

# *The Hiring Process*

*Recruiting, Interviewing, and  
Selecting the Best Employees*





# The Hiring Process

## Recruiting, Interviewing, and Selecting the Best Employees

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# Introduction

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Consider the following situation: You have spent months comparing the cost and quality of new fleet vehicles, pagers, office copiers, computer equipment, and spray rigs; and you've spent the entire winter conferring with experts about which pesticides and fertilizers to use in the upcoming season. But suddenly one of your valued employees tells you she has accepted a job in another state, indicating that her new employer offers better career development opportunities and that she will be given responsibilities that will showcase her skills and experience. The new job includes additional perks, better pay and benefits, and expanded retirement options. She will resign at the end of her shift to get ready to move and begin her new job the following week.



## Hiring qualified employees should be your primary focus.

Panic sets in, but you graciously wish your employee the best and begin thinking about filling her position quickly. You ask your office staff if there are any current job applications on file and, in fact, there is one that

afternoon. Fifteen minutes into the interview you reach across the desk, shake his hand, and say, "Welcome aboard." You tell him to see the office secretary for the necessary new employee paperwork.



YOUR HUMAN RESOURCE ADVISOR SAYS:

*Hiring someone without a reference check, background review, or validation of job application information seldom works out for the employer or the employee, long term.*

was submitted a few weeks earlier. You quickly scan the information and note that the applicant can at least write neatly! You call the applicant, and it's your lucky day: he is still unemployed and looking for work. A quick interview is arranged for that

You think back to your morning fraught with panic when your trusted employee resigned. But you have filled the position without having to recruit job applicants, which was painless and quick, and your peace of mind has been restored—or

so you think. Unfortunately, your relief will be short-lived. If you had checked the applicant's references, you would have discovered that he had a troubled work history: poor attendance and customer service skills, unsatisfactory work, and a negative attitude. You might have been better off just walking down the street and hiring the first person you met. Does this scenario sound familiar?

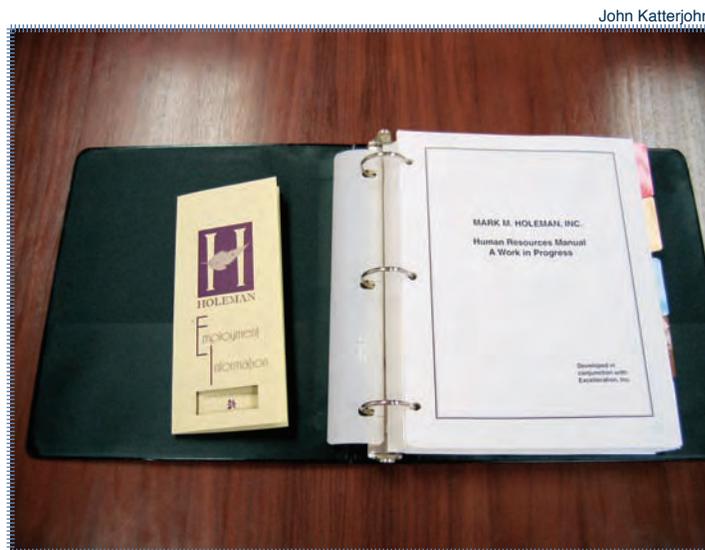
When faced with an unexpected resignation, some companies react by hiring too hastily. Hiring someone without a reference check, a background review, and validation of the information supplied on the job

application seldom works out, long term.

This publication provides you with the tools you need to increase your efficiency in hiring and retaining employees. We will discuss writing a detailed job description, provide a guide for developing an employment application form tailored to the pesticide application industry, and list essential interview questions.

Taking the steps outlined here will help increase your odds of attracting, hiring, and retaining good employees; and it will reduce the likelihood of low morale, low productivity, and staff turnover.

## *Hiring Was Never Meant to Be Easy*



John Katterjohn

*Your human resources manual should address hiring procedures.*

Selecting job applicants to interview, drafting good interview questions, and ultimately deciding which person to hire can be a daunting challenge. An effective and efficient hiring process is essential to your personal and business success. You must hire people who can put forth your company's positive image while performing with accuracy and efficiency. Your well trained, conscientious employees are your most valuable assets.

A thorough review of applicants' backgrounds is essential to the



YOUR HUMAN RESOURCE ADVISOR SAYS:

*Your employees are your most valuable assets.*

hiring process, and your subjective evaluation of how well their personalities and work ethics will fit into your operation is also important. The process requires a lot of time spent reviewing job applications, going over details presented on resumé, and

interviewing candidates to decide what technical, communication, and personal skills they can bring to the company. Time invested in careful hiring procedures will save time in the long run by helping you avoid a “bad hire.”

## *The Cost of Hiring*

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Consider what it costs to hire a new employee, from the time the position opens until the employee becomes productive—that is, when the person’s performance becomes an asset to your company. There are readily identifiable costs such as training manuals and/or initial classroom training, pesticide licensing, and pesticide recertification classes.

In addition to the tangible costs of hiring a new employee, there are intangible expenses known as “opportunity” costs. A good example is the cost of a supervisor’s time spent working with the new employee—time that could otherwise be spent managing the business. Intangible expenses also include time spent listening to and resolving complaints lodged by customers and other employees about the new person’s performance. Every time an employee resigns or is terminated, the company’s investment is lost; and the costly cycle of recruiting, interviewing, hiring, and training a new employee starts all over again.

*The initial and ongoing expense of training and certification—not to mention the value of your time spent on orientation—is part of the cost of hiring a new employee.*

Fred Whitford



*A suggestion box provides a discreet way for staff to communicate concerns about a new employee. The value of your time spent resolving new employee issues is part of the cost of hiring.*

## Take the Time to Hire

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The longer the period between an employee's resignation and the hiring of a replacement, the longer other staff must take up the slack; or, even worse, the longer work goes undone and you lose revenue. You may find yourself under enormous pressure to hire someone quickly. But the recruitment process requires a great deal of patience, especially when work is backlogged because of delays inherent to the hiring process. Take the time to do it right, and you will not regret it.

You may ask, Why take the time? Consider the following:

- Make the right decision the first time. Seldom will good hires turn bad—nor bad hires, good. Common effects of a bad hire,

such as reduced employee morale and increased customer dissatisfaction, can be long-term.

- Hire someone who has the same goals and work ethic as your valued employees and management personnel.
- Hire the best person for the job. The pesticide application industry requires people who are willing and able to learn, who take their responsibilities seriously, who work effectively with customers, and who know how to solve problems.
- Determine if any of the job candidates have the skills to exceed core job functions. Technical know-how, foreign language fluency, research experience, and public speaking skills can add value to your organization.
- Hire a qualified individual who will work and interact well with others. One of the least desirable managerial responsibilities is dealing with an employee who is not a team player. Disruptive employees can turn other employees against you; change friends into enemies; drive trained, trusted employees to seek employment elsewhere; and transform a good business into a poor one.



**The right tools help you build  
a sound employee base.**

- Decide how to spend your training dollars to transform the new employee into an asset. This requires an understanding of the knowledge, skills, and abilities he brings to the job. Today's successful pesticide applicator must be physically fit to work under less-than-ideal conditions, both indoors and out. In addition to meeting the job's physical demands, the employee must be able to pass state and federal certification examinations; willing to use new technologies and methodologies; receptive to new ideas; capable of working harmoniously with others; and attentive to completing paperwork properly and professionally. It may take years for a person to achieve the level of training, education, and performance that meets your expectations.

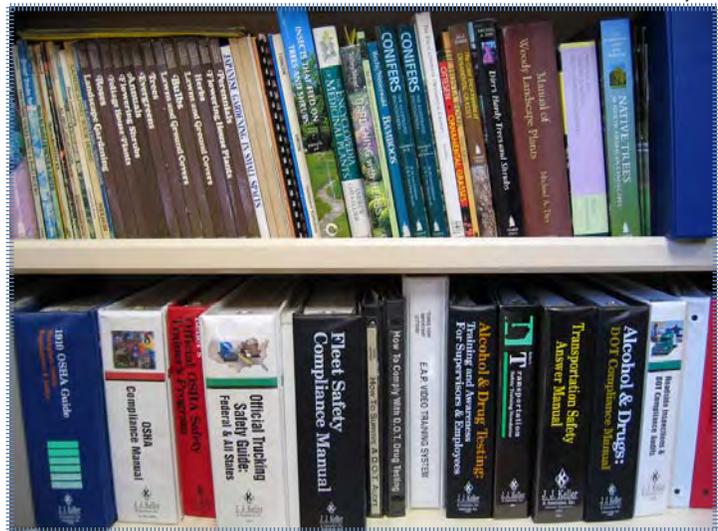
- Retain good employees. Initially, a new hire must adjust to the company's everyday operating procedures while focusing on his own position; later, you may want him to learn more about how the business runs and how business decisions are made. It may take years—and thousands of dollars—to train an employee to the desired level of proficiency. And employees who leave take with them the skills, education, and experience

they have achieved within your organization; they also may take valuable information about your business to a new job with one of your competitors. Protect your assets by making it appealing for good employees to stay on-board.

- Make your company attractive to job applicants. You probably remember the good employee who got away, or the one who would have been a perfect fit for the job but declined your offer. Remember that, while you are evaluating a candidate's qualifications, he is considering

whether he really wants to work for your company. It is important to make a good, honest impression throughout the entire evaluation process to reflect the level of professionalism you maintain.

- Comply with all laws applicable to hiring employees. The hiring process poses legal pitfalls if conducted incorrectly. The more informal the process, the more vulnerable you are to regulatory investigation, charges of discrimination and negligent hiring, and lawsuits.



John Katterjohn

*There are many regulations that a business owner must deal with, including those pertaining to the hiring and termination of employees.*



YOUR HUMAN RESOURCE ADVISOR SAYS:

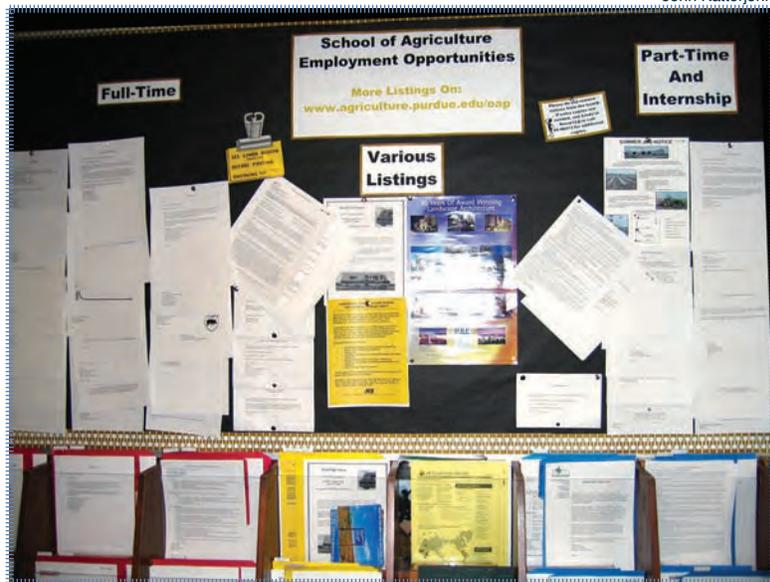
*The hiring process must be well-organized, consistent, and compliant with applicable laws.*

Management must be aware of what can—and cannot—be said or done during the hiring process. Hiring is regulated by state and federal laws. Charges alleging racial, gender, religious, or physical disability discrimination are abundant, and many cases go to court. The law requires that your hiring process be consistent, well-organized, and fair to everyone.

## The Steps to Hiring

The hiring process includes recruiting, processing, eliminating, and selecting. It can involve

- posting a job advertisement in appropriate places;
- evaluating the information provided on each job application;
- screening candidates to determine which ones to interview;
- verifying references and information;
- conducting personal interviews; and
- deciding who will be offered the job.



John Katterjohn

*Post job openings on your company bulletin boards as well as in public places.*

The goal is to choose the most competent person for the position by obtaining and carefully reviewing all relevant information. Consider implementing the steps beginning on page 11 in making your hiring decisions.



YOUR HUMAN RESOURCE ADVISOR SAYS:

*It is almost impossible to select the right person for a position without first giving careful consideration to your organization's recruitment needs.*

## Step I. Create a Job Description

It is almost impossible to select the right person for a position without first giving careful consideration to your organization's specific recruitment needs. Do you require technical skills? Communication skills? A good job description provides a summary of the tasks to be performed and states specific position requirements. It serves many different functions:

- It discourages uninterested and unqualified individuals from applying, enabling you to limit the application review and interview processes to fewer people.
- It serves as a guideline for selecting and interviewing candidates and making your decision on which one to hire.
- It aids in recruiting the right applicants, whether it is used as an internal posting or a media advertisement. The job description gets the word out, not only that you are hiring, but that you are looking for certain talents. It lists minimum performance expectations and is worded to attract the right people.
- It gives the prospective employee a basic understanding of what will be expected of him if he is hired. The job description should state plainly and succinctly what you want the new employee to accomplish. Once you hire someone, you can use the job description as an outline to structure training.

- It serves as a benchmark for reviewing and measuring the success and growth of an employee. Review it with the employee periodically and discuss his performance of the duties listed.

- It informs other employees of the job duties and requirements in case they are interested in applying for the position. It should be displayed in the area where legal requirements are posted, as well as other locations where employees have easy access.
- If the description clearly states all job duties and requirements, it may later serve as evidence against grievances, wrongful termination, lawsuits, or claims of discrimination or retaliation.

Mark Wade

Position Description	
Job Title:	Sales Representative
Division:	Southern Region
Functional Area:	Sales
Reports to:	Area Sales Manager
Direct Reports:	None
Wage Category:	Exempt
<b>Job Statement:</b> Calls on and services all livestock producers and key influencers as assigned to him/her by the company within the assigned geographic area. Duties include sales, coordination of technical service representative activities within the area, small deliveries, customer service, and may involve special projects and assignments outside of assigned territory in support of company objectives.	
<b>Essential Functions and Responsibilities:</b> <ol style="list-style-type: none"><li>1. Achieve minimum acceptable level of sales as jointly determined by the representative and management.</li><li>2. Meet territory growth objectives in sales and tonnage.</li><li>3. Provide competent levels of service to all accounts.</li><li>4. Manage accounts receivables in a timely manner.</li><li>5. Call on all accounts as specified in yearly action plan (call frequency).</li><li>6. Maintain accurate and complete information on all assigned accounts.</li><li>7. Provide weekly activity and sales reports to management.</li><li>8. Attend all company meetings, training and functions as required.</li><li>9. Work with other functional areas of the business to achieve all business objectives.</li></ol>	
<b>Job Specifications:</b> <ol style="list-style-type: none"><li>1. Four-year college or university degree in animal science, agricultural economics, agribusiness, or a related field; OR an equivalent combination of experience, education, and training.</li><li>2. Knowledge or background in animal agriculture industry preferred.</li><li>3. Previous proven marketing and sales experience desired.</li><li>4. Ability to independently plan and organize one's own activities with little direct supervision.</li><li>5. Ability to express ideas clearly in both written and oral communications.</li><li>6. Good problem solving ability.</li><li>7. Ability to work well independently or in teams.</li></ol>	

*Take the time and effort to develop an accurate, all-inclusive job description.*

## Write a Job Description

It takes time to write an effective job description, but defining the duties and skills pertinent to the position is essential to the successful hiring process. Start by defining the characteristics of the “perfect” person

*Purdue Extension publication EC-728, Developing Effective Job Descriptions for Small Businesses and Farms, is an excellent reference for writing job descriptions.*



**YOUR HUMAN RESOURCE ADVISOR SAYS:**

*A few minutes spent defining the position will help you identify necessary skills.*

for the job. Make a list of education, experience, and qualities you are seeking. Ask supervisors and other employees to contribute. Decide together what abilities, skills, and personality traits someone needs to be proficient and personally satisfied in the position.

Limit the job description to two pages or less, and keep it simple and easy to understand. Omit jargon, even if it is common to the pesticide application industry. Use gender-neutral language. Describe what knowledge, skills, and abilities are required of the applicant, and list the exact duties the job includes. Once you are finished, have the initial job description reviewed by your human resources personnel and your company attorney to assure that it is legal. Wording makes all the difference.



### **What skills and experience does the position require?**

**Know what kind of employee you're looking for.**



**YOUR HUMAN RESOURCE ADVISOR SAYS:**

*Keep in mind that the purpose of the job description is to describe the purpose of the job, the job functions, and the employer's expectations of the employee.*

Treat the initial job description as a draft. Ask employees who are currently performing similar jobs to review it and make comments, then incorporate their suggestions as appropriate. Have a human resource professional or an attorney review the final draft. If you don't have such personnel on staff, contact a human resource consultant (see The Society for Human Resource Management

Web site, <http://www.shrm.org>) or ask your personal attorney to refer you to a legal advisor who specializes in this type of work.

Organizing and writing an effective job description takes time and effort. But by doing a thorough job you can attract and hire the right person for the position in the least amount of time.

*See Job Analysis, Appendix 1, for assistance in drafting a job description.*

## Step II. Develop an Application for Employment

A well-designed employment application form is a critical management tool. It generates a detailed overview of a candidate's work history, skills, interests, and education; and it organizes all applicants' biographical data to facilitate comparison.

You should be able to achieve the following goals from information on the application form.

- Protect the company against liability by obtaining information legally.
- State certain human resource policies.
- Collect consistent and complete information relevant to the applicant's aptitude for and ability to perform the job.
- Collect information related to the applicant's pertinent professional experience.
- Acquire permission from the applicant to verify the information presented.
- Identify any outstanding attributes or shortcomings the candidate may have.
- Provide facts for those in charge of hiring.



### Narrow the field

The job application provides preliminary information to help you screen candidates to interview.



YOUR HUMAN RESOURCE ADVISOR SAYS:

*A well-designed employment application form provides a detailed overview of a candidate's work history, skills, interests, and education.*

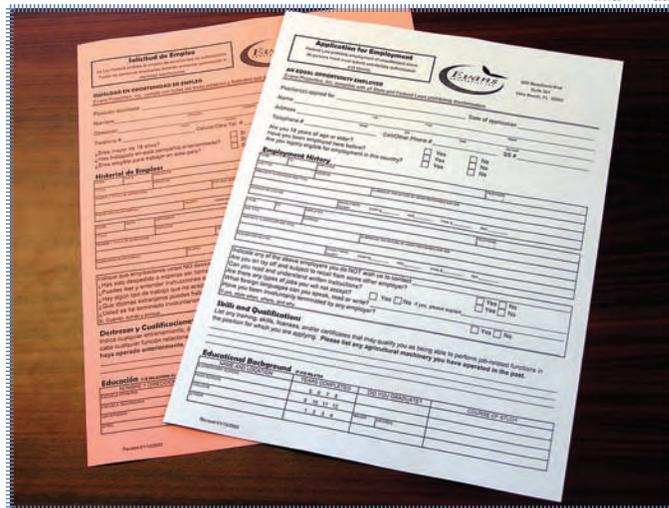
## Sample Application for Employment

Your employment application form should instruct applicants to describe themselves and outline their skills and related work experience. But you must word it so that they know not to write "See resumé" under the heading "Experience." Specify that you want a description of their experience, not simply a list. Design your form so that applicants will have to provide enough information for you to determine whether they should be interviewed.

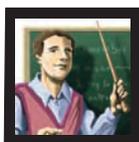
You may use the sample *Application for Employment* (Appendix 2), that we provide, but it should be modified to fit your specific needs. Specific segments on the sample may be used to update an employment

form that you already use. If you have questions regarding the legality of your application, contact an experienced employment law attorney or consultant. And be sure to check federal, state, and local laws regarding retention requirements for employment applications.

Mark Wade



*Develop your employment application form to elicit the specific information you need to make sound hiring decisions.*



YOUR HUMAN RESOURCE ADVISOR SAYS:

*The employment application form offers applicants the opportunity to describe themselves to the company and to outline unique abilities and experience.*

## Review the Employment Application to Locate the Best Candidate

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Employment applications are often just skimmed. But candidates who thoroughly complete their applications deserve careful consideration: you owe them thoughtful attention to the information they provide. Choosing applicants to interview is your first hiring decision.



YOUR HUMAN RESOURCE ADVISOR SAYS:

*A thorough review of the application leads to your first hiring decision: selecting candidates to interview.*

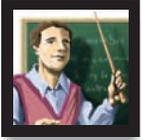
Consider these questions when reviewing employment applications:

- Has the applicant given you permission to do a background check and contact references? If not, consider rejecting the application.
- Is the person actually qualified for the job? Compare information on the application to requirements listed in the job description.
- Are there gaps in employment? You may ask about them—tactfully—but remember that they may be due to legitimate situations such as family leave or time off due to sickness or disability.
- Did the person offer valid reasons for leaving a prior position?
- How long did the employee work for each previous employer? Frequent job changes may be a red flag if you are looking for a long-term employee, but they are not always negative; they may result from promotion or from newly acquired training or education that qualified the person for a better job.
- Has the person received promotions from previous employers? Previous internal promotions reflect dependability, good job performance, and a positive attitude, all of which speak positively for the employee's character.
- What skills can the applicant bring to your company? Feeling that he can contribute helps an employee start out on the right foot.
- Could the applicant improve himself by working for your company? An employee's desire to work for you can make a big difference.

## Step III. Interview the Candidates

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You have reviewed numerous resumé's and job applications and selected the candidates you believe could best fit your needs. Now it is time to interview them.



YOUR HUMAN RESOURCE ADVISOR SAYS:

*The interview is an opportunity for the employer and prospective employee to learn more about each other.*

The interview is an opportunity for you and a prospective employee to learn more about each other; it allows you to go over information disclosed on the application and to ask questions and assess the applicant's personality, character, verbal skills, and ability to reason through tough questions. The personal interview allows you to get a feel for the person, which is impossible by simply reading an employment application.



John Katterjohn

*Allow plenty of time for the employment interview. The applicant has set aside this time for you, the same as you have for her; so don't rush. Give the applicant your full attention during the time you have with her.*

## Types of Interviews

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### **Telephone (Screening) Interviews**

Try telephone interviews to screen job applicants. The telephone interview is a good way to assess whether an individual is genuinely interested in the type of work you have available, or just something to pay the bills. It also is a quick and convenient way

to identify and eliminate applicants who would have a difficult time meeting job requirements. Making these assessments by phone is much less time consuming than personally interviewing each applicant; and by ruling out unlikely candidates you can devote more interview time to

individuals who seem genuinely interested and qualified. Look for someone who seems committed to getting hired from the first moment of the interview.

### *One-on-One Interviews*

The one-on-one interview is most frequently used for entry-level positions. It is less stressful to the applicant than facing a group of people, and in most cases it is easier and more expedient: you ask questions, the applicant responds, and you take notes. After the interview, go over your notes and make sure you recorded the information gained from your conversation with the applicant. Also, write down your general impressions of what kind of employee you think the applicant would make.

These thoughts may prove valuable in deciding between two candidates who seem equally qualified.

### *Panel (Team) Interviews*

When you are the only person interviewing a candidate it can be difficult to assess all that is being said, especially if you have little or no experience in the position under consideration. A panel interview brings together key members of your organization to participate in the interview process. Consider including the prospective employee's immediate manager, the division director, someone from human resources, and perhaps a manager from another department.

## *The First and Second Interview*

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A 30- to 45-minute interview is sufficient for most entry-level

positions. This is enough time to get a feel for whether a person who seemed qualified on paper is right for the job. Ask all candidates the same questions and take good notes, while interviewing, to facilitate comparison. Factor each person's responses into the value of their skills, training, and education. If you have difficulty deciding between two candidates, invite them for a second interview.

Technical and professional positions may require a series of interviews. Use first interviews to narrow the field. Invite a few select candidates for a second visit and, if necessary, ask the two top contenders to return for a third interview.

Mark Wade



*The supervisor (right) conducts a portion of an employment interview in the workplace.*

## *“I’ll see you in court” Questions*

In an actual university interview, an applicant was asked what his wife did for a living. He answered, “What does my wife have to do with me and this job?” Why would the interviewer ask such a question? Perhaps he innocently viewed it as small talk that would put the applicant at ease, or maybe he was wondering if the spouse’s occupation would affect the candidate’s availability to work certain hours. Here are some excerpts from page 19, with comments:

### ***How old are you?***

Why would you want to know an applicant’s age? Perhaps you think that older individuals are less fit, mentally or physically, to perform certain tasks.

### ***Are you married?***

Maybe you feel married people are more stable and responsible than singles.

### ***Do you have children?***

A common assumption is that a woman with children is likely to take off work more often than a woman without children. Or an employer may wonder if a woman is seeking a job with medical benefits primarily so she can start a family.

### ***How is your health?***

It is commonly assumed that someone with a history of poor health will have continual medical problems.

The fear is that this would increase absenteeism and perhaps cause the company insurer to raise employee health insurance premiums overall.

What do these and similar questions have in common? They are used to stereotype a person: old vs. young, male vs. female, married vs. single, healthy vs. unhealthy, etc. Responses to such questions often identify the individual with a certain group—working moms, career women, insurance seekers, etc.—about which the interviewer may have a strong opinion. These

types of questions can be considered discriminatory, and your asking them could cause legal problems. Here’s the rule: If the question is not job related, don’t ask it.

Specifically train all company personnel involved in the interviewing process on the appropriateness of interviewing behavior and questions that are off limits. Never ask prospective employees the questions on page 19 nor include them on your employment application form.



Arlene Blessing



Arlene Blessing



Arlene Blessing



## *Questions Likely to Be Considered Discriminatory*

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*What is your race?*

*Where were you born?*

*How old are you?*

*What is your date of birth?*

*What is your religious affiliation?*

*What is your national origin?*

*What is your primary language?*

*Are you an American citizen?*

*Do you have good credit?*

*Are you married?*

*Do you plan to have children?*

*Do you have children?*

*What are the ages of your children?*

*What are your childcare arrangements?*

*What is your sexual orientation?*

*How tall are you?*

*How much do you weigh?*

*Are you a member of any organizations? (e.g., membership in AARP is indicative of age; ethnic organization membership might imply national origin)*

*What is your spouse's name?*

*Does your spouse work?*

*What does your spouse do for a living?*

*How is your health?*

*Have you ever had a back injury?*

*Have you ever been hospitalized?*

*Do you have a disability?*

*Have you ever filed for medical disability?*

*How many days were you absent from your job last year?*

*Do you have any ongoing medical conditions?*

*What kind of name is \_\_\_\_\_?*

## Challenging Questions that Reveal

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Interviews personalize the facts. As soon as possible after interviewing a job applicant, ask yourself, Which candidates

- exhibited a presence?
- were interactive during their interview?
- have significant experience relative to their technical skills?
- were consistent in answering questions?
- possess acceptable communication skills?
- will be able to work well with other employees?
- seem to be a good fit with the company?



YOUR HUMAN RESOURCE ADVISOR SAYS:

*Your job is to actively listen and observe how the candidates construct their thoughts in response to your questions.*

The interview should focus on whether a candidate is qualified and would be able to perform the functions of the job. Ask candidates how they might react in certain work-related situations. Listen and observe how they construct their thoughts in response to your questions, and evaluate their manners of presentation. Getting to the heart of their characters is difficult, as is accurately judging their potential.

Ask thought-provoking questions and evaluate how applicants think when challenged. Leave your questions open-ended to allow the applicant an opportunity to offer personal information. Open-ended questions prompt responses that highlight the applicant's skills and personality. Listen attentively and ask follow-up questions. Ask permission to take notes, but don't let extensive note taking distract you from the interview.

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A very good list of interview questions that cover work history, job performance, education, career goals, self-assessment, motivation, creativity, leadership, etc., can be found on the Indiana University Bloomington Libraries' Web site: <http://www.indiana.edu/~libpers/interview.html>. The questions on page 21 have been modified from an article appearing in the July 2004 issue of the newsletter *HR Today*, published by the Council on Education in Management, and from the University of Kansas at <http://www.ku.edu/cwis/units/coms2/via/conducting.html>. Many professionals consider these the best questions to ask potential job applicants.

*Have you ever left an employer involuntarily? If so, what were the circumstances?*

*What is it specifically about our organization and this position that is attractive to you?*

*What made you happy or satisfied at your last job?*

*How does your experience of the last two years make you a suitable fit for this position?*

*If you were me, why would I hire you?*

*Why do you want to work here?*

*What do you know about our company?*

*What did you like/dislike about your last job?*

*What would you like to be doing five years from now?*

*What are your biggest accomplishments?*

*Can you work under pressure? Tell me about a time when you had to meet a tough deadline.*

*Are you able to take direction/criticism well? Tell me about a time when your supervisor gave you feedback that surprised you.*

*Tell me about yourself.*

*What is the most difficult work-related situation you have faced?*

*Tell me about a customer situation that you found challenging. How did you handle it? Were you pleased with the outcome?*

*Do you prefer working with others, or alone?*

*Have you had an opportunity to work on a team? What was your role? Was the team successful? Why or why not?*

*How would your former boss describe you, using just one sentence?*

## *Step IV. Gather Data*

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Write down your opinions as you progress through the hiring process. Sometimes the top candidate on paper is less impressive in person. Consider certain points after the interview, using the *Interview Rating Form* (Appendix 3), to evaluate your impressions of the individual.



**YOUR HUMAN RESOURCE ADVISOR SAYS:**

*Take notes. Include personal opinions to facilitate comparison of multiple candidates.*

## *Red Flags within the Hiring Process*

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Be alert to indications that an applicant might not be right for your company.

The following expressions and behaviors might be cause for concern:

- Prior distrust of management
- Negativity in any form
- Expression of ill feelings about prior employer, manager, company, etc.
- Unreasonable inflexibility of any type
- Out-of-reach expectations for the job
- Noncommittal attitude
- History of job jumping
- Incomplete references
- Personal references only (no prior employment references)
- Ambiguous responses
- Poor communication skills
- Lying
- Falsification of information on resumé or employment application
- Emphasis on wages
- More interest in what employer can do for employee than vice versa
- Prior layoff without a strong reference (unless prior employer had a policy of not providing references), or without providing additional information upon request
- Failure to research the company before applying for employment (indicates applicant's assumption that employer will provide the information)
- Disinterest demonstrated during communication with company employees
- Display of disrespect for company employees
- Excessive voluntary expression of personal information (may indicate that the applicant will bring personal issues to the workplace)

## Checking References and Background

All candidates have filled out the same job application and have been asked the same questions. In the process, you have selected the top candidate and ranked the others. Now it is important to call the top candidate's references to confirm your interpretations of the information provided. References can be the applicant's professional colleagues or personal friends. But keep in mind that personal references typically are more familiar with the person socially than professionally and may not have firsthand knowledge of his professional skills and experience.

Some companies have policies that limit references to providing only minimal information (e.g., employment dates, the person's title while employed with the company, and perhaps salary). But it never hurts to ask additional questions, just in case the person is willing to tell you more (see *Questions for Prior Employers*, Appendix 4).

Write down questions in advance and ask the references a few basic questions on the candidate's past work experience, technical skills, personality traits, and work ethic. Take notes as the references respond (see *Reference Checks and Prior Employment Verification*, Appendix 5). Evaluate both what is said and what is not said, and maintain your notes in the interview file.



*What duties did this person perform for your firm?*

*Would you rehire this person? Why or why not?*

*How would you describe the person's work ethic?*

*How thorough is the person?*

*Does this person pay attention to details?*

*Was the person punctual in reporting for work?*

*Did this person get along well with others?*

*Did the person take his job seriously?*

*Is there anything I have not asked that I should know about this person before offering him the job?*

## Drug Screens and Motor Vehicle Records

Drug screening and checking Bureau of Motor Vehicle records are key components of the hiring process. These are very important if the job involves driving. Most insurance companies conduct their own BMV checks on individuals authorized to drive your company vehicles. If the position requires driving, make sure the candidate has a good driving record and is properly licensed. If a commercial driver license is required, stipulate that the person acquire it prior to starting work if offered the job. Be cautious about hiring someone who fails a drug test during his pre-employment physical.

## Step V. Make the Offer

Candidates have been screened and interviewed, and you have made your selection. You have been diligent in choosing your top prospect. Hopefully, this was accomplished quickly because good prospects do not interview with you and wait; they submit applications to your competitors while you are making up your mind. The longer you wait to make the offer, the more likely they will find work elsewhere.

Once you have made your choice for the job, call the applicant immediately and make a verbal offer. Answer any questions the person might have, especially those concerning compensation and benefits. Often the applicant will give you an answer immediately; but, regardless, you should follow up with a formal, written offer soon after the conversation.

If the candidate asks for time to consider your offer, agree on a deadline. This is important because, if

*Make your selection quickly to avoid losing the best person for the job.*

your first choice declines the position, you have already lost time offering it to your second choice.

All offers of employment, including those made over the telephone, should be followed up in writing. Many companies use a standard, fill-in-the-blank form or letter. One of the key phrases in the job offer goes something like this: "This is to confirm our offer of employment for the position of \_\_\_\_\_ at a salary of \$\_\_\_\_\_ (hourly; weekly; biweekly; monthly)." Do not state an annual salary because some courts have ruled that doing so implies a one-year contract with the employee.

Also, be careful about describing benefit plans, making sure to introduce any summary of benefits

with a disclaimer: The company currently offers the following benefits to eligible employees. These benefits are subject to change and/or termination at the discretion of the company.

Many companies include a copy of the job description with the offer letter to remind the candidate of the job requirements. Include an employment-at-will disclaimer (see page 33) so the candidate can consider the job specifications in deciding whether to accept your offer.

Place an acknowledgment line at the bottom of your offer, allowing the individual to confirm acceptance of the offer by signing and returning (or faxing) it. Maintain the signed acknowledgment in the individual's personnel file.



Mark Wade

*An employer shakes the hand of a new hire who has just accepted a position with his company.*

## Step VI. Notify Rejected Applicants

Rejection letters should always be sent to candidates who were interviewed either on the telephone or in person. It helps portray the company as a fair employer; you want to maintain a good reputation and be respectful of all applicants. In the event that the primary candidate turns down your offer, or if new positions become available, you might want to reconsider qualified applicants not selected the first time.



YOUR HUMAN RESOURCE ADVISOR SAYS:

*Rejection letters should be sent to all candidates interviewed on the telephone or in person.*

The following sentences might be used in the rejection letter, depending on the situation:

- We were impressed with your credentials and work experience. (Do not say this unless you are sincere.)
- We have offered the position to an individual who we feel is better suited to the position.
- We appreciate your interest in our company.
- We invite you to apply for positions that may become available with us in the future.



**Candidates who are not qualified for one position may qualify for another.**

Applicants who submit a job application via e-mail, fax, or U.S. mail should be contacted in the same manner in which they applied. Explain that their information was received and that they will be contacted only if they are chosen for an interview. This eliminates your having to send a rejection letter if they are not selected.

## *Step VII. Define the Introductory Employment Period*

Most states are “employment-at-will” states; that is, either the employer or the employee may terminate the employment relationship at any time, for any reason, with or without cause. If you designate a period of time immediately after hiring for determining if the new hire is right for the job, use the term “introductory” period, not “probationary” or “trial” period. This eliminates the idea that there is an offer of continued and/or permanent employment.

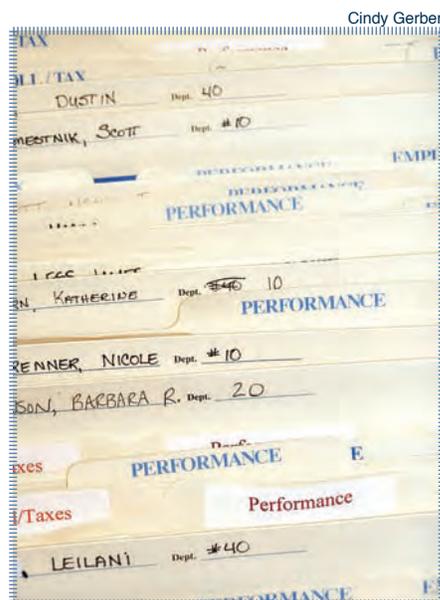
Many companies stipulate a 30- to 90-day introductory period for new employees; if things do not work out, the employer may release the employee after the specified time, without obligation. Sometimes a seemingly qualified job applicant cannot learn the job for one reason or another. Sometimes work ethics or personality conflicts become an issue. Conversely, the introductory period allows employees a graceful exit if they do not like the work or feel uncomfortable on the job.

A *New Employee Performance Review* (Appendix 6) should be completed at 30, 60, and 90 days, and at termination.



Mark Wade

*Training films are instrumental in helping new employees learn the job during their introductory period of employment.*



Cindy Gerber

*Performance review records should be kept with the employee's personnel file.*

# Completing the Hiring Process

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Many hiring and employee retention issues have evolved from legal rulings, state and federal agency regulations, and good business practices promoted by industry association attorneys and human resource consultants.

## Retention of Interview Files

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Document your entire hiring process: position description; job posting; applications received and letters of acknowledgment; your notes from telephone conversations, personal interviews, and the selection process; rejection letters; job offers; and any paperwork signed by job applicants and the newly-hired employee. Maintain an ongoing "hiring" file as well as individual personnel files.

These are some of the advantages to retaining employment documents:

- Instant access to good candidates who were not chosen initially. You may want to review their strengths and weaknesses as a replacement if your first choice does not stay with the company.
- Ready reference to qualified, previous applicants who might fit other positions within the company. A person might not be hired for one job but might become a leading candidate for another.
- Viable alternative to re-advertising. Good interview records from previous employee searches might save you the cost of advertising employment opportunities in the future.
- Documentation of grounds for termination. Keeping interview records allows you to take action against those who lie on their resumé or employment applications. For example, say a person falsifies her work history or qualifications on the application form and is hired. But once she begins work it becomes obvious that she cannot perform the job. You inform the employee that she was hired because her experience would enable her to immediately assume the responsibilities of the position. Your accurate records, including the written application form, are evidence of falsification. Therefore, you could terminate the employee and your liability potential would be minimal.
- Documentation against claims of discrimination. Recruitment and interview records can be critical in defending against charges of discrimination by a prior job applicant or a current or prior employee. Dated records that state precisely why one person was hired over another can assist legal counsel in your defense.
- Satisfaction of federal requirements mandating that employers retain for a minimum of one year all information regarding the filling of a position (29 CFR Part 1602.14). Additional requirements for employers subject to federal contractor oversight state that personnel records must be kept one year from the date of involuntary termination. If the employer is charged with discrimination, the records must be kept until the charges are resolved (longer in some states).

## Establishing a Filing System

A key aspect of your hiring process filing system is to place every piece of information pertaining to each candidate in that person's individual file: resumé, letters of interest, job application, a list of interview questions asked, notes from the interview, information collected from references, rejection letter, job offer, etc. Document who met with the candidate, as well as the dates and times. There are numerous options for organizing files.

## Employee and Personnel Files

Companies are legally required to maintain "sensitive" personnel files for materials personal to the employee but unrelated to the position: medical records, medical questionnaires, accident reports, workman's compensation claims, investment data, Social Security numbers, addresses, phone numbers, and emergency contact information. For example, under the Americans with Disabilities Act, medical records must be maintained in a separate confidential file. The file also might include training records,

tax forms, memoranda, performance evaluations, disciplinary reports, etc.

Most companies have policies regulating access to employment and personnel files, but they differ from county to county and from state to state. Normally, companies allow an employee to see most, if not all, of the

documents in their own files. But you may want to keep certain documents such as those developed in strict confidence by another person—letters of recommendation, notes taken during the interview process, supervisory notes, etc.—separate from the file to which they have access.



Mark Wade



Cindy Gerber

Training records (left) and tax records (above) must be kept in a confidential file.



YOUR HUMAN RESOURCE ADVISOR SAYS:

*Most companies have policies regulating access to employment and personnel files.*

You have a duty to make sure certain employee information remains private and confidential in a secure, fireproof location. Controlled access should be limited to those with a legitimate reason to review the file. Designate one trusted employee as the contact for all requests for access to confidential employee information.

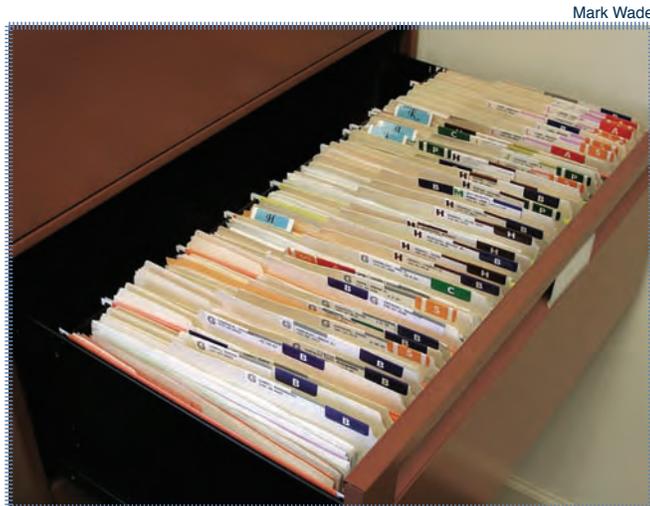
Most employers do not allow employees access to their personnel files except as required by law. Typically, individuals requesting permission to review their files may do so under proper supervision but may not copy, add, or remove information without express written permission from an authorized company representative.

### *Filing by Individual*

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A popular choice is to maintain a separate file for each employee and job applicant. Reference the person's last name and first initial, the title of the position for which the person applied or was hired, and the date the position was filled. Each file can be cross-referenced with other candidates' files that list the same position description and posting date. In this manner, you can pull records on a specific position and determine who submitted applications besides the person who was ultimately hired.

There is recruitment software available for tracking applications, usually offering a database and electronic application formats that can be utilized on your company Web site. These systems are beneficial when dealing with numerous applicants.



### *Filing by Position*

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Files organized by position title and the date the vacancy was filled contain information on all candidates, organized alphabetically by the candidates' names. Filing by position is especially useful if you do not have human resources personnel to develop and maintain an individual filing system. Position filing makes information retrieval relatively easy, whether to accommodate an official investigation or to fill a vacancy.

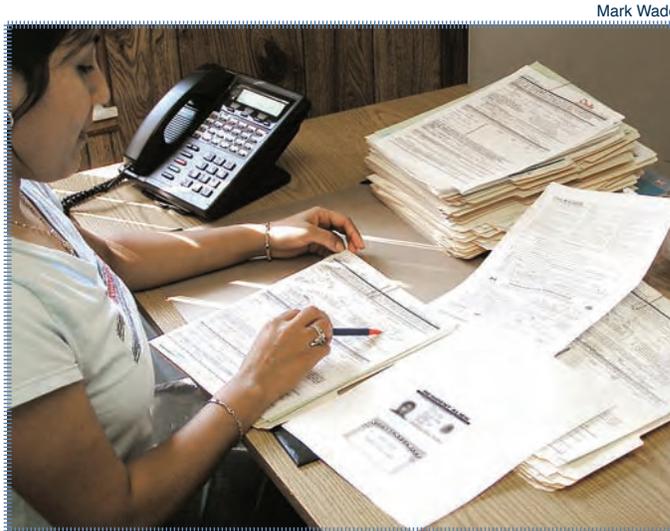
## Form I-9: Employment Eligibility Verification

Employers are required to verify employees' identity and eligibility to work in the United States by having them complete Form I-9, Employment Eligibility Verification. Form I-9 can be downloaded from the U.S. Citizenship and Immigration Services (USCIS), Department of Homeland Security, Web site: <http://uscis.gov/graphics/formsfee/forms/i-9.htm>. USCIS also has an easy-to-read informational bulletin entitled "Handbook for Employers" (M-274) that describes the I-9 process; it can be viewed and printed at <http://uscis.gov/graphics/lawsregs/handbook/hnmanual.htm>.

It takes approximately five minutes to complete Form I-9. Have the employee complete Section 1 on the first day of work. You may allow

the employee up to three working days to produce the required documents. Once they are verified, complete Section 2, yourself, verifying that documents provided by the employee satisfy the identity and eligibility requirements from a

listing of acceptable documents; i.e., one document from List A, or one document from List B along with one document from List C. A complete list of acceptable documents appears on the back of Form I-9.



Mark Wade

### Critical Issues with Form I-9

*Form I-9 must be kept by the employer either for three years after the date of hire or for one year after employment is terminated, whichever is later.*

There are some critical issues associated with Form I-9:

- Every employer must have a current I-9 on each employee.
- Form I-9 should be completed only after the individual has accepted employment. Asking all candidates to complete an I-9 could lead to charges of discrimination; therefore, state on your application that employment is contingent upon verification of employment eligibility.
- According to federal law, you and your staff may not advise employees as to which authorization documents to submit to satisfy the I-9 requirements. Say a new employee asks what documents are needed, and a member of your staff asks for the employee's driver license and Social Security card. What if he does not have one or the other? Would your staff know that other documents are acceptable? Provide the new employee a copy of the reverse side of

Form I-9, which specifically lists the various documents that will satisfy the requirements.

- Employers have the right to photocopy the documents provided by the employee to satisfy the I-9, but USCIS does not specify that you must. But be consistent: copy everyone's or no one's.

If you do make copies, keep them separate from the completed forms. That way, if USCIS asks to see the employee's I-9 documentation, you will not have to hand them the person's complete file; if you do provide them the complete file, they are privileged to look at all contents.

Some attorneys suggest that you not photocopy I-9 documents because, while you must inspect them and determine if they are genuine, you

are not a forgery expert. If a document presented by the employee looks reasonably authentic, you accept it; if not, you ask the employee to submit another document from the list. If you make copies and your company is audited, the USCIS may use the copies to assess validity—and to second-guess your judgment.

On the other hand, some attorneys strongly recommend that you photocopy the I-9 verification documents. Their rationale is that, in the event of a USCIS audit, it will demonstrate your intent to work within the legal system.

Maintain I-9 files separate from personnel files. Upon notice to your company, USCIS inspectors have the right to inspect I-9 documents and accompanying documentation.

## *SSA Warning Letters: When Names and Numbers Don't Match*

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The Social Security Administration (SSA) is responsible for ensuring that Social Security numbers and names match. The process begins when an employee completes Internal Revenue Service (IRS) Form W-2 that lists the name of the person and their Social Security number. A copy of the W-2 is sent from IRS to SSA. If the information provided on the W-2 does not match what is on file with SSA, the employer is sent a warning letter indicating a mismatch. However, a mismatch does not mean the employer should terminate the employee.

There are many reasons why names and numbers may not match. It might be because a number has been transposed, or because a hyphen has been left out of a name. Mismatches also can occur when someone marries or divorces. But while a mismatch simply may result from a harmless error, you should be concerned until the matter is resolved. Your employee may have completed Form I-9 illegally and is not authorized to work in the United States.

Attorneys recommend that you notify your employee upon receipt of

a warning letter stating that SSA has indicated that his name and Social Security number do not match. Give the employee a copy of the letter and advise him to correct the situation directly through SSA. Inform the employee that you are notifying him just as you were notified by SSA, and stress that he must resolve the discrepancy.

Sign and date the SSA letter, indicating that you have notified the employee, and have the employee sign it to document notification; place the signed letter in his personnel file. Attorneys also recommend that you give employees a reasonable amount of time to notify you once the problem is resolved, and to review I-9 documentation if the employee used

a Social Security card to establish eligibility to work in the United States.

## *New Hire Reporting: Tracking Parents Who Owe Child Support*

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Federal and state governments work cooperatively to track the movement from job to job of parents who owe back payments for child support. Complete information about the Indiana New Hire Reporting Center can be found at <https://newhirereporting.com/in-newhire/default.asp>. The site includes the reporting form that employers use to notify the Indiana New Hire Reporting Center.

Employers are required to submit information on new hires within 20 days of the hire date. The term “new hire” includes a first time hire as well as any former employee rehired after layoff, an employee returning to work following leave without pay, or an employee rehired after previous termination. You may send the new hire form by U.S. mail or fax, (317) 612-3036 or (800) 408-1388, or use the online registration form on the Indiana New Hire Reporting Center Web site. If using U.S. mail, send the form to the following address:

Indiana New Hire Reporting Center  
P.O. Box 55097  
Indianapolis, IN 46205-5097

*You may report new hires electronically, by fax, or by U.S. mail. The Indiana New Hire Reporting Center Web site will guide you through the process.*

## Child Labor Regulations: Restrictions on Jobs and Hours

Indiana law allows businesses to employ minors if they are at least 14 years old. If you hire a minor aged 14–17, you must satisfy multiple requirements:

- Secure, from school officials, an employment certificate (right) documenting that the minor is eligible for employment.
- Know the number of hours a minor is allowed to work.
- Be aware of limitations on the kinds of work minors may perform.
- Post a child labor employment poster.
- Submit a termination notice (located on the lower third of the Employment Certificate) to the minor's school upon termination.

Minors include students enrolled in public or private schools as well as those who are home schooled. Employers can obtain specific information regarding laws pertaining to the employment of minors by going to the Indiana Child Labor Bureau Web site: <http://www.in.gov/labor/childlabor>.

Cindy Gerber

The image shows two forms from the Indiana Department of Labor. The top form is the 'Employment Certificate' (State Form 898) and the bottom form is the 'Termination Notice' (State Form 898). Both forms are for a minor named JF New Nursery in Walkerton, IN. The Employment Certificate includes fields for minor information, employer details, and school information. The Termination Notice includes fields for school and employer information. A green circle highlights the 'Termination Notice' section on the Employment Certificate, with an arrow pointing to the corresponding form below.

**Employment Certificate**  
State Form 898 (R8 / 03-03)  
(Employer's Copy)

**Termination Notice**  
State Form 898 (R8 / 03-03)

## Employment-At-Will: No Notice, No Reason, No Cause

“Employment-at-will” means that either the employer or the employee may terminate the employment relationship at any time, with or without notice, and with or without cause. However, this apparently straightforward employee/employer relationship may be subject to and modified by other laws. When relying on the employment-at-will status of an employee, you must be careful not to discriminate, retaliate, or break a contract.



YOUR HUMAN RESOURCE ADVISOR SAYS:

*Employment-at-will means that either party—the employer or employee—can terminate the employment relationship at any time, with or without notice, and with or without cause.*

### ***Discrimination***

Civil rights laws protect employees from discrimination based on race, age, gender, national origin, disability, etc., in the hiring and termination process.

- missing work due to jury duty.
- refusing to perjure themselves in court.
- helping form a union.
- refusing to do hazardous work.

### ***Retaliation***

An employer must not retaliate against employees for engaging in protected activities such as

- filing a workman's compensation claim.
- asking for medical assistance for injuries sustained on the job.
- threatening or filing a lawsuit against the company.
- becoming a "whistle-blower."

### ***Breaking a Contract***

Some employment and union contracts, by relying on the employee-at-will status, make termination difficult. For instance, some contracts contain progressive disciplinary policies that require employers to follow a series of steps prior to termination (e.g., oral warning, written warning, suspension, termination), or require that employees be terminated only "for cause."



#### **Reasons not to fire...**

- Employee becomes pregnant and must take leave
- Employee is called for jury duty
- Employee practices a particular religion
- Employee is a member of a protected class

### **Illegal Employment Termination**

**Do not fire employees for illegal reasons.**

Employees who believe they were terminated unlawfully have recourse despite their at-will status. For instance, they may file a wrongful termination suit if they believe their employer discriminated or retaliated against them. Employees may file a breach-of-contract suit if they believe their employer did not honor an employment contract, either implied

or written. Often a union will initiate unfair labor practice proceedings with the National Labor Relations Board on behalf of terminated union employees, especially if it is alleged that they were terminated for taking part in union activities. There are various time frames during which legal actions must be filed.

Defending legal action is not cheap. The cost of defending against employee litigation claims ranges from \$20,000 to \$200,000 per case. The average jury award for wrongful termination based on racial discrimination is \$750,000; age discrimination, \$550,000; and disability discrimination, \$380,000. Prevailing employees might also recover attorney fees and back pay, and they may be reinstated to their former positions; in addition, juries often require employers to compensate the employee for emotional distress and to pay punitive damages. Obviously, complying with discrimination laws in an at-will relationship goes a long way in protecting your company.

## *Negligent Hiring and Retention: You Should Have Known*

You have heard about these cases or read about them in the newspaper: An employee kills another employee, a service technician assaults a customer, a coworker makes sexually explicit comments, or an intoxicated employee causes an accident that claims innocent lives. While these situations may not appear to spell legal problems for the employer—because, after all, it was the employee who committed the crime—the courts say otherwise. In some states, statutes provide

for lawsuits against employers for negligence in the hiring or retention of these employees. Plaintiffs contend that, had the employers researched these employees' criminal and driving records and contacted professional references and prior employers, they would have recognized the risks.

Courts have generally held that employers are obligated not to hire employees with abusive, combative, belligerent, or violent tendencies. Those who file negligent hiring suits (i.e., those who are injured by an employee) allege that the employer failed to meet his obligation to due care. These types of cases can occur under a variety of scenarios.

### *I knew, but I hired him anyway*

This scenario occurs when an employer hires someone, knowing there is something in the employee's past that could threaten the current workforce—for instance, the individual has been disciplined for sexual harassment. The employer was aware of the incident but hired the person

Mark Wade



*An employer checks a prospective employee's criminal record and driving history.*

anyway, thinking that the employee had learned his lesson. One day at work, the employee gropes a co-worker. The coworker may have grounds against the employer for knowingly hiring an employee that he knew had a propensity to harass.

***I did not know, nor did I check***

This is a case where negative information on an employee (e.g., a criminal conviction) was readily available, but the employer failed to make the necessary inquiry. For instance, a customer who is assaulted by your technician may have valid grounds for a negligent hiring action if you knew or should have known about the person's prior assault conviction. If you are in charge of hiring, always conduct thorough background checks.

***I checked, but I did not know***

The employer unknowingly hired a person with a problem past. The employer had checked all sources regarding the employee's background but, despite his diligence, nothing of significance was revealed. In this situation, the employer may have a valid defense against a negligent hiring or retention action. That is, the employer did everything within reason to identify a problem before deciding to hire the person.

***I knew what the employee was doing, but I failed to act***

If an employee commits an offense repeatedly and the employer does nothing about it, the victim—a fellow employer or a customer—may be justified in holding the employer responsible.

As an employer, you are obliged to assure that employees do not have a history of drunk driving, abusive or violent behavior, or offensive conduct such as harassment. If you fail to conduct thorough background checks before hiring, you could be liable for your employees' actions on the job.

There is no place for negligence in hiring. Certainly you want to avoid litigation, but as an employer you also must be responsible to other employees, customers, and the community in deciding which person to hire. Always check references. If a reference hesitates or refuses to answer a question, there may be a problem. Be prepared to push for the answer.

Run criminal background checks and investigate the candidates' driving histories. Ask permission to do a drug test; if a person refuses, there might be a reason. Keep good records on every step you take to determine an applicant's suitability for the job. Evidence of your diligence in seeking information on prospective employees will be valuable if you are later faced with a negligent hiring or retention lawsuit.

## Employees' Right to Privacy

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Privacy is a major issue working its way through the courts. Do employees have a right to privacy at work? Do employers have the right to view e-mails sent and received by employees and to check out what Web sites they are visiting? Are the contents of an employee's desk and filing cabinet off-limits to employers?

Generally speaking, employers may monitor their employees' e-mail and Internet usage. However, employees should be made aware so they will not assume privacy in these areas. Most employers enforce and reinforce internal policies addressing

employees' right to privacy in the workplace. For example, you may have a policy on personal use of company equipment and technology. Company policy against personal use of the telephones, voice mail, e-mail, and the Internet makes privacy a lesser issue.

Employee search and surveillance also can become an issue. The U.S. Chamber of Commerce estimates that U.S. businesses lose approximately \$40 billion per year from employee theft. To fight this trend, the courts have allowed random searches of lockers, desks, suitcases, toolboxes, work areas, etc., with justification and advanced notice. Employees should have no reasonable expectation of privacy in areas where work is the primary function and where rules described under company policy or in the company manual state that inspections can and will occur.

Employers may use photographic and video surveillance equipment to monitor employees and visitors to company facilities. But you must have a compelling business reason to monitor employees and must notify them in advance that electronic monitoring may occur. Employees may sue for invasion of privacy, but they must be able to show that their reasonable expectation of privacy outweighs the company's justification of surveillance.

Arlene Blessing



*Clearly state your policy regarding personal use of company computers. Make sure all employees know the rule and fully understand the consequences of misuse.*

## *Non-Compete Provisions: Restricting Employees' Right to Work*

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Non-compete provisions in employment contracts are used to protect a company's future interests by defining what employees may and may not do after leaving the company. The rationale is to keep former employees from revealing proprietary and confidential information to competitors. Most companies tailor non-compete provisions to specific positions.

### *Non-Disclosure Clause*

This clause prevents former employees from sharing confidential information with anyone outside the company. Examples of confidential information include price lists, business and marketing plans, marketing strategies, employee pay rates, and customer lists.

### *Non-Solicitation Clause*

This clause prevents former employees from soliciting the company's clients to follow them to a new employer.

### *Non-Interference Clause*

This clause prevents former employees from trying to recruit their former coworkers to leave their positions with your company to join a new company or a competitor; it is also known as "Non-Solicitation of Current Employees."

### *Non-Compete Clause*

This clause prohibits former employees from competing with your company for a specific period of time within a geographic area you serve. It also may ban former employees from

employment with your competitors. Some states do not allow non-compete clauses; others that do allow them stipulate the wording that must be used.

### *Non-Disparagement Clause*

This clause restricts former employees from spreading negative information that could be detrimental to your company.

## *Legality of Non-Compete Provisions*

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Non-compete agreements are aimed at preventing former employees from taking your company's valuable and confidential information (business plans, customer lists, price lists) to your competitors. However, courts view them cautiously because they may limit a person's ability to make a living.

In states where valid non-compete agreements are enforceable, the agreement must be valid for a reasonable duration and must state

reasonable limitations. Prohibiting someone from competing with you indefinitely is not reasonable. Non-compete agreements for technicians generally are invalid because technicians normally are not privy to vital company information. The primary purpose of non-compete agreements should not be to keep employees from leaving your company nor to block competition; rather, they should be used to protect legitimate proprietary or confidential business interests.

# Conclusion

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Many hiring and employee retention issues have evolved from legal opinions rendered by the courts, regulations written by state and federal agencies, and good business practices promoted by attorneys and human resource consultants. Finding the best person to hire takes considerable time and effort. Screening candidates, digging through multiple resumés and employment applications, listening intently to what candidates have to say—and what they don't say—and deciding which person to hire is time-consuming and challenging. But consider it an investment in your company's future.



Your hiring decisions form the basis for how others view you and your business. Your employees represent you to customers, peers, and coworkers; and they may someday become leaders in your company, so choose wisely.

There are numerous reasons why you might neglect to develop a well defined hiring process:

- “We are a small company.”
- “I need someone now.”
- “No need to look further. We have found the best person.”
- “I know this person.”

If your company is small, you probably wear many hats. But a little more time devoted to recruiting, selecting, and hiring could save you a whole lot of time later on.

Somebody once said, "There is never time to do it right, but there is always time to do it over." History teaches us that taking the time to hire the right person goes a long way in preventing the extra time, effort, and anguish involved in dealing with "fixing" or replacing a poor hire.

Regrettable situations often stem from hiring the wrong person: reduced employee morale, rude or inappropriate behavior, lost customers and opportunities, wasted time and dollars in training and development, or increased supervisory expense. Hiring the right person can help prevent legal actions against the company.

Strive for excellence in recruiting and hiring, and excellence will come to you. Time invested in maximizing employee recruitment and retention is time gained for employee development and profit maximization. It's that simple!

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Deborah Ottsen, Crowe Chizek and Company, LLC

Angie Robinson, The Eastridge Group of Staffing Companies

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# Appendixes

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**SAMPLE**

# Job Analysis

\_\_\_\_\_  
Your Company Name

\_\_\_\_\_  
Main Office Street Address

\_\_\_\_\_  
City, State, ZIP

**Position title:** \_\_\_\_\_

**Department:** \_\_\_\_\_

**Job location (address):** \_\_\_\_\_

**Immediate supervisor:** \_\_\_\_\_

**Date the position will be available:** \_\_\_\_\_

Exempt (not eligible for overtime)       Nonexempt (eligible for overtime)

Full-time

Part-time

Seasonal

Other

**Position description**

**prepared by** \_\_\_\_\_

**Effective date:** \_\_\_\_\_

Position description

revised by \_\_\_\_\_

Effective date of revision: \_\_\_\_\_

(continued)

**I. Job summary**

Explain what kind of work the position includes. Limit your summary to three sentences.

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**II. Essential functions**

A. Choose three to five essential job functions—work the employee will be expected to perform—and describe the main activities and responsibilities within each: what is to be done, how it is to be done, and why it is to be done. Also state the percentage of job time that will be devoted to each function.

Describe six to eight duties under each function, stating the methods, procedures, and techniques required to perform them. Begin each sentence with an action verb, and keep sentences short and to the point.

1. 

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2. 

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3. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

B. List noncritical job functions and other duties that may be assigned.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- C. State performance requirements such as punctuality, dependability, and the ability to work well with others in a team environment.

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**III. Physical demands of the essential functions**

- A. Is heavy lifting required?  Yes  No

Explain: \_\_\_\_\_  
\_\_\_\_\_

- B. Is working indoors involved?  Yes  No    Outdoors?  Yes  No    Both?  Yes  No  
Will the employee have to work in close spaces?  Yes  No

Explain: \_\_\_\_\_  
\_\_\_\_\_

- C. Is there significant walking involved?  Yes  No    Driving?  Yes  No  
Standing, sitting, or kneeling for long periods of time?  Yes  No

Explain: \_\_\_\_\_  
\_\_\_\_\_

**IV. Working conditions**

- Does the position require evening or weekend work?  Yes  No  
Same-day (beyond eight hours) travel?  Yes  No    Overnight travel?  Yes  No

Explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Will the employee have to deal with customers one-on-one?  Yes  No

Explain: \_\_\_\_\_  
\_\_\_\_\_

Will the employee have to make presentations to groups?  Yes  No

Explain: \_\_\_\_\_  
\_\_\_\_\_

**V. Equipment required for the job**

List equipment the employee will be required to operate. Describe training on the use of industry-specific equipment.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**VI. Job Qualifications**

A. List qualifications that are required, then those preferred. For example, you might require a driver license and one year's related work experience; but you might prefer a commercial driver license, two years' experience, familiarity with pertinent equipment, and pesticide applicator certification.

Required:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Preferred:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

B. Provide the job title (not the name) of the person who will supervise the employee, and indicate the level of supervision the employee will receive.

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C. Describe the level of supervision the employee will be responsible for providing other employees.

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FOR OFFICE USE ONLY

Date submitted \_\_\_\_\_

Date reviewed \_\_\_\_\_

Reviewed by \_\_\_\_\_

**NOTICE to applicants applying for positions that involve driving a company vehicle:**

If you have been convicted of driving under the influence of alcohol or drugs, you may be disqualified from employment due to insurance constraints.

**APPLICATION FOR EMPLOYMENT**

**[your company name]**

*A Drug and Alcohol Free Workplace*

*An Equal Opportunity Employer*

*A Violence Free Workplace*

*Equal access to programs and services is available to all applicants. If you need assistance in completing this form, or if you require reasonable accommodations during the employment interview process, please notify the company manager or a representative of the human resources department.*

**~ PLEASE PRINT ALL INFORMATION ~**

Name \_\_\_\_\_  
First Middle Last

Name you go by \_\_\_\_\_

Mailing address \_\_\_\_\_  
Street or P. O. Box  
 \_\_\_\_\_  
City, State, ZIP

Telephone number where you prefer to be reached \_\_\_\_\_  
 Alternative telephone number \_\_\_\_\_

Fax number \_\_\_\_\_ E-mail address \_\_\_\_\_

Application is for the following position(s): \_\_\_\_\_  
 \_\_\_\_\_

The company's receipt of this application does not constitute a job offer, nor does it imply that a position is available. This application will remain active and on file unless the applicant asks to have it withdrawn.

# Work Availability

Were you referred to us?  Yes  No If yes, by whom? \_\_\_\_\_

Have you ever applied for a job with this company?  Yes  No

Answer only if the job for which you are applying requires a driver license:

Has any court of law or any government agency suspended, revoked, or modified your driver license in the last five years?  Yes  No

Are you currently subject to a non-compete clause?  Yes  No

If yes, please explain the nature of the agreement:

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Date you could begin working if offered a job: \_\_\_\_\_

Check the working arrangements you would accept:

- |  |  |
|--|--|
| <input type="checkbox"/> Full-time     | <input type="checkbox"/> On-call               |
| <input type="checkbox"/> Part-time     | <input type="checkbox"/> Seasonal              |
| <input type="checkbox"/> Weekends only | <input type="checkbox"/> Other (specify) _____ |

Days you would be available to work:

- Monday
- Tuesday
- Wednesday
- Thursday
- Friday
- Saturday
- Sunday

Are you under 18 years old?  Yes  No

Are you currently on layoff status?  Yes  No

If yes, are you subject to recall?  Yes  No

Are you willing to travel if required for the job?  Yes  No

Are you able to complete the essential functions of the position without special accommodations?  Yes  No

If no, what accommodations are needed?

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## References

List three employment references not related to you:

Person's Full Name	Company Name	Business Phone Number	Fax Number	Years Known

## Personal Information

Social Security Number: \_\_\_\_\_-\_\_\_\_\_-\_\_\_\_\_

Your Social Security number will facilitate our recordkeeping and minimize errors in reference to other records that are accessible by Social Security number. You have a right to refuse to provide your Social Security number, without penalty, or to request that it be removed. NOTE: Some employment applications, such as those subject to Department of Transportation regulations, may require your date of birth and Social Security number.

Have you ever been convicted of a felony (include court-martial convictions but exclude minor traffic violations)?

Yes  No

If yes, list the date, charge, place, court, and action taken. A prior conviction does not necessarily exclude you from consideration for employment, but the type of conviction and when it occurred are important considerations:

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Have you plead guilty to or been convicted of any traffic-related offenses within the past five years?

Yes  No

# Education History

Circle highest year completed:

Grammar/High School

1 2 3 4 5 6 7 8 9 10 11 12

Undergraduate College,  
Trade School, Business School

1 2 3 4 5

Graduate School

1 2 3 4 5

Other (specify): \_\_\_\_\_

Name and Location	Degree Received	Major (or major courses)	Grade Point Average
<b>High School</b>			
<b>Business, Trade, Correspondence</b>			
<b>College or University</b>			
<b>College or University</b>			
<b>College or University</b>			

If you did not graduate from high school, do you have a GED?  Yes  No

How many hours per week did you work while in school? High School \_\_\_\_\_ College \_\_\_\_\_

List honors received and offices held: \_\_\_\_\_

# Work Experience

Company Name _____	Employment Date (Month/Year)
Job Title _____	From _____ / _____
Street or P.O. Box _____	To _____ / _____
City _____	<input type="checkbox"/> Full-Time <input type="checkbox"/> Part-Time
State, ZIP _____	<input type="checkbox"/> Seasonal
Supervisor's Name _____	Hours/Week _____
	Salary: \$ _____ per _____

May we contact?  Yes  No Telephone Number \_\_\_\_\_

Brief Job Description/Responsibilities \_\_\_\_\_

\_\_\_\_\_

Left voluntarily?  Yes  No Laid Off?  Yes  No Terminated?  Yes  No



Company Name _____	Employment Date (Month/Year)
Job Title _____	From _____ / _____
Street or P.O. Box _____	To _____ / _____
City _____	<input type="checkbox"/> Full-Time <input type="checkbox"/> Part-Time
State, ZIP _____	<input type="checkbox"/> Seasonal
Supervisor's Name _____	Hours/Week _____
	Salary: \$ _____ per _____

May we contact?  Yes  No Telephone Number \_\_\_\_\_

Brief Job Description/Responsibilities \_\_\_\_\_

\_\_\_\_\_

Left voluntarily?  Yes  No Laid off?  Yes  No Terminated?  Yes  No

## Foreign Languages

List the languages you know and put a check mark beneath the column headings that apply:

Foreign Language	Speak Fluently	Read	Write	Knowledge of
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

## Supervisory Skills

Have you supervised other employees?  Yes  No If yes, when? \_\_\_\_\_

Describe supervisory experience: \_\_\_\_\_

## Computer Skills

Hardware/Software You Know How to Use	Proficiency Level		
	Beginner	Intermediate	Advanced
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

How many words per minute can you type on a computer keyboard? \_\_\_\_\_ WPM

## Driving Information

Do you have a valid driver license?  Yes  No

Do you have a valid CDL?  Yes  No

Driver License Number \_\_\_\_\_

CDL Number \_\_\_\_\_

List all states that have issued you a driver license in the past: \_\_\_\_\_

# Conditions of Employment

Read each item carefully before answering. If you have questions, please ask for assistance.

## Introductory Period

If you are hired, you will serve a 90-day introductory period. During the 90 days, every aspect of your work will be evaluated and, if our standards are not met, you will be terminated. Completion of the 90-day Introductory Period is no guarantee of continued employment.

## Permission to Check References

Do you authorize (name of company) to contact your present and/or previous employer(s) through person(s) you have listed as references?

Present employer(s)?  Yes  No

Previous employer(s)?  Yes  No

Do you authorize your present and/or previous employer(s) to provide information to (name of company) through the person(s) you have listed as references?

Present employer(s)?  Yes  No

Previous employer(s)?  Yes  No

## Permission to Verify Information

Do you authorize (name of company) to verify information provided on your employment application relevant to your education, public records of criminal convictions, and Bureau of Motor Vehicle records?  Yes  No

## Physical Examination

Do you understand that offers of employment for certain positions within (name of company) are contingent upon the successful completion of a medical examination by a physician designated by (name of company) at a site also designated by the company?  Yes  No

## Drug and Alcohol Screening

Do you understand that you may be required to submit to a pre-employment test for drugs and/or alcohol as permitted by law?  Yes  No

## Form I-9, Employment Eligibility Verification

Can you provide proof of eligibility to work in the United States?  Yes  No

### Work Requirements

Do you understand that, if hired, you may be

- required to work overtime?  Yes  No
- required to work weekends?  Yes  No
- subject to other conditions of employment such as company rules and policies?  Yes  No

### State and Federal Certification

Do you understand that, if hired, your job may require that you pass certain pesticide applicator certification examinations, trade association certification requirements, and/or the commercial driver license test, and that failure to do so may result in termination or transfer?

Yes  No

### Discrimination

Do you understand that (name of company) will not tolerate unlawful discrimination or harassment and that you have a duty to report any such activity to the company?

Yes  No

Do you understand that unlawful discrimination or harassment on your part toward others may be grounds for termination?

Yes  No

## **Employment-At-Will**

Indiana is an “employment-at-will” state. This means that an employee may leave employment at any time, with or without cause, and with or without notice; further, it means that (name of company) has the same right to terminate an employee at any time, with or without cause, and with or without notice. Do you understand this definition of an “employment-at-will” state?     Yes     No

## **False Statement**

Do you understand that falsification of this application or failure to provide information requested may be cause for your denial of or termination of employment with (name of company)?     Yes     No

## **Confirmation of Information Provided**

Do you understand that, by signing below, you are declaring all information provided on this application for employment to be true to the best of your knowledge?     Yes     No

Printed Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

# Interview Rating Form

	Excellent	Average	Poor
How well does the information you were able to confirm reflect the information given by the job candidate on the application form? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
How well do the applicant's general qualifications match those necessary to perform the work? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
How do you rate the person's skills pertinent to the job? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
How do you feel about this person working for you? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
How do you rate the candidate's ability to communicate concepts and ideas? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
What is the likelihood that this person will work well with your present staff? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
What is your level of optimism as to whether or not this person will work well independently? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
How do you feel about the applicant's potential to deal positively with your customers? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

## Questions for Prior Employers

### Important:

Do not call the applicant's current employer without verified consent, even if listed as a reference.

An "X" represents the name of the job applicant anywhere it appears on this document.

- How long have you known X?
- How would you describe your professional relationship with X?
- When was X hired by your company?
- Why did X leave your company?
- Was X's departure voluntary?
- What position(s) did X hold with your company?
- What were X's duties and responsibilities?
- Did X receive favorable performance evaluations?
- Was X a responsible and trustworthy employee?
- How would you describe X's work ethic?
- Did X interact positively with other employees?
- How would you describe X's job performance compared to that of others who do the same work?
- Based on your knowledge of X's skills and qualifications, do you believe X would perform effectively in this (name of ) position?
- Please describe X's best attributes
- Please comment on X's
  - written and oral communication skills.
  - reliability.
  - dependability.
  - ability to assume responsibility.
  - potential for advancement.
  - degree of supervision needed.
  - overall attitude.
  - ability to work with management.
  - ability to get along with peers.
  - unfavorable qualities.

- Has X ever been convicted of a crime, as far as you know?
- Has X ever shown any violent tendencies?
- Was X ever disciplined for harassment or discrimination while under your employment?
- Was X ever reported or disciplined for careless driving?
- Was X ever involved in an accident while driving a company vehicle?
- Would you rehire X? Please explain.
- Is there anything you would like to add?

# Reference Checks and Prior Employment Verification

## Candidate Information

Name of candidate \_\_\_\_\_

Position \_\_\_\_\_ Date of  
applied for \_\_\_\_\_ interview \_\_\_\_\_

Person who interviewed  
the applicant (name and title) \_\_\_\_\_

Basic background information on the applicant \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## Contact Information

Company \_\_\_\_\_ City, State \_\_\_\_\_

Company phone \_\_\_\_\_

Personal contact's  
name and title \_\_\_\_\_

Contact's  
Business phone \_\_\_\_\_ Home \_\_\_\_\_ Cell \_\_\_\_\_

## Summary of Information Received

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# New Employee Performance Review

**Note to Employee:** Your comments are welcomed and encouraged.

Please request a separate sheet of paper.

- 1 = Outstanding
- 2 = Above Standard
- 3 = Standard
- 4 = Below Standard
- 5 = Unacceptable

	Rating		
	30 Days	60 Days	90 Days
Job knowledge .....	_____	_____	_____
Quality of work .....	_____	_____	_____
Quantity of work .....	_____	_____	_____
Teamwork .....	_____	_____	_____
Public contact .....	_____	_____	_____
Supervision required .....	_____	_____	_____
Communication .....	_____	_____	_____
Adherence to company procedures .....	_____	_____	_____
Work attendance .....	_____	_____	_____
Punctuality .....	_____	_____	_____
Personal appearance .....	_____	_____	_____

## Comments

30 Days: \_\_\_\_\_

\_\_\_\_\_

60 Days: \_\_\_\_\_

\_\_\_\_\_

90 Days: \_\_\_\_\_

\_\_\_\_\_

Employee's Signature \_\_\_\_\_ Date \_\_\_\_\_

Supervisor's Signature \_\_\_\_\_ Date \_\_\_\_\_

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## PURDUE AGRICULTURE

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