

# Use consistent interview questions to ensure fairness in hiring and promotions

Here's another reason to create a fair, impartial and consistent interview process: Your ultimate decision on who is hired or promoted is more likely to withstand legal scrutiny if you can show that each candidate interviewed faced the same questions and that each candidate's performance was assessed by more than one interviewer.

For each potential hiring or promotion decision, consult the job description and create a list of interview questions. Then come up with the preferred answer to each question. Next, ask each candidate the same questions and note how closely those answers match the prepared ones.

Then hire the individual with the highest score.

**Recent case:** Rodolfo is a Mexican-American man who worked as an employment discrimination investigator for the Texas Workforce Commission. Another Mexican-American man initially hired Rodolfo, in part because he spoke Spanish.

At the time he initially applied, Rodolfo's résumé showed he had spent time earlier in his career as an EEOC investigator and supervisor.

Six months after beginning work with the commission, Rodolfo was promoted to investigator III and was assigned to housing discrimination cases.

Three months after the promotion, Rodolfo received notification that yet another promotion opportunity was opening up. He and others in the agency were invited to compete for promotion to investigator VII. Rodolfo and seven other people applied.

A non-Hispanic woman got the promotion.

Rodolfo filed an EEOC complaint, alleging he had been the most qualified for the job and that he had been passed over because of his protected characteristics.

The commission explained how they had arrived at its decision to promote the woman, who was a long-term employee who had worked her way up from clerk and who had served several temporary stints as a manager. That experience evidently helped her score higher than others during the interview process.

The commission had created 17 interview questions, which tested applicants' knowledge of the law and the work of the commission. Several required applicants to give examples of how they would react in certain situations. Candidates were also asked about their management philosophies.

Two supervisors conducted the interviews. On a form, they each wrote out the answers the candidates provided. Then they assigned a numerical score to each candidate, based on their responses to the questions. The scores were compiled into a matrix.

At the end, the non-Hispanic woman was determined to have the highest score of 197. Rodolfo had the lowest score.

The court tossed out his claim. It reasoned that Rodolfo was clearly not the most qualified candidate and that the commission had used a fairly objective approach. Plus, the commission was free to ignore Rodolfo's older management experience in favor of the woman's more recent and specific management experience.

Plus, it was clear each candidate had to answer the same questions under the same circumstances. Since there had been more than one supervisor involved in the interviews and scoring, that helped show the process was fair and impartial. (*Martinez v. Texas Workforce Commission*, No. A-11-CA-837, WD TX, 2014)

**Final note:** It goes without saying that each interviewer should take notes and the employer should retain those notes.