

In Praise Of The Humble Application Form

The application form is definitely an under-utilized tool for screening out undesirable applicants. Many employers treat it as a way to obtain contact information for the applicant and little more. In doing so, they are missing an opportunity to obtain useful information and to establish some beneficial employment terms.

Why Use Application Forms?

A well-drafted application form is a great tool to standardize your pre-hiring information gathering. It allows the employer to dictate the content of applicant's responses, establishing control over the pre-hiring process. For this reason, the employer should insist on the form being completed even when the applicant is also submitting a resume.

The completed application form establishes a written record, *in the applicant's words*, of her pre-hiring disclosures. This can provide very useful evidence if a misrepresentation of qualifications or experience occurs.

What Information Can We Request?

There are no specific legal limitations on asking for background information. There is no broad legal prohibition against asking pre-hiring questions relating to, for instance, physical limitations, age, gender, etc. If there is a lawful, bona fide reason why the information is required in the context of the available job, the employer need not be concerned about asking.

Legal issues do potentially arise depending on the use to which the information obtained from the applicant is put. These issues arise out of, for instance, B.C.'s *Human Rights Code*, *Employment Standards Act*, *Labour Relations Code*, and *Personal Information Protection Act*. Information gathered for the unlawful purpose of discriminating against a candidate obviously will cause the employer legal difficulties at some point.

And, according to B.C.'s new *Personal Information Protection Act*, the employer generally must notify the employee of the purposes for which the information will be collected.

Don't Go Generic!

To effectively obtain information, businesses should avoid generic application forms. A form should be tailored for the particular operation.

Its questions should be *very* specific, dictating the form of response. It should contain closed (not open-ended) questions and shouldn't leave room for applicants to "self-screen" the information they disclose.

The application form should provide adequate space for the applicant to give full responses. An extra page should be attached in case the employee has a large amount of information to disclose.

Wording Is Important

To avoid complaints about your hiring process, the application form should not contain pejorative language. Asking, for instance, if the applicant has a “handicap” is clearly inappropriate and is a recipe for trouble. Asking if the individual has any physical or mental conditions which could affect her ability to perform certain defined tasks, and which might require accommodation, is more appropriate and acceptable.

The application form should contain two clear warnings about the provision of incomplete or inaccurate information. One should be located at the top of the form and the other at the bottom, immediately above the space in which the applicant will sign.

The warnings should state that the provision of complete and accurate information is a condition of being considered for employment. Further, the candidate’s provision of false or misleading information will be treated by the employer as just cause for dismissal.

Most importantly, the employer should use objective, bona fide, screening criteria when determining the successful candidate. This is the most effective method of obtaining a qualified candidate and of avoiding complaints about the hiring process.

Why Bother?

As with all aspects of the employment relationship, spending the time, effort, and resources to put in place a properly-drafted application form will pay dividends for your business. Not doing so will lay the groundwork for problems, including statutory complaints and litigation, down the road.

*This item is provided for general information purposes only and is not intended to be relied upon as legal advice.
Informed legal advice should always be obtained about your specific circumstances.*

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