



MEMBERS ONLY OPERATING GUIDE

# Interview Documentation Checklist

*Build the record when the decision is made.*

Clear, factual, consistent documentation can help an employer explain and defend a lawful hiring decision.

# How to use this checklist

Open this checklist before the interview begins. Use it with the current job description, the approved interview questions, and the organization's written religious-employment standards. Complete the documentation while the facts are fresh and before the hiring decision is communicated.

This checklist helps interviewers record job-related and, when legally permitted, faith-related information consistently. It does not determine whether a particular employer or position may lawfully use religion as an employment criterion.

**IMPORTANT LEGAL SCOPE**

Do not use faith-based interview questions unless qualified employment counsel has confirmed that the organization and the position may lawfully apply the religious criterion. Title VII contains a religious-organization exemption for qualifying religious corporations, associations, educational institutions, and societies. Christian ownership, a faith-inspired mission, or CEA membership does not by itself establish that an employer qualifies for the exemption. State and local laws may provide different or narrower protections.

Damages depend on the claim and the employer's size. Under federal law, combined compensatory and punitive damages are capped from \$50,000 to \$300,000 based on employer size. Those caps do not include back pay, interest, certain equitable relief, or attorneys' fees and costs that may also be awarded.

## The five phases

| Phase   | Focus                              |
|---------|------------------------------------|
| Phase 1 | Prepare before the interview       |
| Phase 2 | Record facts during the interview  |
| Phase 3 | Avoid improper questions and notes |
| Phase 4 | Document the hiring decision       |
| Phase 5 | Complete the consistency review    |

## PHASE 1

## Prepare before the interview

Set the process before the candidate enters the room. Consistent preparation reduces the risk that different applicants will be evaluated under different standards.

- ☐ Confirm that the job description identifies the essential duties, required qualifications, and any legally approved religious duties or qualifications.
- ☐ Confirm with counsel that the employer and the position may lawfully use any proposed religious criterion.
- ☐ Prepare the same core job-related questions for every candidate applying for the position.
- ☐ If faith questions are legally approved, prepare the same core faith-related questions for every candidate applying for the position.
- ☐ Prepare lawful follow-up prompts that request examples or clarification without exploring protected personal information.
- ☐ Give every interviewer the approved question list and the prohibited-question guidance.
- ☐ Use the same standardized interview notes form for every candidate.
- ☐ Decide who will collect, secure, and retain interview records.

**THE RULE**

Use the same core standards, questions, and documentation process for every applicant to the same position. Lawful follow-up questions may differ when a candidate's answer requires clarification.

## Before asking a faith question

- ☐ The question is based on a written, legally approved religious qualification or duty.
- ☐ The question asks about the candidate's willingness and ability to satisfy that requirement.
- ☐ The question does not seek unrelated details about church attendance, family, medical history, national origin, or another protected characteristic.
- ☐ The same core question will be asked of every candidate for the position.

PHASE 2

# Record facts during the interview

Record what the candidate said and how the answer relates to a stated job requirement. Do not substitute impressions, labels, or conclusions for observable facts.

## Record

- ☐ The question asked and the substance of the candidate's response.
- ☐ Specific examples the candidate provided about skills, experience, qualifications, or prior work.
- ☐ The candidate's availability to perform the position's stated schedule and essential duties, using the approved wording.
- ☐ When legally permitted, the candidate's response to the organization's written religious qualification, Statement of Faith, or religious conduct standard.
- ☐ Any lawful follow-up question and the candidate's response.
- ☐ Objective information necessary to compare the candidate with the written requirements for the role.

## Write notes this way

| Write                                                                                                                     | Instead of            |
|---------------------------------------------------------------------------------------------------------------------------|-----------------------|
| Candidate stated that they could not agree to the requirement in Section 3 of the Statement of Faith.                     | Not committed enough. |
| Candidate interrupted the interviewer four times and did not answer the customer-conflict question after it was repeated. | Too aggressive.       |
| Candidate did not provide the required three years of supervisory experience.                                             | Bad fit.              |

THE RULE

Record facts tied to a written requirement. Quote or accurately paraphrase the candidate. Do not record assumptions about what the candidate meant.

PHASE 3

## Avoid improper questions and notes

Questions about protected personal characteristics can discourage applicants, violate state or local law, and become evidence of discriminatory intent. Keep the interview focused on the written requirements of the job.

| Avoid asking                                                                                                                                | Never write                                                                                                                                  |
|---------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> Age, graduation year, or retirement plans, except a lawful minimum-age inquiry.                                    | <input type="checkbox"/> References to a protected characteristic, even if volunteered by the candidate, unless counsel directs otherwise.   |
| <input type="checkbox"/> Pregnancy, plans to have children, childcare, marital status, or a spouse's employment.                            | <input type="checkbox"/> Comments on appearance, accent, family, health, pregnancy, age, or private life.                                    |
| <input type="checkbox"/> Race, color, ethnicity, ancestry, birthplace, or national origin.                                                  | <input type="checkbox"/> Personality labels such as aggressive, emotional, unstable, too old, young, traditional, or not our kind of person. |
| <input type="checkbox"/> Disability, medical conditions, medications, workers' compensation history, or prior sick leave.                   | <input type="checkbox"/> Unsupported conclusions such as bad fit, not Christian enough, or not committed.                                    |
| <input type="checkbox"/> Genetic information or family medical history.                                                                     | <input type="checkbox"/> Speculation about beliefs, identity, medical limitations, future leave, or family responsibilities.                 |
| <input type="checkbox"/> Citizenship questions beyond the employer's approved work-authorization inquiry.                                   | <input type="checkbox"/> Jokes, sarcasm, coded shorthand, emojis, or comments unrelated to a written requirement.                            |
| <input type="checkbox"/> Religious affiliation or beliefs unless counsel has approved the employer and role to apply a religious criterion. | <input type="checkbox"/> A post-hoc explanation created after a complaint or charge.                                                         |

### If a candidate volunteers protected information

Do not pursue the subject. Redirect the conversation to the approved questions. Do not use the information in the hiring decision. If the information may require an accommodation discussion or affects a legally sensitive decision, pause and contact qualified counsel before proceeding.

THE RULE

If the information is not necessary to evaluate a written and lawful job requirement, do not ask for it and do not place it in the interview notes.

PHASE 4

# Document the hiring decision

Complete the decision record when the decision is made and before it is communicated. Record every material, legitimate reason that actually contributed to the decision.

| If the candidate is selected                                                                                                                  | If the candidate is not selected                                                                                    |
|-----------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> Identify the written job qualifications the candidate satisfied.                                                     | <input type="checkbox"/> Record all material, legitimate reasons for the decision.                                  |
| <input type="checkbox"/> Identify the evidence supporting the selection.                                                                      | <input type="checkbox"/> Tie each reason to a written job requirement or legally approved religious criterion.      |
| <input type="checkbox"/> When legally permitted, tie any religious criterion to the written standard and the candidate's documented response. | <input type="checkbox"/> Confirm that the record does not rely on protected information or unsupported assumptions. |
| <input type="checkbox"/> Keep the application, approved notes, evaluation, and offer documentation together under the retention policy.       | <input type="checkbox"/> Do not create, revise, or embellish a reason after a complaint or charge.                  |

PHASE 5

# Complete the consistency review

- ☐ The same written qualifications were applied to comparable candidates for the position.
- ☐ The same core questions were asked of every candidate for the position.
- ☐ Any follow-up questions were prompted by the candidate's answer and remained lawful and job related.
- ☐ The documentation is comparable in depth and detail across candidates.
- ☐ The selected candidate met the documented requirements more fully, or another legitimate distinction is clearly recorded.
- ☐ The reasons in the file match the reasons that will be communicated to the candidate and stated to an agency or court.
- ☐ No decision reason relies on protected information, stereotypes, or a subjective label without supporting facts.

THE RULE

Consistency supports the credibility of a lawful standard. Unexplained exceptions can be evidence that the stated reason was not the real reason.

# Standardized interview notes form

Complete one form for every candidate. Record only information that is lawful and necessary to evaluate the written requirements for the position.

|                |                      |
|----------------|----------------------|
| Candidate name | Position             |
|                |                      |
| Interview date | Interviewer or panel |
|                |                      |

## Documents used

- ☐ Current job description
- ☐ Approved interview questions
- ☐ Candidate application or resume
- ☐ Statement of Faith or religious standard, if counsel approved its use for this employer and position

## Minimum qualifications

| Written requirement | Met                                                      | Objective evidence |
|---------------------|----------------------------------------------------------|--------------------|
|                     | <input type="checkbox"/> Yes <input type="checkbox"/> No |                    |
|                     | <input type="checkbox"/> Yes <input type="checkbox"/> No |                    |
|                     | <input type="checkbox"/> Yes <input type="checkbox"/> No |                    |
|                     | <input type="checkbox"/> Yes <input type="checkbox"/> No |                    |

## Core interview responses

Question 1

Question 2

Question 3

INTERVIEW NOTES FORM (CONTINUED)

Question 4

Question 5

Question 6

Legally approved religious criterion

- ☐ Not applicable. No religious criterion was used for this employer or position.
- ☐ Applicable. Counsel previously approved the following written criterion for this employer and position.

Criterion or policy section

Candidate's response

Interviewer certification

I recorded the candidate's responses accurately, used the approved core questions, and did not knowingly rely on protected personal information in this evaluation.

Interviewer signature

Date

# Hiring decision and consistency review

Candidate name

Position

Decision date

## Decision

- ☐ Select for hire or next stage
- ☐ Do not select
- ☐ Hold pending additional lawful information or counsel review

## Material reasons for the decision

List every material reason that actually influenced the decision. Tie each reason to a written requirement and identify the supporting evidence.

| Requirement | Evidence from the record | Effect on decision |
|-------------|--------------------------|--------------------|
|             |                          |                    |
|             |                          |                    |

## Consistency review

- ☐ Comparable candidates were evaluated under the same written qualifications.
- ☐ The same core questions and documentation process were used.
- ☐ The stated reasons are supported by records created before the decision was communicated.
- ☐ The decision does not rely on protected information or unsupported assumptions.
- ☐ Any use of a religious criterion was previously approved by qualified counsel for this employer and position.

Decision maker

Date

Signature

## Record retention and confidentiality

Follow the organization's written retention schedule and any longer federal, state, local, contractual, or litigation-hold requirement. As a federal baseline, covered private employers generally retain hiring and other personnel records for at least one year from creation or the personnel action, whichever is later. Educational institutions and state or local government employers generally retain covered records for two years. Different rules may apply to federal contractors, apprenticeship programs, and particular claims.

If a discrimination charge or lawsuit is filed, retain all records related to the issues, the charging party, potentially aggrieved persons, and employees or applicants in comparable positions until final disposition. Immediately suspend routine destruction when counsel issues or recommends a litigation hold.

Keep medical and accommodation information confidential and separate from ordinary interview and personnel records. Restrict access to people with a legitimate business or legal need.

### Contact qualified employment counsel before proceeding when

- ☐ The employer has not received a legal determination that it may apply a religious hiring criterion.
- ☐ An interviewer asked an improper question or recorded protected information.
- ☐ A candidate requests an accommodation or volunteers medical information that may require a response.
- ☐ A decision may involve pregnancy, disability, leave, religious accommodation, gender identity, sexual orientation, or another protected policy issue.
- ☐ A rejected applicant threatens or files a charge, demand, or lawsuit.
- ☐ The file contains inconsistent explanations, missing records, or a reason that cannot be tied to a written requirement.
- ☐ The organization hires in a state or locality with additional protected classes or hiring restrictions.

### Legal reference notes

U.S. Equal Employment Opportunity Commission, Remedies for Employment Discrimination, <https://www.eeoc.gov/remedies-employment-discrimination>

U.S. Equal Employment Opportunity Commission, What Shouldn't I Ask When Hiring, <https://www.eeoc.gov/employers/small-business/what-shouldnt-i-ask-when-hiring>

U.S. Equal Employment Opportunity Commission, Pre-Employment Inquiries and Religious Affiliation or Beliefs, <https://www.eeoc.gov/pre-employment-inquiries-and-religious-affiliation-or-beliefs>

U.S. Equal Employment Opportunity Commission, Recordkeeping Requirements, <https://www.eeoc.gov/employers/recordkeeping-requirements>

#### MEMBER RESOURCE DISCLAIMER

This checklist is an educational resource for active CEA members. It does not constitute legal advice, determine whether an employer qualifies for a religious exemption, or create an attorney-client relationship. Laws vary by jurisdiction and change over time. For a specific hiring practice, candidate, accommodation, complaint, or charge, consult qualified employment counsel, including counsel available through CEA's Trusted Counsel Network.