



## *Issue Brief*

### Hiring Do's and Don'ts:

### Best Practices When Evaluating Job Candidates

Finding qualified and capable employees, especially in a tight labor market, can be a challenging and time-consuming endeavor. Employees who have just the right stuff can be hard to come by. Considerable attention should be paid to screening applicants. In particular, employers should ask appropriate questions to assess candidates accurately while at the same time avoid taking illegal or discriminatory actions during the evaluation process. The ultimate goal of the hiring process is to be thorough and fair -- turning promising prospects into productive and committed employees (right people, right fit), as employee turnover can be disruptive and costly to a company.



### **The Wrong Approach:**

### **Asking Inappropriate, Potentially Discriminatory Questions**

Discrimination can happen at any stage of the hiring process -- from the initial application, the interview, the reference check, all the way to the final decision whether to hire.

Poor preparation may not only result in bad hiring decisions, but also lead to litigation. Employers must have a thorough working knowledge of what they legally can and cannot do throughout the process. During each step, the principal guideposts are reasonableness and relatedness to the work at issue. To avoid allegations of improper and even illegal conduct, ensure that you are an equal opportunity employer not just in word but in action.

Here are some tips to consider:

- Use a job description to communicate the essential job functions and expectations.



- Require candidates to complete and sign an employment application instead of using only the person's resume.
- Conduct reference and relevant background checks to assess the candidate's experience and integrity, though be careful with pre-employment testing so as not to run afoul of Equal Employment Opportunity Commission (EEOC) regulations.
- Avoid asking illegal interview questions. Here are some red flag issues to avoid:

***Age***

***National origin***

***Race / color***

***Gender***

***Religion***

***Disability***

- Focus on “behavioral-based interviewing” when evaluating candidates -- the idea that the most accurate predictor of future performance is past performance in similar situations. The interviewer should identify job-related experiences, behaviors, knowledge, skills and abilities that the company deems desirable in a particular position. Pointed questions should then be asked to elicit from the candidate detailed responses that will help determine if the interviewee possesses the desired characteristics to meet the demands of the job (right person, right fit).

Any formal job offer should be followed up with a letter noting a “respond by” date, a starting date, compensation details, and any preconditions to employment. It is also important that the candidate understands that this offer is not a contract of employment (unless the employer intends to create a specific employment contract) but that the position is considered an “at-will” arrangement -- be sure to explain what this means (the employer can terminate the employee for any reason at any time, or for no reason at all, and that the employer is not required to provide notice).

Using common sense in the hiring process can go a long way. When in doubt, an employer should consult with legal or other such outside employment experts. The employer should also document the interview and associated process as thoroughly and accurately as possible. While the vast majority of hiring (and non-hiring) decisions do not result in legal challenges, the prudent employer will be prepared to successfully defend against those that do. And after all, the best way to deal with problem employees is not having hired them in the first place.



## The Right Approach: Asking Appropriate Questions, Making Informed Decisions?

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