



The Interviewing System for **BETTER** Hires

Overview: When you conduct a job interview, you want to ask questions that elicit real information so you can make an informed hiring decision. But you also want to avoid questions that could get you in legal trouble.

“Inappropriate questions during hiring are a major source of lawsuits,” says David Curtis, a partner with the Dallas law firm of Gardere Wynne Sewell. “Most illegal questions occur when an employer asks an applicant for information where the answer tends to affect a protected group, such as minorities, women, the disabled, legal aliens and people over 40 years of age, or where the question is not related to essential job functions.”

The potential legal problems include, but are not limited to, violations of the Civil Rights Acts of 1964 and 1991, the Age Discrimination in Employment Act of 1967, and the Americans with Disabilities Act of 1991.

Critical Fit helps to avoid potential lawsuit exposure by giving you control of questions asked by all the various hiring managers throughout your company. The collaborative environment facilitates convenient sharing of notes and interview results between managers and HR to expedite the process. Our insightful reports then enable the entire hiring team to better rank and compare candidates on the agreed competencies for consistently better hiring decisions.

Read the independent article on hiring entitled “Don’t Ask A Job Applicant These Questions” by Joseph Anthony—compliments of Critical Fit.

Our Clients:



Don't Ask A Job Applicant These Questions

By Joseph Anthony

You're looking over the résumé of a job candidate. You see that he includes in a list of hobbies his volunteer work with Little League Baseball, and that he went to the same high school as you.

So as part of the getting-to-know-you aspect of the job interview, you ask him if he has any kids and when he graduated.

Great. You've just asked two questions that could leave you open to discrimination lawsuits.

Sometimes clear communication means not collecting background noise that doesn't help you. When you conduct a job interview, you want to ask questions that elicit real information so you can make an informed hiring decision. But you also want to avoid questions that could get you in legal trouble.

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Questions must address job requirements

Matthew R. Grabell, an employment attorney with Grabell & Associates in Hackensack, N.J., says that the list of things you cannot ask potential employees about includes:

- * Private organizations he or she belongs to
- * Religious affiliations
- * Date of birth (except when that information is required for satisfying minimum age requirements)
- * Lineage, ancestry, national origin, descent, parentage, or nationality
- * Names and addresses of relatives other than a spouse and dependent children
- * Sex or marital status
- * Height or weight, unless you can show that information is justified by business necessity
- * Physical or mental disabilities
- *

None of these questions addresses the skills needed to perform a job. "However, it is permissible to ask if the applicant has any disabilities that would prevent him or her from satisfactorily performing the job," Grabell says.

Therese A. Hoehne, director of human resources at Aurora University in Aurora, Ill., gives interviewers at the university a checklist based partly on two publications of the Society for Human Resource Management: "Guidelines On Interview and Employment Application Questions," by Thomas Nail and Dale Scharinger, and "ADA Job Interview Checklist for Supervisors," by Kenneth Pritchard.

"Sometimes you just have a real desire to ask a question like how someone is going to be able to maintain a daily work schedule if she is a young woman responsible for several children. But you can't do that," Hoehne says. "You have to focus on the fact that the person wants to work and whether they say they can do what is necessary."

Grabell says that questions about children, pregnancy and family obligations may make applicants uncomfortable. The questions also may be considered indicative of discrimination if someone is hired and later loses a job after having a child.

(cont...)

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Some dos and don'ts

Grabell and other experts give several examples of acceptable and unacceptable questions, including:

OK: What days can you work? What hours can you work?

Not OK: How many children do you have? Do you have a babysitter available if we need you on a weekend?

OK: Do you have any responsibilities that would interfere with traveling for us?

Not OK: Do you have a baby or small child at home?

OK: Are you legally eligible to work in the United States?

Not OK: Are you a U.S. citizen? What country are you from?

OK: This job requires someone who speaks more than one language. What languages do you speak or write fluently?

Not OK: What's your native language?

OK: Have you ever been convicted of a crime?

Not OK: Have you ever been arrested?

OK: You say on your application that you were in the military. What kind of education and experience did you get there?

Not OK: What kind of a discharge did you receive?

OK: Do you have a high school diploma? Do you have a university or college degree?

Not OK: When did you graduate?

Curtis says that even just having a bullet-point list of requirements for the job can help the interviewer stay on track and stay out of trouble.

"The truth is, you don't care about their religious preference or whether they have a car; you care about whether they have the skill set needed to do the job," lawyer Curtis says.

"I think employers sometimes have the misconception that these statutes and rules are somehow tying their hands or impeding their ability to staff their businesses with competent workers who can perform. If they understand these laws, they can see [the rules] are driving them to accomplish what they really want to accomplish anyway."