

College and University Personnel Association (CUPA) Pre-employment Inquiry Guide

| Subject | Permissible Inquiries | Inquiries That Must Be Avoided |
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| 1. Name | “Have you worked for this company under a different 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 educational record? If yes, explain.” | Inquiries about the name that would indicate applicant’s lineage, ancestry, national origin, or descent. Inquiry into previous name of applicant where it has been changed by court order or otherwise. “Indicate: Miss, Mrs., Ms.” |
| 2. Marital and Family Status | Whether applicant can meet specified work schedules or has activities, commitments, or responsibilities that may hinder the meeting of work attendance requirements. Inquiries, made to males and females alike, as to a duration of stay on job or anticipated absences. | Any inquiry indicating whether an applicant is married, single, divorced, engaged, etc. Number and age of children. Information on child-care arrangements. Any question concerning pregnancy. Any similar question that directly or indirectly results in limitation of job opportunity in any way. |
| 3. Age | If a minor, require proof of age in the form of a work permit or a certificate of age. Require proof of age by birth certificate after being hired. Inquiry as to whether the applicant meets the minimum age requirements as set by law and indication that, on hiring, proof of age must be submitted in the form of a birth certificate or other forms of proof of age. If age is a legal requirement: “If hired, can you furnish proof of age?” or statement that hire is subject to verification of age. Inquiry as to whether an applicant is younger than the employer’s regular retirement age. | Requirement that applicant state age or date of birth. Requirement that applicant produce proof of age in the form of a birth certificate or baptismal record. (The Age Discrimination in Employment Act of 1967 forbids discrimination against persons between the ages of 40 and 70.) |

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4. Disabilities

For employers subject to the provisions of the Rehabilitation Act of 1973, applicants may be invited to indicate how and to what extent they are disabled. The employer must indicate to applicants that: 1) compliance with the invitation is voluntary; 2) the information is being sought only to remedy discrimination or provide opportunities for the disabled; 3) the information will be kept confidential; and 4) refusing to provide the information will not result in adverse treatment. All applicants can be asked whether they are able to perform all necessary job assignments and perform them in a safe manner.

The Rehabilitation Act of 1973 forbids employers from asking job applicants general questions about whether they are disabled or asking them about the nature and severity of their disabilities. An employer must be prepared to prove that any physical and mental requirements for a job are due to “business necessity” and the safe performance of the job. Except in cases where undue hardship can be proven, employers must make “reasonable accommodations” for the physical and mental limitations of an employee or applicant. “Reasonable accommodation” includes alteration of duties, alteration of physical setting, and provision of aids.

5. Sex

Inquiry as to sex or restriction of employment to one sex is permissible only where a bona fide occupational qualification exists. (This BFOQ exception is interpreted very narrowly by the courts and EEOC.) The burden of proof rests on the employer to prove that the BFOQ does exist and that all members of the affected class are incapable of performing the job.

Sex of an applicant. Any other inquiry that would indicate sex. Sex is not a BFOQ because a job involves physical labor (such as heavy lifting) beyond the capacity of some women, nor can employment be restricted just because the job is traditionally labeled “men’s work” or “women’s work.” Sex cannot be used as a factor for determining whether an applicant will be satisfied in a particular job. Avoid questions concerning applicant’s height or weight unless you can prove they are necessary requirements for the job to be performed.

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| 6. Race or Color | General distinguishing physical characteristics, such as scars. | Applicant's race. Color of applicant's skin, eyes, hair, or other questions directly or indirectly indicating race or color. |
| 7. Address or Duration of Residence | Applicant's address. Inquiry into place and length of current and previous address, e.g., "How long a resident of this state or city?" | Specific inquiry into foreign addresses that would indicate national origin. Names or relationship of persons with whom applicant resides. Whether applicant owns or rents home. |
| 8. Birthplace | "After employment (if employed by this institution), can you submit a birth certificate or other proof of U.S. citizenship?" | Birthplace of applicant. Birthplace of applicant's parents, spouse, or other relatives. Requirement that applicant submit a birth certificate or naturalization or baptismal record before employment. Any other inquiry into national origin. |
| 9. Religion | An applicant may be advised concerning normal hours and days of work required by the job to avoid possible conflict with religious or other personal convictions. | Applicant's religious denomination or affiliation, church, parish, pastor, or religious holidays observed. Applicants may not be told that any particular religious groups are required to work on religious holidays. Any inquiry to indicate or identify religious denomination or customs. |
| 10. Military Record | Type of education and experience in service as it relates to a particular job. | Type of discharge. |
| 11. Photograph | Indicate that this may be required after hiring for identification. | Requirement that applicant affix a photograph to his or her application. Request that applicant, at his or her option, submit photograph. Requirement of photograph after interview but before hiring. |

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| 12. Citizenship | “Are you a citizen of the United States?” “If you are not a U.S. citizen, have you the legal right to remain permanently in the U.S.?” “Do you intend to remain permanently in the U.S.?” “If not a citizen, are you prevented from lawfully becoming employed because of visa or immigration status?” Statement that, if hired, applicant may be required to submit proof of citizenship. | “Of what country are you a citizen?” Whether applicant or his or her parents or spouse are naturalized or native-born U.S. citizens. Date when applicant or parents or spouse acquired U.S. citizenship. Requirement that applicant produce his or her naturalization papers. Whether applicant’s parents or spouse are citizens of the U.S. |
| 13. Ancestry or National Origin | Languages applicant reads or writes fluently. (If another language is necessary to perform the job.) | Inquiries into applicant’s lineage, ancestry, national origin, descent, birthplace, or mother tongue. National origin of applicant’s parents or spouse. |
| 14. Education | Applicant’s academic, vocational, or professional education: school attended. Inquiry into language skills such as reading, speaking, and writing foreign languages. | Any inquiry asking specifically the nationality, racial affiliations, or religious affiliation of a school. Inquiry as to how foreign language ability was acquired. |
| 15. Experience | Applicant’s work experience, including names and addresses of previous employers, dates of employment, reasons for leaving, salary history. Other countries visited. | |
| 16. Conviction, Arrest, and Court Record | Inquiry into actual convictions that relate reasonably to fitness to perform a particular job. (A conviction is a court ruling where the party is found guilty as charged. An arrest is merely the apprehending or detaining of the person to answer the alleged crime.) | Any inquiry relating to arrests. Ask or check into a person’s arrest, court, or conviction record if not substantially related to functions and responsibilities of the particular job in question. |

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| 17. Relatives | Names of applicant’s already employed by this company. Name and addresses of parents or guardian of minor applicant. | Name or address of any relative of adult applicant, other than those employed by this company. |
| 18. Notice in Case of Emergency | Name and address of persons to be notified in case of accident or emergency. | Name and address of relatives to notified in case of accident or emergency. |
| 19. Organizations | Inquiry into the organizations of which an applicant is a member providing the name or character of the organization does not reveal the race, religion, color, or ancestry of the membership. “List all professional organizations to which you belong. What offices held?” | “List all organizations, clubs, societies, and lodges to which you belong.” The names of organizations to which the applicant belongs if such information would indicate through character or name the race, religion, color, or ancestry of the membership. |
| 20. References | By whom were you referred for a position here? Names of persons willing to provide professional and/or character references for applicant. | Require the submission of a religious reference. Request reference from applicant’s pastor. |
| 21. Miscellaneous | Notice to applicants that any misstatements or omissions of material facts in the application may be cause for dismissal. | |

Any inquiry should be avoided that, although not specifically listed among the above, is designed to elicit information as to race, color, ancestry, age, sex, religion, disability, or arrest and court record unless based upon a bona fide occupational qualification.

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