
The Affronting of the *Uniform Guidelines*: From Propaganda to Discourse

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McDaniel, Kepes, and Banks (2011) identified a few differences between the *Uniform Guidelines* versus the *Standards and Principles* and reached the extreme conclusion that the *Uniform Guidelines* are a detriment to the field of personnel selection and should be rescinded or at least extensively revised.¹ Unfortunately, the majority of their arguments are either incorrect assertions, beliefs presented without basis in established fact, or trivial in terms of implications for practitioners—none are significant enough for the *Uniform Guidelines* to be considered a detriment or rise to the level of calling for the *Uniform Guidelines* to be rescinded. Given the space constraints of this commentary, we can only address some of their assertions by providing contrary

evidence and qualifying facts that they omitted; as such, our discussion is necessarily one sided. We urge readers to consider both articles in conjunction in order to have a more complete perspective. Our commentary is organized according to McDaniel et al.'s headings.

The Unfulfilled Promises of the *Uniform Guidelines*

When the *Uniform Guidelines* were developed, much of the content was intended to be consistent with existing law (Section 1C) and with the 1974 *APA Standards* (Section 5C). The *Q&As* recognized that employment selection practices and law would evolve (see *Q&As* 2 and 57),² and the *Uniform Guidelines* explicitly state in Section 5A that “new strategies for showing the validity of selection procedures will be evaluated as they become accepted by the psychological profession.” Furthermore, Section 14 of the *Uniform Guidelines* states that “nothing in these guidelines is intended to preclude the development and use of other professionally acceptable techniques with respect to validation of selection procedures.” Despite the fact that the

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1. *Uniform Guidelines* refers to the *Uniform Guidelines on Employee Selection Procedures* (1978) established jointly by the Equal Employment Opportunity Commission (EEOC), Civil Service Commission, Department of Labor, and Department of Justice. *Standards* refers to *Standards for Educational and Psychological Testing* (American Education Research Association, American Psychological Association, & National Council on Measurement in Education, 1999). *Principles* refers to *Principles for the Validation and Use of Personnel Selection Procedures* (SIOP, 2003).

2. *Q&As* refer to questions and answers to clarify and provide a common interpretation of the *Uniform Guidelines* (EEOC et al., 1979, 1980). The *Q&As* should be considered a part of, and read in concert with the *Uniform Guidelines*.

authors of the *Uniform Guidelines* explicitly recognized that employment selection practice and law would evolve, nowhere did they promise to revise or update the *Uniform Guidelines* or indicate how or when changes would be made. The only statement suggesting any potential change to the *Uniform Guidelines* is in Q&A 55: "If the professional community recognizes new strategies or substantial modifications of existing strategies, they will be considered and, *if necessary* [italics added], changes will be made in the Guidelines."

Even though the authors of the *Uniform Guidelines* did not promise revisions or updates, the *Uniform Guidelines* were supplemented with Q&As in 1979 and 1980 (Equal Employment Opportunity Commission [EEOC], Office of Personnel Management, Department of Justice, Department of Labor, & Department of Treasury, 1979, 1980), and there was an unsuccessful attempt to add more Q&As in 2004 (EEOC, 2008). Furthermore, the joint authors of the *Uniform Guidelines* provide updates regarding laws, regulations, and other forms of guidance on their respective Web sites. Finally, in January, 2011 the EEOC began requesting public comments on a plan for retrospective analysis of their regulations, which includes the *Uniform Guidelines*.

The *Uniform Guidelines* Embrace the Situational Specificity Hypothesis and The *Uniform Guidelines* and Meta-Analysis as a Source of Validity Documentation

Even though the *Uniform Guidelines* were established prior to seminal research on validity generalization (VG), the contents of the *Uniform Guidelines* are applicable to VG and transportability, an issue "connected closely to" and "obviously related to" VG (Gibson & Caplinger, 2007, p. 35). The *Uniform Guidelines* clearly do not prohibit VG, as they address issues related to VG and transportability in Sections 7, 8, and 15, as well as Q&As 35, 43–45, 66, and 72. A thorough explication of the applicability

of the *Uniform Guidelines* to VG is provided by Biddle (2010).

After reading McDaniel et al., one might surmise that VG is a magic wand. However, the underlying assumption of VG (omitted by McDaniel et al.) is that validity is being generalized based on the same (or similar) measure and the same (or similar) job (Schmidt & Hunter, 1977). It is important to recognize that measures are comprised of both constructs and methods (Arthur & Villado, 2008). To generalize, the measure (both constructs and methods) must be the same or similar. Therefore, VG of methods (e.g., interviews, situational judgment tests, work samples) is rather useless for practitioners. Though the *Principles* address VG, they do not support its cavalier use.

Even if VG evidence refutes the situational specificity hypothesis, that does not imply that situational or environmental factors are irrelevant.³ The search for boundary conditions or moderators in VG research obviously indicates that situational factors matter and that predictors are more valid in some situations than others. Cascio and Aguinis (2008) argue that we have reached a plateau in our prediction of performance because our staffing models fail to consider in situ performance. Some managerial competencies tend to be universal, whereas the importance of other competencies depends on the situation or context (Dierdorff, Rubin, & Morgeson, 2009). Consequently, until research more effectively disentangles constructs and methods and sufficiently codes key aspects of the jobs included in the studies, VG is far from a panacea.

The Emphasis of the *Uniform Guidelines* on Local Validation Studies

McDaniel et al. infer that the *Uniform Guidelines* prefer or recommend local

3. The "situational" aspect of the situational specificity hypothesis is narrowly construed and assumes that the same measure and the same job are under consideration. "Situational" should not be used or interpreted loosely in this context.

criterion-related validity and state that the *Uniform Guidelines* are “largely oblivious to sample size issues” and “seek documentation that cannot be provided by the majority of U.S. employers.” In reality, Q&A 56 clearly states that criterion-related validity is not preferred over content or construct validity and that “there is no reason to state a general preference for any one validity strategy.” The *Uniform Guidelines* do appropriately recognize that there are situational constraints related to technical feasibility that might make some approaches less appropriate than others in some circumstances. Asserting that the *Uniform Guidelines* are oblivious to sample size issues is surprising given the repeated statements indicating that sample size needs to be considered (Sections 14B[1], 14B[6], 14B[7], 14B[8], 14B[8][e][i], 16U; Q&As 51, 54, 72). The *Uniform Guidelines* also provide recommendations for how to approach validity when samples are small, such as using content validity, combining or grouping jobs together, or using transportability (see Section 14B[1] and Q&A 72). The reality that most employers do not have a sample sufficient in size for a local empirical validity study is an interesting (and frustrating) fact of life. However, this does not make the *Uniform Guidelines* a detriment to employment selection any more than the *Principles* or *Standards* as issues of sample size and documentation requirements equally apply to all.

The Uniform Guidelines and Evidence for Validity Based on Content Similarity

McDaniel et al. criticize the *Uniform Guidelines* for limiting traits or constructs from being validated through content evidence; yet, they then annul this criticism and proceed to explain in footnote 4 how this is actually interpreted in practice. Furthermore, Q&A 75 explains very clearly how this should be interpreted and we believe this explanation is in harmony with good science and practice (see Stelly & Goldstein, 2007).

McDaniel et al. also state in this section (and other sections) that the *Uniform Guidelines* emphasize conducting detailed job analyses. Granted, “detailed” is a subjective term, but we believe that is a misinterpretation of the *Uniform Guidelines’* job analysis requirements. The *Uniform Guidelines* provide a very reasonable definition of job analysis in terms of details required (Section 16K) and are open to the use of different job analysis methods (Section 14A). The *Uniform Guidelines* require the identification of important work behaviors (Sections 14B[2], 14C[2], 15B[3], 15C[3], 16K) but explicitly state that a task analysis is not required even for content validity (Q&A 77). Furthermore, the *Uniform Guidelines* do not require the identification of knowledge, skills, abilities, and other characteristics (KSAOs) in the job analysis (Sections 14B[2], 14C[2], 14C[4], 15B[3], 15C[3]), implicitly suggesting that KSAOs are optional. Further still, the *Uniform Guidelines* allow for criterion-related validity studies without a full job analysis in some fairly common circumstances (Sections 14A, 14B[3], 15B[3]; Q&A 58).

The *Uniform Guidelines* recognize the heightened importance of a job analysis for content validity, but this is consistent with other professional guidelines (i.e., *Principles* and *Standards*) and opinions (e.g., Brannick, Levine, & Morgeson, 2007; Gatewood, Feild, & Barrick, 2008; Stelly & Goldstein, 2007). The fact that “the *Principles* address feasibility limitations on job analysis for content validity” (McDaniel et al.) only affirms that content validity cannot be accomplished via sleight of hand—it rests on a job analysis as its foundation and requires some effort.

McDaniel et al. repeatedly indicate that the *Uniform Guidelines’* requirements are too costly and time consuming for many U.S. employers. Regulations of all types (e.g., those enforced by the FDA, EPA, FASB) can be burdensome for organizations, but that does not make them inappropriate or a detriment to be rescinded. Furthermore, the *Uniform Guidelines* actually place no burden on organizations at all

as long as selection procedures have distributive justice (i.e., no adverse impact). McDaniel et al. reject the burden placed on employers but offer no suggestion as to what the burden should be. We believe McPhail (2007) offers sound guidance:

Is what we do in practice, then, science? ... It would seem that the answer to this question depends on the rigor (both operational and intellectual) that we bring to the endeavor. To the extent that we use the methods of science to reduce the chance that we will be self-deluded into false conclusions based on what we *want* to be the case rather than what *is*, we can lay claim to the rubric of science. However, to the extent that we simply misuse the trappings of science to support our self-serving (or even heartfelt) conclusions, we are charlatans putting on airs. (p. 13)

Research related to risk management or risk–benefit analysis in the context of personnel selection is badly needed. Utility equations are inadequate because they do not account for the sociopolitical environment; an organization’s business, ethical, social, or diversity goals; the likelihood of being challenged or surviving the challenge; costs associated with litigation, settlement versus trial, boycotts, or a tarnished brand or image; or the benefits of a diverse workforce. Such information would allow organizations to make more informed decisions about the appropriate level of rigor necessary for the validation processes and aid them in addressing the requirements of the *Uniform Guidelines*.

The *Uniform Guidelines* and its 1950s Perspective on Separate “Types” of Validity

Indeed, the *Standards* and *Principles* shifted from a tripartite to a unitary view of validity. This is an important change from a theoretical or scientific perspective; however, this is a more trivial matter in practice. The vast majority of validity studies are based

on content or criterion-related validity, and the shift to a unitary view results in little if any change to these two approaches to validity. Furthermore, current textbooks in the area of personnel selection (Brannick, Levine, & Morgeson, 2007; Gatewood, Feild, & Barrick, 2008; Heneman, Judge, & Kammeyer-Mueller, 2012; Phillips & Gully, 2012) still discuss validity using the three “1950s” types/sources of validity.

The *Uniform Guidelines* and False Assumptions Concerning Adverse Impact

McDaniel et al. assert that the *Uniform Guidelines* implicitly assume that adverse impact is an indication of a flawed test. Actually, the *Uniform Guidelines* and Q&As explicitly state that procedures having adverse impact are considered discriminatory *unless the procedure has been validated* (Section 3A, Q&As 2 and 31) or “if there was a ‘business necessity’ for its continued use” (Q&A 36). The *Uniform Guidelines* “expressly permit the use of a procedure in a manner supported by the evidence of validity and utility, even if another method of use has a lesser adverse impact” (Q&A 52). In essence, if an organization uses a selection procedure that results in a lack of distributive justice (i.e., adverse impact), the *Uniform Guidelines* require the organization to demonstrate that the selection procedure has procedural justice (i.e., it is valid).

McDaniel et al. also claim that accurate differences on job-related attributes are the primary cause of racial differences and adverse impact.⁴ First, it is important to note that adverse impact is not based exclusively on mean test score differences. Several other

4. McDaniel et al. use high school diplomas and prose literacy (i.e., cognitive ability) as evidence of real differences in job-related attributes. In *Griggs v. Duke Power Company* (1971), the Supreme Court ruled that the high school diploma and intelligence test were discriminatory because they were not job related. This decision led to the disparate impact interpretation of Title VII and, ultimately, to the establishment of the *Uniform Guidelines* and their underlying principles.

factors (e.g., selection ratio, relative proportion of minority to majority members, number of vacancies, affirmative action programs, policies regarding the use of test scores [e.g., banding, cut scores, seniority points], discretionary authority of hiring manager), many of which are nonscientific and have little to do with the actual predictor measure, might influence selection decisions and the resulting adverse impact. Second, it is important to note that group differences are a matter of degree. McDaniel et al.'s Table 1 shows that some predictors have larger d s than others; however, what is absent is the d for job performance ($d = 0.27$ favoring White vs. Black; McKay & McDaniel, 2006). Inclusion of this value in Table 1 would show that nearly all predictors except personality and structured interviews result in larger Black–White differences than those observed in job performance. We believe that this is contradictory to the notion that predictors are accurately measuring job-related attributes.

In the discussion of fairness, the *Standards* state that “persons who all would perform equally well on the criterion measure if selected should have an equal chance of being chosen regardless of group membership” (p. 75). This is similar to the definition of unfairness in Section 14B(8)(a) of the *Uniform Guidelines*: “When members of one ... group characteristically obtain lower scores on a selection procedure than members of another group, and the differences in scores are not reflected in differences in a measure of job performance” (see also Section 16V). Assuming VG is the best estimate of a population parameter,⁵ nearly all predictors in Table 1 could be considered unfair against Black applicants because group differences on the predictors are substantially larger than the group difference on the criterion (see also Newman, Hanges, & Outtz, 2007; Outtz & Newman, 2010).

McKay and McDaniel (2006) found that cognitive load moderated racial effects on

job performance and stated that performance measures capturing both cognitive and noncognitive criteria might result in smaller differences. They further note that several other authors are critical of criterion measures focusing too narrowly on cognitive aspects of performance. Similarly, Ployhart and Holtz (2008) stated that the most effective strategy for reducing subgroup differences with no validity tradeoff is to assess the full range of KSAOs. This is consistent with the *Standards*, which state that “success in virtually all real-world endeavors requires multiple skills and abilities” (p. 79) and that “issues of fairness may arise in the choice of which factors are measured” (p. 80). Focusing narrowly on one construct (especially one that is cognitively loaded) is unfair and results in unnecessarily inflated group differences. McDaniel et al. provide a grim outlook regarding group differences, offer little hope for successful interventions, and are skeptical of any change in group differences on predictors anytime soon. Yet, McKay and McDaniel (2006) found that racial differences in work performance are decreasing.

Conclusions

McDaniel et al. speculate as to why the *Uniform Guidelines* have remained stable for more than 30 years, but we believe there are other important reasons—there are insufficient driving forces for change and a lack of a felt need for change. The *Uniform Guidelines* are not perfectly consistent with the *Principles* and *Standards*, but they are overwhelmingly similar to them and other personnel selection authorities and are still useful as professional guidelines. The field of personnel selection has changed significantly since 1978, but, in practice, the underlying principles guiding personnel selection today are very similar to the principles used then. The *Uniform Guidelines* are also in harmony with most EEO laws, regulations, and court decisions enacted since their establishment; any inconsistencies can be brought before and considered by the court.

5. This is a commonly held assumption by proponents of validity generalization (e.g., Pearlman, Schmidt, & Hunter, 1980; Schmidt & Hunter, 1998).

The *Uniform Guidelines* have the difficult role of attempting to balance science and law (see Q&A 40), whereas the *Standards* and *Principles* have the luxury of focusing mainly on science and are not intended to interpret regulations and law (see Biddle's 2008 discussion of the different purposes). Given that the *Uniform Guidelines* are put in place to guide compliance with federal EEO law, claiming they are a detriment to the field and arguing to rescind the *Uniform Guidelines* is akin to arguing to rescind EEO law. This appears to be what McDaniel et al. are implying ("there would still be a need to influence and alter a formidable body of case law") even though they state they are in full support of EEO.

We believe that science/practice and law should mutually influence one another and that a perfect match between science and law is a noble goal but difficult to attain the ideal. McDaniel et al. appropriately recommend a partnership among government and professional organizations, but they also imply that the Society for Industrial and Organizational Psychology is the supreme partner. We believe that one (science vs. law) should not have precedence over the other, and it is egocentric to suggest that science takes precedence over law and that "all federal employment regulations should be fully consistent with the *Standards* and *Principles*" (McDaniel et al.). There are multiple stakeholders involved, and the *Uniform Guidelines* belong to the enforcers of federal law; they do not belong to industrial and organizational psychologists to advance science and practice.

McDaniel et al. perceive a few inconsistencies between the *Uniform Guidelines* versus the *Standards* and *Principles* and opine that the *Uniform Guidelines* are a detriment and should be rescinded or extensively revised. When taking a more detailed look at the *Uniform Guidelines* and McDaniel et al.'s rationale, we believe a different perspective emerges. We agree that some updates to the *Uniform Guidelines* might be desirable, but we vehemently disagree with the notion that they are a

detriment to personnel selection. Quite the contrary, the *Uniform Guidelines* have been a boon for personnel selection and they still guide effective selection practices. The *Uniform Guidelines* prompted the quest to find predictors that maximize validity and diversity and have been the catalyst for much of the outstanding research of the last 30+ years in the areas of structured interviews, work samples, situational judgment tests, personality, VG, new ways of assessing cognitive ability, and so on. Rescinding the *Uniform Guidelines* would be a detriment to personnel selection; it would retard growth and progress and may even result in regression to the days of *Griggs v. Duke Power Company* (1971) and the wholesale use of diplomas and intelligence tests.

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