

# Interviewing Best Practices

Lauren A. Smith, Attorney  
**Lanier Ford Shaver & Payne P.C.**  
2101 West Clinton Avenue, Suite 102  
Huntsville, AL 35805  
256-535-1100  
LAS@LanierFord.com

**[www.LanierFord.com](http://www.LanierFord.com)**

# Why Good Hiring Matters

- Hire good performers
- Not hire toxic employees
- Minimize legal risk



# Legal Risk

- Title VII of the Civil Rights Act of 1964
- Americans with Disabilities Act (ADA)
- Age Discrimination in Employment Act (ADEA)
- 42 U.S.C. § 1981
- Pregnancy Discrimination Act
- Uniformed Services Employment and Reemployment Rights Act (USERRA)

# Protected Class

- Race
- Gender
- Religion
- National origin
- Disability
- Age
- Pregnancy
- Military service



# Pre-Employment Procedures

- Understand legal risks
- Review job descriptions
- Train managers and other hiring personnel on policies
- Use the same application or other paperwork for all employees or class of employees
- Standardize interview process



# Pre-Interview Screening Process

- Ensure screening process is handled consistently
- Rely primarily on objective-based criteria
  - Education
  - Experience
- Document all selection criteria



# What about social media?



# Social Media

- Be cautious!
- Consider implementing a policy
- Only review public information
- Document any information





# Resume Screening Software

- Decide on search terms and screening parameters
- Need to be tied to position
- Avoid disparate impact



# Interview Process

- Standardize process:
  - Number of interviewers
  - Number of interviews
  - Length of time between interviews
  - Location
  - Length of interview
  - Standard evaluation form
  - Questions

# THE INTERVIEW



# Interview Questions

## ■ Do's:

- Focus on job duties and responsibilities
- Focus on objective criteria
- Take notes
- Follow policies

## ■ Don'ts:

- Make promises about job security
- Ask about a disability!
- Ask questions that may solicit protected class information



# Off-Limits Questions

- Age
  - When did you graduate high school?
  - How would you handle a younger boss?
- Religion
  - What does that tattoo/necklace mean?
- National origin and citizenship
  - Where is your accent from?
  - Where were you born?
- Family status
  - Are you married?
  - Do you have kids?

# Never, Ever, Ever Questions

- Are you disabled?
- How disabled are you?
- Can you pass a pre-employment medical examination?



# Not This, But That

- Where were you born?
- When did you graduate college?
- Why is there a gap between these two jobs?
- Are you disabled?
- Are you legally authorized to work in the U.S.?
- Tell me about your education.
- Why did you leave this employer?
- This position requires long periods of standing. Will that be a problem?

# Unsolicited No-No Information

- Document that information was unsolicited.
- If necessary, explain commitment to equal opportunity employment.
- Try to not share with other decision makers.
- Consult HR or Legal.



# ADA & Medical Examinations

- Never permitted before an offer is made.
- May require medical examination if ALL employees in that job classification are required to pass medical examinations.
- May only withdraw offer if supported by business necessity AND no reasonable accommodation can be made.

# Criminal History

- Do not run a criminal history before making job offer.
- If using criminal histories, ask about history on job application AND make it clear that arrest/conviction will not automatically disqualify candidate.
- Conduct individualized inquiry if past arrests/convictions.
- **BE CONSISTENT!**

# Integrity Testing

- Evaluates candidate's propensity for truthfulness
- Generally accepted
- Want verification of no disparate impact
- Do NOT use tests that evaluate mental health



# Drug Testing

- Only after job offer is made
- Follow policy
- Allow for retesting if positive result
- If no policy, do not require pre-employment drug testing
- Be consistent!



# Selection Process

- Document reasons for selection
- Document discussion regarding candidates
- Document any discussions regarding reasonable accommodation
- Follow up with references
- Confirm education
- Retain applications and related documents

# Questions?

Lauren A. Smith

*Attorney*

**LANIER FORD**

2101 West Clinton Avenue, Suite 102 (35805)

Post Office Box 2087 | Huntsville, Alabama 35804-2087

Main: (256) 535-1100 | Facsimile: (256) 533-9322

E-mail: [LAS@lanierford.com](mailto:LAS@lanierford.com)

Website: [www.lanierford.com](http://www.lanierford.com)

