

There are practical reasons to avoid these areas of questioning. Even if the answer to an illegal question is not used as part of a hire/no hire decision the fact that it was asked, and that the applicant was not hired can be grounds for filing a complaint. Asking these questions is rarely worth the trouble if an applicant chooses to complain. When it comes to discrimination cases, an employer is presumed guilty until it can demonstrate innocence.

Pre-Employment Inquiries Under EEO Guidelines

EEO Guidelines provide specific examples of interviewing questions which are and are not acceptable under the law:

SUBJECT: NAME

Acceptable: Have you ever used another name?
Is any additional information relative to change of name, use of an assumed name or nickname necessary to enable a check on your work and education record? If yes, please explain.

Unacceptable: What is your maiden name?

SUBJECT: RESIDENCE

Acceptable: Address

Unacceptable: Do you rent or own your home?

SUBJECT: AGE

Acceptable: Statement that being hired is subject to verification that applicant meets legal age requirements.
If hired, can you show proof of age?
Are you over eighteen years of age?
If under eighteen, after employment, can you submit a work permit?

Unacceptable: Age
Birthdate
Dates of completion or attendance of elementary or high school
Questions which tend to identify applicants over age 40

SUBJECT: BIRTHPLACE, CITIZENSHIP

Acceptable: Can you, after employment, submit verification of right to work in the U.S.?

Unacceptable: Birthplace of applicant, applicant's parents, spouse or other relatives
Are you a U.S. citizen?

What is citizenship of parents, spouse or other relatives?
Requirement that applicant furnish naturalization papers or alien card prior to employment

SUBJECT: NATIONAL ORIGIN

Acceptable: Languages which an applicant reads, speaks or writes, if use of a language other than English is relevant to the job for which the applicant is applying.

Unacceptable: Questions as to lineage, ancestry, national origin, nationality, descent or parentage of applicant, applicant's parents or spouse
What is your mother tongue? What language do you commonly use?
"Kowalski...that's Polish, isn't it?"
"Have you had your name changed by court order?"
How did applicant acquire the ability to speak a foreign language?

SUBJECT: SEX, MARITAL STATUS, FAMILY

Acceptable: Name and address of parent or guardian if applicant is a minor
Statement of company policy regarding work assignment of employees who are related

Unacceptable: Questions which indicate applicant's sex
Questions which indicate marital status
"Is it Miss or Mrs.?"
"Are you married?"
"How many children do you have?"
"Who takes care of your children while you're working?"
"What does your husband think about you working outside the home?"
"Are you living with you husband/wife?"
Number and/or ages of children or dependents
Questions regarding pregnancy, child bearing or birth control
Name or address of relative, spouse or children of adult applicant
Do you live with your parents?

SUBJECT: RACE, COLOR

Acceptable: None

Unacceptable: Any questions regarding applicant's race, color, complexion, color of hair, eyes or skin

SUBJECT: PHYSICAL DESCRIPTION, PHOTOGRAPH

Acceptable: Statement that photograph may be required after employment

Unacceptable: Questions about an applicant's height and weight
Request that an applicant affix photograph to application
Request applicant, at his or her option, to submit a photograph
Request a photo after interview but before employment

SUBJECT: PHYSICAL CONDITION, HANDICAP

Acceptable: Statement that offer of employment may be made subject to applicant passing a job related physical examination
Are you able to perform the functions of the job applied for?
If no, what accommodations can be made?

Unacceptable: Questions regarding applicant's general medical condition, state of health or illnesses
Questions regarding receipt of Workers' Compensation
Do you have any handicap or physical disabilities?

SUBJECT: RELIGION

Acceptable: Statement by employer of regular days, hours or shifts to be worked

Unacceptable: Questions regarding religion or religious days observed
Does your religion prevent you from working weekends or holidays?

SUBJECT: ARREST, CRIMINAL RECORD

Acceptable: Have you ever been convicted of a felony?
(Such a question must be accompanied by a statement that a conviction will not necessarily disqualify an applicant from employment.)

Unacceptable: Have you ever been arrested?

SUBJECT: BONDING

Acceptable: Statement that bonding is a condition of hire.

Unacceptable: Question regarding refusal or cancellation of bonding

SUBJECT: MILITARY SERVICE

Acceptable: Questions regarding relevant skills acquired during applicant's U.S. military service

Unacceptable: General questions regarding military service such as date and type of discharge
Questions regarding service in a foreign military

SUBJECT: ECONOMIC STATUS

Acceptable: None

Unacceptable: Questions regarding applicant's current or past assets, liabilities or credit rating, including bankruptcy or garnishment

SUBJECT: ORGANIZATIONS, ACTIVITIES

Acceptable: Please list job related organizations, clubs, professional societies or other associations to which you belong -- you may omit those which indicate your race, religious creed, color, national origin, ancestry, sex or age.

Unacceptable: List all organizations, clubs, societies and lodges to which you belong.

SUBJECT: REFERENCES

Acceptable: By whom were you referred for a position here?
Names of persons willing to provide professional and/or character references for applicant

Unacceptable: Questions of applicant's former employers or acquaintances which elicit information specifying the applicant's race, color, religion, creed, national origin, ancestry, sex, age, physical handicap, medical condition or marital status

SUBJECT: NOTICE IN CASE OF EMERGENCY

Acceptable: Name and address of person to be notified in case of accident or emergency

Unacceptable: Name and address of relative to be notified in case of accident or emergency

Devising the Questions

Keep two rules in mind when framing the questions that will indicate whether or not an applicant meets the requirements you have established for the position.

Rule #1. Ask questions that concentrate on the applicant's past performance. An applicant's past will offer you tangible facts upon which you can make reliable assumptions. Avoid hypothetical questions, or questions that address the applicant's personal lifestyle or habits; these will only provide you with information that is either unreliable or irrelevant to the position itself.

Rule #2. Ask questions that relate directly to at least one of your listed requirements. If you maintain a one-to-one correspondence between questions and requirements, you will be able to gain the most information possible in the time allotted for the interview.