



Current Report

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Division of Agricultural Sciences and Natural Resources • Oklahoma State University

Hiring New Employees

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Note: This publication is intended to provide general information about legal issues. It should not be cited or relied upon as legal authority. State laws vary and no attempt is made to discuss laws of states other than Oklahoma. For advice about how these issues might apply to your individual situation, consult an attorney.

Are there any forms I need to fill out when I hire a new employee?

Several forms need to be filled out for all new employees:

Immigration and Naturalization Service (INS) Form I-9: Employee Eligibility Verification Form

This form helps the employer determine the employee's eligibility to work in the United States. It must be filled out for all employees, regardless of whether they were born in the United States or are otherwise U.S. citizens. Form I-9 is divided into three sections, one of which is completed by the employee and two which are completed by the employer. It should be completed as soon as possible after the employee has accepted an offer of work, and absolutely no later than three days after the employee begins work¹. You do not need to submit this form to the INS; you should retain it in your records for three years from the date the employee is hired, or for a year after they stop working for you, whichever is longer. This form is available from the INS by calling 1-800-870-3676, or by Internet download at www.ins.usdoj.gov.

Internal Revenue Service (IRS) Form W-4: Employee's Withholding Allowance Certificate

This form is important in helping the employer compute the amount of wages to withhold for federal income taxes. The

employee should complete this form, which takes into account marital status, number of dependents, and other considerations. You do not need to submit this form to the IRS; you should retain it for your records. Employees should be notified that if a change occurs in the number of withholding allowances they can claim, they should consider filling out a new W-4. An employee's W-4 remains in effect until he/she provides you with another one. You can obtain this form from the IRS by phoning 1-800-TAX-FORM (1-800-829-3676), via FAX at (703) 368-9694, or by Internet download at www.irs.ustreas.gov.

If you do not have a copy of the employee's W-4 form by the end of his/her first payroll period, you should withhold wages as though the employee were single with no withholding allowances. NOTE: The W-4 form affects only federal income tax withholding. It has no effect on state income tax, Social Security, Medicare, or unemployment taxes.

Oklahoma Employment Security Commission (OESC) New Hire Reporting Form OES-112

State and federal laws require new hires to be reported so they can be recorded in the National Directory of New Hires. The form for new hire reporting in Oklahoma is available from the OESC. New employees must be reported within 20 days of their hiring. Even if the employee quits before this period has passed, the New Hire Reporting form must be submitted.

You can fill out the New Hire Reporting Form directly via the Internet at the OESC web site, www.oesc.state.ok.us. Have the following information ready:

- Business name, address, and phone number
- Federal Employer Identification Number (EIN) (if you don't have one, see CR-946, Employer Taxes, for information on how to get one)
- Employee's name, address, Social Security number, and date of birth
- Date employee was hired
- State in which employee was hired
- Employee's occupational title and salary

¹ CR-948, Migrant Labor, has more details about this form.

You can also fill out a paper copy of the New Hire Reporting form and mail or FAX it to the OESC at the following address:

Oklahoma New Hire Reporting Center
PO Box 52004
Oklahoma City, OK 73152-2004
FAX 1-800-317-3786

As previously mentioned, new hire reporting is a federal requirement. As of October 1, 1997, all states are required to have a new hire reporting system. If you employ workers in more than one state, you have two options as to how to report new hires. You may either report them to the state in which they are working according to the regulations in each state, or you can select one of the states in which you have employees working and report all new hires to that state electronically. Unless you hire new workers quite frequently, though, it will probably be easier to report workers to each state, rather than jointly.

Whenever you are reporting new hires, be sure to you submit all the information listed above, no matter what form of report you are using.

Be sure to see CR-943, Employing Children, for details regarding the hiring of children and CR-948, Migrant Labor, for details regarding the hiring of individuals who are not U.S. Citizens.

Do discrimination laws apply to agriculture?

Title VII of the Civil Rights Act applies to employers with fifteen or more employees (regardless of their industry), and protects individuals against employment discrimination on the basis of race and color as well as national origin, sex, or religion. It is unlawful to discriminate against any employee or applicant for employment because of his/her race or color in regard to hiring, termination, promotion, compensation, job training, or any other term, condition, or privilege of employment. Title VII also prohibits employment decisions based on stereotypes and assumptions about abilities, traits, or the performance of individuals of certain racial groups. Title VII prohibits both intentional discrimination and neutral job policies that disproportionately exclude minorities and that are not job related.

The Americans with Disabilities Act (ADA) prohibits discrimination in the above mentioned job aspects, based on a

person's physical or mental disability (if the person is otherwise qualified). This act applies to employers with fifteen or more employees.

Equal employment opportunity cannot be denied because of marriage to or association with an individual of a different race, membership in or association with ethnic-based organizations or groups, or attendance or participation in schools or places of worship generally associated with certain minority groups.

Also, the Immigration Reform and Control Act (IRCA) states that employers of four or more employees may not discriminate against any person (other than an unauthorized alien) in hiring, discharge, or recruiting or referring for a fee because of national origin or citizenship status. This law applies to employers with four or more employees.

Are there questions I should avoid asking in a job interview?

Some questions that you should avoid asking a potential employee include:

- "Where were you born?"
- "Are you married?"
- "Are you pregnant?" or "Do you intend to have children?"
- "What church do you attend?"
- "What is your native language?"
- "How old are you?"
- "In what year did you graduate from high school?"
- "Have you ever been arrested?"
- "What kind of discharge [from military service] do you have?"
- "Do you have any handicaps?"
- "Does your husband approve of you working?"

These questions address information that cannot be used in the decision of whether to hire a worker. To be safe, you should not ask any question that directly (or indirectly) addresses an applicant's race, color, sex, religion, or national origin.

Bear in mind that this is not a complete list of questions that should not be asked. The best rule is to keep your questions focused on information that will help you determine if the worker has the skills and abilities necessary to perform the job.

Oklahoma State University, in compliance with Title VI and VII of the Civil Rights Act of 1964, Executive Order 11246 as amended, Title IX of the Education Amendments of 1972, Americans with Disabilities Act of 1990, and other federal laws and regulations, does not discriminate on the basis of race, color, national origin, sex, age, religion, disability, or status as a veteran in any of its policies, practices or procedures. This includes but is not limited to admissions, employment, financial aid, and educational services.

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