

## Overcoming the Hurdles When Hiring New Employees

The area of successful employee recruitment and selection remains a key challenge for distributor owners and managers. Not only does the hiring manager have to know where to recruit potentially "productive" employees from, he/she must also be aware of the potential pitfalls and legal concerns inherent in the employment process. This includes the following topics your Consultant was made aware of at an employment law seminar he recently attended. They are shared with you in hope that these suggestions may be implemented within your own organization.

### Scrutinize resumes' to smoke out lies

Resume' fraud continues to rise. In fact, about a third of all resumes' today contain some kind of inaccuracy, whether it be exaggerations, embellishments or just misrepresenting the facts. That's why it's more critical than ever to thoroughly check out the paper claims of job applicants. Here are a few fast ways to do so:

#### ❖ Check education claims.

Generally one in 12 applicants lies regarding educational qualifications. If you find that to be the case right off the bat, don't bother checking the candidate's background any further.

#### ❖ Search for extremes.

When you see what you perceive as a strength, turn it over and check for the opposite outcome. For example, an aggressive person may take on a lot of key assignments but end up doing mediocre work on all of them. Verify this during the interview and by reference checking.

#### ❖ Smoke out lies.

Ask applicants for specific examples or situations that elaborate on their resume'. Clue: Most liars don't want to go into a lot of detail—by adding to their lies.

#### If you don't want to do it yourself

A resume' or reference service can do the checking for you—usually for \$100 to \$300 per candidate. Here are three: \*

- ✓ Certified Reference Checking Co., (314) 739-6787
- ✓ Informus Corp., (800) 364-8380
- ✓ Allison & Taylor, (716) 661-3478

\* Note: The above reference checking sources are not specifically endorsed by NWSA.

#### ❖ Test skills.

Do a skills check if an applicant claims to have proficiency in a certain area.

#### ❖ Require handwritten applications.

Then look for discrepancies between the resume' and the application.

## Relying on “walk-ins” could be risky

Taking walk-in applicants to fill openings may make hiring easier, but relying too heavily on off-the-street hires could be considered discriminatory.

**The problem:** The practice could unintentionally discourage members of a protected class, resulting in an unbalanced work force.

**Examples:** If your business is in an all-white or predominantly white neighborhood, minorities may be deterred from applying. And if your current employees are all young, white men, then minority and women walk-in candidates are less likely to show up.

**Advice:** While there's no legal requirement that employers advertise all job openings, rather than hire based on word-of-mouth or walk-ins, always weigh the demographics of your local labor market and your existing work force. Rule of thumb: Expand your search if you can't be assured of reaching a sufficient mix of applicants.

## How to handle unsolicited resumes'

Most distributors receive uninvited resumes' all the time—applications from job seekers for openings you did not advertise. What you may not know is that you may be obligated to keep those documents on file.

It all boils down to whether the individuals are “applicants” (a term with legal significance) or merely people looking for a job. Distributors with a policy of rejecting unsolicited resumes' need not treat such job seekers as applicants and have no duties or obligations toward them. However, once you start picking and choosing among any unsolicited resumes', you're running the risk that they *all* should be considered applicants.

What about e-mails from applicants who attach their resumes? If you open the document and scan the resume', you must record the act. Had you simply deleted the message without reading a word, you'd be on safer legal ground.

**Bottom line:** If you treat solicited applicants in a certain way, you should treat unsolicited candidates the same way. While retaining all applications and resumes' may help your firm show no pattern or practice of discrimination in refusal-to-hire cases, you may be better off with a policy of discarding unsolicited resumes' without review if you're not prepared to keep a record of every one. Develop a consistent system for accepting and reviewing applications and stick to it.

### How long must you keep applications and resumes?

Private employers: One year

Federal contractors: Two years

Source: Federal recordkeeping statutes

## Get the interview back on track when candidates blab

Managers know that certain questions are off-limits in a job interview, such as asking about a job candidate's marital status or ethnicity. But what do you do when a candidate volunteers personal information? It's too late to pretend you didn't hear it.

Follow the scripts below to steer the conversation back to appropriate topics in a non-discriminatory manner. When a candidate:

**Discusses his union activities or favorite church.** Jump in and interrupt in a firm but polite tone and say, “I have to ask that you stick to answering my questions about the job.” To get at whether religious obligations would interfere with the applicant's ability to work Saturdays or Sundays, simply ask if there's any reason he would be unable to work the weekend hours that the job requires.

**Announces she's pregnant and has child-care concerns.** You can state that your company has a sick leave policy and offers child care referral services, for example. Don't ask the applicant's due date. Shift gears and move on by specifying and

repeating the job requirements. Then you can ask, “Will you be able to meet these requirements?”

**Tells you he used to live in a foreign country.** Rather than asking if he is a U.S. citizen, ask if he has a legal right to work in this country. Steer clear of further inquiry into his national origin. Federal law requires employers to confirm that new hires are authorized to work in the U.S., which most do on the first day of hire by requiring employees to fill out an I-9 form. Just make sure you ask the question of all applicants, not just those who appear foreign.



## RECENT RULINGS

### Spouses can sue for failure to hire

Husbands and wives can join in suing their spouses' employer for not making good on hiring plans. This case involved four workers and their wives who sued a defense contractor for false representation when the workers were laid off shortly after accepting positions and relocating their spouses and families.

In its ruling, the 9<sup>th</sup> Circuit Court of Appeals said it realized that "spouses make decisions as a family unit rather than as separate individuals." (*Meade v. Cedarapids Inc.*, No. 97-35836, 9<sup>th</sup> Cir., 1999)

The warning: Make doubly sure you can fulfill the recruitment promises you make.

### Halfhearted interviews can spur discrimination charges

Stick to a written list of questions for all applicants and don't breeze through an interview—even if you realize an applicant isn't qualified.

Case in point: A 61 year-old woman was called in for an interview at a store popular with teens. The applicant claimed she was "shuffled" by the store manager to a low-level employee for the interview and taken outside "in the hot sun" for a very abrupt session.

A court agreed with her suit citing age discrimination, saying her treatment proved she had enough evidence to go to trial. (*Hertz v. The Gap Inc.*, USDC SDNY, 95-10187)

## ASK THIS QUESTION



### "What is the one reason I shouldn't hire you?"

"Ninety percent of the time, you'll get a fairly meaningless answer, but 10 percent of the time the applicant will volunteer something that will make you really glad you asked. You'd be surprised how many people will admit they have a hot temper or little patience with co-workers—or any number of traits that may keep you from hiring a problem you don't need."

Note: This suggestion was made by Mel Kleiman, keynote speaker at the 2000 NWSA Spring Management Conferences. See what you missed by not attending?

### Test an applicant's reliability

**And finally . . .  
try this tip!**

Set a day and time for job candidates to call a few days after their interview. It's a quick way to determine interest and test punctuality and ability to make tight deadlines—15 percent of applicants never make the call.

As always, feel free to contact your Human Resource Consultant to discuss any of the above topics or to just vent your frustrations after reading parts of this Bulletin. **Take care!**

### Now Available!

Recently updated Human Resource Management and Compliance Manual. Two new Manual sections have been added to assist distributors in resolving their daily personnel issues. Contact your Human Resource Consultant or NWSA Headquarters to order your copy today!

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