

## Five Questions Not to Ask a Job Applicant

From time to time even the most experienced HR professional needs a reminder of what not to say to a job candidate. Below are five questions to avoid, whether asked directly or indirectly.

### **1. How old are you? What year did you graduate high school/college?**

Employers may not ask an applicant for his or her age or date of birth, with the exception that an employer may ask if the applicant is under the age of 18. It also may be permissible to ask the applicant his or her age if required to comply with state or federal law, such as in situations where a public safety position has an age limit for employees, or where age is shown to be a bona fide occupational qualification.

### **2. What is your maiden name? Do you have children? If so, how do you plan to take care of them while you're at work?**

This type of question is a red flag, as employers typically make such inquiries only to female applicants. Gender is a protected class, and any questions that pertain only to one sex are usually improper. Employers also should be aware that any distinction they make between married and unmarried women that they do not make between married and unmarried men, or vice versa, may be discriminatory.

### **3. What prescription drugs are you currently taking?**

This question is inappropriate because the applicant's response might reveal that the applicant has a disability. An exception exists when an applicant tests positive in a drug test designed to uncover the use of *illegal* drugs. In that case, the employer may ask about the use of medications to get an explanation (if any) for the positive result.

### **4. Are you a United States citizen? Where were you born? What kind of a name is that?**

These types of questions are impermissible, as they tend to elicit information about an applicant's national origin. Instead, employers should ask whether the applicant is legally authorized to work in the United States. This question is an important one for employers who must comply with the relevant immigration laws related to employment; however, the relevant inquiry is whether the applicant has legal authorization to work in the United States, not whether he or she is a United States citizen.

Questions regarding where someone was born or the origin of his or her name may be innocuous from the employer's perspective, but are problematic if they do not directly relate to the applicant's ability to perform the job for which he or she is applying, or if they are likely to elicit the applicant's national origin.

## **5. What religion are you? Do you celebrate Easter/Passover/Ramadan?**

It is impermissible to ask an applicant about his or her religious beliefs, religious obligations, or religious practices.

The *only* time an employer may inquire into an applicant's religious beliefs at the interview stage of hiring is when a religious organization is the prospective employer. In that case, the religious organization employer may legally prefer members of the same religion in hiring employees.

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