Fair and Legal Management

Fair and Legal Hiring Practices

Supervisors should not make hiring decisions based on anything other than bona fide occupational qualifications. By law, you cannot discriminate based on race, religion, color, sex, national origin, age, pregnancy, veteran status, disability, marital status, and genetic information. Supervisors should avoid trying to “read between the lines” to identify a candidate’s age, or other non-job-related information when reviewing applications or resumes.

Avoid discriminatory hiring practices by focusing on the job’s key tasks and responsibilities. Focus interview questions on the skills and abilities required by the job and the applicant’s qualifications for the job. Keep in mind, the goal of hiring is to select the person most qualified to perform the job’s essential functions and contribute to the organization’s success!

Sometimes, supervisors accidentally violate a person’s rights by asking seemingly innocent questions. Listed below is an overview of anti-discriminatory policies that all managers should be aware of as well as questions and actions to avoid.

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<tr>
<th>Law/Statute</th>
<th>Description</th>
<th>Examples of Questions/Actions to Avoid</th>
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| Title VII of the Civil Rights Act of 1964 | Title VII prohibits employment discrimination based on specifically enumerated categories. Pre-employment inquiries concerning race, color, religion, sex, or national origin might constitute evidence of discrimination prohibited by Title VII. Inquiries that either directly or indirectly result in the disclosure of such information, unless otherwise explained, might be a Title VII violation. | What country are you a citizen of?  
Do you attend church services?  
What is your religion?  
How do you feel about working with someone from a different race?  
Were you born in this country?  
What is your primary language? |

Why it matters?

Fair employment laws exist to protect applicants from biases or generalizations that may affect our objectivity in making a hiring decision. Developing questions that focus on the tasks and required job skills rather than protected traits will guide you to the appropriate candidate for hire.
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<th>Act</th>
<th>Description</th>
<th>Questions</th>
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<tr>
<td>Civil Rights Act of 1991</td>
<td>The Civil Rights Act of 1991 provides remedies and protections, in addition to those previously available under Title VII, to applicants, employees, and former employees who contend that they are victims of employment discrimination.</td>
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<tr>
<td>Age Discrimination in Employment Act</td>
<td>The Age Discrimination in Employment Act bars age-based employment practices that discriminate against people 40 years old or older, subject to certain exceptions.</td>
<td>What year were you born in? Were you alive when Eisenhower was the President of U.S.? Are you older than 40? Are you retired?</td>
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<tr>
<td>Vocational Rehabilitation Act</td>
<td>The Vocational Rehabilitation Act bars discrimination against disabled individuals.</td>
<td>Do you have any disabilities? Do you have any back problems?</td>
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<tr>
<td>Americans with Disabilities Act</td>
<td>The Americans with Disabilities Act prohibits discrimination against qualified individuals with disabilities and requires reasonable accommodation for disabled applicants and employees who are capable of performing the essential functions of a position.</td>
<td>Are you HIV positive? How much alcohol do you drink? Have you ever been treated for any of the following diseases? What is the nature or severity of your disability?</td>
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<tr>
<td>Equal Pay Act</td>
<td>The Equal Pay Act bars wage differentials based on sex.</td>
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<tr>
<td>Veterans Readjustment Act</td>
<td>This act protects all employees inducted into the Armed Services and requires the employer to restore a veteran to a position of like seniority, status, and pay if he or she applies to return to work within 90 days of discharge. For veterans on active duty, employer is required to grant a leave of absence for up to 90 days for annual training.</td>
<td>Were you in the military during the Vietnam war?</td>
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<tr>
<td>Pregnancy Discrimination Act</td>
<td>The Pregnancy Discrimination Act bars discrimination against pregnant applicants and</td>
<td>Are you married? Are you planning on having children?</td>
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<tr>
<td><strong>Immigration Reform and Control Act</strong></td>
<td>The Immigration Reform and Control Act makes it unlawful for employers to knowingly hire illegal aliens and mandates detailed record-keeping procedures for any employees hired, including U.S. citizens, regardless of the size of the employer or of the position involved.</td>
<td>Asking applicants to complete I-9 or asking for immigration documentations before an offer is made.</td>
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<tr>
<td><strong>Title II of the Genetic Information Nondiscrimination Act of 2008</strong></td>
<td>This act protects applicants and employees from discrimination based on genetic information. Also restricts employers’ acquisition of genetic information and strictly limits its disclosure. Genetic information includes information about genetic tests of applicants, employees, or their family members; the manifestation of diseases or disorders in family members (family medical history); and requests for or receipt of genetic services by applicants, employees, or their family members.</td>
<td>Do you have any history of medical conditions? How about your parents? Do you have any problem with your blood pressure? Do you or your family members have a history of heart attacks? Do you or your family members have cancer?</td>
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<tr>
<td><strong>UF Policy</strong></td>
<td>Adds sexual orientation and gender identity to non-discrimination guidelines</td>
<td>What kind of clubs do you go to on your free time? What is the name of your spouse or domestic partner?</td>
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### Additional Resources

To assist you with the UF hiring process please consult the appropriate recruitment checklist found in the [Careers at UF Toolkit](https://www.hr.ufl.edu/training). These checklist serve as a tool to assist hiring managers, department administrators and search committees when recruiting candidates for positions in alignment with the UF recruitment policies and procedures along with federal guidelines and statutes.