

## Hiring Tips from Employee Services

- ❖ *Lore -- I'm not seeing a cite for open, competitive process for non-classified positions. We have such a law for our hiring practices in the leg branch, correct? Do you know where? I want to put that first. chapter 240 excludes us there.*
- ❖ In hiring for a nonpartisan position, an employer may not discriminate against an applicant based on *political affiliation*
- ❖ All state and federal laws against discrimination apply during the hiring process, including prohibitions against discrimination based on:
  - Race or color
  - National origin (candidates must be able to lawfully work in United States)
  - Religion
  - Family status (other than nepotism - *e.g.* young children at home)
  - Marital status
  - Sex
  - Sexual orientation
  - Gender identity
  - Pregnancy
  - Age
  - Disability
  - Need for medical leave
  - Workers compensation claim
  - Whistleblower status (opposing unlawful conduct)
  - Protected speech/activities (such as political affiliation for a nonpartisan position)
  - See employee services with questions regarding additional protected classes
- ❖ We award a preference to qualifying veterans
- ❖ Avoid language that creates an implied contract
  - Do not indicate how long you expect the position to last: all employment is at-will
  - We have an “introductory period,” not a probationary period, and employment remains at-will throughout an employee’s tenure
- ❖ **General Tips:**
  - Read and be familiar with the position description
  - Review the candidate’s application materials
  - Follow the interview script - OK to stray for follow up (with lawful, job-related questions), but if you do so --
  - Be fair and consistent
  - Be mindful of time constraints: give everyone a turn
  - Listen! 80% of the interview should involve the candidate’s responses

- Be respectful
- Have a designated person to close and explain the next steps

❖ **Interview Notes:**

- Use a pencil when scoring interviews
- Take accurate notes that reflect *facts*, facts that you may lawfully consider
- Be friendly but do not pursue personal information
  - ◆ If candidate opens door to potentially discriminatory consideration (“we have a new baby at home”) politely redirect to facts you will consider for hiring
  - ◆ Take accurate notes! Later, you may not recall why your notes say “new baby.” *Write down factors you will actually consider in hiring for the job.*
  - ◆ Your notes are subject to public records disclosure and are discoverable
  - ◆ Date, initial and turn in scoresheets at the end of interviews

❖ **Frequently asked questions:**

- What if the candidate asks me for feedback after the interview?
  - ◆ You understand that constructive feedback can be helpful
  - ◆ Direct to Employee Services to respond with your input
  - ◆ Vets are legally entitled to a response (upon written request for reasons not selected)
  
- What if the candidate asks about his/her veterans’ preference points
  - ◆ We follow veterans’ preference law
  - ◆ Employee Services tracks and handles the preference
  
- What if I know the candidate?
  - ◆ Treat all candidates fairly
  - ◆ Score based on qualifications and interview responses
  - ◆ Disclose to Employee Services if the candidate is a relative
  
- Why can’t I explore political affiliation?
  - ◆ This is a nonpartisan position
  - ◆ As a state actor, you risk intruding on free speech/freedom of association rights if:
    - The speech in question was not expressed by the employee as part of the employee’s official job duties
    - The speech pertains to a matter of public concern; and
    - The damage caused by the speech to the efficiency of the government agency’s operation does not outweigh the value of the speech to the employee and the public (Pickering balance)