Tales from the Trenches: Legal Issues in School District Human Relations

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Homerun Hires!
Swings and misses.
Overview

- Board Policy
- Job Description
- Job Postings
- Job Applications
- Applicant Screening
- Interviewing and “Over-Interviewing”
- Background/Reference Checks
- Veterans’ Preference
- Hiring Recommendation
- Board Action
Truth or Bull Hockey

TRUTH
Board Policy

- General outline of hiring practices for district;
- How employment opportunities are published;
- All applicants must fill out an application;
- False or misleading information on an application = grounds for removal;
- Employee may be terminated if the employee fails a criminal background check or has a true report on the Child Maltreatment Central Registry (or has no license);
- Equal Opportunity Employer notice; and
- Veterans’ Preference notice.
Job Description

• Sets forth the requirements of the job;
• Helps you determine whether an applicant is qualified;
• Department, FLSA Status, Grade Level, Work Schedule, Contract Length, Full/Part Time, “Reports To,” Travel Required, Positions Supervised;
• Position Summary (General Description);
• Essential Functions;
• Reasonable Accommodations Statement;
• Qualifications, Skills & Abilities;
• Equal Opportunity Statement.
Truth or Bull Hockey,  
*Question #1*

There are five (5) protected classes under Title VII of the Civil Rights Act of 1964.
Truth or Bull Hockey,
Answer #1

TRUTH
Job Postings

• Superintendent’s Office;
• District Website;
• E-mail to All District Staff;
• School Spring Website (Statewide through AAEA);
• Other job posting websites.
Job Applications

- Contact/Background Information;
- Personal Data;
- Veteran’s Status;
- Language Skills;
- Computer/Technology Skills;
- Education History;
- Certification/Licensure;
- On a Current ALP?:
- Work Experience; and
- Professional References.
Applicant Screening

- Is the application complete?
- Did the applicant follow directions?
- Does the applicant meet the requirements of the job description? (including required experience)
- Are there gaps in employment dates?
- Is there evidence of “job hopping?”
- Vague information/supervisors not listed?
- Emphasis on earlier experiences compared to later ones?
- Reasons for wishing to change jobs?
Interviewing and Over-
Interviewing

- Always difficult to settle on a number of applicants to be interviewed;
- Have a pre-planned list of questions;
- Ask the same question to each applicant (but do not be afraid to follow up);
- Encourage the interviewee to ask questions.
- Too many interviews:
  - A waste of time for everyone;
  - Difficult to come to a consensus;
  - Prolongs decision-making period.
Good Questions . . .

- What do you like best about your current job?
- What do you like least?
- Questions about knowledge, skills, and experience.
- What aspects of your job do you consider to be most crucial?
- What do you believe are the major qualities this job demands?
- Why did you decide to become a teacher?
- Why do you want to work for the __________ School District?
Bad Questions . . .

- Do you have children?
- Are you pregnant?
- Do you plan to become pregnant?
- Are you dating anyone right now?
- Are you married?
- Do you plan to be married?
- How old are you?
- What is your nationality or race?
- Do you have a disability?
- What is your religion?
More Bad Questions . . .

- Have you ever had your wages garnished?
- Have you ever filed for bankruptcy?
- Have you ever filed for workers’ compensation?
- Have you ever filed an employment discrimination lawsuit?
- What are your political affiliations?
A former employee of your school district applied for employment at another school district. The HR director of the new school district calls you for a reference. In response, you are only allowed by law to provide the following information:

- Job title;
- Dates of employment; and
- Whether the employee is eligible for rehire.
Truth or Bull Hockey, Answer #2
Background/Reference Checks

- Contact references (not just the ones listed);
  - Act 1039 of 2013
  - Amended Ark. Code Ann. § 11-3-204
  - Statutory immunity for TRUTHFUL information provided by employer
- Verify employment experience;
- Verify license;
- Process criminal/DHS background checks;
- Receive and review transcripts;
- Verify veterans’ preference.
Truth or Bull Hockey, Question #3

School districts are required to provide five bonus points to an applicant who is a military veteran, regardless of the veteran’s qualifications.
Truth or Bull Hockey, Answer #3
Veterans’ Preference

• Act 444 of 2013;
• Now codified at Ark. Code Ann. §§ 21-3-302 and 21-3-303;
• Some provisions apply to school districts;
• Covers veterans, disabled veterans, and surviving spouses of a deceased veterans;
• Must be citizens of this state;
• Must meet substantially equal qualifications of other applicants.
Veterans’ Preference (Cont’d)

• Veterans:
  • Honorably discharged from active duty with the Armed Forces of the United States; or
  • Has served honorably in the National Guard or Reserves for at least six years (whether or not the person has been discharged).

• Preference applies to interviewing and hiring;
  • Does not apply to promotion decisions;
  • Does not apply to reduction in force (RIF) efforts.
Veterans’ Preference (Cont’d)

- In order to qualify for the preference:
  - Veteran must indicate the appropriate status on the application;
  - Attach copies of DD Form 214; and
  - Documentation of disability (if applicable).
- How to demonstrate Veterans’ Preference (for school districts)
  - No specific, legally required method for school district;
  - But you HAVE to be able to demonstrate how preference was given.
  - Examples:
    - (1) Districts that do not use a numerical scoring method;
    - (2) Districts that use a numerical scoring method.
Hiring Recommendation

- Hiring official should have a checklist;
- Hiring package does not go to the board until it is complete;
- References have been checked and documented;
- Teacher is certified (attach copy of license);
- Applicant is aware of background check requirements;
- Applicant has a copy of salary schedule and calendar;
- Applicant informed that job offer contingent on board approval; and
- Contract conditions are listed.
Board Action

- Common contract conditions (in the motion):
  - Pending criminal background checks
  - Pending DHS Central Registry check
  - Verification of job experience
  - Presentation of official transcripts
  - Valid Arkansas teaching license in subject areas/grades taught
  - Highly qualified???
Truth or Bull Hockey, Question #4

An eligible employee uses all of his or her 12 weeks of FMLA leave but is still unable to return to work. A school district may dismiss the employee without further consideration.
Truth or Bull Hockey, Answer #4
Conclusion

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Contact Information

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