

Guidelines for Legal Interviewing

	SUBJECT	INQUIRIES THAT MUST BE AVOIDED	PERMISSIBLE INQUIRIES
1.	Name	Inquiries about the name that would indicate applicant's lineage, ancestry, national origin, or descent. Inquiry into previous name of applicant where it has been changed by court order or otherwise. "Indicate: Miss, Mrs., Ms."	"Have you worked for this company under a different 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 educational record? If yes, please explain."
2.	Marital and Family Status	Any inquiry indicating whether an applicant is married, single, divorced, engaged, etc. Number and age of children. Information on child-care arrangements. Any questions concerning pregnancy. Any similar question that directly or indirectly results in limitation of job opportunity in any way.	Whether applicant can meet specific work schedules or has activities, commitments, or responsibilities that may hinder the meeting of work attendance requirements. Inquiries, made to males and females alike, as to a duration of stay on job or anticipated absences.
3.	Age	Requirement that applicant state age or date of birth. Requirement that applicant produce proof of age in the form of a birth certificate or baptismal record. (The Age Discrimination in Employment Act of 1967 forbids discrimination against persons between the ages of 40 and 70.)	If a minor, require proof of age in the form of work permit or a certificate of age. Require proof of age by birth certificate after being hired. Inquiry as to whether the applicant meets the minimum age requirements as set by law and indication that, on hiring, proof of age must be submitted in the form of a birth certificate or other forms of proof of age. If age is a legal requirement: "If hired, can you furnish proof of age?" or statement that hire is subject to verification of age. Inquiry as to whether an applicant is younger than the employer's regular retirement age.
4.	Disabilities	The Rehabilitation Act of 1973 forbids employers from asking job applicants general questions about whether they are disabled or asking them about the nature and severity of their disabilities. An employer must be prepared to prove that any physical and mental requirements for a job are due to "business necessity" and the safe performance of the job. Except in cases where undue hardship can be proven, employers must make "reasonable accommodations" for the physical and mental limitations of an employee or applicant. "Reasonable accommodation" includes alteration of duties, alteration of physical setting, and provision of aids.	For employers subject to the provisions of the Rehabilitation Act of 1973, applicants may be "invited" to indicate how and to what extent they are disabled. The employer must indicate to applicants that 1) compliance with the invitation is voluntary; 2) the information is being sought only to remedy discrimination or provide opportunities for the disabled; 3) the information will be kept confidential; and 4) refusing to provide the information will not result in adverse treatment. All applicants can be asked whether they are able to carry out all necessary job assignments and perform them in a safe manner.
5.	Sex	Sex of applicant. Any other inquiry that would indicate sex. Sex is not a bona fide occupational qualification (BFOQ) because a job involves physical labor (such as heavy lifting) beyond the capacity of some women, nor can employment be restricted just because the job is traditionally labeled "men's work" or "women's work". Sex cannot be used as a factor for determining whether an applicant will be satisfied in a particular job. Avoid questions concerning applicant's height or weight unless you can prove they are necessary requirements for the job to be performed.	Inquiry as to sex or restriction of employment to one sex is permissible only where a bona fide occupational qualification (BFOQ). (This BFOQ exception is interpreted very narrowly by the courts and the EEOC.) The burden of proof rests on the employer to prove that the BFOQ does exist and that all members of the affected class are incapable of performing the job.

6.	Race or Color	Applicant's race. Color of applicant's skin, eyes, hair, or other questions directly or indirectly indicating race or color.	None.
7.	Address or Duration of Residence	Specific inquiry into foreign addresses that would indicate national origin. Names or relationships of persons with whom applicant resides. Whether applicant owns or rents home.	Applicant's address. Inquiry into place and length of current and previous addresses, e.g., "How long a resident of this state or city?"
8.	Birthplace	Birthplace of applicant. Birthplace of applicant's parents, spouse, or other relatives. Requirement that applicant submit a birth certificate or naturalization record before employment. Any other inquiry into national origin.	"After employment (if employed by this institution), can you submit proof of eligibility to work in the United States."
9.	Religion	Applicant's religious denomination or affiliation, church, parish, pastor, or religious holidays observed. Applicants may not be told that any particular religious groups are required to work on their religious holidays. Any inquiry to indicate or identify religious denomination or customs.	An applicant may be advised concerning normal hours and days of work required by the job to avoid possible conflict with religious or other personal convictions.
10.	Military Record	Type of discharge.	Type of education and experience in service as it relates to a particular job.
11.	Photograph	Requirement that applicant affix a photograph to his or her application.	Indicate that this may be required after hiring for identification.
12.	Citizenship	"Of what country are you a citizen?" Whether applicant or his or her parents or spouse are naturalized or native-born U.S. citizens. Date when applicant or parents or spouse acquired U.S. citizenship. Requirement that applicant produce his or her naturalization papers prior to hire. Whether applicant's parents or spouse are citizens of the U.S.	"Are you a citizen of the United States?" "If you are not a U.S. citizen, have you the legal right to remain permanently in the U.S.?" "Do you intend to remain permanently in the U.S.?" "If not a citizen, are you prevented from lawfully becoming employed because of visa or immigration status?" Statement that, if hired, applicant will be required to submit proof of employment eligibility.