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Using interview to learn about conflict of interest

By Kathleen Driscoll

"I read your column about interview questions regarding 'What does your husband do?' with interest. I have a follow-up question. We are a consulting company and this is an issue for us. What if a candidate's 'significant other' works for the competition? What if they are employed by a company in which we have a non-compete or by a company in which one of our clients directly competes? We don't want to hire someone in that situation. How do we deal with that when we're interviewing candidates?"

"On the other side of this issue, someone whose significant other has a particular expertise or is in a field that we are in-or trying to build business in-could have a significant advantage in the interviewing process. Any advice on handling these delicate situations would be welcome."

The "What Does Your Husband Do" question generated a fair amount of response with most people agreeing that it was an indirect way of asking, "Are you married?" But this is a slightly different twist. And it's another reminder of how challenging it can be to conduct the interview, get the information you need and hire the right candidate. How do you handle it when there's concern about a potential conflict of interest involving the work of a job-seeker's partner or spouse?

You want to find out but there's a chance that asking the spouse question directly could get you into trouble. Steve Modica, partner with Modica & Associates in Rochester, suggests changing the wording of the question. Instead of, "What does your spouse do?" which is an "unnecessarily broad" question, he says, you could say: "Does anyone in your household work in the widget industry?" or "Does anyone in your household do business with the widget industry?"

"This could include the occupations of a child (biological or adopted), roommates or anyone else. It does not have to be a spouse or significant other," he says.

It would be helpful for the candidate to hear an explanation of why you're asking this question, he says.

Elaine McKenna, vice president and partner with Weterrings and Agnew, a division of Providium Human Resource Group LLC in Rochester, suggests that you make it clear during the interview that your company has a policy that prohibits members of an employee's household from working for the competition.

And then you can follow up with a document that the new employee would have to sign, spelling out the conflict-of-interest policy and confirming that no one in the household is employed by a competitor.

"This is a condition of employment," McKenna says. "You make it clear at the time of the interview that they will be required to sign off on it and they should let you know now if there's any problem with that."

If an employee lied on a document like this, he or she could be fired for "misconduct" and probably not receive unemployment insurance, Modica says.

Your other question about the advantages of hiring someone whose spouse or partner is employed in an industry that your company is entering is also complex. It's difficult to frame questions on this without crossing into territory many applicants would

consider "too personal," McKenna says.

The chances are good, however, that candidates with some knowledge of your company's business interests or ties to a particular client market are going to share pertinent information about themselves because they would recognize that it would give them an edge at your company.

"People are going to volunteer that information nine times out of 10," she says. "It'll come up in the course of conversation."

During the interview, there may be creative ways to ask about an applicant's knowledge or how they acquired their knowledge of a particular industry, she says, but you risk stepping into personal territory. In some cases, people actually don't want to mention connections they might have to particular people or industries because they want to be hired on the basis of their skills and education, not because of some other factor.

"You have to assume the candidate is smart enough to play that card if they want to use it as a competitive advantage."

If interviewers are not trained in these areas, they should keep a couple of general rules in mind. The first, McKenna says, is that there is a line between business and personal questions and you don't want to cross it. So the rule is, 'When in doubt, don't.'"

And the second, she says, is to treat applicants the way you would want to be treated in that situation. And remember that the context in which a question is asked is also important. If, for example, a candidate shares a piece of information about himself or herself, you are free to ask follow-up questions in the course of conversation. But you're not free to delve into family, health and other personal or sensitive areas.

Managers at Work is a bimonthly column exploring the issues and challenges facing managers. Contact Kathleen Driscoll with questions or comments by phone at (585) 249-9295 or by e-mail at kadriscoll@aol.com.

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