

## UNIVERSITY OF ILLINOIS

### GUIDELINES FOR PREEMPLOYMENT INQUIRIES

There are numerous laws and executive orders requiring equal opportunity and affirmative action. Under these laws employers are required to conduct the applicant screening process in a nondiscriminatory manner. As a result, restrictions have been placed on the kinds of inquiries which may be made of an applicant.

These guidelines for preemployment inquiries have been prepared by the Affirmative Action Offices of the University of Illinois. The following topics delineate areas in which questions are frequently asked during the preemployment interviews. Inquiries which are permitted with certain restrictions are listed in the second category.

- I. Preemployment inquiries concerning the following are generally PROHIBITED by law (exceptions are noted).
  - A. AGE Inquiries about age are prohibited except where age can be proven to be job-related. Inquiries regarding retirement or retirement benefits from a previous employer should be avoided.
  - B. ARREST RECORD Unlike convictions, inquiries concerning arrests are not permissible. See also PERSONAL INFORMATION, Part II.C.3.
  - C. CITIZENSHIP Proof of citizenship, birth certificate or naturalization papers may not be required, although documentation establishing legal eligibility to work in the U.S. must be presented upon employment. See also AVAILABILITY, Part II.B.4.
  - D. DEGREES Job qualifications that require high school diplomas and college or other degrees must be job-related.
  - E. DISABILITY General inquiries as to an applicant's mental and physical condition and questions such as "Are you disabled?" or "Do you have any physical disabilities?" are not permissible. However, a question like "Are you able to perform the essential responsibilities of this position with or without an accommodation?" is permissible.<sup>1</sup> See also ABILITY, Part II.A.2.a.

- F. FINANCIAL STATUS                      Inquiries concerning a job applicant's financial status, such as home or car ownership, credit ratings, arrangements for financing education or training, social security, bank accounts and past garnishment of wages are not permissible.
- G. HEIGHT AND WEIGHT                      Inquiries as to height and weight may not be asked unless they are job-related and such standards are proven to be essential to the safe performance of the job in question. See also ABILITY, Part II. A.2.b.
- H. LAWFUL PRODUCTS                      Inquiries regarding the use of lawful products, such as tobacco, during nonworking hours should be avoided. Under state law, it is illegal to refuse to hire an individual because the individual uses lawful products off the premises of the employer during nonworking hours.
- I. MARITAL AND FAMILY STATUS                      Inquiries concerning marital status, number and age of children, child-care arrangements or pregnancy are not permitted. See also AVAILABILITY, Part II.B.3.
- J. MILITARY                                      Proof of honorable discharge may not be required nor any inquiries as to type of discharge from the U.S. armed forces. Inquiries concerning experience in armed forces other than the U.S. armed forces are not permitted.<sup>1</sup> See also ABILITY and AVAILABILITY, Parts II.A.1 and II.B.3.
- K. NATIONAL ORIGIN/ BIRTHPLACE                      Inquiries concerning ancestry, place of birth or native language are not permitted.
- L. PHOTOGRAPH                                      This may be required only after hiring.
- M. PREGNANCY                                      Inquires concerning pregnancy and refusal to hire an applicant because of pregnancy are not permitted. See also AVAILABILITY, Part II.B.3.



perform the job-related functions if this is asked of all applicants for a position. Employers are prohibited from requiring applicants to submit to a medical examination before a conditional offer of employment is made. All entering employees in the same job category should be subjected to the same post-offer medical examination.

Except in cases where “undue hardship” can be proven, employers must make “reasonable accommodation” for the physical and mental limitations of a “qualified” employee or applicant with a disability, i.e., one who with reasonable accommodation can perform the essential duties of the particular job. “Reasonable accommodation” may include alteration of duties, alteration of work schedule, alteration of physical setting and provision of aids.

- b. Height and Weight - It is permissible to ask height and weight if it can be proven that they are BFOQ’s (bona fide occupational qualifications).

B. AVAILABILITY. It is permissible to ask:

1. If an applicant is available for weekend or evening work only if this is required uniformly of occupants of the job.
2. If an applicant has responsibilities, commitments or other activities which would prevent him/her from being on time or from keeping required work schedules and attendance records.
3. How long an applicant expects to work; if he/she would require any lengthy absences in the near future.

Sex Discrimination - The above three questions concerning availability often have been used to discriminate against women with family responsibilities. Therefore, if these questions need to be asked, they must be asked of all applicants, males and females.

Religious Discrimination - Even if an applicant’s religious observance prevents him/her from working certain hours, this fact cannot be used to bar him/her from employment. Except in cases where undue hardship can be proven, employers must make “reasonable accommodation” for religious practices of an employee or prospective employee. “Reasonable accommodation” may include voluntary substitutes, flexible scheduling, lateral transfer, change of job assignments or allowing an alternative to payment of union dues.

Military Status - It is illegal to discriminate against a person due to that person’s status on active duty in the armed forces of the U.S.

4. If the applicant is legally eligible to work in the U.S. New employees must

provide the documentation required by the Immigration Reform and Control Act of 1986.

C. PERSONAL INFORMATION

1. Address - An applicant's current address may be requested but only for purposes of further contact.
2. Change of Name - It is permissible to ask if the applicant has previously worked for the organization under a different name.
3. Convictions - Inquiries about convictions which relate reasonably to fitness to perform a particular job are permissible. Security checks for some positions are required by law.
4. Drug Tests - Drug tests for some positions are required by law.
5. References - Personal or professional references may be required. However, it may not be advisable to require a reference from an applicant's present employer. NOTE: Pre-employment inquiries cited as impermissible should be avoided in checking an applicant's references or previous employers.
6. Relatives - It is permissible to ask if the applicant has relatives who work for the organization or a competitive organization. The question "person to be notified in case of emergency" is preferable to "nearest relatives to be notified."

<sup>1</sup> An applicant may be invited to self-identify as disabled, a disabled veteran or a veteran of the Vietnam era pursuant to an employer's affirmative action program for these groups. This invitation is in the form of a notice which accompanies the Equal Employment Opportunity Information Request form and is maintained separately from the application.

<sup>2</sup> Applicant race/ethnic and sex information may be requested for affirmative action purposes. All applicants for positions are asked to identify themselves by race/ethnic group and sex on the Equal Employment Opportunity Information Request form. This is maintained separately from the application.