Questions You Can and Cannot Ask

Many supervisors fear interviewing because they have heard that the law prohibits asking certain questions. It is easier to remember which questions an interviewer can and cannot ask if a supervisor simply remembers anything that is not related to whether the applicant can do the job should not be asked, because it would be unlawful, and foolish, to base the hiring decision on it.

Sometimes when people ask an unlawful question they are trying to find out something job related, but they are just asking the wrong question. For instance, someone asks a woman about childcare arrangements may be worried about whether the person will be away from work unexpectedly or whether they will be able to under-take the traveling the job requires. If those are important traits for the job, the interviewer(s) should ask everyone about them—both men and women—directly about absences or travel requirements.

The following are examples of questions that are unlawful or unwise to ask, and questions that are better substitutes, if any exist.

Topic	Avoid Asking	Better to Ask
Age	How old are you? What is your date of birth?	Are you at least 18 years old (Or the age of majority in your state)?
Arrest Record	Have you ever been arrested?	Have you ever been convicted of a felony or misdemeanor? Note: Convictions cannot be the grounds for automatic rejection. You should consider the type, number, and recentness of convictions and the relationship to the job in question.
Children or Child Care	Do you have children? How old are your children? What kind of childcare arrangements have you made? Do you plan to have children?	The position requires extensive travel, can you handle traveling for about 8 days per month? This position requires dependable job attendance and frequent last minute overtime. Can you meet these requirements?
Credit Problems	Do you own a home? Have you ever filed for bankruptcy? Have you ever had your wages garnished?	
Disability and Health	Do you have any disabilities? Have you ever been treated for any of the following diseases? Have you sought treatment for any inability to handle stress? Are you able to stand or walk? How many sick leave days did you take last year? What medications are you currently taking? Have you ever been addicted to drugs?	How well can you handle stress? Can you perform (a specific job function, such as loading three-pound boxes of paper into a copier)?
Height and Weight	Are you at least tall? Do you weigh less than ?	Can you work within the confines of a two- foot-aisle? Can you place packages in compartments that are six feet above the floor?
Marital Status	Are you married, single, divorced, widowed, or separated? What is your maiden name? What does your spouse do for a living?	

Topic	Avoid Asking	Better to Ask
Race and National Origin	Where were you born? Where were your parents or spouse born?	If employed, will you be able to produce evidence that you are eligible for employment in the United States?
English Language Skills	Do you speak English fluently? What is your native language? How did you learn to read, write, or speak a foreign language?	What language do you speak or write fluently? (Only if the job requires bilingual or language skills.)

Questions should be relevant and job related. Questions regarding an applicants training and education are normally job related. Other topics that may prove relevant and job related include:

- completing incomplete information on application form;
- gaps in work experience or education;
- geographic preferences and feelings about relocation, if applicable;
- working hours;
- overnight travel, if applicable;
- reasons for leaving previous jobs;
- personal attributes that could contribute to job performance;
- job-related achievements;
- signs of initiative and self-direction;
- indications of work habits;
- specialized knowledge or expertise;
- · lack of detail concerning experience; and
- meaning of former job titles.

Legal Problems with Comments That Could Be Taken as Promises

In addition to discrimination charges, other legal problem supervisors can run into when interviewing is comments that could be construed as promising employment for a certain length of time or- promising that the University will treat an employee a certain way. This usually happens in an honest effort to describe the workplace in its best light. Nevertheless, comments like, "We never fire anyone who is getting the job done" can cause problems later on if the company must lay the employee off.

Negligent Hiring

What exactly is "negligent hiring"? How do we avoid this problem, especially when many employer-^o refuse to-give references or only give "name, rank, and serial number"?

As employers, we have the right to say "no" to applicants who do not satisfy bona fide occupational qualifications or business necessities; however, we also have an obligation to say "no" to some people. We have a duty to screen out anyone whose past leads us to suspect he or she could pose a treat to other employees, customers, the public, or our employer. Without the exercise of reasonable care in hiring, training, job assignments, and supervision of new employees, we can be held liable for negligence to parties injured by dishonest, unfit, or incompetent employees.

Negligence is the failure to exercise due care under circumstances where the legal duty to care is owed another. By not conducting adequate and appropriate reference background checks, we could unknowingly hire someone whose history indicates the possibility of endangering the property of lives of others. This might be held to be negligent hiring.

Courts expect employers to exercise due care, that is, all reasonable and legal steps to protect the organization, other employees, customers, and the general public. Reasonable and lawful steps we can take include:

- 1. Request conviction information, if related to ability to perform the specific job.
- 2. Check out gaps in the records; probe.
- 3. Check out unclear statements or answers.
- 4. Document all inquiries, including reference checks, in writing.
- 5. If an applicant volunteers that he/she was hospitalized for mental or emotional problems, pursue the matter.
- 6. Turn down applicants convicted of a crime or those with a history of injuring other people when they could possibly repeat their offence in a new job situation
- 7. If a person is on probation or on parole, talk with his/her probation or parole officer.

Suggested Questions for Interviewing Applicants

- How did you choose this line of work?
- What did you enjoy most about your last job?
- What did you like least about your last job?
- What has been your greatest frustration or disappointment on your present job? Why?
- What were some of the pluses and minuses of your last job?
- What were the circumstances surrounding your leaving your last job?
- Did you give notice?
- Why should we hire you?
- What do you expect from this employer?
- What are three things you will not do in your next job?
- What would your last supervisor say your three weaknesses are?
- What are your major strengths?
- How can your supervisor best help you to obtain your goals?
- How did your last supervisor rate your job performance?
- In what ways would you change your last supervisor?
- What are your career goals during the next 1-3 years? 5-10 years?
- How will working for this employer help you reach those goals?
- What did you do the last time you received instructions with which you disagreed?
- What are some of the things about which you and your supervisor disagreed? What did you do?

Example of Reference Check Questions

Some sample questions to ask a former supervisor

- What would you consider the applicant's strengths, assets, and things you liked and respected about him or her personally and professionally?
- Do you know of any shortcomings, weaker points, or areas for improvement?
- Would you please clarify what the applicant's responsibilities and accountabilities were while in that position?
- On a scale of excellent to poor, how would you rate the applicants overall performance? Why?
- Is the applicant eligible for re-hire?
- Let me tell you more about the job for which the applicant is applying. (Describe the job) Now, how do you think the applicant might fit in that job? (Probe for specifies).

Notes

- It is OK to interrupt strengths to get clarification, but do not do so for shortcomings. Get the longest list of shortcomings possible and then go back for clarification. If you interrupt the negatives and get elaboration, the tone might seem too negative, thus closing discussion of further negatives.
- If you are getting a "white wash," inquire about negatives directly. For example: "John said that he missed the software project due date by three months and guesses that hurt his overall performance rating. Could you elaborate?"