

THE ARKANSAS-LOUISIANA CONFERENCE OF SEVENTH-DAY ADVENTISTS
HIRING PROCESS FOR LOCALLY FUNDED EMPLOYEES

OVERVIEW

Please note the following steps needed to complete this hiring process:

Step 1

1. Local board provides job applicants with an ARKLA Job Application form
2. Local board uses recommended “Guidelines for Conducting Interviews” document
3. During the interview, the local board gives interviewees a copy of the “Conditions of Employment” document.
4. When a local board votes to recommend an individual for employment, they need to send the following to the conference office in C/O Executive Secretary:
 - a. **Section 1** of the Locally Funded Hiring Process Form
 - b. Completed ARKLA Job Application
 - c. Direct Deposit form
 - d. I-9 form
 - e. W-4 form
 - f. Signed “Conditions of Employment” document (Applicant keeps a copy)
 - g. Adventist Retirement Plan form
 - h. Medical Coverage Information Sheet form (If applicable)
 - i. Health Care Legacy Enrollment form (If applicable)
 - j. Education Allowance form (If applicable)

Step 2

The Executive Secretary fills out **Section 2** of this form and returns it to the local church/school board for final approval of employee costs. The job candidate may **not begin work** until officially hired by the conference.

Step 3

The local church/school board takes an official action agreeing to submit required funds for the employee. **Section 3** is completed and sent to the conference. The ADCOM or K-12 Board or Executive Committee officially hires the person. The new employee can begin work.

THE ARKANSAS-LOUISIANA CONFERENCE OF SEVENTH-DAY ADVENTISTS
HIRING PROCESS FOR LOCALLY FUNDED EMPLOYEES

Section 1: This section must be completed by the local facility requesting the locally funded position and submitted to the Conference Office in C/O Executive Secretary. The job candidate may not begin work until hired by the Conference: ADCOM or K-12 Board of Education or the Executive Committee.

NAME OF FACILITY: Church/School/Other _____

LOCATION ADDRESS: _____

Position Information

Proposed Job Title: _____

Proposed Job Duties: _____

(use additional sheets if necessary or attach proposed job description)

PLEASE SELECT ONE

- This is a New Position
- Replacement for _____ Remuneration: _____
(former employee's name)
- Restructured Position: _____
(explain changes to position – use additional sheets if necessary)

Proposed Remuneration: _____ Per Hour Monthly Salary

Proposed Hire Date: _____ (The proposed employee cannot be offered the position or begin working until after the Conference has approved the position and conducted the criminal background check).

Proposed Working Hours Schedule:

- Full time (38 hours per week)
- High Hours Part Time (30 to 35 more hours per week) Number of hours proposed _____
- Low Hours Part Time (20 to 25 hours per week) Number of hours proposed _____
- Less Than Half-time (less than 19 hours per week) Number of hours proposed _____
- Other (explain): _____

Employee General Contact Information:

Full Name: _____
first middle last name

Date of Birth: _____ Social Security Number: _____
MM/DD/YYYY

Address: _____ City: _____

State _____ Zip code: _____

Phone Numbers: _____ Day _____ Night

Email: _____

All forms are available on the Arkansas-Louisiana Conference website at arklacsda.org

Go to the “Resources” page and click on “Locally Funded Employee Forms”

Send the following completed forms with Section 1 of the Locally Funded Hiring Process:

- a. Completed ARKLA Job Application
- b. Direct Deposit form
- c. I-9 form
- d. W-4 form
- e. Signed “Conditions of Employment” document (Applicant keeps a copy)
- f. Adventist Retirement Plan form (Eligible for basic and employer match if full-time. Part-time employees are not eligible for the basic contribution but are eligible for an employer match of their contribution up to the allowable amount. All employees are automatically enrolled in the retirement plan even if they are not eligible for the basic.)

Some employees may be eligible to receive benefits depending on their employment status.

Check the boxes for any eligible benefits and send the required forms with Section 1, also.

- Health Care Legacy Plan** (Eligible if working 30 hours or more per week)
 - Complete the “Medical Coverage Information Sheet” form
 - Complete the “Health Care Legacy Enrollment” form
- Education Allowance** (Eligible if you are full-time salaried. Full-time hourly are not eligible.)
 - Complete the “Education Allowance” form

A “Summary of Employment Benefits” can be found on the conference website.

Section 2: This section will be completed by the Conference Executive Secretary and returned to the requesting facility for review and funding commitment.

- Requested position has been approved as proposed, subject to the local facility's commitment to the cost of remuneration and benefits.

Will the employee be issued a locally funded educational employment agreement by the Conference? Yes No

Will the employee be issued an employment offer letter by the Conference? Yes No

- Requested position has been approved with these changes:

(use additional sheets if necessary)

- Requested position has been denied.

(Conference Official)

Date: _____

Employment Benefits Eligibility

(Office Use Only: This section will only be completed if the requested position is approved).

Classification/Position: _____

- Full-Time Part-Time Less Than Part-Time

Proposed FLSA Exemption Classification: Exempt Non-Exempt

Benefits (check all that apply) Employee Cost Per Month Facility Cost Per Month

Healthcare Assistance Plan \$ _____ \$ _____

Retirement \$ _____ \$ _____

Basic \$ _____ \$ _____

Voluntary \$ _____ \$ _____

Match \$ _____ \$ _____

SECTION 2 PAGE 1

<input type="checkbox"/> Basic Life	\$ _____	\$ _____
<input type="checkbox"/> Supplemental Life	\$ _____	\$ _____
<input type="checkbox"/> Vacation Accruals (amount _____)	\$ _____	\$ _____
<input type="checkbox"/> Tuition Assistance	\$ _____	\$ _____
Number of Eligible Children: _____		
<input type="checkbox"/> Workers' Compensation	\$ _____	\$ _____
<input type="checkbox"/> Sick Leave Accruals	\$ _____	\$ _____
<input type="checkbox"/> Termination Settlement	\$ _____	\$ _____
<input type="checkbox"/> Total for Other (describe each benefit in an attachment)	\$ _____	\$ _____
TOTAL	\$ _____	\$ _____

Funding for Remuneration and Employment Benefits

(Office Use Only: This section will only be completed if the requested position is approved).
 The facility must provide the Conference with \$ _____ per month for remuneration and \$ _____ per month for the cost of the benefits for the position. The funds must be delivered to the Conference not later than _____ days in advance of each Conference payroll date.

TOTAL FUNDING REQUIRED EACH: Month:

\$ _____

Section 3 pg. 1: The following section must be completed by the local facility and returned to the Conference Office in C/O Executive Secretary if the requested position is approved.

I _____, am an authorized representative of the _____ ("Facility"). The Board of the Facility has reviewed the position and funding information on the Request for Locally Funded Position form and agrees to submit to the Arkansas-Louisiana Conference the total amount of \$_____ per month required to fund the position (*attach a copy of the Board action/resolution*).

The Facility will send the Conference \$_____ at least 30 days in advance of each Conference payroll date to cover the remuneration and benefit costs for the approved position. In addition, contribute up to 3% employer matching retirement funds for those employees that have opted to contribute the voluntary 3% of salary for retirement. (All employees working 20 hours or more are eligible to participate in the Adventist Retirement Plan)

If the Facility does not provide the necessary funding for the employee's remuneration and benefits to the Conference in a timely manner, the Facility acknowledges that the Conference may, in its sole discretion, take any of the following actions: (i) place the employee on an unpaid administrative leave until sufficient funding is received by the Conference for the past due and current requirements; (ii) revise the terms of employment between the Conference and the employee; or (iii) cease the employee's employment due to insufficient funding and terminate any employment agreement.

The Facility acknowledges that the proposed employee must:

1. Be a member in regular standing of the Seventh-day Adventist Church.
2. Complete a Conference employment application and submit it to the Conference Office in C/O Executive Secretary.
4. Submit written authorization and agree to successfully complete the Verified Volunteer training and be screened for criminal background check before he/she can commence work or receive remuneration and benefits.
5. Complete Section 1 of Form I-9 by his/her first day of work for pay. The employee may complete Section 1 of Form I-9 at any time between acceptance of a job offer and the first day of work for remuneration. The employee must also submit appropriate document(s) so the Facility may fully complete Section 2 of Form I-9 within three (3) business days of the employee's first day of work for remuneration.

(The Conference employment application, authorization for criminal background check, and other requested forms to be completed by the proposed employee have been submitted to the conference. The official vote to hire the proposed employee by the ADCOM or K-12 Board or Executive Committee will be subject to the local board's recommendation and receipt of this document.)

[Signature of Authorized Representative of Local Facility: Pastor or Head Elder]

Date

[Signature of Authorized Representative of Local Facility: Treasurer or Church Clerk]

Date

FACILITY INSTRUCTIONS

COMPLETING THE REQUEST FOR LOCALLY FUNDED POSITION FORM

The purpose of the Request for Locally Funded Position ("Form") is to assist churches, schools and other facilities (the "Facility") of the Arkansas-Louisiana Conference to comply with the procedures adopted by the Arkansas-Louisiana Conference for requesting and obtaining a Conference employee whose remuneration and benefits will be funded by a local church, school, or other facility of the Conference (a "Locally Funded Employee").

The Form must be completed for ALL Locally Funded positions which a Facility desires to implement after June 11, 2015. This includes Facility employees who will be hired to fill new positions, or fill existing positions, which have become vacant for whatever reason (e.g., retirement, resignations, or reductions, in force, or restructuring).

Section 1 (The Facility is responsible for completing Section 1 of the Form).

- Proposed Job Title:
 - If the position already exists but has recently become vacant, complete the blank with the current job title.
 - If the position did not previously exist, provide a proposed job title. The proposed job title should relate to the job duties.
- Proposed Job Duties:
 - If the position already exists but has recently become vacant, complete the blank with the current job duties and attach a job description if one exists for the position. Include any new duties which will be assigned to the position.
 - If the position did not previously exist, complete the blank with a summary of the proposed job duties and attach a proposed job description if one has been created for the position.
- Check the appropriate box identifying the type of requested position (new, replacement, or restructured position).
 - If the position was previously filled by another employee, provide the former employee's name and remuneration at the time he/she ceased employment.
 - If the position is being restructured (for example, where two positions are being combined into one, or where the duties of a position are being significantly changed), provide information regarding the proposed restructuring.

- Proposed Remuneration:
 - If the employee will be paid on an hourly rate, check the appropriate box and provide the proposed hourly rate.
 - If the employee will be paid a fixed salary per month, check the appropriate box and provide the monthly salary.
- Proposed Hire Date:
 - Provide a proposed future date you desire an employee to begin working in the position. (**REMINDER:** The proposed employee cannot be offered the position or begin working until after the Conference has approved the position, conducted the criminal background check (if appropriate) and issued an employment letter or agreement to the individual).
- If the employee will be working at least 38 hours per week, check the "Full-time" Box.
 - If the employee will be working at least 30 hours but not more than 35 hours per week, check the "High Hours Part-time" box.
 - If the employee will be working at least 19 hours and not more than 25 hours per week, check the "Low Hours Part-time" box.
 - If the employee will be working less than 19 hours per week, check the "Less Than Half-time" box and provide the number of hours that the employee will work.
 - If the employee's proposed work hours do not meet any of the above criteria, check the "Other" box and explain the Facility's contemplated work schedule.
- After Section 1 has been completed, send the form to the Conference office for review.

Section 2 (The Conference is responsible for completing Section 2 of the Form).

- The Conference will review the Form and determine if the requested position will be approved as proposed, approved with changes, or denied. This determination will be made as soon as possible after the Conference's receipt of the Form.
- **Approved As Proposed:**
 - If the Conference approves the position as proposed, it will check the "Requested position has been approved as proposed" box.
 - Confirmation that the position has been approved as proposed is subject to the Conference receiving the Facility's commitment for its financial obligation (funding for remuneration and benefits).
 - The Conference will check the appropriate box specifying whether it will issue an educational employment agreement or an employment offer letter for the position.

- **Approved With Changes:**

- If the Conference approves the position with changes, the Conference will check the "Requested position has been approved with these changes" box.
- The Conference will specify necessary changes (e.g., change from exempt to non-exempt status for compliance with wage and hour laws, change to less than part-time, or change in remuneration rate).
- The Conference will specify any additional requirements for the position.
- If the changed position is not accepted by the Facility, the Conference will note the denial and no further action may be taken regarding the position. The Conference will retain the Form in its records.

- **Denied:**

- If the Conference denies the request, it will check the "Requested position has been denied" box.
- The Conference will provide the Facility with an explanation for its denial of the position.
- No further action may be taken regarding the position. The Conference will retain the Form in its records.

Employment Benefits Eligibility

- If the Conference approves the request (as proposed or with changes), the Conference will determine the benefits for which the position will be eligible under Conference policies and benefit plans based on the full or part-time and hourly or salaried exempt classifications for the position.
- The Conference will check the boxes to identify the applicable benefits for which the position will be eligible and the monthly benefits cost to the employee and the facility. Any benefits for which the position is ineligible will be marked "N/A".
- The Conference will calculate the total monthly remuneration and benefits cost to the employee and the facility and insert those amounts on the Form.

Funding for Remuneration and Employment Benefits

- If the Conference approves the request (as proposed or with changes), the Conference will complete the section titled "Funding for Remuneration and Benefits".
- The Conference will calculate the monthly remuneration and place the dollar amount in the blank. If the employee is hourly, the amount will not include overtime. The Facility will also be responsible for funding any overtime work performed by a non-exempt employee.
- The Conference will calculate the cost of the benefits for which the position is eligible.
- The Conference will determine how far in advance it must receive payment from the Facility to cover the employee's monthly remuneration and benefits, and will complete the blank.
- The Conference will calculate the total monthly funding required for remuneration and benefits and complete the blank.
- The Conference will return the Form with the completed Section 2 to the Facility for confirmation of the Facility's ability and commitment for funding the position.

Section 3 (The Facility is responsible for completing Section 3 of the Form).

- The Facility must obtain approval of its local board to proceed with the approved position.
- The local board must take an action approving the total monthly funding required for the position and committing to submit the funds to the Conference to cover the remuneration and benefits for the position.
- After the local board has approved the funding for the position, an authorized representative for the Facility must complete all the blanks in Section 3 of the Form. The information needed to complete Section 3 may be obtained from Section 2 of the Form.
- The authorized representative for the Facility must sign and date the Form.
- The Facility submits the completed signed Form to the Conference.
- After the Conference approves the position, it will send the Facility an authorization form for criminal record check (if required for the position).

- The Facility is responsible to ensure that an applicant for the position completes and submits the Conference employment application and signed criminal record check authorization (if required for the position) to the Conference Executive Secretary.
- The Conference will conduct a criminal background check on the applicant, if appropriate.
- A final action will be taken by the Conference ADCOM, or Board of Education, or Executive Committee approving the hiring of a specific applicant to fill the approved locally funded employee position.
- The Facility will be notified of the hiring action.
- The Conference Education Department will send an educational employment agreement to the newly hired locally funded employee, which will confirm the conditions of employment and provide notice of the Facility's obligation and commitment to provide funding for the position.
- At this point, and not before, the locally funded employee can commence work for the Facility.

[CONFERENCE LETTERHEAD]

Date:

Dear _____,

On June 11, 2015, the Arkansas-Louisiana Conference Executive Committee voted to adopt the North American Division Guidelines for Locally Funded Employees. To assist Conference facilities with implementation of the Locally Funded Employee Guidelines, on June 11th, 2015 the Executive Committee adopted a hiring procedure for locally funded employees.

Local churches, schools and other facilities of the Conference which desire locally funded workers must submit a written request to the Conference Executive Secretary identifying (i) the position desired, (ii) the proposed job duties, (iii) the proposed classifications (i.e., full-time or part-time), and (iv) the proposed remuneration.

The Conference Executive Secretary will notify the local church, school, or facility if the requested position is either (i) approved as proposed, or (ii) must be adjusted to comply with federal/state laws or Conference policies, or (iii) is denied. If the proposed position is denied, the Conference will provide an explanation to the local facility. The Conference Executive Secretary will also confirm the benefits eligibility of the position and the funding required from the local church, school, or facility to cover the remuneration and benefit costs of the position.

Before moving forward with the proposed employee, the local facility must review and approve the required funding and submit a written commitment to the Conference that will provide the necessary funding for the position. If the Conference approves hiring of the locally funded employee, the local church, school, or facility will be responsible for (i) confirming that he or she is a member in good standing of the Seventh-day Adventist Church; (ii) having the applicant complete and submit a Conference employment application to the Executive Secretary; and (iii) obtaining the proposed employee's authorization for a criminal record check (if required for the position) and returning authorization form to the Conference. The Conference will conduct a criminal background check on the applicant, if appropriate. A final hiring decision will be made by the Conference Executive Committee, and the local facility will be notified of this action. At this point, and not before, the locally funded employee can commence work for the church, school or facility.

If the churches, schools or other Conference facilities have any questions regarding this procedure, please contact Juan Borges, the Conference Executive Secretary.

Sincerely,

Name
Title

SCREENING AND HIRING GUIDE LINE

This guideline is a resource for individuals serving on church, school, and other boards of Seventh-day Adventists organizations who are involved in interviewing and selecting candidates for positions authorized by the Conference. These screening and hiring guidelines are intended to educate participants on their legal responsibilities as representatives of the Conference, to ensure that participants meet their legal, ethical, moral, and spiritual responsibilities, and to promote accountability, trust, and equal employment opportunities in the Church workplace.

- The Conference is an equal opportunity employer.

Equal Employment Opportunities

- The Conference has the right, under federal law, to restrict employment to Seventh-day Adventists.
- The Conference is subject to other federal and state laws that prohibit discrimination in recruiting, selection, and hiring based on race, color, sex, age, ethnicity, or disability.
- As a volunteer serving on a committee or Board for a church or school and participating in screening and selection of Conference employees, you are also subject to these non-discrimination laws.
- Your failure to screen and recommend applicants in compliance with legal requirements and the Conference's equal employment opportunity policy can result in significant liability and expense.

Employment Application

- An application form provided by the Conference should be completed for all positions.
- Ensure that the applicant answers all questions on the employment application and does not omit any information requested on the form.
- Review the application to determine if the applicant's responses provide sufficient information on his/her background and qualifications.
- Review the applicant's work history to determine the existence of, and be prepared to request an explanation for, any gaps in employment.

Verification of Information Provided by the Applicant

- Confirm, if applicable, an applicant's current certification.
- Inquire regarding any complaints filed with the state agency or former employers against the applicant.
- Check references, especially those employers who employed the applicant in the same position which he is presently seeking.
- If the applicant is seeking a position of trust (e.g., with children or other vulnerable individuals or money), it should be made clear to the reference provider that the applicant is being considered for a position of trust.
- Review the results of the Conference's criminal background check, and check the applicant's driving record if the applicant is seeking employment in a position that involves driving responsibilities.
- Document in writing all information obtained regarding the applicant (especially verbal references) and include with the application.

Interview

- The focus of the interview should be the requirements of the position. The interviewer must understand the job, what it entails, its responsibilities and the essential requirements for the job.
- If there are any gaps in employment history or inconsistencies on the application, question the applicant to confirm the validity of the information.
- Take notes of all job-related information elicited during the interview (but not on the application form or resume).
- Limit your questions to those that are both relevant and legally permissible. Avoid asking questions about the applicant's national origin, sex, pregnancy status or future family plans, or age.
- Confirmation and consideration of an applicant's sex is only permissible where this characteristic is directly job-related. (i.e., bona fide occupational qualification for residence hall staff).
- Examples of prohibited and permitted interview questions are attached for your review.

Uniform Hiring Criteria

- Use uniform and consistent selection criteria on which to base a hiring recommendation.

Recordkeeping and Confidentiality

- The information gathered for the purposes of screening a candidate should be discussed only with the candidate and those directly involved in the screening and hiring process.
- Information on candidates should not be discussed or shared with persons outside of the selection committee or Board, including spouses.
- Notes taken during interviews should be provided to the Board chair and retained for all candidates for at least one (1) year.

Reasonable Accommodation Obligations

- The Conference is subject to the prohibitions against disability discrimination under federal and state laws.
- The Conference also has a legal duty under the Americans with Disabilities Act and similar state laws to "reasonably accommodate" persons with disabilities in the application and selection process, as well as for employment opportunities unless doing so would create any "undue hardship."

Limitations on Soliciting Information from Applicants

Anti-discrimination Statutes

Federal Laws: Title VII of the Civil Rights Act of 1964 prohibits discrimination in any aspect of employment on the basis of an individual's race, color, religion, sex, or national origin, and is applicable to all employers engaged in an industry affecting commerce who have fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year.

Under Title VII, it is an unlawful employment practice for an employer to fail or refuse to hire or otherwise discriminate against any individual with respect to the compensation, terms, conditions, or privileges of employment because of a person's race, color, religion, sex, or national origin.

Other federal laws provide specific protections based on age (the Age Discrimination in Employment Act) and disability (the Americans with Disabilities Act).

State Laws: States generally provide protections similar to those under Title VII for applicants and employees based on race, color, religion, sex, disability, or national origin. However, some state anti-discrimination laws are more expansive and may prohibit discrimination based on other categories, such as marital status, sexual orientation, and gender identity.

Local Ordinances: Cities or counties, by ordinance, may also prohibit an employer from discriminating against applicants or employees based on membership in a protected category.

To avoid inadvertent violations of these laws and ordinances, participants in the hiring process should understand and comply with any additional protected factors during the recruiting, screening, interviewing, and selection process.

Bona Fide Occupational Qualifications

Asking questions on application forms or in telephonic/personal interviews about the applicant's race, color, and disability should always be avoided. Inquiries into an applicant's national origin, sex, religion, or age should also be avoided unless these characteristics are directly job related. Under Title VII, there is an exception to the prohibition against discrimination based on sex, religion, or national origin. The exception is called a "bona fide occupational qualification," ("BFOQ") and applies where, "in some extremely rare circumstances, a person's sex, religion, or national origin may be reasonably necessary to carrying out a particular job function in the normal operation of an employer's business or enterprise." Race cannot ever be considered a BFOQ.

Permitted and Prohibited Applicant/Candidate Inquiries

A. Name

The Conference is entitled to obtain the applicant's or candidate's name. However, even with respect to this basic information, care should be taken:

1. The Conference may ask:
 - Have you ever used another name? If yes, what is it?
 - Is there any additional information relative to a change of name or use of another name, necessary for us to check your work and education record? If yes, please explain.
2. The Conference should not ask:
 - Questions regarding any title which would indicate a protected class.
 - Question regarding maiden name.

B. Race/Color

1. Questions concerning an individual's race or color are presumptively prohibited because they generally have no legitimate purpose in the hiring process.
2. An employer is entitled to collect statistical information regarding applicants and its work force to comply with federal regulations which require the reporting of such information (such as the EEO-1 report). However, such information cannot be considered as part of the applicant's qualifications and must be maintained separate from the application. The information should not be requested by managers in the pre-hire process.

C. Age

Questions concerning an individual's age are presumptively prohibited because they generally have no legitimate purpose in the hiring process. There is no reason to ask such questions and therefore they should not be included in telephonic or personal interviews.

1. The Conference may:
 - Ask, “Are you at least _____ years of age?” (If you are applying for a job with a minimum age requirement you may be required to submit proof of age.)
 - Make a statement that a photograph may be required *after* the applicant is hired.
2. The Conference should not:
 - Ask questions concerning age, generally. Federal law prohibits discrimination against individuals age 40 and above.
 - Ask question as to birth date.
 - Ask questions regarding dates of attendance and/or completion of a particular school.
 - Ask any other question which might indicate that the applicant is at least 40 years of age.
 - Request submission of a photograph before hire.

D. Own Home/Rent/Board or Other Questions Concerning Financial Status

These are generally prohibited inquiries. Inquiries into an applicant's financial status, such as bankruptcy, car ownership, rental or ownership of a house, length of residence at that address, or past garnishment of wages, if utilized to make employment decisions, may violate federal law.

1. The Conference may ask:
 - Question regarding place of residence and previous residences.
2. The Conference may not ask:
 - Questions regarding whether applicant owns or rents home.
 - Questions regarding length of residence at current or previous addresses.
 - Questions concerning applicant's bankruptcy or garnishment.

E. Height/Weight

The EEOC and many courts have ruled that minimum height and weight requirements are illegal if they screen out a disproportionate number of minority group individuals (e.g., Hispanic surnamed or Asian-Americans) or women, and the Conference cannot show that height/weight standards are essential to the safe performance of the job in question.

F. Marital Status/Number of Children/Number of Dependents/Family

Questions about marital status, pregnancy, future child-bearing plans, and number and ages of children may be used to discriminate against women and may violate Title VII or state laws if used to deny or limit employment opportunities for female applicants. If such information is needed for tax, insurance or social security purposes, it should be obtained by the Conference after commencement of employment.

I. The Conference may make:

Statement regarding any nepotism policy concerning work assignment of employees who are related by blood or marriage.

2. The Conference should not ask:

- Questions which concern marital status.
- Questions concerning number and age of children or dependents.
- Questions regarding pregnancy, childbearing or birth control.
- Questions regarding arrangements for child care.
- Questions regarding names and addresses of spouse or children of adult applicant.
- Questions regarding with whom applicant lives.
- Questions directed to one sex, but not the other.

G. Citizenship/National Origin

It can be illegal under federal law to refuse to hire an applicant because he or she is not a citizen of the United States. However, under the Immigration Reform and Control Act of 1986, 8 U.S.C. § 1101, et seq. ("IRCA"), it is illegal to knowingly hire (i) aliens who do not have any authorization to work in the United States, or (ii) any individual without complying with specific verification procedures.

Under IRCA, an Immigration and Naturalization Service 1-9 form must be completed by both the employee and the employer within 72 hours after hire. Employers must also examine

documentation for all individuals, whether the individual is a United States citizen or an alien, to verify that the individual is authorized to work in the United States. In addition, both the applicant and the employer must attest under penalty of perjury that the required documents were examined. The 1-9 form must be maintained by the employer for a minimum of three years after the hire date or one year after termination, whichever is later.

Title VII prohibits discrimination on the basis of national origin. Any questions regarding the applicant's national or ethnic origin would be presumptively prohibited.

1. The Conference may:

- State, "You will be required to submit proof of identity and work authorization upon hiring in compliance with the Immigration Reform and Control Act."
- Ask questions regarding languages the applicant reads, speaks, or writes.

2. The Conference should not ask:

- Questions regarding whether the applicant, applicant's parents, or spouse are native born or naturalized citizens.
- Questions regarding birthplace of the applicant, applicant's spouse or parents.
- Questions regarding nationality of the applicant, applicant's spouse or parents.
- Declaration that proof of citizenship or authorized alien status is required before selection for employment.
- Questions regarding the submission of a photograph before hire.

H. Contact with Current Employer/Reference Checks

So long as the Conference treats all applicants consistently, it can check references or talk to previous employers and base a decision, in part, on the information received so long as it is job related and not tainted by discrimination.

However, it should be recognized that it is unlikely an applicant will receive a bad reference from previous employers. Many employers refuse to talk about prior employees because of fear of being sued for defamation and limit information to confirming employment, the job position and the dates of employment. The question, "Is the employee eligible for rehire?" will sometimes be answered, but many employers will not even respond to that question.

I. Education

There is no prohibition against asking an applicant information about his/her educational background. However, asking the applicant to provide the dates of attendance or completion of high school is an indirect but impermissible inquiry into the applicant's age.

1. The Conference may ask:
 - Questions regarding nature and scope of academic, professional and vocational training.
2. The Conference should not ask:
 - Questions that would indicate nationality or religious affiliation of a school.
 - Questions that would reveal an applicant's age.

J. Driver's License

A driver's license is certainly a necessary requirement for any position that involves the operation of a motor vehicle, or where the position requires the employee to be "on call" with independent means of transportation. Thus, such a question would be legitimate for this purpose. However, a requirement that an employee possess a valid driver's license would be difficult to sustain with respect to positions where a driver's license is not necessary for job performance and the applicant has other reliable means of transportation.

K. Arrest and/or Conviction of a Crime

1. Arrests
 - Federal regulations and most courts state that because members of some minority groups are arrested statistically more often than whites in proportion to their numbers in the population, making hiring decisions on the basis of arrest records may have a disproportionate effect on these groups. State laws may also limit inquiries regarding an applicant's criminal history.
2. Convictions

- EEOC regulations and guidance to employers provide that a conviction for a felony or a misdemeanor may not by itself lawfully constitute an absolute bar to employment. However, an employer may give fair consideration to the relationship between a conviction and the applicant's fitness for a particular job.
- A conviction record should result in rejection if the number, nature and recentness of the convictions cause the applicant to be unsuitable for that position. Factors such as (i) the age of the offense, (ii) seriousness of the crime, (iii) nature of the violation, and (iv) rehabilitation should be taken into account.

L. Discharge from Military Service

The Conference should not, as a matter of policy, reject applicants with less than honorable discharges from military service. Minority service members have a higher proportion of general and undesirable discharges than non-minority members of similar aptitude and education. A requirement that to be eligible for employment, ex-members of the armed services must have been honorably discharged may have a disproportionate effect on minorities and may be a violation of Title VII.

1. The Conference may ask:
 - Information about military service.
 - Questions concerning training or relevant skills acquired in military service.
 - Questions regarding military service duties/responsibilities.
2. The Conference should not ask:
 - Questions regarding type of discharge.
 - Questions concerning service in the military of a foreign country.

M. Availability to Work on Weekends or Holidays

The Conference has an obligation to reasonably accommodate the exercise of employees' religious beliefs unless to do so would cause undue hardship. The religious exemption does not excuse the Conference from its obligation to reasonably accommodate the exercise of an employee's religious beliefs and religious practices.

1. The Conference may:

- State regular workdays, hours, or shifts.
- State that shift, rotation, and weekend work may be required.
- Ask questions concerning the applicant's availability to work required days, hours or shifts.

2. The Conference should not:

- Refuse to consider an applicant who requests accommodation of religious practices or beliefs.

**Retention Requirements for Interview Notes
And Hiring Documents
EEOC Regulations on Hiring Documentation**

- a. The organization is required by EEOC regulations to retain "documents and materials reviewed, prepared, or considered in the hiring process" (as well as documents generated during employment).
- b. Documents relating to the hiring process include applications, resumes, interview notes, questionnaires, tests, requests for accommodation during the application process, and any other documents that the organization makes or generates during the hiring process.
- c. Such documents must be retained by the organization for a period of one (1) year from the date of the making of the record or the personnel action involved, whichever occurs later.
- d. Where a charge of discrimination is filed or a lawsuit brought against the organization, it is required to preserve all personnel records relevant to the charge or action until final disposition of the charge or the action.
 - (1) The term "personnel records relevant to the charge" includes personnel or employment records relating to the aggrieved person and to all other employees holding positions similar to that held or sought by the aggrieved person and application forms or test papers completed by an unsuccessful applicant and by all other candidates for the same position as that for which the aggrieved person applied and was rejected.
 - (2) The date of final disposition of the charge or the action means the date of expiration of the statutory period within which the aggrieved person may bring an action in a U.S. District Court or, where an action is brought against an organization either by the aggrieved person or the Commission, the date on which such litigation is terminated. 29 C.F.R. § 1602.14.

Americans with Disabilities Act Considerations in the Hiring Process

1. Accessibility

Employers, including church organizations, are required to provide necessary reasonable accommodations to enable an applicant to have equal opportunity in the interview process. The EEOC provides the following as examples of accommodations during interviews:

- a. An accessible location for people with mobility impairments.
- b. A sign interpreter for a deaf person.
- c. A reader for a blind person.

2. Worker's Compensation Claims History

It is the EEOC's position that:

- a. The ADA prohibits employers from inquiring into an applicant's workers' compensation history before making a conditional offer of employment.
- b. After making a conditional job offer, an employer may ask about a person's workers' compensation history in a medical inquiry or examination that is required of all applicants in the same job category.
- c. An employer may not base an employment decision on the speculation that an applicant may cause increased workers' compensation costs in the future.
- d. However, an employer may refuse to hire, or may discharge an individual who is not currently able to perform a job without posing a significant risk of substantial harm to the health or safety of the individual or others, if the risk cannot be eliminated or reduced by reasonable accommodation. Ch. IX, Americans with Disabilities Act of 1990, EEOC Technical Assistance Manual, § 9.1.
- e. In the pre-employment phase of the hiring process, the Conference should not ask:
 - (1) Have you ever been injured on the job?
 - (2) Have you ever filed a claim for workers' compensation?

- (3) Have you ever received workers' compensation or disability benefits?
- (4) Identify the dates, the circumstances surrounding such injury, and the nature of any workers' compensation claim you have filed.

3. Prohibited Pre-Employment Medical Inquiries and Examinations

1. The Conference cannot conduct medical examinations or ask medical questions prior to making a conditional offer of employment. 42 U.S.C. § 12112(c)(2)(A).
2. The Conference cannot ask a former employer or a reference about the applicant's disability or the nature or severity of the disability in any background or reference check. Ch. V, Manual, § 5.5(a), p. V-5.
3. The Conference cannot single out a disabled employee to request that he or she demonstrate his ability to perform a job-related task where the disability will not prevent the employee from performing these job-related tasks (e.g., an interview may not single out a disabled applicant with one leg to demonstrate his ability to assemble small parts with his hands while seated at a table). 29 C.F.R. § 1630, Appendix, § 1630.14(a).
4. Conference interviewers cannot ask a job applicant, in writing or verbally, any of the following questions:
 - 1) Do you have a disability?
 - 2) If so, explain the nature or severity of your disability.
 - 3) Have you filed any claims for workers' compensation?
 - 4) If so, identify the dates and nature of any workers' compensation claims you have filed.
 - 5) How did you become disabled?
 - 6) How did you lose your _____?
 - 7) Was the loss of your _____ caused by an impairment?
 - 8) What is your prognosis?
 - 9) How often will you require leave for treatment of your disability?
 - 10) Have you ever had or been treated for any of the following conditions or diseases? (Followed by a checklist of various conditions and diseases).
 - 11) Have any of your family members ever had or been treated for any of the conditions listed above?

- 12) Please list any conditions or diseases for which you have been treated in the past three years.
- 13) Have you ever been hospitalized? If so, for what condition?
- 14) Have you ever been treated by a psychiatrist or a psychologist? If so, for what condition?
- 15) Have you ever been treated for any mental condition?
- 16) Is there any health-related reason you may not be able to perform the job for which you are applying?
- 17) Have you had a major illness in the last five years?
- 18) How many days were you absent from work because of illness last year?
- 19) Do you have any physical or mental defects, which preclude you from performing specific kinds of work? If yes, describe such defects and specific work limitations.
- 20) Do you have any disabilities or impairments, which may affect your performance in the position for which you are applying? If so, identify any accommodations that would enable you to perform the job.
- 21) Are you taking any prescribed drugs?
- 22) Have you ever been treated for drug addiction or alcoholism?
- 23) Are you involved or have you been involved with an individual who has been/diagnosed with the HIV virus?

4. Permitted Pre-Employment Medical Inquiries and Examinations

- a. A Conference interviewer may ask an applicant whose known disability may interfere with or prevent the performance of a job-related function to demonstrate his or her ability to perform the function whether or not the Conference routinely makes this request of all applicants.
- b. A Conference interviewer may ask a disabled applicant with a known disability which will not interfere with the performance of a job-related function to demonstrate his or her abilities only if an employer routinely asks all applicants to demonstrate their abilities.

- c. If an applicant with a known disability has indicated that he could perform a job with reasonable accommodation, a previous employer may be asked about the accommodations made by that employer (but not about the particular disability).
- d. The Conference may require an applicant to submit to a drug test. A drug test is not considered a medical exam. 42 U.S.C. § 12114(d)(1). (The statute and regulations do not address testing for alcohol and, therefore, the Conference should not test for alcohol prior to a conditional offer of employment.)
- e. A Conference interviewer may ask an applicant, in writing or verbally, any of the following questions:
 - (1) Are you able to perform the job functions (identified in a job description or described verbally)?
 - (2) Can you perform these job functions (identified in a job description or described verbally) with or without reasonable assistance or accommodation.
 - (3) If you are able to perform the job functions with an accommodation, how would you perform the task and with what accommodation(s)?
 - (4) Demonstrate or explain how, with or without reasonable accommodation, you (a teller person with one arm) would be able to transport yourself and your tools up or down stairs.
 - (5) The attendance requirements of the job are _____. Can you meet these requirements?
 - (6) Can you perform both the essential (specify) and marginal (specify) job functions.¹
 - (7) The regular work hours of the job are _____. Can you meet this requirement?
 - (8) The special attendance needs of the job are _____. Can you comply with this requirement?

¹ Although this inquiry is specifically suggested by the EEOC, the EEOC reminds employers that any employment decision may not be based upon the applicant's inability to perform non-essential functions. For this reason, despite the position of the EEOC, managers should be cautious in concentrating on an applicant's ability to perform admittedly non-essential functions of the position.

(9) The travel requirements of the job are _____. Can you comply with this requirement?

(10) Do you engage in the current illegal use of drugs?

