



NECOG Development Corporation

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PROTECTING AGAINST EMPLOYMENT DISCRIMINATION CLAIMS

By: Kimberly Dorsett, partner at the law firm of Richardson, Wylie, Wise, Sauck & Hieb of Aberdeen, SD

The Equal Employment Opportunity Commission (EEOC) is the federal agency responsible for the investigation and enforcement of employment discrimination laws. Under congressional directives to step up enforcement efforts nationwide, the EEOC has handled a record number of discrimination claims and secured record high financial judgments. Small business owners are not exempt from these discrimination laws or the reach of EEOC fines or judgments.

The “failure-to-hire” claim is one area where the EEOC is being more aggressive. These cases arise because a person believes he or she was not hired for a job due to a discriminatory reason. By following a few simple rules, an employer can help protect and defend itself against this type of claim.

1. Be Aware of the Law

Federal and state law prohibits an employer from basing any employment decision on a protected reason, including a decision to hire or promote. A protected reason includes a person’s race, color, religion, sex, national origin, age, disability, or genetic information. If a person believes they have been discriminated against, he or she may report that belief by filing a complaint with the EEOC or the state division of human rights. An investigator is then assigned to review the allegations and make contact with the employer.

2. Ask the Right Interview Questions

The investigator will ask about the hiring process. Many refusal-to-hire claims arise when a candidate for a job is asked a potentially illegal question during an interview. Below is a list of seemingly innocent questions that an employer should not ask in a job interview, and a recommended way to obtain needed information:

Illegal Question: How old are you?
Ask Instead: Are you over 18?

Illegal Question: Are you married?
Ask Instead: Tell me about yourself.

Illegal Question: How much longer do you intend on working before you retire?
Ask Instead: What are your long-term career goals?

Illegal Question: Do you plan on having any more children?
Ask Instead: Do you have any personal obligations that may impact your ability to travel or work overtime?

Illegal Question: Do you have any disabilities?
Ask Instead: Are you able to perform the essential functions of this position, such as lifting over 40 pounds?

Illegal Question: What is your criminal history?
Ask Instead: Have you ever been convicted of a crime?

Illegal Question: Are you a U.S. citizen?
Ask Instead: Are you authorized to work in the United States?

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(continued from Page 1 - *Protecting Against...*)

3. Document the Hiring Decision

The investigator will also want to see the applicant's file. While most employers maintain personnel files on their existing employees, many employers do not realize that they should also maintain files of all applicants for at least six months after the decision was made. This file should include, at a minimum, a copy of the job description, the application, and interview/evaluation notes showing the use of objective hiring criteria. Failing to maintain this basic information will only serve to heighten an investigator's scrutiny and prolong an investigation. If your business does not have a record retention policy for all applicants not hired, you must develop one immediately.

Further information about this important and complex area of the law can be found at www.eeoc.gov or www.dlr.sd.gov/humanrights or by consulting with an attorney experienced in employment law matters.



Regional Development... Forgoing Partnerships to Help Entrepreneurs Succeed

*By Kelly Weaver, Small Business Development Center
Regional Director*

For many years, the economic development organizations of this region have been connecting and offering support and assistance to their peers as they work to improve their respective local communities. Over the past year, the efforts of this group have led to the creation of a regional economic development portal called South Dakota Prairie Gateway which was launched June 5, 2012. The features of this tool are contained within the website: www.SDPrairieGateway.org.

South Dakota Prairie Gateway can help entrepreneurs and communities by connecting them to resources, training opportunities and

demographic information. Some of the features include available commercial real estate, workforce resources and opportunities, also includes a direct connection to local economic development professionals across the region.

Member organizations will provide local information to the regional website including news, events, training, available properties, and workforce initiatives. The project will also have a strong social media component to make use of this new communications channel to promote the area. In addition to the regional website, several local community organization members are upgrading their community websites as well. SD Prairie Gateway is made possible through a grant from USDA Rural Development and administered through GROW South Dakota.

The launch date included a training event which focused on marketing tools, and another event is planned in the coming year. One training opportunity specifically for businesses, Profit Mastery University is a web-based financial performance course that provides real-world financial tools to help businesses survive and thrive. This highly regarded seminar is available online via streaming video so it is easily viewed in segments at your convenience. Major topics include cash flow, financial analysis, price/volume/costs, financial gap analysis and planning for transition. Using a unique combination of information, motivation and humor, the presentations allow participants to create value and build wealth in their businesses. South Dakota Prairie Gateway and GROW South Dakota are proud to make Profit Mastery University available at a 75% discount for one year (only \$95 plus shipping which includes a comprehensive participant guide). Any kind of business can benefit from the knowledge gained through this class.

As you can see, SD Prairie Gateway has lots to offer right out of the chute. Our economic development history is rooted in the pioneers who had a vision for developing the prairies. Come see how we are pioneering development in Northeast South Dakota... and come back and visit often!



Fun at Work

By: Karie Geyer, Owner of Creative Consulting, LLC of Veblen, SD

A former supervisor used to greet me most mornings with the words, “are you having fun”? I always replied yes; but to be honest, I wasn’t always truthful. Reflecting back, I wish I knew then what I know now. I spent too much time dwelling on perfection, which interfered with my level of work-related fun. If I were to have mentally “let go”, maybe things would have been different. Wisdom stems from confidence, and confidence comes with experience.

Now that I am a few years wiser, I still a.) think too much and b.) try to be big; but, the difference now is that I am generally ok with not pleasing everybody and enjoy my crazy self. I wrote “generally ok” because as a people-pleaser, I am continually working on this issue; admitting the issue is a step toward increased sanity. The only difference between the “me” then and the “me” now is that I now laugh, smile, and truly allow myself to have fun on the job (within reason, I really do need to contribute to the Geyer grocery fund and my student loans).

For those of you who know Myers Briggs, I am an INFJ, meaning I am geared toward being my worst enemy. The older I get and the more I get to know myself, the better I sleep at night. Whatever your personality, I want to stress that “fun” really is necessary in business and that my supervisor made a good point. Despite daily stressors, she knew that if you enjoy your work your rate of progressing is greater.

With that, no business is perfect, whether self-employed, corporate, or non-profit. Having experienced all three types of businesses, one thing is for sure, if you aren’t having fun at work then you a.) are not in a fitting position or b.) you are not letting yourself experience it. The choice is yours and how you want to live life.

Cheers to us as we grow in business and cheers to our former selves whose immaturity and honesty got us to this point.



UPCOMING QUICKBOOKS WORKSHOPS

Small Business Development Center (SBDC) will be offering the following QuickBooks workshops. QuickBooks Pro software will be used for the workshop presentation. Participants will view the software live on screen but will not have individual computers. Registration is limited, so sign up today!

QuickBooks: The Basics

WHEN: **Tuesday, August 7th** 9:00 a.m. to 12 Noon.
COST: \$50 by August 1st, \$55 after August 1st

QuickBooks: The Basics is designed for those who may be considering a computerized accounting system or those QuickBooks users who are starting or would like to explore these features and how the data is managed. Topics covered will include Chart of Accounts, Customers, Vendors, Invoicing, Check Writing, Bills, and Reports.

QuickBooks: Inventory and Payroll

WHEN: **Tuesday, August 7th** 1:30 p.m. to 4:00 p.m.
COST: \$50 by August 1st, \$55 after August 1st

QuickBooks: Inventory and Payroll will provide an overview of how inventory and payroll are processed and the basic concerns to be addressed when setting up and using these features. Topics covered include Inventory Items, Inventory Types, Purchase Orders, Payroll Items, Payroll Checks, Payroll Liabilities, and Reports.

Attend both and save! Participants can attend both classes for only \$90 by August 1st or \$100 after August 1st.

For more information or to register, contact Kelly Weaver at the Small Business Development Center at 626-2565 or kweaver@midco.net. Payments should be sent to Small Business Development Center, 416 Production Street, Aberdeen, SD 57401. The Smart Center is located ½ mile north of RDO Equipment Company. ◆

Transient Vendors: Get the Facts Before You Buy

As published in the July 2011 issue of SD Municipalities

Transient vendor season is underway in South Dakota, a time when out-of-state vendors roll into the state to sell their products and services. While many of the vendors are legitimate, the South Dakota Department of Revenue advises people to take common-sense steps to ensure vendors are reputable before doing business with them.

If you're considering hiring a person to provide repair or construction services, the department advises you to:

- Ask for a price quote, in advance, in writing.
- Question the contractor about a permanent address and telephone number, and don't assume that if the information they provide is local, they're a local business. Transient vendors often have business cards printed with local mailing services or motel addresses and telephone numbers.
- Ask for a list of local references and check them before making a decision.
- Ask if the contractor has worker's compensation and general liability insurance. If vendors are not properly insured, homeowners may be liable for accidents that occur on their property.
- Be careful about paying for work in advance: before making final payments, make sure transient vendors have paid their local suppliers or you may be held liable for unpaid materials.
- Make sure you're completely satisfied with the work before paying the bill, and don't pay more for the job than originally quoted unless you've given written approval for the additional work or cost.

Out-of-state vendors often travel to South Dakota to sell items like fruit, seafood, meat packages,

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paintings, magazine subscriptions, rugs, T-shirts, sunglasses, household cleaners, furniture, stuffed animals, and asphalt and roofing services. Asking the right questions when approached by those vendors can help you avoid making a purchase you may regret:

- Question the salesperson about the product, warranties, guarantees, etc.
- Get something in writing with the company's name, address and phone number.
- Ask to see their current South Dakota tax license. State law requires everyone selling products or services to have a current South Dakota sales or contractors' excise tax license. To verify if the license is valid, call the Department's toll-free helpline at 1-800-829-9188.

All sellers must provide you with a contract or receipt at the time of sale showing the date, merchant's name and address, and a statement informing you of your right to cancel the contract within three days. After proper cancellation, the seller has 10 days to refund your money.

If you have doubts about the vendor or think you may have been a victim of a scam, call your local police department or county sheriff's office immediately. You can also contact the Attorney General's Consumer Protection Office at 1-800-300-1986 or by email at consumerhelp@state.sd.us. Be prepared to give as much information as you can about the vendor, including the name of the company and salesperson; company address and telephone number; and make, model and license number (if possible) of the vehicle the vendor was driving. Without tips from the public, law enforcement officials may not be able to catch illegal vendors before they move on to the next community.

For more information on transient vendors, contact the South Dakota Department of Revenue's toll-free helpline at 1-800-829-9188. ◆