

Guidelines for Lawful Interviewing

The keystone of equal employment opportunity legislation is the Civil Rights Act of 1964 (Title VII). In complying with the statutes, VCU policy states that it is an unlawful employment practice to fail or refuse to employ any individual on the basis of race, age, national origin, religion, sexual orientation, gender or disability.

This act also established the Equal Employment Opportunity Commission to investigate allegations of unfair employment practices. This act and others enacted since then are intended to prevent discrimination in the employment process.

Discrimination

Unlawful discrimination includes any employment practice that treats applicants differently because they are a member of a "protected class" and may include any selection practice that has an "adverse impact" on members of a "protected class." Members of protected classes include females, African Americans, Asians, Hispanics and Native Americans. A percentage of minority or female employees in any job group which is less than their respective representation in the general labor market may constitute evidence of unlawful discrimination practices and adverse impact.

Unlawful employment practices

Employers may ask questions to obtain information **pertinent to the position**, as long as the questions do not solicit information which can be used to discriminate against individuals. Interview questions, as well as other qualifications for hiring, must be **applied in a consistent and standardized manner** to all applicants. Questions are to be limited to the assessment of knowledge, skills and abilities necessary to perform the functions of the position.

Do not ask questions related to:

Gender

- Are you married?
- Do you have children?
- When do you plan to have children?
- What child care arrangements do you have in place?
- Does your spouse mind if you travel?
- Pregnancy cannot be used as a factor in making employment decisions. Do not assume limitations due to gender.

Religion

Do not ask individuals questions concerning religious beliefs. You may explain the policies relating to religious holidays when discussing benefits or work schedules.

National origin

Do not ask the origin of an individual's name. Legally, you may advise applicants that **proof of eligibility to work in the United States must be provided after an employment offer is made.**

Age

You cannot refuse employment solely on the basis of age. The Age Discrimination in Employment Act (ADEA) prohibits discrimination against individuals over forty (40) years old.

Arrest and conviction records

You cannot ask individuals about arrest records. However, you may inquire about **convictions** if such information is germane to the position. The University requires all new employees to submit to a conviction record check after an employment offer has been made and accepted.

Disability status

Do not ask questions about disabilities. You should describe job tasks and expectations and ask questions concerning an applicant's knowledge, skills and ability to perform specific job-related tasks.

Medical examinations are not allowed **prior** to employment.

The University ADA Coordinator is available to assist departments in determining and providing reasonable accommodations when requested. Questions concerning the Americans with Disabilities Act of 1990 (ADA) should be referred to the Office of EEO/AA Services.

Other areas:

Photographs must not be required of applicants.

Political affiliation should not be solicited from applicants.

Military discharge status may not be used in making employment decisions.

Financial status inquiries cannot be made of applicants.

Friends or relatives working for the same employer cannot be used as a reason for nonselection, **except** in the case of a conflict of interest.

Additional information concerning interviewing questions and other EEO/AA issues may be obtained from the office of EEO/AA services at (804) 828-1347.



www.vcu.edu/eoaa

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