

Resource

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Overview

Gain a comprehensive insight into the do's and don'ts of common interview questions and topics of discussion. This guidance is intended to assist employers in navigating federal and state discrimination laws, ensuring a fair and legally compliant interview process.

Employers should be aware of the legal boundaries relating to interviewing potential employees, and avoid asking certain questions that could inadvertently violate federal or state employment laws.

To help employers better understand their general obligations and avoid these pitfalls, the below compilation of topics and recommended approaches offers general suggestions and best practices. For specific inquiries related to the interview or hiring process, please consult Gunderson's Employment and Labor Group.

Topics/Recommended Approach

- **Age:** Questions about an individual's age should be limited to verifying non-minor status, such as asking if the applicant is over 18 or can provide proof of age if hired. Avoid asking directly about an individual's age, date of birth, or questions implying a preference for individuals under 40.
- **Arrests and convictions:** Do not ask questions related to criminal history during the interview process.

- **Citizenship:** Inquiries about an applicant's citizenship or birthplace should focus solely on their eligibility to work in the country, avoiding direct questions about their citizenship status or birthplace.
- **Color/race:** Avoid asking any questions about an applicant's race, color, or any other physical feature that may imply a preference for specific characteristics.
- **Complaints/history of filing lawsuits:** Avoid asking questions about past discipline or terminations, such as whether the applicant has ever been sued or filed complaints against a previous employer.
- **Credit history:** Avoid discussions regarding credit history, adhering to state-specific laws about credit inquiries. Do not make any statements that suggest a preference for applicants with good credit.
- **Disabilities:** Focus on the applicant's ability to perform essential duties and refrain from general inquiries into their medical condition.
- **Drug/alcohol use:** Ensure uniformity in any questions about past drug use and avoid delving into past addictions or legal prescription drug use.
- **Education:** Limit any questions to academic achievements and relevant skills, avoiding inquiries into finances or scholarships.
- **Experience, skills, and activities:** Focus on an applicant's relevant skills and experience. Do not ask any questions about their physical condition and avoid questioning their involvement in politics.
- **Family/marital status:** Maintain professionalism by focusing on work-related aspects and avoid any personal or marital status inquiries.
- **Gender identity:** Apply uniformity in gender identity-related questions, including preferred names or pronouns.
- **Military service:** Avoid asking about an applicant's military service beyond how their experience would translate to the current position.
- **Names:** Inquiring about prior names or name changes for verification purposes is acceptable, but avoid asking why an applicant changed their name.
- **National origin:** Any questions about national origin should focus only on whether an applicant requires sponsorship for employment visa status. Avoid any

questions about nationality, ancestry, or language abilities, unless directly related to job requirements.

- **Emergency contacts:** Questions about emergency contacts should be limited to information needed in case of accidents or emergencies.
- **Organizational memberships:** Applicants should be allowed to exclude any information that reveals protected characteristics. Encourage focus on relevant community roles, excluding personal membership details.
- **Pregnancy:** Avoid all questions related to pregnancy or plans surrounding it.
- **Prior employment:** Keep inquiries focused on job-related skills and experiences.
- **References:** Asking for names of references is acceptable, but avoid questions that the employer would be prohibited from asking the applicant's references.
- **Religion:** Refrain from asking questions about religious beliefs or practices, including any inquiries about religious holidays.
- **Salary history:** Avoid salary history inquiries in compliance with jurisdictional legal restrictions.
- **Sexual orientation:** Sexual orientation should not be asked, including inquiries about the applicant's views on same-sex partnerships or marriage.

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