

Subject:
Marital
Status

**YOU CAN NOT ASK THESE
QUESTIONS**

- ◆ Miss, Mrs., Mr.?
- ◆ Maiden name?
- ◆ Spouses name?
- ◆ Spouse's occupation?
- ◆ Single, married, widowed, separated, and divorced?
- ◆ Does your husband approve of your working?

WHY?

These questions have nothing to do with the applicants' ability to perform the job, and are usually just another way of learning the applicants' gender or family status. Questions about maiden names are asked only of women; thus the question is discriminatory unless the employer must have the information as a means of identification for purposes of pre-employment investigation.

**YOU CAN ASK THESE
QUESTIONS**

- ◆ See "Family" one next page.

National
Origin

- ◆ Citizen of what country?
- ◆ Color of eyes, skin, hair?
- ◆ Relatives Names?
- ◆ Birthplace?
- ◆ What organizations do you belong to?
- ◆ Native language?
- ◆ Date you acquired citizenship?

Because discriminating on the basis of citizenship has the effect of discriminating on the basis of national origin, a lawfully immigrated alien who lives in this country may not be discriminated against on the basis of citizenship. In addition, a question which asks *what* country the applicant is a citizen of permits discrimination on the basis of a particular national origin. General questions about organizations are clearly not job-related, and may indicate a particular national origin.

- ◆ Are you a citizen of the United States?
- ◆ If not, can you, after employment, furnish proof of legal right to work and remain in the US?
- ◆ If not, do you intend to become a citizen?
- ◆ Do you intend to remain permanently in the U.S.?
- ◆ What languages do you speak, read or write fluently (if required by the job)?
- ◆ Names and positions of relatives employed by company?
- ◆ Organizations to which you belong which are related to this job?
- ◆ Names of persons to contact in an emergency (without reference to relationship).

Religion

- ◆ What religion are you?
- ◆ What church do you go to?
- ◆ Who is your pastor?
- ◆ What religious holidays do you observe?
- ◆ Are you available for Saturday or Sunday work?

These questions may discourage people of certain religious backgrounds from applying. In addition, companies are required to make a reasonable effort to accommodate the religious practices of employees, and that may include voluntary substitutes, flexible scheduling, lateral transfers, or changes in job assignment.

- ◆ Can you work these hours (State normal work hours)?

Subject:
Age

YOU CAN NOT ASK THESE QUESTIONS

- ◆ How old are you?
- ◆ What is your date of birth?

WHY?

Federal Law prohibits discrimination on the basis of age against individuals between the ages of 40 and 70. Some states prohibit age discrimination against individuals of any age.

YOU CAN ASK THESE QUESTIONS

- ◆ If you are not between 18 and 70, state your age.
- ◆ If hired, can you furnish proof of age?

Gender

- ◆ Height, weight?
- ◆ Miss, Mrs. Mr.?

All of these questions are direct or indirect ways of asking the applicants gender.

- ◆ None.

Title VII prohibits discrimination in employment on the basis of gender except where it is a "bona fide" occupational qualification (BFOQ). There are few jobs, which can be performed by only one gender or the other.

Family

- ◆ How many children do you have?
- ◆ How old are your children?
- ◆ What childcare arrangements have you made?
- ◆ Do you plan to have children?
- ◆ What kind of birth control do you practice?
- ◆ Does your husband get transferred often?

The purpose of these questions is usually to explore what the employer believes to be a common source of absenteeism and tardiness. However, this method is indirect and, for all practical purposes, applies only to women. There are a number of common causes for absenteeism and tardiness, which affect both men and women.

- ◆ Can you work the hours called for on this job?
- ◆ Do you have any obligations, which would prevent you from working these hours?
- ◆ We sometimes have to work overtime on short notice; would this be a problem for you?
- ◆ Do you anticipate being in this area for a while?
- ◆ How often in the last year (five years) have you missed work?
- ◆ Do you have any obligations, which would prevent you from doing the traveling necessary on this job?
- ◆ How do you feel about relocating?

Subject:
Military
record

**YOU CAN NOT ASK THESE
QUESTIONS**

WHY?

Information regarding less than honorable discharge may not be job related (see “Criminal record”). In addition, inquiries about foreign military service may indicate which country, and therefore national origin.

**YOU CAN ASK THESE
QUESTIONS**

- ◆ Experience in the armed forces of the U.S. or in a state militia?
- ◆ Training received in the military?
- ◆ Other than honorable discharges that are job related?

Photos

- ◆ Send a photograph as a part of the resume or application.

This may be interpreted as a way of determining gender and race prior to employment.

- ◆ None. Photos may be obtained *after* the employee begins to work, such as for security reasons or for an ID badge.

Credit

- ◆ Do you own your own home? Car?
- ◆ What charge accounts do you have?
- ◆ Have your wages *ever* been garnished?

Consideration of these factors has an adverse effect on minorities and is probably unlawful unless required by business necessity.

- ◆ Questions may be appropriate if job-related (e.g., payroll, access to company funds, etc.).

Education

- ◆ Religious or racial affiliation of school.

Any requirements should be clearly related to ability to perform the job.

- ◆ Academic, vocational, or professional education?
- ◆ Schools attended?
- ◆ Degrees? Professional licenses?

Experience

Any requirements should be clearly related to ability to perform the job.

- ◆ Type and duration of various work experiences?

Subject	YOU CAN NOT ASK THESE QUESTIONS	WHY?	YOU CAN ASK THESE QUESTIONS
Disabilities	<ul style="list-style-type: none"> ◆ Tell me about your scars/missing limbs/braces/prosthesis (or other visible physical characteristics)...How did you acquire this (characteristic)? ◆ Are you in good health? ◆ Have you ever had an emotional illness or consulted with a psychologist or psychiatrist? ◆ Have you ever had an injury or disease? ◆ What is the nature of extent of your (specific medical condition)? ◆ Have you ever had a drug or drinking problem? ◆ Have you ever filed a worker's compensation claim? ◆ Do any of your family or friends have an illness or history of illness? ◆ (Do not make notes during the interview regarding physical/mental characteristics of the applicant.) 	<p>An employer must be prepared to prove that any physical and mental requirements for a job are related to the safe and efficient performance of the job. Employers must make "reasonable accommodations" for the physical and mental limitations of an employee or applicant, including alteration of duties, work schedules and physical setting, and provision of aids.</p>	<ul style="list-style-type: none"> ◆ What did your prior job duties consist of? ◆ Can you reach the top of a six-foot-high filing cabinet (if the job requires, as an essential function, the ability to reach the top of a six-foot-high filing cabinet)? ◆ Can you lift 50 pounds several times a day (if the job requires, as an essential function, the ability to lift 50 pounds several times a day)? ◆ Do you have a driver's license (if the job requires, as an essential function, driving)? ◆ Can you read a video display terminal (if the job requires, as an essential function, reading a VDT)?
Criminal record	<ul style="list-style-type: none"> ◆ Have you ever been arrested? ◆ What were you arrested for? ◆ Can you provide complete records of all arrests, court hearings? 	<p>An arrest is no indication of guilt, and historically minorities have had proportionately more arrests than other groups. Several states also now have legislation prohibiting discrimination of the basis of <i>convictions</i>, unless the offense is clearly related to the job to be performed. (A conviction is a court ruling where the party is found guilty as charged. An arrest is merely the apprehending or detaining of the person to answer the alleged crime.)</p>	<ul style="list-style-type: none"> ◆ Questions about actual convictions that are reasonably related to a particular job.