Likewise, the *Standards for Educational and Psychological Testing*<sup>4</sup> (“Standards”), which are jointly published by the American Education Research Association (AERA), APA, and the National Council on Measurement in Education (NCME) have been revised twice since 1978 and are currently undergoing another revision. These Standards are written to address professional and technical issues of test development and use in education, clinical practice, and employment contexts.

Revisions to these technical guidance documents have been made to ensure that contemporary selection is based on current scientific research. Over the last 33 years there have been considerable advances in validation theory, substantial refinements in our understanding of how to best implement traditional validation strategies, and new evidence related to the availability and adequacy of modern alternative validation strategies. Furthermore, the practice of employee assessment has changed dramatically over this timeframe as new technologies have emerged.

We suggest the Guidelines as a high-priority for revision because we believe the regulatory standards should consider contemporary scientific research and practice. Professional

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<sup>3</sup> <http://siop.org/Principles/principles.pdf>

<sup>4</sup> <http://www.apa.org/science/programs/testing/standards.aspx>

associations like SIOP, APA, AERA and NCME have documented these advances in scholarly literature and in technical authorities like the Principles and Standards. Unfortunately, there are inconsistencies between the Guidelines and some scholarly literature related to validation research and the use of employee selection procedures, and between the Guidelines and other technical authorities. These inconsistencies create substantial ambiguity for employers that use employee selection procedures, as well as for federal agencies and the courts when determining whether a selection procedure is job-related. Consideration of contemporary research and scientifically supported recommendations will help clarify the standards for valid selection procedures.

The Guidelines themselves anticipated the need to maintain currency and consistency with other technical authorities. For example, in Section 5(A) the Guidelines state: *New strategies for showing the validity of selection procedures will be evaluated as they become accepted by the psychological profession.* In Section 5(C), the Guidelines are described as: *intended to be consistent with generally accepted professional standards for evaluating standardized tests and other selection procedures, such as those described in the Standards for Educational and Psychological Tests prepared by a joint committee of the American Psychological Association, the American Educational Research Association, and the National Council on Measurement in Education (American Psychological Association, Washington, D.C., 1974) (hereinafter "A.P.A. Standards") and standard textbooks and journals in the field of personnel selection.* In summary, we feel that a revision to the Guidelines is overdue, and we welcome the opportunity to contribute to the effort.

On behalf of SIOP, it is my sincere hope that timely review of the Guidelines will serve as a focal point for positive dialogue among agencies, private employers, and other stakeholders with expertise in the current science and practice of employee selection. We strongly encourage the EEOC to include the *Uniform Guidelines* among the initial regulations to be reviewed in the Retrospective Analysis.

Should the Commission agree to undertake such a review, SIOP requests the involvement of experts in our field during the review process. SIOP would be pleased to identify a group of nationally recognized personnel selection experts to assist with the review and possible revision process. Please contact SIOP's Executive Director, Mr. David Nershi or me; we will immediately alert our Board to empanel an appropriate group of such experts.

Sincerely,

Eduardo Salas, PhD  
President, Society for Industrial and Organizational Psychology