

Interviewing Potential Employees Guide

I. Interviewing Dos and Don'ts

A. Dos

1. Do remember the general rule: If information is not necessary to determine a candidate's suitability for the position – do not ask about it.
2. Do ask candidates about their previous work experience, including:
 - a. Names and addresses of previous employers
 - b. Types of jobs held and duties associated with these jobs
 - c. Length of time on prior jobs and titles of positions held
 - d. Their performance in each position
 - e. Reasons for leaving previous employers
 - f. Gaps in work history
 - g. Why they are now interested in the position being offered
3. Do keep your questions focused on the candidate's education, work experience, skills, and abilities, along with the particulars of the job sought, to establish whether a candidate is sufficiently qualified to perform the job for which you are interviewing.
4. Do ask about degrees, certifications or licenses required for the job.

B. Don'ts

1. Don't ask any question that seeks—directly or indirectly—information related to the candidate's age, race, color, religion, sex, sexual orientation, gender identity, national origin, citizenship, ancestry, military status, disability, or other characteristic protected under applicable law.
2. Be cautious when asking about a candidate's salary history (i.e., how much they were paid in previous jobs). Several states have banned such questions as part of equal pay legislation, and other states are considering similar legislation. Federal courts also are split over when and how an employer may rely on a candidate's salary history to set pay.

3. Don't pursue an inappropriate subject (such as information related to protected characteristics), even if raised by the candidate. Move to an appropriate line of questioning immediately without response or reaction to the inappropriate subject area. Do not memorialize or communicate internally about any comments by the candidate on inappropriate subject areas. You cannot rely on such information (even if volunteered by the candidate) in making the hiring decision.
4. Don't promise candidates (including those receiving an offer) any definite length or duration of employment (e.g., "permanent" or "long-term" employment, "until you retire," employment for one year).
5. Don't ask third parties or search other sources such as the Internet (Facebook, Instagram, Snapchat, etc.) for answers to questions that you are not permitted to ask the candidate directly. You may review a candidate's LinkedIn profile and postings but, again, you may not rely on information on inappropriate subject areas even if shared by the candidate.

II. Other Permissible Interview Inquiries

1. Candidate's strengths and weaknesses
2. Reasons for wanting to work for the employer
3. Candidate's work attitudes and work ethic
4. Candidate's ability to meet the work hours and schedule
5. What the candidate likes to do in his/her free time, although there is some risk on this subject matter. For example, the candidate may bring up information related to a protected characteristic in response to this question. Additionally, some states prohibit employers from discriminating based on certain off-duty activities. Do not comment, inquire further or memorialize such information if the candidate's response is about an inappropriate subject area.
6. How the candidate deals with difficult co-workers/supervisors/clients/customers/ vendors or stressful situations at work
7. If the role is or may be remote, you may ask about the candidate's ability to work remotely, without asking other impermissible questions (e.g., if they have children at home, if they rent or own their home).

III. Acceptable and Unacceptable Interview Questions

Subject	Acceptable	Unacceptable
Name	• State your name. • Have you ever worked for this Company under another 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 records?	• State your maiden name. • Have you ever used another name? • Inquiries about the name that would indicate the candidate's lineage, ancestry, national origin, or descent ◦ _____ is an interesting name, is that Chinese/ Lebanese/etc.? • Inquiry into the original name of a candidate whose name has been changed by court order or otherwise
Age	• Statement that employment is subject to verification that candidate meets legal age requirements • Have you reached the age of 18? ◦ There are a very few states in which plaintiffs have begun alleging a state age protection prohibits minimum ages (above the lowest working age allowed in the state). For example, where a state has an age discrimination protection, a state allows 15-year-olds to work, and an employer imposes an 18-year-old requirement, plaintiffs in a few states have alleged the 18-year-old requirement is unlawful, absent safety or other such concerns.	• How old are you? • What is your date of birth? ◦ May be asked after hiring • Dates of attendance or completion of elementary or high school (or college if it would lead to discussion of age, i.e., did you attend college directly after high school or did you work first?) • How would you feel about working for or with employees who are younger (or older) than you? • What are the ages of your children, if any? • How old are your parents? Are your parents living? • Requirements that candidate submit birth certificate, naturalization, or baptismal record

Subject	Acceptable	Unacceptable
Education	• Inquiry into academic, vocational, or professional education and schools attended • How does your education relate to the requirements of the position sought? • Are there any areas where you will require additional training?	Dates of attendance or completion of elementary or high school (or college if it would lead to discussion of age, i.e., did you attend college directly after high school or did you work first?).
Sex	• Only where such inquiry is based on a bona fide occupational qualification (a very rare circumstance)	• Inquiry as to sex

Subject	Acceptable	Unacceptable
Marital Status, Family Responsibilities, Birth Control, and Attendance	• Can you meet the attendance requirements of this job? • Are you willing to work overtime as required by the needs of the business? • Will the work schedule (e.g., long days, early starts, weekend work, overtime) be a problem for you? • What are your long-term career goals? • Will the travel requirements of the job be a problem for you? • Excluding any absences related to approved leave, a medical condition, or disability—which I don't need to hear about—were you ever disciplined by previous employers for violating your employer's attendance policy?	• How many days were you sick last year? • Questions regarding marital status, maiden names, or children/dependents, (even if the information is needed for employee benefits or for tax purposes). ◦ This information may be obtained after the individual has been hired. • What is your sexual orientation? • Does your spouse/partner/significant other work? What does he/she do? Where does he/she work? • Do you wish to be addressed as Miss? Mrs.? Ms.? • Do you plan to marry? • Are you pregnant or likely to become pregnant? • Do you plan to adopt or host foster children? • If candidate visibly appears pregnant or you think candidate may be pregnant: ◦ When are you due? ◦ What are your childcare plans? • Do you have children? How many children do you have? What are your children's names or ages? • Inquiry as to the capacity to reproduce, advocacy of any form of birth control, or family planning

Subject	Acceptable	Unacceptable
Physical Condition, Disability	• Can you perform the functions of the job with or without reasonable accommodation? ◦ For example, you may state the physical requirements of a job (e.g., lift a certain weight) and ask if the candidate can satisfy those requirements. • Do you currently use illegal drugs? • Do you currently take any drugs or medications that would impair your ability to operate machinery or a motor vehicle (only if this is an essential function of the job)? • Would you object to being tested for drugs?	• Do you have any physical disabilities or handicaps that would interfere with your ability to perform the job? • Have you ever been treated for any of the following diseases, medical impairments, etc.? • Have you ever had/been treated for a drug or alcohol problem? • What prescription drugs are you currently taking? • Questions regarding candidate's general medical condition, health, or illness • Questions regarding prior workplace injuries • Questions regarding receipt of or application for workers' compensation benefits • Do you have a history of mental illness or have you been treated or hospitalized for mental or emotional illness? • Do you have a relationship with an individual with a disability? • Are you in good health? • Do you require any particular medical benefits? • What kind of prescriptions are you taking? • Questions relating to family medical history, family members' illnesses or health

Subject	Acceptable	Unacceptable
Race, Color, or Physical Description	• Statement that a photograph may be required after hiring, if applicable	• Requiring candidate to submit a photograph at any time prior to hiring, or requesting that the candidate, at his or her option, submit a photograph • Considering race or color of candidate as a condition for hiring • Inquiries regarding candidate's complexion or color of skin • Questions or comments as to the candidate's height or weight
Residence	• Inquiry into length of residence at current and previous addresses	• Do you own or rent your own home? • Inquiry into previous address(es) • Specific inquiry into foreign residence
Citizenship	• Do you have the legal right to work for any employer in the United States? • Are you authorized to work in the United States?	• Of what country are you a citizen? • Are you (or your parents or spouse) naturalized or native-born citizens? • When did you (or your parents or spouse) acquire citizenship? • Requirement that candidate produce naturalization papers • Where are you from? • Where did you grow up? • Questions or comments about the birthplace of a candidate (or his/her parents or spouse). • What is your mother or father's last name? • References to or inquiries about a candidate's accent

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Foreign-Language Skills	• If job-related: What foreign languages do you read, speak, and/or write?	• What foreign languages do you speak, (unless job-related)? • Is English your first language? • What is your mother or father's (or your) native tongue? • Inquiry into how candidate acquired ability to read, write or speak foreign language
Religion	• Statement of regular days, hours, or shifts to be worked. Are you available to work these required hours? • Are you available for overtime work on weekends as necessary?	• Questions regarding candidate's religion, religious or church affiliations, or religious holidays observed, name of candidate's priest, rabbi, minister or other religious leader • Candidate may not be told "This is a ____ (e.g., Protestant, Jewish) organization." • Does your religion prevent you from working weekends and holidays? • How do you spend your weekends? • What church or synagogue do you attend?
Organizations	• Inquiry into activities or membership in professional organizations that the candidate considers relevant to his or her ability to perform the job.	• List all clubs, societies, and organizations to which you belong. • Are you a member of any union? • Questions about a candidate's union affiliation, membership, support, or opposition. • Questions or comments about political, community, or social organizations.

Subject	Acceptable	Unacceptable
Military Service	• Questions about service in the U.S. Armed Forces or in a state militia, etc. – <u>if</u> included as a part of an individual’s prior work history. ◦ Note: questions about discharge are problematic in many jurisdictions. ◦ Don’t ask questions about the nature of a candidate’s military discharge unless it is related to a legitimate requirement of the job.	• Did you serve in the U.S. military (unless job-related)? • Did you receive other than an honorable discharge from the military? • Questions regarding a candidate’s National Guard or Reserve obligations.
Personal Finances	• If the job requires car travel, it is appropriate to ask whether the candidate has use of a reliable car.	• Have you ever been a debtor in bankruptcy, bankrupt, or associated with a debtor or bankrupt individual, partnership, or corporation. • Are you subject to wage garnishments? • Do you have any debt? • Have you ever received public assistance? • Questions about home or car ownership • Requesting financial data
Salary History	• What are your current pay or salary expectations? • [Where salary history inquiries are prohibited] Without telling me the amounts of what you received, what were the main elements of compensation you received (i.e., base pay, bonus, equity)?	• What are you currently making in your present job? • What have you made in your past jobs? • How much have you received as a bonus in the past?

Subject	Acceptable	Unacceptable
Arrest, Criminal Record	• Have you ever been convicted of a crime? ◦ <i>Caution:</i> This question is permitted in many jurisdictions during an interview, but not in all. Employers must review the laws in both the state/county/city where the position being applied for is located, as well as the candidate's state/county/city of residence. ◦ In most jurisdictions, a statement that a conviction will not necessarily disqualify the candidate from the job sought must accompany this question. ◦ In most jurisdictions, the candidate may not be denied employment because of a criminal conviction unless the criminal conduct and the nature of the job sought establish that the candidate is unfit or incompetent	• Have you ever been arrested?
Relatives	• Statement of company policy regarding work assignment of employees who are related to each other • Name of candidate's relatives already employed by the Company	• Name and address or age of any relative of candidate not employed by the Company ◦ After hiring, this is permissible for obtaining a contact in case of emergency.
References	• Names of persons willing to provide professional and/or character references for the candidate • Who referred you for a position here?	
Notice in Case of Emergency		Name and address of person to be notified in case of an emergency (This should be asked only after a person has been hired).