



CHANGING
Maryland
for the Better

**EQUAL EMPLOYMENT
OPPORTUNITY INTERVIEW
PANEL BRIEFING -
A GUIDE TO BEST PRACTICES**

Structured Interview Objectives

- To eliminate potentially discriminatory interview practices.
- To encourage uniformity in conducting job interviews throughout the organization.
- To enhance awareness of high-risk pre-employment questions and how they may become discrimination complaints/charges.
- To provide a mechanism for documenting the results of the interview.

Purpose

- Increase validity and reliability.
- Reduce subjectivity and inconsistencies.
- Increase the likelihood of adherence to equal employment opportunity laws.

Structured Interview Steps and Guidelines

- *Interview panel required for positions of Grade 16 and above – FOR DHMH ONLY.*
- Job description, or MS 22, reviewed for accuracy, needed revisions.
- Identify the knowledge, skills, and abilities (KSA's) necessary to perform the duties of the position.
- Form a racially and gender diverse interview panel with at least three members.

Structured Interview Steps and Guidelines

- All the panelists do **not** have to be employees of the same State agency.
- All panelists **must** receive the EEO Interview Panel Briefing.
- Applicants are to be rated quantitatively (*using a numerical scale- e.g., 1 being unsatisfactory and 5 being exceptional*).

Structured Interview Steps and Guidelines

- Interview questions must be based on the identified KSA's necessary to perform the essential functions of the position.
- Each panelist must ask the same question(s) of every candidate.
- Each panelist must complete an individual evaluation of each candidate.
- The panel must conduct a consensus evaluation of each candidate, including an overall rating of each one.

Structured Interview Steps and Guidelines

Documentation should include:

- Each panelists' individual evaluation of each candidate (with the panel member's printed name and signature, date of the interview and interviewee's name);
- The panel's consensus evaluation (with all the panel members' printed names, signatures, date, date of the interview, and interviewee's name), and;
- A summary which lists the overall ratings the panel agreed on for all interviewees.

Structured Interview Steps and Guidelines

- Hiring authority may participate on the interview panel.
- If the hiring authority is not on the panel, the panel gives its hiring recommendations to the hiring authority.
- The person making the hiring decision could then interview the recommended candidate(s) and make a selection **or** accept the panel's recommendations without a subsequent interview.
- Evaluations of the applications and evaluations of those interviewed should be saved for at least **FIVE (5) years**, to ensure availability for possible discrimination charges and/or lawsuits.

Structured Interview Steps and Guidelines

For Positions Grade 15 and Below

An interview panel is not required but it is recommended for grades 15 and below. The process would be identical to the process detailed for positions Grade 16 and above. If a panel is not used, the individual doing the interviews and selection should follow the same process detailed for positions Grade 16 and above.

EEO: Federal Law Covered Bases

Prohibits discrimination on the basis of:

- Age
- Color
- Disability (mental or physical)
- Genetic information
- Marital status
- National origin
- Race
- Religion
- Sex (includes pregnancy and sexual harassment)
- EEO-related retaliation

EEO: Maryland State Law Covered Bases

Prohibits discrimination on the basis of:

- Age
- Ancestry
- Color
- Creed
- Disability (mental or physical)
- Gender identity & expression
- Genetic information
- Marital status
- National origin
- Race
- Religion
- Sex (includes pregnancy and sexual harassment)
- Sexual orientation
- EEO-related retaliation

Illegal Questioning

Inappropriate questions during an interview, referencing any of the Federal and/or State covered bases, may limit or restrict a person's employment opportunity and can ultimately lead to complaints of discrimination.

Discussions with an Applicant

Be cautious when speaking or “chatting” with an applicant. **Never** make verbal promises (e.g., salary, raise, and bonus) or job offer during an interview; this act may be deemed as a verbal contract between the organization and the applicant.

Pre-Interview Information

In lieu of discussions with the applicant, provide the applicant with informational materials about the organization, such as:

- A summarized version of the MS-22, if not given to the applicant prior to the interview;
- Hours of work;
- Whether overtime/driver's license/overnight travel is required;
- Leave accrual (sick, annual, personal) and;
- List of state paid holidays.

Interview Questions

- Questions should be clearly worded.
- Ask one question at a time.
- Avoid wording questions in a manner that suggests the desired response.
- Use language appropriate to the candidate and the job - avoid government jargon (**ACRONYMNS**).
- Consistently administer the identical process to all candidates.

Interview Questions

Errors to avoid during an interview include:

- Prejudgment;
- Stereotyping; and
- The “Halo Effect” (allowing a single prominent characteristic to overshadow all others).

Location and Schedule of Interviews

- Select a location and space that is accessible for candidates with a disability.
- The space should offer sufficient privacy and be free from noise and other distractions.
- The space should be large enough to comfortably accommodate the interviewers and interviewee.
- Schedule the interviews to allow sufficient time to ask questions, record notes, and for the panel to discuss and rank an applicant immediately following the interview.

Pre-Employment Inquiries

Age or Date of Birth: Age related questions can lead to discrimination complaints under the Age Discrimination in Employment Act (ADEA).

Don't Ask:

- How old are you?
- What is your date of birth?

May Ask:

- Are you 18 years or older?

Pre-Employment Inquiries

Disability- The Americans with Disabilities Act (ADA), and its amendments prohibits:

- Pre-employment questions about whether a candidate has a disability or the severity of the disability.
- Pre-employment medical examinations.
- Any identification of a disability by question or examination at the pre-offer stage is prohibited (i.e., Worker's Compensation history or medical history).

Don't Ask:

- General inquiries into the applicant's state of health or the nature and severity of a disability.
- Inquiries into past employment issues or personnel transactions related to an applicant's disability.

Pre-Employment Inquiries

Education: Dates of school attendance could reveal the applicant's age and create a potential ADEA charge.

Don't Ask:

- Date applicant attended any school.



May Ask:

- How many years of educational experience or level of education attained.

Pre-Employment Inquiries

Arrests: An arrest is not an indication of guilt. Some demographic groups have suffered more arrests than others.



Don't Ask:

- It is NOT acceptable to inquire into an individual's arrest(s), since under our judicial system, individual's are presumed innocent until proven guilty.

Pre-Employment Inquiries

Convictions: It is acceptable to inquire about an applicant's conviction record for “security sensitive” positions. Security sensitive jobs include not only the obvious (i.e., treasurer, cashier, etc.), but peripheral positions as well- janitor, typist, drivers, or other positions where the employee would be working near or within security sensitive areas.

Don't Ask:

- Questions about convictions unrelated to the position requirements.

Note: Personnel will make inquiries regarding convictions, as it relates to a position.

Pre-Employment Inquiries

Dependents: The purpose of these questions may be to explore what the employer believes to be a common source of absenteeism and tardiness.

Don't Ask:

- The number and ages of children
- About child care arrangements
- About family planning



Pre-Employment Inquiries

Driver's License: Inquiries could be perceived as discriminatory against a certain group, if having a driver's license is not job related.

Don't Ask:

- Whether applicants have a valid driver's license, if not applicable to the job.

May Ask:

- It must not be asked of all applicants. It is only appropriate to ask, if driving is necessary for the position.

Pre-Employment Inquiries

Financial Status: Inquiries about an applicant's financial condition, home or car ownership (unless owning a car is required for the job for which s/he is applying for), have been found to result in discrimination against minorities since more non-whites than whites are below the poverty level.

Don't Ask:

- Questions about an applicant's credit rating, financial status, bankruptcy proceedings, or past garnishments.



Pre-Employment Inquiries

Height and Weight Standards: Minimum height and weight requirements could adversely affect certain groups, and therefore are illegal.

Exception: If the employer can demonstrate that the standard is reasonably necessary for the functions of the particular job.

Don't Ask:

- How tall are you?
- How much do you weigh?



Pre-Employment Inquiries

Marital Status: Some employers refuse to hire applicants because of their marital status. This would be a violation of Title VII.

Don't Ask:

- Are you single, married, divorced, or widowed?
- Is that a Miss or Mrs.?
- What is your spouse's name?



Pre-Employment Inquiries

Military Service: Questions about military service are acceptable, but questions about the nature of the discharge may be considered discriminatory.

Reason: Some ethnic groups have received a higher proportion of general and dishonorable discharges.

Don't Ask:

- About foreign military experience
- Dates, conditions, and types of discharge
- Draft classifications

May Ask:

- Job-related questions into military experience in the U.S. Armed Forces or state militia (e.g., branch, occupational specialty)

Pre-Employment Inquiries

Name: Questions and comments about an applicant's name could reveal applicant's national origin or marital status.

Don't Ask:

- Have you ever changed your name?
- What was your name before it was legally changed?
- What is your maiden name?

May Ask:

- Have you ever worked, or been educated under another name (e.g., licensed physicians, other medical professionals, or positions requiring certification or licensure)?

Pre-Employment Inquiries

National Origin: The Immigration Reform and Control Act (IRCA) and Title VII of the Civil Rights Act prohibits discrimination based on national origin (includes ancestry).

Don't Ask:

- Questions about applicant's lineage, ancestry, national origin, descent, place of birth or mother tongue, national origin of applicant's parents or spouse.
- How applicant acquired ability to read, write or speak a foreign language.

May Ask:

- Inquiries into an applicant's **ability** to read, write and speak English or foreign languages, when required for a specific position.

Pre-Employment Inquiries

Citizenship, Birthplace: Title VII of the Civil Rights Act of 1964, prohibits discrimination on basis of nation origin (includes ancestry).

Don't Ask:

- Whether applicant, parents, or spouse are naturalized or native-born U.S. citizens.
- Birth place of applicant, parents, or spouse.
- Requirement that applicant produce naturalization papers.

May Ask:

- After employment, verification of legal right to work will be conducted for all new hires.

Pre-Employment Inquiries

Photograph: Can be an indicator of race, color, national origin, possible marital status, disability, religion and/or sex.

Don't Ask:

- May not request a photo ID before hire.

May Ask:

- May request after hire (for identification purposes).

Pre-Employment Inquiries

Professional Associations: Affiliation in a particular organization can be an indication to the employer of an applicant's race, religion, etc.

Don't Ask:

- For the names of all organizations, clubs, and associations to which an applicant belongs or inquiries regarding how an applicant spend his/her spare time.

May Ask:

- Questions regarding membership in job-related organizations.
Note: the applicant may omit those which may reveal his/her race, religion, age, sex, disability, etc.

Pre-Employment Inquiries

Race and Color: Title VII prohibits discrimination in employment based on race and color.

Don't Ask:

- Questions regarding applicant's race; color of applicant's skin, eyes, hair, or other questions directly or indirectly indicating race or color.



Pre-Employment Inquiries

Relatives: May reflect for the interviewer national origin, marital status, and/or family status. This inquiry becomes unlawful when hiring preference is given to relatives of employees at a time when minorities are under-represented in the organization's workforce.

Don't Ask:

- Requests for the names and addresses of any relatives other than those working for the organization the applicant is applying to.

May Ask:

- Name of applicant's relatives already employed by the organization to avoid potential familial, supervisory chain of command

Pre-Employment Inquiries

Religion: Title VII prohibits discrimination on the basis of religion.

Don't Ask:

- Applicant's religious denomination or affiliation, or religious holidays observed, nor any questions that would indicate or identify religious customs or practices.

May Ask:

- Questions regarding religious accommodations are acceptable after hire.

Pre-Employment Inquiries

Availability for Saturday or Sunday Work (pertaining to religious discrimination):

Although you may want to know about an applicant's availability for Saturday or Sunday work, the answer may not do you any good because an applicant's religious observance may make him/her unavailable for weekend shifts, this fact cannot be used in any hiring decision. Title VII requires employers to make "reasonable accommodations" even for a "prospective employee's religious observance", unless it causes an undue hardship.

Pre-Employment Inquiries

Residence: Such questions might be perceived as discriminatory if used in the selection process.

Don't Ask:

- Do you rent or own your home?
This can denote economic class.
- Names and relationship of persons with whom the applicant resides.



May Ask:

- Inquiries about the applicant's address needed for future contact with the applicant.

Pre-Employment Inquiries

Sex: Title VII prohibits discrimination on the basis of sex, except in the few instances in which sex may be a bona fide occupational qualification (BFOQ). The Pregnancy Discrimination Act is part of Title VII.

Don't Ask:

- Are you pregnant?
- Do you have any children?
- Are you planning a family or do you use birth control?



Pre-Employment Inquiries

Availability for weekend or evening work (pertaining to sex discrimination):

Impact: Applicants with families- particularly women.

It is lawful to inquire about an applicant's availability for evening and/or weekend work provided that the inquiry is made of both male and female applicants and provided that the person occupying or who occupied the position is doing or has done the job, works evenings and/or weekends, or that a definite change in schedule is being implemented.

Pre-Employment Inquiries

Sexual Orientation: Selections should be based on job-related reasons and not sexual orientation.

The **Governor's Executive Order 01.01.2007.16, Code of Fair Employment Practices** prohibits such discrimination.

Don't Ask:

- Any questions concerning an applicant's sexual orientation (e.g., heterosexuality, homosexuality, or bisexuality).



EEO Best Practices

- To develop a workforce that mirrors the demographics of the civilian labor workforce.
- Employers are not mandated to select a candidate of a particular gender, race, or other demographic group.
- Agencies are to make every effort to ensure a diverse workforce through recruiting, hiring, and retaining under-represented groups.

This is a living document that will be revised and updated to reflect changes in all appropriate laws, regulations and policies, as necessary.

Please continue to the quiz by clicking the link below:

<https://www.surveymonkey.com/r/8Y5QBBR>

You will be redirected to a new window.