



Employee Recruitment and Selection

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OF CHAPTER LEARNING OBJECTIVES

As a result of satisfactory completion of this chapter, readers will be able to:

1. Identify the factors that HR managers must consider prior to planning and initiating their organization's employee recruitment efforts.
2. Differentiate between the actions HR managers take when electing to conduct internal, external, or outsourced searches for qualified employees.
3. List and explain the importance of applications, interviews, testing, background checks, and references—the five major activities that HR managers undertake when screening employees for possible selection.
4. Understand and explain the potential legal liability related to negligent hiring.
5. Describe the legal differences between a conditional job offer and a final job offer.



Impact on Human Resources Management

Exceptional hospitality management company leaders are often quoted as saying that “our people are our greatest asset.” These managers are not simply paying lip service to the importance of employees. They know it is true. There are few trade secrets or barriers to entry in the hospitality industry that would stop new businesses from successfully forming and competing for customers. As a result, nothing can prevent highly innovative and service-oriented individuals from creating new businesses and achieving tremendous success. In the hospitality industry, people are critically important. In fact, one characteristic that has historically distinguished the hospitality industry from others is the ability of a single, innovative entrepreneur to make a remarkable impact. Examples such as Ray Kroc (McDonald’s), Kemmons Wilson (Holiday Inns), Horst Schulze (Ritz Carlton), and Richard Melman (Lettuce Entertain You) are merely a few powerful reminders that a single individual (and often one whose entry-level job in the industry was modest indeed!) can have an incredible impact on the industry.

Most successful hospitality industry leaders will also state that they have little personal interest in making their companies the biggest or even the most profitable. They know that if they focus on providing outstanding guest service, growth and profits are the inevitable result. With great success, and more customers, however, comes the need to identify, train, and retain even more talented people. These people must be kept happy, focused on excellence, and committed to the organization’s goals. That is why employee recruitment and selection efforts are so critical to the long-term success of every hospitality business and to all of the hospitality managers who direct their operation’s recruitment and selection process.

Factors Affecting Recruiting Efforts

1. **Identify the factors that HR managers must consider prior to planning and initiating their organization’s employee recruitment efforts.**

In the hospitality industry, successful managers focus on two very different, but related tasks. These are:

1. Securing and keeping an adequate customer base
2. Securing and keeping an adequate number of qualified employees to serve the customer base

If either of these two tasks is not successfully completed, a hospitality business will suffer either from a shortage of customers or the skilled employees needed to serve them.

Recruiting: The process of identifying candidates for current or future position vacancies.

Selection: The process of choosing an individual for a current or future position vacancy.

Product and concept development, facility design and construction, product planning, marketing, and advertising are some of the activities directed at securing and keeping a customer base large enough to maintain a business. Employee **recruiting** and **selection** are the first two essential steps taken by businesses to identify and choose the right employees, with the right qualifications, to serve their customers.

In most traditional HR textbooks, a discussion of employee recruitment and selection is introduced only after a detailed presentation of the job analysis process. Job analysis is simply the manner in which managers carefully study the specific tasks that need to be done in their operations, as well as the skills workers must have to complete those tasks.



Human Resources Management: CURRENT EVENTS 4.1

THE CHANGING NATURE OF JOBS

Before employers can effectively choose their employees, they must identify the knowledge, skills, and abilities that those applying for their vacancies should possess. This is completed via a thorough analysis of what their workers do and how they do it. They must then find employees capable of being taught, “How we do it here.” Thus, the examination and analysis of jobs is both a recruitment and training issue.

In Chapter 6, you will learn how hospitality managers conduct detailed position analyses and task breakdowns to identify precisely the skills their workers currently need and then create effective training programs to teach these skills. This is consistent with the approach of “Find the *right* people, and then teach them the *right* skills.” In some cases, however, the skills identified for a position may be critical to the recruitment of future employees. When this is the case, information about these special skill requirements should be included in the position’s recruitment material.

For many hospitality managers, and especially for those hiring entry-level employees, personal characteristics such as friendliness, punctuality, attitude, and personal grooming and others may be much more important than a candidate’s background or prior experience. Any manager seeking to find pretrained employees simply by listing detailed skill requirements in their position advertisements are likely to be sorely disappointed, because in most hospitality operations, the manner in which work is completed varies greatly. In addition, how things are done today is likely very different from how they will be done tomorrow. As a result, a careful reading of current position vacancy announcements shows a trend to emphasize (properly) personal characteristics, ability to change, and willingness to work to a much greater degree than specific previous work experience or current skill levels gleaned from detailed job analyses.

This traditional view makes the reasonable assumption that managers must know the specific work-related tasks that job applicants will need to do before they can effectively seek them out. The authors of this text do not discount the importance of managers fully understanding the details of the jobs that must be done in their operations. In fact, an extremely thorough discussion of this topic is presented in Chapter 6. The reality for most hospitality unit managers is that even the experienced workers they hire will, in nearly all cases, require detailed training in how their specific tasks are to be completed. As a result, the ability to perform required job skills at the time of employment is sometimes less important than are a variety of other, more important factors.



IT'S THE LAW!

In the United States, the Department of Justice is headed by the U.S. Attorney General. Although the position of Attorney General has existed since the founding of the Republic, a separate Department of Justice was not created until 1870, bringing together under the authority of the Attorney General the activities of United States Attorneys, United States Marshals, and others. The Justice Department investigates and prosecutes federal crimes, represents the United States in court, manages the federal prisons, and enforces the nation's immigration laws.

Most hospitality managers interact with the Department of Justice in the area of immigration. The Immigration and Naturalization Service (INS) was created in 1891, and is headed by a commissioner who reports directly to the Attorney General. The INS requires that managers in all industries, including hospitality, must secure verifying worker identification documents from everyone they hire. This is mandated so that jobs will be given only to those people who are legally able to secure them. Under current law (that may change over time), employers are required to secure but not to independently verify the authenticity of identification documents supplied to them. The result, in some cases, is that those who do not have the legal status to work in the United States have been hired.

In many parts of the United States, immigrants make up a very large portion of the hospitality industry workforce. As a result, many leaders within the hospitality industry have taken very public stances in favor of easing immigration restrictions. Certainly this is their political right, and most would agree that any efforts to expand the pool of qualified applicants legally permitted to work in the hospitality industry are always a good idea.

It is also very important to recognize, however, that under current law, the fines for knowingly employing undocumented workers can be severe. This area of public debate is quite volatile. As a result, professional hospitality managers must carefully monitor changes in legislation related to the issues of immigration, worker documentation, and worker document verification in the years to come.

To illustrate this point, consider the case of an excellent server with 10 years' experience working in a family-style table-service restaurant. This worker would likely still need very operation-specific training if hired as a server by the manager of a fine-dining establishment. In a similar manner, young persons with no previous job experience, who are hired to be dishwashers, will need to learn a specific set of new job skills simply because they have no previous job experience. In these cases, as well as many others within the hospitality industry, the job skills workers need to do their jobs may not actually be present at the time of their hiring. That fact is merely one of many factors that make the hospitality industry unique. Despite this, effective unit managers can, when the proper workers are selected, readily provide the skills training needed to ensure that these new employees will meet job performance standards.

In most cases, hospitality managers will find that the hourly employees they hire must undergo specific skills training before they become fully productive workers. Servers, dishwashers, kitchen cleaners, counter workers, food preparation specialists, cashiers, housekeepers, and front desk staff are just a few of the many positions for which it is common (and because of worker shortages, even necessary) to hire workers who do not come to the operation with readily applicable job skills. What the best of new employees can bring to the operation is a sincere commitment to serve guests, a willingness to learn, and the work ethic needed to perform as a valued employee. When these characteristics are present in newly hired employees, the hospitality manager who selected them may have chosen an unskilled employee, but he or she will also have selected an employee who will be an excellent addition to the staff. For that reason, hospitality managers should understand and appreciate other, more important nonskill issues, when considering the factors that directly affect their employee recruitment efforts.

Those managers directly responsible for recruiting a qualified pool of candidates must be keenly aware of the varied constraints they face prior to developing their recruiting plans. In the hospitality industry, managers must recognize existing legal, economic, industry, organizational, and positions constraints, discussed as follows:

Legal constraints. As you learned in Chapter 2, local, state, and federal laws significantly affect a hospitality manager's efforts in recruiting employees. An employer can no longer seek out preferred individuals based on non-job-related factors such as age, gender, or physical attractiveness. Those that do so may be confronted with significant legal problems. For example, in the hospitality industry, it is simply inappropriate to view positions as being best suited for males or females. Historically, the hospitality and tourism industries have provided tremendous opportunities for employees of all backgrounds, and they will continue to do so, not only because it is the legal thing to do, but because it is the right thing to do.

Economic constraints. Economic constraints affect both the organization that is recruiting employees and the employees themselves. In many cases, the wages and salaries that can be paid to workers and managers are directly determined by the profitability of the operation for which they will work. If, for example, the operation must maintain a targeted, predetermined labor

budget, or achieve its labor cost percentage goal, it will likely be restricted in the amount of money it can offer new employees. All organizations face such economic restraints, and thus this challenge is simply one more that can be addressed and overcome by professional hospitality managers.

Just as employers face economic constraints, employees may be attracted to or deterred from applying for a position because of the money they can earn. It is clearly in the best interests of both the employer and employee for each to understand the realistic range of compensation available for vacant positions before these positions are advertised and applied for. It is also very important to understand that rate of pay is only one of several critical factors (see Chapter 8) that good employees consider before applying for and accepting a new job.

Industry constraints. Some individuals truly do not understand the hospitality industry well. As a result, they view it as one in which opportunities for personal advancement are few, and the remuneration offered for working is low. In fact, the hospitality industry offers significant personal and financial rewards for workers with a variety of backgrounds, from those with limited formal education to those with advanced professional degrees. It is unlikely that any single HR manager will change industry perceptions, but it is important to understand that recruitment efforts should, when necessary, directly address potential candidate biases.

One of the best ways to directly address the constraints on recruiting imposed by the hospitality and tourism industry is to focus on its varied and positive characteristics. These include:

- Stability of employment
- Variety of work
- Ability to utilize personal creativity
- Team environment
- Rewards of serving others
- Pleasant work atmosphere

Each job for which an HR manager advertises will have its own positive features. In addition, specific industry segments will have their own unique and positive attributes. Experienced managers directly address industry-related constraints when publicizing their jobs by clearly stating the attractive features of the jobs they are offering. The goal is not to promise falsely, but rather to better educate those who do not fully understand the advantages of a career in the hospitality and tourism industries.

Organizational constraints. Just as some applicants will have a general reaction to jobs advertised within the hospitality industry, others may react to the specific organization for which the job is advertised. For example, foodservice managers operating school foodservice units may find that their jobs are perceived very positively because of an assessment by applicants that these jobs will have traditional hours, may come with above-average benefits, and allow the worker

to be off-work in the summer. Alternatively, managers operating high-energy nightclubs in larger cities will likely find that their best potential applicants are drawn to the excitement of their operations, although most of their jobs will require them to work during nontraditional (extremely late-night) hours.

Just as HR managers must highlight the positive features of their industry, an individual organization must truthfully point out the specific employment advantages it offers. When an organization is perceived in its community as being a good place to work, the pool of qualified applicants who will want to work there increases. It is important that potential employees believe this perception to be true, and that current employees confirm it.

Position constraints. In the hospitality industry, some jobs are perceived as glamorous, while others are not. If the position a manager seeks to fill is unattractive to most workers, recruiting a large and qualified pool of applicants will likely be challenging. In recent years, more hospitality managers have been complaining about the difficulty of finding suitably qualified individuals for manual labor positions such as dishwashers, janitors, landscaping and grounds care, room attendants, and others. In job markets where the **unemployment rate** is low, and where a wide range of opportunity creates competition, a worker shortage may exist. In cases such as these, qualified applicants may be difficult to find, so managers must work diligently and creatively to locate potential applicants who can bring great value to their organizations.

The unemployment rate is defined as the number of persons in a community or other designated area expressed as a percentage of the defined area's entire labor force.

Unemployment rate: A government statistic that measures the percentage of workers who are not employed, but who are seeking work.

The Search for Qualified Employees

2. Differentiate between the actions HR managers take when electing to conduct internal, external, or outsourced searches for qualified employees.

Hospitality managers at all levels and in all sizes of organizations will continually find that they must actively recruit employees. From company presidents to the lowest-skilled **entry-level** employee, candidate recruitment will usually be an ongoing activity.

Although a variety of methods could be used to examine the employee search process, one way to categorize it is based on the approach utilized by the organization conducting the search. Using this method, an employee search may be categorized as being one of the following:

- Internal search
- External search
- Outsourced search

Entry-level: The position in which an individual starts his or her career with a hospitality organization. For example, the position of dishwasher might be an entry-level job in an upscale restaurant.

INTERNAL SEARCH

Internal search: A promotion-from-within approach that is utilized when seeking qualified job applicants.

Promote-from-within: An organizational philosophy that, whenever practical, an organization will fill its higher-level job vacancies with its current lower-level employees.

An **internal search** is undertaken when a manager or organization believes that the best candidates for upper-level positions will be found among those employees who are currently employed by the organization.

Applied properly, a **promote-from-within** approach can be very effective. If, for example, when seeking a rooms inspector, an executive housekeeper conducting the search felt that the best job candidates would be found among the hotel's current room attendants (or other current hotel employees), an internal search could prove to be very effective.

Current employees may be informed about pending job openings in conversations with their supervisors or through the public posting of the information on employee bulletin boards, Web sites, or newsletters. The advantages associated with utilizing internal searches when seeking to fill positions are many, and include the facts that internal searches:

- Build employee morale.
- Can be initiated very quickly.
- Improve the probability of making a good selection because much is already known about the individual who will be selected.
- Are less costly than initiating external or outsourced searches.
- Result in reduced training time and less training costs because the individual selected need not be trained in organizational topics with which he or she is already familiar.
- Encourage talented individuals to stay with the organization.
- Are looked upon favorably by the EEOC.

Despite the many advantages of internal searches, managers utilizing them to fill their position vacancies have also reported distinct disadvantages. These include:

- Inbreeding and a lack of new ideas can occur when an organization relies only on its own current workers to fill advanced positions.
- Resentment among employees can occur when one worker is chosen for advancement while others are not.
- Increased recruitment and training efforts result when a position is filled internally because the position vacated by the promoted employee must also be filled with a new staff member (who must also be trained).

Despite the added training effort required, most experienced hospitality managers firmly believe that the advantages of a promote-from-within policy far outweigh this and the other disadvantages that can sometimes be associated with it.

While it is not, strictly speaking, an internal search system, the use of **employee referral** systems extends the network of potential applicants from an organization's own employees to those potential workers whom the employees recommend.

Employee referral: A recommendation about a potential applicant that is provided by a current employee.

Employee referral systems tend to work well because employees rarely recommend someone unless they feel that person can do a good job and will fit well into the organization. Another advantage to having employees directed to the organization via an employee referral system is that these employees tend to have a more accurate view of the job to be done and the organization's unique culture. This information reduces unrealistic expectations and can help lead to reduced new employee turnover.

In some operations, employee referral systems provide a financial bonus to a staff member who recommends an applicant who is hired by the organization and remains with it for a specified time. Such a system financially rewards employees for their suggestions, and saves the operation time and money that would otherwise be invested in the search process.

Just as there can be disadvantages associated with internal searches, potential problems may exist with employee referral systems. In some cases, recommenders may suggest their own friends or relatives for positions regardless of their qualifications. It is simply human nature to want to work with those people whose companionship is also enjoyed outside of work. Therefore, hiring managers must remember to apply the same standards of employment consideration to those candidates referred by employees as they would to any other individual being considered for a vacant position.

Nepotism: Favoritism in employment based on kinship.

Nepotism, or the hiring of relatives, may also be viewed as a problem encountered by managers who encourage referrals. Many hospitality managers find that, especially in some lower-skill-level jobs, the hiring of nieces, cousins, aunts, and uncles of current employees results in positive benefits for their operations. Other managers have had less encouraging experiences and may prohibit the hiring of a current employee's close relatives.

It is important to understand that referrals of all types can be a valuable source of information about potential employees. Lower-level and supervisory jobs can often be filled by the recommendations of current employees. Upper-level positions such as unit manager, district manager, or even higher are more likely to be referred by a professional acquaintance than by a close friend. Therefore, many hospitality managers are active and visible in the professional associations directly related to their segment of the hospitality and tourism industries.

It is also important for managers to recognize that those employees who have been referred internally must, for hiring purposes, be treated the same as nonreferred employees. It is perfectly legal to hire new employees who have been referred by current employees, but as you learned in Chapter 3, even a lawful action can be improperly implemented. As a result, to minimize the potential for charges of bias or discrimination, the application, evaluation, interview, and selection procedures used for internally referred individuals should match exactly those procedures used with nonreferred employees.

Most employees working in the hospitality industry seek to do a good job and hope to improve their lives and the lives of their families through hard work and loyalty to their employers. Employers can reward this employee loyalty in a very visible and affirmative manner by, whenever possible, seriously considering

current workers for higher-level job openings that can directly improve these workers' lives and paychecks.

EXTERNAL SEARCH

External search: An approach to seeking job applicants that focuses primarily on those candidates who are not currently employed by the organization.

Despite the advantages of internal searches, many managers find that an **external search** is a good way to help identify a pool of applicants who are qualified for their organizations' vacancies.

When organizations seek candidates externally, they rely on a variety of strategies, including advertisements, public and private employment assistance agencies, educational institutions, and unsolicited applications, discussed as follows:

- **Advertisements.** Advertisements are perhaps the most commonly used means of seeking qualified job applicants. These can range from fairly simple “help wanted” postings placed in the classified ad section of most local newspapers to elaborate Web sites utilized by companies in their cyberspace recruiting efforts. In most cases, the type of job determines the best place to run an advertisement. It is important to bear in mind that advertisements work best when placed in locations that are frequently encountered by the targeted job applicant. As a result, HR managers seeking a regional vice president of operations would not advertise that vacancy in the same locations as they would a vacancy for a dining room server.

Although job advertisements often contain specific information about who is looking for candidates and the jobs they wish to fill, in some instances, organizations find it best to place a **blind ad**. In a typical case, respondents are asked to reply to a post office box number. Blind ads are often used when an organization wishes to replace a current employee with a new one, but does not wish to let the current employee know a replacement search is underway. Another purpose arises when the manager does not want the general public to know about a large number of vacancies. Although the use of blind ads is common, some individuals may not respond to them because they are afraid the advertisement was placed by the organization that currently employs them. In other cases, potential candidates may be hesitant to respond because the actual name of the organization, and thus its reputation, is a key determinant of interest in the vacant position.

Advertisements placed in local or national newspapers, professional trade magazines, or on Internet job sites may include very detailed information about the qualifications sought by an employer. Figure 4.1 is an example of the type of detailed ad that might be developed by a hospitality organization seeking to fill one of its higher-level management positions.

In most cases, the more detailed the ad and the wider the distribution of it, the more it will cost. As a result, managers seeking to attract candidates

Blind ad: A job advertisement that does not identify the advertising organization. Also known as a *blind-box ad*.

Executive Chef

Position

We are currently seeking an Executive Chef to assist in the development and implementation of budgets, culinary standards, marketing, inventory control, quality control, and food safety for all five of our foodservice locations.

Responsibilities

Develop and oversee all menu planning. Implement and develop new ideas and initiatives to improve and maximize customer satisfaction and drive operational results. Ensure compliance with OSHA, state, and federal regulations relating to health, sanitation, and safety. Ensure compliance with collective bargaining agreements and company policies and procedures. Identify training needs for the growth and development of all culinary staff.

Qualifications

Approximately five years' work experience as an Executive Chef in a multifunctional service department. Excellent supervisory and people management skills relative to successful operations and all areas of production goals involving preparation, quality standards, cooking methods, presentation, portion control, labor, training, coaching, resolving conflict, and food cost control. Approximately three years' work experience as a manager in a multifunctional foodservice department. Experience with off-premises catering and special events preferred, but not required. Excellent interpersonal, communication, and presentation skills. Planning, organizational, and coordination skills required.

Ability to plan work schedules. Ability to champion new ideas and initiatives. Expertise in menu writing, costing, and planning. Proven ability to develop teams, delegate effectively, and train staff. Willingness to interact with service staff and understand operations from a service point of view. Working knowledge of safety regulations, worker safety, and accident prevention management. Proficiency with reporting systems, including inventory, food cost, scheduling, time and attendance, and labor.

Come put your experience, talent, and commitment to professional excellence to work for a company that truly values and rewards your contribution. Submit résumé, salary history, and three letters of reference to:

(Insert employer contact information)

FIGURE 4.1: Sample Employment Ad

with paid advertisements must carefully consider the investment involved in utilizing this very effective recruiting tool.

Increasingly, companies advertise their position openings on their own Web sites. Such Web postings are low cost, can be rapidly updated (or removed), and can be easily accessed by nearly all job candidates. Current examples of Web sites that are popular among HR managers seeking job candidates are www.HCCareers.com, www.Monster.com, and www.hospitalityonline.com.

The Internet is a great place to advertise position vacancies, but there are many other popular places as well.

*Courtesy
PhotoDisc/Getty
Images*



There are also venues for placing advertisements that are either free or that can be posted at a very low cost. These include posting job vacancies in apartment complexes, child care centers, supermarkets, libraries, churches, community centers, and school newspapers. For those employers seeking candidates for whom English is not their primary language, it may be advisable to place ads in foreign-language no-cost or low-cost newspapers and newsletters.

- *Public employment assistance agencies.* In every state, hospitality managers will find that a public employment agency is available to help the state's citizens find jobs. The main function of these agencies is usually related to **unemployment benefits**, and most states give unemployment benefits only to individuals who are registered with the state employment agency. The result is that many individuals listed on the public employment assistance agency's register of available workers may have limited skills and training. For hospitality managers, however, such lists may include a number of excellent candidates for entry-level or even some mid-level and higher-level jobs.

Public employment assistance agencies do not charge either employers or potential employees for their services. The result is that advertising jobs as part of a public (city) or state agency's job listings is a very cost-effective way to communicate with candidates who are qualified for some job openings.

- *Private employment assistance agencies.* The essential difference between private employment agencies and those that are public relate to fees charged for

Unemployment

benefits: Monetary and nonmonetary resources given to those who are jobless but who are actively seeking work.

services provided. While public agencies are free to their users, private agencies charge for their services. It may or may not be true, but private agencies are often viewed as a source of higher-paying and more desirable jobs, as well as better-qualified job candidates, than their public agency counterparts. Private employment assistance agencies may also provide employers with additional services such as advertising jobs, screening applicants, and even providing money-back guarantees if the applicant provided does not meet the employer's expectations. The fees charged by private employment assistance agencies for their services may be absorbed by the employer, the employee, or split between both. Especially for some higher-level position vacancies, private employment assistance agencies may be an effective tool in identifying employees who can quickly make a positive contribution to an organization.

- *Educational institutions.* Most educational institutions provide services to assist their graduates in finding jobs. Whether the job to be filled requires a high-school diploma, specific vocational training, an Associate's degree, a Bachelor's degree, or even an advanced degree, educational institutions are a source of qualified job candidates that hospitality managers should not overlook. Colleges and universities, technical schools, and secondary (high) schools in an employer's area typically offer employers the chance, at little or no cost, to assess the quality of their students.
- *Unsolicited applications.* Every employer receives unsolicited applications or requests to be considered for job openings. These may arrive in the manager's office by letter, fax, or e-mail, or may be delivered in person. Even if a company has no current vacancies, these applications may be kept on file for future consideration. In the hospitality industry, however, unsolicited applications



In many cases, an individual's first job is acquired in the hospitality industry.

*Courtesy
PhotoDisc/Getty
Images*

submitted by the unemployed generally have a relatively short life span. When these individuals are job searching, they will typically continue their search until it ends successfully. As a result, when applications of this type are submitted, they must be acted on by management within weeks, days, or even hours. Therefore, many managers make the time to personally, and daily, review all unsolicited applications submitted. These managers may even arrange to conduct on-the-spot interviews with applicants when they find their labor markets are very tight and, as a result, quality candidates are scarce.

OUTSOURCED SEARCH

Outsourced search: A search for job candidates that is performed by a professional company specializing in employee searches

Executive search: A private employment agency that specializes in identifying candidates for management positions. Also known as head hunter firms.

In some cases, HR managers decide that an **outsourced search** is the best method they can use to find the candidates they are looking for. An outsourced search is one in which an organization chooses an **executive search** firm to find potential candidates for a job.

Executive search firms impose significant charges for their services, with typical fees ranging from one-third to approximately half of the annual wages that will be paid to the employee who will be hired. These fees are typically paid by the employer, not the employee.

Executive search firms make it their business to monitor executive-level talent so they can advise their clients about the best candidates available. In most cases, the executive search firm will identify potential candidates from their lists of contacts and do preliminary screening. These firms are adept at seeking out executives with proper skills and who fit well with the hiring organization. Even though outsourced searches rely heavily on the expertise of the private employment agency chosen, the final hiring decisions still remain with the employer, not the executive search firm.

It is important to understand that, in most cases, HR managers do not choose from among internal, external, and outsourcing as their sole method of recruiting. Rather, the best managers select the approach appropriate for the vacancy they seek to fill. In some cases, this will result in using more than one of the strategies, or even all three of them when seeking to fill a specific position.

Factors Affecting Selection Efforts

3. List and explain the importance of applications, interviews, testing, background checks, and references—the five major activities that HR managers undertake when screening employees for possible selection.

After HR managers have assembled a pool of qualified candidates, they must select the applicant they wish to hire. When choosing potential applicants for employment,

hospitality managers generally will utilize some or all of the five major selection activities. These are:

1. Applications
2. Interviews
3. Pre-employment testing
4. Background checks
5. References

APPLICATIONS

The employment application is a document that should be completed by all candidates for employment. The application need not be complex. It will generally list the name, address, work experience, and related information of the candidate. The requirements for a legitimate, legally sound application are many, but in general, the questions asked on the application should focus exclusively on job qualifications and nothing else. Most hospitality companies have their employment application reviewed by an attorney who specializes in employment law. If, as a manager, you are responsible for developing your own application, it is a good idea to have the document reviewed by a legal specialist prior to using it.

It is also important that each employment candidate for a given position be required to fill out an identical application, and that an application be on file for each candidate who is ultimately selected for the position. In addition, it is also a good practice for the application to clearly state the **at-will** nature of the employment relationship.

In the hospitality industry, many applicants for jobs may have limited English speaking, reading, or writing skills. These limitations should not necessarily disqualify an applicant from being selected and doing an excellent job. Because of these possible language limitations, many hospitality employers find it helpful to provide assistance to job applicants when filling out their employment applications.

Figure 4.2 is an example of an employment application that is legally sound. Note specifically how questions are related to ability to work, previous work history, and job qualifications.

At-will (employment): An employment relationship in which either party can, at any time, terminate the relationship with no liability.

INTERVIEWS

From the employment applications (or résumés) submitted, some candidates would be selected for the interview process. In some situations, this process may entail more than one meeting. Thus, some companies may conduct a first interview with many candidates and then, based on the results of those interviews, select only those candidates in whom they have the most interest for second or even third rounds of interviews.

Lighthouse Restaurant

Application for Employment

It is the policy of the Lighthouse Restaurant to provide equal employment opportunity to all qualified persons without regard to race, creed, color, religious belief, sex, age, national origin, ancestry, physical or mental handicap, or veteran status.

Name: Last _____ First _____ Middle _____

Street Address _____

City _____ State _____ Zip _____

Telephone () _____ Social Security # _____

Position applied for _____

How did you hear of this opening? _____

When can you start? _____ Desired wage per hour _____

Are you a U.S. citizen or otherwise authorized to work in the U.S.? Yes _____ No _____

Are you capable of performing the essential functions of the job you are applying for with or without reasonable accommodation? Yes _____ No _____

If under 18, indicate date of birth: _____

If applying for a job involving the service of alcoholic beverages, are you over 21? Yes _____ No _____

Are you looking for full-time employment? Yes _____ No _____

If no, what days and hours are you available? (please list all that apply)

	Sun.	Mon.	Tues.	Wed.	Thurs.	Fri.	Sat.
From	___	___	___	___	___	___	___
To	___	___	___	___	___	___	___

Do you have dependable means of transportation to and from work? Yes _____ No _____

Do you have any criminal charges pending against you? Yes _____ No _____

Have you been convicted of a felony in the past seven years?* Yes _____ No _____

If yes, please fully describe the charges and disposition of the case:

* Conviction of a felony will not necessarily disqualify you from employment.

Education: School Name; Location; Year Completed; Major/Degree

High School _____

Technical School _____

College _____

FIGURE 4.2: Employment Application

Other _____

In addition to your work history, are there other certifications, skills, qualifications, or experience we should know about?

Employment History: (Start with most recent employer.)

Company name _____ Location _____

Date Started _____ Starting Wage _____ Starting Position _____

Date Ended _____ Ending Wage _____ Ending Position _____

Name of Supervisor _____ May we contact? Yes _____ No _____

Responsibilities _____

Reason for leaving _____

Company name _____ Location _____

Date Started _____ Starting Wage _____ Starting Position _____

Date Ended _____ Ending Wage _____ Ending Position _____

Name of Supervisor _____ May we contact? Yes _____ No _____

Responsibilities _____

Reason for leaving _____

Company name _____ Location _____

Date Started _____ Starting Wage _____ Starting Position _____

Date Ended _____ Ending Wage _____ Ending Position _____

Name of Supervisor _____ May we contact? Yes _____ No _____

Responsibilities _____

Reason for leaving _____

I state that the facts written on this application are true and complete to the best of my knowledge. I understand that if I am employed, false statements on this application can be considered cause for dismissal. The company is hereby authorized to make any investigations of my prior educational and employment history. I understand that employment at this company is "at will," which means that I or the company can terminate the employment relationship at any time, with or without prior notice. I understand that no supervisor, manager, or executive of this company, other than its owner has the authority to alter the at-will status of my employment.

I authorize you to make such legal investigations and inquiries into my personal employment, criminal history, driving record, and other job-related matters as may be necessary in determining an employment decision.

Signature _____ Date _____

Confidential Material/Property of Lighthouse Restaurant LLC.

FIGURE 4.2: (Continued)



Human Resources Management: CURRENT EVENTS 4.2

APPLICANTS, APPLICATIONS, AND THE INTERNET

Most hospitality employers utilize application forms to establish a single, uniform document for use by all job candidates or groups of candidates. In addition to obtaining needed personal information, the use of a standardized application form helps show who is considered to be an applicant; a determination that is very important in complying with the federal government's record retention and reporting requirements. For example, Title VII of the Civil Rights Act requires covered employers to retain applications for employment and other documents pertaining to hiring for one year from the date the records were made or the last action was taken. Does that mean that an HR manager who receives, via e-mail, an unsolicited résumé from an individual seeking a job must keep that e-mail for one year? What if dozens or even hundreds of such e-mails are received weekly? Daily? Are they all really applicants?

The Equal Employment Opportunity Commission (EEOC) and the Office of Federal Contract Compliance Programs broadly define applicant to include any person who has indicated an interest in being considered for hiring, promotion, or other employment opportunities. This interest might be expressed by completing an application form, in writing or orally, depending on the employer's practice. The difficult job of determining which specific contacts create a job applicant for recordkeeping purposes has only increased with the proliferation of e-mail, online recruitment Web sites, and corporate and personal Web pages.

Fortunately, the EEOC has issued opinions to clarify recordkeeping requirements for applicants using the Internet and related cybertechnologies. The EEOC's guidance limits the definition of applicant (in the context of the Internet and related technologies) to those people who have indicated an interest in a specific position that the employer has acted to fill, and who have followed the employer's *standard procedures* for submitting an application. For this reason, many employers require that *all* job applicants (including those who have prepared résumés) submit a completed job application if they want to be considered for employment. As a result, employers must retain only those completed applications.

It is important for HR managers to understand that the types of questions that can be asked in the interview are highly restricted. This is because job interviews, if improperly performed, can subject managers to significant legal liability. If a candidate is not hired based on his or her answer to, or refusal to answer, an inappropriate question, that candidate may have the right to file a lawsuit.

The EEOC suggests that an employer consider the following three issues when deciding whether to include a particular question on an employment application or to ask it in a job interview:

1. Does this question tend to screen out minorities or females?
2. Is the answer needed in order to judge this individual's competence for performance of the job?
3. Are there alternative, nondiscriminatory ways to judge the person's qualifications?

As a manager, you must be very careful in your selection of questions to ask in an interview. In all cases, it is important to remember that the job dictates what is an allowable question. Questions to be asked of applicants should be written down in advance and carefully followed. In addition, supervisors, coworkers, and others who may participate in the interview process should be trained to avoid questions that could increase the liability of the operation.

Generally, age is considered to be irrelevant in most hiring decisions, and therefore, date-of-birth questions are improper. Age is, however, a sensitive pre-employment question, because the Age Discrimination in Employment Act protects employees 40 years of age and older. It is permissible to ask applicants to state their ages if they are younger than 18 years old (see Figure 4.2), because they are only permitted to work a limited number of hours each week. It may also be important when hiring bartenders, and other servers of alcohol, that these individuals' ages are at or above a state's minimum age for serving alcohol.

Race, religion, and national origin questions are always inappropriate, as is the practice of requiring that photographs of the candidate be submitted prior to or after an interview. Questions about physical traits like height and weight have been found to violate the law because they eliminated disproportionate numbers of female, Asian-American, and Spanish-surnamed applicants.

If a job does not require a particular level of education, it may even be considered improper to ask questions about an applicant's educational background. Applicants can be asked about their education and credentials if these are bona fide occupational qualifications. For example, it is allowable to ask a candidate for a hotel controller's position if he or she has a degree in accounting and which school granted that degree. Asking a potential table busser for the same information would be inappropriate.

It is permissible to ask applicants if they use illegal drugs or smoke, because either of these traits can be legally used to disqualify applicants. It is also allowable to ask candidates if they are willing to submit to a voluntary drug test as a condition of employment. Questions concerning whether an applicant owns a home potentially discriminate against those individuals who do not own their own homes, and thus may be discriminatory. In a similar manner, questions concerning the type of discharge received by an ex-military applicant are improper, because a higher proportion of other-than-honorable discharges are given to minorities.

Safe questions can be asked about a candidate's present employment, former employment, and job references. In most cases, questions asked on both the application and in the interview should focus on the applicant's job skills and nothing else. It is not possible to list all of the allowable and unallowable questions that may be asked in an interview setting, but Figure 4.3 contains some detailed guidelines for asking appropriate interview questions.

Questions about Name that should be avoided:

- Maiden name of a married woman
- Name of a spouse

Questions about Name that can be asked:

- Whether or not the applicant ever worked under another name or was the applicant educated under another name (allowable only when the information is needed to verify the applicant's qualifications).

Examples:

1. Have you ever worked for our company under any other name?
2. Is there any information relative to you changing your name that would help us in conducting an educational background check?

Questions about Birthplace and Residence that should be avoided:

- Birthplace of applicant
- Birthplace of applicant's parents
- Do you own a home, rent, board, or live with your parents?
- Citizenship
- Address of applicant's spouse and children who are dependents

Question about Birthplace and Residence that can be asked:

- Inquiry about address sufficient to facilitate contact with applicant

Questions about Creed/Religion that should be avoided:

- Inquiry concerning religious preference, denomination, or affiliations of applicant
- The name of the Church attended or religious holidays observed by applicant

Examples of discriminatory questions:

1. What is your religion?
2. What religious holidays do you observe?
3. Which church do you attend?
4. What do you do on Sundays?

FIGURE 4.3: Interview Questions That Should Be Avoided and Those That Can Be Asked

Questions about Creed/Religion that can be asked:

- This job requires people to work on weekends; can you meet this requirement? (Employers do have an obligation, according to EEOC guidelines, to make “reasonable accommodations” for employees whose religious convictions may conflict with scheduling requirements of the business.)

Questions about Race or Color that should be avoided:

- Applicant’s race
- Color of applicant’s skin, eyes, hair, distinguishing physical characteristics, markings

Questions about Race or Color that can be asked:

- None legitimately allowed

Questions about Age that should be avoided:

- Date of birth or age of applicant, except when such information is needed to legally perform a job (e.g., to satisfy the provisions of either state or federal minimum age statutes)

Examples of discriminatory questions:

1. What is your age or date of birth?
2. How old are you?
3. Are you between the ages of 18–24, 25–34, etc.?
4. Will you mind being the oldest one working here?

Questions about Age that can be asked:

- If hired, can you offer proof that you are at least 18 years of age?
- If hired, can you offer proof that you are at least 21 years of age?

Questions about Language that should be avoided:

- Applicant’s mother tongue
- Language commonly used by applicant at home
- How the applicant acquired the ability to read, write, or speak a foreign language

Examples of discriminatory questions:

1. Is English your first language?
2. What language did you speak as a child?

Question about Language that can be asked:

Which languages do you speak fluently (only if job-related)?

Questions about National Origin that should be avoided:

- Applicant’s lineage, ancestry, national origin, descent, birthplace, parentage, or nationality
- Nationality of applicant’s parents or spouse

FIGURE 4.3: (Continued)

Examples of discriminatory questions:

1. Are you a United States citizen?
2. Of what country are you a citizen?
3. Where were you born? Where were your parents born?
4. What nationality are you?
5. What language did you speak as a child?

Questions about Citizenship that can be asked:

- Whether applicant can be lawfully employed in this country because of visa or immigration status
- Whether applicant can provide proof of legal right to work in the United States after being hired

Examples:

1. Can you show proof of your eligibility to work in the United States?
2. If you are not a United States citizen, do you have the legal right to remain/work here?

Questions about Marital Status that should be avoided:

- Any inquiry as to whether an applicant is married, single, divorced, separated, engaged, widowed, etc.
- Number of dependents; number of children
- Spouse's occupation
- With whom do you live?

Questions about Marital Status that can be asked:

- None

Questions about Disabilities that should be avoided:

- Any general inquiry as to whether applicant has any physical or mental disability. This includes an inquiry about the nature, severity, or extent of a disability.

Examples of discriminatory questions:

1. Are you disabled?
2. What is the nature or severity of your disability?
3. What kinds of problems does being disabled cause you?
4. Do you think you have the physical strength for the job?

Questions about Disabilities that can be asked:

- Does applicant have any disabilities that would prevent him or her from satisfactorily performing the job? (Must be accompanied by mention of reasonable accommodation.)

FIGURE 4.3: (Continued)

Example:

Are you able to perform the essential functions of this job with or without reasonable accommodation? (Show or read the applicant the position description so he or she can give an informed answer.)

Miscellaneous Questions that can be asked:

- This job requires heavy lifting. Can you lift or move 50 pounds? This is legal only if it is a bona fide occupational qualification (BFOQ).
- Are there specific times that you cannot work or adhere to this proposed work schedule?
- What professional or trade groups do you belong to that you consider relevant to your ability to perform this job?
- “Our smoking policy is . . . (fill in your operation’s policy).” Can you adhere to it?

FIGURE 4.3: (Continued)



Human Resources MANAGEMENT ISSUES

(4.1)

“I like his personality a lot, but I don’t know, I just didn’t like his looks,” said Mini, the cafeteria supervisor.

“What was wrong?” asked Teri Settles, the Dietitian in charge of the hospital foodservice operation where Mini worked.

Mini and Terri were discussing Josh, a 23-year-old man who had interviewed for a job bussing tables in the hospital’s public dining room.

“It was his neck,” replied Mini. “He had these black things that looked like geometric designs on his neck!”

“Tattoos?” asked Terri.

“Yes,” replied Mini. “I don’t understand these young people.”

“I don’t know, Mini. I’m not so sure they are all that much different than we were at that age,” replied Terri.

1. Do you think Mini’s reaction to Josh’s tattoos is representative of the general public?
2. While it is perfectly legal to reject an applicant with a tattoo, do you personally think visible tattoos should be grounds for rejecting an otherwise qualified job applicant? Why or why not?
3. As an HR specialist in the hospitality industry, what ground rules (if any) would you develop for employee body adornment (including makeup, visible tattoos, and body piercings)? What factors might influence your decisions?

TESTING

Pre-employment testing is a common way to improve the employee screening process. Test results can be used, for example, to measure the relative strength of two candidates. In the hospitality industry, pre-employment testing will generally fall into one of the following categories:

1. Skills tests
2. Psychological tests
3. Drug screening tests

Skills tests were among the first tools used by managers to screen applicants in the employment process. In the hospitality industry, skills tests can include activities such as typing tests for office workers, computer application tests for those involved in using word processing or spreadsheet tools, and, for culinarians, food production tasks.

Psychological testing can include personality tests, performance predictor tests, or mental ability tests. For both skills tests and psychological tests, the important rule to remember is this:

“If the test does not have documented validity and reliability, the results of the tests should not be used for hiring decisions.”

Pre-employment drug testing is allowable in most states, and can be a very effective tool for reducing insurance rates and potential worker liability issues. Many managers feel a drug-free environment tends to attract better-quality employment candidates, with the resulting impact of a higher-quality workforce. There are, however, strict guidelines in some states as to when and how people can be tested. If pre-employment drug testing is to be used, care must be taken to ensure the accuracy of the testing. In some cases, applicants whose erroneous test results have cost them a job have successfully sued the employer. The laws surrounding mandatory drug testing are very complex. If you elect to implement either a pre-employment or post-employment drug-testing program, it is best to first seek advice from an attorney who specializes in labor employment law in your state.

BACKGROUND CHECKS

Increasingly, hospitality employers are utilizing background checks prior to hiring workers in selected positions. It has been estimated that as many as 35 percent of all résumés and employment applications include some level of falsification. Because this is true, employers are spending more time and financial resources to validate information supplied by a potential employee. It is important to understand that, while many types of background checks are available, not all are advisable. Background checks should be specifically tailored to obtain only information that relates directly to each individual's suitability for employment. The applicant background checks most commonly

performed include criminal history, credit reports, driving records, and academic credentials and licenses, discussed as follows:

Criminal History

As a general rule, criminal conviction records should be checked when there is a possibility that the person could create significant safety or security risks for coworkers, guests, or clients. Examples include employees who will (1) have close contact with minors, the elderly, the disabled, or patients; (2) have access to weapons, drugs, chemicals, or other potentially dangerous materials; (3) work in, or deliver goods to, customers' homes; and (4) handle money or other valuables, or have access to financial information or employee personal information. In addition, some states require a check for criminal convictions before hiring individuals as employees of healthcare facilities (including food services), financial institutions, or public schools.

Credit Reports

Credit reports typically include financial information such as payment history, delinquencies, amounts owed, liens, and judgments relating to an applicant's credit standing. Arbitrary reliance on the results of these checks, however, has, in some cases, been found to result in adverse impact discrimination against women and minorities. Accordingly, use of credit reports should be limited to situations where there is a legitimate business justification, such as for jobs that entail monetary responsibilities, the use of financial discretion, or similar security risks.

Driving Records

Motor vehicle records (MVRs) are available from state motor vehicle departments. They usually contain information about traffic violations, license status, and expiration date. MVRs should be checked for any employee who will drive a company vehicle or a personal vehicle on the employer's business.

Academic Credentials and Licenses

Academic information (such as schools attended, degrees awarded, and transcripts) should be verified when a specified level or type of education is necessary for a particular job. Similarly, proof of licenses (and their current status, expiration dates, and any past or pending disciplinary actions) should be obtained if a license is required for the position in question.

Using background checks as a screening device does involve some risk to employers, as well as some responsibility. Employers should only search for information that has a direct bearing on the position for which a candidate is applying. In addition, if a candidate is denied employment on the basis of



Human Resources Management: CURRENT EVENTS 4.3

PRINCIPLES OF EMPLOYEE BACKGROUND CHECKS

Regardless of the applicant background checks you choose to conduct, four key points should always be addressed to ensure that the checks are completed legally and effectively.

Principle 1: *Always obtain written consent before conducting any background check.*

An explicit written authorization helps protect against invasion of privacy, defamation, and other wrongful act claims. It is also a good idea to expand the waiver language on consent forms to include the employer and those who assist with background checks (such as HR staff, former employers, and screening firms).

Principle 2: *Evaluate results fairly and consistently.* Avoid hasty rejections when negative information surfaces during a background check. Consider the negative information in the context of the job to be performed. For example, to reject an otherwise qualified front desk agent as a candidate because of a poor driving record is unwise if the job requires no business driving. Alternatively, it may be the only sensible action in the case of a van driver's position at the same hotel.

Principle 3: *Restrict access to information obtained in background checks.* Background check materials should be kept in secure confidential files and disclosed only on a strict need-to-know basis. Access to records relating to criminal or financial history should be limited as narrowly as possible.

Principle 4: *Do your checks as one of the last steps in the selection process.* There is no need to spend the time and money for background checks on a candidate until the decision has actually been made that you will likely offer the candidate a position.

information found in a background check, the employer should provide a candidate with a copy of that report. Sometimes, candidates can help verify or explain the content of their own background checks. Also, reporting agencies can make mistakes, and if you improperly rely on false information to make a hiring decision, it may put your organization at risk.

REFERENCES

In the past, employment references were a very popular tool for managers to use in the screening process. In today's litigious society, however, they are much more difficult to obtain. While many organizations still seek information from past employers about an employee's previous work performance, few sophisticated

companies will divulge such information. In most cases, previous employers are willing only (if at all) to reveal a previous employee's start date and separation date. It is important to note that some employers have been held liable for inaccurate comments that have been made about past employees. The benefits to a past employer for being truthful about previous employees is widely thought to be heavily outweighed by the potential liability associated with such honesty.

It is important for HR managers to understand that it is now very easy for job seekers to employ the services of companies that specialize in providing their clients (the job seeker) with a confidential, comprehensive verification of the employment references given by the job seeker's former employers. Because that is true, employers are becoming ever-more cautious about supplying information on employees who have left their organization. The end result is that personal references have become a much greater recruiting tool than references from past employers. If references from past employers are to be sought, to help minimize the risk of litigation related to the reference checks, it is best to secure the applicant's permission in writing before contacting an ex-employer.

As an employer, you and your own organization must be extremely cautious in both giving and receiving reference information. Employers are usually protected if they give a truthful reference, but that does not mean you will be free from the time and expense of defending a **defamation** case brought by an ex-employee.

Defamation: False statements that cause someone to be held in contempt, lowered in the estimation of the community, or to lose employment status or earnings, or otherwise suffer a damaged reputation.

If, for example, an employer giving a reference states that an ex-employee was terminated because he or she "didn't get along" with coworkers, the employer may well have to be able to prove the truthfulness of the statement, as well as prove that all of the blame for the difficulties was the responsibility of the ex-employee.

To minimize your own risk of a lawsuit, you should never reply to a request for information about one of your ex-employees without a copy of that employee's signed release authorizing the reference check. How much you choose to disclose about an ex-employee is your decision, but your answers should be honest and defensible. Also, it is best never to disclose personal information such as marital difficulties, financial problems, or serious illness (because you could also be sued for invasion of privacy). As a result, many employers today give only the following information about past employees:

1. Employer's name
2. Ex-employee's name
3. Date(s) of employment
4. Job title
5. Name and title of person supplying the information

If a prospective employee provides letters of reference, always call the authors of reference letters to ensure that they wrote them. When possible, it is best to put any request for reference information in writing, and ask that the response be in written form. If a verbal response is all that can be obtained, document the conversation; write down as much of the dialogue as possible, including the name of the party you spoke to and the date and time the contact occurred.



Human Resources Management: CURRENT EVENTS 4.4

RESPONSIBILITIES FOR EMPLOYMENT STATUS VERIFICATION

In many parts of the country, labor shortages are one of the most difficult challenges facing hospitality managers. Add to that situation the fact that many individuals illegally migrate to this country to seek employment, and the potential for knowingly or unknowingly hiring individuals who are unauthorized to work in the United States is real. HR managers need to know their current (but potentially changing) responsibilities for determining the legal status of potential workers.

All newly hired employees are required to fill out an Employment Eligibility Verification form (commonly known as an I-9 form) stating that they are authorized to work in the United States. U.S. Citizenship and Immigration Service regulations allow an individual 72 hours from the time of hire in which to complete Form I-9 (e.g., If hired on Monday, an individual has until the close of business Wednesday in which to complete the form). Current I-9s can easily be downloaded in PDF format at <http://www.uscis.gov/files/form/i-9.pdf>.

The form requires potential employees to verify both their citizenship status and legal eligibility to work. The manner in which an employee can document these two facts is varied and can be accomplished via an applicant-selected configuration of one or two documents from a list of 29 possible items, including U.S. passport, driver's license, Social Security card, and school identification card.

Employers *are not* required to verify the authenticity of the identification documents they are presented, but they do need to keep a copy of them on file. The documents must pass a good-faith test: That is, "Do they look real?" If so, the applicant may be hired. If an employee is later found to be unauthorized, the employer must terminate employment. Employers who do not end employment of unauthorized workers or who *knowingly* hire unauthorized workers may be fined up to \$11,000 for each ineligible employee.

HR managers should never knowingly break the law. They should also continue to monitor this important area of employment law so that they can constantly be in compliance with it, as well as with all applicable, but ever-changing, U.S. immigration and employment laws.

Negligent Hiring

4. Understand and explain the potential legal liability related to negligent hiring.

Giving references for past employees, like pre-employment testing, can subject you and your operation to litigation if the comments made during the reference are challenged, or if the information secured during a test is false or used in a way that

Negligent

hiring: Failure on the part of an employer to exercise reasonable care in the selection of employees.

Negligent

retention: Retaining an employee after the employer became aware of an employee's unsuitability for a job, thereby failing to act on that knowledge.

violates employment law. In addition, if the information is improperly disclosed to third parties, it could violate the employee's right to privacy. *Not* conducting background checks on some positions, however, can subject you to even more legal difficulty under the doctrines of **negligent hiring** and **negligent retention**.

Negligent hiring liability is usually found where an employee who caused injury or harm to another had a reputation or record that showed his or her propensity to do so, and this record would have been easily discoverable by that employer, had reasonable care (in this case, a diligent search) been shown. Similarly, if an employer, after hiring an employee, discovers information that would have disqualified the candidate from job consideration, and the employer does not remove the employee from the job, negligent retention may be charged.

How can employers show that reasonable care was used in the hiring process? All that is normally required is to thoroughly verify all pertinent information about each candidate prior to making a job offer. For example, it would be extremely difficult for anyone to argue that the employer knew or should have known that the information received was false if multiple references were contacted, and if all relevant credentials of an individual employee were verified to the best of an employer's ability. It would also be difficult (but not, unfortunately, impossible!) for a judge or jury to find that an employer had been negligent in its hiring processes if this standard of care were exercised prior to every hiring decision.



Human Resources MANAGEMENT ISSUES

(4.2)

Holly Rosencrans is the assistant general manager of a country club in Texas. She has been in charge of membership activities and services for three years. One of her areas of responsibilities is the selection of pool lifeguards, which are required in her facility by local statute.

Each lifeguard working at the country club must be certified in cardiopulmonary resuscitation (CPR). Ms. Rosencrans interviews a candidate who lists the successful completion of a CPR course as part of his educational background. Ms. Rosencrans does not verify the accuracy of the candidate's statement. Assume the death of a six-year-old child of a club member resulted because this lifeguard did not, in fact, successfully complete CPR training. As a result, he was not able to render appropriate aid to the drowning victim, who would otherwise likely have been saved.

1. Do you think Ms. Rosencrans could be guilty of negligent hiring?
2. Do you think a jury of 12 average citizens would find Ms. Rosencrans and/or her country club guilty of negligent hiring?
3. As an HR specialist, how will you determine which of your job positions may subject you or your company to potential charges of negligent hiring?

Job Offers

5. Describe the legal difference between a conditional job offer and a final job offer.

Employment agreement: The terms of the employment relationship between an employer and employee that specify the rights and obligations of each party to the agreement.

Offer letter: A proposal by an employer to a prospective employee that specifies the terms of employment. A legally valid acceptance of the offer will create a binding employment contract.

After you have legally selected an employee for your organization, it is a good practice to clarify the conditions of the **employment agreement** with that employee.

All employers and employees have employment agreements with each other. The agreement can be as simple as agreeing to a specific wage rate per hour worked and at-will employment for both parties. This can be true even if there is nothing in writing, or if work conditions have not been discussed in detail. Employment agreements may be individual, covering only one employee, or, as in a unionized operation, they may involve groups of employees. Generally, employment agreements in the hospitality industry are established orally, or with an **offer letter**.

Offer letters, when properly composed, can help prevent legal difficulties caused by employee or employer misunderstandings. As their name implies, offer letters detail the offer made by the employer to the employee. Some employers believe offer letters should be used only for managerial positions. To avoid difficulties, all employees should have signed offer letters in their personnel files. Components of a sound offer letter include:

1. Position being offered
2. Compensation included
3. Benefits included (if any)
4. Evaluation period and compensation review schedule
5. Start date
6. Location of employment
7. Special conditions of the offer (i.e., the at-will relationship)
8. Reference to the employment manual (see Chapter 3) as an additional source of information regarding employer policies that govern the workplace
9. Signature lines for both employer and employee
10. Date of signature lines

An offer letter may be either conditional or final. When putting forward a *conditional* offer letter, the employer tentatively, or conditionally, offers the job, but the offer is subject to the conditions that must be met by the applicant before the job offer is finalized. These conditions may include passing drug or other tests, background checks, or any other requirement identified by the employer. With a conditional offer letter, the legally binding employment agreement is not in effect until the employee accepts the terms of the offer letter and fulfills the requirements it identifies. A *final* offer letter, however, contains no conditions that must be met before acceptance. An enforceable employment contract is in effect at such time as the final offer letter is legally accepted by the job applicant.

To further illustrate the difference between a conditional and final job offer, consider the case of Antonio Molina. Antonio applies for the position of maintenance

Employee selection is one of a manager's most critical tasks, because how effectively it is done will directly affect how others view that manager's people skills.

*Courtesy
Purestock*



foreman at a country club. He is selected for the job and is given a conditional offer letter by the club's general manager. In the letter, a special condition of employment is that Antonio must submit to and pass a mandatory drug test. Antonio signs the letter when it is received, but his employment with the country club will not be finalized until he takes and passes the drug test.

HUMAN RESOURCES TERMS

The following terms were defined in this chapter:

Recruiting	Unemployment benefits
Selection	Outsourced search
Unemployment rate	Executive search
Entry-level (position)	At-will (employment)
Internal search	Defamation
Promote-from-within	Negligent hiring
Employee referral	Negligent retention
Nepotism	Employment agreement
External search	Offer letter
Blind ad	

FOR YOUR CONSIDERATION

1. Some hospitality managers emphasize skills and experience when hiring new employees, while others choose employees based on the candidates' personality and attitude. It would likely be best to choose employees that are viewed positively on all of these traits, but if you had to select a new staff member based on fewer than all of these traits, which do you feel is most important? Explain your answer.
2. In many hospitality organizations, physical attractiveness is unquestionably a factor used to select employees in such positions as front-of-the-house food servers and hotel front desk agents. What is your opinion of the advisability and legality of utilizing such a hiring factor? Explain your answer.
3. Many employers simply refuse to answer any questions about the prior employment status of individuals who previously worked for them. What, if any, legal or ethical responsibility does a past employer have to provide information about a previous employee? Defend your position.

CASE STUDY: HUMAN RESOURCES MANAGEMENT IN ACTION

"Tell me again," said Tammy Larson, executive housekeeper at the Comley Grand Plaza Hotel. "What did she write?"

"I told you," said Mike Brennan, the hotel's HR director. "Under the Have You Ever Been Convicted of a Crime section, the applicant put "Yes." Under the Explanation section, she put "Drug Possession, 1998. Served 3 months in county jail."

Tammy and Mark were discussing Stephanie Bell, a female who had applied for a job as a housekeeper.

"It was over ten years ago," said Tammy.

"Right," replied Mike, "but does it concern you that she served three months' jail time? It must have been serious."

"We don't know the specific circumstances," replied Tammy. "The question is: does this keep me from considering her for the job? I really liked her, and we are short of room attendants right now."

Dimension: Societal Responsibility

Review the conversation described in the case:

1. Do you think Stephanie should be considered a viable candidate for the vacant housekeeping position? Why or why not?
2. Assume you were the on-site foodservices director in a large elementary school. Would you consider hiring Stephanie for your kitchen operation? Why or why not?
3. Some companies only ask applicants to list recent criminal activity (typically within the previous seven years) when completing job applications. Do you agree or disagree with such an approach? Explain.

Dimension: Company Procedures and Decision Making

Review the conversation described in the case:

1. What crimes, if any, do you feel would automatically disqualify an employee from job consideration?
2. What types of criminal activity, if any, do you feel would not automatically disqualify an employee from job consideration?
3. What personal factors do you believe would influence your or any other hospitality manager's responses to these two questions?

Dimension: Negligent Hiring

Review the conversation described in the case. Assume that the decision was made to hire Stephanie. Assume also that, nine months later, Stephanie was involved in a physical altercation (shoving match) with a fellow employee, in which both were slightly injured. During the investigation of the incident, and in keeping with company policy, both employees were required to undergo drug and alcohol use testing on the day of the incident. Stephanie tested negative for alcohol and positive for trace cocaine. The other employee tested negative for alcohol and positive for trace marijuana.

1. What, if any, actions would you take as Stephanie's supervisor? How would the absence or presence of a company-established Employee Assistance Program (EAP) affect your decisions?
2. Assume Stephanie's fellow employee was seriously injured in their shoving match, and the attorney representing that employee charged your company with knowingly hiring a person who could reasonably have been expected to pose a risk to others (negligent hiring). How would you respond?

INTERNET ACTIVITIES

1. The Internet has made just as large an impact on employee recruiting as it has on most other parts of business. In the hospitality industry, Hospitality Careers.com has emerged as one of the most widely used recruiting devices. Go to www.hcareers.com.
 - a. Select the jobs and the geographic areas in which you would be most interested to work.
 - b. Did you find the site easy to navigate?
 - c. If you were an HR director seeking candidates for a job opening, would you utilize hcareers.com? Why or why not?
2. Executive search firms help HR managers fill jobs nationally and internationally. One such company that services North America is Global Hospitality. To visit their site, go to www.globalhospitality.com.

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- a. Read their “Code of Ethics” under the “About Us” tab.
 - b. What is your opinion of their ethics code?
 - c. Do you think you would ever list your name with such a company? Why or why not?
 3. Hospitality managers increasingly use pre-employment background checks to reduce their chances of being sued for negligent hiring. Companies such as American Background were formed to assist managers in checking applicants’ backgrounds. To review their services, go to *www.americanbackground.com*.
 - a. Click on their “Services” tab to review the services they provide.
 - b. How important are employee background checks to the industry segment in which you seek to work?
 - c. Would there be any areas of your own life in which you feel a background check would be inappropriate or intrusive? Why?