

NORTH CAROLINA SCHOOL OF THE ARTS

Guidelines for Effective and Legal Interviewing

Once you reach the interview stage of a search, there are certain precautions you must take to assure no inappropriate inquiries are made. First, decide ahead of time what questions will be asked. This should be a list of open-ended, form questions which should be asked of each interviewee. After each form question is asked, additional follow-up questions from the interviewer/s may be asked as necessary. Second, avoid any inquiries that elicit information regarding, race, color, ancestry, sex, age, religion, or disability. While questions about some areas, i.e., marital status or children, are not illegal per se, they are almost never job-related. The burden of proving that an applicant was not rejected on the basis of information from these inquiries rests with you, the employer.

The following is a list of information about questions which you should or should not ask.

Inquiries about Race or Color

No inquiries about race or color are appropriate in an interview. Employment decisions made on the basis of race, nationality, color, or religion violate Title VII of the Civil Rights Act of 1964 (Title VII), the Civil Rights Act of 1991, and a variety of state laws.

Gender

Discrimination on the basis of sex violates Title VII and may also violate the Equal Pay Act, Executive Order 11246, and/or state fair employment laws. To justify requiring a particular sex for a position, the employer must show that sex is a bona fide occupational qualification (BFOQ). A strict burden of proof is on you, the employer, to demonstrate the validity of specifying a particular sex for a position.

Inquiries about Ancestry

Do not ask a person's maiden name. This is not relevant to a person's ability to perform a job and could be used for discriminatory purposes. A woman's maiden name may be used as an indication of her religion or national origin.

Inquiries about Marital Status

Do not ask whether a person is married or has other "arrangements." Do not ask about pregnancies (past, present, future) or children. Do not inquire about spouse's occupation or whether s/he is likely to be transferred.

Inquiries about Age

The Age Discrimination in Employment Act of 1967 (ADEA) prohibits discrimination on the basis of age against individuals who are age 40 and above. A variety of state laws also prohibit age discrimination in employment, with some also protecting people under age 40 from age discrimination. Do not ask the applicant's age or questions that may allude to his/her age.

Inquiries about Religion

Do not ask what religion a person professes or what accommodation would be required on the job to facilitate his or her religious practices. These type of questions may be asked post employment offer, but not before an offer is made and accepted.

Inquiries about Health and Physical Status

The Americans with Disabilities Act (ADA) prohibits employers from discriminating against qualified individuals with disabilities and requires employers to provide reasonable accommodations for an applicant's or employee's disabilities.

It is inappropriate to ask about an impairment of any kind (physical or mental) that is likely to elicit information about a disability. You may ask if the person can perform the essential functions of the job. Essential functions of a job are the major responsibilities, no minor or occasional responsibilities. You may inquire about accommodation and disability issues post employment offer.

Inquiries about Memberships

Because memberships in organizations may reflect religion, national origin, or gender, discrimination based on memberships may violate Title VII.

Other area of potential risk in an Interview

Child Care

Sexual Preference

Arrest Record

Type of Discharge from the Military

Willingness to Work Weekends (unless BFOQ)

Any information from minority or female applicants not routinely requested of white or male applicants.

Sensitive Questions

Applicants sometimes file civil rights complaints because they don't realize that seemingly inappropriate questions really are job related. Therefore, as an interviewer, you have two tasks: to ask only legal, job-related questions and to help the applicant understand the reasoning behind any questions that might appear to be sensitive.

It doesn't matter if you are well-intentioned or casual about prohibited inquiries; **they are still prohibited.**

Pre-Employment Testing

Pre-employment tests (written, oral, physical, or skills) may be administered by the hiring department with prior approval from the Human Resources Office. Pre-employment test procedures and results must be retained by the hiring department for two years.

Performance Test Guidelines

A Performance Test is a selection procedure that involves producing a sample of the position's work product or sampling a specific skill necessary for successful performance of the open position under the following guidelines:

1. The hiring department, with prior approval from the Human Resources Office, may conduct a performance test when it has the equipment or facilities used by the position.
2. The performance test should closely approximate an observable work procedure or produce a sample work product.
3. The manner and setting of the performance test and its level and complexity must closely approximate the actual work situation.
4. The conditions under which the performance test is administered must be maintained on a standard basis from candidate to candidate.

The hiring department:

1. Assures that the candidate is properly licensed where applicable.
2. Ensures that necessary safety precautions are taken.

3. Confines the performance test to a work sample so that it is not used to offset the unit's work load or production goals.
4. Provides for retesting where justified.
5. Documents and maintains each performance test evaluation for two years from the test date.

General Interview Guidelines

- Prepare carefully for the interview (no interruptions during the interview, schedule adequate time, study the job description, prepare written interview questions in advance)
- Provide the applicant with a current work plan and organizational chart (the copy of the work plan must not contain any personal information for a current or previous employee)
- Review with the applicant the job duties, hours, shift, deadlines, any planned program/organizational changes.
- Provide the applicant with information about the University.
- Ask the applicant only job-related questions.
- Ask the same questions of each applicant so that each interviewed applicant receives equal treatment.
- Ask questions that require the applicant to describe his or her knowledge, experience, and training as related to the job opening (avoid questions that produce "yes" or "no" answers).
- Let the applicant do most of the talking.
- Check for inconsistencies in interview answers and application information.
- Document the applicant's answers during or immediately after the interview.
- Allow time during the interview for applicants to ask questions about the job, the work unit and the University.
- Confirm names, addresses and phone numbers with the applicant for obtaining reference information.
- Evaluate the applicant immediately after (not during) an interview and evaluate based on objective, job-related reasons.