

Blog: EEOC's Lawsuit is the Latest Example of Stupidity, Government Piling-On

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By Kevin Kuzma, Editor

We are our credit scores.

Everyone in America who has attempted to finance a house, a car or another purchase of similar caliber understands this. We are judged in financial transactions by our likelihood or unlikelihood to pay back what we borrow. We've created a system where you can't NOT borrow or that creates its own doubt about your financial capabilities.

Across the country, thousands of businesses use credit reports as a way of determining someone's financial fiber if not their moral one. We let it happen because we're all bought into the system. Most of us pay back what we take. And we have an agreement as part of this system: those of us who don't pay back what we take should face a penalty ... and that penalty should be unrelenting.

Our actions in that respect follow us. They can mean the difference between a new home or apartment living. They can mean a new job or unemployment. Our credit histories follow us the way our criminal backgrounds might, and they are just as damaging.

Our credit scores say what they will about us, regardless of our race or gender, our political or religious beliefs, or any other factors. The numbers are the end-all, be-all. Like it or not, that's the way it is.

Yesterday's move by the Equal Employment Opportunity Commission (EEOC) is asinine in what it insinuates about Kaplan Higher Education ... and is the very definition of the kind of government-bred insanity that for-profit schools are adjusting to on a near-weekly basis.

Kaplan is one of the giants of the for-profit education sector, a publicly traded company that's been under fire by the Senate's Health, Education, Labor, and Pensions committee for its recruitment and marketing practices. Kaplan has what lately has become the misfortune to be a leader in an industry that's been criticized for enrolling anyone with a pulse – in spite of their financial situations – and casting them into a lifetime of debt and shattered dreams. Some media reports would have you believe schools like Kaplan are trolling homeless shelters simply to meet investors' expectations and to benefit from the financial aid dollars.

Even the most removed politicians in Washington could guess that for-profit schools enroll more minority students than the "traditional" sector of higher education. What the media often does not report is that the majority of minority students are paying back their loans, otherwise companies such as Kaplan would fail. At the very least, it would seem, Kaplan would understand the challenges facing today's minority students and, given its list of alumni, would be willing to employ people of a similar background to positions within their organization.

The EEOC doesn't follow this logic. Their federal lawsuit filed this week alleges that Kaplan discriminated against black job applicants by refusing to hire people based on

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their credit histories. According to an article in yesterday's Washington Post, the EEOC believes Kaplan "needlessly evaluated the credit histories of potential hires in a way that had a disparate negative impact on black job applicants."

Exactly how the EEOC plans to go about proving this should be interesting. How they tie race and credit scores together with a hiring practice in a court of law will require hard evidence and something considerably more than conjecture. While it doesn't seem that any organization could survive by tying someone's race and credit history with how they would perform on the job would survive, that's apparently how the EEOC believes Kaplan functions. I doubt they can prove anything of the sort about Kaplan or any the other countless companies that consider credit histories in the hiring process. This feels like a political play to me.

Until the EEOC can argue its case, we all have our own rulings to make in the court of public opinion. My ruling can't be stated without noting the sheer hypocrisy that the EEOC is alleging.

From a broader perspective, the EEOC's move shows that the government can sue schools for not hiring candidates with poor credit histories while, at the same time, chastising schools for admitting students with bad credit. If the EEOC's findings were applied across the entire higher education landscape, then what would this "disparate negative impact" standard prove in the not-for-profit versus for-profit education debate where one group serves more lower income and minority students than the other? Should we expect the EEOC to file a suit alleging not-for-profits use some sort of discriminatory enrollment practices that have a disparate negative impact on minority applicants?

We won't see anything of the kind because the logic doesn't apply. And it doesn't apply in Kaplan's case, either. Kaplan is no different than those thousands of other businesses who review their potential clients and make cold, hard decisions based on numbers. No one at Kaplan is discriminating based on race or credit. Only an organization capable of discriminating in such a way could even begin to allege someone else could do so in such an unorthodox way.

On a related note: I'm in the process of buying a house and I know that my work history, my character, or my race don't factor into the type of "credit life" I've led. I doubt that anyone who looks at my credit report could realistically assume anything about me that could be tied to any of those aspects of my life. To do so would be erroneous. We are what our credit scores say we are ... but only from a financial perspective. How that translates to how I perform on the job might only be tied to how much debt I have and how hard I am willing to work to pay it down.

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