

Guidelines for Pre-Employment Applications and Interview

Subject	Lawful Inquiry	Unlawful Inquiry
Age	You may ask whether the applicant meets the minimum age requirements set by law: (1) if it is a bona fide occupation qualification (BFOQ); and (2) if the inquiry serves a legitimate record keeping purpose.	You may not ask an applicant to state his/her age, date of birth or ask that he/she produce records with proof of age. You may not specify a preference for young, college student, recent college graduate or retired person.
Alcohol Use	You may ask the applicant about his/her drinking habits unless the particular question is likely to elicit information about alcoholism, which is a disability.	You should not request an alcohol screening test or ask how much an applicant drinks, or whether the applicant participated in an alcohol rehabilitation program.
Ancestry/ Citizenship/National Origin	You may ask if an applicant has the legal right to work in the United States and explain that verification of that right must be submitted after the decision to hire has been made. Inquiry is permitted of what languages the applicant read, speaks, or writes fluently, if relevant to the job or if required as a BFOQ. Care must be taken regarding an English language proficiency requirement, as the level of proficiency should not exceed the level needed for the job.	You may not ask about an applicant's maiden name, spouse or parents' nationality. These are irrelevant to the performance of the job. Documentation, such as a U.S. Passport, certificate of citizenship, certificate of naturalization, resident alien card, social security card or driver's license, may not be obtained to verify legal right to work in the U.S. until after an offer of employment.
Credit History	None. Unless clearly required as a business necessity, the questions are not permitted.	Questions regarding home ownership, charge accounts, etc. have nothing to do with the requirements of the job and should not be asked.
Criminal Records/ Arrests/Conviction	You may ask about convictions that bear a direct relationship to the job and have not been expunged or sealed by the courts.	You may not make the general inquiry, "Have you ever been arrested or convicted of a misdemeanor?" Without proof of business necessity, an employers' use of arrest records to disqualify an applicant is unlawful.
Dependents	After hire, you may ask questions about those dependent upon the employee for tax, insurance, or Social Security purposes only.	You may not ask if the applicant plans to have children or has children and what kind of child care they have arranged.
Disability/Health History	You may ask about the applicant's ability to perform specific or essential job functions with or without reasonable accommodations.	You may not ask disability or health-related questions or require a medical examination prior to an offer of employment.
Driver's License	If driving is necessary to the performance of the job, questions are permitted. Otherwise, it is recommended that you not inquire into an applicant's method or mode of transportation.	Regardless of the job, inquiring of the applicant if he/she had a valid driver's license is unlawful.
Drug Use	You may ask about current illegal use of drugs because an individual who currently uses illegal drugs is not protected under the Americans With Disabilities Act (ADA). Although drug screening tests are normally conducted after a conditional offer of employment, the ADA permits drug testing any time.	You may not ask if the applicant was ever treated for drug addiction, currently uses prescribed drugs, or ask any question which might elicit information about a disability.
Education/ Experience	You may ask what schools were attended and if the applicant graduated, as well as what kind of experience the applicant possesses.	You may not ask questions about dates of school attendance and graduation; it could be construed that you are seeking to obtain age related information.

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Marital Status	After hire, for legitimate business purposes (tax, insurance, social security), you may obtain this information. It is recommended that questions about marital status not be asked because they are not job related and have been used discriminatively in the past.	It is illegal to ask "What is your maiden name?" or any other question that applies to the person's sex.
Military Service	Questions relevant to experience or training while in the military or questions to determine eligibility for any Veterans' preferences as required by law are appropriate.	Questions regarding foreign military experience, honorable discharge or if the applicant is receiving a service-connected disability pension could be viewed as discriminatory and should not be asked.
Morals/Character/Religion	You may ask, "Are you trustworthy?" After hire, you may inquire about religious accommodations.	Questions regarding the applicant's religious beliefs and denomination, or any questions that would indicate religious customs or holidays observed are unlawful.
Name	For the sole purpose of verifying past work records, you may ask if the applicant has used another name.	Any question that reveals the applicant's lineage, national origin, marital status (e.g. maiden name, Mr., Mrs., Miss, or Ms.) is unlawful.
Organizations/Associations	You may ask, "Are you a member of any organization which advocates the overthrow of the U.S. Government by violent means?" or "Are you a member of any job-related clubs or associations?"	Asking how the applicant spends his/her spare time or if he/she belongs to any organization which indicates religion, race, or national origin of its members. Nor may you ask an applicant to list all organizations, clubs, and associations to which he/she belongs.
Photograph	A photograph may be requested after hire (for identity only). For example, the Immigration Reform and Control Act of 1986 requires employers to verify the applicant's legal status and right to work. A picture I. D. serves the purpose for identification, along with one other document that certifies legal right to work.	It is illegal to request a photograph before hire.
Polygraph/Lie Detector	None.	It is illegal to require that a test be taken as a condition of employment.
Physical Attributes/Race/Color/Weight/Height	None, unless the questions can be attributed as relevant to the job.	Questions about race, color of skin, eyes and hair or other inquiries about ethnicity or national origin are illegal. Also, pre-employment screening for weight and height is illegal unless the employer can show them as essential to the performance of the job.
References	You may ask the applicant for the names of persons willing to provide professional or character references, and the name of the person who referred the applicant to your business.	During a reference inquiry, you may not ask questions that would elicit information on the applicant's race, color national origin, age, marital status, disability or sexual orientation.
Sex	Sexual identity can be determined only as a BFOQ or to satisfy provisions of state and federal law.	Any question regarding sexual identity is unlawful unless it is a BFOQ.
Sexual Orientation	No questions may be asked.	Any question concerning heterosexuality, homosexuality, or bisexuality is illegal.