**Hiring & Interviewing Guidelines**

Under the laws enforced by Equal Employment Opportunity Commission (EEOC) and/or the Minnesota Department of Human Rights (MDHR), it is illegal to treat someone differently or discriminate against an individual (applicant or employee) because of that person's protected status. Status or characteristics protected by law include race, color, creed, religion, sex, gender identity or expression, sexual orientation, pregnancy status, ethnicity, national origin, age, disability, status with regard to public assistance, marital status, familial status, veteran or military status, local human rights commission activity, genetic information, arrest or conviction records except in the instance of bona fide occupational qualifications necessary to effectively perform the job. It is also illegal to retaliate against a person because they complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

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 protected status. For example, an employment ad that seeks "females" or "recent college graduates" may discourage men and people over 40 from applying and may therefore violate the law.  An exception could be made when it is a bona fide occupational qualification, such as advertising for a female correctional officer overseeing female inmates.

Recruitment:

It is also illegal for an employer to recruit new employees in a way that discriminates against individuals because of their protected status. For example, an employer's reliance on word-of-mouth recruitment by its mostly Hispanic workforce may violate the law if the result is that almost all new hires are Hispanic.

Application and Hiring:

It is illegal for an employer to discriminate against a job applicant because of his or her protected status. For example, an employer may not refuse to give employment applications to people of a certain race. Further, an employer may not base hiring decisions on stereotypes and assumptions about a person's protected status.

If an employer requires job applicants to take a test, the test must be necessary and related to the job and the employer may not exclude or otherwise discriminate against people of a particular protected status. Employers are also prohibited from using tests or selection procedures that have the effect of disproportionately excluding individuals of a particular protected status, where the tests or selection procedures are not job related and consistent with business necessity (known as disparate impact discrimination). The employer should be able to justify the test or selection procedures under the law.

Disability Accommodation During Application & Hiring Process:

If a job applicant with a disability needs an accommodation (such as a sign language interpreter) to apply for a job, the employer is required to provide the accommodation, so long as the accommodation does not cause the employer significant difficulty or expense to the extent it creates an undue hardship.

Interviewing Guidelines:

Interviewers cannot ask questions which reasonably would be expected to gain information regarding protected status factors. The table below outlines inappropriate and acceptable interview topics.

|  |  |
| --- | --- |
| **Interview Topic Dos and Don’ts** | |
| Generally, an employer may NOT ask interview questions regarding the following: | Employers may ask interview questions regarding or including the following: |
| Age / year(s) of graduation | Job-related experience / educational background |
| Disability related information | Are you able to perform the essential functions of this job (after the job has been described)? Can you perform essential functions of the job, with or without a reasonable accommodation? Can you demonstrate or explain how you perform the following job-related duties? \* |
| Religious affiliation | Can you work the required hours and days for the position? Are you able to work weekends and holidays as the position requires? \* |
| Citizenship status | Are you legally eligible to work in the United States? |
| Military service / veteran status | Veteran status information required for provision of veteran’s preference points may be requested during initial application submission process. |
| Non-job related or non-professional organization affiliations and memberships | Job-related professional organization affiliation and memberships / Whether the applicant has required licenses or certifications necessary for the position |
| National origin / race / color / birth place / native language | What language(s) do you read, write or speak proficiently? (Ask only if job-related.) |
| Prior sick leave usage | Did you comply with attendance policies in your last position? / Can you adhere to the attendance requirements of the position? \* |
| Marital status / spousal situation / marriage plans / maiden name / spouse’s name or information \*\* | Gaps in employment history |
| Children / childcare plans / pregnancy plans or status / childcare arrangements / age of children / parents / parental care responsibilities | Can you work the hours for the position, including overtime? Can you travel up to three times per month as the position requires? |
| Lawful consumable products used during non-work hours / Do you smoke or use tobacco products? | Our smoking / tobacco policy is [insert policy information]. Can you adhere to it? |
| Worker’s compensation claim history or status | Have you complied with safety rules and procedures in your past jobs? |
| Height, weight, physical characteristics |  |
| Financial or unemployment situation / status with regard to public assistance / credit history \*\* |  |
| Gender, gender identity or expression, sexual orientation |  |
| Criminal record / arrest record \*\* |  |
| Genetic information about family history |  |

*\*Qualified applicants cannot be excluded from employment because of the need for a religious or disability reasonable accommodation.*

*\*\* Former or other names, credit history, or criminal history may be needed at the time of a background check, when job-related.*

|  |  |
| --- | --- |
| **Interview Best Practices** **Checklist** | |
|  | Write out interview questions that are job related, in advance of the interview. Consider what elements constitute a “good” response to each question, conveying and highlighting knowledge, skills and abilities to successfully perform the job.   * Having prepared and consistent questions will help keep the interview on track. * It will also ensure all applicants are asked the same questions, which will decrease the chances of a successful challenge related to the hiring process. |
|  | Have at least two individuals (ideally management) participate in the interview.   * This will reduce any claims that improper questions were asked because the second person can act as a witness. |
|  | Be prepared to take good notes during the interview.   * Interview notes of the successful candidate should be retained indefinitely in their personnel file. * Notes on all interviews should be kept for 18 months or in accordance with County data retention guidelines, in case there is an employment charge brought forth. * Do not document responses that include information about protected status factors. |
|  | If an applicant provides information regarding protected status factors:   * Do not ask any follow-up questions. * Do not write down information related to protected status factors. * State:  That is information I cannot consider when making our hiring decision. |
|  | Be cautious of pre- and post-interview conversations with the applicant.   * Do not engage in conversations with the applicant where personal information is encouraged or likely to be revealed. * If the applicant shares personal information which may reveal protected class status during informal conversation, avoid asking any follow-up questions. |
|  | Do not make inquiries that could elicit medical information or information about a disability.   * Inquiries about the ability to perform the job are permitted. |