



4 STEPS TO A LEGAL HIRING PROCESS

Your hiring practices can get you sued.
These are some ways to avoid it.



Avoid Getting Sued

When you think about the business implications of hiring and screening candidates, you usually think in terms of who is going to succeed at the job, who is a good fit for the company, who will stay there through thick and thin, and who will offer the best talent, all at the lowest cost.

While these are legitimate concerns, focusing solely on these aspects can put your company at risk when the the legal implications that come with hiring come up to bite you.

You may not think aspects of your hiring process are discriminatory, or maybe you haven't even given your hiring process a good audit in a few years, but it'll hit you when you're slapped with a negligent hiring or discrimination claim by a rejected applicant.

The 4 Steps

What is the best practice when it comes to avoiding a Negligent Hiring claim or Discrimination lawsuit? Pull a “Little Red Riding Hood” and leave yourself a trail of bread crumbs. Documenting is key. Show that you have legitimate reasoning behind all aspects of your process. Then look at the stages of hiring and break down the aspects that can get you sued.

The stages in your hiring process:

-  **The Application**
-  **The Screening**
-  **The Interview**
-  **The Offer**



The Application

STEP 1

The first point of the screening process for any organization is the application stage, but it's also the first part of your hiring process where things can go wrong.

The typical intake process involves designing a cleverly-crafted job description and stand-out posting that top-tier candidates will gravitate towards. Having the candidate fill out the application gives you a shield of protection from a potential **Negligent Hiring claim**.

NEGLIGENT HIRE

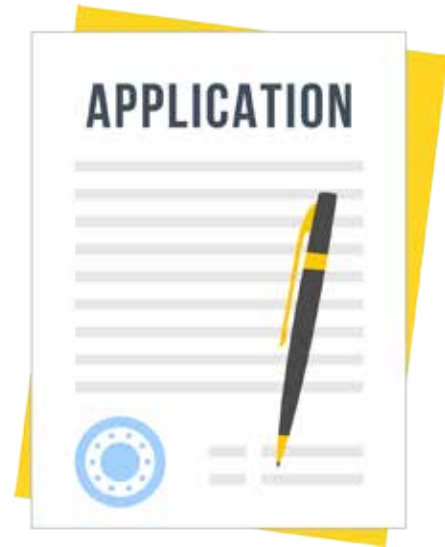
Definition: Person can't do the job and you hire them anyway.



Your applications should be reviewed every couple of years. Laws change. If you do not review regularly, you could wind up asking questions that were legal when you created the application, **but are not legal now.**

Application Questions

You will also want to review your application's questions. Vague, non-descriptive questions will lead you down that Negligent Hiring claim road. Asking questions that target past education and past employment — for example — as well as large breaks in employment, will raise red flags.



References

Make sure that you have permission from the applicant for any questions related to the job that you might ask in a reference check. With a reference check, make sure that you are clear about whether you are asking personal reference questions or employment questions. These also do not need to be done before an offer.

The Screening

STEP 2

Companies get hundreds of applications for a posted position. You cannot reasonably be expected to read and respond to every one. In most cases, only a small subset are read and considered.

There are many ways to filter candidates to make sure they are the right fit, but sometimes your screening tool can get you sued.

How can my pre-hiring screening tool get me into trouble?

Some tools are not scientifically validated for hiring and selection. It is important to differentiate a tool that gives you an assumption about how someone might interact at work, and one that specifically tailors results against the job role.



Tools like The Predictive Index provide a scientifically validated assessment that determine behavioral drives and needs, all proven to predict workplace performance.

The Interview

STEP 3

After screening a number of applications, you will typically arrive at one or more that you feel are ready for a formal interview.

Interviews often evolve into normal conversation. Here, without a script, you can end up in deep waters that can hide potential liabilities. Asking questions about things as innocuous as child rearing and pregnancy can expose you to threats of gender discrimination. Questions that could reveal the applicant's age can cause age discrimination concerns.



Ask the right questions

Make sure that every question is related to the skills needed for the job at hand. A language question could be relevant when the ability to speak more than one language is a necessity in the position. If it is not, it's better not to ask.

Leave a paper trail

Document the interview and how you intend to structure your interaction with the candidate. Keep the relevant questions you plan on asking on record and describe your reasoning behind the questions.

The Offer

STEP 4

After your search for top talent is complete, it's time to make the offer. Although your extensive hiring process has reached an end, that doesn't mean those pesky legal troubles aren't hiding around the corner.

Be clear

Clearly document the candidate's offer in writing. Any disclaimers or conditions in regards to the position need to be openly defined with the offer. Lay it out. Be clear as to what this new hire is getting themselves into.



Give notice for further screening

The screening process may not be over. Many employers require skills assessments, drug tests, and reference checks after the job offer. Be sure to make the candidate aware of any other further background screening that your organization conducts before the official start date.

Leave a bread crumb trail

At every stage of the hiring process, ensure you are keeping a bread crumb trail, something to look back on, tracing your hiring-process steps. You know the reasoning for the various stages of your hiring process and why they are necessary for the success of your people and your organization. It's just a matter of keeping up to date with the changes in the law, auditing your hiring process every few months, and creating a detailed record of how your organization conducts the hiring and selection of employees.



www.predictiveindex.com

Screening employees for hiring with The Predictive Index is a step in the right direction due to its scientific validity and specific job targeting. Create a job target and compare your candidates to the behavioral and cognitive requirements set for the job, avoiding any bias along the way.

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