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# Small Business SAFEGUARDS

AN EMPLOYER HIRING GUIDE

## Introduction

Most people spend a great deal of time and effort starting and building a business. Due diligence in building a business case is more vital today than it ever has been. Documenting every last penny when developing a budget is all but mandatory. Raising additional capital is almost impossible without these two cornerstones of good business practice. So now that you have done all of that hard work and successfully started a business of your own, why wouldn't you put as much or more effort into ensuring your most vital asset is just as thoroughly documented? Building out a solid and comprehensive hiring process could be one of the most advantageous and profitable accomplishments in your own business. Once you have employees on board and productive, it is just as important to ensure that you have a thorough process for managing and keeping them happily employed.

Here are a few guidelines that can help you build and develop a successful hiring process.

## What you can't write in a job description

Warning! A job description is generally regarded as a legal document. Any references to race, color, religion, age, sex, national origin or nationality, or physical or mental disability is illegal.

Educational requirements and experience requirements are other areas where inadvertent discrimination may occur. Educational requirements must be a real necessity for the job. If someone could accomplish the work with equivalent job experience but lacks a specific credential, the job description should be modified. And to avoid age discrimination, experience should not include an upper limit.

Think of a job description as a "snapshot" of a job. The job description needs to communicate clearly and concisely what responsibilities and tasks the job entails. It should also spell out the key qualifications of the job—the basic requirements (specific credentials or skills)—and, if possible, the attributes that underlie superior performance.

## What you can't ask in a job interview

Even though you need to ask a lot of questions to conduct an effective job interview, there are restrictions. Certain questions are legally forbidden and asking them could lead to a discrimination lawsuit.

Asking questions without the intent of using the answer to discriminate against potential employees is no defense. Furthermore, even if someone volunteers information during the interview that could lead to discrimination, you can still be held liable. For that reason, never write down any information that falls into the categories of questions covered below or into any others that you may believe could get you into legal trouble. In these circumstances, state that the volunteered information is not relevant to the interview and move on.

Luckily, you can easily avoid legal trouble by avoiding certain questions. Most of the forbidden questions are non-job related and you can keep yourself within legal bounds by sticking to professional topics in an interview.

Questions of which to steer clear:

### *How old are you?*

State and federal law to prevent age discrimination protect candidates over 40 years of age. Therefore, you may not inquire about a candidate's age. Because most people graduate from high school at age 17 or 18, you may also not ask the year someone graduated from high school. However, you may ask about year of graduation from college because people attend college at different stages of life.

### *Are you married?*

Leave this kind of question for getting acquainted after an offer has been extended.

### *Are you a citizen?*

Although you will need to verify that someone is a citizen in order to hire them legally, you cannot find out by asking this question. You may ask it another way however: "Could you, after employment, submit verification of your legal right to work in the United States?"

### *Are you planning on having children soon?*

You may describe job requirements including travel, overtime and hours, and ask candidates if there is any reason they may not be able to meet the requirements, but you may not ask about plans for childbearing.

### *May I have your maiden name?*

Because knowing a maiden name may provide information about someone's national origin, it opens you up to charges of discrimination. Likewise, you cannot ask for the name of a relative to contact in case of emergency. You may ask for someone to contact as long as you do not stipulate that the person be a relative.

### *Are you disabled? Do you have any medical problems?*

#### *Have you ever filed for worker's compensation?*

The 1992 Americans with Disabilities Act (ADA) prohibits job discrimination based on disabilities of any kind. The questions listed above are just a few examples. It is safest to assume that you cannot ask questions about a person's health or physical capabilities. What you may do is describe job responsibilities and ask the candidate if he/she is capable of performing the job functions "with or without accommodation?"

## Common mistakes to avoid after the hire

### *No documented company policies*

There is nothing worse on your first few days in a new job than to be left to your own devices. Companies often mistake "experience" and "maturity" and the ability to "hit the ground running" with an ability to navigate a new job without any direction or support.

Never assume that the new hire will simply find their own way. Even the most senior executives need some sort of guidance and supervision when they first start with a new company.

Once you've brought a new employee on board it is important that your company provide some sort of an orientation or on boarding program (ideally both).

"On boarding" is the process that starts with the first contact of a potential new hire. This process continues throughout the hiring stages in order to establish a working relationship.

Orientation is designed to educate new hires about your company and more specifically about their job functions.

As part of the orientation program, new employees should be introduced to the details involved in becoming a part of the fabric of the company. Typically, the important details include but are not limited to:

- History of the company
- Current officers
- Frequently dialed phone numbers, i.e. benefits questions/payroll issues/HR issues
- List of designated holidays
- Company mission and vision
- Where to go for answers (ideally include departments and their responsibilities)
- Company policy on attendance/paid time off/vacation accrual
- Company privacy statement
- A section on benefit programs offered
- A section on performance appraisal process and sample forms
- Miscellaneous—internal communications/newsletters
- A policy documenting possible reasons for termination
- Emergency numbers

Try to avoid "company speak" when writing this manual. The most effective documents are written as if the new hire is being mentored or in discussion with a well respected senior employee.

## What not to do with Performance Reviews

A haphazard approach to performance reviews can be detrimental to the effective overall management of your staff. A well thought out and timely plan with a set of well-defined parameters can positively impact your overall retention efforts. Scheduled and well thought out performance reviews are essential to effective management of your business.

- Don't do annual reviews if that's all the time spent on performance management. Performance management is about ongoing performance conversations. That's the only way to support improvement. Ongoing conversations should culminate in a yearly or semi-annual review.
- Don't have the employee take a passive role in the process. They need to do their own self-assessments and have the opportunity to comment on what their managers write on their appraisals.
- Don't miss the opportunity to talk about the employee's goals and aspirations for their career development and set up a plan or future conversation to support them in their efforts.
- Don't forget to get input from the employee's peers and others with whom they interact (customers/suppliers etc) so that you have a well-rounded perspective on their performance.
- Don't focus solely on areas needing improvement (a.k.a weaknesses). Spend more than half the conversation focusing on what's working and how to maximize the employee's strengths to make an even bigger positive impact.
- Don't downplay how much adversity in one's personal life can affect performance. Be compassionate in acknowledging how divorce/death/illness can greatly impact an individual's concentration and results temporarily.
- Don't expect your managers to be effective in this process if you don't provide them with some solid training/support/assistance. These conversations are some of the most difficult ones that occur within an organization and most managers dread performance reviews at least as much as their employees. Prepare them for respectful, authentic exchanges and help them understand the importance of these performance conversations.

- Don't underestimate the potential power available through reflection—both for the manager and the employee. Encourage managers and their employees to talk regularly about lessons learned and insights gained from their experience.

Be sure to encourage managers to ask what they can be doing to better support/assist each employee in their work and development. It is critical that the conversation include room for feedback to the manager as well as to the employee.

The reality today is that employees' plates are often over-flowing. There is not enough time to get all the work done. Encourage managers to have honest conversations with employees about what's possible and where to set priorities. Be sure that managers take this opportunity to talk with employees about organizational goals and how the work of the department or function contributes to those. Together, the manager and employee can prioritize what stays on the employee's plate and what gets moved off.

Effective policy and documentation built around a structured approach to the hiring process can add bottom line value to your organization. Accurate and well-articulated job descriptions combined with thorough offer management give potential employees a strong first impression. Meaningful content in your employee handbook delivered effectively gives new employees a sense of belonging and comfort in knowing what to expect from their new employer. Consistent, timely and well-planned performance reviews can improve your retention efforts and clearly communicate expectations to your employee base. They are all part of an effective plan to safeguard your business.

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