

# The fine line in the interview process

Consider these tips when looking to hire the right people without asking the wrong questions

Hiring effectively and following best practices in interviewing will help employers reap the benefits of a stronger talent pool, and reduce the occurrence of discriminatory hiring claims and the need for future terminations. There are many important components to hiring, such as deciding what to ask for on the employment application, whether to use background checks, and whether to conduct an Internet search about an applicant. Following is a look at which questions an interviewer may ask and which questions should be avoided.



## COMPLIANCE CORNER

Shayda Zaerpoor Le

married?" or "when do you plan to start a family?" are problematic. While a person's family obligations may legitimately impact his or her availability or ability to perform the job, the questions must be tailored toward that specific end. "Are you available to travel frequently?", "can you work overtime on short notice?", or "can you work evenings and weekends?" are questions tailored to generate job-related information and avoid making personal inquiries.

### Religion

Instead of asking an applicant about his or her participation in outside activities, or whether he or she is available on Sundays, an interviewer may ask, "are you able to work the schedule of the position, including overtime?" An applicant is free to answer yes or no without indicating the possible reason for their unavailability.

### Disability

An applicant's physical limitations may significantly impact his or her ability to perform the job. However, the interviewer must not ask questions about medical history, even if a disability is visible or if the individual volunteers such information. For instance, if the position requires a commercial driver's license and the interviewer suspects that an applicant has epilepsy, instead of asking specifically about the condition, the interviewer might say, "this position involves driving and requires that the employee have a commercial driver's license and an excellent driving record; do you meet these requirements?" Instead of asking the applicant about his or her physical limitations, the employer should instead explain the physical requirements of the job and then ask if the applicant can perform the requirements with or without a reasonable accommodation (without asking if the

applicant will require a reasonable accommodation to do the job).

### Pregnancy

Employers are prohibited from discriminating on the basis of pregnancy, childbirth or related medical conditions. This prohibition considers current pregnancy, past pregnancy, potential or intended pregnancy, and medical conditions related to pregnancy or childbirth. An interviewer should therefore focus questions on the requirements of the job and ask if the applicant will be able to meet the necessary scheduling and performance requirements with or without a reasonable accommodation. Pregnancy-related questions or comments should be avoided altogether.

### Other inquiries

With respect to national origin and citizenship, employers should avoid asking questions such as "what type of accent is that?", "what country are you from?", or "what nationality is your last name?" Instead, interviewers may ask the applicant "if you are hired, are you able to provide documentation to prove that you are eligible to work in the U.S.?"

When it comes to education and training, these questions should again be job-related, encompassing facts such as where the applicant went to school and what degree or certification he or she earned. In contrast, the date of graduation has a more tenuous relationship with relevancy, because it can be indicative of age, which is another problematic category.

In a similar vein, many employers will inquire about criminal history in an effort to protect employer assets and avoid negligent hiring claims. However, arrest records provide little valuable information because the absence of a resulting conviction can render the occurrence wholly irrelevant. In addition, minorities are arrested disproportionately in comparison to non-minorities, and hiring practices that disproportionately impact minorities may lead to discrimination claims. Therefore, questions regarding non-conviction arrest records should be

avoided.

While there are many categories of "unwanted" information that an interviewer should avoid, the primary goal of each interview is to communicate the requirements of the position and to phrase questions in such a manner that they relate to those requirements, rather than the personal circumstances of the applicant. Following these tips will help an employer choose the right person without asking the wrong questions.

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## SUB-BIDS REQUESTED

**Portland State University  
Academic Student &  
Recreation Center (4th Floor)  
Portland, OR**

**Bids Due: Tuesday, March 3rd  
at 2:00pm**

Bid Package #1:  
Structural & Misc. Steel  
& Precast Concrete

We encourage all MWESB  
subs to participate

Submit bids to:  
pdxbids@skanska.com

For questions or access to  
project documents contact:  
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