

Pre-Employment Inquiries

Area of Inquiry	Legal	Could Be Illegal
Address	Current and/or previous address(es) and length of residence	Any inquiry into living arrangement. E.g. Do you own/rent your home? Relationship of persons with whom the applicant lives. Inquiries into foreign addresses which indicate national origin. E.g. How long have you lived in the U.S.?
Age	If hired, can you submit proof of age? (if age is a legal requirement of job) e.g. Are you at least 18 years of age or older?	Requesting proof of age prior to selection. Specific inquiries about age or date of birth e.g. What year were you born? Requiring one method exclusively to prove age, such as presentation of a birth certificate e.g. Can I see your drivers license to verify your age?
Ancestry/ National Origin	None	Any inquiry regarding ancestry or national origin of applicant's parents, spouse or associates or any membership in associations which may indicate ancestry or national origin. Inquiry into language used by applicant or how an applicant acquired a proficiency in a foreign language.
Arrests	None	Any inquiry relating to arrests.
Birthplace	None. However, employers can require applicants to submit valid proof of eligibility to work in the U.S.	Any inquiry into place of birth, national origin, or ancestry. E.g. Were you born in the U.S.?
Citizenship	Are you legally entitled to work in the U.S.? May inform applicant that they will be required to complete an I-9 verifying either citizenship or legal right to work in the U.S.	Of what country are you a citizen? Are you or your parents naturalized or native born? Employer may require U.S. citizenship for a job only if required by federal, state or local law or by government contract e.g. security clearance.
Convictions/ Court Records	Actual convictions which are substantially related to applicant's ability to perform a specific job e.g. Have you ever been convicted of any law violation (except minor traffic offenses)? Employers should not automatically disqualify an applicant on the basis of a conviction. It depends on the crime, it's seriousness and record since conviction.	Inquiries into convictions not substantially related to applicant's ability to perform job duties.
Credit Rating	None.	Applicant's economic status or other source of income. Owning/renting home. Mode of transportation if not job related.

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Dependents	None.	Any/number/names/ages of children? Child care arrangements. Marital status.
Education	Schools attended. E.g. What is highest grade completed? Specific vocational/professional education. Language, office or other skills if substantially related to ability to perform job. Verification of diploma, degree or course training is permissible if a regular part of background checking process. E.g. Can you submit a copy of your college transcript?	Nationality or religious affiliation of schools. How language skills acquired. Requiring education beyond minimum required to adequately perform job could have disparate impact. Asking dates of graduation could evidence age discrimination unless used to verify attendance.
Emergency Contact	Name of person to contact in emergency.	Requiring the name of a relative to be contacted.
Experience	Work experience. Countries visited.	
Disabilities	Can you perform the essential functions of this position? May ask for demonstration or how applicant would perform essential job functions, if required of all applicants.	Do you have any disabilities? List all serious illnesses for past five years. General inquiries concerning disabilities or physical conditions which do not relate to applicant's fitness to perform job. Inquiries into receipt of worker's compensation before job offer. Physical exam, if required only of some applicants, whether before or after selection.
Language Skills	If required to perform job.	Requiring a level of language proficiency or the use of a particular language at all times if not substantially related to job duties. "Mother tongue" or language commonly used by applicant. How applicant acquired proficiency in a foreign language.

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Marital Status	<p>Mrs., Miss, Ms. When made in good faith and not for the purpose of discrimination.</p> <p>Whether applicant can meet specific work schedules. E.g. Can you work overtime with little or no advance notice?</p> <p>Any other commitments which might hinder attendance.</p> <p>Anticipated duration on the job or anticipated absences if asked of both males and females.</p>	<p>Are you single, married, divorced, seperated, widowed?</p> <p>Questions concerning pregnancy, birth control, children or future child bearing plans.</p> <p>Spouse's name, age, place of employment or income.</p> <p>Married to or engaged to marry a current employee of the employer (for employers of 26 or more employees in Colorado).</p>
Military Record	<p>Military experience and education in the armed forces of the United States which relates to specific job duties.</p>	<p>Type or date of discharge. E.g. Did you receive an dishonorable discharge?</p> <p>Applicant's general military service which is not substantially related to ability to perform specific job duties.</p>
Miscellaneous	<p>Notice that misstatements, omissions, or any false information on application may result in discharge.</p>	<p>Any non-job-related inquiry which is unnecessary to determine an applicants eligibility for employment.</p>
Name	<p>For purposes of verifying your background and employment information, have you ever worked under another name?</p> <p>Is additional information concerning change of name necessary to check work or education records? If yes, explain.</p>	<p>Inquiries about former names which have been changed by court order or otherwise if not required to check necessary records. E.g. What is your maiden name?</p> <p>Is your last name Polish?</p>
Organizations	<p>Membership and offices held in organizations which relate to an applicant's ability to perform a particular job.</p>	<p>List all organizations, clubs or societies to which you belong.</p> <p>Inquires about membership in organizations which would indicate race, color, national origin, ancestry, sex, disability, and creed or religion.</p> <p>Inquires into a person's union beliefs or affiliation.</p>
Photograph	<p>May be required after hire.</p>	<p>Suggested or requested prior to hiring unless based on a bona fide occupational qualification (BFOQ).</p>
Physical Characteristics (eg height or weight)	<p>Only those necessary to perform substantial job duties. Can condition job on post-offer physical examination provided all entering employees in the same job category undergo the exam and the exam is job-related. Some courts have rejected claims of a BFOQ and required an employer to provide reasonable accommodation.</p>	<p>Any inquires unrelated to the abilities necessary to perform essentail job duties.</p>

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Race or Color	None. Can request voluntary information for statistical purposes, but must be kept separate from application process.	Direct or indirect inquires which would indicate an applicant's race or color. Color of skin, hair, eyes. Race or color is never a BFOQ.
References	Who referred you here? Names of professional or character references.	Requiring a religious reference.
Relatives	Names and addresses of parents/ guardians of minor. Names of relatives already employed with the organization if this affects company policy.	Name or address of a relative of an adult applicant.
Religion	None. Reasonable accommodation for an employee's religious beliefs is required. Can inquire into availability on weekends, holidays or other non- traditional work schedules if a regular requirement of the job	Any inquiry to indicate or identify religious affiliation, demonination, customs, practices, holidays observed or name of minister. E.g. Any religious reasons why you could not work on a Saturday or Sunday?
Sex	Mr., Mrs., Ms., Male or female when made in good faith and not for the purpose of discrimination. A voluntary request only and stated as such. Job advertisement or classification on the basis of sex and an inquiry concerning the sex of the applicant are permissible only if a bona fide occupational qualification exists.	Sex of applicant or inquires which would indicate sex if not a voluntary request and stated as such to the applicant (BFOQ is interpreted very narrowly by the courts. It is extremely difficult for the sex of the applicant to be considered a lawful pre-employment inquiry. Sex is not a BFOQ because a job requires physical labor, unusual work schedules or travel because of the preferences of customers, employer, employees or others because of stereotypes concerning attitudes or abilities on the basis of sex).
Work Schedules	Whether an applicant can meet a specific work schedule.	Reasonable accommodation is required for an applicant on the basis of religion or creed. Inquiry made prior to selection should be justified by business necessity.