

## Effective and Lawful Interviewing

In the October *VLCT News* article titled “[Important Steps to Hiring Well](#),” we explored the use of [executive session by governing bodies](#) for confidential interviews, describing how planning ahead is invaluable for attracting a strong pool of qualified applicants. As with painting a house, the prep work takes time but is well worth the effort, yielding far better and longer lasting results. This principle holds true for each phase of the recruitment process, no less so for conducting candidate interviews.

The recruitment process is a two-way street: potential candidates will evaluate your municipality just as much as you evaluate them. Interviewing affords the opportunity for both employer and candidate to assess one another’s merits and the potential for a good employment match. A candidate’s personal experience directly contributes, positively or negatively, to his or her view of your municipality. It is important to recognize that each candidate is a potential stakeholder; thus, even those not hired should feel they were treated fairly and respectfully.

While there are few interview questions that are in and of themselves illegal to ask, there are many questions that have the effect of discriminating against certain candidates. Discrimination in the hiring process, whether intentional or not, is illegal when it is based on certain personal characteristics (also known as “protected classifications”). The classifications of people that are protected by several state and federal laws are:

- race
- color
- religion
- ancestry
- sex
- sexual orientation
- gender identity
- age
- national origin
- place of birth
- marital status
- disability
- veteran status
- HIV status
- pregnancy
- genetic information

Questions that single out a candidate based on any one of the above classifications may be used as evidence of discrimination by the employer, even where there was no intent to discriminate.

One of the best ways to ensure that the interview process is legally sound and nondiscriminatory is to create job-related questions in advance, basing them on the job duties and qualifications needed to perform them. Ideally, these responsibilities and qualifications have been documented in an accurate, up-to-date job description. The prepared questions should be asked of *all* interviewees, not just certain applicants based on assumptions triggered by personal traits such as gender, last name, or skin color. Make sure each and every person involved in the search process understands the importance of avoiding topics and questions that unlawfully discriminate.

In a nutshell, when you treat candidates fairly and professionally by connecting interview questions and other recruitment actions directly to the qualifications of the job, you reduce the risk of a lawsuit and improve your chances of hiring a qualified individual. If you need help in creating interview questions or planning other recruitment activities, please contact the Municipal Assistance Center at 800-649-7915 or email [MAC-HR@vlct.org](mailto:MAC-HR@vlct.org). For further resources about hiring and job descriptions, please see the [Human Resources Assistance Program webpage](#).

Jill Muhr  
Human Resources Consultant