

IIT General Counsel's Office Educational Program

Introduction

José Padilla

IIT General Counsel's Office Educational Program

Staff Employment Issues

Part I

General Principles

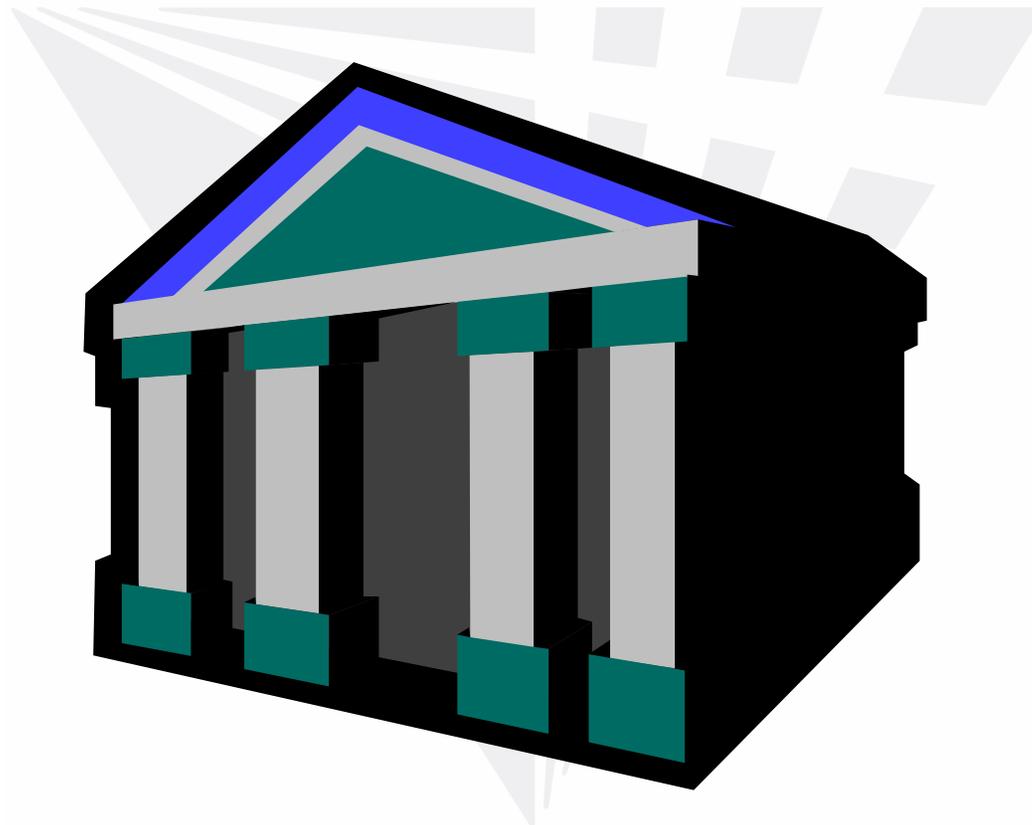
Candi Miranda

General Principles

- Employer must be familiar with Federal, State and local laws that prohibit discrimination.
- Process must be tailored to screen candidates and gauge their skills while avoiding inappropriate and discriminatory questions.



Overview of Federal Laws that Prohibit Discrimination



Title VII of the Civil Rights Act of 1964

- Prohibits employment discrimination based on race, color, religion, sex or national origin.
- Prohibits discrimination against an applicant because of birthplace, ancestry, culture, or linguistic characteristics common to a specific ethnic group.

Title VII of the Civil Rights Act of 1964

- Employers must reasonably accommodate religious beliefs of an employee or prospective employee.
- Prohibits sex discrimination, sexual harassment and discrimination based on pregnancy.

Age Discrimination in Employment Act of 1967

- Protects individuals who are 40 years of age or older from discrimination based on age.
- Age limit may be specified only where age has proven to be a bona fide occupational qualification.

Americans with Disabilities Act of 1990

- Prohibits employment discrimination against qualified individuals with disabilities.
- A “qualified” individual is an applicant or employee with a disability who satisfies the requirements for the position and can perform the essential functions of the position with or without reasonable accommodation.

Americans with Disabilities Act of 1990

An individual with a disability is a person who:

- Has a physical or mental impairment that substantially limits one or more of the major life activities;
- Has a record of such impairment; and
- Is being regarded as having such impairment.

Americans with Disabilities Act “Reasonable Accommodations”

Reasonable accommodations may include making existing facilities readily accessible, job restructuring, modification of work schedule, modifying examinations, training materials and policies; and providing readers or interpreters.

Vietnam Era Veterans Readjustment Assistance Act of 1974 (VEVRAA)

- Prohibits discrimination against employee or applicant because he/she is a special disabled veteran or veteran of the Vietnam era.
- Includes employment practices such as recruitment, hiring, compensation, job assignments, promotion, leaves of absence, training, etc.

Practical Applications

Advertising and Interviewing Practices

Beverly Perret

Advertising Practices

- Advertisements may not include any discriminatory job descriptions.
- Job descriptions should not directly or indirectly refer to a protected characteristic.
- For example, may not advertise that the position is limited to candidates who are under a certain age, *recent college graduates*, *college students*, *girl*, etc.
- “EOE” should be used in all advertisements.

Interviewing Practices

- Overriding principle is that applicants should only be asked job-related questions.
- Interviewer should ask him or herself whether the question is really needed to assess the applicant's qualifications and skills.
- The EEOC has issued Pre-Employment Inquiry Guidelines that address interview questions that may discriminate against candidates in violation of the law.

Improper Interview Questions

- **Race** – No job-related reasons to inquire about race.
- **Religion** – No job-related considerations to justify questions about religious convictions.
- **Gender** – Generally no job-related reason to inquire about an applicant's gender. Also unlawful to discriminate based on pregnancy, plans to have children, marital status or number of children

Improper Interview Questions

- **Sexual Preference** – Discrimination prohibited under state and local law. No job-related reasons to inquire about sexual preference.
- **Height and/or Weight Restrictions** – Questions only appropriate where a relationship to a specific job requirement can be demonstrated.
- **Age** – Should not ask age during an interview. Permissible for interviewer to ask whether the applicant is 16 or older.

Improper Interview Questions

- **Arrest and Conviction Record** – Questions regarding an applicant’s arrest record are improper. May ask whether applicant has ever been *convicted* of a crime.
- **National Origin** – May not ask an applicant where she was born or where her parents were born.
- **Financial Status** – May not ask whether applicant owns or rents a home or car.

Improper Interview Questions

- **Military Record** – May not ask what type of discharge the applicant received from the military.
- **Disability** – May not ask whether the applicant has a particular disability. Only permissible to ask whether or not the applicant can perform the duties of the job description. Don't ask whether a person with a visible disability will require accommodations.



Overview of IIT Hiring Policies

José Padilla



Equal Opportunity and Affirmative Action Policy A. 1.00

- It is the policy of the University to provide equal employment opportunities to all employees and job applicants.
- Applicants and employees are treated during employment without regard to their race, color, religion, sex, age, marital status, national origin, veteran status, physical or mental disability, or sexual orientation.

Equal Opportunity and Affirmative Action

Do IIT's Affirmative Action requirements prevent me from hiring the best qualified individual?



Requisition and Recruitment Policy A. 2.00

- A Personnel Requisition must be initiated by the hiring department and delivered to HR before any action is taken to consider an applicant for a position.
- HR reviews the requisition and job description to ensure that qualifications, including specified education or experience requirements, are demonstrably related to the job.
- For most jobs, position must be posted for a minimum of five days before an offer is made.

Evaluations and Selection

Policy A. 3.00

- HR should provide the initial screening of applicants by review of applications and resumes, telephone contact and/or in-person interviews.
- Evaluation and selection must be based upon the abilities and qualifications of the applicants in compliance with federal, state and local laws.
- Employment of people under 16 is prohibited. Must be 18 for hazardous work.
- Any tests used for screening or evaluating applicants must be reviewed by HR.

Evaluations and Selection

Policy A. 3.00

- Employment is contingent on satisfactory references and confirmation of information provided in the application or resume.
- Certain positions for which it is relevant require a criminal background check and/or credit history examination.
- Only HR is authorized to make a commitment of employment.

Employment of Relatives

Policy A. 5.00

- The University will employ the relative of an employee provided the individual is the best-qualified candidate for employment. The recommendation to hire must be approved by HR.
- The hired relative will not be assigned work, which permits one of the relatives to direct, review, or evaluate the work of the other.

Employment of Foreign Nationals Policy A. 6.00

- In compliance with federal regulations, U.S. citizens and permanent residents are given preference in employment over applicants who are in the United States on non-immigrant visas.
- Any candidate holding a non-immigrant visa, who is offered employment must furnish evidence of employability and proper visa status.
- INS Form I-9 required for all new employees.

Overview of Required IIT Forms

- Personnel Requisition
- Application for Employment
- Voluntary Affirmative Action Information
- Applicant Information Sheet
- Telephone Reference Check
- Payroll/Personnel Authorization

Group Exercises

Candi Miranda

- Evaluating a Job Description
- Job Interview Scenario

