

Practice Resource

Guidelines for recruiting, interviewing, and hiring practices

Preface

The purpose of these guidelines¹ is to assist law firms² (“Firms”) in conducting fair and equitable recruiting, interviewing, and hiring practices for selecting qualified candidates while also recognizing your Firm’s legal and ethical responsibilities.

By adopting the guidelines outlined in this model policy, or by adapting them for your Firm’s purposes, you will help promote:

1. Consistent recruiting, interviewing, and hiring practices;
2. Interviewers receiving information to avoid discrimination or the appearance of discrimination by the Firm;
3. Candidates feeling confident about your Firm’s commitment to fair employment practices;
4. The prevention of complaints; and
5. Your Firm’s capacity to respond to complaints effectively.

While these guidelines apply to general recruiting, interviewing, and hiring, they may be particularly beneficial for articling interviews as these interviews are generally conducted by lawyers who may not otherwise be involved in your Firm’s hiring practices.³

However, the overall principles apply to all recruiting, interviewing, and hiring.

At a minimum, communicate these guidelines to all those working for the Firm including support, secretarial, administrative, and professional staff, articling and summer students,

¹ Special thanks to Patricia Janzen for providing invaluable guidance, advice, and comments on earlier drafts of this document. Patricia Janzen and Liisa Spoor also offered very helpful comments regarding the case law and legal references cited in this document including providing advice for updating the cases cited. Such comments appearing in this document are attributed to them with great appreciation. We are also grateful for the guidance and assistance previously provided by Sandra Jakab and Kuan Foo on an earlier version of this document entitled, “Recruiting, Interviewing, and Hiring Guidelines Model Policy”. The Recruiting, Interviewing, and Hiring Practices has been adapted and updated based on the earlier version prepared by Ms. Jakab, Mr. Foo, and other participants. The document has also been adapted from guidelines published by the then BC Human Rights Commission, and some material has been adapted from the Law Society of Alberta’s publication *Equality in Employment Interviews*, prepared by the Joint Committee for Gender & Equality (1996) with previous permission granted. Acknowledgement is also given to the Law Society of Upper Canada for their publication *Guidelines for 1995 Articling Interviews* (June 1995).

² While these Guidelines refer specifically to law firms, it is acknowledged that they may also be applied to other employers.

³ The Vancouver Bar Association has established *Articling Interview Guidelines* (June 2005) for regular and summer articles. Please refer to <http://www.vancouverbar.ca/articling> for further reference.

associates and partners (“Firm Members”) involved with hiring. It may be advisable to arrange for training seminars within the Firm to ensure interviewers and others involved in hiring have a comfortable understanding of the best ways to avoid discriminatory practices. The Firm can then proceed with the confidence that all applicants and candidates will be treated and assessed fairly.

Law Society Rules

Discrimination against job applicants and interview candidates is unethical.

Chapter 2, Ruling 3 of the *Professional Conduct Handbook* (September 2005) states as follows:

“A lawyer must not discriminate on the basis of race, national or ethnic origin, colour, religion, sex, sexual orientation, marital or family status, disability or age.”

“Age” means less than 65 years (Chapter 2, Ruling 4) and “discrimination” includes sexual harassment (Chapter 2, Ruling 5). Also note that a decision of the BC Human Rights Tribunal indicates that “sex” includes transsexuality.⁴ The rule does not preclude programs or activities aimed at ameliorating the conditions of disadvantaged groups or individuals.

Human Rights Law⁵

Discrimination against job applicants and interview candidates also offends human rights law.

Section 11 of the *Human Rights Code*, R.S.B.C. 1996, c.210, as amended, applies to pre-employment situations. It states as follows:

- 11 A person must not publish or cause to be published an advertisement in connection with employment or prospective employment that expresses a limitation, specification or preference as to race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation or age unless the limitation, specification or preference is based on a bona fide occupational requirement.

Section 13 of the *Human Rights Code*, R.S.B.C. 1996, c. 210, as amended, refers to employment generally, including hiring, and states as follows:

- 13 (1) A person must not
 - (a) refuse to employ or refuse to continue to employ a person,

⁴ See *Sheridan v. Sanctuary Investments Ltd. Doing business as B.J.'s Lounge* (1999), BC Human Rights Tribunal found at <http://www.bcr.t.gov.bc.ca/sheridan2.htm>. See also *Montreuil v. National Bank of Canada* [2004] C.H.R.D. No. 4

⁵ Rules provided here (not exhaustive) are applicable to law firms and other legal employers and are governed by B.C. Provincial law. For Federal Government employers or federally regulated industries (such as banks), please refer to Federal human rights and employment equity laws and regulations as well as the professional standards noted. Please further note that the Office of the Information and Privacy Commissioner has posted Hiring Guidelines dated April 10, 2006 in the context of British Columbia’s Personal Information Protection Act at [http://www.oipcbc.org/pdfs/private/PIPAHiringProcessFAQ\(10APR06\).pdf](http://www.oipcbc.org/pdfs/private/PIPAHiringProcessFAQ(10APR06).pdf).

or

- (b) discriminate against a person regarding employment or any term or condition of employment

because of the race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation or age of that person or because that person has been convicted of a criminal or a summary conviction offense that is unrelated to the employment or to the intended employment of that person.

...

- 13 (4) Subsections (1) and (2) do not apply with respect to a refusal, limitation, specification or preference based on a **bona fide occupational requirement**.
[emphasis added]

Also, it is necessary to note the following exceptions which may be relevant to employers other than Firms:

- 41 If a charitable, philanthropic, educational, fraternal, religious or social organization or corporation that is not operated for profit has as a primary purpose the promotion of the interests and welfare of an identifiable group or class of persons characterized by a physical or mental disability or by a common race, religion, age, sex, marital status, political belief, colour, ancestry or place of origin, that organization or corporation must not be considered to be contravening this Code because it is granting a preference to members of the identifiable group or class of persons.⁶
- 42 (1) It is not discrimination or a contravention of this Code to plan, advertise, adopt or implement an employment equity program that
 - (a) has as its objective the amelioration of conditions of disadvantaged individuals or groups who are disadvantaged because of race, colour, ancestry, place of origin, physical or mental disability, or sex, and
 - (b) achieves or is reasonably likely to achieve that objective.
- (3) On application by any person, with or without notice to any other person, the chair, or a member or panel designated by the chair, may approve any program or activity that has as its objective the amelioration of conditions of disadvantaged individuals or groups.
- (4) Any program or activity approved under subsection (3) is deemed not to be in contravention of this Code (R.S.B.C. 1996, c. 210 (Supp.), s. 3, part; 2002, c. 62, s. 23).

⁶ See *Vancouver Rape Relief Society v. British Columbia (Human Rights Commission)* [2005] B.C.J. No.2647, 2005 BCCA 601 (BCCA).

What is discrimination?

“**Discrimination**” is any conduct during the recruitment, interview and hiring process⁷, which has a detrimental impact, whether that impact is intentional or unintentional and is based on the applicant’s or candidate’s race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation or age or because an applicant or candidate has been convicted of a criminal or a summary conviction offense that is unrelated to the intended employment of the person.⁸

Discrimination can occur without any intention or malice on the part of the Firm.

Misunderstandings, miscommunications, assumptions based on stereotypes or vastly different life experiences can lead to discrimination.

Discrimination includes but is not limited to the following:

1. **Harassment** which includes derogatory or degrading remarks directed toward people who are members of groups enumerated in the prohibited grounds of discrimination, including racist, sexist or otherwise inappropriate jokes that the interviewer knows or reasonably ought to know are unwelcome⁹; and
2. Any decision based in whole or in part on any applicant’s membership in a protected group(s) unless it can be justified as a bona fide occupational requirement (B.F.O.R.).

B.F.O.R. and firm’s duty to accommodate

A. The Supreme Court of Canada, in its seminal decision called Meiorin, provided a three-part test for B.F.O.R.¹⁰:

1. The employer adopted the standard (i.e., the occupational requirement) for a purpose or goal rationally connected to the performance of the job;

⁷ See *Oxley v. British Columbia Institute of Technology*, 2002 BCHRT 33 for further discussion regarding establishing a prima facie case of discrimination in the context of hiring processes.

⁸ For example, if women candidates are asked to describe child care arrangements during interviews but men candidates are not asked, this may constitute discrimination based on the candidate’s sex. Asking all candidates this question does not potentially resolve this situation because the question may constitute discrimination based on family status. Another example, requiring all articulated students to have a driving license and/or vehicle appears, on the surface, to be a useful requirement. Students often travel to various courts, land registries, government facilities and clients’ premises during the course of their articling year. However, this requirement has a different impact on able-bodied students than it has on students with mobility, hearing, or visual disabilities. On closer examination, one realizes that a student’s workload could be organized so that driving is not required. Furthermore, driving probably has very little to do with whether the student gains sufficient experience to be called to the bar. A requirement for a driving license has previously found to be discrimination based on physical disability. See *Onischak v. British Columbia* (1990), 13 C.H.R.R. D/87 (BC Human Rights Council); *Bolster v. British Columbia (Ministry of Public Safety and Solicitor General)* [2004] BCHRTD No. 30; and *Hussey v. British Columbia (Ministry of Transportation and Highways)* (1999), 36 C.H.R.R. D/429 (BC Trib.).

⁹ For further information, please refer to the Law Society of British Columbia’s *Workplace Harassment Policy* which defines and discusses “harassment.” See also *North Vancouver School District No. 44 v. Jubran* 2005 BCCA 201.

¹⁰ For further discussion, see the Meiorin case: *British Columbia (Public Service Employee Relations Commission) v. British Columbia Government and Service Employees’ Union (BCGSEU)* [1999] 3 S.C.R. 3; *Renaud v. Board of Education of Central Okanagan no. 23* (1992), 141 N.R. 185 (S.C.C.); *Central Alberta Dairy Co. v. Alberta (Human Rights Commission)* (1990), 76 Alta. L.R. (2d) 97 (S.C.C.). See also M. David Lepofsky, “The Duty to Accommodate: a Purposive Approach” (1992) 1 Can. Lab. L.J. 1; Dr. Sheila Martin et al., *The Legal Duty to Accommodate Lawyers with Family Responsibilities: a Background Paper* prepared by the CBA Working Group on the Legal Duty to Accommodate, Ottawa Ontario: Canadian Bar Association, 1995; and the Canadian Human Rights Commission website at http://www.chrc-ccdp.ca/preventing_discrimination/duty_obligation-en.asp.

2. The employer adopted the particular standard in an honest and good faith belief that it was necessary to the fulfillment of that legitimate work-related purpose; and
3. The standard is reasonably necessary to the accomplishment of that legitimate work-related purpose. To show that the standard is reasonably necessary, it must be demonstrated that it is impossible to accommodate individual employees sharing the characteristics of the claimant without imposing undue hardship upon the employer.

B. Determining whether an accommodation constitutes “undue hardship” involves assessing on a case by case basis such factors as excessive financial cost, problems of morale of other employees interchangeability or adaptability of the work force and facilities, the size of the employer and safety issues.¹¹ Courts and Human Rights Tribunals scrutinize the reasons proffered by employers closely to ensure the employer’s claim is supported by the facts. A bare assertion of hardship or presentation of merely impressionistic evidence will not suffice.¹²

C. Examples of reasonable accommodation include but are not limited to:

- altering the premises to ensure they are accessible to people with mobility disabilities;
- adjusting workstations and/or equipment for those with physical disabilities;
- modifying duties for employees who cannot perform particular job duties because of, for example, religious beliefs, pregnancy, or disabilities;
- altering hours or days of work to accommodate religious beliefs or practices;
- providing flexible hours to women who have morning sickness related to pregnancy;
- providing an exemption from non-essential work requirements or conditions applicable to others;
- providing job support or assistance.

When it comes to offering interviews to qualified applicants, reasonable accommodation might include but is not limited to:

¹¹ *Central Alberta Dairy Pool v. Alberta (Human Rights Commission)* (1990), D.L.R. (4th) 417 at 438-439 (S.C.C.). See also *Oak Bay Marina Ltd. v. British Columbia (Human Rights Tribunal)* (No. 2), 2004 BCHRT 225 for the issue of BFOR (bona fide occupational requirement) and the extent of accommodation concerning mental disability as well as *McAlpine v. Econotech Services Ltd.* [2004] B.C.J. No. 389 (B.C.C.A.), at para. 28 where the Court of Appeal states that, “the legal obligation arising from cases such as *Alberta Dairy Pool...Meiorin* and *...Renaud...does not extend...to a contractual obligation to amend a job by deleting a component which is significant in both time and responsibility...*”

¹² *The Legal Duty to Accommodate Lawyers with Family Responsibilities: a Background Paper* prepared by the CBA Working Group on the Legal Duty to Accommodate, Ottawa Ontario: Canadian Bar Association, 1995, at 9.

- offering off-site interviews to candidates with mobility disabilities who cannot currently access the premises because they are not yet accessible;¹³
- arranging sign language interpreters for candidates who are Deaf or hearing impaired;
- communicating with Deaf candidates or candidates who are hearing impaired through TTY or other appropriate technologies and with candidates with visual impairments through Braille or other appropriate technologies; or
- offering flexible interview times to candidates with family responsibilities or religious obligations.

Suggested Practices

Advertising

When advertising employment opportunities, it is beneficial to clearly set out the job description, requirements and expectations in gender neutral language. Advertisements should be based on an applicant's knowledge, skills and abilities. It is best to avoid references to personal characteristics, particularly those related to the prohibited grounds of discrimination.¹⁴ It is helpful to mention any accommodations that you are able to make for interviewing persons with disabilities (e.g., parking spots, wheelchair accessibility, sign language interpreters, etc.).

Job descriptions and organizational expectations

Develop and keep updated all job descriptions and lists of minimum expectations and requirements for all positions including articling positions. Limit job descriptions to the actual range of work to be performed and the necessary or desirable skills to perform that work. Keep expectations bona fide and related to the job only (e.g., the expectation that successful applicant will not disclose privileged information), not to personal circumstances or characteristics of applicants.¹⁵ Carefully consider how much flexibility is available in fulfilling these expectations. Ensure that job descriptions are detailed enough that applicants can assess their own suitability for positions and whether they will be limited in any way from meeting job requirements.

Screening applicants

Develop screening criteria to help those involved with hiring to evaluate resumes consistently and objectively. Ensure that screening criteria is closely related to job descriptions as it should focus on relevant education, experience, abilities and skills.

¹³ Accessibility may include ensuring there are handicap parking spaces available and nearby, a ramp or step-free entrance, accessible restrooms, an elevator (for interviews not being held on the first floor), water fountains and telephones at the proper height for people who use wheelchairs.

¹⁴ For example, it is best not to advertise for a "dynamic young student" or request that a photograph accompany the application or resume.

¹⁵ Creating unnecessary hiring criteria may have the effect of excluding job applicants on prohibited grounds. See Footnote 8.

Screening criteria that are artificially high or unnecessary may inadvertently exclude job applicants on prohibited grounds of discrimination. Assess each applicant's résumé and/or application against the same screening criteria and keep written notes to indicate which criteria each applicant meets. This creates a record of why applicants were or were not selected for an interview and, ultimately, for the position.

Conducting Interviews

Interviews afford Firms the opportunity to learn about candidates' knowledge, skills and experiences. Firms have a responsibility to make a fair and realistic assessment of candidates' abilities and select one or more whose abilities meet their needs. Firms have the right to:

- define specific employment needs according to their business priorities;
- require job-related qualifications and/or experience; and
- hire the most qualified person for a position.

Interviews also afford candidates the opportunity to learn about the Firm's goals, the requirements of the position they are applying for and the Firm's employment practices. Candidates have a responsibility to make fair and realistic assessments of whether they meet the stipulated requirements.

Applicants for jobs and candidates selected for interviews are entitled to be:

- provided with a clear statement of the skills, experience and education required for the job;
- informed about job duties and performance expectations; and
- considered on the basis of individual assessment.

General preparation

Train your interviewers in advance of interviews. In particular, many lawyers who become involved with articling interviews are otherwise inexperienced in interviewing and hiring.

It is a good practice to circulate a package containing the job description, list of expectations, Firm information and mission statement and other relevant information to interviewers and candidates well in advance of the interview. This allows interviewers to focus on **bona fide** job requirements. This also provides candidates with useful information in preparation for their interviews.

Interviews should be conducted in panels of at least two interviewers. This is likely to reduce the possible incidence of discrimination.

Interviewers should keep written notes of interviews. The notes help interviewers make an objective and balanced hiring decision. They also serve as a record of the reason why a candidate was or was not selected.

Be prepared to make accommodations for candidates who might require them (e.g., hold interviews in physically accessible spaces, ensure that interviews or Firm functions do not conflict with religious or family commitments etc.) and make all candidates aware that these accommodations are available ahead of time.

Interview Preparation¹⁶

Preparing Questions

Prepare a list of questions based on the qualifications of the candidates. The goals of the Firm should be incorporated by interviewers and reflected in the questions asked of the candidates. Firms should articulate the qualities they are seeking in successful candidates for the position(s) to be filled. All questions should be relevant to the job¹⁷ and Firms should focus on avoiding prohibited grounds of discrimination. This will promote a fair and standardized hiring process.

Determine ahead of time what the needs of the Firm are and consider developing a standardized point system for evaluating what responses will best fit those needs. It is important that the same mode of evaluation be used by all interviewers.

Provide candidates with a copy of the job description and the list of the Firm's expectations in advance of the interview. They should be asked to discuss their ability and willingness to perform the essential duties of the job described and to meet organizational expectations.

Clearly define what the time requirements of the job are (e.g., expected work hours, possible work on evening and weekends, travel time) and invite all candidates to discuss any difficulties they may have or accommodations they may require in fulfilling these requirements.

Remember, as a best practice the Firm should consider flexibility and accommodation issues as part of your preparation for interviews. As mentioned earlier, unless undue hardship can be

¹⁶ Adapted from a number of sources guidelines from the Canadian Human Rights Commission at www.chrc-ccdp.ca/publications/screening-employment-en.asp; guidelines from the BC Human Rights Coalition at www.bchrcoalition.org under *Frequently Asked Questions & Answers*, Volume 2.3, November 2005; Law Society of Alberta's publication *Equality in Employment Interviews*, created by the Joint Committee for Gender & Equality (1996); and John Kador, *The Manager's Book of Questions: Great Interview Questions for Hiring the Best Person*, New York: McGraw Hill, 1997. For additional examples of appropriate and potentially inappropriate interview questions, please refer to the Canadian Human Rights Commission's publication, *Guide to Screening and Selection in Employment* at www.chrc-ccdp.ca/publications/general-en.asp.

¹⁷ Questions relating to a candidate's ability to perform the essential duties of a job and inquiries as to any accommodation that may be required are relevant to the job.

shown, accommodation should never be the determining factor in whether or not to hire a candidate.

After clearly setting out the requirements for the job, **you may** ask all candidates a general question as to whether any accommodation is required. Candidates then have the opportunity to identify any accommodation **they may require related to their membership in a protected group.**

Interview Topics and Questions

Mental or physical disability¹⁸

Avoid asking for a general statement about disabilities, limitations or health problems.

If a candidate has a disability, it is only relevant if it prevents that person from carrying out the essential components of the job and if it would present an undue hardship to accommodate the candidate's disability.¹⁹

Candidate's sexual orientation, marital or family status²⁰

Avoid asking a candidate questions about marital status, personal relationships, children, plans to have children, child care arrangements, whether a candidate is devoted to his or her family, and so forth. These types of questions may give the impression that the interviewer is concerned with the candidate's ability to meet the requirements of the job based on preconceived and discriminatory notions of time needed for family obligations. If job mobility is a requirement, avoid asking whether spouses or partners would be happy with a move. Instead, ask candidates whether they are willing to travel or be transferred. Also, seemingly innocuous questions assuming heterosexuality can inadvertently put gay, lesbian, bisexual or transgendered candidates into an untenable position of having to "out" themselves or lie.

After hiring, questions about spouses, children and/or dependents (for the purpose of enrolling Firm Members in benefit and pension plans) are appropriate.

¹⁸ For a more detailed discussion of etiquette regarding persons with disabilities, see the City of San Antonio's *Disability Etiquette Handbook* at <http://www.ci.sat.tx.us/planning/handbook/vanilla.htm> which contains sections on "Reception Etiquette," "Conversation Etiquette," "Interviewing Scheduling Etiquette," "Interviewing Technique Etiquette," and "Interviewing Courtesies for Effective Communication."

¹⁹ Ibid Footnote 11. "For persons with disabilities, human rights law guarantees equal treatment if the person is capable of performing or fulfilling the essential duties that accompany the exercise of his or her rights. This requirement recognizes that, in some circumstances, the nature or degree of a person's disability may preclude him or her from being able to perform the essential duties. However, a person cannot be found incapable of performing those essential duties unless an effort has been made to accommodate his or her needs" (British Columbia Police Commission, adopted by the BC Supreme Court in *The Justice Institute of British Columbia v. The Attorney General of British Columbia*, [1999] BCJ No. 1571 (BCSC).

²⁰ See *Bellefleur v. Campbell River (Dist.) (No. 1)* 2002 BCHRT 12, where the Tribunal found that family status discrimination could occur when a person is negatively treated because of his familial relationship to a particular person, as well as because of his status as a family member; see also *Thomson v. Eurocan* 2002 BCHRT 32

Religion

Questions about a candidate's religion, religious beliefs, church or temple affiliation, and whether the candidate is devoutly religious are inappropriate and should be avoided.

Age

Asking questions about age or birth certificates is inappropriate. Asking if candidates are "mature students," or how they anticipate their seniority will affect the office environment, is also inappropriate and should be avoided.

It is appropriate to ask whether candidates have reached BC's legal working age. After hiring, it is appropriate to ask a Firm Member's age for the purpose of enrolling the Firm Member in benefit and insurance plans.

Race, colour, ancestry, place of origin²¹

Asking questions about birthplace or nationality (including nationality of relatives or spouses), and how long a candidate has been a resident of Canada are inappropriate and should be avoided.

Asking whether candidates are legally entitled to work in Canada is appropriate. All candidates legally entitled to work in Canada must be given equal employment opportunities.

Criminal or summary conviction

Avoid asking about criminal or summary convictions unless related to the proposed employment.²²

Also avoid asking for statements of criminal or arrest records.

If you require non-lawyer Firm Members to be bonded, you may ask candidates whether they are eligible to be bonded.

²¹ See *Sangha v. Mackenzie Valley Land and Water Board* 2006 CHRT 9, concerning screening and selection, with regard to overqualification and barriers affecting immigrants and visible minorities.

²² See for example *Dunphy v. B.C. (Min. of Public Safety and Sol. Gen.) and Saville (No. 2)*, 2005 BCHRT 3, where the Tribunal sets out and applies the test for "determining whether a criminal record is 'unrelated' to employment, intended employment, or membership or intended membership in an occupational association, as outlined by a B.C. Human Rights Board of Inquiry in *McCartney v. Woodward Stores Ltd.* (1982), 3 C.H.R.R. D/1113 at D/1121 in the following manner:

In light of the wording of the Code and the policy behind it, I conclude that whether a charge or conviction is related to the occupation or employment of a person, depends upon all of the circumstances of the individual case, including at least the following:

1. Does the behaviour for which the charge was laid, if repeated, pose any threat to the employer's ability to carry on its business safely and efficiently?
2. What were the circumstances of the charge and the particulars of the offence involved, e.g. how old was the individual when the events in question occurred, were there any extenuating circumstances?
3. How much time has elapsed between the charge and the employment decision? What has the individual done during that period of time? Has he shown any tendencies to repeat the kind of behaviour for which he was charged? Has he shown a firm intention to rehabilitate himself?

Therefore ... an employer must, in dealing with an employee who has a criminal record, consider the factors listed above in deciding whether this employee's criminal record relates to this employee's job. A Board of Inquiry must consider the same factors in reviewing an employer's actions in connection with such an employee.

This test was affirmed by the Supreme Court of British Columbia: *Woodward Stores Ltd. v. McCartney* (1983), 4 C.H.R.R. D/1325."

Political belief

Avoid asking any questions about political beliefs or philosophies.

Reference checks and candidate selection

When conducting reference checks, ensure that any questions asked of references are job related and not related to personal circumstances. It is beneficial to use a standard list of questions and to always make notes of all conversations or meetings with references.

In addition, write down reasons for selecting a certain candidate. This assists the Firm in ensuring that all decision making is objective and balanced. It also creates a record of why successful candidates were chosen.

After the decision to hire is made it is a good practice to send the successful applicant a letter of employment. Such a letter should set out the terms and conditions of the new Firm Member's work including period of employment, wages and benefits, termination provisions as well as restating the job description and expectations.

Appendix A

Examples of interview questions²³

The following are examples of various types of appropriate and inappropriate interview questions. Some questions listed below as inappropriate may, in fact, be appropriate, necessary, or relevant to ask depending upon the circumstances of the position (e.g. criminal conviction). The examples provided are intended to be used as a guideline only and are not meant to be exhaustive.

Disability

Appropriate:

- Are you capable of fulfilling the essential requirements of the job as set out in the job description?

Inappropriate:

- What health problems do you have?
- Do you have physical disabilities?
- Are you physically fit and strong?
- Do you have any hearing problems?
- Have you ever been denied health insurance?
- Is any member of your family disabled?
- Do you have AIDS?

Commentary:

A disability is only relevant to the job requirements if it:

- threatens the safety of others; or
- prevents the applicant from safe and adequate job performance even when accommodation has been made.

Firms have a duty to accommodate Firm Members to the point of undue hardship where special measures are needed to enable Firm Members to fully and equally participate in the workplace.²⁴

²³ Ibid Footnote 16.

²⁴ Ibid Footnote 10.

Sexual orientation, marital or family status

Appropriate:

- A statement by the Firm of regular days, hours, or shifts to be worked and a question to all applicants as to whether attendance requirements can be met.

Inappropriate:

- What does your spouse think about your career?
- Are you married, divorced, separated or single? Are you a family person?
- Do you intend to get married soon?
- Do you have or are you planning on having children? Are you a single parent?
- What do you do about birth control?
- How many people live in your household? Do you live by yourself?
- What's your sexual preference?
- Are you a member of any gay or lesbian groups? Are you straight?

Commentary:

Contacts for emergencies and other details on spouses or dependents for benefit plan enrollment can be determined after selection.

Religion

Appropriate:

- A statement by the Firm of regular days, hours, or shifts to be worked and a question to all applicants as to whether attendance requirements can be met.

Inappropriate:

- Is that a [**name of religious/cultural group**] name?
- What church are you a member of? Do you sing in church choir?
- What do you do on Sundays?
- Are you a member of a religious group?
- Any questions about the religious affiliation of schools attended or their location outside Canada.

Commentary:

As previously noted, Firms have a duty to accommodate Firm Members to the point of undue hardship where special measures are needed to enable Firm Members to fully and equally participate in the workplace. This includes flexibility in working hours for Firm Members with religious observances.

Age**Appropriate:**

- Are you the age of majority?

Inappropriate:

- How old are you?
- When were you born?
- How old are your children?
- When did you graduate from high school?
- How do you feel working for someone younger than you?
- Any questions aimed at ascertaining the age of the candidate or questions related to personal information unrelated to job skills and qualifications.

Commentary:

Precise age required for benefits plans or other legitimate purposes can be determined after selection.

Race, ethnicity, culture, or place of origin**Appropriate:**

- Are you legally permitted to work in British Columbia?²⁵

Inappropriate:

- Where are you from?
- What's your nationality?
- Is that a [name of racial, ethnic, cultural group] name?

²⁵ The Law Society of British Columbia makes no inquiries as to the citizenship of its applicants. All candidates who are eligible to work in British Columbia are eligible to be articulated students. See **Andrews v. Law Society of British Columbia** [1989] S.C.R. 21.

- Where are your parents from?
- Is English your first language?
- What language do you speak at home?

Commentary:

Do not request that applicants send in photos. Photos for security passes or Firm files can be taken after selection.

Criminal or summary conviction**Appropriate:**

- Are you qualified to practice as a lawyer in British Columbia?

Inappropriate:

- Have you ever been arrested?

Commentary:

Inquiries about criminal records or convictions are discouraged unless related to the proposed employment.

Political belief**Appropriate:**

- Questions regarding an applicant's political belief are appropriate only if it is a bona fide job requirement such as an executive position with a political party.

Inappropriate:

- Do you belong to a political party?