

LAW

Avoiding discrimination in pre-employment

Nowadays every employer has to be an “equal opportunity employer.” And rightfully so. After all, our society was founded on the basic principle that all men are created equal.

Under our current laws, an employer may not deny employment to any individual based on race, sex, national origin, religion, age or disability. To avoid a charge of discrimination, the employer must ensure that all aspects of the pre-employment process are non-discriminatory. That task sounds easy enough in theory. However, it’s not so easy in practice.

In hiring, employers universally rely on questions that people answer on job application forms and in interviews. The employer must be careful in choosing the right questions. Many questions that once were typically asked are now taboo. Any question that could be viewed as discriminatory can lead to trouble. The fact that the employer meant no harm is not a defense.

To illustrate this point, I have provided some “don’t ask” questions. I have also added some questions that can be



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asked to obtain useful information in the right way:

■ **Don’t ask applicants about their sex.**

Rather, ask if they have the physical ability to perform all of the job duties of the employment position.

■ **Don’t ask about their religious affiliation or their affiliations with other organizations, clubs, societies, etc.**

Rather, ask if they belong to any organization that would prevent them from

performing all of the job duties on the days and hours of the employment position.

■ **Don’t ask their age or date of birth.**

Rather, ask if they are old enough to carry out the job duties — i.e., old enough to drive or serve alcoholic beverages.

■ **Don’t ask about their medical history or whether they have physical conditions, impairments or disabilities.**

Rather, ask if they have the mental and physical ability to fully and properly perform all of the job duties listed.

■ **Don’t ask about their marital status or whether they have children.**

Rather, ask if they can work all of the days and hours of the employment position.

■ **Don’t ask if they have been arrested.**

Rather, ask if they were convicted of a felony, and the disposition of that con-

viction.

One more thing. If an employer uses a third party to conduct a background check, he or she must comply with the provisions under the federal Fair Credit Reporting Act. Employers rely on consumer reports and investigation reports in this process, and the act requires them to tell employees about these background checks.

Charges of discrimination are relatively easy to make and can be expensive to defend. All employers are urged to review their pre-employment process to ensure compliance with current law. Since discrimination law is complicated, the services of a attorney could be very beneficial.

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If you learn that you’re receiving less than others for the same duties, you can present your research to your boss as part of your negotiation.

Know your own value

In addition to understanding what your job is worth in the marketplace, you will also need to think about what you personally are worth to your company. Have you taken on new responsibilities? Spearheaded an initiative that saved the business time or money? Taken the time to learn a new skill? Developed a way to raise profits? Make a list of such actions and have it ready when you negotiate. You might even consider giving your boss the list before your meeting so you’re both prepared to discuss it.

Be realistic

Of course, if you can’t think of ways that you have made an outstanding contribution, now’s the time to begin trying to make one. That way, you’ll be in a better position to negotiate at your next salary review.

Consider alternatives

It is possible that you can be an excellent employee, present a strong case for a raise or promotion and still not receive one. The company may truly be facing lean times, and unable to reward even the best workers. If you know that profits are down, you should be prepared to accept this reality. There may be alternatives you can request, however. For example, you might consider asking for perks such as more time off, the opportunity to work at home part-time, increased training that can enhance your career options or some other benefit that the com-

pany could more easily afford. If you believe that you have a promising future with the business, it may be worth accepting these alternative rewards during tough times and asking for more money when the economy improves.

Your CPA can help

The size of your take-home pay is an important factor in your monthly budget. If your salary is not quite what you’d like it to be, there may be other money-wise steps you can take to expand your purchasing power.

If you’d like advice on how to create a workable budget — or how to get more miles out of your dollar — be sure to consult your local CPA. He or she can help answer your family’s most important financial questions. For a referral, go to kycpa.org or call 502-266-5272 or 800-292-1754.