

Appendix F

PREEMPLOYMENT INQUIRIES

Given all the protected-category groups, many EEO complaints arise because of inappropriate preemployment inquiries. Questions asked of applicants may be viewed as discriminatory or biased against protected-class applicants. This appendix identifies preemployment inquiries that may or may not be discriminatory. The preemployment inquiries labeled “may be discriminatory” have been so designated because of findings in a variety of court cases. Those labeled “may not be discriminatory” are legal, but only if they reflect a business necessity or are job related. Once an employer tells an applicant he or she is hired (the “point of hire”), inquiries that were prohibited earlier may be made. After hiring, medical examination forms, group insurance cards, and other enrollment cards containing inquiries related directly or indirectly to sex, age, or other bases may be requested.

Guidelines to Lawful and Unlawful Preemployment Inquiries

| Subject of Inquiry | It May Not Be Discriminatory to Inquire about . . . | It May Be Discriminatory to Inquire about . . . |
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| 1. Name | a. Whether applicant has ever worked under a different name | a. The original name of applicant whose name has been legally changed b. The ethnic association of applicant's name |
| 2. Age | a. If applicant is over the age of 18 b. If applicant is under the age of 18 or 21 if that information is job related (e.g., for selling liquor in a retail store) | a. Date of birth b. Date of high school graduation |
| 3. Residence | a. Applicant's place of residence b. Alternative contact information | a. Previous addresses b. Birthplace of applicant or applicant's parents c. Length lived at current and previous addresses |
| 4. Race or Color | | a. Applicant's race or color of applicant's skin |

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| Subject of Inquiry | It May Not Be Discriminatory to Inquire about . . . | It May Be Discriminatory to Inquire about . . . |
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| 5. National Origin and Ancestry | | a. Applicant's lineage, ancestry, national origin, parentage, or nationality b. Nationality of applicant's parents or spouse |
| 6. Sex and Family Composition | | a. Sex of applicant b. Marital status of applicant c. Dependents of applicants or child-care arrangements d. Whom to contact in case of emergency |
| 7. Creed or Religion | | a. Applicant's religious affiliation b. Applicant's church, parish, mosque, or synagogue c. Holidays observed by applicant |
| 8. Citizenship | a. Whether the applicant is a U.S. citizen or has a current permit/visa to work in the United States | a. Whether applicant is a citizen of a country other than the United States b. Date of citizenship |
| 9. Language | a. Language applicant speaks and/or writes fluently, if job related | a. Applicant's native tongue b. Language used at home |
| 10. References | a. Names of persons willing to provide professional and/or character references for applicant b. Previous work contacts | a. Name of applicant's religious leader b. Political affiliation and contacts |
| 11. Relatives | a. Names of relatives already employed by the employer | a. Name and/or address of any relative of applicant b. Whom to contact in case of emergency |
| 12. Organizations | a. Applicant's membership in any professional, service, or trade organization | a. All clubs or social organizations to which applicant belongs |
| 13. Arrest Record and Convictions | a. Convictions, if related to job performance (disclaimer should accompany) | a. Number and kinds of arrests b. Convictions, unless related to job requirements and performance |

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| 14. Photographs | | a. Photographs with application, with résumé, or before hiring |
| 15. Height and Weight | | a. Any inquiry into height and weight of applicant, except where a BFOQ exists |
| 16. Physical Limitations | a. Whether applicant has the ability to perform job-related functions with or without accommodation | a. The nature or severity of an illness or physical condition b. Whether applicant has ever filed a workers' compensation claim c. Any recent or past operations, treatments, or surgeries and dates |
| 17. Education | a. Training applicant has received, if related to the job b. Highest level of education applicant has attained, if validated that having certain educational background (e.g., high school diploma or college degree) is needed to perform the specific job | a. Date of high school graduation |
| 18. Military | a. Branch of the military applicant served in and ranks attained b. Type of education or training received in military | a. Military discharge details b. Military service records |
| 19. Financial Status | | a. Applicant's debts or assets b. Garnishments |