

Strategic Hiring Practices¹ Employment Roundtable

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Many employers take great pains to develop appropriate policies and procedures to evaluate and govern workplace conduct. One important area that employers tend to neglect, however, is the hiring process.

Recruitment and selection of employees can be a random process or a planned, strategic one. Finding a qualified applicant is a start, but selecting an individual who will understand, share, and promote the company's vision is equally important. When you think of recruitment as a strategic activity, the challenge of finding an applicant with the right knowledge, skills, experience, and cultural fit takes on a more purposeful approach. By improving the overall quality of and "fit" of the employees hired, employers can reduce turnover and recruiting costs, retain their most successful employees, and improve morale and productivity.

Another tangible benefit of making good hiring decisions is reducing risk. Careful screening and appropriate hiring practices will help to avoid hiring employees who perform poorly or file claims of illegal harassment, discrimination, wrongful discharge, or negligent hiring.² Good hiring practices will also reduce the risk of suits from other employers seeking to enforce post-termination restrictions and allow employers to protect their own intellectual property.

Strategic hiring requires an articulation of what is important to your company. The company's core mission, vision, values, culture, and strategic plans should be considered in formulating a hiring strategy because the selection and hiring process should ideally flow from these constructs. Recruits are often focused on finding a company in which (1) the work environment is congruent with their lifestyle and career aspirations, (2) company values are closely aligned with their own, (3) they have an opportunity to make a meaningful contribution, and (4) they will

¹ This memorandum contains a summary of information obtained from laws, regulations, court cases, administrative rulings and legal publications, and should not be viewed or relied upon as legal advice. Ater Wynne LLP urges readers of this memorandum to consult legal counsel regarding specific legal issues and factual circumstances.

² Employment related litigation remains a significant concern for employers as the number of cases filed each year continues to soar. Last year alone, the Equal Employment Opportunity Commission (EEOC) obtained compensation and benefits for employees in excess of \$168 million through litigation, and an additional \$251 million through informal resolution of EEOC charges. *See* <http://www.eeoc.gov/stats/enforcement.html> (*see* "Litigation Statistics" and "All Statutes"). These statistics do not include any of the settlements, judgments, and litigation expenses for employment claims that are not within EEOC jurisdiction.

have opportunities to develop their skills and careers.³ Being clear and direct about core values allows both parties to compare their goals and expectations and increase the likelihood of a good fit.

The first step in identifying the right candidate is screening. Many state and federal laws limit the types of information that may be obtained about prospective employees and/or the manner in which that information is gathered. These laws create tension between the employer's need and ability to obtain information about potential employees. For example, the Americans with Disabilities Act (ADA) prohibits employers from asking applicants certain questions related to their medical condition or history. The Fair Credit Reporting Act (FCRA) limits the ability of employers to obtain and use a consumer credit report or criminal background check. Title VII and certain state laws prohibit inquiries that might suggest the employer discriminates against a protected class. In addition, these discrimination laws prohibit employers from using information or standards that tend to adversely impact certain minority groups. It is, therefore, critical to develop hiring procedures that facilitate a fair evaluation of applicants without running afoul of these laws.

I. APPLICATIONS

An employer's first opportunity to obtain information about an applicant is through the use of a written application. The primary purpose of the application is to solicit information that will enable you to make an initial assessment about whether the applicant possesses the minimum qualifications necessary to perform the job in question. An application may also be used to obtain detailed information not likely to be disclosed on a resume and to advise the applicant of your policies and core values. Employers should, therefore, require all applicants to fill out an application whether or not they also provide a resume.⁴

An application should be designed to elicit only information related to the applicant's relevant skills, education, experience, availability, and salary requirements. Questions that would require the applicant to disclose his or her sex, race, religion, marital status, age, or mental or physical condition are improper (except self-disclosure for EEO reporting purposes).

At a minimum, each applicant should be required to provide his or her complete education and employment history, references, criminal convictions, licenses, and accreditation. However, this information may not reveal everything the employer wants or needs to know about the individual applying for work. The applicant may have acquired additional skills through the military, self-

³ *Corporate Image and Successful Recruiting*, HR Spectrum (CAHRS March-April 2001), reporting on a survey of the most important attributes of potential employers. The top five categories of "fit" included (1) innovation and risk taking; (2) reputation and product knowledge; (3) people-orientation; (4) team orientation or work structure; and (5) stability vs. growth. The authors also noted that, "[e]ven if it is based on random information from secondary sources, corporate image influences a job candidate's decision to consider a job opportunity with the company."

⁴ "Often the best predictor of how applicants will perform on the job is what they do (as opposed to what they say) in the application process. If you ask applicants to fill out the application in full and they don't, you have meaningful data to consider in the decision-making process." Jonathan A. Segal, *Hiring Days Are (Almost) Here Again! Before Rushing Out to Add Scads of New Staff Members Take a Moment to Review Your Hiring Practices*, 47 No. 6 HR Magazine (June 2002).

teaching, or membership in professional or civic organizations. Employers may also want to ask applicants whether the applicant has previously worked or applied for work with this employer, or has relatives who work for this employer. The applicant should be required to certify that the information provided on the application is truthful and accurate. The application should also require the applicant to authorize the employer to solicit information about the applicant's previous employment and background from third parties, to verify that the information provided on the application is true.

The application should notify the applicant of the employer's practices, such as equal opportunity employment, requirements pertaining to pre-employment drug testing or medical examinations, at-will employment, and whether employees are required to agree to post-termination restrictions on employment. The application should also state that omissions and false or misleading information will disqualify the applicant from further consideration and, in the event the applicant is hired, result in termination of employment.

II. CHECKING REFERENCES

To fully assess the information obtained from an applicant, an employer must know whether or not the information is true. Accordingly, all information obtained from an application and/or resume should be verified. A criminal conviction, poor credit history, incomplete or false information, a series of short-term employment, or long gaps in employment may be indicative of serious problems.

Employers may obtain a release from the applicant that authorizes named employers and third parties to release information. Former employers that are not willing to discuss the details of the applicant's performance may nevertheless be willing to say whether or not the employee is eligible for rehire, or provide other insight into the applicant's work history. Employers may also ask applicants for copies of recent employment evaluations.⁵ Even if the reference checks result in little or no useful information, the result of the checks should be documented. The fact that the employer tried, but was unable to obtain background information may provide a complete defense to a negligence action.

While employers may not automatically disqualify an applicant with bad credit or a criminal conviction, they can certainly exclude an applicant with a history of dishonesty or violence from specific jobs that would place the employer or others at risk. Therefore, employers may wish to obtain consumer credit reports and/or criminal background checks. Unlike an ordinary credit report, a consumer credit report may include information about the applicant's general reputation, personal characteristics, and mode of living. The report may be based on a background investigation that includes personal interviews, not just credit history.

When hiring a third party to conduct a consumer credit and/or criminal background check, an employer must comply with the requirements of the Fair Credit Reporting Act (FCRA).⁶ This law requires the employer to notify the applicant in writing that the records will be sought, obtain

⁵ As in most states, Oregon law entitles every employee to a copy of his or her personnel file. ORS 652.750.

⁶ See 15 USC § 1681. Employers should not assume that their credit agency's forms, notices, or conduct complies with FCRA.

the applicant's written authorization to obtain the records, and notify the applicant that a poor credit history or conviction will not automatically result in disqualification from employment. Certain other disclosures are required upon the employee's request, and prior to taking any adverse action based on the reports obtained.⁷

Some state laws require employers to (1) notify applicants if they intend to conduct a criminal or other background check, (2) obtain a written authorization before conducting a check, and (3) provide specific disclosures about the information sought or obtained.⁸ Such requirements may exceed and/or conflict with FCRA's requirements. It is, therefore, important to always check the law of the state in which the applicant resides and/or is being hired.

In addition to the information available from credit reporting agencies, employers may obtain data found in public records through sources such as the following:

OJIN - Oregon arrests and convictions (not always accurate)

- Computerized Criminal History (CCH) - criminal convictions for all states (available only through Oregon State Police)
- Courtlink - federal criminal and civil records from all federal court districts, including bankruptcy court
- OpenOnline (formerly Commercial Information System or CIS) - criminal and civil records, including Department of Correction records for Oregon and Washington (criminal convictions and probation transfers from other states), identification as officer in corporate filings, dba listings
- Lexis/Nexis - periodical database, Dun & Bradstreet reports, asset and judgment records, business filings, licenses
- Westlaw/People Finder and related services – asset and judgment records, business filings
- Driving records
- Internet – disclosures relating to sexual offenders, licensing information

III. DRUG TESTING

Drug testing is another way to obtain valuable information about a potential employee. Current drug users are not protected under state or federal law and may be excluded from employment based on the results of a drug test.⁹

⁷ An employer who willfully fails to comply with the requirements under FCRA is liable to the employee or applicant in the amount of actual damages of not less than \$100 or more than \$1,000, punitive damages, and attorney fees. 15 USC § 1681(n). An employer who *negligently* fails to comply is liable to the employee or applicant for actual damages and attorney fees. 15 USC § 1681(o).

⁸ See, e.g., ORS 181.555(2)(b) (requiring employers to advise an employee or applicant prior to seeking a criminal background check that such information may be sought); Cal. Civil Code §1785.20.5; see also, Cal. Civil Code §§1786.16, 1786.20.

⁹ The term “qualified individual with a disability” does not include individuals currently engaging in the illegal use of drugs when the employer acts on the basis of such use. 42 CFR § 1630.3(a); ORS 659A.124.

Drug tests are not considered medical *examinations* under the ADA or Oregon law.¹⁰ However, while permitted, drug testing is a form of medical *inquiry*. Therefore, they should only be conducted post-offer and on a consistent basis.¹¹

IV. INTERVIEWING/SCREENING PROCEDURES

Oregon employers may not discriminate against an applicant on the basis of race, color, national origin, sex (including pregnancy and marital status), sexual orientation, religion, age, disability, use of or need for family medical leave, use of the workers compensation system, union organizing, off duty use of tobacco products, or association with individuals in protected classes (this includes individuals of the same sex).¹² In addition, disability laws prohibit pre-employment inquiries regarding the applicant's mental or physical condition or history.¹³ Accordingly, employers should tailor their interview questions and screening procedures as follows:¹⁴

Questions You Should Not Ask

Do **not** ask questions that would require applicants to disclose their membership in a protected class. For example, do not ask:

- Are you a Miss/Ms./Mrs./Mr.? (sex, marital status)
- Are you single/married/divorced? (marital status)
- What is your date of birth? (age)
- What year did you graduate from High School/College? (age)
- Are you a citizen? (national origin)
- Have you served in the military? (unless limited to U.S. Armed Forces) (national origin)
- Who lives with you? (sex, marital status, source of income)

¹⁰ 42 USC § 12114(d); OAR 839-006-0242.

¹¹ See 42 USC § 12112(3); 29 CFR § 1630.14; ORS 659A.133(3); OAR 839-006-0242.

¹² See ORS 659A.030 (race, religion, color, sex, national origin, marital status, age, or status of a person with whom the individual associates); 659A.040 (workers compensation); 659A.112 (disability); *Yeager v. Providence Health System Oregon*, 195 OrApp 134, 96 P3d 862 (prohibiting OFLA retaliation, citing 659.001(12), 659A.885(1), and OAR 839-009-0320(3)); 659A.135 (tobacco); 19 USCA §158(a)(3) (union participation or sympathizing). Employers in the City of Portland are also specifically prohibited from discriminating on the basis of sexual orientation, gender identity, source of income, or familial status. See Portland Ordinance 23.01.050.

¹³ 42 USC § 12112(2); ORS 659A.133.

¹⁴ See Oregon Bureau of Labor and Industries (BOLI) FAQ on Pre-Employment Inquiries, http://www.boli.state.or.us/BOLI/TA/T_FAQ_Tapreemp.shtml.

- List all organizations to which you belong. (potentially, any protected class unless you exclude those that would reveal the applicant's race, national origin, religion or other protected status)
- What holidays do you observe? (religion)
- Have you ever been on welfare? (source of income)
- Do you use tobacco? (off-duty tobacco use)
- Do you have any current or prior illnesses/injuries? (disability, workers compensation)
- Do you have any condition that requires regular medical treatments? (disability, workers compensation, family medical leave)
- Are you currently taking any drugs or medication? (disability)
- Do you have any mental or physical limitations that would limit your ability to do the job? (disability)
- Have you ever had an on-the-job injury or filed a workers compensation claim? (workers compensation, disability)
- [With respect to an apparent physical or mental impairment], What is the nature or severity of your impairment, or will you require leave as a result of your impairment? (disability, family medical leave)
- How many absences did you have last year due to illness? (disability, family medical leave)
- Have you ever taken a leave of absence for medical reasons? (family medical leave, disability, workers compensation)
- Have you ever been a member of a union? (union activity)

Do **not** ask for information typically evaluated differently for men and women.

- Do you have or plan to have any children? (sex, marital status)
- Who takes care of your children while you are at work? (sex, marital status)

Do **not** ask questions that may have a disproportionate adverse on impact individuals in protected classes.

- Have you ever been arrested? (race)

Questions You May Ask

It is permissible to ask questions and conduct screening to determine the applicant's qualifications for the job sought.

- What hours are you available to work? (Note: unless you conduct business around the clock, questions regarding availability should be limited to the hours for which you are hiring or conduct business)
- Are you available to work overtime? (same limitations as availability)
- List all schools attended and degrees obtained.
- Have you ever been convicted of a crime? (some states limit this to a specific number of years)
- Have you worked for any employers under a different name?
- Can you speak/read particular language? (only if this is a bona fide occupational requirement)
- Do you possess the licenses, degrees, knowledge and other skills required to perform the job?
- Identify which of the following [specified] functions you can and cannot perform, with or without reasonable accommodation.
- Demonstrate or describe how, with or without accommodation, you would perform the following [specified] job functions. (Note: this is permitted only if you ask all applicants to make such a demonstration)
- Can you meet the following [specified] attendance and performance standards?

Selection criteria must also be job-related. Applicants may challenge qualification standards, tests, or selection criteria that tend to screen out qualified disabled¹⁵ or minority applicants, even if this was not the employer's intent. For example, employers should not require a driver's license or college degree for a job that does not require driving or an advanced education (*e.g.*, janitorial position). Oregon employers are prohibited by statute from subjecting applicants to breathalyzer, polygraph, genetic, brainwave, or psychological stress testing.¹⁶

Employers are often inclined to disqualify applicants who are overqualified on the theory that such employees will be bored, dissatisfied, likely to leave for more challenging or better-paying opportunities, and/or less likely to approach the job with the same enthusiasm as an individual who is appropriately qualified. While rejection of a job applicant based on overqualification is

¹⁵ See 29 CFR § 1630.10.

¹⁶ See ORS 659.840, 659A.300 (breathalyzer); 29 USC § 2007(b) and ORS 659A.300 (polygraph or psychological stress test); ORS 659A.303, 192.531 (genetic testing).

not overtly discriminatory, it may be viewed as a means of discriminating against older workers.¹⁷ Therefore, when rejecting candidates on that basis, the employer should be prepared to articulate objective criteria used to measure the relative qualifications of the individual against other applicants and the relationship between a worker's subjective traits and the position at issue.¹⁸

V. MEDICAL EXAMINATIONS

Employers may conduct pre-employment medical examinations after an offer of employment has been made and prior to the commencement of duties, provided all entering employees are subjected to such an examination.¹⁹ Pre-employment examinations need not be job-related and consistent with business necessity, but they should be no more intrusive than necessary to determine the applicant's fitness to perform the particular tasks that will be required. Obtaining information unrelated to the job may be probative of an employer's knowledge or perception of a disability²⁰ if the applicant is hired and alleges discrimination at a later time. Therefore, while it is permissible to inquire about an applicant's medical history and condition at the post-offer stage, employers are well advised to limit such inquiries to circumstances in which the employer needs to know for job-related reasons. When the results of the examination are used as a screening mechanism, the employer must be able to show that the exclusionary criteria is job-related and consistent with business necessity and performance of the essential job functions cannot be accomplished with reasonable accommodation.²¹

VI. ACCOMMODATION IN THE APPLICATION AND INTERVIEW PROCESS

Employers have an affirmative obligation to assist disabled individuals in overcoming barriers to equal employment opportunities that result from the applicants' disabilities. The employer's obligation to provide reasonable accommodation to disabled individuals applies equally to the application and screening process.²²

¹⁷ See *EEOC v. Insurance Co. of North America*, 49 F3d 1418 (9th Cir 1995) (holding that the employer's reason for rejecting employee was objective and non-age related, and that the evidence supported the conclusion that the employer's rejection was not a mask for age discrimination); *Stein v. National City Bank*, 942 F2d 1062 (6th Cir 1991) (employer not liable for age discrimination for refusing to hire all applicants who possessed a college degree); see generally, *Jeff Morneau, Too Good, Too Bad: "Overqualified" Older Workers*, 22 Western New England L Rev 45 (2000); but see *Taggart v. Time, Inc.*, 924 F2d 43 (2nd Cir 1991) (rejecting older applicants based on overqualification may be mask for age discrimination, therefore, not a legitimate reason for rejection of applicant).

¹⁸ *Jeff Morneau, Too Good, Too Bad: "Overqualified" Older Workers*, 22 Western New England L Rev 45, 75 (2000).

¹⁹ 42 USC § 12112(3) and (4); 29 CFR § 1630.14; ORS 659A.133(3); OAR 839-006-0242(2).

²⁰ The term disability includes an actual disability as well as a history or record of impairment. 29 CFR §1630.2.

²¹ 29 CFR § 1630.14(b)(3).

²² Employers have an affirmative duty to reasonably accommodate the known disabilities of applicants and employees unless doing so would impose an "undue hardship" on the employer's business. 29 USC § 12112(a) and (b); ORS 659A.112, 659A.118, 659A.121.

Employers may be required to modify application forms, recruiting events, and job interview formats to insure that qualified disabled applicants are not screened out. For example, an employer may be required to provide an interpreter to facilitate an interview with a deaf applicant, or provide a test in an alternate format that does not require use of the skill that is impaired (*e.g.*, administering a test to a blind applicant in Braille or allowing the applicant to respond to questions orally). An employer need not modify or eliminate a test applied for the purpose of measuring a particular skill for an applicant whose impairment prevents him/her from performing that skill.

VII. CONFIDENTIAL INFORMATION AND RESTRAINTS ON COMPETITION

Many companies now take steps to keep confidential matters (such as research, development, trade secret, pricing, marketing, financial, customer, and personnel information) strictly confidential. To protect their confidential information, customer contacts, and trade secrets, employers may have their employees sign agreements in which they promise not to use or disclose the employer's confidential information during or after the termination of employment. Employers may also require new hires to sign agreements that prohibit competition and solicitation of the employer's customers and/or employees,²³ and require the employee to assign his or her rights to all inventions developed, both during and after the termination of employment.

Given the statutory protection afforded to trade secrets and the widespread use of agreements protecting confidential information and customer contacts, employers should be extremely wary of applicants who promise in the event they are hired to bring valuable information, materials, and/or contacts acquired in the course of prior employment. Hiring an individual subject to post-termination restraints on employment, or inducing or accepting the benefits of a violation of current or post-termination obligations, may subject the hiring employer to claims for inducing or aiding and abetting a breach of fiduciary duty, misappropriation, intentional interference with contract, and/or violations of the Federal Economic Espionage Act. Using copyrighted or patented information may also subject the hiring employer to claims for infringement. Accordingly, prior to hiring, employers should determine whether prospective employees are subject to any contractual obligations to former employers or owners of intellectual property. Employers should obtain certifications from new employees that all such obligations have, and will continue to be honored.

VIII. TESTS AND ASSESSMENTS

In addition to background screening of applicants, testing and assessments²⁴ can be useful tools for selecting qualified candidates, placing them within the organization, identifying needed training, and predicting future success. Tests and assessments can also help employers determine whether existing employees have mastered training, identify employees who might benefit from training opportunities, identify candidates for promotion, and evaluate current

²³ See ORS 653.295. In Oregon, such agreements are void unless they are signed when the employee starts work or receives a *bona fide* advancement. *Id.*

²⁴ Tests are most often used for jobs requiring a particular skill or ability (*e.g.*, typing for a clerical position, physical agility for firefighting, physical strength for a laborer position). Assessment centers are more often used to measure a wider range of abilities needed for a higher level or managerial position.

training and development programs. However, it is important to understand that no test can measure a personal trait or ability or predict future performance with perfect accuracy for every person.

The Uniform Guidelines on Employee Selection Procedures (*Guidelines*), which apply to employers covered by Title VII of the 1964 Civil Rights Act and/or Executive Order 11246,²⁵ prohibit the use of any test or selection procedure that creates an adverse impact on a protected class unless the procedure is shown to be job-related for the position in question and its continued use is justified by business necessity.²⁶ The *Guidelines* apply to selection procedures used to make employment decisions (e.g., hiring, promotion, disciplinary action, opportunity for training or advancement, certification and licensing, termination). Adverse impact occurs when there is a substantially different selection rate that disadvantages a particular protected group. Adverse impact is typically indicated when the selection rate for a particular group is less than 80% or four-fifths that of the group with the highest rate (the “four-fifths rule”).²⁷

Tests and assessments should not be used unless they are both reliable and valid. Reliability refers to the extent to which a test consistently measures a characteristic.²⁸ Test validity refers to how well the test measures the particular characteristic the test was designed to measure. It is permissible under the *Guidelines* to rely on validity studies conducted by others only when evidence from available studies meets certain specified criteria.²⁹ There must be some proof (1) of a correlation between test performance and job performance (“criterion-related validation”), (2) that test items measure important requirements and qualifications for the job (“content-related validation”), and/or (3) that the test measures what it claims to measure and this characteristic is important to successful performance on the job.

Assessment centers are often used as a means of evaluating managerial potential, promotability, problem-solving skills, and decision-making skills. This approach typically uses multiple evaluative methods that might include interviews, ability and personality measures, management activities and role-play exercises.³⁰

²⁵ 29 CFR §1607.2.

²⁶ 29 CFR §§ 1603, 1611.

²⁷ 29 CFR §1607.4.

²⁸ Factors such as the test-taker’s psychological state at the time of testing, environmental factors (e.g., comfort, distractions), test form, and multiple raters may affect an individual’s test scores. Test manuals typically report a statistic called the “standard error of measurement” that is the margin of error you should expect in an individual test score due to the imperfect reliability of the test.

²⁹ 29 CFR § 1614B.

³⁰ See, e.g., *Strategic Hiring System Pays Off in Reservation Call Center*, Employer’s Advantage Newsletter (Nov. 2004), <http://www.ldgrp.net/pinewsnovember04.htm>, describing reduction in turnover by use of an honesty-integrity and job-fit assessment that might include personality testing, cognitive ability tests, job knowledge tests, performance tests and work samples, integrity tests, and interest, values and preference inventories. Note that the use of any such tests requires compliance with the *Guidelines* and a disparate impact analysis.

IX. DEFINE AND COMMUNICATE YOUR CORE VALUES AND GOALS

To avoid wasting time and money on employees who are not the right fit, it is important to figure out what characteristics you are looking for in every new hire. The first step is always identifying the skill set needed. But it is just as important to define in advance the core values and desired culture of the company, including those that actually drive the organization.³¹ This information should be communicated to applicants and employees both directly and in promotional and recruiting materials like brochures, web sites, and job postings. For example, instead of limiting job descriptions to the minimum objective requirements, include behavioral competencies that are essential to the job, such as flexibility, agility, and strategic insight.³² Recruiting and selection procedures should be designed to help the company determine how well the applicant will fit into the company's culture.

Considerations in formulating a recruitment and selection strategy might include:

- Your company's mission/values/goals
- Concepts and values that drive your organization
- Your company's central focus
- The market sector your company serves
- Who your primary clients are
- Your expected growth or reduction plans
- Your priorities and how you achieve them
- How your company's work is performed
- The kind of culture you have/want
- The kind of people do you want to work with
- The personal attributes of employees that further your company's values and goals
- The characteristics of your top performers
- Whether your company has diversity or AAP requirements
- What makes your company attractive to the candidates you want
- The personal needs of your applicant pool
- How the staffing and selection process can support your company's strategic plans

Example: Hotwire³³ created a strategic hiring manual that detailed the attributes they were looking for before interviewing their first candidate. These included:

³¹ See generally, David E. Ripley, Strategic HR Analysis (SHRM White Paper) (Nov. 1996, reviewed Dec. 2002) (discussing key questions and actions relating to strategic HR analysis).

³² Jonathan A. Segal, *Hiring Days Are (Almost) Here Again! Before Rushing Out to Add Scads of New Staff Members Take a Moment to Review Your Hiring Practices*, 47 No. 6 HR Magazine (June 2002) (noting that "managerial and professional employees are more likely to be discharged (or selected for layoffs) because of deficiencies in behavioral competencies than because of technical skill deficits. If you let go of a manager with good numbers because he is not a team player, being a team player should be listed on the job description.")

³³ Fred Lange, *Building a Great Company: Identify Strategic Employee Character Traits to Make Your Business a Success*, <http://www.refresh.com/!flgreat.html>.

- Passion: high energy, enthusiastic people who express a passion for work
- Communication: ability to articulate thoughts clearly and concisely
- Flexibility: ability to thrive in changing, unstructured environments
- Proactive: ability to get things done; life-long learners
- Team Oriented: effective listeners; productive collaborators
- Competitive: strong desire to compete and win in the marketplace
- Integrity: strong internal value system
- Dedication: demonstrated commitment to help company succeed
- Empathy: respect the differences and capabilities of others
- Fun: positive, outgoing and enjoyable to be around

“[Ask] questions that reveal a candidate’s attitudes toward work and how he or she interacts with others, such as ‘Describe your best boss and worst boss,’ ‘What were the differences between them?,’ ‘In what way do you think this job will be a stretch for you or a challenge for you?,’ and ‘What feedback have you gotten during the course of your career and how has it improved your effectiveness?’” Questions such as these should reveal whether a person will fit into your company’s culture.³⁴

X. ANTICIPATING STAFFING NEEDS

“Strategic staffing” is “a systematic approach to anticipating staffing needs and determining what actions should be taken *starting now* to meet those needs.”³⁵ This requires (1) an understanding of the current workforce, including its demographics, capabilities, attrition rates, and involuntary terminations; (2) anticipating changes to the operating environment (*e.g.*, economic conditions, technological advances, market competition, legislation, and desired internal changes); (3) identifying competencies that will move the company through the anticipated changes and allow it to both thrive and seize new opportunities; and (4) developing strategies and tactics for building an appropriate workforce. Succession planning aids in identifying candidates who could step into a company’s key positions if needed.³⁶ These approaches are in stark contrast to a purely reactive staffing approach, which deals with the ebb and flow of quits, terminations, and staffing needs on an ad hoc basis.³⁷

Strategic staffing should be linked to the company’s overall strategic mission:

Whenever a company modifies its strategy, it affects every current employee and the company’s future hiring needs. I guarantee that someone from engineering is there describing the technology challenges of the strategy shift. Someone from marketing and sales is there describing what needs to be done to ensure market acceptance. Someone from operations is there describing how the product or

³⁴ Pat Curry, *Staying Power: The Key to Finding and Keeping the Best Employees is to Develop a Human Resources Culture that Makes People Feel Appreciated and Connected to the Company*, 8/1/04 Prosales 42.

³⁵ Christina Morfield, *Workforce Planning: The Strategy Behind “Strategic Staffing,”* SHRM EMA Forum Library.

³⁶ Jack Huxtable and Mary Cheddie, *Strategic Staffing Plans*, SHRM White Paper (Aug. 2001, rev. June 2002).

³⁷ *Id.*

service will be produced and delivered. Someone from finance and accounting will be there to figure out how to justify and finance the project.

Someone should also be there from HR/recruiting, trying to figure out how to staff the program and redeploy the company's current workforce.³⁸

³⁸ Lou Adler, *Why Your Hiring Strategy Must Map to Your Business Strategy*, *Electronic Recruiting Exchange*, ER Daily (Feb. 20, 2004) (recommending a five-year strategic plan and a one-year tactical plan).