

HIRING PROCESS – HUMAN RIGHTS TIPS FOR EMPLOYERS

Applications and employment interviews are designed to learn about the suitability of people for positions in the workplace. However, sometimes the information sought may not be relevant to the job being filled, and may unintentionally create a potentially discriminatory situation. If an employer asks questions that are not directly related to the necessary requirements for the job (“bona fide occupational requirements”), and relate to some of the grounds of discrimination listed in the Yukon *Human Rights Act*, then the employer may be open to complaints of discrimination by unsuccessful candidates. This area of the law is constantly changing and it is important for employers to be aware and have up-to-date information.

(This is a general guide only. The Yukon Human Rights Commission welcomes your inquiries and all information is available at no charge. Visit us at 101 – 9010 Quartz Road in Whitehorse or phone 1-800-661-0535 or 667-6226.)

Following are some general tips about the kinds of information that employers might address in interviews and application forms, and when making your selection:

SUBJECT	OKAY	DONT ASK
Sex, sexual orientation marital status, family status	Availability for shift work, travel, or transfer After hire: Information can be requested if required for pension/ benefits plan, tax purposes, or notification of kin in case of emergencies.	Plans for marriage, pregnancy, family childcare, applicant’s spouse or any inquiries specific to sex, sexual orientation or marital or family status. Don’t ask a woman for her last name at birth
Race, colour, ancestry or place of origin	Legally permitted to work in Canada After hire: Birth certificate for enrolment in benefits plan or photograph for security passes.	Place of birth, citizenship status, racial origin, ancestry, next of kin
Age	Ask if it is a genuine job requirement, such as whether they are legally able to serve alcohol. Can hire people younger than 17 years, but employment must not interfere with school attendance if the employee is registered in school. Prohibited from hiring persons under 17 years in certain occupations such as underground mining. (Check with Yukon Workers’	Actual age, date of birth, or requests for birth certificate or driver’s license which indicate age

	Compensation Health & Safety Board which occupations are affected.) After hire: Information for enrolment in benefits and pension plans.	
Religion	Explain shift schedule, ask whether it creates any problems. After hiring: If applicant indicates a need for an adjustment to work schedules, consider whether you can accommodate the request or if it creates "undue hardship" – eg. limited staff in small business, cost, etc.	Whether s/he will work on specific religious holiday, their religious affiliation or ask for reference from religious leader
Disabilities or Medical information	Explain the physical demands or requirements of the job and ask if they're able to do the job. If they mention physical or other limitations, ask what accommodations or modifications could be made to get the job done safely and efficiently. After hiring: Drug testing is only acceptable in exceptional circumstances such as preventing impairment in safety sensitive positions.	Listing of specific disabilities, all limitations or health conditions, whether he/she drinks alcohol or uses drugs, received psychiatric care or worker's compensation or has been injured
Criminal charges or criminal record	Criminal charges or criminal record if there is a job requirement (<i>bona fide occupational requirement</i>) such as security clearance for working with children. If bonding is a job requirement, ask whether the applicant is eligible.	Arrested or convicted of a crime, unless this is specifically related to the requirements of the job to be done or whether he/she has spent time in jail or has a criminal record.
Source of income	No question okay	Don't ask if the person is receiving social assistance or disability pension