

WHAT CAN WE ASK IN AN INTERVIEW?

A number of campus people have been asking for a summary of the current state of the law about employment inquires. With the help of some experienced lawyers and campus human resource staff, we have assembled the following guidance on questions that can lead to claims of discrimination and some which are appropriate to ask. This includes information from the ADA. The pending effective date of the Americans with Disabilities Act makes this an appropriate time to review with staff and faculty the legal limitations to their questioning of candidates before selection for a position.

A. "Where were you born?"

This information can be requested after hiring. However, you may ask:

- Are you a U.S. citizen?
- Are you prevented from working in this country because of visa restrictions?
- Are you a member of any professional, trade or service organizations?

B. "Are you fluent in English?"

In order to be acceptable, English fluency must be job related and equally applied to all employees and applicants. You may ask "In what language are you fluent?" if language skills relate to the job. You may not require employees to speak only English, although you can require employees to speak English at certain times if job related.

C. "What church do you attend?"

It is not permissible to ask about church affiliation or lack thereof. Inquiries about availability to work during certain times can be interpreted as unlawful religious discrimination.

D. "Can you work on Sunday mornings?"

You may ask "What hours are you available to work?" You may state the normal working hours and make inquiries about the applicant's ability to work specific hours after making a job offer but before the applicant is hired.

E. "Have you ever been arrested?"

You may ask if the person has been convicted, as long as you also state that "a conviction record will not necessarily be a bar to employment, and facts such as rehabilitation will be considered."

F. "What is your wife's maiden name?"

You may not ask questions about a spouse, but you may ask a female applicant for her maiden name to help verify job or education history. If done, the interviewer should indicate for what purpose it is asked.

G. "To what social clubs, societies and/or lodges do you belong?"

It is not generally wise to ask about social clubs. However, if such information is requested, you must include a statement that the applicant may exclude those of a racial or religious nature.

H. "Are you pregnant? How many children do you have? Are you planning to have children?"

You may never ask questions regarding number of children or dependents, birth control measures or family plans.

I. "Do you have childcare while at work?"

You may ask all applicants what they do with their children while at work, but take care to ensure that such questions are not asked only of women applicants. You may ask:

- How much time have you taken off from work in the past year?
- Are there reasons why you could not work any shift (if applicable)?
- Are there any difficulties in your traveling away from home overnight (if applicable)?

J. "Do you own a car?"

Questions relating to automobile or home ownership may be unlawful because they tend to have a discriminatory impact on minorities or disabled persons. You may ask all applicants if they have reliable transportation for traveling to and from work.

K. "Are you married?/Do you have plans to marry soon?/Are you the head of the household?"

You may never ask questions about marital status, marriage plans, name of spouse, other sources of income, prior married name, or spouse's views on work, travel or relocating. After a person is hired, you may ask questions about dependents and marital status for purposes of employee benefits or emergency notification.

L. "How old are you?"

You may ask whether the person is above the minimum age for working in the state, or,

"If hired, can you furnish proof of age?"

M. The following questions are not appropriate with the passage of the ADA.

- Do you have a disability?
- Do you have a physical or mental impairment?
- What is the extent of your disability?
- Have you ever been treated for any of the following:

AIDS	Heart Disease	Epilepsy
Cancer	High Blood Pressure	Any other diseases
Diabetes	Multiple Sclerosis	
- Do you wear corrective lenses?
- Do you take any prescription drugs?
- Have you been hospitalized in the past five years?
- Are you currently under the care of a physician or other medical practitioner?
- Have you ever been treated by a psychiatrist, psychologist or other mental health practitioner?
- Have you ever filed a worker's compensation claim?
- Have you ever sustained a work-related injury?
- Have you ever been treated for drug addiction or alcoholism?
- Any other question that asks about the individual's present or past physical or mental condition.

You may ask questions about the applicant's ability to perform certain job functions, with or without accommodation.