

Pre-Interview Checklist

- Familiarize yourself with the duties and requirements of the job you are filling.
- Formulate questions that will focus on job-related aspects such as asking about situations that may have occurred in previous positions• Write down and organize the questions in the order you will be asking them.
- Review applicant's resume and/or application.

Final Interview Reminders

- The interviewer should stay focused on the job and its requirements, not any preconceived assumptions about what the applicant can or cannot do. Remember: any oral statements that the interviewer makes during the interviewing process can lead to potential liability for the company.
- Remember that someone who interviews very well may have had lots of practice in many other job interviews as a result of frequent job changes. An uncomfortable interviewee may have experienced long-term employment situations and, as a result, fewer interviews.
- End the interview on a friendly note and, if possible, apprise the candidate of the next step and the time frame for a decision.
- Complete the candidate evaluation form while the interview is still fresh in your mind.
- Conduct reference checks consistently for all final candidates (preferably using prior supervisors over personal references since they are less biased and more aware of the candidate's work performance).
- Make a fair and unbiased recommendation or decision based on the job-related qualifications of the applicants.

Interview Do's and Don'ts

Before you use any questions be sure you can justify a job- or business-related reason for doing so.

- Once the list of job-related interview questions is created, use it consistently for all applicants for the same position.
- Try to first put the applicant at ease with introductory and welcoming remarks.
- Ask open-ended questions which focus on behavioral descriptions rather than simply "yes or no" questions (i.e. have them describe a work situation in which they handled stress well rather than just asking if they can "handle stress well").
- Listen; don't do all the talking.
- Stay away from questions that have more to do with personal lifestyles than job experience - phrase the question so that the answer will describe on-the-job qualities instead of personal qualities - if the question is not related to performance on the job, it should not be asked.

In almost all instances, the following topics should be avoided in an interview:

- **Age** - is irrelevant unless you are concerned about child labor violations under the Fair Labor Standards Act, in which case you can ask for proof that he/she is old enough to work.
- **Arrest record** - do not ask at all - you may ask about convictions, but even then it would have to be relevant to the position in order to lead to immediate rejection.
- **Association with present employees** - this information is not relevant to an applicant's ability to perform successfully in a particular job, and the tendency to either encourage or prohibit the employment of friends or relatives of existing employees may create an adverse impact on members of protected classes.
- **Bankruptcy and credit affairs** - never ask about bankruptcy since it is illegal to discriminate on this basis under the Federal Bankruptcy Law - all credit inquiries must comply with the Fair Credit Reporting Act.
- **Citizenship** - unless required by law or regulation, you may not ask applicants if they are U.S. citizens since it is considered discriminatory under the Immigration Reform and Control Act. You may ask if candidates are authorized to work in the United States.

- **Disability** - the Americans with Disabilities Act makes it illegal to ask questions about an applicant's disability or perceived disability - it is crucial to focus on the job, not on the disability.
- **Driver's license** - avoid asking about it unless the job requires one since it could statistically screen out females, minorities and/or individuals with disabilities.
- **Educational attainment** - relevant if it is directly related to successful job performance - if not, avoid it because it could potentially screen out minorities.
- **Emergency contact information** - unnecessary at the application stage - and it can be discriminatory if it reveals information about the applicant's membership in a protected class.
- **English language skills** - only ask if it is a requirement of the job (i.e. an English teacher) - otherwise it could be construed as national origin discrimination.
- **Height and weight** - can be discriminatory against females, Hispanics, and/or Asians - it is important to focus on what the job requires, not the person's physical characteristics.
- **Marital status/name changes/spouse/children** - any questions relating to these issues may be construed as discriminatory, especially against women - - none are job-related.
- **Organization or club membership** - this might reveal protected class information and it is irrelevant (i.e. Knights of Columbus, NAACP or Diabetes Association)
- **Race, color, religion, sex, or national origin** - EEOC guidelines prohibit asking questions that may reveal this information; rejected applicants could have grounds for a discrimination suit if any of these questions were part of the application process.
- **Union affiliation** - could be considered an unfair labor practice under the National Labor Relations Act if the applicant claims he or she was not hired because of the union affiliation.
- **Veteran status/military records** - general questions about a person's background in the military should only be asked if based on business necessity or job-related reasons. If requested, such information should include a statement that general or dishonorable discharge will not be an absolute bar to employment but that other factors will be taken into consideration.

- **Weekend work/shift changes** - unless required for the job, the applicant should not have to state whether or not they can work on the weekends - this could screen out applicants who cannot work on some weekend days because of their religious beliefs.

Interviewing Questions Do's and Don'ts

Category	May Ask	May Discriminate By Asking
Sex and Family Arrangements	<ul style="list-style-type: none"> • If Applicant has relatives already employed by the organization 	<ul style="list-style-type: none"> • Sex of Applicant • Number of Children • Marital Status • Spouse's occupation • Child care arrangements • Health care coverage through spouse
Race		<ul style="list-style-type: none"> • Applicant's race or color of skin • Photo to be affixed to application form
National origin or ancestry	<ul style="list-style-type: none"> • Whether Applicant has a legal right to be employed in the U.S. • Ability to speak/write English fluently (if job related) • Other languages spoken (if job-related) 	<ul style="list-style-type: none"> • Ethnic association of a surname • Birthplace of applicant or applicant's parents • Nationality, lineage, national origin • Nationality of Applicant's spouse • Whether Applicant is citizen of another country • Applicant's native tongue/English proficiency • Maiden name (of married

		woman)
Religion		<ul style="list-style-type: none"> • Religious affiliation/Availability for weekend work • Religious holidays observed
Age	<ul style="list-style-type: none"> • If Applicant is over age 18 • If Applicant is over age 21 if job-related (i.e. bartender) 	<ul style="list-style-type: none"> • Date of Birth • Date of high school graduation • Age
Disability	<ul style="list-style-type: none"> • Whether Applicant can perform the essential job-related functions 	<ul style="list-style-type: none"> • If applicant has a disability • Nature or severity of a disability • Whether Applicant has ever filed a workers' compensation claim • Recent or past surgeries and dates • Past medical problems
Other	<ul style="list-style-type: none"> • Convictions if job-related • Academic, vocational, or professional schooling • Training received in the military • Membership in any trade or professional association • Job References 	<ul style="list-style-type: none"> • Number and kinds of arrests • Height or weight except if a bona fide occupational qualification • Veteran status, discharge status, branch of service • Contact in case of an emergency (at application or interview stage)

When Interviewing Persons with Disabilities

Do

- Do ensure that the interview facility is accessible to people with disabilities.
- Do inform the applicant of any special parking available.
- Do allow the applicant at least a full day to prepare for your interview.
- Do identify the essential functions of the job.
- Do make eye contact with the person.
- Do talk directly to the person with the disability--not to an interpreter.
- Do, after the initial greeting, sit down so that a person who uses a wheelchair can easily make eye contact.
- Do ask about the person's ability to perform the job.

Don't

- Don't assume the person is able to shake your hand in greeting.
- Don't lean on an applicant's wheelchair.
- Don't shout or raise your voice to a person who is hearing impaired.
- Don't touch or talk to a seeing-eyed dog.
- Don't ask about a person's disability history.
- Don't ask about prior workers' compensation claims.
- Don't ask how the person became disabled.
- Don't ask how a person is going to get to work.

GUIDELINES ON INTERVIEW AND EMPLOYMENT APPLICATION QUESTIONS

By Thomas H. Nail, SPHR and Dale Scharinger, PhD

January 1998

Reviewed May 1999 and May 2002

The guiding principle behind any question to an applicant is, can the employer demonstrate a job-related necessity for asking the question? It is the intent behind the question that is important, as well as how the information is used that the EEOC would examine to determine if any discrimination has occurred.

Therefore, an applicant should only be asked questions that are job related. In asking applicant questions, the interviewer should ask himself/herself if this information is really needed in order to judge the applicant's qualifications, level of skills and overall competence for the job in question?

Generally, problem areas are discriminatory questions that are posed on the basis of the applicant's gender, race, age, national origin, religion, or other non-job-related basis. Prohibited interview questions, for example, would be asking women applicants different questions than male applicants, or asking different questions of married female applicants than single female applicants.

The Equal Employment Opportunity Commission issued its *Pre-Employment Inquiry Guidelines* in 1981 and its *Enforcement Guidance: Pre-Employment Disability-Related Questions and Medical Examinations* in 1995. These address the issue of interview questions which, if used in making a selection decision, have a discriminatory effect by screening out minority applicants, female candidates, and older applicants and individuals with a disability, etc., for the particular job in question.

1. Race – There are no job-related considerations that would justify asking an applicant a question based on race.
2. Religion - There are no job-related considerations that would justify asking about religious convictions, unless your organization is a religious institution, which may give preference to individuals of their own religion.
3. Gender – Generally, there are no appropriate questions based on the applicant's gender during the interview process. Specifically:
 - (a) Women are no longer protected under state wage/hour laws re: number of hours worked, lifting restrictions, etc.

(b) It is unlawful to deny a female applicant employment because she is pregnant, or planning to have a child at some future date.

(c) Questions on marital status, number of children, child care arrangements, etc. are not appropriate.

(d) Questions as to availability to work should be job-related: What hours can you work? What shift(s) can you work? Can you work on weekends and/or holidays?

4. Sexual Preference - Under certain state and municipal laws, there are no permissible questions regarding an applicant's sexual preferences.

5. Height and/or weight restrictions – These questions may support gender or national origin discrimination claims unless their relationship to specific job requirements can be demonstrated.

6. Age – Under the EEOC's Age Discrimination Interpretive Rules issued in 1981, as amended, a request for date of birth on the employment application is permissible, with an appropriate disclaimer shown. In practice, this is not asked on applications. Any recruiting effort that is age-biased such as "recent graduate", or any question during the interview process that deters employment because of age is unlawful. The Age Discrimination Act of 1967 bars discrimination against persons age 40 or over.

7. Arrest & Conviction Records – Questions relating to an applicant's arrest record are improper, while questions of an applicant's conviction record may be asked, if job related. The Equal Employment Opportunity Commission and many states prohibit use of arrest records for employment decisions because they are inherently biased against applicants in protected classes. The EEOC has issued a Revised Policy Statement covering the use of conviction records by employers in making employment decisions:

(a) The employer must establish a business necessity for use of an applicant's conviction record in its employment decision. In establishing business necessity, the employer must consider three factors to justify use of a conviction record:

(1) Nature and gravity of the offense for which convicted;

(2) Amount of time that has elapsed since the applicant's conviction and/or completion of sentence; and

(3) The nature of the job in question as it relates to the nature of the offense committed.

(b) The EEOC's Revised Policy Statement eliminated the existing requirement that employers consider the applicant's prior employment history along with rehabilitation efforts, if any. The Revised Policy Statement requires that the employer consider job-relatedness of the conviction, plus the lapse of time between the conviction and current job selection process.

8. National Origin – You may not ask an applicant where he/she was born, or where his/her parents were born. You may ask if the applicant is eligible to work in the United States.

9. Financial Status – An interviewer should not ask if the applicant owns or rents a home or car, or if wages have been previously garnished, unless financial considerations for the job in question exist. Any employer who relies on consumer credit reports in its employment process must comply with the Fair Credit Reporting Act of 1970 and the Consumer Credit Reporting Reform Act of 1996.

10. Military Record – You may not ask what type of discharge the applicant received from military service. You may ask whether or not the applicant served in the military, period of service, rank at time of discharge, and type of training and work experience received while in the service.

11. Disability – You may not ask whether or not the applicant has a particular disability. You may only ask whether or not the applicant can perform the duties of the job in question with or without a reasonable accommodation.

Although federal EEO laws do not specifically prohibit any pre-employment questions, the EEOC does look with "extreme disfavor" on questions about age, color, disability, national origin, race, religion, gender or veteran status. Many state fair employment laws do expressly forbid certain types of questions. Following is a representative list of unacceptable and acceptable questions. It is NOT all-inclusive. At the end of the section, there is a bibliography of additional resources to which you may refer for additional information.

<u>TOPIC</u>	<u>UNACCEPTABLE</u>	<u>ACCEPTABLE</u>
Reliability,	-Number of children?	-What hours and days can you work?
Attendance	-Who is going to baby-sit? -What religion are you? -Do you have pre-school age children at home? -Do you have a car?	-Are there specific times that you cannot work? -Do you have responsibilities other than work that will interfere with specific job requirements such as traveling?

Citizenship/ National Origin	-What is your national origin? -Where are your parents from? -What is your maiden name?	-Are you legally eligible for Employment in the United States? - Same as above -Have you ever worked under a different name?
For Reference Checking	-What is your father's surname? -What are the names of your relatives?	-None -None
Arrest and Conviction	-Have you ever been arrested?	-Have you ever been convicted of a crime? If so, when, where and what was the disposition of the case?
Disabilities	-Do you have any job disabilities?	-Can you perform the duties of the job you are applying for?
Emergency	-What is the name and address of the relative to be notified in case of an emergency?	-What is the name and address of the person to be notified in case of an emergency? (Request only after the Individual has been employed.)
Credit Record	-Do you own your own home? -Have your wages ever been garnished? -Have you ever declared bankruptcy?	-None -Credit references may be used if in compliance with the Fair Credit Reporting Act of 1970 and the Consumer Credit Reporting Reform Act Of 1996. -None
Military Record	-What type of discharge did you receive?	-What type of education, training, Work experience did you receive while in the military?
Language	-What is your native language? Inquiry into use of how applicant acquired ability to read, write or speak a foreign language.	-Inquiry into languages applicant speaks and writes fluently. (If the job requires additional languages)
Organizations	-List all clubs, societies and lodges to which you belong	-Inquiry into applicant's membership in organizations which the applicant considers relevant to his or her ability to perform job.
Race or Color	-Complexion or color of skin. Coloring.	-None
Worker's Compensation	-Have you ever filed for worker's compensation? -Have you had any prior work injuries?	-None -None
Religion or Creed	-Inquiry into applicant's religious denomination, religious affiliations, church, parish, pastor or religious	-None

	holidays observed.	
Gender	-Do you wish to be addressed as Mr.?, Mrs.?, Miss?, or Ms.?	-None
Addresses	-What was your previous address?	-None
	-How long did you reside there?	-None
	-How long have you lived at your current address?	-None
	-Do you own your own home?	-None
Education	-When did you graduate from high school or College?	-Do you have a high school diploma or equivalent?
		-Do you have a university or college degree?
Personal	-What color are your eyes, hair?	-Only permissible if there is a bona fide occupational qualification.
	-What is your weight?	

Bibliography

Americans with Disabilities Act of 1990—EEOC Technical Assistance Manual and Resource Directory.

Commerce Clearing House, Human Resources Management series, Equal Employment Opportunity, Vol. 1.

EEOC Pre-Employment Inquiry Guidelines, 1981.

"Enforcement Guidance: Pre-Employment Disability-Related Questions and Medical Examinations", Office of Legal Counsel, ADA Division, EEOC.

SHRM 14th Annual Legal and Legislative Conference proceedings, March 1997.

Thomas H. Nail, President, Thomas Houston Associates, Consultants in Equal Employment Opportunity and Affirmative Action, (703) 471-9893.

January 1998

Reviewed May 1999 and May 2002