

From: Stokes, Richard L  
Sent: Monday, August 13, 2012 4:14 PM  
Subject: RE: Hiring Question

Sorry for the delay in responding to your inquiry. I was in Chattanooga most of last week at an agency wide conference.

You seem to have a pretty good handle on the issues. I agree that the city should probably extend the applicant period to allow more applicants to apply. I also agree that the Chief should hire the best fit for the job (not necessarily the most qualified). I also agree that the medical condition of the applicant should not be taken into consideration even if you know about it but he did not bring it up. Under the ADA, you are not permitted to ask about a disability or the prognosis of the disability. You are also prohibited from asking if the applicant will need an accommodation. The candidate must tell you that he/she needs an accommodation. The only thing the city can ask is if the candidate can perform the essential functions of the job. You can send the applicant to your doctor with a job description and ask the doctor to tell you if the applicant can perform the essential functions of the job.

I disagree with your assessment, however, that the City doesn't have to give a reason for not hiring an applicant. This is a BAD practice. If the city is sued by EEOC, the first things they will ask are "why did you hire the person you hired" and "why didn't you hire any of the other applicants". You will need to respond to both questions. You will have to tell why you didn't hire each candidate.

Something that you might try to recruit potential candidates is to go to the local senior citizen center or to the school during a PTA meeting and see if anyone is interested in applying. Provide them with the information and hope they follow through.

I agree that the city could hire the individual and dismiss him during the probationary period if things don't work out.

I hope this information is helpful. Feel free to contact me if you have questions or I can be of any further assistance.

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