

IWIF

# FOUR STEPS To Implementing Effective Hiring Practices



**IWIF & YOU**  
**Guiding**  
**A SAFE**  
**WORKFORCE**

# Introduction

The Injured Workers' Insurance Fund is dedicated to providing our policyholders with the best services available and to supporting those services through education and practical guidance.

Securing a safe work environment for your employees involves many elements. Establishing effective hiring practices will take you one step closer to your goal of making your business a safer place to work.

**This guide is designed to provide general information on hiring practices. This guide should not be used as a substitute for professional services.**

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## **Step One: Publicize the Opening**

The prospect of hiring a replacement for a departing employee, or the creation of a new job, need not be a difficult task. View it as an opportunity to create work for another person, and possibly bring new ideas into your business. You should take advantage of the several different ways you can start the process of searching for the right individual.

There are at least six (6) options to help you spread the word that you have an employment opportunity available. The following points illustrate the advantages and disadvantages of each option:

### **A. In-house Posting:**

#### **Advantages**

1. Provides career growth opportunities for current employees.
2. Job search can begin quickly.
3. No advertising costs.
4. Often effective because current employees know the job and know of qualified prospects.

#### **Disadvantages**

1. Reaches limited number of prospects.
2. Tends not to aid in diversifying the workforce.
3. Does not bring in new skills from the outside.

### **B. Private Employment Agency:**

#### **Advantages**

1. Can reach target applicants from a wide geographical area.
2. Can locate difficult to find skills.
3. Can increase diversity in applicant pool.
4. Does not require staff to screen inquiries.

#### **Disadvantages**

1. Entails costs of commission.
2. May take longer.

## **C. Job Service (Unemployment Office)**

### **Advantages**

1. Reaches large numbers of potential candidates.
2. Inexpensive — no advertising costs and no need to screen applicants.
3. Can increase diversity in applicant pool.

### **Disadvantages**

1. Targets only unemployed, not those wanting a job change.

## **D. College/University/Trade School/High School**

### **Advantages**

1. Can attract recent graduates with state of the art skills.
2. Inexpensive.
3. Helps foster good community relationships if area students are recruited.

### **Disadvantages**

1. Students may lack practical work experience.
2. May delay hiring.
3. Exclusive use of this source is not recommended because it may exclude consideration of older candidates.

## **E. Newspaper/Trade Publication Advertisements**

### **Advantages**

1. Reaches large number of potential candidates.
2. Provides means of reaching minority candidates.

### **Disadvantages**

1. Requires staff to screen responses.
2. Entails advertising costs.
3. May result in time delay.
4. May receive large number of unqualified applicants.

## **F. Non-Traditional Recruitment Efforts (Minority Affiliated Organizations)**

### **Advantages**

1. Targets qualified minority candidates.
2. Inexpensive

### **Disadvantages**

1. May delay hiring.
2. May not reach large number of potential candidates.

## **Step Two: Use a Lawful Employment Application Form**

### **Why use an application form?**

An application form ensures that the employer gets all relevant information from each applicant in a readily accessible, standardized format.

An application form is an effective way of documenting who applied for each opening.

*Legal Note:* State and Federal equal employment opportunity regulations require that employers keep application forms and/or resumes for at least one year.

An application form can put applicants on notice of certain terms and conditions of employment.

### **Tips on Using Application forms:**

Do not hand out application forms or accept applications when there are no job openings.

Avoid unlawful pre-employment inquiries; have application form reviewed by legal counsel for use in each state in which employees are hired.

See Step Four, “Conducting the Employment Interview: What an Employer Can and Cannot Ask Employment Applicants.”

### **Elements of an Effective Employment Application Form:**

#### **1. American Disabilities Act (ADA) Accommodation Statement.**

Front cover or top of application form should state the following:

*“Consistent with the provisions of the Americans with Disability Act (ADA), applicants may request accommodations needed to participate in the application process.”*

Job information, including application forms, should be available in a location that is accessible to people with mobility impairments. Similarly, applicants with visual or dexterity impairments may need assistance in completing application forms.

## **2. Equal Opportunity Employer Statement.**

The front cover or top of the application form should affirmatively state that employer complies with anti-discrimination laws. Some examples:

*“The XYZ Company is an equal opportunity employer dedicated to a policy of compliance with all federal, state and local laws regarding non-discrimination in employment. Questions on this application are not intended to secure information to be used for unlawful purposes.”*

*“Applicants are considered for all positions without regard to race, color, religion, sex, ancestry or national origin, age, or veteran status. In addition, this Company does not discriminate based on physical or mental disability where the essential functions of the job, as reasonably accommodated, do not require such distinction. Questions on this application are not intended to secure information to be used for unlawful purposes.”*

## **3. Employment History.**

Preface request for employment history with instructions that applicants should list each of last (at least four) employers, listing the most recent position first. Applicants should also be directed to explain any periods of unemployment.

Request names and telephone numbers of prior supervisors for reference checking.

Inquire directly whether applicant has ever been terminated or asked to resign from a previous position.

## **4. Certification of Truthfulness of Application Form.**

Require applicants to read and sign a statement that the statements contained in the application are truthful. Suggested language:

*“I certify that all of the statements contained in this application or accompanying forms are true and complete. I understand that any offer of employment is contingent upon a background check. I hereby authorize the Company to investigate all statements contained in my application or accompanying forms, and to contact my former employers. I understand that any false statements, omissions, or misrepresentations will constitute sufficient cause and reason for either refusal to hire or termination from employment.”*

## **5. At-Will Employment Acknowledgment (Non-union positions only).**

For non-union positions, include statement of acknowledgment of at-will status of employment. Suggested language:

*“I understand, acknowledge and agree that unless otherwise expressly agreed to in writing signed by a duly authorized official of the Company, if employed by the Company, my employment will be at will and without fixed term, and that either of us may terminate the employment at any time with or without prior notice and with or without cause. I also understand that this at will employment relationship may not be changed, altered or amended, except with regard to changes in compensation.”*

## **6. Pre-placement Physical Examination Authorization.**

If pre-placement physical examinations are required, consent to the same should be placed in the application form for the applicant to sign. Suggested language:

*“If extended an offer of employment, I consent to undergo a pre-placement physical examination by a health professional selected by the Company. I understand that any offer of employment is contingent upon the results of this post-offer examination.”*

These examinations cannot occur unless the applicant is first given an offer of employment (contingent upon successfully passing the physical).

The employer cannot selectively require applicants to undergo pre-placement physicals, e.g., require only those over a certain age or those with obvious disabilities to be examined. The employer either must require all entering employees to undergo the examination or select certain positions for which all entering employees will be required to undergo examinations.

## **7. Drug Testing Authorization.**

If a drug-screening test is required, consent to the same should be included in the form. Suggested language:

*“If extended an offer of employment, I consent to undergo a substance abuse test in accordance with Company policy. A copy of the company’s substance abuse policy shall be provided to all applicants prior to administering the test.”*

## **Step Three: Systematize Hiring Process**

A well-organized recruitment and hiring process will assist in the efficiency of the process. Moreover, such an organized process is essential to an effective defense of an employment discrimination charge alleging unlawful hiring practices.

### **How Should the Process be organized?**

Maintain file or notebook to document critical information regarding advertising and recruitment efforts for each opening, along with information regarding the application, interview, and selection process.

These recruitment and selection records should be kept for at least one year after position is filled.

#### Contents of Advertising/Recruitment/Selection File:

### **1. Job Opening Record:**

Chronological listing of all job openings, showing when opened, when filled and name of successful candidate.

#### ***Sample Job Opening Record***

<b>Position</b>	<b>Date Open</b>	<b>Date Filled</b>	<b>Name of Hire</b>
Laborer	06/02/01	06/15/01	Pat Jones
Clerk-office	07/15/01	08/25/01	Chris Chen
Sales-inside	08/02/01	09/30/01	P.J. Morris

### **2. Advertisement/Recruitment Record:**

Keep record of all efforts to advertise or recruit for each opening. Keep dated copies of all advertisements and copies of letters sent to agencies, schools, organizations, etc.

#### ***Sample Job Advertisement/Recruitment Record***

<b>Position</b>	<b>Date Open</b>	<b>Advertising/Recruitment</b>
Laborer	06/02/01	In-house posting 06/02/01 Baltimore Sun 06/09-06/12 Call to Job Service 06/09/01
Clerk-office	07/15/01	In-house posting 07/15/01 Baltimore Sun 07/22/01 Community Times 07/22/01 Call to Job Service 07/22/01

### 3. Applicant Flow Log:

Keep copies in a file (or notebook) of application forms received, annotated as to disposition, e.g., “no suitable opening”, “not qualified for open position,” “more” qualified applicant selected.” Do not allow managers to place stray marks on the returned application forms.

Keep in file (or notebook) with application forms, any accompanying resumes, letters of reference, and related correspondence.

#### *Sample Applicant Flow Log*

Position : Laborer  
Date Open: 06/02/01  
Date Filled: 06/15/01

<b>Names</b>	<b>App. Rec'd</b>	<b>App. Screen</b>	<b>Interview</b>	<b>Disposition</b>
J. Weeks	06/04/01	Reject	_____	Rejection letter sent 06/06
M. LeBlanc	06/04/01	Reject	_____	Rejection letter sent 06/07
C. Marsh	06/05/01	OK	06/10/01	Rejection letter sent 06/14
P. Jones	06/05/01	OK	06/10/01	Contingent offer 06/14 hired 06/15
G. Kim	06/06/01	OK	06/10/01	Rejection letter sent 06/14
L. Milo	06/07/01	OK	Applicant	Confirming Denied letter sent 06/14

#### **4. Screen/Interview Qualified Applicants**

Screen application forms to eliminate unqualified candidates; document rejections in applicant log. Interview qualified applicants. Initial interviews may be conducted over the telephone.

Ensure that managers are adequately trained to conduct effective and lawful interviews. See Step Four: What an Employer Can and Cannot Ask an Applicant.

Ensure that interviews are conducted in physically accessible sites for applicants with mobility impairments and that reasonable accommodations are made when interviewing individuals with hearing impairments or other impairments affecting communication skills.

#### **5. Check References/Background Checks**

Call personal references listed by applicant on application form. Ascertain relationship to applicant and amount of time reference has known applicant. Ask reference about reliability, trustworthiness, work ethic and character of applicant. Document response.

Call former employers. Many employers will not give references, except to confirm dates of employment. However, this information may be very valuable. Document response.

Call former supervisors, if possible. These individuals may be more forthcoming with information regarding past job performance. Caution: do not inquire into unlawful areas, e.g., history of workers compensation injuries, prior employment discrimination charges. Document response.

Contact a vendor who offers background check services. The vendor can provide information regarding compliance with the provisions of the Fair Credit Reporting Act which governs background check procedures and forms.

#### **6. Make Contingent Offers of Employment**

Make offer of employment, contingent upon successful completion of pre-placement physical examination, and/or substance abuse testing.

Document offer in writing, noting any contingencies. Specify starting pay and start date, if known. Do not represent or imply that employment is for any specified duration or terminable for cause.

## 7. Conduct Pre-placement Medical Exams

Because state and federal disability laws prohibit pre-employment inquiries into physical or mental disabilities, a pre-placement medical examination may be the only way to determine whether a person can perform certain jobs effectively and safely. A well-managed pre-placement physical examination program can help reduce the frequency or severity of work-related injuries by eliminating individuals who do not have the physical ability to perform the job safely.

The American Disabilities Act (ADA) requires that medical examinations be conducted as a separate, second step of the selection process, after a contingent offer of employment has been extended. The employer cannot select out for pre-placement physicals only those with known disabilities or those whom the employer believes may have a disability. The employer must either require pre-placement physical examinations of all entering employees or of all entering employees in certain designated jobs.

### Setting up your pre-placement physical examination program.

- Select a qualified medical provider who is familiar with the workplace and the essential functions of the jobs involved. If possible, have the medical examiner tour the facility and observe the job functions.
- Give the provider current job descriptions that identify the physical job requirements.
- Inform the medical provider that any recommendations or conclusions related to hiring or placement of an individual should focus on only two concerns:
  - a) Is the person currently able to perform the specific job, with or without an accommodation?
  - b) Can the person perform the job without posing a “direct threat” to their health or safety or to that of others?

## 8. Keep all information obtained from post-offer medical examinations and inquiries on separate forms and maintain them in separate files (not in personnel files).

These files must be treated as confidential, which means kept in a locked file accessible only by a designated person or persons. Other supervisors or managers should not have access to these files except:

- that they may be informed about necessary restrictions on the work duties of an employee and necessary accommodations and,
- first aid and safety personnel may be informed, when appropriate and necessary for first aid and emergency situations.

## **Step Four: Conduct the Employment Interview**

The process of selecting your new employees hinges on their potential ability to perform the essential functions of the job and your opinion of this ability.

The interview is extremely important in helping you to evaluate the applicants. The following questions will help you ask the “right” questions.

### **Can Ask ✓**

1. What relevant educational experience do you have?
2. Tell me about your work experience, beginning with your last job and working backwards.
3. Have you ever been terminated or been asked to resign from a prior position? If so why?
4. What special skills do you possess?
5. Have you ever been convicted of a crime?
6. Our regular workday is 8:00 a.m. to 5:00 p.m. five days per week, with overtime when required. Are you willing and able to meet these attendance requirements?
7. This job requires lifting of boxes weighing up to 50 pounds. Are you able to perform this function? If not, is there an accommodation that can enable you to do so?
8. How much time did you miss from your last job?
9. Do you use illegal drugs?
10. This is a non-smoking work place. Are you willing to comply with that policy?
11. Do you have any relatives who work for us?

### **Cannot Ask ✗**

1. Have you ever filed a workers’ compensation claim or been hurt on the job?
2. Do you have any health problems or disabilities?
3. Are you planning to have children in the future?
4. Are you pregnant?
5. How old are you?
6. What is your religious preference?
7. What are your height and weight? (unless job related)
8. When did you graduate from high school?
9. Do you have any military service training obligations?
10. What is your ethnic background?
11. Were you born in the U.S.?
12. Have you ever had any emotional or mental problems?
13. Are you an alcoholic?
14. Do you smoke cigarettes?