

Unskilled interviewers can cost companies good employees and risk lawsuits

By Bruce A. Love

Webster's Dictionary defines discrimination as unfair treatment of a person or group on the basis of prejudice. Prejudices and biases exist in various forms, and are present in many daily activities. When discrimination takes place in the workplace, it is illegal. It can be particularly harmful, both to the victim of the practice, and to the employer who has condoned, enabled, or otherwise allowed the behavior to exist in their organization.

I have been on both sides of the interviewing table, and I am extremely aware of inappropriate lines of questioning from interviewers. I have witnessed fellow search committee members ask personal questions that could be considered inappropriate by interviewed candidates. As an interviewee, I have been asked about marital status, religion, and age. Unskilled interviewers can cost companies good employees. They can also risk lawsuits if their line of questioning goes beyond the qualifications necessary for the job. It is therefore important to educate employees in legal and ethical interviewing techniques.

The U.S. Equal Employment Opportunity Commission (EEOC) enforces a collection of laws prohibiting employment discrimination based on race, color, age, disabilities, religion, sex, or national origin. The Civil Service Reform Act of 1978 (CSRA) established additional prohibitions, known as prohibited personnel practices. The goal of both of these is to promote fair employment and hiring practices.

Some questions are blatantly inappropriate, and possibly illegal to ask during an interview. "How old are you?" and "What church do you attend?" seem obviously out of bounds (although I was asked about which church I attend by one Blair County Commissioner, whom I like, during an interview for possible employment!). It is also inappropriate to ask what year someone graduated high school, since it is easy to determine approximate age from the answer.

Some questions are less obviously inappropriate. Interviewers should avoid any questions about spouse, children, or intentions to have any. This is because questions about a spouse may actually be used to determine sexual orientation, or may be used to qualify or

disqualify individuals based upon how "available" they are. Companies cannot ask whether an interviewee is pregnant. This could, and probably would, be used by employers to disqualify some applicants. Questions about children, or the plan to have any, are not typically asked of men, so it is blatantly inappropriate to bring up the issue. "Do you have any disabilities?" or "How does your condition affect your abilities?" or "What medical conditions do you have?" must not be asked in an interview. It is more appropriate to tactfully inquire how the company could make the work environment suitable for the applicant with disabilities.

There are some questions that seem appropriate, but should be avoided. "Have you ever been arrested?" is not appropriate in most interviews for employment. This is because arrest does not necessarily indicate guilt. An acceptable question to ask is whether the applicant was ever convicted of a crime.

David Andrews, of the Andrews and Beard Law Offices in Altoona, is highly regarded in areas involving Business and Employee Labor Law. In addition to providing legal services, David Andrews gives seminars on the topic of employment discrimination. According to Andrews, there are several precautionary steps employers can take to guard against any hint of discrimination during the hiring process. First, develop a set of questions prior to interviews. Use the same list of questions for every candidate for employment. Stick to questions relating to the interviewee's experience as it relates to the position you want filled. Do not be tempted to add personal (even if friendly) questions during the interviewing process. Use a committee comprised of members of diversified backgrounds (age, race, gender, etc.).

If you feel you have been discriminated against while seeking employment, or you feel you have received unfair treatment in the workplace, you can file a complaint with the U.S. Equal Employment Opportunity Commission (www.eeoc.gov). At the state level, you can get additional assistance from the Pennsylvania Human Relations Commission (http://sites.state.pa.us/PA_Exec/PHRC/index.html). To rectify a wrong, you should also seek the professional guidance and services of a qualified Labor Law attorney.

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