

I SEE THAT YOU'VE
COME PREPARED!



JOB INTERVIEWS & DISCRIMINATORY BEHAVIORS

GOALS

1. Differentiate between “soft skills” and “hard skills.”
2. Practice “PIE” nonverbal skills when being interviewed.
3. State the difference between fallacious and legitimate interviews.
4. State the purpose of the U.S. Employment Equal Opportunity Commission (EEOC).
5. Reiterate at least four of the seven listed EEOC Discriminatory Laws.
6. Know what to say or do if discriminatory questions are asked during an employment form or an interview.
7. Incorporate appropriate nondiscriminatory behaviors as a Human Resource (H.R.) Manager.

KEYWORDS FOR APPLICATION

1. Goals
2. Objectives
3. Philosophy
4. Soft Skills
5. Hard Skills
6. PIE: Poise, Interest, Enthusiasm
7. Fallacious
8. Legitimate
9. Equal Pay Act
10. Civil Rights Act
11. Age Discrimination in Employment Act
12. Civil Rights Act
13. Genetic Information Nondiscrimination
14. Americans with Disability Act
15. National Origin Discrimination
16. Race/Color Discrimination
17. Human Resource Department (HRD)
18. Montana Discriminatory Laws

Know that the following process is intended to give you, as a potential employee, an opportunity for employment according to acceptable standards. The process provides you with knowledge and awareness of interviewing behaviors. If you are an employer, the following process is intended to provide you with important information about how to interview a potential employee and the concern of all parties about discrimination. If you are a potential employee, being aware of the process will better prepare a potential employee and employer for the complexity of the process.

The Potential Employee

As a potential employee, be prepared by bringing to the interview a copy of the completed application, your letter of interest, resume, and written references, if possible. These documents should contain only information that is not discriminatory—e.g., leave (among other identified discriminators) your age and race off the documents. Also, be sure that the interviewers have received their copy in advance of your application, letter of interest, and resume *before* entering the job interview.

Come intellectually prepared with information about the facility/organization, its philosophy, objectives, goals, and anything you can find on the internet about the facility/organization. Think about your philosophy and how it supports (or does not support) the facility/organization's philosophy. Also, know how you are willing to help move the facility/organization toward its stated mission and goals. Be prepared to offer this information to the interviewing committee. Know the laws related to job discrimination and be willing to identify them if confronted with discriminatory questions.

Dress conservatively. It means to dress modestly and be clean. Modest makeup for a female is a must! Males should consider if the job warrants being clean-shaven. Preferably, represent yourself in the manner YOU feel you want to be represented.

Understand that employers are concerned about your "soft skills" as well as "hard skills." The term "soft skills" is related to your work ethic, ability to be courteous, success as a team member, self-discipline, self-confidence, and control, ability to conform to prevailing norms, and language proficiency. The "hard skills" have to do with your intellectual understanding and ability to do the required work. It is important to display your "soft skills" while assuring the reviewing committee that you can do the expected "hard skills."

Use PIE—Poise, Interest, and Enthusiasm! Poise means to lean slightly forward during the conversation. Interest means looking a person in the eye when answering their question (not staring). Expressiveness means variation in your voice tone, gesturing when you speak, expressive with smiles, and showing positive emotion—no arm folding. Leave the arms apart, which is one indication that questions and responses are accepted. If you must cross your legs, cross your legs toward the person with whom you are conversing. Verbally confirm the understanding of the reviewing committee to your responses. Look attentive and enthusiastic.

You might be placed in a legitimate or fallacious interview. The hiring process for the employer is to be the SAME, legally, no matter whether a person is seriously considered for the job (legitimate interview) or a decision has already been covertly determined by the interviewing committee (fallacious interview).

Many accrediting processes require interviewing a certain number of potential employees and other criteria that help reduce the appearance of discrimination and biases.

As a potential employee being interviewed, enter the situation of being interviewed with the full understanding that the facility/organization has a legal requirement to conduct nondiscriminatory job interviews. There are federal laws prohibiting job discrimination; however, discrimination is alive and well, with 20,857 complaints filed with the U.S. Equal Employment Opportunity Commission (EEOC) in 2016 alone. The anti-discriminatory laws refer to the right of people to be treated equally.

There are eleven (11) different types of discrimination. These are age, disability, equal pay/compensation, genetic information, national origin, pregnancy, race/color, religion, retaliation, sex, and harassment.

Fifty years after the legislation protection for older workers, bias is on the rise in job recruiting. There are questions and “required documents/documentation” by job interviewers that can help reveal the applicant’s age-- asking about age, viewing a driver’s license, asking about high school graduation date, etc. Even though some applications inform you that you do not need to answer their discriminatory questions, the statement is often added to encourage answering these questions greatly. These questions are often/can be an effort to covertly intimidate to acquire discriminatory answers or an intentional plan to discriminate. Don’t be afraid to mention that you realize the question is considered legally discriminatory—then, answer only if you choose to answer! Know that many possible questions might test your knowledge as a potential employee about discriminatory laws. When you hear a discriminatory question, always comment about your awareness of the possible attempt to discriminate. Just the fact that the interviewing committee/person is aware of your discriminatory astuteness is a significant indication of your intelligence!

You must know (at least) the following laws that help protect employees and employers from discrimination. The EEOC enforces these laws. It also provides oversight and coordination of all federal equal employment opportunity regulations, practices, and policies.

The Equal Pay Act of 1963 is intended to protect against sex-wage discrimination. It means equal pay for equal work as it relates to job content. It is illegal to discriminate based on sex regarding fair and equal pay and benefits in any aspect of employment. It includes overtime pay, bonuses, vacation pay, retirement benefits, and fringe benefits. Exceptions to this law are bona fide seniority, quality or quantity of production, experience, education, and training. (www.wisegeek.com)

Civil Rights Act of 1964 states that job requirements are uniformly and consistently applied to people of all races, color, religion, sex, and national origin.

Age Discrimination in Employment Act (ADEA) of 1967 and the Older Worker’s Benefit Protection Act protects individuals of companies of 20 or more employees who are 40 years of age or older. Age Discrimination means treating an applicant or employee less favorably because of his/her age. It prohibits discrimination in any aspect of employment—hiring, firing, pay, job assignments, promotions, layoff, training,

benefits, job assignment, training, or any other condition of employment. It is not illegal to favor an older worker over a younger worker, even if both workers are 40 years or older. It is generally unlawful to include age preferences, limitations, or age specifications in job notices or advertisements unless shown to be a bona fide and reasonable occupation qualification. (U.S. Equal Employment Opportunity Commission)

The Civil Rights Act of 1991, among other things, provides monetary damages in cases of intentional employment discrimination.

Genetic Information Nondiscrimination Act (Title II) of 2008 prohibits employment discrimination based on genetic information about an applicant, employee, or former employee. It bars employers from using an individual's genetic information when hiring, firing, job placement, or promotion decisions.

Americans with Disabilities Act (ADA) (Title I) of 2009 prohibits employment discrimination against qualified individuals with physical disabilities that limit one or more major life activities, who have a history or record of an impairment, or is perceived by others to have such an impairment. The ADA does not state all the impairments that are covered. The requirement is for employers or religious entities with 15 or more employees. It provides qualified individuals with disabilities an equal opportunity to benefit from a full range of employment-related options available to others. It restricts questioning about an applicant's disability before a job offer is made and requires an employer to make reasonable accommodations regarding mental or physical limitations unless it results in an undue hardship. (A Guide to Disability Rights Laws).

National Origin Discrimination is an employment policy or practice applying to everyone regardless of race or color. It involves treating people (applicants and employees) unfavorably because they **appear** to be of ethnic background, ethnicity, or accent or because they appear to be of a certain ethnic background (even if they are not). National origin discrimination also can involve treating people unfavorably because they are married to (or associated with) a person of a certain national origin. The law forbids discrimination regarding any aspect of employment, including hiring, firing, paying job assignments, promotions, layoff, training, fringe benefits, and any other term or condition of employment. Harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision such as being fired or demoted. (U.S. Equal Employment Opportunity Commission)

Race/Color Discrimination Involves treating someone (an applicant or employee) unfavorably because he/she is of a certain race or because of personal characteristics associated with race (such as hair texture, skin color, or certain facial features). Race/color discrimination also can involve treating someone unfavorably because the

person is married to (or associated with) a person of a certain race or color. Discrimination can also occur when the victim and the person who inflicted the discrimination are of the same race or color. The law forbids discrimination when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training fringe benefits, and any other term or condition of employment. Harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision such as being fired or demoted. (U.S. Equal Employment Opportunity Commission)

If there is a test to be considered for employment, the test must be about the *job's specifics*.

Just because there is a job interview, do not take the interview invitation to indicate that employment will occur. Recognize the signs of a legitimate vs. fallacious interview. A fair interview means that there is a legitimate chance of being employed. A fallacious interview implies that even though an interview occurs, someone (most likely) has already been selected to be employed or promoted to that position. Fallacious interviews are quite common since some facilities have policies and, possibly, an accrediting body expectation that requires a certain number of potential employees to be interviewed before the final determination of hiring.

If the interviewing committee makes it known that your job qualifications are not met, ask why! After all--the application and resume provided the information before the interview. Have the reviewing committee members tell you the qualities they expect in the potential employee. That way, it offers an opportunity to explain the required qualities that were, possibly, overlooked by the reviewing committee.

Some interviewing committee members will ask questions that are discriminatory, but are covert, subtle, or even concealed in the type of questions they ask. For example: Instead of asking directly about where a potential employee was born, the question might be about where did you grow up? Another common question to determine age is, "When did you graduate from high school?" These are often disguised in very friendly language and demeanor. The astute potential employee should be smart enough to recognize any diversion intended to prompt the disclosure of discriminatory information. No response is required. Merely use the technique of redirection of the conversation to talk about something else.

The interviewing process is an educational process to see and more fully understand a facility/organization's employees' choice. Consider the ability and desire to work with these individuals! The legitimate concern about an illegal interviewing behavior (or no interviewing opportunity) should encourage acquiring their name and their supervisor's name unobtrusively. Discriminatory interviews are reportable but should be done initially at the lowest level—that is, bringing it to the attention of the person who attempts to discriminate and, after that, to their supervisor if you deem necessary. *Most of the time, interviewers do not intend to ask questions that discriminate or behavior in a discriminatory manner!*

Know your ability you offered to the facility/organization. Have pride in being self-aware and having a healthy ego. Say what is correct, not necessarily what you think the interviewing committee wants to hear.

If hired, wonderful! If not, an interview can be a valuable learning experience. Know the worth of your respect, dignity, and empowerment to determine personal employment choices—not always depending on others for approval.

Be gentle with yourself, know the intended objectivity of an interview, and the probable *subjective* outcome by the interviewing committee. Be understanding of the interviewing committee members or a person who will try to perform an *objective* interview. Objectivity (or at least an attempt) is required. The process is time-consuming and requires concentration. Because of the human component, subjectivity will always be integrated into an objective interview attempt.

Human Resource Department (HRD) & Nondiscrimination:

The intended role of H.R. is to maximize the strategic use of human resources and maintain the policy and regulatory compliance within the organization/facility. The extreme susceptibility and increase in discriminatory litigation require every organization/facility to perform active diligence in their knowledge and adherence to nondiscriminatory behaviors. It includes:

1. The informing of others regarding accurate knowledge and acceptance of discriminatory laws.
2. Maintaining excellent communication skills with all employees will send a strong message requiring compliance to discriminatory laws.
3. Relative or friends who feel/act like relatives are often considered discriminatory choices. Evidence of exceptional reasons for hiring should be carefully documented.
4. All applicants meeting the criteria are to be interviewed in like-manner. (Set the criteria to indicate a specific number of applicants to be interviewed to show a nondiscriminatory effort).
5. Application forms should clearly state that there is no intention of using a potential employee's answer to decide the administrative decisions regarding employment in the case of discriminatory questions. Even though there is a general statement of nondiscrimination by the HRD, the application form should include with **each** discriminatory choice a similar box that can be checked indicating a choice by the job applicant not to provide the associated discriminatory information.
6. The message of job nondiscrimination should be office reminders given to administrative staff and potential employees visiting an H.R. office. The visible and explicit reminders (not just codes or numbers) help set a managerial tone of the ongoing intention of nondiscrimination in all aspects of verbal and non-verbal interactions of job employment.
7. Expectations of H.R. staff should also include privacy for every person who wishes to converse about any business or employment opportunity. An invitation to sit down in an office with one or more H.R. employees, closing the door (if needed), listening to any concerns or questions presented, and conducting communication that is verbally and non-verbally supportive is expected of every professional H.R. employee. No lunchroom or foyer conversations are acceptable for business or employment

concerns. No discrimination should be allowed in determining who is important enough for private office consultation or interview.

Every HRD needs to recognize that it (HRD) is usually the first encounter and gateway for potential employees and often the intended end-point for resolving many organization/facility employee concerns/conflict resolutions. Therefore, the concept of nondiscrimination must be known by all who have contact with this department.

Montana Discriminatory Laws (Title 49-- Human Rights Act--Montana Governmental Code of Fair Practices) is the beginning point for any effective H.R. department in Montana. The Montana Human Rights Bureau provides services, investigates, and attempts conciliation of discriminatory complaints. Complaints must be filed within 300 days of alleged discrimination to the Human Rights Bureau.

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