



**South Carolina
Association of Counties**

**Making the Right Hire:
Effective Recruiting and Hiring Practices**

**Webcast Training
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"Building Stronger Counties for Tomorrow"

**Making the Right Hire:
Legal Considerations**

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Who Is An Applicant?

- County should define

- Best practice – accept applications only when there is a vacancy
 - Hard copy and/or on-line

 - Include a statement re: false or misleading information and omitted information as grounds for disqualification or termination if hired

Rule

- Do not ask a question unless you have a job-related reason to know the answer
 - If you have to ask yourself “should I ask this question?” -- *do not* ask the question.

Legal Concerns

- Title VII of the Civil Rights Act
 - Race
 - Color
 - National Origin
 - Gender
 - Religion

- Age Discrimination in Employment Act
 - Persons 40+
- Americans With Disabilities Act
- Workers' Compensation Act
- Bankruptcy Protection Act

Interview

- Most questions are not illegal *per se*. However, asking them may lead to claims of discrimination in the event an applicant is not hired.

Do Not Ask

- Applicant's age or date of birth
- Name of church; name of priest or minister
- Whether the applicant owns a car (unless owning a vehicle is a job requirement)
- Whether the applicant has filed for bankruptcy

Do Not Ask

- Arrest
 - May ask about convictions and pending charges
- Military obligations
- Club memberships
- Prior work-related injuries or illnesses
 - May ask "post job offer"

Do Not Ask

- “Maiden” name
 - May ask “what other names” have you used
- About an applicant’s surname, e.g. what country are your ancestors from

Do Not Ask

- Marital status
- Number/ages/names of children; who will care for children; are you going to have children

Do Not

- Write anything on the application form; do not “code” anything.

Drug Screening

- After a tentative offer is made
- Safety sensitive positions

Background Checks

After the tentative decision to hire:

- SLED, including sex offender registry
- Credit checks, if handling money
 - Must follow guidelines
- Driving record

Background Checks

- Social media and internet searches – it is all fair game.
- But do not ask for passwords
 - Facebook
 - Twitter
 - Instagram

Reference Checks

- Try to obtain. Most employers provide only neutral references.
- Friends, clergy usually not helpful. The applicant lists only persons who will say something good.

Job Offer

- Be sure to state in the letter that the offer is not a contract of employment.

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