

Legal Issues in the Selection Interview

How can you ask questions in the selection interview that will keep you and your organization out of hot water? Even more important, how can you ask great questions that will really generate answers that will be a good predictor of on-the-job success?

These are questions that many organizations continue to face in the light of increased workforce diversity, coupled with inexperienced, untrained interviewers. Here are some general guidelines for asking the right questions in the selection interviewing process:

Avoid all questions that refer to age, race, sex, national origin, or religion. Questions that ask directly, or indirectly, about any of these issues can get you into hot legal waters. Questions such as "How old are you?" are off-limits, as well as questions which subtly try to determine that same information, such as "When did you graduate from high school?"

Ask the same questions of all job candidates. For example, would you ask a male job candidate if he had made child care arrangements? Since in all likelihood you would not ask that question of all job candidates, don't ask it at all. Instead, think about what you really need to know, which in this case is relating to the dependability of job candidates. A better question is, "We need all employees to be on the job for their scheduled work time. Is there any reason you could not meet that requirement?"

Keep questions job-related. Don't ask questions that don't pertain to the job in question. For example, avoid questions such as "Are you married?" While this is a question often asked in a social setting, it is one that should be avoided in the selection interview.

Eliminate questions about child care, marriage, family plans, transportation, citizenship, and arrest records. None of these questions is directly job-related, and all have the impact of discriminating against one of the protected groups of employees.

Ask questions to determine if the candidate has the legal right to work in the United States. All employees must provide the employer with documentation of their right to legally work in this country.

The "right" questions to ask are those that remain job-related and avoid discrimination. By using these guidelines, interviewers can avoid the hot legal waters, while obtaining the much-needed information to make wise employment decisions.

Don't Ask or Discuss	Instead Ask or Discuss
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Age

- | | |
|---|--|
| <ul style="list-style-type: none">• When were you born? | <ul style="list-style-type: none">• Do you meet the minimum age requirements? |
| <ul style="list-style-type: none">• How old are you? | <ul style="list-style-type: none">• Can you perform the essential functions of the job (after reviewing position with the candidate) with or without |

accommodation?

- When did you graduate from high school?
- I went to the same school! When did you graduate?
- Other questions to determine an applicant's age

Children, Marital Status, Work Schedule

- Will you be able to get a baby-sitter for (overtime, overnight travel, weekends)?
- Do you have any family or personal commitments that would prevent you from . . .(overtime, travel, weekends)?
- What does your spouse think about you traveling up to three days a week?
- Do you have childcare arrangements?
- How old are your children?
- This job requires (work hours, overtime, weekend, travel, or other requirements). What difficulties, if any, do you see in meeting these expectations?

- Are you planning to have (more) children?

National Origin

- Where were you born?
- What country are you from?
- What accent is that?
- Is English your first language?
- Are you a U.S. citizen?
- Do you have the legal right to work in the United States?
(Consult with Staffing should you have a question as to the legal work status of any candidate.)

Transportation

- What transportation will you be taking to work?
- Do you own a car?
- It's important that you come to work on time every day. Will you have any difficulties in meeting those requirements?

Disabilities

- Do you have any disabilities?
- Have you ever had an on-the-job accident or filed a workers' compensation claim?
- Can you perform the essential functions of the job with or without accommodation (after reviewing the job description)?

Arrests/Convictions

- Have you ever been arrested?
- Have you been convicted of a felony? Tell me about it.

Religion

- Where do you go to church?
- Can you work the schedule as we've discussed?
- What is your religious affiliation?
- Can you work on Saturday or Sunday?

Gender

- What are the names and relationships of persons living with you?
- None.

Residence

- Do you own or rent?
- What is your present address?
- With whom do you live?

Race/Color

- What is your race?
- None.

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