

GUIDELINES FOR APPLICANT QUESTIONS

In interviewing prospective employees, the golden rule is to stick to job related questions, ones that elicit their qualifications to safely and efficiently perform the job. Once you stray into personal characteristics and qualities, you may breach the boundaries of what is legally permissible and socially acceptable. Litigation involving applicants is often triggered by interview questions and comments - arguably well meaning, but offensive and possibly unlawful.

The following Guidelines are designed to help you avoid accusations of discrimination based on the subject matter of the question or the way it was asked. Remember that questions about or associated with an applicant's race, color, religion, sex, age, national origin, disability, sexual orientation, marital status, parental status, military status or veteran status are always suspect and should be avoided unless the applicant raises the issue or asked for specific affirmative action-program purposes. All of the areas of inquiry addressed by the Guideline, however, have been raised in the context of discrimination claims and should be taken seriously.

GUIDELINES FOR APPLICANT QUESTIONS: WHAT'S OK AND WHAT'S NOT

Area of Inquiry	Acceptable Areas of Inquiry	Unacceptable Areas of Inquiry	Legal Reference
Name	For access purposes, inquiry into whether the applicant's work records are under another name.	a. To ask if a woman is a Miss, Mrs. or Ms. b. To request a maiden name	Title VII Title IX
Age	a. Require proof of age by birth certificate or other document after hiring. b. Require proof of youth's age to comply with labor laws.	a. To ask age or age group. b. To request birth certificate, baptismal certificate, or like document before hiring. c. To express a preference for a certain age, or age related characteristics unless validated for job relatedness.	Age Discrimination in Employment Act Age Discrimination Act

Birthplace, National Origin, Citizenship	<p>a. To ask for a birth certificate or other proof of citizenship or work authorization after hiring.</p> <p>b. To ask whether a U.S. citizen, legal alien or authorized to work in the U.S. and able to provide specified proof upon request.</p>	<p>a. To inquire into national origin or birthplace of applicant or applicant's relatives.</p> <p>b. To ask date of citizenship.</p> <p>c. To ask how foreign language skills or accent were acquired, unless clearly job related</p>	Title VII
Race, Color	<p>a. To state the University is an equal opportunity/affirmative action employer.</p> <p>b. To request applicant's race for affirmative action program.</p> <p>c. To express language that encourages minorities to apply.</p>	To require information on an applicant's race or color before hiring, except for affirmative action purposes. To ask for information that closely correlates with an applicant's race, except for affirmative action purposes is also suspect.	Title VII Executive Order 11246
Sex	<p>a. To state the University is an equal opportunity/affirmative action employer.</p> <p>b. To express language that encourages women to apply.</p> <p>c. To identify sex as a bona fide occupational qualification if valid (such as for locker room attendance in women's or men's locker room).</p>	<p>a. To require information on an applicant's sex for affirmative action purposes before hiring. To ask for information that closely correlates with gender, before hiring, is suspect except for affirmative action purposes.</p> <p>b. To specify a preference for sex if not validated and approved for job relatedness.</p>	Title VII Executive Order 11246
Sexual Orientation	To state University policy prohibits discrimination on the basis of sexual orientation.	To ask an applicant to identify his/her sexual or affectational orientation, or a question closely correlated with it unless job related.	New York City Ordinance

Religion	To state regular hours and days of work required by the job, including special working conditions (such as uniforms, rotating shifts or assignments, holiday and vacation scheduling), and to inquire whether applicant can meet requirements.	<p>a. To ask an applicant's religion, religious customs, practices or holidays.</p> <p>b. To request recommendations from officials of religious institutions (not job related).</p>	Title VII Executive Order 11246
Marital Status, Parental Status	<p>a. Whether applicant can meet required work schedules and attendance rules.</p> <p>b. To ask a question of both females and males about how long they plan to stay on the job or anticipated absences.</p>	<p>a. To ask applicant's marital status before hiring.</p> <p>b. To ask about the number or age of children, child care arrangements, planned pregnancies of applicants.</p>	Title VII Title IX
Disability	<p>a. If applicant is able to perform the essential functions of the job.</p> <p>b. After a conditional offer of employment: asking applicant to submit to a physical exam required of all employees; or asking whether the person needs a reasonable accommodation to perform the job safely and efficiently.</p> <p>c. Inviting an applicant to voluntarily identify needed accommodations for job performance or affirmative action purposes.</p>	To ask applicants whether they have a disability, or about the nature or severity of their disability (except through voluntary self-identification for affirmative action purposes).	Rehabilitation Act Americans with Disabilities Act
Military Service	a. Inquiry into service in the U.S. Armed Forces, including rank attained, branch of service, and job related experience.	<p>a. To ask the type of discharge.</p> <p>b. To inquire into military service in a country other than the U.S.</p>	Vietnam Era Veterans Readjustment Assistance Act

Education	<p>a. To ask what academic, professional or vocational schools attended; degrees, certificates, licenses held.</p> <p>b. To ask about job related language skills, including English and foreign languages.</p>	<p>a. To ask the nationality, racial or religious affiliation of the schools attended.</p> <p>b. To ask how foreign language or accent was acquired, unless job related.</p> <p>c. To prefer applicants without a foreign accent.</p>	Title VII
References	<p>a. To ask by whom the applicant was referred.</p> <p>b. To ask names of professional and personal references.</p>	To request references specifically from clergy or any other person(s) that would reflect race, color, religion or national origin.	Title VII
Relatives	<p>a. Name and address of parents or guardians of minor applicants.</p> <p>b. Name, relationship and address of person to be notified in case of an emergency, after hiring.</p> <p>c. Names of relatives already working for the institution.</p>	Names of applicant's relatives, other than those already working for the institution.	Title IX
Address, Housing	<p>a. To request a current address.</p> <p>b. To request a current telephone number or how the applicant can otherwise be reached.</p>	<p>a. To ask if they own their own home or rent it; live in an apartment or a house.</p> <p>b. To ask specifically about a foreign address as indicating national origin.</p> <p>c. To ask for the name and relationship of the person with whom the applicant resides.</p>	Title VII

Organization Affiliations	<p>a. To ask for memberships in professional and social organizations, for nondiscriminatory purposes.</p> <p>b. To ask about offices held in organizations, if any.</p>	<p>To request a listing of all organizations, clubs, societies and lodges to which the applicant belongs currently or in the past, if not relevant to the job.</p>	Title VII
Photographs	<p>Photographs may be required after hiring for identification purposes</p>	<p>a. To ask that a picture of the applicant be provided during the application process.</p> <p>b. To take a picture of the applicant during the interview unless related to the job (such as video taping a lecturer to evaluate job performance).</p>	Title VII
Conviction, Arrest and Court Records	<p>Inquiry into actual convictions that reasonably relate to performing the particular job.</p>	<p>Inquiries into arrests, court or conviction records not reasonably related to the job or working conditions at issue.</p>	Title VII
Other Qualifications	<p>To inquire about any area that directly reflects on the applicant's ability to perform the job under relevant working conditions.</p>	<p>Any non job related inquiry that elicits information to be used for unlawful discriminatory purposes.</p>	<p>Federal, state and local civil rights laws.</p> <p>University Policy</p>
Workers Compensation	<p>To inquire whether the applicant has ever submitted a claim for or received workers' compensation for a work related injury.</p>	<p>To ask whether a person will be able to perform the essential functions of the job as described .</p>	<p>Rehabilitation Act</p> <p>Americans with Disabilities Act</p>