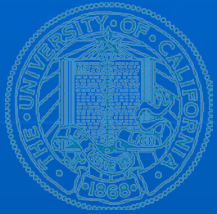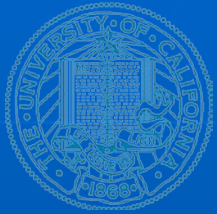# Interviewing and Selection: Avoiding the Pitfalls

A webinar panel presentation by EPIC-UC's Employment Practices Improvement Committee

February 10, 2011

Interviewing and Selection: Avoiding the Pitfalls

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Remember to dial in so you can hear the audio portion of the webinar.

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Remember to mute your phone
Please do not put your phone on hold during the webinar!

Panelists

Mia Belk
  Office of General Counsel, Labor & Employment

Katherine Catlos
  Kaufman Dolowich Voluck & Gonzo, LLP

Michael Yates
  Director of Employment & Outreach Services,
  UC San Diego

Moderator: Carolyn Yee
  Office of General Counsel, Litigation

Today's Topics

- Hiring Process & Legal Foundations
- Requisition / Posting
- Resume Referrals
- Screening Resumes
- Interviewing 101
  - Behavioral Based Interviewing basics
- Selection Report
- Reference Checking
- Avoiding UC/OFCCP Audit
- Background Checks
- Preferential Rehire
- Waivers
- Near Relatives

Hiring Process

- Department Approvals
- Department creates job description
- Department creates requisition
- HR posts job (2 week minimum)
- HR reviews / refers applicants
- Department reviews applicants and completes the screening worksheet (optional)
- Department interviews (Phone or In person)
- Hiring Manager completes Selection Report and other hiring forms and sends to their Department HR then faxes back to Central HR
- HR approves Selection Report
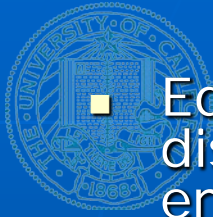- Department can then make an offer

Legal Foundation

BEST PRACTICES:

- **Equal Access**

- **Fair Treatment**

- **Consistent Process**

- **Good Faith Efforts**

Equal Employment

- Equal Employment Opportunity: UC does not engage in discrimination against or harassment of any person employed or seeking employment on the basis of:

- (13) Race , Color, National origin, Religion, Sex, Physical or mental disability, Medical condition (cancer-related or genetic characteristics), Ancestry, Marital status, Age, Sexual orientation, Citizenship, Status as a covered veteran (special disabled veteran, Vietnam-era veteran, or any other veteran who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized)

- This policy applies to all employment practices, including recruitment, selection, promotion, transfer, merit increase, salary, training and development, demotion, and separation, consistent with the provisions of applicable state and federal laws and University policies.

Affirmative Action

- Affirmative Action: UC undertakes affirmative action consistent with its obligations as a federal contractor for:

  - Minorities and women

  - Persons with disabilities

  - Special disabled veterans, Vietnam-era veterans, or any other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized.

  - UC commits itself to apply every <u>good faith effort</u> to achieve prompt and full utilization of minorities and women in all segments of its workforce where deficiencies exist. These efforts conform to all current legal and regulatory requirements, and are consistent with University standards of quality and excellence.
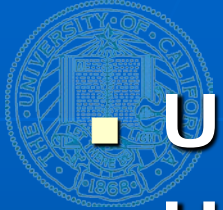
Requisition and Posting
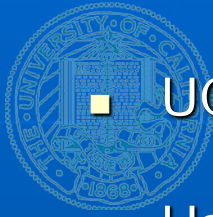
- UC Policy requires a posting period of 2 weeks

- Use an attractive and understandable working title

- Posting must interest and motivate jobseekers to apply

- Applicants DON'T READ -- Limit your qualifications to 5 – 7
  - Use hard skills (skills that can be determined/viewed on a resume)

- UC specific qualifications are always advertised as "preferred"

- Special Conditions of employment should be emphasized (i.e. RN License)

Job Description

- Up to date
- Understand and identify the job to be performed
- Federal contractor issues? OFCCP regs

Resume Referrals
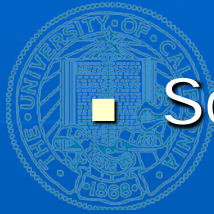
- Screening Criteria:

  - Recruiters rely on the qualifications supervisors provide, so be sure to work directly with your recruiter.

Resume Referrals: Tips

- I know someone who has or will apply, is okay to let the Recruiter know?
- There is no law or policy stating you can't do this.

- What happens if their resume doesn't reflect the qualification required?
- In order to be referred by a recruiter they have to meet the criteria you created.

- Can I request to see all resumes?
- Yes, but keep in mind you will be **REQUIRED** to complete a screening worksheet on **ALL** applicants referred to be able to speak to an auditor as to why you chose who you chose.

- Will you track an "Applicant" to my posting?
- No, applicants must apply directly to your job. (Unfair process, preferential treatment)

Screening Worksheet
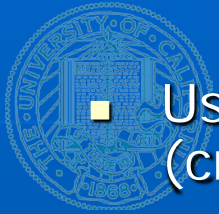
- Use only <u>hard skills</u> from either the Job Posting or JD. (criteria you can see on a resume)

- Do not use UC specific qualifications (barriers to entry) unless it is an Internal Recruitment position and no externals were requested

- Tip: Use larger numbers for your scoring criteria.

Screening Resumes
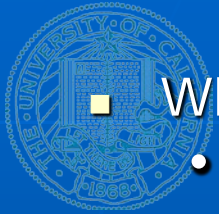
- What to look for:
  - Previous experience with comparable job elements and activities
  - Pattern of progressively increasing responsibilities
  - Level of education and educational achievements
  - Pattern of progressively increasing compensation
  - Experience with specific products, clients and organizations
  - Career or position objectives which are consistent

- Areas of Misrepresentation:
  - Education
  - Employment History (i.e. Self Employed)
  - Salary and Job Title
  - Expertise & Achievements
  - Criminal Conviction Record
  - References (i.e. Supervisors)
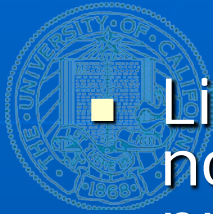
Evaluate Candidates

- **Application**
- **Resume**
- **Interview**

Interviewing 101

- Review the resume before!
- Interview in a committee
- Establish rapport/calm the candidate
- Don't Talk! It's your time to **LISTEN**
- Take notes – Exact Quotes
- Ask follow up questions/Use the resume
- Use behavioral based interview questions

Interviewing

- List of Questions that are job related, nondiscriminatory, and not an invasion of right of privacy
- Examples
- Unacceptable Questions – Cal Gov't Code 12940 prohibits…
  - Marital status or children
  - Pregnant, has children, or planning to have?
  - Provisions for day care?
  - If you became pregnant, how much time away from work?
  - Hobbies or outside activities – clubs, societies, organizations

Situation A

Nicole applies for supervisory position

Interviewing cont'd

- What language an applicant knows unless fluency job requirement
- Name of pastor as a reference
- Arrest records
- Age
  - "What year did you graduate high school?"
- Physical ability
  - "Do you have a disability that would interfere with your ability to do your job?"
  - "How many days were you sick last year?"
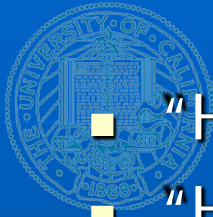 - "Have you ever filed for workers' compensation?"

Situation B
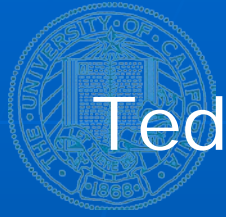
Ted applies for receptionist position

Interviewing cont'd

- "How much alcohol do you drink each week?"
- "Have you ever been treated for alcohol problems?"
- "What prescription drugs are you taking?"
- OK: "Can you perform the essential job functions with or without a reasonable accommodation?" and "Will you please describe how you would perform those functions."
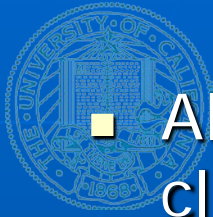- OK: "Can you meet the attendance requirements of this job?"

DFEH Pamphlets

http://www.dfeh.ca.gov/DFEH/Publications/ PublicationDocs/DFEH-161.pdf

www.onestophr.com/tools/T_WatchLanguage.doc

Interviewing cont'd

- Also no: asking about workers compensation claims, medical history, or involved in a lawsuit
- Job –related convictions, except not those expunged, sealed, or eradicated by statute
- DFEH Fact Sheet re acceptable questions
- Steer interview: "I have four children." So response, "I'd rather not discuss that with you; we select employees based on their qualifications."

Situation C

Emily applies for Staff research associate position

Behavioral Based Interviewing
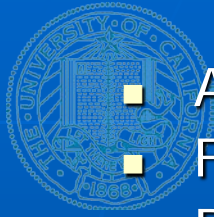
- Ask open ended questions
- Follows up on questions to pin down past behavior
- Record behavior
- Maintain candidates' self-esteem
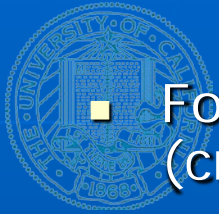- Control interview pace
- Gather contrary evidence

Situation D

Ana applies for Tech Manager position

Selection Report

- Focus on hard skills but 1 or 2 soft skills are okay here. (criteria you determine in an interview)

- Be careful if you use UC specific qualifications (barriers to entry)

- Use larger numbers for your scoring criteria

Selection Report Cont.

- Reason for Selection

- Salary:
  - Hiring Internal – 25% max (99), without VC approval
  - Hiring External – Midpoint
    - If above midpoint a justification/internal equity may need to be approved

- Required Signatures

- A <u>Minimum of 3</u> candidates should be interviewed when you have large qualified pools

Reference Checks
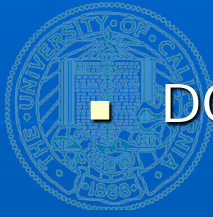
- DO THEM!

- Use a template

- Did you know you could request to review employee's performance evaluations?

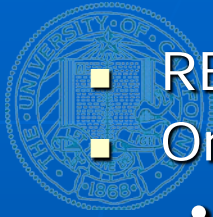- Checking references/personnel files from other campuses.

Avoiding Audits
UC/OFCCP Audit

- What is an audit and who is involved?

- UC Campus/UCOP Audit Office

- Office of Federal Contract Compliance Programs (OFCCP - Division of Dept. of Labor)

Avoiding UC/OFCCP Audit

- RED FLAGS:
- Only one applicant interviewed
  - Oh... and that applicant just happens to be an internal applicant (reclassification?)

- Barriers to entry used on Selection Report/Screening Worksheet

- Selection Criteria used could not be determined on a résumé or in an interview setting

- Using illegal questions in an interview

- "Test" is given that was not approved by HR

~ Applicants are aware of their rights ~

Background Checks
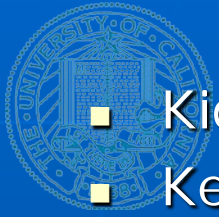
- Kids
- Keys
- Cars
- Cash
- Computers

- Best to inform the applicants when posting a position

Internet Era

- Google searches for Tim Jones – the wrong Tim Jones or pictures of him may lead to discrimination claims
- Risky to check MySpace, Facebook, Linkedin, Twitter or applicants' own blogs, www.timjones.com
- Again must be done in non-discriminatory manner
- Do not use another's Facebook account, for example, as a proxy
- Law prohibits employers from intruding upon an applicant's legal, off duty conduct.
- FCRA, CCCRA and CICRAA restrict an employer's ability to use credit reports on applicants.
- Facebook shows pictures from years ago; reasonable expectation of privacy four years later even though 4 million users on Facebook now
- Reputationdefender.com – info may be scrubbed
- E-discovery – subpoena your hard-drive, cell phone

Pre-Employment Inquiries of the Physical Fitness, Mental Condition, or Medical History

- If directly related to job
- After job made but before job commences, medical exam okay if job-related and consistent with all entering employees in same job classification are subject to same inquiry/examination
- Genetic Information

Take Notes

- Objective record of why applicant was or was not hired
- Brief, clear, legible
- "Did not have experience with necessary equipment" versus "not impressed"
- "Not willing to work afternoons" versus "not right for the job"
- "Good interpersonal skills" rather than "nice pantsuit."

Hiring-Related Cautions
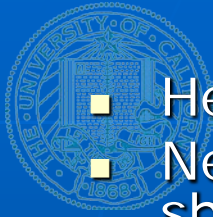
- Health and safety of co-workers and public
- Negligence in placing persons with known propensities or should have known – could have been discovered by reasonable investigation and foreseeable that the individual posed a threat of injury to others
- Liability if neglected to contact applicant's former employers, verify necessary licenses, verify certificates, check references where such an investigation would have demonstrated the applicant had violent background or otherwise unfit for the job
- Invasion of Privacy
- Records: credit checks, medical exams, etc/
- Drug testing
- Criminal records
- History of drug or alcohol abuse

Preferential Rehire/Recall Rights

- What is a preferential rehire?

- What are the steps and what is required?

- What if a preferential rehire is not qualified for my position?

-

- http://blink.ucsd.edu/Blink/External/Topics/Policy/0,1162,413,00.html

Waivers of Recruitment

- What is a waiver?

- What are the steps and what is required?

- What is the likelihood it would be approved?

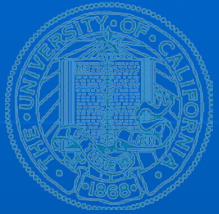# Near Relative Appointments

- Most campuses require some form of approval by Human Resources

- Key Items:
  - If there is a direct reporting line to a relative highly unlikely to be approved without the Chancellors endorsement based on University need

  - Conflict-of-interest issues

  - Political Reform Act

Situation E

Steve applies for Human Resources Assistant position

Questions?