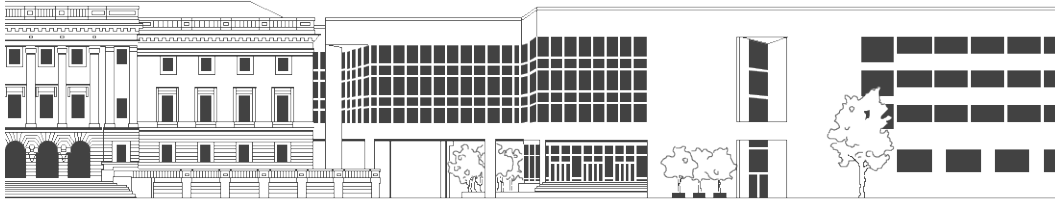


PRE-EMPLOYMENT INQUIRY GUIDE (Non-discrimination Interview Strategies)



Office of Diversity & Equity

INTRODUCTION

Job interviews present a minefield of legal problems. One wrong question could spark a discrimination charge or lawsuit. Federal and state laws prohibit discrimination on the basis of an applicant's race, color, national origin, religion, sex, age or disability. State and local government laws also prohibit discrimination based on factors such as marital status, pregnancy, and sexual orientation. If you ask a job applicant a question specifically relating to one of those characteristics, you have broken the law and may subject the College to a lawsuit.

Every question you ask an applicant should somehow relate to this central theme: "How are you qualified to perform the job you are applying for?" Interviewers usually land in trouble when they ask for information that's irrelevant to the candidate's ability to do the job.

This guide was developed to help the interviewer avoid discrimination during the interview process. The strategies outlined in this guide should help deflect frivolous unfair labor practice charges and employment discrimination claims brought by or on behalf of our applicants.

This guide should be used in conjunction with the following:

The College's Policies and Procedures Manual
Human Resources' Policies and Procedures
Applicable Collective Bargaining Agreements

NONDISCRIMINATORY INTERVIEW STRATEGIES

The interview is the cornerstone of the hiring process. It enables you to assess on a more subjective level whether the applicant would be a good fit. However, the interview process is also the one place where your need for information sometimes conflicts with a job candidate's right to privacy. That is why it is imperative that questions are lawful and are asked in a nondiscriminatory manner.

Do not ask questions that could lead to the disclosure of unwanted information, particularly information about an applicant's age, disability, religion, national origin, citizenship, gender, race, or marital status. Conducting a proper interview is critical for deflecting frivolous unfair labor practices charges and employment discrimination claims.

Before interviewing applicants, review these simple strategies.

Avoid prohibited questions

Do not ask questions that are likely to elicit information about an applicant's membership in a protected class. Even if the questions are unintentional their consequences can be devastating. A disgruntled job applicant can get a lot of mileage out of a claim that he or she was discriminated against by a prospective employer that asked about his or her age, sex, race, color, religion, national origin, marital status, veteran status, sexual orientation, or disability, among others. Therefore, do not ask questions intended to or likely to illicit information about an applicant's membership in a protected class.

The exceptions to this rule are: You may ask an applicant whether he or she can perform the essential functions of the job, with or without a reasonable accommodation. Also, you may ask him or her to describe how he or she would perform such functions. Under the ADA, interviewers have the right to make these inquiries as long as they ask all applicants for this information.

Avoid non job-related questions

As a general rule, you should avoid any non job-related questions during the interview. Focus inquiries on those intended to verify the applicant's qualifications and ability to perform the job at issue. Applicants should be asked for details concerning their relevant education, experience, training, and interaction with their supervisors and co-workers. Only questions designed to adduce relevant information based on objective criteria should be pursued. Once you stray into personal characteristics and qualities, you may breach the boundaries of what is legally permissible and socially acceptable. Litigation involving applicants is often triggered by interview questions and comments – arguably well meaning, but offensive and possibly unlawful.

Avoid open-ended questions

When interviewing an applicant, as in the application process, ask questions designed to elicit specific, job related information. Open-ended questions give applicants the opportunity to voluntarily provide information about his or her protected status. If an applicant starts to volunteer protected status information, the interviewer should quickly move the discussion back to job related information.

Ask the same questions of all applicants

Nondiscrimination in hiring means treating all applicants equally. Accordingly, having a general list of questions that will be asked of all applicants will help ensure this equality. Script a foundation list of ten to fifteen questions to be asked of all applicants, and pretty much stick to the script. The interview may be a little more formal, but it will be easier to defend later.

Avoid one-on-one interviews

This is especially important when conducting telephone, email, teleconference and other "alternate" type of interviews. If you have to defend hiring practices before the EEOC and/or federal or state courts, you are at an advantage if you have a witness who observed and took notes on what was said in an interview. In addition, the observer can help in processing the information learned through the interview and in making a nondiscriminatory decision.

Always be prepared for the interview

Preparation is the key to a successful, nondiscriminatory interview process. Prepare a script for interviews, and then stick to it. Take control of the interview from the outset and keep control through the end of the process. Those who enter the interview unprepared are more apt to say or permit something to be said that may result in an unfair labor practice or violation of antidiscrimination laws.

Document the interview process

Interviewers should document the entire interview process. In addition to the scripted questions and rating forms, copious notes should be taken on each interview. By documenting the entire process, interviewers will be in a better position to defend their selection decision. However, it is very important that interviewers guard what notes they take during the interview process. Do not write anything on any document used in the search process that may be construed as being discriminatory. Remember that all documents related to the search process will be collected, boxed and stored following the completion of the search process. These materials may be requested for review by outside legal counsel, federal, state, and local agencies investigating a contested interview and selection process.

INTERVIEW CONSIDERATIONS

When starting the interview process the interviewer or committee should consider how they will find out information in several key areas in order to feel sure they have selected the best candidate available. Several important considerations and how to satisfy them are listed below.

What are the essential Functions of the job?

Ask the incumbents what they actually do and how frequently they do these tasks. Observe job activities. Determine what is essential to the job.

Is this applicant qualified?

Check the job application and resume ascertaining the education and experience. Ask the interview questions that clarify the application and resume and increase information about the applicant's skills and abilities. Ask the interviewee whether or not he or she can perform the essential functions of the job.

Is this applicant a good "fit" for our institution?

Find out the general requirements (i.e. technology knowledge, ability to work in diverse setting, willingness to get involved in the institution outside of departmental responsibilities) the department/or institution is looking for in applicants. With this in mind, ask the applicant how they would handle hypothetical situations. Ask the applicant what he or she likes to do and not do. What does the applicant do best and least well? Determine whether the applicant has experience and/or background to suggest ability to function well in this type of environment. However, be careful not to stereotype applicants.

Does the applicant's resume actually portray the educational background, job history, and work habits?

Make sure to verify educational credentials, job history, etc. Perform a reference check with former employers (especially supervisors and department chairpersons) of the person selected.

GENERAL INTERVIEW SUGGESTIONS

1. If using search or hiring committees, agree beforehand on a strategy. Do not repeat the same questions with different interviewers. Have one member work on job skills and experience, for instance, and another interviewer ask personality / fit questions.
2. Ask both general and specific questions about the applicant's qualifications, skills and abilities and previous work experience. Include questions about the actual job duties, the applicant's skills and how they were acquired, areas of responsibility, how the applicant felt about various aspects of previous jobs and any aspects of the applicant's experience which might indicate potential for new or increased responsibilities.
3. If an applicant identifies him or herself as disabled, ask how he or she will be able to perform the job function; also ask what accommodation the person will need.
4. If the applicant has a visible disability or informs you that he or she will need accommodations to do the job, ask what accommodation the applicant will need. How has the disability been accommodated in previous positions? (You may ask applicants with known disabilities to demonstrate their ability to do the job).
5. If you have no reason to believe the applicant is disabled, don't ask.
6. Follow the same broad, open-ended questions that will elicit clues as to the candidate's personality. Ask about outside interests or use questions that reveal general attitudes.

7. Listen carefully to the applicant's responses and demonstrate that you have listened by taking notes, occasionally paraphrasing what the applicant has said and by asking more specific information or examples when the applicant speaks in general terms.
8. Never accept an incomplete answer and don't get sidetracked. If a mystery persists, draw the obvious conclusion.
9. For really tricky probes, provide the rationale for your need to know. This lets you dig without embarrassing you or the candidate. Start with the observations based on the resume or answers to your previous questions. For example, "I noticed a two-year employment gap in your resume. Is there anything I should know about this time?"
10. Ask open-ended questions. Give the candidates plenty of rope; let them talk.
11. Always stay in control but make your leadership subtle. Establish an agenda and follow it by returning to the issues evaded by the candidate.
12. Limit the number of people involved in the decision making. Too many people cause confusion and increase the time it takes to fill the position. For existing staff, this is time away from other responsibilities; and for the candidate in demand, time delays may mean losing the best applicant to another offer.
13. Surveys show that the first person interviewed is often the last one hired. Even if that person has the best qualifications, a quirk in human nature doesn't allow us to pick the first person we interview. Utilization of a ranking system can help counter this tendency.
14. Match the applicant's past experience and effectiveness of performance against specific job requirements. Focus on tasks completed or responsibilities met in their previous positions as indicators of ability and initiative.
15. Assess the level of responsibility the applicants held in their previous positions. Does the job require more or less responsibility, the same or different aspects of responsibility? If different, can the applicant make the transition?
16. Check the skills and knowledge level the applicants currently command. Do these match the "must have" requirements of the job description? Can the applicant adapt current skills to the new position?
17. What are the applicant's strengths? How will this individual's strengths enhance the position?
18. What are the applicant's weaknesses? Are they related to the job; will they have a negative effect on performance?
19. What specific areas of work history and past performance reflect the work stability and willingness to grow? Are stability and initiative important to the job?

20. Will the applicant be compatible with other members of the department, administrative team and students?
21. Gather enough specific history to determine the candidate's past attitude towards work, supervision, productivity and co-workers.
22. Check hunches and gut feelings. Although it's not advisable to go only on intuition, our feelings usually indicate that there is more information we need. It means further digging.
23. Always try to narrow the selection choice down to the best two or three candidates.
24. Call back strong candidates for second interviews. Consider interviewing in teams for final candidates.
25. Do not send rejection letters to runner-up candidates until after your first choice accepts the position.

GENERAL INTERVIEW QUESTIONS

TALENTS/ ABILITIES/ SKILLS

- What kind of supervisory skills do you have?
- What types of people did you supervise?
- What were the most important personal skills that helped you make a career change?
- What kinds of equipment can you use?
- What are the most important knowledge areas you had to acquire to make a career change?
- What types of technology hardware are you familiar with and have used? Software?

KNOWLEDGE/EDUCATION

- Why did you select your major?
- How have you applied your education to your job?
- What classes did you like the most? Least?
- What have you done outside of your job to improve/enhance your career development?

EXPERIENCE

- Describe your present position. How does it fit into the overall department?
- What do you like the most/least about your job?
- What kind of people problems did you experience? How did you handle them? Give me an example?

- What kinds of analytical work have you done?

IMAGE

- How would you describe yourself?
- How do you spend your free time?
- To what professional organizations do you belong? In which ones are you active?
- How would someone you have worked with describe you?
- What kind of professional environment are you most comfortable in?
- What are your expectations of the employer you work for?

STYLE

- Are you a team player or individual contributor?
- What are your primary strengths? Weaknesses?
- How do you deal with both?
- How would you characterize your individual style?
- What works for you? What doesn't?

CHARACTER COMPATIBILITY

- How do you get along with others (students, peers, and management)?
- Why are you leaving your current job? How do you feel about your current employer?
- What type of management style do you prefer?
- What kind of employee are you?
- What are your priorities in the work place?

ATTITUDE/TEMPERAMENT

- What in the past has inhibited you from doing your job?
- What don't you like about work? What don't you like to see in the workplace?
- What is reinforcing to you in a job?
- Describe your ideal job.

GENERAL ASSESSMENT QUESTIONS

- What are your future plans (work and/or education)?

- Did you work while you were in college?
- How was your college education financed?
- What were some of your accomplishments (work and college)?
- What accomplishments are you proudest of?
- Why did you change jobs?
- Why are you looking for a new position?
- Under what conditions do you work best?
- What did you enjoy or find challenging about your last job?
- Tell me about any promotions you've received?
- What are you looking for in job?
- What have you accomplished in your present job? What was your single most outstanding accomplishment?
- If you had all the time and money needed how would you change your present job?
- How many people reporting to you were promoted? Turnover rate?

ACCEPTABLE AND INADVISABLE PRE-EMPLOYMENT INQUIRIES

The following is a simple guide by subject area to what you can ask applicants. These apply both to the employment application and the interview. It should help you to isolate what you need to know from a job applicant, as opposed to what you'd like to know or are use to asking. At the same time, it will help you avoid common discriminatory pitfalls.

AGE	<i>Acceptable:</i> None. (The exception, as always, is when you can prove that age is a bona fide occupational qualification i.e., is necessary to perform the job; usually difficult or impossible to prove). The Labor Department recommends also including a disclaimer to the effect that age will not be used in any employment decision in accordance with the Age Discrimination Act. <i>Inadvisable:</i> Any question designed to discover someone's age.
ARREST RECORD	<i>Acceptable:</i> None. (Law enforcement agencies are exempt from this restriction, but should call their local EEOC office to see what the exceptions are). <i>Inadvisable:</i> Any inquiry relating to arrests. Since under our judicial system you are presumed innocent until proven guilty – i.e., convicted-records of arrests without conviction are meaningless.
AVAILABILITY FOR SATURDAY OR SUNDAY WORK (pertaining to religious discrimination)	<i>Acceptable:</i> Although you may want to know about an applicant's availability for Saturday and Sunday work, the answer may not do you any good since even when an applicant's religious observance makes him or her unavailable for weekend shifts, this fact cannot be used in any hiring decision. Title VII requires employers to make "reasonable accommodation" even for "a prospective employee's {emphasis added} religious observance," unless it causes "undue hardship." If you decide to ask, let the applicant know that a reasonable effort will be made to accommodate any religious needs if hired. <i>Inadvisable:</i> Any questions about religious observance
AVAILABILITY FOR WEEKEND OR EVENING WORK (pertaining to sex discrimination)	<i>Acceptable:</i> Inquiries about an applicant's availability for evening and/or weekend work provided that the inquiry is made of both male and female applicants and provided that the person now doing the job works evenings and/or weekends, or that a definite change in schedule is being implemented. <i>Inadvisable:</i> Asking this question because you think you'll want the person to work evenings or weekends. (Reason: Question is likely to have an excessive and therefore discriminatory impact on applicants with families – particularly – women).

CITIZENSHIP	<i>Acceptable:</i> Whether the applicant is prevented from lawfully becoming employed in this country because of a visa or immigration status. Whether applicant can provide proof of citizenship, visa, or alien registration number after being hired. <i>Inadvisable:</i> Whether applicant is a citizen. Any requirement that the applicant present birth, naturalization or baptismal certificate before being hired.
CONVICTIONS	<i>Acceptable:</i> It is all right to inquire about an applicant's conviction record for "security sensitive" jobs, since it has been shown that people with high conviction rates are poor risks for these jobs. "Security sensitive" jobs include by are not only the obvious – treasurer, cashier, etc. – but peripheral positions as well, - janitor, typist, trucker or other jobs where employee would be working in or near a security sensitive area.
CREDIT INQUIRIES	<i>Acceptable:</i> None, unless job related. <i>Inadvisable:</i> Inquiries about charge accounts, bank accounts, etc.
EDUCATION	<i>Acceptable:</i> If the individual has the specific education or training required for the specific job. <i>Inadvisable:</i> General questions about high school or college degrees unless you (or your supervisors) can prove the educational degree inquired about is necessary to perform the job.
FAMILY STATUS	<i>Acceptable:</i> Whether applicant has any activities, commitments, or responsibilities that might prevent him or her from meeting work schedules or attendance requirements. Note: These questions must be asked of both men and women or of neither. It is unlawful to ask this only of women or only of men. <i>Inadvisable:</i> whether the applicant is married or single, number and age of children, spouse's job, spouse's or applicant's family responsibilities. Any question asked only of one sex – e.g., asking only women about child care arrangements.
HEIGHT AND WEIGHT	<i>Acceptable:</i> Inquires about ability to perform the job (without mentioning the person's height or weight). Protects those of Spanish, Asian background and women. <i>Inadvisable:</i> Any inquiry about height or weight not based on the actual job requirements, in which case you or your supervisor must be able to prove that a specific minimum or maximum height or weight is required to perform the job.

MARITAL STATUS	<i>Acceptable:</i> None. <i>Inadvisable:</i> Whether the applicant is married, single, divorced, separated, engaged, widowed.
MILITARY	<i>Acceptable:</i> Inquiries about education, training or work experience gained in U.S. Armed Forces. <i>Inadvisable:</i> Type or condition of military discharge. Experience in other than Armed Forces. Request for discharge papers.
NATIONAL ORIGIN	<i>Acceptable:</i> Inquiries into an applicant's ability to read, write and speak English or foreign languages when required for a specific job. <i>Inadvisable:</i> Questions about applicants lineage, ancestry, national origin, descent, place of birth, or mother tongue, national origin of applicant's parents or spouse. How applicant acquired ability to read, write or speak a foreign language.
ORGANIZATION	<i>Acceptable:</i> Inquiries about membership in professional organizations related to the job – i.e., does the applicant for a chemical engineering job belong to the chemical engineering society. <i>Inadvisable:</i> Questions about organizations whose name or character indicates members' economic or social class, race, color, creed, sex, marital status, religion or national origin – e.g., country clubs, social clubs, religious clubs, fraternal orders.
PERSONAL INFORMATION	<i>Acceptable:</i> Whether the applicant has ever worked for your organization. Whether the applicant has ever worked for your organization under another name. Names of character references. <i>Inadvisable:</i> General inquiries about the change of name through application in court or marriage.
PREGNANCY	<i>Acceptable:</i> Inquiries about the applicant's anticipated duration of stay on the job or anticipated absences – only if made to both male and female applicants. <i>Inadvisable:</i> Any question relating to pregnancy or medical history concerning pregnancy. Note: the EEOC has rules that to refuse to hire a female solely because she is pregnant amounts to sex discrimination.
RACE OR COLOR	<i>Acceptable:</i> None. <i>Inadvisable:</i> Any question about race or color
RELATIVES	<i>Acceptable:</i> Name of applicant's relatives already employed by your organization or competitor. (This inquiry becomes unlawful when hiring preference is given to relatives of employees at a time when minorities are under-represented in your organization's work force). <i>Inadvisable:</i> Requests for the names and addresses of any relatives other than those working for your organization.

RELIGION OR CREED	<i>Acceptable:</i> None. <i>Inadvisable:</i> Questions about applicant's religious denomination, religious affiliation, church, parish, pastor, or religious holidays observed.
RESIDENCE	<i>Acceptable:</i> Inquiries about the applicant's address needed for future contact with the applicant. <i>Inadvisable:</i> Whether the applicant owns or rents own home (denotes economic class). Names or relationship of person with whom the applicant resides.
SEX	<i>Acceptable:</i> None. <i>Inadvisable:</i> Any question.
SEXUAL ORIENTATION	Questions referring to sexual orientation are against College policy and should not be asked or referred to in any way.

LAWFUL & UNLAWFUL PRE-EMPLOYMENT INQUIRIES

The following is a simple guide by subject area to what is lawful and unlawful to ask applicants. These apply both to the employment application and the interview.

BIRTHPLACE	<i>Lawful:</i> None. Proof of citizenship may be requested after hiring. <i>Unlawful:</i> Inquiry into birthplace of applicant, or birthplace of applicant's parents, spouse or relatives. Require prior to hiring, birth certificate, naturalization or baptismal record.
NATIONAL ORIGIN	<i>Lawful:</i> To inquire what languages applicant reads, speaks and writes fluently. <i>Unlawful:</i> Inquiry into an applicant's lineage, ancestry, national origin, descent, parentage, or nationality. Nationality of parents or spouse. Inquiry into how applicant acquired ability to read, write or speak a foreign language.
EDUCATION	<i>Lawful:</i> Inquiry into what academic, professional or vocational school attended. <i>Unlawful:</i> It is unlawful to ask specifically the nationality, racial or religious affiliation of a school attended by the applicant.

PRIOR CRIMINAL RECORD	<i>Lawful:</i> None <i>Unlawful:</i> The requiring of arrest and conviction information has been shown to have a disparate effect on racial minorities; it is unlawful to such information.
RELATIVES	<i>Lawful:</i> None. Inquiry into name and address and relationship of persons to be notified in case of emergency. This information should be solicited only after hiring.
MILITARY SERVICE	<i>Lawful:</i> Inquiry into applicant's experience or duties in United States Armed Forces. <i>Unlawful:</i> To require a copy of military discharge paper or military discharge number.
ORGANIZATIONS	<i>Lawful:</i> Inquiry into organization memberships, excluding those organizations which may indicate race, religion, color, sex, national origin, ancestry of their members. <i>Unlawful:</i> Unlawful to inquire into organizations which may indicate race, religion, color, sex, national origin or ancestry of their members.
CHARACTER	<i>Lawful:</i> Permissible to ask applicant for character references.
PHYSICAL DISABILITIES	<i>Lawful:</i> None. Applicants may be invited to voluntarily identify themselves as disabled for purposes of Affirmative Action. <i>Unlawful:</i> It is unlawful to discriminate against an individual who is disabled, if the individual is able and competent to perform the services required.