

# INTERVIEWS - WHAT IS INAPPROPRIATE TO ASK

Federal and state laws require that questions on the job application, during the interview, and during the testing process be job-related. Do not ask about a matter unless it is relevant to job qualifications. For example, do not ask about race, color, sex (including pregnancy, sexual orientation, or gender identity), religion, military status (current, former, or prospective), marital status, disability and genetic information (including family medical history), country of origin, or age because the law prohibits considering these factors in making hiring decisions. There are also other matters that are inappropriate to talk about during the hiring process, even though they are not illegal, as noted in further detail below.

## 1. Subject: Relatives/Marital Status

**Inappropriate:** What is your marital status? What is the name of your relative/spouse/children? With whom do you reside? Do you live with your parents? How old are your children? Do you plan to have a family? How many kids do you have? What are your child care arrangements?

**Appropriate:** What are the names of relatives already employed by the company or a competitor? Are you willing to relocate if necessary? Are you willing to travel as needed by the job? (Must be asked of all applicants.) Are you willing and able to work overtime as necessary? (Must be asked of all applicants.)

## 2. Subject: Residence

**Inappropriate:** With whom do you reside? Do you rent or own?

**Appropriate:** Inquiries about address to the extent needed to facilitate contacting the applicant are O.K. Will you have problems getting to work by 9 a.m.?

## 3. Subject: Pregnancy

**Inappropriate:** Questions relating to pregnancy and medical history concerning pregnancy are inappropriate. Do you plan on having more children?

**Appropriate:** Inquiries to duration of stay on a job or anticipated absences which are made to males and females alike are appropriate. Do you foresee any long-term absences in the future?

## 4. Subject: Physical Health

**Inappropriate:** Overly general questions which would tend to divulge handicaps or health conditions that do not relate reasonably to fitness to perform the job are inappropriate. Do you have any handicaps or disabilities? What caused your handicap? What is the prognosis of your handicap? Have you ever had any serious illness? Please complete the following medical history. Have you had any recent or past illnesses or operations? How much time did you take off in your prior job (or school)?

What was the date of your last physical exam? How's your family's health? Have you ever been treated for a mental condition? Are you taking prescribed-drugs? Have you ever been treated for drug or

alcohol addiction? Have you ever filed a worker's compensation claim?

**Appropriate:** Can you lift 40 lbs (if the position requires it)? Have you ever been disciplined for unsatisfactory attendance or absenteeism? How many unexcused absences did you have during your last three years in your previous job (or school)? The questions have to relate to the job. Are you able to perform the essential functions of this job with or without reasonable accommodations?

## 5. Subject: Family

**Inappropriate:** Questions concerning spouse, or spouse's employment, salary, child care, arrangements, or dependents are inappropriate. How will your husband feel about the amount of time you will be traveling if you get this job? What kind of child care arrangements have you made?

**Appropriate:** You may ask whether an applicant can meet specified work schedules or has activities or commitments that may prevent him or her from meeting attendance requirements. Is there any reason why you can't be on the job at 7:30 am? This job requires that you work overtime on occasion. Would you be able and willing to work overtime as necessary?

## 6. Subject: Name

**Inappropriate:** Any inquiries about an individual's name which would divulge marital status, lineage, ancestry, national origin or descent are inappropriate. If your name has been legally changed, what was your former name?

**Appropriate:** Whether an applicant has worked for the company or a competitor under any other name and, if so, what name was used, is appropriate. Name under which applicant is known to references if different from present name. By what name do your references know you? Have you ever been convicted of a crime under another name?

## 7. Subject: Sex

**Inappropriate:** Any inquiry related to sex is inappropriate. Do you wish to be addressed as Mr., Mrs., Miss, or Ms.? Do you have the capacity to reproduce? What are your plans to have children in the future?

**Appropriate:** None

## 8. Subject: Photographs

**Inappropriate:** Requests that an applicant submit a photo at any time before hiring is inappropriate.

**Appropriate:** Photos may be requested after hiring for identification purposes.

## 9. Subject: Age

**Inappropriate:** Any question that tends to identify applicants age 40 or older are inappropriate. How old are you? When did you graduate from college? What is your birthday? Requests for birth certificate or record.

**Appropriate:** Are you 18 years of age? If hired, can you furnish proof of age?

**10. Subject: Education**

**Inappropriate:** Any question asking specifically the nationality, racial or religious affiliation of a school is inappropriate.

**Appropriate:** All questions related to academic, vocational or professional education of an applicant, including the names of the schools attended, degrees/diplomas received, and whether the applicant graduated are appropriate. What is the highest grade you have completed?

**11. Subject: Citizenship**

**Inappropriate:** Asking whether an applicant is a citizen or requiring a birth certificate, naturalization or baptismal certificate are inappropriate. Any inquiry into citizenship that would tend to divulge an applicant's lineage, descent, etc. are inappropriate. Are you a citizen of the U.S.? Are your parents or spouse citizens of the U.S.? On what dates did you, your parents or your spouse acquire U.S. Citizenship? Are you, your parents or your spouse naturalized or native-born U.S. citizens? What is your native tongue?

**Appropriate:** It is appropriate to ask an applicant to provide proof of citizenship (passport), visa, and alien registration number after hiring. Are you able to provide proof of employment eligibility upon hire? Are you authorized to work in the United States? Will you now or in the future require sponsorship for employment visa status (e.g., H-1B visa status)? ([see additional, appropriate follow-up questions in faculty hiring guidelines, 4e](#)) What languages do you read, speak or write fluently? (Ability must be relevant to performance of the job)

**12. Subject: National Origin/Ancestry**

**Inappropriate:** What is your nationality? How did you acquire the ability to speak, read or write a foreign language? How did you acquire familiarity with a foreign country? What language is spoken in your home? What is your mother tongue?

**Appropriate:** What languages do you speak, read or write fluently? This is only appropriate when the inquiry is based on a job requirement.

**13. Subject: Race or Color**

**Inappropriate:** Any question that directly or indirectly relates to a race or color is inappropriate. What is your race? What is your complexion?

**Appropriate:** None

**14. Subject: Religion**

**Inappropriate:** Any question that directly or indirectly relates to a religion is inappropriate. What religious holidays do you observe? What is your religious affiliation?

**Appropriate:** Can you work on Saturdays? (Only if relevant to the job, and even if relevant to the job, be aware of the obligation to engage in the interactive process to pursue potential reasonable accommodations if the inability to work on a particular day is related to a sincerely held religious belief.)

**15. Subject: Organizations**

**Inappropriate:** To what organizations, clubs, societies and lodges do you belong?

**Appropriate:** To what professional organizations do you belong which you consider relevant to your ability to perform this work? (Exclude those names that indicate the race, religious creed, color, national origin or ancestry of its members. These inquiries must only relate to the applicant's professional qualifications.)

**16. Subject: Military**

**Inappropriate:** An employer cannot discriminate on the basis of an applicant's military status (current, former, or prospective). So, do not ask: You're not still in the National Guard (Air Force, Reserves, etc.), are you? Are you planning to enlist? It also is inappropriate to ask the type or condition of military discharge or an applicant's experience in other than U.S. armed forces. A request for discharge papers is inappropriate. Were you honorably discharged? In what branch of the Armed Forces did you serve?

**Appropriate:** Inquiries concerning education, training or work experience in the armed forces of the United States are appropriate. What type of training or education did you receive in the military? How, if at all, did your experience serving as an officer in the Navy (Air Force, Reserves, etc.) influence your communication (or management or leadership) style?

**17. Subject: Height & Weight**

**Inappropriate:** Any inquiries not based on actual job requirements are inappropriate. How tall are you? How much do you weigh? What color are your eyes/hair?

**Appropriate:** Inquiries about the ability to perform a certain job are appropriate. Being of a certain weight or height will not be considered a job requirement unless the employer can show that no employee with the ineligible height and weight could do the work. Are you able to lift a 50-pound weight which is an essential function required by the job?

**18. Subject: Arrests & Convictions**

**Inappropriate:** All inquiries relating to arrests are inappropriate.

Have you ever been arrested? (Arrests are not the same as convictions. An innocent person can be arrested.) Broad inquiries into guilty pleas or convictions are inappropriate because Indiana law prohibits an employer from asking about criminal records that have been sealed or restricted.

**Appropriate:** Appropriate inquiries about convictions are: Have you ever plead guilty to or been convicted of any crime that has not been annulled, expunged, sealed, pardoned, erased, restricted, eradicated, or impounded or is otherwise protected from disclosure by law? If so, when, where and what was the disposition of the case? Have you ever plead guilty or been convicted under criminal law within the past five years (excluding minor traffic violations and convictions that have been sealed or restricted)? It is permissible to inquire about convictions for acts of dishonesty or breach of trust because that information may relate to fitness to perform the job.

Be aware, though, that the EEOC takes the position that using criminal history as a basis for hiring decisions may disproportionately impact minorities. So, before you decide not to hire an applicant based on criminal history, consider whether the applicant's criminal record really is inconsistent with the position

sought, evaluating (1) the number and circumstances of each conviction, (2) the length of time between the conviction and the employment decision, (3) the individual's employment history, and (4) the individual's efforts at rehabilitation.

#### 19. Past Drug Results and Smoking and Alcohol Use

**Inappropriate:** Because it may qualify as a disability, an employer may not discriminate against a person based on a history of drug or alcohol addiction. Have you ever received treatment for drug or alcohol addiction? How much alcohol do you consume on average each week? Additionally, because Indiana prohibits discrimination against individuals who use tobacco outside of work, do not ask questions about smoking or other tobacco use. Are you a smoker?

**Appropriate:** Have you ever been disciplined or discharged for a violation of alcohol or drug policy? Have you ever reported to work under the influence of alcohol or a controlled substance for which you did not have a valid prescription? Are you able to observe our policy prohibiting smoking on campus and in campus vehicles?

#### 20. Statements of Guaranteed or Permanent Employment

**Inappropriate:** If the discussion turns to the degree of job security the position provides, avoid statements that could be construed as a guarantee of a specified term of employment or a guarantee that employment will be terminated only for "just cause." We're looking for at least a 5-year commitment from the person hired. We're looking for someone for the long-term.

**Appropriate:** Our goal is to find and retain good people, and I believe that our low employee turnover shows that we have been successful in doing that. However, of course, we cannot guarantee continued employment.

If you have additional questions about interviewing practices, please contact the Director of Human Resources, or the Office of the Dean of the College.

(Reviewed by counsel, August 2023)