

REMODELERS & THE LAW



BY NANCY A. CHILLAG

What Can be Asked on an Interview

Interviewing for employees is no longer a routine process, but one that must be approached carefully to avoid violation of various employment laws.

Federal law states that no one can be refused employment on the basis of race, sex, religion, national origin, age or disability. Employment qualifica-

National origin: You may not ask that an applicant produce naturalization or alien registration information prior to being hired. You may inform them that if they are hired they will be required to prove they have a legal right to work in the United States. You may not ask what language an applicant commonly uses, or ask about his or her "mother tongue." If use of a language other than English is relevant to the job, you may ask whether an applicant can read, write or speak that language.

Gender and family status: You are not allowed to ask a woman for her maiden name, however, you may ask whether an applicant has ever been known by any other name. You may not ask questions regarding an applicant's sex, whether they have children and/or dependents, or the name or occupation of their spouse.

Normally there would be no employment-related reason for any of this information. If, however, your company has a policy regarding related employees you should inform the applicant of the policy and/or ask whether the applicant is related to any current employee. One employer who ended up in a lawsuit actually asked an applicant if her husband would object to her driving around with men. (If you have to ask what's wrong with that question, you are in big trouble!)

Race: You cannot require an applicant to submit a photograph prior to hiring. This undoubtedly will be seen as a potential method of engaging

in race discrimination. Once you hire someone you may request that they submit a photograph if this is your company policy.

Religion: You may not ask whether someone's religion prevents them from working weekends or holidays. You should let the applicant know the required days and hours to be worked for the position. Keep in mind that you may need to make reasonable accommodations for a person's religious requirements, if such accommodations would not create an unreasonable hardship on the business.

Disability: In the June issue of *QR*, "Remodelers & The Law" covered the pitfalls associated with the Americans with Disabilities Act requirements and how to effectively advertise and interview for employees.

Until the above procedures become second nature, your lawyer should review your employment advertising and applications.

In addition, you should prepare a list of questions to be asked in an interview and review that list with your attorney as well. When in doubt, ask yourself, "Is the information I'm seeking really relevant to the ability of this person to perform the work?" If it isn't, you probably shouldn't ask for it. ♦

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tions based on these categories must be bona fide and reasonably necessary to the normal operation of the business.

Not only do you need to be careful in the interview, but you must also use care in developing your employment applications and your employment advertising.

The following are some examples of proper and improper questions:

Age: Requesting that an applicant state their date of birth or age is not per se a violation of the law. Unfortunately, however, it may deter older people from applying for the position and thus may be indicative of age discrimination. Thus, you should avoid asking for this information. You should also refrain from asking for dates of attendance at or completion of elementary or high school. You may, however, ask whether an applicant is over the age of 18.