



# A GUIDE FOR NON-ACADEMIC SEARCH COMMITTEES

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## The Search Committee

### Selecting the Committee Chair and EEO Designee

This is the time to decide who will chair the search committee. Generally, for staff positions, the chair is the hiring manager although someone else may be assigned as designee. Please be aware that the administrator in charge of the unit or in some cases the appropriate Vice President will be required to approve any hiring action or decision. It is recommended that a point of contact be designated at this time to assist in the support functions associated with the coordination of a search.

Selection of the Equal Employment Opportunity Designee is equally important and should be completed at the earliest possible opportunity. The EEO Designee and the Search Committee Chair will work closely to ensure compliance with the university's Equal Education and Employment Opportunity Plan. Both parties must certify the process before a nomination is submitted to the Hiring Manager. To obtain a list of approved EEO Designees, contact the EEO Coordinator in the Human Resources Office (278-5010) or visit the EEO web page: [www.csufresno.edu/humres](http://www.csufresno.edu/humres).

### Role and Responsibilities of the Search Committee Chair:

Normally, the first person to be selected for the Search Committee is the Chairperson, who is usually appointed by the head of the unit to which the selected person will report. The committee chair:

- Consults with the Recruiter and EEO Designee to review the search process, as needed.
- Schedules and directs all Search Committee meetings.
- Serves as a contact person, maintains all records associated with the search process.
- Provides application materials and related instruction to Search Committee members.
- Conducts or assists with reference checks.
- Serves as liaison between Search Committee members and candidates.
- Arranges travel accommodations for interviewees, if requested.
- Assesses and discusses with Department Head/Administrator any conflict of interest issues. For example, candidates may perceive an unfair process when a member of the Search Committee appears to be in a personal or business relationship with one of the candidates.

- Submits a list of two to five (preferably a minimum of three) unranked candidates to the Administrator or Department Head.
- Advises the appointing Administrator/Department Head of finalists' strengths and weaknesses.
- Maintains a record of all Search Committee meetings.
- Completes the Applicant Screening Record form for administrative review.
- Collects all records from committee members and forwards to the hiring Administrator/Department Head who retains such records for a minimum of three years.

### The Role and Responsibility of Search Committee Membership

The Administrator/Department Head and the Search Committee Chairperson usually confer as to who will be represented on the Search Committee. The Search Committee members should have a legitimate interest in the selection process. For example, in the selection of a Recruiter, it might be advantageous to include a few of the primary recipients of the service provided by the Recruiter position. For administrative positions, persons who will be subordinates, peers, and/or superiors of the person selected should serve on the Search Committee. Where the dean of a college is being sought, it is customary to include subject matter specialists as well as prospective peers and supervisors. The composition of all Search Committees should be well balanced across gender and ethnicity. Generally, search committees are comprised of staff and faculty who have an interest in the function served by the position. However, on occasion, individuals outside of the university may serve on the Search Committee.

Search Committee members should not be related by kinship, personal relationships, or be engaged in business ventures with persons who apply for the vacant position. Persons who are known adversaries of applicants likewise should not be members of a Search Committee. It is incumbent upon a Search Committee member to disclose when such a conflict arises. Upon having knowledge of any conflict of issue potential, the committee Chairperson should discuss the matter with the Department Head/Administrator and take appropriate action.

### Committee Member's Responsibilities

- Attends all meetings scheduled by the Chairperson.
- Assists in establishing a timetable.
- May assist with writing the vacancy announcement and determining media for distribution, when requested.

- Develops lists of interview and reference questions, if requested.
- Participates in all interview sessions.
- Calls references and former employers, when assigned by the chair, and reports findings to the committee.
- Evaluates applications according to education, experience, and other relevant criteria defined in the vacancy announcement.
- Assists the Chairperson with travel accommodations and interviewing schedules, if requested.
- Recommends from two to five (preferably a minimum of three) of the best-qualified candidates, unranked, to the employing Administrator/Department Head. The committee's work usually ends with the recommendation to the Administrator/Department Head.
- Forwards all records to the Chairperson after the search.

#### Role and Responsibility of the EEO Designee:

EEO Designee's for staff positions serve on search committees as designees of the EEO Coordinator. Designees share the responsibility for ensuring that the Equal Employment and Educational Opportunity Plan (EEEOP) is being adequately implemented. It is the responsibility of the hiring manager to appoint a designee to serve on the search committee. A list of approved EEO Designees may be obtained from the EEO Coordinator. ([mdunn@csufresno.edu](mailto:mdunn@csufresno.edu)) . A complete list of authorized EEO Designees can be found at [www.csufresno.edu/humres/EEO](http://www.csufresno.edu/humres/EEO) . EEO responsibilities are to:

- Be aware of the summary of underutilization by occupational group cited in table 7 of the EEOOP.
- Participate in the recruitment process from its initial stages to completion while keeping the coordinator, workplace equity program, informed as appropriate.
- Ensure that recruitment efforts are far-reaching and include efforts that attract qualified candidates from the broadest practical labor pool. An assessment shall be made to determine the extent to which recruitment efforts have been successful in attracting a diverse pool of candidates who are both qualified and truly competitive and render a decision as to the need to address any problems. Inform the EEO Coordinator as appropriate

- Monitor the selection process at the search committee level, taking responsibility for assuring that all candidates are given fair consideration based on published criteria.
- Communicate problems or violations of university policy to the Affirmative Action Coordinator.

## Preparing the Search Committee

The committee needs to meet early in the recruitment process to review:

- The charge of the committee.
- Role of the chair.
- Expectations of the chair and committee members.
- Orientation to the process.
- Timeline.
- Training by Human Resources and EEO Designee.

At the first committee meeting, the hiring supervisor will:

- Charge the committee by discussing the position as it relates to the unit and division as a whole. Also, discuss the job criteria, including areas of emphasis and importance.
- Invite EEO and the designated Human Resources representative to present an overview of the process as well as answer questions.

**The responsibility for documenting the selection normally rests with the committee chair.** This documentation is a summary of the committee's discussion and analysis of the most qualified person for the position. In the event that others participate in second interviews to make a final decision, it would be appropriate for them to provide input to the chair as part of the documentation process.

To ensure committee effectiveness, committee members need to:

- Assume personal responsibility for the outcome.
- Identify strongly with their role and responsibilities.
- Actively analyze and evaluate information, clarify ambiguous issues, clearly communicate, listen actively and express opinions.
- Be open-minded and develop a “filter” to ensure that personal or individual biases do not interfere with how a candidate is evaluated.
- Attend and participate in all meetings and interviews.
- Plan and schedule for the required time commitment.
- Commit to keeping all information about candidates and the process confidential (see below).

It is not appropriate for a person to serve on a search committee when a conflict of interest exists (i.e., spouse or close friend of committee member applying for position). Such a conflict may require withdrawal from the search committee. Personnel policies of the university do not prohibit employment of more than one member of a family at Fresno State. However, no employee may vote, make recommendations, or in any way participate in decisions about any personnel matter, which may directly affect the selection, appointment, retention, tenure, compensation, promotion, termination, other employment status, or interest of a close relative. Close relative is defined as husband, wife, mother, father, son, daughter, sister, brother, and step-relatives or in-laws in the same relationship.

Committee members are reminded that their deliberations, as well as application materials, must be treated with the strictest adherence to confidentiality. Any information an individual has access to as a result of his/her status as a committee member is confidential. If confidentiality is not maintained, both during and after the recruitment process, it can lead to the cancellation of the search and/or a complaint being filed by a candidate. Confidentiality also becomes important when notifying candidates of their status upon completion of the search process. Candidates may want information about the qualifications of other candidates with whom they have competed. Remember the privacy rights of the individual candidates. It is recommended that you contact Human Resources for guidance prior to releasing information.

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## Reviewing Applications

When making the final hiring decision, the search committee should use only job related criteria. Gathering, integrating and evaluating interview information includes identifying applicant's specific knowledge, skills, and abilities, and judging them in the context of the job requirements. Interview evaluations, in conjunction with other information gathered during the selection process (e.g., reference checks, application responses, resume, and correspondence), should form the basis for the final decision.

The search committee should select the individual that best meets the identified job criteria. Consideration should also be given to composing a set of benchmark responses for each interview question with differentiated weights assigned to each response. This approach makes it easier for search committee members to score responses with greater reliability.

The *Personnel Journal* reports that in a survey of 150 executive of Fortune 100 firms, up to 33 percent of all resumes may be fraudulent or lacking in vital information. The *Personnel Journal* offers some tips to help you detect lies on resumes and during interviews:

- Carefully note the order of the material given on the resume. What is given up-front is generally what the applicant wishes to emphasize. But what's hidden below will be more revealing.

- Concentrate on the most important points in the applicant's resume. Diverting attention to too many insignificant details draws focus away from key areas.
- Look for conflicting details or overlapping date.
- Look for gaps in dates. It's common for applicants who wish to cover something up to try to omit it.

## Determining Which Applicants to Interview

The employment interview is one of the most important steps in selecting new classified employees. The interview usually is the final step in the selection process after the initial screening has been developed and administered. It is the only time before the selection decision that the selecting official or Search Committee has direct personal contact with job applicants. Therefore, it is important that the interview be conducted in a responsible and consistent manner.

Evaluating candidates for interview must be in accordance with the pre-determined selection criteria, considering only the information provided in the applications and avoiding any subjective assessment based on stereotyping or "gut feel". It is essential at this stage to ensure that illegal discriminatory choices are avoided by using objective selection criteria.

Sufficient records must be kept which explain how the shortlist was compiled. Unsuccessful internal applicants must be informed accordingly.

The Personnel Assistant and Recruiter screen applicants based on the minimum requirements listed in the Vacancy Announcement. All applications received by the posted closing date are sorted into three categories: (1) Meets Minimum Qualifications, (2) May Meet Minimum Qualifications, and (3) Does Not Meet Minimum Qualifications. All three groups are forwarded to the Search Committee/Hiring Manager unless more restrictive instructions are given.

A review of applicant training and experience can be used to develop a final list of candidates to be interviewed. If a training and experience standard is used to disqualify one or more classified applicants, all other applicants considered further must meet or exceed the established criteria. For example, if accounting experience were necessary for successful performance of job duties, applicants without accounting experience would not be interviewed. If this approach is used, however, all applicants selected for final interviews also must have accounting experience.

When the search committee chairperson decides the applicant pool is sufficiently large and diverse, the committee must first determine which applicants meet the qualifications for the position as indicated on the Vacancy Announcement. It is suggested that an initial screening be accomplished using the following format shown at Appendix E. The committee must then decide if it is feasible to interview all applicants. If not, the committee should develop a set of job-related, screening criteria with which to evaluate applications and/or resumes to rank the applications and determine which applicants will be interviewed. The selection criteria used in this and subsequent applicant screenings must be identical to the duties, responsibilities and qualifications contained in the job description. Regardless of the method used, the following tests must be met.

**Objectivity:** For a hiring decision to meet the test of objectivity, the criteria must be measurable in *quantifiable* terms as opposed to a *subjective* judgment

· **Job Relatedness:**

For a hiring decision to be job related, the criteria must have a direct relationship to the work to be performed.

· **Consistent Application:**

For a hiring decision to be consistent, the criteria must be applied in the same manner to all applicants without regard to protected class status.

· **Uniform Effect:**

For a hiring decision to be uniform, the criteria must have a uniform impact without regard to protected class status and should not have a disproportionate effect on a particular protected class.

After each application is screened, evaluated, and the applications are placed in rank order, a cut-off point is established which produces a priority list of applicants to interview.

Appendix E provides several examples for developing a “short list”. Options include a very structured ranking process and a less formal consensus method. Either approach is acceptable. However, the committee must keep clear and accurate notes on the process used.

If the department chooses to contact anyone from the list, the following two rules apply:

0. The department does not have to interview everyone on the list. Instead, they can interview down to a certain score and cut the list off at that point.
0. If the department chooses a cutoff point within the list to interview down to, they cannot make the cutoff point *within* a score, but must interview everyone with that score (i.e., if someone with a 90 is offered an interview, then everyone with a 90 and above must be contacted).

**Scoring** - There are two basic approaches to scoring applicants:

#### Consensus

Using this method, the search team discusses applicant responses to each competency. Search Committee members discuss their views on how the competencies should be scored and interpretations of their observations during the interview. This process leads to assigning scores the panel as a whole accepts.

#### Individual

Here, each panelist independently scores each applicant. The panel then averages the scores and assigns the result as the final scores.

Often these approaches could also be combined by first doing individual scoring by each committee member and then looking for consensus to arrive at group scores.

### **Ranking the Candidates**

Ideally, candidates should be discussed and ranked by the Search Committee in order to determine which candidates should be referred to the selecting official for a final interview. For documentation purposes, notes should be taken during this discussion and the Search Committee Chair should put the ranking into writing at that time. There are two reasons for ranking

interview candidates in this way: However, unless the committee is making the final recommendation, the “short list” should be referred unranked.

1. *It is an objective way of deciding who are the best candidates for the job.* To interview several people for a position and make an appointment without the benefit of a ranking system would make the selection of interview pool too subjective.
2. *To protect against charges of discrimination.* If an unhappy applicant who feels discriminated against challenges an appointment, documentation will be needed to back up the appointment. The best documentation to support an appointment is an objective reading of each applicant from each member of the search committee.

## How to Contact Applicants

The Search Committee chair may contact candidates by phone or in writing to set up an interview. If a candidate cannot be reached by phone, the supervisor must send, by first class mail, written notice that the candidate has been certified for an interview. The letter should include the name, address and phone number of the supervisor and an explanation that the candidate must phone within a specific time period to make an appointment for an interview. If the candidate does not respond within the time specified in the notice, there is no further obligation to consider the candidate.

## Reasonable Accommodation

All applicants who are invited to interviews should be given the option of requesting a reasonable accommodation at the time of their interview. This is required of employers by the Americans With Disabilities Act (ADA) of 1990. The following paragraph must be included in any letter arranging an interview or given as part of the telephone conversation

"It is the policy of California State University Fresno to provide reasonable accommodation for qualified individuals with disabilities who are employees or applicants for employment. If you need assistance or accommodation to interview because of a disability, please contact [fill in the name, address and/or telephone number of the appropriate person; this may be the personnel representative, department administrator, or supervisor, whoever is appropriate]. Employment opportunities will not be denied to anyone because of the need to make reasonable accommodation for an individual's disability."

This offer of special accommodations should be asked of all applicants, and not just those who have identified themselves as disabled. This is for two purposes: one, to treat all applicants equally and

impartially; and, two, because some disabled applicants may not identify themselves as such before hand.

The term *Reasonable Accommodation* can cover a lot of ground and is usually very simple. Many times it is no more than providing easy access to the interview table for an applicant in a wheelchair, or to escort a blind applicant to and from the reception area to the interview room. It can also be more complicated, such as providing a sign language interpreter for a hearing impaired applicant. If any questions arise around the issue of providing a reasonable accommodation to an applicant, the Search Committee Chair should contact Human Resources.

## How to Conduct a Good Interview

Doing a good job of conducting employment interviews and evaluating applicants takes more time than having an informal conversation. It requires training in the skills, techniques and requirements of successful interviewing. Ensure that the interview setting is comfortable and private. Immediately before each interview, review the candidate's application. Allow sufficient time for the interview and for time afterward to record committee observations of the candidate.

The following information is designed to help you develop your interviewing skills, learn what you legally can and cannot ask, and prepare you for the employee interview situation. .

### Preparing for the Interview

The time devoted to preparation may seem less important than other steps. Yet nothing could be further from reality. Remember, the candidate will be evaluating the university through his/her contact with the search committee. So, invest ample time to do it right and plan ahead.

- Schedule a time and location for the interview
- Remove any desk or physical barrier between you and the candidate
- Make sure you have read all paperwork on the applicant
- Review the current position description and update it if necessary
- Make a list of interview questions that will help determine the information you need in order to make a decision.

### Provide materials to Interviewees

Prior to interview, candidates may be provided with a copy of the job description, an organization chart and any other information that might help them assess their own qualifications, in relation to the job. By providing some written information to candidates, interviewers spend less time

describing the job and the candidate is better prepared to identify and describe qualifications that are most pertinent during the interview.

### Getting Started

Most people are nervous before a job interview. Try to establish a friendly atmosphere at the beginning. This may be accomplished through a smile, handshake, and friendly greeting. The person should feel he/she is coming to an interview, not an interrogation.

Everyone is apprehensive of the unknown. Therefore, summarize what will happen during the interview and approximately how long the meeting will last. Committee members should take notes during the interview. The committee chair should attempt to ease the applicant's fears about it by explaining that the notes will serve as a memory aid.

As the interviewer, the committee chair is responsible for establishing and maintaining control. You decide which questions will be asked, how much time is spent on each subject, and when the interview will end. Taking control permits committee members to obtain all needed information in the time allowed.

### Format

A semi-structured interview format with a pre-established list of interview questions will work best. Most experts agree that by adding structure to the interview process, greater reliability is obtained. By asking each applicant the same questions, a basis for comparing responses is established. Follow-up questions can be varied, of course, depending on the applicant's response to the interview question.

### Developing Interview Questions

To develop a patterned interview format, consider the most important aspects of the vacant position. Develop a set of dimensions indicating important job areas. These will vary for each position or classification, but must represent the crucial aspects of the job. Develop a list of questions regarding each of these areas; follow-up questions will vary depending upon the responses to the questions. Leading questions or questions, which can be answered with a "yes" or "no", are not usually valuable or recommended.

The questions should elicit information about the applicant's ability to perform the duties and about past work or education background related to the knowledge required for successful performance. Therefore, do not ask a question like "Tell us about yourself" if you are hiring a chemist; instead, say, "What tests and analytical procedures have you used?"

Interview questions should be concerned with the experience, training, or some other concrete type of answer from the candidate.

The candidate's answers should provide evidence of whether the candidate possesses knowledge,

skills or abilities (KSA) being looked for. For example, the KSA of "ability to give oral presentations to large groups" may be one to be examined in the interview. A good interview question might be: "What experience have you had in giving oral presentations to large groups?" In the questioning, you could ask what the size of the group addressed was, if audiences addressed were hostile, and to what extent the candidate participated in preparing the presentation. This type of question is objective; it does not "lead" the candidate to an answer. Rather, it seeks to find enough information for you to make a decision from and its job related. Incorrect questions for this KSA would be: "Do you have trouble speaking before large groups?" "Can you speak well?"

For example, typically found in supervisory positions is the KSA the "ability to delegate work." A good interview question would state: "What experience do you have in delegating work; what was the workload, how many subordinates did you supervise, what were the situations?" Do not ask: "What would you do in the following situation: You have 1,000 cartons of widgets to deliver, and your clerk is on leave; how do you get the cartons delivered?" This type of questions is not objective **and there are no right answers.**

Do not ask questions that have an obvious answer and provide no means for distinguishing among candidates. For example, the question "Do you like working with people?" has an obvious response. A question such as "What experience have you had that would show you can effectively deal with the public?" would be more appropriate.

Some questions have been included in so many interviews that candidates may expect them. An example of this type of question would be "Why do you want this job?" There is no right answer. Candidates tend to have prepared answers for these kinds of questions aimed at what they think interviewers want to hear. This type of question adds nothing to the interview.

The vocabulary used in interview questions should be geared to the level of the candidates. Specialized terminology, organizational abbreviations, and so forth, which may intimidate or confuse the candidate should not be used unless such knowledge is a bona fide occupational qualification.

### Avoiding Discrimination

Equal Employment Opportunity (EEO) laws and regulations, as well as many individual state laws, prohibit discrimination against applicants on the basis of age, race, color, religion, sex, disability or national origin. Any question you ask must be legal. Your questions should not offend and should be designed to help you establish the applicant's qualifications for the position

## Documenting the Interview

It is a good idea to take brief notes during the interview. Let the applicant know from the start that you will be taking notes. Your notes can be helpful in reflecting on individual applicants and in discussions with others who interviewed the same candidates.

## Tips for Selection Interviewing

As a quick summary, the following tips are provided for conducting a good interview.

- Decide on the overall structure of the interview process.
- Follow the process uniformly for all candidates, even those who are from your own department or otherwise "known" to the interviewer(s).
- When interviewing in a team, one person should be designated as the team leader. Interview teams should have three to six members that may include customer or constituent representatives. If you decide to invite customer or constituent representatives to serve on your Search Committee, notify the EEO Coordinator (8-5010 [mdunn@csufresno.edu](mailto:mdunn@csufresno.edu)).
- Interview teams must also be involved in the initial resume screening phase and any other screening techniques, such as telephone interviews.
- You may want to ask candidates to be prepared to perform a "work sample" test-to operate relevant machinery or to answer questions on paper.
- Know what you are looking for in a candidate before the interview. Especially when conducting group interviews, decide on your selection criteria up front. Selection criteria should be developed and reviewed before interview questions are written.
- Try to make candidates feel comfortable at the beginning of the interview. Make small talk and offer them coffee or water. Describe the position briefly and outline the selection process. Compliment the candidate on making it thus far into the selection process.
- You can describe how the job in question fits into the department but avoid giving too much information about the job duties at this point.
- Give the candidates information as to the structure of the interview.
- Interview questions should be scripted ahead of time so that you will cover the same ground with each candidate. It is important that all candidates be asked uniform questions, even though you may have varying follow-up and probing questions.

- All questions should be job-related and legal. Make sure you know appropriate and inappropriate questions to ensure that you are not asking ones that are potentially discriminatory.
- You can fit 15 to 20 fairly "meaty" questions into the average one-hour interview. Prepare interview sheets for each team member, listing the questions and providing a space for recording candidate responses.
- Introduce the interview team and tell the candidate a little bit about their various roles and responsibilities.
- Tell candidates that you are going to take notes as they talk so that you will have accurate information to refer to later. It is important to record actual answers to questions as opposed to evaluative or conclusive comments. You may record observations of non-verbal signals as long as they are recorded factually and not as conclusions.
- Proceed to ask your interview questions. Be sure to ask follow-up questions if answers are not to the point, are incomplete, or if you simply want clarification or expansion of an answer.
- Listen to your candidates! Concentrate on their answers, not on your questions. The more you speak, the less they talk, so beware of talking too much! Experts agree that the candidate should do at least 75 to 80 percent of the talking during an interview.
- Use short, open-ended questions. Beware of asking questions that can be answered "yes" or "no." For example, rather than asking a person if they've worked in an empowered work environment, ask, "How do you define the term 'empowerment' and what have been your experiences working in an empowered climate?"
- Develop a high tolerance for silence. Give candidates a chance to think and develop thoughtful answers to your questions.
- It is usually a good idea to ask one final question which is "Is there anything we haven't asked that you'd like to tell us?"
- Give the candidate information about the job duties and responsibilities, stressing the things you think are the most important for them to know.
- Give the candidates an idea of what stage the search is in, what the next steps will be, and when they can expect to hear from you. If delays occur, you should call candidate and let them know where things stand.

- Give the candidate a chance to ask questions of you and the interview team. A candidate who asks only "what's in it for me" questions may be very different from a candidate who asks more substantive questions.
- Thank the candidate for coming to the interview and go on to the next step of the process—a tour of the work area, if that is appropriate, moving to the location at which a test will be taken, etc.
- Complete your notes on the interview.
- If a team is interviewing candidates, and there is time, debrief with your teammates. It is best to save definitive evaluations of candidates until you have seen them all, but it often helps in the consensus building process to compare notes as to reactions to particular candidate responses, behaviors, immediately after the interview.
- Selection should be made and discussed with employment before making any offers or promises.
- Letters can be sent to those interviewed but not selected.
- Allow yourself adequate time.

**APPLICATION RATING FORM  
CALIFORNIA STATE UNIVERSITY FRESNO  
CONFIDENTIAL INFORMATION**

Current Fresno State Employee? NO X YES \_\_\_ UNKNOWN \_\_\_\_\_

NAME: Carmen Edwards POSITION: ASC-I

DEPARTMENT: Athletics Dept. VACANCY NR.: 000606

**RATING KEY:** Unsatisfactory Marginal Good Very Good Excellent

Unsatisfactory: Fails to meet the minimum standard for this selection factor.

Marginal: does not clearly meet the minimum standard for this selection factor.

Good: Meets or somewhat exceeds the minimum standard for this selection factor.

Very Good: Substantially above the minimum standard for this selection factor.

Excellent: Far exceeds the minimum standard for this selection factor.

(Place (x) check mark in appropriate box for each selection factor)

Selection Factor	U	M	G	V	E	Comments
1. Event Planning					✓	Large & complex events; > 30 planned
2. Experience				✓		16 yrs admin & clerical, exec. Assist.
3. Communication					✓	Oral/written skills well developed
4. IT Skills					✓	MS Office; PageMaker; expert level
5. Higher Ed Exper.				✓		2 yrs @ Fresno State – academic office
6.						
7.						

**Overall Recommendation:**

- ( ) Fails to meet the required minimum qualifications for the position.
- ( ) Meets all minimum qualifications however, few distinguishing qualifications.
- ( ) Meets all minimum qualifications, some distinguishing qualifications.
- (✓ ) Meets all minimum qualifications, several distinguishing qualifications.

**Recommend Interview?**

Cannot be interviewed.

Yes \_\_\_ No \_\_\_

Yes \_\_\_ No \_\_\_

Yes ✓ No \_\_\_

Reasons for recommendation/rationale: \_\_

Very strong background in event planning with advanced skills in all software required by the position and several that would be good to have in use. Communication skills demonstrated by the volume and complexity of reports as well as experience developing and delivering oral presentations. 16 yrs experience indicates the ability to learn quickly and a willingness to take on difficult projects for the purpose of developing new skills.

Rater: \_\_\_\_\_

Date: \_\_\_\_\_



**APPLICATION RATING FORM  
CALIFORNIA STATE UNIVERSITY FRESNO  
CONFIDENTIAL INFORMATION**

**Current Fresno State Employee?**    NO\_\_\_ YES\_\_\_ UNKNOWN\_\_\_

**NAME:** \_\_\_\_\_ **POSITION:** \_\_\_\_\_

**DEPARTMENT:** \_\_\_\_\_ **VACANCY NR.:** \_\_\_\_\_

**RATING KEY:**    Unsatisfactory    Marginal    Good    Very Good    Excellent

Unsatisfactory: Fails to meet the minimum standard for this selection factor.

Marginal: does not clearly meet the minimum standard for this selection factor.

Good: Meets or somewhat exceeds the minimum standard for this selection factor.

Very Good: Substantially above the minimum standard for this selection factor.

Excellent: Far exceeds the minimum standard for this selection factor.

**(Place (x) check mark in appropriate box for each selection factor)**

<b>Selection Factor</b>	<b>U</b>	<b>M</b>	<b>G</b>	<b>V</b>	<b>E</b>	<b>Comments</b>
1.						
2.						
3.						
4.						
5.						
6.						
7.						

**Overall Recommendation:**

- ( ) Fails to meet the required minimum qualifications for the position.
- ( ) Meets all minimum qualifications however, few distinguishing qualifications.
- ( ) Meets all minimum qualifications, some distinguishing qualifications.
- ( ) Meets all minimum qualifications, several distinguishing qualifications.

**Recommend Interview?**

Cannot be interviewed.

Yes\_\_\_ No \_\_\_

Yes\_\_\_ No \_\_\_

Yes\_\_\_ No \_\_\_

Reasons for recommendation/rationale:\_\_

**Rater:** \_\_\_\_\_

**Date:** \_\_\_\_\_



Sample  
Vacancy No. 000606 ASC-I  
In-Process Ranking Tool

Applicant	Rank						
Anderson	1	2	2	3	5	5	6
Baker		1	1	1	2	2	3
Carlson			3	3	4	4	5
Decker				2	3	3	4
Edwards					1	1	1
Franklin						6	7
Grimes							2

Instructions: Immediately following each interview rank the candidates based on how they compare to those already interviewed. Be sure to make clear notes that reflect the strengths and weaknesses of the candidates and how those qualities impact their ranking.

Summary of observation and ranking:

Anderson: strong clerical background but weak in the area of problem solving and event planning.

Baker: clerical duties included more breadth and some administrative projects than Anderson, but still weak in the area of event planning.

Carlson: meets minimum qualifications only.

Decker: extensive event planning experience but the size and complexity of events are less than that described by Baker.

Edwards: extensive event planning from assistant to large components of the entire event. The complexities of assignments were consistent with those typical of our position. Has experience in higher education setting dealing with academic issues. This applicant is most experienced and competent using desktop publishing software and all components of the MS Office suite on both PC and MAC platforms. Weakest area is the lack of SIMS/R experience.

Franklin: meets minimum qualifications only. Answers were weak and hesitant, suggesting a lack of self-confidence.

Grimes: experiences are very similar to that described by Edwards. However, the applicant was not as experienced in coordinating travel as evidenced by her hesitation and difficulty answering the travel related question. With a little training and assistance, this candidate would do fine and should be considered a strong second choice.



## Professional Reference Checking

It is the responsibility of the hiring authority to conduct professional reference checks on the final candidates they are considering to hire. A search committee may also conduct reference checks during the search process, but it is still recommended that the hiring authority conduct their own reference checks before making the final decision. **The time it takes to conduct reference checks is nominal compared to the time, cost and consequence of hiring the wrong person for the job.**

An employer who fails to check references and hires a person with a history of physical abuse of co-workers or hires a person who is a registered sex offender to work with or around students can be charged with negligent hiring. The basic theory behind negligent hiring is that employers have a duty to protect workers, customers (students), and visitors from injury caused by such employees; this obligation exists even if the injury occurs miles from the work site.

### PROCESS

For ease of process, Appendix G provides an authorization form that should be completed by the candidate(s). While the candidate is asked to provide the University with references, candidates should be informed that reference checking may be extended to their current and any or all of their previous employers, even though they may not be on their reference list. (Please be sensitive to coordinating the checking of the current employer's reference with the candidate. We don't want to jeopardize their current position.) If a candidate tells you not to contact a specific person or employer, please respect their request. The candidate is not required to provide this authorization, but checking references should be considered a very important part of the selection process and the hiring authority should be very cautious about hiring a new employee who will not provide adequate reference checking authorization. All references should be relevant to the position sought. If a person provided as a reference by the candidate does not have knowledge of the candidate's ability to perform the tasks of the vacant position, then contacting that reference is of little use. The best references are, typically, former employers (supervisors/managers with direct knowledge of the candidates work), former co-workers, and former educators of the candidate.

### INTERNAL CANDIDATES

Reference checks should also be done for internal candidates who do not work for you. You do not need an authorization form from the employee since we are already the employer. You should ask the same questions of the internal supervisor/manager as you would for the external candidate.

## DO'S AND DON'TS

- Reference check questions should be directly related to the duties and performance of the person's job. Do not contact "character references" or references who have not worked with the candidate.
- While the employer has the right to check employment references, both the United States and State of California Constitutions protect candidates and employees from unreasonable intrusions by prospective employers into their private, non-job related activities and status. (There are a few exemptions to this rule, for example, law enforcement candidates.)
- Questions related to protected class status or disability claims should be avoided. The rules are similar to those rules used in the interview process.
- For example, you should not ask about marital status, family status, residence, disability (physical or mental), non-professional organizational activities, economic status, arrest record, military service record, race, pregnancy status, child care provisions, color, religion, national origin, ancestry, gender, sexual orientation, ethnic background, age, etc. (See attached guideline.)
- Do not inquire if the candidate has ever filed a Federal EEOC and/or State Department Fair Employment And Housing (DFEH) or Workers' Compensation complaint/claim. The filing of complaints/claims are considered a protected activity.
- If an employer starts to provide you information that is not legal or appropriate, please make every attempt to stop the flow of this information. If you find out information that you should not know, do not let it impact your decision-making.

## Developing & Asking the Right Questions

Before making the first reference call, you should be prepared with a set of questions that are related to the position and valuable in helping you make a decision. Your Human Resources representative can assist you if you would like help in developing questions. At the beginning of the conversation with the reference, it is often helpful for you to describe the position that the candidate has applied for and describe what you are looking for in the ideal candidate. This should assist the reference responder in framing their responses in a more meaningful way for you. When calling a reference, introduce yourself, state that you are checking the reference on (name), a candidate for (state the position and California State University, Fresno) and you have the candidate's permission and/or an authorization and release to talk with the reference. If they want to see the signed authorization and release form before responding, please make arrangements to fax or mail a copy to them. If they refuse to provide a reference, ask them what their policy is on providing references for current or past employees. Try to assess whether the issue is their blanket

policy on providing references or the fact that they will not provide a reference for this particular employee (or former employee).

### A Standard Approach

Questions regarding attitude, skills, experience and performance should be asked. For example:

- Did the candidate work under your supervision?
- During what time period did you supervise the candidate?
- Are you familiar with the candidate's former job? If yes, please describe the position the candidate held (or holds) in your organization. Review: a) duties, reporting relationships, scope of responsibility, level of autonomy; b) how long they were in the position and what other positions they held in the organization; c) confirm dates of employment, job title, salary and dates in current or last position. Always compare this information to what was provided on the application/supplemental questionnaire and/or resume.
- What were the candidate's strongest skill areas?
- Using a 1-5 scale, with 5 being high, how would you rate the candidate in the following areas:
- List specific knowledge, skills, abilities, or tasks that are pertinent to your position.
- Please describe how the candidate interacted in the workplace with: subordinates, peers, immediate supervisors and management (use each one that is appropriate for your position).
- Was the candidate a person whom you had to motivate or were they internally motivated?
- What aspects of candidate's job did (he/she) do well? In what aspects of their job did they require a higher level of supervision or seem to struggle with?
- Describe the candidate's quality and quantity of work.
- Did the candidate understand, follow and respect workplace rules and administrative processes (this could include dependability, attendance, punctuality, etc.)?
- Did the candidate demonstrate flexibility when appropriate?
- Please describe the professional areas that the candidate either struggles with or should continue to work on developing.
- Was the candidate a "team player"?

- California State University, Fresno is an organization that values diversity. How has the candidate demonstrated his/her commitment to diversity in your workplace? Please describe.
- Based on the description of the position that the candidate has applied for and reviewing their current or past job description, can you foresee any problems with the candidate being able to perform the duties of the position for which they have applied?
- Would you re-hire the candidate if given the opportunity?
- Is there anything else relevant to the candidate's performance and attitude in your workplace of which I should be aware?
- Would you recommend the candidate for this position?

Supervisor/Manager Reference Questions:

- How long has the candidate been a supervisor/manager?
- Please describe the number and title of the employees that the candidate supervised directly.
- Please describe the number of people indirectly supervised by the candidate (number of people reporting through other supervisors to the candidate).
- Did the candidate do the following: (Clarify as to whether they had the authority and had actual experience in each of these areas.)
  - Hiring
  - Establishing job duties
  - Recommending pay increases
  - Evaluating
  - Disciplining
  - Firing
  - Supervising/managing in an union environment
- Describe the candidate's supervisor/management/leadership style. (You should clarify and evaluate if it was an effective style.)

You should use the same basic questions for each reference for all of the candidates. If, in the course of responding to your questions, the reference refers or alludes to something not covered that is not in the prohibited or protected area of questions, please pursue that line of inquiry. Please note if you are only allowed to talk with the Personnel or Human Resources office for the reference information, your questions should be modified accordingly to fit into this situation. You may want to frame them around information found in the Personnel file such as performance evaluations, exit interviews, etc.

#### What to do with the information

What do you do with the information you have gathered? If you received conflicting references about a candidate, you may want to check further. Occasionally you may need to “throw out” a reference because of suspicion or knowledge of bias or unfairness of the reference provider. If you are satisfied that you have all the information to make a good hiring decision, proceed with your decision.

#### Confidentiality

Finally, if you guarantee confidentiality to the reference provider, you must honor that agreement. This includes inquiries made as to a candidate’s character or abilities during the course of employment. Access to that information by the affected employee or candidate can generally be restricted. If a candidate, an employee, the union, or any other person other than those in your chain of command or Human Resources requests the reference information, please contact Human Resources. Make sure that the information is stored confidentially, securely and not in the official Personnel file.

**All reference questions must be approved by your assigned Recruiter in advance.**

## Documenting the Nomination

California and Federal law require that complete documentation of University hiring practices be maintained. Documentation should be maintained in the Human Resources department for three years and then shredded.

If a hiring decision is challenged and DFEH or EEOC undertakes an investigation, the University will be required to provide documentation of the hiring process to address the charge. The documentation will be reviewed to determine if the hiring process used to fill the vacancy involved any discrimination practices. In addition, the organization may be required to provide the same information for all hiring decisions covering a period the DFEH and/or EEOC regards as appropriate.

Appendix F provides several examples of the methods and forms used to document the recruitment process.

## What to Keep

The Human Resources department should develop and retain the following documentation in a position file, separate from the personnel file of the new employee:

- Copies of the Vacancy Announcement and all advertising
- Applicant Referral Documents and a copy of the Nomination Summary documents applicants who met minimum qualifications, who were interviewed, and who was selected for the position.
- Copies of all written correspondence with the applicants, including the official offer letter to the person hired
- All copies of the interview questions and the responses of each applicant interviewed
- Telephone reference contact forms
- Hiring Summary which is the written justification of selection/non-selection
- Any other information pertinent to the hiring process

## When to Destroy Records

All records related to the hiring process should be promptly shredded at the conclusion of the three years records retention period.

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## PREPARING SCREENING MATERIALS (INTERVIEW QUESTIONS)

The development of interview questions is a critical step in the hiring process. This is the primary means by which the candidate is given the opportunity to provide evidence of possessing the knowledge, skills, and abilities to perform the job.

Committees are required to submit interview questions for review by Human Resources prior to scheduling interviews to check for legality, appropriateness, and to provide advice and suggestions.

Well-prepared questions bring out useful information, save interviewing time and help to insure that all applicants are treated equally.

## Types of interview questions

YES OR NO QUESTIONS need to be used sparingly because they give such limited information from the applicant. For example, "Have you ever used Microsoft Word?"

**DIRECT QUESTIONS** are used to obtain very specific information. They are valuable for obtaining in-depth information or for asking follow-up questions on topics brought up by a candidate's other responses. For example, "What computer courses have you taken?"

**ALTERNATE CHOICE QUESTIONS** give the applicant two or more equally desirable or undesirable options. For example, "Do you prefer establishing your own work priorities or having them assigned to you?"

**OPEN-ENDED QUESTIONS** encourage applicants to express ideas and information they feel are important. Background information relevant to the position is explored related to experience, education, training, achievements, etc.. Probing specific skill areas, as opposed to a broad-brush approach to questioning, generally produces better information on which to make fine distinctions among qualified applicants. For example, rather than "Tell us about the jobs you've held", the committee might ask "Tell us about your experience writing and negotiating contracts."

**SITUATIONAL QUESTIONS** provide a technique to evaluate the applicant's ability to solve job-related problems or situations that may actually occur on the job. They are used to assess an applicant's ability to recognize important aspects of situations or problems, analyze them and provide reasonable options or workable solutions. For example, "You have called a major briefing in your organizational unit to propose the implementation of a new program. As soon as the proposal is disclosed, the session turns into a free-for-all. Describe some possible actions you might take to regain control of the meeting."

**WILLINGNESS QUESTIONS** establish whether an applicant is aware of the conditions of employment and is willing to accept them. Willingness to travel is an example, shift work another, willingness to work in a fast-paced environment, willingness to work extra hours. This is a way to reinforce the more prominent conditions of employment even if the applicant read them in the job announcement.

**JOB INTEREST QUESTIONS** are useful to ask to establish which aspects of their jobs applicants particularly enjoyed; or which activities they avoided or were least interested in performing. Other questions of this type include, "Why did you choose this line of work?", "What do you think you can contribute?" If several applicants have comparable experience, a selection factor may be the level of interest and motivation to do the work.

Types of questions to avoid

UNIMAGINATIVE QUESTIONS \_which sound “canned” and for which the applicant usually has a prepared answer. For example, “What would you like to be doing five years from now?”

MULTIPLE QUESTIONS which “run on” and require the applicant to answer a long, confusing series of questions.

OBVIOUS QUESTIONS \_which suggest a correct answer. These types of questions often reveal the answer the committee is looking for and help applicants create answers to fit those attitudes. For example, “This university wants employees who are creative and flexible. What kind of employee are you?”

NEGATIVE QUESTIONS \_which reveal an unfavorable attitude toward an applicant or topic. For example, “You don’t have much experience in supervision, do you?”

NON JOB-RELATED QUESTIONS (See [Legal Aspects of Interviewing](#))

## Legal Aspects Of Interviewing

As an Equal Employment Opportunity employer, Fresno State wishes to avoid potential claims of discriminatory hiring practices. To ensure applicants do not believe they have been discriminated against during employment selection, the following is a reference of discriminatory, or potentially discriminatory interview questions.

<b>Subject</b>	<b>Unacceptable Questions</b>	<b>Acceptable Questions</b>
Age	Any question expressing or implying a preference for a specific age group, particularly those that identify applicants over 40 years old.	Are you over 18 years of age? If hired, can you furnish proof of your age and date of birth?
Race/National Origin	No reference to an applicant's color or race is acceptable. What is the origin of your surname? Asking if applicants speak foreign languages based on physical/surname appearances.	Asking all applicants about one particular foreign language skills required in the job. Are you a U.S. citizen or can you furnish proof of your legal right to be employed in the United States?
Arrests/ Convictions	Have you ever been arrested? Questions that do not relate to the job under consideration. Arrests do not necessarily mean guilt, and not all convictions are predictors of future job behavior.	None: this aspect of an applicant's qualifications are to be ascertained by other means.
Gender	Why do you think a man/woman is best for this job? Can you supervise men/women? How well do you work with men/women who don't like to work with other men/women?	What do you think are the abilities required for successful job performance? What has your supervisory experience been? How well have you worked with both men and women?
Family/ Transportation	Marital status, family plans, ages of children, child care arrangements, or references to spouse. With whom do you reside? Do you live with your parents, husband/wife, children? Do your relatives work? Do you own a car; make & year?	Is there anything that would prevent you from meeting scheduled workdays/hours? Do you have relatives working at this company? Do you have a reliable means of transportation to ensure regular work attendance?
Education/ Experience	Do you have a high school diploma / college degree? Are you willing to take courses on your own time and at your own expense if you get this job? How many years have you been performing this work?	What educational coursework or special training have you had that provided you with the knowledge and skills to perform this job? What type of experience have you had performing this job-related work?
Religious/ Political Affiliations	Any question that solicits information about the applicant's religious or political beliefs/practices.	Is there anything that would interfere with your performing this job, working overtime or weekends (if required), or complying with University policies?
Physical Condition	Do you have any physical disabilities? Have you ever had a job related injury? Have you ever filed a workers' compensation claim? Any questions about physical handicaps that the applicant may have or appears to have.	Do you have any physical conditions which may limit your ability to perform all of the physical demands of this job? Are you aware that employment may be contingent upon passing a physical exam?
Financial/ Credit	Do you have any overdue bills? Have you ever had a wage garnishment? Do you own or rent? Have you ever filed for bankruptcy?	If appropriate to the job, this information can only be ascertained by other means. How long have you resided in this area?

The following is a representative list of questions with a short analysis of each question to determine whether it is an unacceptable or acceptable question and why. It is not all-inclusive.

**How many children do you have?**

This question is inappropriate for two reasons.

First, questions regarding marital status, number of children and childcare arrangements are not appropriate because they may be seen as being based upon the applicant's gender. Under Title VII of the Civil Rights Act, it is unlawful to deny a female applicant employment because she has children or is planning to have a child at some future date. Second, this question is an inappropriate way of asking about an otherwise appropriate subject: availability to work.

Questions asked to availability to work should be job-related. For example: What hours can you work? What shift(s) can you work? Can you work on weekends and/or holidays? Are there specific times that you cannot work? Do you have responsibilities other than work that will interfere with specific job requirements such as traveling?

**What country are your parents from?**

You may not ask an applicant where he/she was born or where his/her parents were born. You may ask if the applicant is eligible to work in the United States. Under Title VII pre-employment inquiries concerning national origin are not considered violations of the law in and of themselves.

However, inquiries that either directly or indirectly disclose such information, unless otherwise explained, may constitute evidence of discrimination prohibited by Title VII. Some state employment practice laws expressly prohibit inquiries on employment applications concerning the applicant's national origin. In some states, it may also be considered illegal to seek related data, such as the birth, place of birth or citizenship of parents, which could indirectly reveal national origin.

**What is your native language?**

When an English language skill is not a requirement of the work to be performed, and an employer uses an English language proficiency test or requires English language proficiency, an adverse effect upon a particular minority group may result, creating a violation of Title VII.

It is also inappropriate to inquire how an applicant acquired the ability to read, write or speak a foreign language. However, if the job requires additional languages, an employer may legitimately inquire into languages the applicant speaks and writes fluently.

**What is your height? What is your weight?**

The EEOC and the courts have ruled minimum height and weight requirements to be illegal if they screen out a disproportionate number of minority group individuals or women, and the employer cannot show that these standards are essential to the safe performance of a job in

question. See Davis v. County of Los Angeles, 655 F.2d 1334 (9<sup>th</sup> Cir. 1977), vacated and remanded as moot on other grounds, 440 U.S. 625 (1979); Dothard v. Rawlinson, 433 U.S. 321 (1977).

### **Have you ever been arrested?**

Questions relating to an applicant's arrest record are improper, while questions of an applicant's conviction record may be asked if job-related. The EEOC and many states prohibit the use of arrest records for employment decisions because they are inherently biased against applicants in minority groups in other protected classes.

The EEOC has issued a Revised Policy Statement covering the use of conviction by employers in making employment decisions:

First, the employer must establish a business necessity for use of an applicant's conviction record in its employment decision. In establishing business necessity, the employer must consider three factors to justify use of a conviction record: (1) nature and gravity of the offense for which convicted; (2) amount of time that has elapsed since the applicant's conviction and/or completion of sentence; and (3) the nature of the job in question as it relates to the nature of the offense committed.

Second, the EEOC's Revised Policy Statement eliminated the existing requirement that employers consider the applicant's prior employment history, along with rehabilitation efforts, if any. The Revised Policy Statement requires that the employer consider job-relatedness of the conviction, plus the lapse of time between the conviction and the current job selection process.

### **Do you own your own home?**

An interviewer should not ask if the applicant owns or rents a home or car, or if wages have been previously garnished, or if the applicant has ever declared bankruptcy, unless financial considerations exist for the job in question.

Any employer who relies on consumer credit reports in its employment process must comply with the Fair Credit Reporting Act of 1970 and the Consumer Credit Reporting Reform Act of 1996.

### **Did you serve in the military? What type of discharge did you receive?**

You may not ask what type of discharge the applicant received from a military service.

You may ask whether or not the applicant has served in the military, period of service, rank at time of discharge, and type of training and work experience received while in the service.

### **How old are you?**

The Age Discrimination in Employment Act ("ADEA") prohibits discrimination on the basis of age with respect to individuals over the age of 40. Requests that an applicant state his age may tend

to deter older applicants, and may otherwise indicate discrimination based on age.

Consequently, employment application forms which request information such as age will be closely scrutinized to assure that the request is for permissible purpose and not for purposes prescribed by the ADEA.

Permissible purposes are limited to when age requirement or limit is a bona fide job application or is based on reasonable factors other than age. Under the EEOC's Age Discrimination Interpretive Rules, requests for date of birth on the employment application are permissible, provided that an appropriate disclaimer is shown.

In addition, any recruiting effort that is age-biased, such as seeking "recent graduates" or any question during the interview process that deters employment because of age is unlawful.

### **What church do you go to? What religion are you?**

There are no job-related considerations that would justify asking about religious beliefs or convictions unless your organization is a religious institution, in which case you may give preference to individuals of your own religion.

In addition, inquiries as to the applicant's religion are also not an appropriate method of determining availability to work. Employers have an obligation to accommodate the religious beliefs of employees and/or applicants unless to do so would cause undue economic hardship.

The EEOC has determined that the use of pre-employment inquiries that determine an applicant's availability have an exclusionary effect on the employment opportunities on persons following certain religious practices.

Thus, questions relating to availability for work on Friday evenings, Saturdays or holidays should not be asked unless an employer can show that the questions have not had an exclusionary effect on its employees or applicants who would need an accommodation for their religious practices, that the questions are otherwise justified, and that there are no alternative procedures which would have a lesser exclusionary effect. EEOC Guidelines on Discrimination Because of Religion, 29 CFR 1605.

### **Are you a United States citizen?**

This question is not appropriate as a pre-employment inquiry.

The EEOC Guidelines on Discrimination Because of National Origin indicate that consideration of an applicant's citizenship may constitute evidence of discrimination on the basis of national origin.

The law protects all individuals, both citizens and non-citizens domiciled or residing in the United

States against discrimination on the basis of race, color, religion, sex or national origin.

A person who is a lawfully immigrated alien, legally eligible to work, may not be discriminated against on the basis of his/her citizenship, except in the interest of national security, as determined under a United States statute or a presidential executive order regarding the particular position or premises in question.

**Do you have any disabilities?**

The Americans with Disabilities Act ("ADA") prohibits employers from asking disability-related questions to employment applicants. A "disability-related question" is any question that is likely to elicit information about disability. Under the ADA, an employer cannot lawfully ask an applicant whether he has a particular disability nor ask questions that are closely related to a disability.

An employer, for example, generally may not ask an applicant whether the applicant will need reasonable accommodations for the job. An employer may not ask an applicant how many sick days he took with a previous employer; this question directly relates to possible disabilities.

An employer may not ask an applicant about his worker's compensation history. A question of this nature is viewed as relating directly to the severity of the applicant's impairments. An employer may not ask an applicant about his current or prior lawful drug use. For example, an employer cannot ask an applicant, "What medications are you currently taking?"

An employer may ask an applicant whether he can perform the essential functions of the job for which he is applying, with or without reasonable accommodation. Or ask applicants to describe how they would perform any and all job functions, as long as all applicants in the job category are asked to do this.

When an employer reasonably believes that an applicant will not be able to perform a job function because of a known disability, the employer may ask the applicant to describe or demonstrate how he would perform the function.

If the applicant has an obvious disability or voluntarily discloses a hidden disability to the employer, the employer may ask the applicant whether he needs reasonable accommodations and what types of reasonable accommodations he will need.

For example, an applicant for a receptionist's position voluntarily discloses that he has diabetes and will need to take breaks to take his medication. The employer may ask the applicant questions about the reasonable accommodations he will need, such as how often he will need to take breaks and how long the breaks must be.

An employer should inform all applicants of the essential functions of the position and of the

employer's attendance requirements. The employer may then ask whether the applicant will be able to perform these functions and meet the attendance requirements. An employer may also ask about an applicant's attendance record with a prior employer.

This question is not considered to be disability-related, because there may be many reasons unrelated to disability why a person may not have met the attendance requirements of a previous job.

**When was the last time you used illegal drugs?**

An employer may ask applicants about current and prior illegal use of drugs. An individual who is currently using illegal drugs is not protected under the ADA. For example, an employer may ask the following of an applicant: "Do you currently use illegal drugs? Have you ever used illegal drugs? What illegal drugs have you used in the last six months?"

These questions are not likely to tell the employer anything about whether the applicant is addicted to drugs. On the other hand, questions that ask how frequently the applicant has used illegal drugs are likely to elicit information about whether the applicant was a past drug addict. An employer may not ask questions that refer to past drug addiction.

**Do you drink alcoholic beverages?**

An employer may ask an applicant questions about his drinking habits, unless a particular question is likely to elicit information about alcoholism, which is a disability under the ADA. An employer may ask an applicant whether he drinks alcohol, or whether he has been convicted for driving under the influence of alcohol. These questions do not reveal whether someone has alcoholism.

On the other hand, questions about how much alcohol an applicant drinks or whether he as participated in an alcohol rehabilitation program are not permitted. Questions of this nature are likely to elicit information about whether the applicant has alcoholism.

**Have you ever undergone psychiatric evaluation?**

This is not an appropriate question.

The EEOC enforcement guidance on psychiatric disabilities limits the questions asked of any applicant about any psychiatric disability.

Under the ADA, the term, "psychiatric disability," includes mental impairments, such as any mental or psychological disorder including emotional or mental illness. It includes major depression, bipolar disorder and anxiety disorders such as panic disorder, obsessive-compulsive disorder and post-traumatic stress disorder. A mental impairment also includes schizophrenia and personality disorders.

As with physical disabilities, an employer is not permitted to ask applicants any questions that are

likely to elicit information about a psychiatric disability. A limited exception comes into play when the employer reasonably believes that an applicant has a psychiatric disability for which the applicant will require accommodation.

Generally speaking, an employer can only reasonably believe that an applicant will need accommodation if the applicant discloses his psychiatric disability to the employer during the hiring process or if the applicant tells the employer during the hiring process that he will need such accommodation.

**Are you dating anyone right now?**

While this question may not be evidence of discrimination, interviewers should avoid questions of a personal nature. Personal questions are generally irrelevant to the hiring process, and may give rise to claims for invasion of privacy or sexual harassment.

There should be some direct correlation between the information requested and the applicant's ability to perform the functions of the job for which he is applying. If there is no legitimate business purpose for a question, don't ask it.

**When did you graduate from high school?**

This type of question can be considered an indirect inquiry as to an applicant's age and may create an inference of age discrimination. While such a question does not inherently violate the Age Discrimination in Employment Act, a more appropriate approach is to simply ask the interviewee if he or she has a high school diploma or equivalent.

Further, an employer must consider whether a high school education is necessitated by the duties and functions of the position for which applicants are being interviewed. The United States Supreme Court has found an employer's requirement of a high school education discriminatory where statistics showed that such a requirement operated to disqualify blacks at a substantially higher rate than whites and there was not evidence that the requirement was significantly related to successful job performance.

The standard applies to all groups protected under Title VII and to all questions related to educational achievement, if no job-related requirement or business necessity exists. While an employer may generally inquire as to the applicant's educational background, there must be some degree of relationship between the level of education required for the position and the job duties of the position.

**Do you have any family members who work here now or who have worked here in the past?**

Information about friends or relatives working for an employer is generally not relevant to an applicant's competence.

Requesting such information may be unlawful if it creates a preference for relatives of current

employees in the selection process and the composition of the present workforce is such that this preference reduces or eliminates employment opportunities for members of protected groups.

As a general rule, however, unless an adverse effect on women or minorities can be shown, nepotism is not illegal.

### **What clubs or organizations do you belong to?**

As phrased above, this question is unacceptable because it could be seen as seeking information that is not job-related and which could relate to gender, national origin, religion or other status protected under Title VII.

It would be more appropriate to ask: "What professional or trade groups do you belong to that you consider relevant to your ability to perform this job?" This question would elicit similar information, but only to the extent that it is relevant to the job in question.

### **What is your maiden name?**

This question could be seen as an inappropriate inquiry under Title VII because it indirectly asks a female applicant to disclose information regarding her marital status.

Questions about marital status are frequently used to discriminate against women and to deny opportunities for female applicants. If you need to contact a former employer, you may, however, ask all applicants if they have ever been known by any other name.

### **What is your race?**

Title VII prohibits discrimination based on race and color. Again, pre-employment inquiries concerning protected status are not considered violations of the law in and of themselves. However, this inquiry directly asks an applicant to disclose information regarding a protected characteristic, and, unless otherwise explained, may constitute evidence of discrimination prohibited by Title VII.

An employer may legitimately obtain information needed to create and implement an affirmative action plan, or to meet other government record keeping requirements, or even for the employer's own efforts to recruit minorities and/or women.

The information should be kept separate from other employee records to ensure that it is not used to discriminate in making personnel decisions. One means of collecting such data that has been approved by the courts is the use of a "tear-off sheet," which is an anonymous sheet that is separated from the application and used only for purposes unrelated to the selection decision.

### **If It's Not Job-Related -- Don't Ask**

Data on such matters as marital status, number and age of children, and similar issues, which could be used in a discriminatory manner in making employment decisions, but which are necessary for

insurance, reporting requirements or other business purposes can and should be obtained if a person has been employed, not by means of an application form or a pre-employment interview.

It is reasonable to assume that all questions on an application form, or any pre-employment interview are for some purpose, and that selection or hiring decisions are made on the basis of the answers given.

When facing charges of discrimination, the employer bears the burden of proving that answers to all questions on application forms or in oral interviews are not used in making hiring and placement decisions in a discriminatory manner prohibited by the law.

The employer must establish that the questions do not seek information other than that which is essential to evaluation of an applicant's qualifications for employment. It is, therefore, in an employer's own self-interest to carefully review all procedures used in screening applicants for employment, eliminating or altering any not justified by business necessity.