

## AVOID THESE QUESTIONS

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While there is no definitive list of questions that cannot be asked, to avoid legal liability, you cannot ask questions that suggest a company may be taking illegal factors into consideration when hiring. The following non-exhaustive list of questions should not be asked:

- Are you married? What is your maiden name? Do you wish to be addressed as Mrs., Ms., or Miss? However, for the purposes of reference checking, the applicant may be asked if he/she has ever worked under a different name.
- Do you have children?
- Are you pregnant?
- Are you dating anyone right now? Personal question like this may give rise to claims of invasion of privacy or sexual harassment.
- How old are you? This includes inquiries about dates of graduation from high school and college. However, you may ask if applicants have diplomas or degrees and if they are 18 years or older.
- What is your nationality or race?
- Are you a citizen?
- Have your wages ever been garnished or have you ever declared bankruptcy? Credit references may be used if in compliance with the Fair Credit Reporting Act of 1970 and the Consumer Credit Reporting Reform Act of 1996.
- Do you own your own home? This could be seen as discriminatory against minorities who are less likely to own their own home. Even questions like, “How long have you lived at this address?” have been cited as discriminatory.
- What type of discharge did you receive from the military? An applicant may be asked what type of education, training, and work experience he/she received while in the military.
- Do you have a disability? A potential employer can ask whether the applicant can perform the essential functions of the job and meet attendance requirements with or without reasonable accommodation. Do not ask if they need some form of reasonable accommodation until after hiring.
- Have you ever undergone a psychiatric evaluation?
- How often do you drink alcoholic beverages or take illegal drugs? Frequency of use might reveal alcohol or drug addictions, which are considered disabilities.
- What is your weight? What color are your eyes, hair? Personal questions like these are only permissible if there is a bona fide occupational qualification.
- Have you ever filed a workers’ compensation claim?

- Have you ever filed a lawsuit/charge regarding Title VII matters?
- What is your religion?
- Have you ever been a member of a union?
- What clubs, societies, and lodges do you belong to? Ask only about organizations that the applicant considers relevant to his or her ability to perform the job.
- What are your political affiliations?
- Are you homosexual? Federal law does not expressly prohibit discrimination on the basis of sexual preference. However, many state laws do.

This list is not exhaustive, but any of these questions or related questions used to get at the same information may open a company up to charges of discrimination. The best way to stay out of trouble with employment questions is to make sure each inquiry is solely job related. If it is not, it should not be asked.