Hiring Process and Employment laws

[Name of the Writer]

[Name of the Institution]

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**Introduction**

When a company needs to recruit a new employee, it can be for several reasons. Hiring is a formal process of providing employment to a person at an organization or company. Sometimes a company needs some additional employees or an employee with some specific skills is necessary for the company matters. Moreover, all the big companies or organizations are having a separate department for managing all the concerns related to the workers. However, an effective hiring process is critically planned in order to select a new employee for the company. At the same time, Employment laws exist which guide all the public and private companies to ensure all the rules and regulations under this law. Likewise, all the candidates who are applying for a job position at any organization have legal rights even before getting the job. Moreover, under the Employment Discrimination law in the United States, all the companies have prohibited any discrimination against the applicants while hiring new candidates (Bl0ch, 1994). All the laws at the state and federal level have protected the rights of all the job applicants. Therefore, all the employers are bound to follow all the rules and regulations specified by the Federal and State employment laws.

Under the Federal Employment Discrimination law, discrimination is prohibited in many areas like an appointment, employing, job assessment, upgradation policies, skill development procedures, compensation and penalizing action. Therefore, it is crucial for employers to maintain the anti-discrimination laws at each stage of the recruiting process. Hiring is not about pooling through the applications and select a candidate. It is a long process, and each step of the process requires the anti-discrimination laws to be followed like from placing an advertisement for the vacancy to the final selection of the applicant. However, this paper aims to present all the fairways of hiring a candidate in the company by keeping all the fundamental laws of employment at front. It will help to improve the recruiting process of the company and maintain a fair system in the organization.

**Discussion**

Keeping all the laws in mind, it is also very important for the hiring staff to go through the information provided by the applicant and this process is known as a background check in familiar terms. In this process, the hiring team will go through the application form and will make sure that whether the provided information is authentic or not (Levashina, & Campion, 2009). There are many possibilities that the applicant might provide inappropriate credentials in the form. However, background checking will be done legally. At the same time, background checking also helps to know the background education and work experience claimed by the applicant. Moreover, it is about finding the right candidate with the required skills and honesty to do the job. In order to be effective in this process, it is essential to know their capabilities and work performance.

However, background checking is also performed legally. For instance, staying compliant with the pertinent laws the privacy of every candidate must be retained. During these two of the background, checking is mostly done by all employers, i.e. Qualifications Verification and any previous Police records of the applicant. Likewise, the background checking is done to determine the outstanding qualifications of several applicants are accurate or not. However, through the interview, it can be figured out about an applicant that what is provided in the paper and what he or speaks about. Moreover, applicants with work experience also mention their previous organization, and it also gives an idea of what skills the applicant has (Levashina, & Campion, 2009). Moreover, recommendations can provide details about the personal character of the applicant. In this case, the law limits the employers regarding the background check, and it allows to gather the job-related information only. However, some of the actions in the background check may not be important. Therefore, the hiring team should evaluate the background check purposes before its initiated. In addition, it must be uniform for all applicants and should be conducted according to a proper plan. It is prohibited to investigate into personal information of a candidate while background checking. At the same time, checking on history will help to find out the criminal history of an applicant, and such candidates are not ideal for the organization. Likewise, substance abuse is also a serious issue, and it should also be checked. A person with a good qualification and good personal records will contribute in a positive way for the development of the organization.

Moreover, drug testing is another process conducted by an employer to find out if job candidates are consuming drugs. Currently, drugs addiction is a widespread problem. Drugs testing helps the employers, but then again, it needs a written policy for it. The employer is also responsible for educating the employees about the effects of drug consumption. Moreover, the company should also aid those employees who are facing problems with substance abuse. While conducting a drugs test on employees and candidates, the human resource team must ensure the legal aspects.

Firstly, all the tests regarding drug test should be assigned to the trusted laboratories and medical expertise. In addition, all the information on the reports should be kept confidential. The copies of reports should be provided to employer and candidates both. There are a few of the procedures identified for drugs testing of the employees. Similarly, in order to stay on safer legal grounds, drug testing may follow the procedures standardized by the law. According to SAMHSA's guidelines ensure that there should be a Medical Review Officer to evaluate the test results. Under these Mandatory Guidelines for Federal Workplace Drug Testing, five drugs tests are specified and accept the results from certified drug labs only. The first and very common technique of drug testing is Urinalysis. It can be conducted anywhere at office, lab or drugs center. The sample provided by the applicant is tested under certain precautions. The collection of specimens can be performed in privacy without letting any other person see. Under the laws and regulations specified by SAMHSA, the sample is sent to the laboratory which certified. It is because all these laboratories give accurate reports.

Furthermore, the other specified procedures include Chain of Custody, Initial screen, Confirmation Test and Split Sample for legitimacy and accuracy (Karch, 2016). A chain of custody is a form which is used for the documentation to handle and store the sample of the employee from the time it is collected to the time it is disposed of. It connects the person o its sample and this written document is proof of all the procedures take place at a laboratory. The second step is the initial screen. It is the analysis of the sample for the first time. It alone cannot give accurate results that's why other tests also conducted. It can be false too. Hence, when the initial test is positive, another test is conducted for confirmation of the results. The next step is called confirmation Test, and it is on the second number. It is performed through the gas chromatography or mass spectrometry, and it is considered highly reliable and gives the evidence for the initial test. Also, it helps to find out the false results from the first test. When the initial test and confirmation test give the same effect, then test reports are reported as positive or negative.

However, another test which is conducted for drugs is conducted based on a split sample. When the initial urine sample is fragmented into two is a split sample. One sample is used for the initial screen, and if it gives positive results, then the other sample is tested under the confirmation test. If the result is positive, the person is asked to test at several certified laboratories for the confirmation test. However, all the tests for alcohol and drug testing guidelines need to be done on a split sample. Finally, the Medical Review Officer (MRO) reviews the results after the initial screen and confirmation tests give positive results. MRO holds a license to offer his or her services in this procedure. After evaluating the results, MRO may inform the employer about the positive results. Sometimes due to certain medicines also give positive results. If it is the case, then the doctor prescribes a certain amount of same medicine, and after the consumption again the tests are conducted. As a result, the test results will be negative.

Furthermore, Bona Fide Occupational Qualification is another legal requirement for a hiring process. Bona Fide Occupational Qualification (BFOQ) includes the qualifications of an employee which are considered by the employer in the process of hiring and recruiting an applicant. Moreover, this qualification should be according to the job requirements and relate to the functioning of a particular organization. Therefore, the Bona Fide Occupational Qualifications are legalized for acquiring a candidate for a specific position. It ensures the hiring regardless of race, class, status, sex, origin, and age of an applicant. Likewise, it protects against any type of employment discrimination by the employer at the workplace. The BFOQ principles are particular and limited. Therefore, in order to avoid any legal preceding the company will prohibit any type of discrimination while hiring new applicants. Thus, while posting the job advertisement, it will ensure to avoid specifying the age limit for the candidates. It will maintain the law under the Employment Discrimination Act. Secondly, it will also give equal opportunities for all sexes. At the same time, it will be clearly demonstrated by the company that it maintains all the laws and rules by providing equal opportunities to everyone despite the sex. It will be ensured to have the purposeful, rational and supportable facts to justify any BFOQ at the organization (Cavico, & Mujtaba, 2016). At the same, all these principles under BFOQ will be used for the progress of the business. Thirdly, no person will be discriminated due to different national origin and language or accent. People from diverse backgrounds will be given equal opportunities in the same position. However, language and accent discrimination are limited based on the requirements and qualifications required for the job position. Moreover, training will be provided to the selected candidate later.

**Conclusion**

In short, an effective hiring process is critically planned in order to select a new employee for the company. At the same time, Employment laws exist which guide all the public and private organizations to run their services according to those principles. When Hiring process is studied with employment laws, there are so many things to be discussed. However, some of them are discussed in this paper in more detail. This paper presents all the fairways of hiring a candidate in the company by keeping all the fundamental laws of employment at front. Moreover, background checking also helps to know the background education and work experience claimed by the applicant. On the other side, drug testing is another crucial thing in hiring applicants. Lastly, it provides information about the Bona Fide Occupational Qualification (BFOQ) under legal terms.

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