

4.9: Legal Considerations When Asking Interview Questions



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What Shouldn't I Ask When Hiring?

We recommend that you avoid asking applicants about personal characteristics that are protected by law, such as race, color, religion, sex, national origin or age. These types of questions may discourage some individuals from applying, may be viewed suspiciously by some applicants, and may be considered evidence of intent to discriminate by the EEOC. If you do not have this information when you decide who to hire, it may be easier for you to defend your business against a hiring discrimination complaint.

For example, we recommend that you avoid:

- Questions about race, religion or ethnicity, such as:
 - Are you biracial?
 - Which church do you attend?
 - What language(s) do you speak at home?
- Questions about age, unless used to verify that applicants meet any age-related legal requirements for the job.
- Questions about an applicant's pregnancy or plans to start a family, such as:
 - Are you pregnant?
 - Do you plan to have children within the next year?

Source: "[What Shouldn't I Ask When Hiring?](#)", U.S. Equal Employment Opportunity Commission (EEOC), 2024.

What Can't I Ask When Hiring?

Before a job offer has been made, you can't ask questions about an applicant's disability or questions that are likely to reveal whether an applicant has a disability. This is true even if the disability is obvious. You can ask the applicant to describe or demonstrate how she would perform specific job tasks, but you can't ask about her disability.

For example, you can't ask an applicant:

- Do you have a disability?
- What medications are you currently taking?
- Have you filed any workers' compensation claims?

However, you can ask an applicant if he will need a [reasonable accommodation](#) during the application process or on the job, in certain circumstances:

- You can ask an applicant with a disability which is obvious or which the applicant disclosed if he will need [assistance with or a change to the application process](#) because of his disability; and
- You can ask an applicant with a disability which is obvious or which the applicant disclosed if he will need a [change to the work environment or to the way a job is usually done](#), if you reasonably believe that he will need a reasonable accommodation

to perform the job.

You also can ask an applicant to [voluntarily report](#) that she has a disability for affirmative action purposes.

[Different rules apply](#) after a job offer is made and after the employee starts working for you.

You also [can't ask questions](#) about an applicant's [genetic information](#), such as the applicant's family medical history or receipt of genetic tests or genetic counseling.

For example, you can't ask an applicant:

- Have any of your close relatives had a heart attack or been diagnosed with a heart condition?
- Do mental health conditions such as bipolar disorder, depression or schizophrenia run in your family?
- Have you had genetic tests to determine whether you are at risk for cancer?

These rules apply to any communications with or about the applicant, including application forms, interviews and reference checks.

These rules apply whether you are seeking information from the applicant or from someone else, such as the applicant's doctor, former employers, friends or family.

Source: "[What can't I ask when hiring?](#)", U.S. Equal Employment Opportunity Commission (EEOC), 2024.

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