

Legal Issues to Consider

Subject Area	Acceptable Inquiries	Unlawful Inquiries
Religion or Creed	After a statement of regular work days, normal hours, or schedule to be worked in fulfilling the requirements of the job, ask “Does this present a problem? If yes, what are they for purposes of assessing any accommodation based on business needs.”	Any inquiry into an applicant’s religious denomination, religious affiliation, or religious holidays observed. “This is a Catholic, Protestant, or Jewish organization.”
Citizenship	“Are you legally authorized to work in the U.S.?” This question is addressed at the point of hire.	Whether an applicant is naturalized or a native-born citizen. Requirements that an applicant produce naturalization papers.
Education	Inquiry into an applicant’s academic, vocational, or professional education and the public or private schools attended. Inquiries into detailed work experience.	Inquiries about graduation dates alone may suggest possible age discrimination.
Race or Color	None prior to hire.	“Are you Puerto Rican? What is your AA/EEO status?”
Marital/Parental Status	None, except those required under Federal regulations regarding independence, if applicable. “Can you meet the specified work schedule or do you have activities, commitments, or responsibilities that may hinder you from meeting work attendance requirements? Are you able to work overtime? Do you see any reasons why you would not be able to travel for business reasons?”	“Are you married? Single? Divorced? Do you plan to marry and have children?” Name or other information about spouse. “What are the ages of your children? What will you do if your children get sick?”
Military	Inquiry into applicant’s military experience in the armed forces of the U.S. or in a state militia. Inquiry into an applicant’s job-related activities in a particular branch of the service.	Inquiry into applicant’s general military experience and discharge.
Sex	None prior to hire.	“Do you wish to be addressed as Mrs., Miss, or Ms.?” Any inquiry regarding sexual orientation.

Age	None prior to hire. If applicant may be a minor, you may ask, “Do you have proof of age in the form of a work permit or certification of age?”	“How old are you? What is your birth date?”
Conviction	If job related: “Have you ever been convicted of a crime (give details)?”	Inquiries regarding arrest records.
National Origin	None prior to hire.	Any inquiry into applicant’s ancestry, national origin, descent, parentage, or nationality. “Is that a Spanish surname?”
Language/English Requirement	If job related: Inquiry into which language(s) applicant speaks and writes fluently.	“What is your native language?” Any inquiry into how applicant acquired ability to read, write, or speak a foreign language.
Disability/Handicap	After a statement has been made regarding the essential job functions and the working conditions, may ask “Are you able to perform the essential functions of this job?”	“Do you have any disabilities? Have you ever been treated for any disease or illness?”
Organizations	Inquiry into applicant’s membership in organizations that the applicant considers relevant to ability to perform the job.	“List all social clubs and organizations to which you belong.”
References	Persons willing to provide professional and/or character references.	Any inquiry concerning an applicant’s race, sex, age, national origin, religion, marital status, or general medical conditions.