

FACULTY RECRUITMENT

LEGALLY COMPLIANT INTERVIEW PRACTICES

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

Under the laws enforced by EEOC, it is illegal to discriminate against someone (applicant or employee) because of that person's race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, age (40 or older), disability or genetic information. It is also illegal to retaliate against a person because he or she complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

The law forbids discrimination in every aspect of employment.

The laws enforced by EEOC prohibit an employer or other covered entity from using employment policies and practices that have a disproportionately negative effect on applicants or employees of a particular race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), or national origin, or on an individual with a disability or class of individuals with disabilities, if the policies or practices at issue are not job-related and necessary to the operation of the business. The laws enforced by EEOC also prohibit an employer from using employment policies and practices that have a disproportionately negative impact on applicants or employees age 40 or older.

JOB ADVERTISEMENTS

It is illegal for an employer to publish a job advertisement that shows a preference for or discourages someone from applying for a job because of his or her race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, age (40 or older), disability or genetic information.

Common terms used in academic ads are “energetic”, “vibrant” or “recent college graduate” to describe the ideal candidate or work environment. These terms could be construed as a preference for someone young and/or inexperienced which could lead to ageism. It could discourage older candidates from applying.

If a job requires a second language, it is acceptable to include in the job ad. An example is a social work position that will be working with a largely Hispanic population of which English is not well spoken/understood. The advertisement can say “Must be conversant and able to write in Spanish”. The ad should not say “Must be Hispanic, or strongly prefer Hispanic applicants”.

JOB ADVERTISEMENTS

Ads should avoid language such as “able-bodied”, “agile”, “strong” or terms that imply physical capability. If a job requires frequent lifting, standing, walking, or sitting beyond normal expectations, it can be used in the ad and should be described specifically. Examples: This job requires the ability to lift boxes up to 50 pounds. This job will require the candidate to frequently walk around the campus doing security checks.

Gendered descriptors: There are phrases that research has shown have a gendered connotation. Using the words “competitive”, “ambitious” or “analytical”, “decisive”, “self-reliant/sufficient/confident” and even using the term “leader” can be off putting to female candidates who do not tend to see those descriptors as welcoming.

Instead of looking for a “strong” candidate, an ad can ask for an “exceptional” candidate.

Instead of “thriving in a competitive atmosphere” an ad can ask for someone “who works well on a team and is motivated by goals”

Instead of seeking a “proven leader with a strong track record of success” and ad might ask for someone who has “managed from inception to completion, large scale projects across complex teams”

There are also phrases that skew feminine such as “nurture”, “concerned” and “community” which may discourage male applicants from applying if they are not directly related to the job.

RECRUITMENT SOURCES, JOB REFERRALS AND HIRING PRACTICES

A common practice that could result in hiring discrimination is considering candidates who were referred by a current employee or heard about the job through word-of-mouth. Using this method could result in a homogenous work environment.

An example is a lab in which all of the employees are Chinese when the pool of qualified applicants is diverse.

Another example is a male hiring manager who, due to his cultural preferences, only hires men.

A final example is a hiring manager whose staff resembles them – a 40+ year old white female director whose staff is comprised mostly of 40+ year old women.

INTERVIEW QUESTIONS

The law presumes that all questions asked in a personal interview will be used in the hiring decision. Most questions are not “illegal” if they are specifically related to the job.

Candidates may share information that is unrelated to the job or even completely inappropriate. The responsibility of the interviewer is to keep the discussion on the interview questions without engaging, probing or pursuing any information that is not needed to determine if the person will be hired.

If a candidate says, “I want this job because it is close to my child’s daycare”. The appropriate response could be, “I’m glad to know this would be convenient for you.”

If a candidate says, “I really want to work here, because my (mother/spouse/child) was treated here.” An appropriate response could be “I am glad to hear it, now the next question is”

The following are examples of interview questions that should generally be avoided unless there is a job related reason. If you are unsure of whether you can use a particular question, contact your HR Representative.

SUBJECT	DO NOT ASK	YOU MAY ASK
Sex	Are you male or female? What are the names and relationships of persons living with you?	None.
Residence	Do you own or rent? Give the names and relationships of persons residing with you.	None. Refrain from making statements about where the applicant lives (positive or negative)
Age	What is your date of birth? How old are you?	If hired, can you provide proof that you are at least 18 years of age?
National Origin	What is your ancestry, national origin, descent ancestry, parentage, or nationality? What is your native language? What is the nationality of your parents or spouse?	What languages do you speak or write fluently? (Do not ask unless strictly job related.)
Marital Status	What is your marital status? What is your spouse’s name? What is your maiden name?	None.

SUBJECT	DO NOT ASK	YOU MAY ASK
Family Status	How many children do you have? Are you pregnant? Are you planning on having children? Who will keep your children if we hire you?	None. It is illegal to decline hiring a visibly pregnant woman because she is pregnant or treating a new hire differently, if she discloses she is pregnant.
Arrests and Convictions	Have you ever been arrested? Have you ever been charged with any crime?	You may notify that the job requires successful completion of a background investigation)
Religion	What is your religious affiliation or denomination? What church do you belong to? What is the name of your pastor, minister, or rabbi? What religious holidays do you observe?	None. (If you wish to know if an applicant is available to work Saturday or Sunday shifts, ask: "Are you available to work on Saturdays or Sundays if needed?" Make sure you ask this question of all applicants.)
Disabilities	Are you disabled?	Are you capable of performing the essential functions of this position, with or without reasonable accommodation?
Citizenship	What country are you a citizen? Are you or other members of your family naturalized citizens? If so, when did you or they become a U.S. citizen? Attach a copy of your naturalization papers to your application form.	If hired, you must be legally authorized to work in the United States?
Transportation	Do you have a car?	If the job requires the ability to travel to different locations - Are you able to travel to different locations as needed?

CONSISTENCY AND FAIRNESS

All candidates should experience the same interview process and questions to ensure equal treatment. Decisions such as offering meals, paying for travel to the interview, the search committee participants should be as consistent as logistically possible.