

Interviewing Guidelines

The Equal Employment Opportunity Commission issued its *Pre-Employment Inquiry Guidelines* in 1981 and its *Enforcement Guidance: Pre-Employment Disability-Related Questions and Medical Examinations* in 1995. These address the issue of interview questions which, if used in making a selection decision, have a discriminatory effect by screening out minority applicants, female candidates, and older applicants and individuals with a disability, etc., for the particular job in question.

1. Race – There are no job-related considerations that would justify asking an applicant a question based on race.
2. Religion - There are no job-related considerations that would justify asking about religious convictions, unless your organization is a religious institution, which may give preference to individuals of their own religion.
3. Gender – Generally, there are no appropriate questions based on the applicant's gender during the interview process. Specifically:
 - (a) Women are no longer protected under state wage/hour laws re: number of hours worked, lifting restrictions, etc.
 - (b) It is unlawful to deny a female applicant employment because she is pregnant, or planning to have a child at some future date.
 - (c) Questions on marital status, number of children, child care arrangements, etc. are not appropriate.
 - (d) Questions as to availability to work should be job-related: What hours can you work? What shift(s) can you work? Can you work on weekends and/or holidays?
4. Sexual Preference - Under certain state and municipal laws, there are no permissible questions regarding an applicant's sexual preferences.
5. Height and/or weight restrictions – These questions may support gender or national origin discrimination claims unless their relationship to specific job requirements can be demonstrated.
6. Age – Under the EEOC's Age Discrimination Interpretive Rules issued in 1981, as amended, a request for date of birth on the employment application is permissible, with an appropriate disclaimer shown. In practice, this is not asked on applications. Any recruiting effort that is age-biased such as "recent graduate", or any question during the interview process that deters employment because of age is unlawful. The Age Discrimination Act of 1967 bars discrimination against persons age 40 or over.

7. Arrest & Conviction Records – Questions relating to an applicant's arrest record are improper, while questions of an applicant's conviction record may be asked, if job related. The Equal Employment Opportunity Commission and many states prohibit use of arrest records for employment decisions because they are inherently biased against applicants in protected classes. The EEOC has issued a Revised Policy Statement covering the use of conviction records by employers in making employment decisions:

(a) The employer must establish a business necessity for use of an applicant's conviction record in its employment decision. In establishing business necessity, the employer must consider three factors to justify use of a conviction record:

(1) Nature and gravity of the offense for which convicted;

(2) Amount of time that has elapsed since the applicant's conviction and/or completion of sentence; and

(3) The nature of the job in question as it relates to the nature of the offense committed.

(b) The EEOC's Revised Policy Statement eliminated the existing requirement that employers consider the applicant's prior employment history along with rehabilitation efforts, if any. The Revised Policy Statement requires that the employer consider job-relatedness of the conviction, plus the lapse of time between the conviction and current job selection process.

8. National Origin – You may not ask an applicant where he/she was born, or where his/her parents were born. You may ask if the applicant is eligible to work in the United States.

9. Financial Status – An interviewer should not ask if the applicant owns or rents a home or car, or if wages have been previously garnished, unless financial considerations for the job in question exist. Any employer who relies on consumer credit reports in its employment process must comply with the Fair Credit Reporting Act of 1970 and the Consumer Credit Reporting Reform Act of 1996.

10. Military Record – You may not ask what type of discharge the applicant received from military service. You may ask whether or not the applicant served in the military, period of service, rank at time of discharge, and type of training and work experience received while in the service.

11. Disability – You may not ask whether or not the applicant has a particular disability. You may only ask whether or not the applicant can perform the duties of the job in question with or without a reasonable accommodation.

Although federal EEO laws do not specifically prohibit any pre-employment questions, the EEOC does look with "extreme disfavor" on questions about age, color, disability, national

origin, race, religion, gender or veteran status. Many state fair employment laws do expressly forbid certain types of questions. Following is a representative list of unacceptable and acceptable questions. It is NOT all-inclusive. At the end of the section, there is a bibliography of additional resources to which you may refer for additional information.

<u>TOPIC</u>	<u>UNACCEPTABLE</u>	<u>ACCEPTABLE</u>
Reliability,	-Number of children?	-What hours and days can you work?
Attendance	-Who is going to baby-sit? -What religion are you? -Do you have pre-school age children at home? -Do you have a car?	-Are there specific times that you cannot work? -Do you have responsibilities other than work that will interfere with specific job requirements such as traveling?
Citizenship/ National Origin	-What is your national origin? -Where are your parents from? -What is your maiden name?	-Are you legally eligible for Employment in the United States? - Same as above -Have you ever worked under a different name?
For Reference Checking	-What is your father's surname? -What are the names of your relatives?	-None -None
Arrest and Conviction	-Have you ever been arrested?	-Have you ever been convicted of a crime? If so, when, where and what was the disposition of the case?
Disabilities	-Do you have any job disabilities?	-Can you perform the duties of the job you are applying for?
Emergency	-What is the name and address of the relative to be notified in case of an emergency?	-What is the name and address of the person to be notified in case of an emergency? (Request only after the Individual has been employed.)
Credit Record	-Do you own your own home? -Have your wages ever been garnished? -Have you ever declared bankruptcy?	-None -Credit references may be used if in compliance with the Fair Credit Reporting Act of 1970 and the Consumer Credit Reporting Reform Act Of 1996. -None
Military Record	-What type of discharge did you receive?	-What type of education, training, Work experience did you receive while in the military?
Language	-What is your native language? Inquiry into use of how applicant acquired	-Inquiry into languages applicant speaks and writes fluently. (If the job

	ability to read, write or speak a foreign language. requires additional languages)	
Organizations	-List all clubs, societies and lodges to which you belong	-Inquiry into applicant's membership in organizations which the applicant considers relevant to his or her ability to perform job.
Race or Color	-Complexion or color of skin. Coloring.	-None
Worker's Compensation	-Have you ever filed for worker's compensation? -Have you had any prior work injuries?	-None -None
Religion or Creed	-Inquiry into applicant's religious denomination, religious affiliations, church, parish, pastor or religious holidays observed.	-None
Gender	-Do you wish to be addressed as Mr.?, Mrs.?, Miss?, or Ms.?	-None
Addresses	-What was your previous address? -How long did you reside there? -How long have you lived at your current address? -Do you own your own home?	-None -None -None -None
Education	-When did you graduate from high school or College?	-Do you have a high school diploma or equivalent? -Do you have a university or college degree?
Personal	-What color are your eyes, hair? -What is your weight?	-Only permissible if there is a bona fide occupational qualification.