

# Questions for a California Job interview

## Protect Your Business from Discrimination 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, in part, 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?"	

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### JOB POSITION

Acceptable	Unacceptable
"When can you start work?"	
"Will you be able to meet our attendance requirements?"	
"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?"	
Employers may ask whether the applicant was ever disciplined or terminated because of sexual harassment in the workplace.	

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### 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 birth date?”

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"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 pinpoint the applicant's age.

### **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.	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 spouse, parent or relative.
	"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?"

### **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.

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Stating company policy regarding work assignment of employees who are related.	Questions that indicate applicant's marital status.
<p>Inquiries about marital status may be made if they relate to”</p> <ul style="list-style-type: none"> <li>• Bona fide occupational qualification;</li> <li>• Business necessity;</li> <li>• Job relatedness;</li> <li>• Conformance to applicable security regulations; or</li> <li>• Conformance to a nondiscrimination plan or affirmative action plan.</li> </ul>	Asking the number of, or ages of, applicant’s children or dependents.
	Asking applicant questions regarding pregnancy, child birth, or birth control.
	Requesting name and address of relative, spouse, or children of adult applicant.

### **RACE, COLOR, SEXUAL ORIENTATION**

Acceptable	Unacceptable
	Questions about applicant's race, color, or sexual orientation.
	Questions regarding applicant's complexion, or color of skin, eyes, and hair.

### **PHYSICAL DESCRIPTION, PHOTOGRAPH**

Acceptable	Unacceptable
Statement that photograph may be required after employment.	Questions regarding applicant's height and weight.

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	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.

### PHYSICAL CONDITION OR DISABILITY

Acceptable	Unacceptable
May inquire if applicant can perform job-related functions.	Questions regarding applicant's general medical condition, state of health, or illnesses.
Statement that employment offer may be made contingent upon passing a job-related mental/physical examination.	Questions regarding job-related injuries or receipt of workers' compensation benefits.
"Can you meet the attendance requirements of this job?"	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).
	"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)?"

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	How many days were you sick last year?
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### 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 seeks an explanation for positive result	Questions about applicant's alcohol use or participation in an alcohol rehabilitation program.

### 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

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	holidays?"
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### ARREST, CRIMINAL RECORD

Acceptable	Unacceptable
<p>An employer may ask applicants about:</p> <ul style="list-style-type: none"> <li>Any criminal convictions (excluding those under the jurisdiction of juvenile court), and whether the applicant was ever convicted of a felony or misdemeanor, other than certain misdemeanor marijuana-related convictions more than 2 years old.</li> <li>Any criminal charges and arrests for which the applicant is out on bail or on his or her own recognizance pending trial, excluding those in which the applicant was under the jurisdiction of the juvenile court.</li> </ul>	<p>An employer may not ask applicants about:</p> <ul style="list-style-type: none"> <li>Arrests or detentions that did not result in convictions.</li> <li>Convictions for certain misdemeanor marijuana-related offenses if the convictions are more than 2 years old.</li> <li>The applicant's referral to, or participation in, a pretrial or posttrial diversion program.</li> <li>Any conviction for which the record has been judicially ordered sealed, expunged, or statutorily eradicated.</li> <li>Any misdemeanor conviction for which probation has been successfully completed or otherwise discharged and the case has been judicially dismissed.</li> <li>Any arrest for which a pretrial diversion program has been successfully completed.</li> <li>Any arrest, detention, processing, diversion, supervision, adjudication, or court disposition that occurred while the person was subject to the process and jurisdiction of juvenile court.</li> </ul>

### MILITARY SERVICE



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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.

### ECONOMIC STATUS

Acceptable	Unacceptable
	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.

### ORGANIZATIONS, 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."

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### 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 acquainted.	

### 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.

### CREDIT REPORT

Acceptable	Unacceptable
	Any report which would indicate information which is otherwise illegal to ask (e.g., marital status, age, residence, etc.).

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