

# Non-Discriminatory Pre-Employment Procedures

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# THE LAW

The Ohio Civil Rights Laws are found in Revised Code Chapter 4112 and corresponding Administrative Code Chapter 4112.



# Fair Employment Practices in Ohio

R.C. 4112.02 It shall be an unlawful discriminatory practice:

(A) For any employer, because of the race, color, religion, sex, military status, national origin, disability, age, or ancestry of any person, to discharge without just cause, to refuse to hire, or otherwise to discriminate against that person with respect to hire....

# It is also unlawful for any employer to:

Elicit or attempt to elicit any information concerning any protected class of an applicant for employment, *except* where based on a *bona fide* occupational qualification certified in advance by the Ohio Civil Rights Commission. R.C. 4112.02(E).



# THE HIRING PROCESS

- Position Descriptions
- Recruiting
- Applications
- Interviews
- Testing & Medical Exams



# Position Descriptions

... not only help recruit the best candidates, but also may provide a defense against discrimination charges occurring well after the recruitment process.



# Best Practices – Position Descriptions

1. A position description should state the *purpose* of the position.
2. A position description should state the *essential functions* of the position.
3. A position description should state the *minimum qualifications* of the applicants.
4. A position description may state employer *expectations* of acceptable performance.



# Recruiting

... is a means of both developing an applicant pool and establishing workforce diversity.



# Best Practices - Recruitment

1. Recruitment should utilize diverse media sources.
2. Recruitment should be geographically diverse.
3. Recruitment through networking can be valuable, but may also result in an unintentional lack of diversity.



# Applications

The image shows two overlapping employment application forms. The top form is from 'cosmo' and includes fields for name, age, sex, nationality, country of origin, weight, height, passport ID, N.I. No., position applied for, full/part time status, phone numbers, date of birth, place of birth, marital status, and home address. The bottom form is a more detailed 'EMPLOYMENT RECORD' with sections for languages, education, previous employment, present income, other skills, criminal record, health problems, and emergency contact.

... can help cull the applicant pool, but may not be used to identify an applicant's protected status.

# Best Practices - Applications

1. Protected information you may need about an employee is not the same information you need to know about an applicant.
2. If you believe there is a *bona fide* occupational qualification (BFOQ) for a position, apply to the Ohio Civil Rights Commission for prior certification.
3. Keep the EEO form separate from the other application materials.

# Interviews



... when used properly, help identify the strongest and best fitting candidates.



# Best Practices - Interviews

1. Topics should not elicit information about a protected class.
2. Questions should be standardized and open-ended.
3. You may ask whether the candidate can perform the essential functions of the job with or without a reasonable accommodation.
4. Notes should be taken – and retained.

# Testing & Medical Exams

... may help to identify an applicant's knowledge, skills and abilities, but may also lead to liability.



# Best Practices - Testing

1. Tests should always be job-related.
2. Testing should be developed with the assistance of an expert.
3. Medical exams typically must occur post-offer.
4. Testing for illegal use of controlled substances is *not* an impermissible medical exam.





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## How to contact us

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