

Legal and Illegal Pre-employment Inquiry Guide

SUBJECT	LEGAL PREEMPLOYMENT INQUIRIES	ILLEGAL PREEMPLOYMENT INQUIRIES
Age	Inquiries that assess whether applicant meets minimum age requirements	Date of Birth Date of high school graduation Age
Arrests (see also "Convictions")	None.	All inquiries relating to arrests.
Convictions (see also "Arrests")	Inquiries concerning felony convictions which relate to fitness to perform the specific job. Inquiries concerning misdemeanor convictions within the last 10 years which relate to fitness to perform the specific job. The 10 year limit is calculated from either the date of conviction or release from prison, whichever is later.	Inquiries which would divulge convictions which do not relate reasonably to fitness to perform the particular job.
Disabilities, Individuals with	Whether applicant can perform essential job- related functions Whether applicant needs reasonable accommodation	If applicant has a disability Nature or severity of disability Whether applicant has ever filed workers' compensation claim Recent or past surgeries and

		<p>dates</p> <p>Past medical problems</p>
Family	<p>Whether applicant can meet specified work schedules or has activities, commitments, or responsibilities that may prevent him or her from meeting work attendance requirements.</p>	<p>Specific inquiries concerning spouse, spouse's employment or salary, children, child care arrangements, or dependents.</p>
Height and Weight	<p>Inquiries as to ability to perform actual job requirements. Being of a certain height or weight will not be considered to be a job requirement unless the employer can show that no employee with the ineligible height or weight could do the work (very rare).</p>	<p>Any inquiry which is not based on actual job requirements.</p>
Marital Status	<p>None.</p>	<p>Gender of applicant, number of children, marital status, spouse's occupation, child care arrangements, health care coverage through spouse, sexual orientation, pregnancy /intent to have children</p>
Name	<p>Whether applicant has worked for the employer under a</p>	<p>Inquiry into original name where it has been changed by court order or marriage.</p>

	different name and, if so, what name. Name under which applicant is known to references if different from present name.	Inquiries about a name which would divulge marital status, lineage, ancestry, national origin, or descent.
National Origin	Whether applicant has a legal right to be employed in the US. Inquiries into applicant's ability to read, write, and speak foreign languages, when such inquiries are based on job requirements.	Inquiries into applicant's lineage, ancestry, national origin, descent, birthplace, or mother tongue. National origin of applicant's parents or spouse
Organizations	Inquiry into organization memberships, excluding any organization the name or character of which indicates the race, color, creed, sex, marital status, religion, or national origin or ancestry of its members.	Requirement that applicant list all organizations, clubs, societies, and lodges to which he or she belongs.
Photographs	May be requested after hiring for identification purposes.	Request that applicant submit a photograph, mandatorily or optionally, at any time before hiring.
Pregnancy	Inquiries as to duration of stay on job or anticipated absences which are made to males and females alike.	All questions as to pregnancy, and medical history concerning pregnancy and related matters.

Race or color	None.	Any inquiry concerning race or color of skin, hair, eyes, etc.
Relatives	Names of applicant's relatives already employed by the employer.	Names and addresses of any relative other than those listed as proper.
Religion or creed	None.	Inquiries concerning applicant's religious denomination, religious affiliations, church, parish, pastor, or religious holidays observed.
Residence	Inquires about address to the extent needed to facilitate contacting the applicant.	Names or relationship of persons with whom applicant resides. Whether applicant owns or rents own home.
Sex	None.	Any inquiry.
Sexual Orientation	None	Any Inquiry.

Table of fair and unfair questions for use in pre-employment inquiries