

Interviewing : Legal Guidelines

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Agenda

- Federal Guidelines
- Prohibited Employment Practices
- Review **Topics to Avoid**
- Review **Best Practices**
- Complete a **Quiz**

Legal Compliance

Under the laws enforced by the Equal Employment Opportunity Commission (EEOC), it is illegal to discriminate against an applicant (or employee) based on the individual's race, color, religion, sex (including pregnancy, gender identity and sexual orientation), national origin, age (40 or older), disability or genetic information.

The law forbids discrimination in every aspect of employment.



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Prohibited Employment Practices

Employers May **Not**:

- Publish a job advertisement that shows preference for or discourages someone from applying for a job
- Recruit new employees in a way that discriminates
- Discriminate against a job applicant
- Base hiring decisions on stereotypes and assumptions

Topics to Avoid

- Age
- Citizenship
- Religion
- Financial/Credit Status
- Gender or Sex-linked
Information/Sexual Orientation



Topics to Avoid

- Health/Disability
- Height/Weight
- Marital Status/Family
Status/Child Care Needs
- Organizations
- Race or Color



BFOQ

Employers are permitted to ask questions based upon a Bona Fide Occupational Qualification

For example: you may ask if a candidate has a valid drivers license, the ability to stand for periods of time, if such qualifications are necessary to perform a given job and are essential to the operation of the business.

One exception!

Americans with Disabilities Act (ADA)

Pre-Employment Background Checks

- Federal Law
- Arrest vs. Conviction
- “Ban the Box”
- **Best Practice!**

In order to comply with various state regulations, it is recommended to wait until after an offer of employment is made to check the background of applicants

What you can ask

You can ask the question **if it is...**

JOB RELATED



CONSISTENT



OBJECTIVE



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Best Practices

- ✓ Pre-plan your interview in advance. Including who is to be included in the interview process.
- ✓ Ask interview questions that help you identify whether the candidate has the behaviors, skills and experience needed for the job.
 - Keep your questions focused on the **essential functions** and **expectations** of the position.
 - All questions asked of a candidate should be justified by a **hiring purpose**.

Pop Quiz!

To ask or Not to ask...



Have you had any prior work injuries?

Legal

Not Legal



Employers, however, ***may ask*** about an applicant's ability to perform specific tasks.

Are there specific times you cannot work?

Legal

Not Legal



How many kids do you have?

Legal

Not Legal



Protected under "Title VII"
and can be seen as
discriminating against
women

What are your strengths?

Legal

Not Legal



Where an employer may run into issues is with a **follow-up question**. *For example*, while the "strengths" question is relatively harmless, if a candidate responds with "my religious convictions," it can lead to potential issues.

Is your family from the United States?



Legal

Not Legal



Can be ***perceived as discrimination*** on the basis of the individual's national origin



You **may ask** "If offered this position, could you provide verification of your right to work in the United States?"

Do you have a HIGH SCHOOL OR College Degree?

Legal

Not Legal



Just don't ask questions regarding when the degree was obtained as that can lead to determining age, which is prohibited by the Age Discrimination in Employment Act.



Remember! **AVOID...**

- Asking questions relating to marital status, children, commuting arrangements, personal plans, national origin or sexual orientation.
- Letting **untrained** team members interview the candidate (even the “before the interview” casual questions).

A candidate who meets the core requirements for the job is considered qualified.

The “**Golden Rule**” of interviewing:
Interview questions should relate
only to the *skills and capabilities*
to do the job



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Thank you!