

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.

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

(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.)

SUBJECT	OKAY	DON'T 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	Legally old enough to work in Yukon. Permitted to ask if genuine job requirement eg. within an age range to work with youth organization After hire: Information for enrolment in benefits and pension plans.	Actual age, date of birth, or requests for birth certificate or driver's license which indicate age
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, religious affiliation or reference from religious leader

Disabilities or Medical Information	<p>Explain the physical demands or requirements of the job – ask if they would be 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.</p> <p>After hiring: Drug testing is only acceptable in exceptional circumstances eg. preventing impairment in safety sensitive positions.</p>	<p>Listing of specific disabilities, all limitations or health conditions, drinks or uses drugs, received psychiatric care, received worker's compensation or has ever been injured.</p>
Criminal charges or criminal record	<p>Criminal charges or criminal record if there is a job requirement (bona fide occupational requirement) eg. security clearance for working with children. If bonding is a job requirement, ask whether the applicant is eligible.</p>	<p>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.</p>
Receipt of social assistance		<p>Don't ask if the person is receiving social assistance or disability pension</p>