

Questions for a California Job Interview

Protect Your Business from Lawsuits

Introduction

Filling an open job position typically involves many important steps, including the personal job interview. Asking the right questions of potential applicants can help you select the best-qualified employees for your organization's needs. However, asking the wrong questions can leave your organization open to time-consuming litigation and financial loss. That's why all business owners, hiring managers, and interviewers must be careful not to ask questions that appear to violate an applicant's civil rights or offer assurances that the applicant can interpret as promises of future employment.

To help you minimize the risk of discrimination and wrongful-discharge lawsuits, we've assembled a list of acceptable—and unacceptable—questions to ask during the interview process. We derived the following tables from materials published by the Department of Fair Employment and Housing and the Equal Employment Opportunity Commission.

NAME

Acceptable	Unacceptable
"Have you ever used another name?"	"What is your Maiden 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 education record? If yes, please explain."	

RESIDENCE

Acceptable	Unacceptable
"What is your present address?"	"Do you own or rent your home?"
"What is your permanent address?"	
"What is your telephone number?"	

Questions for a California Job Interview

JOB POSITION

Acceptable	Unacceptable
"When can you start work?"	"What is the lowest salary you are willing to accept?"
"Will you be able to meet our attendance requirements?"	"How much overtime would you potentially work?"
"Have you ever applied to this company before? Where? When?"	

PRESENT AND FORMER EMPLOYMENT

Acceptable	Unacceptable
"Are you employed now?"	"How many days did you miss work because of illness?"
"If so, may we inquire of your present employer?"	
"Who were your former employers? How long did you work for each of them? What positions did you hold and why did you leave?"	
"On how many Mondays or Fridays were you absent last year, not including days missed while on approved vacation or holiday leave?"	

Questions for a California Job Interview

EDUCATIONAL EXPERIENCE (FOR ELEMENTARY SCHOOL, HIGH SCHOOL, COLLEGE, AND TRADE, BUSINESS, OR CORRESPONDENCE SCHOOL)

Acceptable	Unacceptable
"What schools did you attend? Where were they located?"	"When did you attend or complete elementary or high school?"
"Did you graduate?"	
"What subjects did you study?"	
"Did you perform any special study or research work in a particular subject? If so, please describe."	
"Do you have or intend to obtain the necessary certifications or licenses required for this job's duties? If not, please explain why."	
"Please describe any activities you participated in. You may omit those which indicate your race, color, religion, national origin, ancestry, disability, marital status, sex, or age."	

AGE

Acceptable	Unacceptable
"Ultimately, your hiring is subject to verification that you meet the legal age requirements for this job."	"How old are you?"
"If hired, can you show proof of age?"	"What is your birthday?"

Questions for a California Job Interview

"Are you over eighteen years of age?"	"When did you attend or complete elementary or high school?"
"If under eighteen, can you, after employment, submit a work permit?"	Any questions that tend to identify applicants over age 40.

BIRTHPLACE, CITIZENSHIP

Acceptable	Unacceptable
"Can you, after employment, submit verification of your legal right to work in the United States?"	Questions regarding birthplace of applicant, applicant's parents, spouse, or other relatives.
Any statement that such proof may be required after employment.	"Are you or parents, spouse, or other relatives U.S. citizens?"
	Requirements that applicant produce naturalization, first papers, or alien card prior to employment.

NATIONAL ORIGIN

Acceptable	Unacceptable
Asking what languages the applicant reads, speaks, or writes, if use of a language other than English is relevant to the job for which applicant is applying.	Asking questions regarding nationality, lineage, ancestry, national origin, descent, or parentage of applicant, applicant's parents, or applicant's spouse.
	"What is your mother tongue? What languages do you commonly use?"
	"How did you acquire the ability to read, write, or speak a foreign language?"

Questions for a California Job Interview

SEX, MARITAL STATUS, FAMILY

Acceptable	Unacceptable
Asking for the name and address of parent or guardian if applicant is a minor.	Questions that indicate applicant's sex.
Stating company policy regarding work assignment of employees who are related.	Questions that indicate applicant's marital status.
	Asking the number of, or ages of, applicant's children or dependents.
	Asking if the applicant has made provisions for child care.
	Asking applicant questions regarding pregnancy, child bearing, or birth control.
	Requesting name and address of relative, spouse, or children of adult applicant.
	"With whom do you reside?" or "Do you live with your parents?"

RACE

Acceptable	Unacceptable
N/A	Questions about applicant's race/ethnicity.
	Questions regarding applicant's complexion or color of skin, eyes, and hair.

Questions for a California Job Interview

PHYSICAL DESCRIPTION, PHOTOGRAPH

Acceptable	Unacceptable
Statement that photograph may be required after employment.	Questions regarding applicant's height and weight.
	Requiring that applicant affix a photograph to application.
	Requesting that applicant, at his or her option, submit a photograph.
	Requiring that applicant submit a photograph after interview but before employment.
	Videotaping interviews.

PHYSICAL CONDITION OR DISABILITY

Acceptable	Unacceptable
Pre-employment medical examinations may be conducted only after a job has been offered to the applicant, and only if medical examinations are given to all employees entering into a particular job classification.	Questions regarding applicant's general medical condition, state of health, or illnesses.
	Questions regarding job-related injuries or receipt of workers' compensation benefits.
	Questions that are likely to elicit information about a disability.
	Asking whether applicant can perform major life activities, such as standing, lifting, walking, etc. (unless such questions are specifically about the ability to perform one or more job functions).

Questions for a California Job Interview

	"Do you have any physical disabilities or handicaps?"
	"Do you need reasonable accommodation to perform this job?" or any question that requires applicant to disclose the need for accommodation; e.g., "Can you perform these job functions with/without reasonable accommodation (check one)?"
	Questions regarding applicant's general medical condition, state of health, or illnesses.

DRUG AND ALCOHOL USE

Acceptable	Unacceptable
Inquiring about applicant's current illegal use of drugs.	Questions about applicant's current legal use of drugs (e.g., "What medications are you currently taking?" or "Have you ever taken AZT?")
Inquiring about applicant's past illegal use of drugs, but only if the questions do not address past drug addiction (which is a covered disability under the ADA, as long as the person is not a current illegal drug user).	Questions about applicant's past use of illegal drugs that are likely to elicit information about whether the applicant was a past drug addict.
Examples: "Have you ever used illegal drugs?" or "Have you used illegal drugs in the last six months?"	Examples: "How often did you use illegal drugs in the past?" or "Have you ever been addicted to drugs?" or "Have you ever been treated for drug addiction?" or "Have you ever been treated for drug abuse?"
Inquiring about applicant's legal use of drugs if applicant tests positive for use of a controlled substance and employer	Questions about applicant's alcohol use or participation in an alcohol rehabilitation program.

Questions for a California Job Interview

seeks an explanation for positive result	
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RELIGION

Acceptable	Unacceptable
Statement by employer of regular days, hours, or shifts to be worked.	Questions regarding applicant's religion.
	Questions about religious days applicant observes or asking "Does your religion prevent you from working weekends or holidays?"

ARREST, CRIMINAL RECORD

Acceptable	Unacceptable
"Have you ever been convicted of a felony?"	Requesting applicant's arrest record or asking "Have you ever been arrested?"
Such a question must be accompanied by a statement that a conviction will not necessarily disqualify an applicant from employment.	

MILITARY SERVICE

Acceptable	Unacceptable
Questions regarding relevant skills acquired during applicant's U.S. military service.	General questions regarding military service, such as dates and type of discharge.
	Questions regarding service in a foreign military.

Questions for a California Job Interview

ECONOMIC STATUS

Acceptable	Unacceptable
N/A	Questions regarding applicant's current or past assets, liabilities, or credit rating, including bankruptcy or garnishment of wages.

BONDING

Acceptable	Unacceptable
Statement that bonding is a condition of hire.	Questions regarding refusal or cancellation of bonding.

ORGANIZATIONAL ACTIVITIES

Acceptable	Unacceptable
"Please list job-related organizations, clubs, professional societies, or other associations to which you belong—you may omit those which indicate your race, color, religion, national origin, ancestry, disability, marital status, sex, or age."	"List all organizations, clubs, societies, and lodges to which you belong."

REFERENCES

Acceptable	Unacceptable
"By whom were you referred for a position here?"	Questions of applicant's former employers or acquaintances that elicit information specifying the applicant's race, color, religion, national origin, ancestry, disability, marital status, sex, or age.
Requesting names of persons willing to provide professional and/or character references for applicant, and years	

Questions for a California Job Interview

acquainted.	
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NOTICE IN CASE OF EMERGENCY

Acceptable	Unacceptable
Requesting name and address of person to be notified in case of accident or emergency.	Requesting name and address of relative to be notified in case of accident or emergency.

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