



Avoid Discrimination in your Recruitment Practices

When starting the recruiting process, it is important to be aware of certain legal issues in order to minimize risk. Job postings, interview questions, checking references and making job offers all need to be done in a manner that aligns with legal requirements.

In some cases, you could be using unlawful or even discriminatory practices in employment advertising without realizing it. Also check your province/territory Human Rights Code for details on exceptions due to bonafide occupational requirements.

When checking references, it is important to note that you cannot ask questions that you would not ask during the interview. For example, just as you cannot ask a candidate about a disability in the interview process, you cannot then ask their former employer, “How many sick days did they take last year”? However, you can ask if they were reliable and punctual.

Canadian Human Rights Act

Clause 3. (1) For all purposes of this Act, the prohibited grounds of discrimination are race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability (can be mental/physical, includes disfigurement, past or present, alcohol or drug dependence) and conviction for an offence for which a pardon has been granted or in respect of which a record suspension has been ordered

Employment

Clause 7. It is a discriminatory practice, directly or indirectly,
(a) to refuse to employ or continue to employ any individual, or
(b) in the course of employment, to differentiate adversely in relation to an employee, on a prohibited ground of discrimination.

Resources:

Human Rights Act: Government of Canada site	www.canada.gc.ca
Canadian Human Rights Commission	www.chrc-ccdp.ca/
Provincial Human Rights Acts	Check your local area

“Behavioural Interviewing” April 10, 2014

Note: this document is a guideline only for avoiding discriminatory interview questions.

Interview Questions

Once you are ready to begin your interviews, there are a few key points to keep in mind when designing questions. You need to ensure your interview process is not intentionally or unintentionally asking questions on prohibited grounds. It is important to describe the job and requirements in a way that gives all applicants an opportunity to apply. Avoid any questions that have no legitimate or direct link to the performance of the job.

The following are examples of questions that are Acceptable and Unacceptable:

	Sourcing information	Acceptable to ask	Unacceptable
1	Can the candidate work the scheduled hours and, at times overtime hours?	This job requires regular overtime and has an irregular schedule. Are you able to meet this requirement?	<ul style="list-style-type: none"> Do you have children? Does your family need you to be at home at a specific time each day? Are you a single parent? Would your spouse be supportive of you working overtime?
2	Will he/she be able to work for the next three years?	Looking ahead, do you have a sense of how long you want to work with us?	<ul style="list-style-type: none"> Do you plan on having children in the next three years? What year are you planning to retire?
3	Can he/she meet the physical requirement for the role?	This job requires you to lift up to 50 lbs regularly during the day. Are you able to do this?	<ul style="list-style-type: none"> Do you have a bad back or any other medical issue? Do you take any medication to relieve muscle strain?
4	Can he/she perform all required functions of this role?	Is there anything preventing you from performing all functions of the job?	Do you have a physical or mental disability that will prevent you from performing all functions of the job?
5	Can he/she work on weekends?	Our business will require you to work weekends; are you able to work Saturdays and Sunday?	Does your religion prevent you from working weekends or holidays?
6	You are hiring casual, on-call staff and want to know their availability.	What dates and times are you available to work?	Why can't you work weekends – do you have children?
7	How old is this candidate?	If there is Bonafide Occupational Requirement (BFOR) for knowing this information, such as serving in a bar, ask: are you at least 19 years of age?	How old are you? I'd guess you're almost 40 – am I correct?
8	Is the candidate legally able to work in	<ul style="list-style-type: none"> Are you a Canadian citizen or landed immigrant? 	<ul style="list-style-type: none"> How long have you been in Canada?

	Sourcing information	Acceptable to ask	Unacceptable
	Canada?	<ul style="list-style-type: none"> Do you have a current Canadian work Visa? If so, what are the conditions and when does it expire? 	<ul style="list-style-type: none"> When did you get your Canadian citizenship?
9	Curious to know if he/she is fluent in a second language.	Only ask if this is a bonafide job requirement.	