

Guide to Pre-employment Inquiries



The California Fair Employment Practices Act provides that no pre-employment inquiries or specifications, direct or indirect, may be made concerning a job applicant's race, religious creed, color, national origin, ancestry, age, sex, medical condition, or physical handicap. The Act further prohibits any non-job-related inquiry, either verbal or through use of an application form, which may directly or indirectly affect the employment opportunities of those protected by the Act. The Act does not otherwise limit the rights of employers to seek full information about the prospective employees or to establish the job performance qualifications they consider essential. Whatever qualifications or standards are set, however, must be applied equally to all persons.

Questions asked in an interview may be vulnerable to misinterpretation and/or knowing violation of laws. The Pre-employment Inquiry Guidelines, below may help to formulate acceptable, appropriate interview questions. In all situations, whether or not covered by the examples shown here, pre-employment inquiries must be job-related.

Subject	Acceptable Pre-Employment Inquiries	Unacceptable Pre-Employment Inquiries
Name	"Have you ever used 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 and education record? If yes, please explain."	Maiden name
Residence	Place of residence.	"Do you own or rent your home?"
Age	Statement that hire is subject to verification that applicant meets legal age requirements. "If hired, can you show proof of age?" "Are you over 18 years of age?"	<ul style="list-style-type: none"> • Age. • Birth date. • Dates of attendance or completion of elementary school or high school. • Questions which tend to identify applicants over age 40.
Birthplace, Citizenship	"Can you, after employment, submit verification of your legal right to work in the United States?" Statement that such proof may be required after a decision is made to hire a candidate.	<ul style="list-style-type: none"> • 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.
Gender Marital Status Family	Name and address of parent or guardian, if applicant is a minor. Statements of company policy regarding work assignment of employees who are related.	<ul style="list-style-type: none"> • Questions that indicate applicant's gender. • Questions that indicate applicant's marital status. • Number and/or ages of children or dependents. • Provisions for child care. • Questions regarding pregnancy, child bearing, or birth control. • Name and address of relative, spouse, or children of adult applicant. • "With whom do you reside?" or "Do you live with your parents?"

Credit Report		<ul style="list-style-type: none"> Any report that would indicate information for which it is otherwise illegal to ask, e.g., marital status, age, residency, etc.
Race Color		<ul style="list-style-type: none"> Questions as to applicant's race or color. Questions regarding applicant's complexion or color of eyes, skin, or hair.
Physical Description, Photograph	Statement that photograph may be required after employment.	<ul style="list-style-type: none"> Questions as to applicant's height and weight. Requiring applicant to affix a photograph to application. Videotaping Interviews
Religion	Statement by employer of regular days, hours, or shifts to be worked.	<ul style="list-style-type: none"> Questions regarding applicant's religion. Religious days observed, or "Does your religion prevent you from working weekends or holidays?"
Physical or Mental Disability	Statements by employer that offer may be made contingent on applicant passing a job-related physical examination. "Can you perform (specific task)?"	<ul style="list-style-type: none"> Questions regarding applicant's general medical condition, state of health, or illnesses. Questions regarding receipt of Workers' Compensation. "Do you have any physical disabilities or handicaps?"
Arrests / Criminal Records	Job-related questions about convictions, except those convictions that have been sealed, expunged, or statutorily eradicated.	Arrest record, or "Have you ever been arrested?" (This is a violation of California Labor Code Section 432.7)
Military Service	Questions regarding relevant skills acquired during applicant's U.S. military service.	General questions regarding military service such as dates and type of discharge. Questions regarding service in a foreign military.
Organizations Activities	"Please list job-related organizations, clubs, professional societies, or other associations to which you belong. You may omit those that indicate your race, religious creed, color, national origin, ancestry, sex, or age."	"List all organizations, clubs, societies, and lodges to which you belong."
References	"By whom were you referred for a position?" Names of persons willing to provide professional and/or character references for the applicant.	Questions about applicant's former employers or acquaintances that elicit information specifying the applicant's race, color, religious creed, national origin, ancestry, physical or mental disability, medical condition, marital status, age, or sex.
Notify in Case of Emergency	Name and address of person to be notified in case of accident or emergency.	Name, address, and relationship of relative to be notified in case of accident or emergency.
Salary		CA-AB 168: An employer shall not, orally or in writing, personally or through an agent, seek salary history information, including compensation and benefits, about an applicant for employment