

PRE-EMPLOYMENT INQUIRY GUIDELINES

The California Fair Employment and Housing Act prohibits any non-job related inquiry, either verbal or through the use of an application form, which directly or indirectly limits a person's employment opportunities because of race, color, religion, national origin, ancestry, medical condition disability (including AIDS), marital status, sex (including pregnancy), age (40+), exercise of family care leave or leave for an employee's own serious health condition. The regulations of the Fair Employment and Housing Commission define this to include any question which:

- Identifies a person on a basis covered by the Act OR
- Results in the disproportionate screening out of members of a protected group OR
- Is not a valid predictor (not a job-related inquiry) of successful job performance.

It is the employer's right to establish job-related requirements and to seek the most qualified individual for the job. It is presumed that the information obtained through application forms and interviews is used by the employer in making selection and assignment decisions. For this reason, **the employer should make only those inquiries necessary to determine the applicant's eligibility to be considered for employment.** Documents required for legitimate business purposes which reveal protected information (such as birth certificates, naturalization papers, or medical histories) may be requested **AFTER** a job offer is made, not before. Federal and state law prohibit employers from requiring physical examinations prior to the point of hire. (The point of hire is reached once the employer has decided to hire and so informs the applicant.)

This guide is not intended to be an exhaustive compilation of all acceptable and unacceptable inquiries. The examples listed are representative of questions frequently asked.

ACCEPTABLE	SUBJECT	NOT ACCEPTABLE
Name "Have you ever used another name?" OR "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 education record? If yes, please explain."	NAME	Maiden name.
Place of residence	RESIDENCE	"Do you own or rent your home?"
Statement that hire is subject to verification that applicant meets legal age requirements. "If hired, can you show proof of age?" "Are you over eighteen years of age?" "If under eighteen, can you, after employment, submit a work permit?"	AGE	Age. Birth date. Dates of attendance or completion of elementary or high school. Questions which tend to identify applicants over 40.
"Can you, after employment, submit verification of your legal right to work in the United States?" OR Statement that such proof may be required after a decision is made to hire the candidate.	BIRTHPLACE, CITIZENSHIP	Birthplace of applicant, applicant's parents, spouse, or other relatives. "Are you a U.S. citizen?" OR Citizenship of applicant, applicant's parents, spouse, or other relatives. Requirements that applicant produce naturalization, first papers, or alien card prior to a decision to hire.
Languages applicant reads, speaks, or writes, if use of a language other than English is relevant to the job for which the applicant is applying.	NATIONAL ORIGIN	Questions as to nationality, lineage, ancestry, national origin, descent, or parentage of applicant, applicant's parents, or spouse. "What is your mother tongue?" OR Language commonly used by applicant. How applicant acquired ability to read, write, or speak a foreign language.



ACCEPTABLE	SUBJECT	NOT ACCEPTABLE
<p>Name and address of parent or guardian if applicant is a minor.</p> <p>Statement of company policy regarding work assignment of employees who are related.</p>	<p>SEX, MARITAL STATUS, FAMILY</p>	<p>Questions which indicate applicant's sex.</p> <p>Questions which indicate applicant's marital status.</p> <p>Number and/or ages of children or dependents.</p> <p>Provisions for child care.</p> <p>Questions regarding pregnancy, child bearing, or birth control.</p> <p>Name and address of relative, spouse, or children of adult applicant.</p> <p>"With whom do you reside?" OR "Do you live with your parents?"</p>
	<p>RACE, COLOR</p>	<p>Questions as to applicant's race or color.</p> <p>Questions regarding applicant's complexion or color of skin, eyes, hair.</p>
	<p>CREDIT REPORT</p>	<p>Any report which would indicate information which is otherwise illegal to ask, e.g., marital status, age, residency, etc.</p>
<p>Statement that photograph may be required after employment.</p>	<p>PHYSICAL DESCRIPTION, PHOTOGRAPH</p>	<p>Questions as to applicant's height and weight.</p> <p>Require applicant to affix a photograph to application.</p> <p>Request applicant, at his or her option, to submit a photograph.</p> <p>Require a photograph after interview but before employment</p> <p>Videotaping interviews.</p>
<p>Statement by employer that offer may be made contingent on applicant passing a job-related physical examination.</p> <p>"Can you perform (specific task)?"</p>	<p>PHYSICAL OR MENTAL DISABILITY</p>	<p>Questions regarding applicant's general medical condition, state of health, or illnesses.</p> <p>Questions regarding receipt of Worker's Compensation.</p> <p>"Do you have any physical or mental disabilities or handicaps?"</p>
<p>Statement by employer of regular days, hours, or shifts to be worked.</p>	<p>RELIGION</p>	<p>Questions regarding applicant's religion.</p> <p>Religious days observed OR "Does your religion prevent you from working weekends or holidays?"</p>
<p>Job-related questions about <u>convictions</u>, except those convictions which have been sealed, expunged, or statutorily eradicated.</p>	<p>ARREST, CRIMINAL RECORD</p>	<p>Arrest record OR "Have you ever been arrested?" (This is a violation of California Labor code Section 432.7, which is enforced by the Labor Commissioner.)</p>
<p>Questions regarding relevant skills acquired during applicant's U.S. military service.</p>	<p>MILITARY SERVICE</p>	<p>General questions regarding military services such as dates and type of discharge.</p> <p>Questions regarding service in a foreign military.</p>
<p>"Please list job-related organizations, clubs, professional societies, or other associations to which you belong—you may omit those which indicate your race, religious creed, color, disability, marital status, national origin, ancestry, sex, or age.</p>	<p>ORGANIZATIONS, ACTIVITIES</p>	<p>"List all organizations, clubs, societies, and lodges to which you belong."</p>
<p>"By whom were you referred for a position here?"</p>	<p>REFERENCES</p>	<p>Questions of applicant's former employers or acquaintances which elicit information specifying the applicant's race, color, religious creed, national origin, ancestry, physical or mental disability, medical condition, marital status, age, or sex.</p>
<p>Name and address of person to be notified in case of accident or emergency.</p>	<p>NOTICE IN CASE OF EMERGENCY</p>	<p>Name, address, and relationship of relative to be notified in case of accident or emergency.</p>

NOTE: Any inquiry, even though neutral on its face, which has an adverse impact upon persons on a basis enumerated in the Fair Employment and Housing Act (race, sex, national origin, etc.), is permissible only if it is sufficiently related to an essential job function to warrant its use.