



## **Applicant Recruiting and Screening Guide**

### **Pre-recruitment**

- Create or update the job posting and position description to ensure that it uses the organization's current format and accurately reflects all position requirements.
- Ensure the position is correctly classified as exempt or nonexempt based on specific job duties and compensation.
- Prepare recruitment strategy: internal or external posting or both. Organizations will generally post internally first, then externally but may also post both at the same time.
- Save a copy of the job posting. Ensure that you document when, where, and how the position was posted, as well as dates, posted.

### **Screening**

- Remember reasonable accommodations may be required during the application and interviewing process. Please contact your legal counsel with any questions regarding accommodation requests.
- Review documentation provided by applicant:
  - We strongly recommend a resume AND employment application. Employment applications usually require more information that may be useful in evaluating the applicant.
  - Sort applicants by job match. If using a firm or third party, make sure third-party vendors comply with your recruitment requirements.
  - We recommend checking professional references and verifying employment and education history.
  - Before making any offer (or suggestion of offer), consider reviewing any available social media. These checks may reveal protected traits/activities, so we recommend ensuring that hiring decision-makers don't have access to unnecessary information about protected traits.
- Interviews:
  - Ensure interviewers understand how the interview process should be conducted, what questions will be asked of every candidate, what questions may not be asked, and how the process is documented.



- Consider contacting your legal counsel if a candidate who is not selected to move forward has self-disclosed protected trait information (e.g., disclosed a disability, criminal conviction, or other non-obvious personal information).
- Background checks:
  - Note that special restrictions may be in place for so-called “ban the box” jurisdictions. For example, criminal background checks may not be conducted in some locations until after an initial interview.
  - Determine what, if any, background checks are appropriate for the position. Consult with counsel if you plan to conduct credit checks, as there may be more legal risk associated with these checks.
  - If you obtain information about an applicant’s driving record, you may need to get authorization.
  - If your organization conducts a background check through a third party, you will need to comply with the Fair Credit Reporting Act. Special authorizations and notices are required.
  - New York employers making decisions based on criminal history will need to review New York Corrections Law Article 23-A requirements and consider those as part of your assessment.
  - We recommend that you consult with your legal counsel to ensure that you understand the legal risks and responsibilities associated with background checks and that your processes, forms, and notices comply with applicable law.
- Before a job offer is made, the employer is limited in asking medically-related questions or requiring medical examinations. If you wish to ask medical questions or conduct any medical evaluation or test, please contact your legal counsel for more information about federal and state requirements.
- Special rules may apply for nonresident aliens. Please contact your legal counsel for assistance.
- Arrange for drug testing, if applicable. We recommend a periodic review of your drug testing policies and practices.