

Strengthening Your Hiring Process

Sarah Sawyer: Welcome to this week's OK at Work with myself, Sarah Sawyer, my colleague Russell Berger, both attorneys at Offit Kurman, and today we are talking about recruiting and hiring practices. So a lot of times we'll talk about compliance as it relates to employment once they're already on board, and making sure that people are treated equally and, you're not running afoul of any laws and any discriminatory practices, anything like that.

But those types of thoughts also apply when you're looking at whether you need to recruit for a position or hire someone. And key to that process and making sure that you're compliant in that process is having a process. A lot of times with the need to hire someone, it might come in a slow form where you are growing and you're starting to realize, Hey, I need to hire someone.

But there's a lot of situations also where it could be an emergent situation where someone's left. You've got a big hole that you need to [00:01:00] fill. Maybe it's a couple of people and you're really looking to hire someone and you want to do it quickly and you're under the gun, right? So there's a lot of different circumstances you might find yourself under.

But there's a lot to consider when you're posting to vetting candidates and making sure that you have a good process that's compliant with your state law. So what are some things that employers should be thinking about when that moment happens where they say, Hey, I think we need to hire someone.

Where do we start?

Russell Berger: Yeah I think you start with a job posting or job description, some combination of those things. And you want to review it, make sure it's accurate. Maybe you're backfilling for the same position, but maybe it's evolved. Maybe some of the functions have been updated.

So you want to go through the process of making sure you've got an up-to-date job description. You want to make sure that it's properly classified. So is this an exempt position? Is this a non-exempt position? You've reviewed that, especially if you made changes to the job description, good time to double check on proper classification.

And then it's a little [00:02:00] bit less of a legal issue, what do you want in this role? Who are you looking for? What skill sets do you think are important for this role? And then you're posting and the posting process as you said, I use the word process and it should be a thoughtful process.

Are you big enough that you want to post internally first? Then where do you post it externally? Where do you post it to ensure that you're getting good candidates? And then whether it's internal or external, you're getting folks in the door and then you're working an interview process with them, which should look the same for everyone. One of the things you kinda alluded to is that we talk a lot about how these laws apply to employees. But the important thing to note is that these laws also apply to job applicants as well. So all the rules that prohibit discrimination apply to job applicants just the same as they would to employees.

The rules that require accommodations, apply to job applicants as well as employees. Is your process sound in that way? Are you running it consistently? Does it look the same no matter who it is, where they're coming from, what their background might be.

Sarah Sawyer: Yeah, and it's important I think, both from a [00:03:00] practical perspective and from a legal perspective because interviewing and finding the right candidate can be a little bit more of an art than a science in some senses.

Because obviously you have to get a feel for people and whether they're a good cultural fit and there's some softer and harder factors in making that analysis. And exactly as you mentioned, Russell, you really want to set yourself up to be making an equitable decision and saying, obviously there's gonna be reasons that certain candidates stand out over others based on their skillset, whether they meet, the requirements of the job. And then there might be these other things that factor in, like how they presented in the interview but in the interview process can be a lot of areas of risk where if you're not following a strict process you can get over your skis a little bit and, get really excited about a candidate, fall out of the process and expose yourself to a practice that looks discriminatory or that you didn't follow the right steps and making sure that you made any accommodations that you needed to, or that you really were examining each candidate fully. Just like any human process, when we're dealing with vetting people [00:04:00] it's definitely got fraught with potential issues.

Russell Berger: Which is why, the objectivity as much as possible is important.

And knowing what you're looking for and being able to assess, those specific non-discriminatory traits is important. I know we've talked about the interviewing process previously, but, knowing what not to say in the interview what'll get you in trouble and avoiding those things that's important too.

And then the flip side of that is asking good, smart, experiential type questions that'll give you the information that you do want to get in an interview process.

Sarah Sawyer: Well, and making sure that anyone who's involved in that process has got the background knowledge to know where those lines are and then what they should be doing, what process to be following. I think we said process maybe, 10 times during this episode. So I think process is our takeaway. Make sure you've got a good process.

Russell Berger: Absolutely.

Sarah Sawyer: Well, thanks Russell. We'll see you next time.

Russell Berger: Thanks, Sarah.

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