

Labor Letter



Interviewing The Pawn Stars Way

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Viewers of the popular television show "Pawn Stars" (*The History Channel*) know that recently the owner, Rick Harrison, and his father, "the old man," have been interviewing applicants for the night shift. Here is their exchange when the old man sat in on one of the interviews:

Old Man: [to the applicant] "Are you married, son?"

Rick: [to his dad] "You're not allowed to ask that kind of stuff."

Old Man: "Why not?"

Rick: "That's just the laws. Do you understand that?"

Old Man: "I just want to know if he's got kids running around, if he's responsible."

Rick: "You can ask him questions but they have to be pertinent to the job."

Old Man: "If he's got kids it's pertinent to the job, for he needs to feed 'em."

Rick: "You're not allowed to ask them if they've got kids."

Old man: [frustrated] "Well, why are we even interviewing him if I can't ask questions?"

So Much To Avoid

No doubt, many of our readers have felt the same frustration that the senior Mr. Harrison did. Sometimes an interviewer, in trying to make an applicant feel comfortable, discover common ground, or simply be friendly, may ask about the applicant's family, outside interests, or background. While in a social setting these types of questions are good icebreakers, in a business environment inquiries like that can open your company up to possible lawsuits. Here's a quick checklist with some common sense guidelines to help avoid the hot spots.

Age

Questions about age, date of birth, date of graduation from high school, or other inquiries that are designed to determine a person's age, are inappropriate. In those very few cases when age does matter –for example, when federal or state law requires a person to be over the age of 18 to operate dangerous equipment –then it is appropriate to confirm age. Absent a direct nexus to job functions, inquiries about age are never appropriate in an interview.

Children

Avoid questions about status as a parent, plans regarding future children, daycare arrangements for existing children, plans to marry, etc. Inquiring into these aspects of life are almost always regarded as gender discrimination (because women are generally the only ones asked), or harassment, and should never be made.

You may permissibly ask an applicant whether there is anything in his or her life that might interfere with work hours. For example, asking a female applicant if her daycare obligations might require her to leave at 5:00 p.m. every day could likely be gender discrimination. On the other hand, asking the same person if there is anything about her personal life that might interfere with the performance of occasional overtime is neutral and entirely acceptable so long as the job features occasional overtime, and the inquiry is made of all applicants.

Health

Disabilities and medical conditions are areas that require sensitive handling. It is generally inappropriate to inquire about disabilities, diseases, or health status. If an applicant volunteers this information, you may receive it, but should not act on it, unless an applicant indicates that he or she needs a job accommodation. In that case, it's acceptable to ask any related questions necessary to understand the limitations that the person is describing.

For example, asking if an applicant has back problems that will prevent him from lifting heavy equipment and supplies is inappropriate. But explaining to that person that an essential function of the job requires that he be able to repeatedly

lift over 50 pounds, and asking whether he can perform this essential function with or without a reasonable accommodation is permissible.

Ethnicity

Ethnicity and race are not performance-related, and are always inappropriate. An applicant's national origin is completely irrelevant to job performance and is never a safe area for inquiry or discussion. But to the contrary, inquiring about language skills necessary to the job may be appropriate.

Religion

Religious beliefs or religious affiliations are generally not proper topics for interviews. With rare exceptions, no employer may require employees to espouse any particular religious belief in the workplace, so discussion of religious beliefs in an interview setting is not appropriate. But if an applicant volunteers that he or she engages in a religious observance that would require accommodation (e.g., "I can't work on certain days"), you may obtain enough information to understand the needed accommodation. All inquires, responses and processing of this information should be handled cautiously.

Unions

Asking an applicant for his or her views on labor unions is illegal. Whether your company works with unions or not, this is an inappropriate area of inquiry. If you want to make your own feelings about unions known, you may lawfully do it, and you may explain the company's preference for remaining union free – but be careful to stop it there. If you solicit the employee's opinion about unions and then he or she isn't hired, you could be creating real problems.

So What Can I Talk About?

Take Rick's advice. Always focus on job-related topics to keep yourself out of trouble. Provide information to the applicant about the company and its culture, essential aspects of the job, what is required for job performance, and industry standards that are appropriate to a particular job.

You should also obtain job-related information from the applicant, such as the applicant's work experience, educational background, job objectives, and attitude towards the particular position. Just remember that personal information such as social associations, religious beliefs, family traditions, living arrangements, marital status, parental status, health, union views etc., are generally unrelated to work performance.

You don't want to end up pawning your valuables to pay for court costs!

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