

LEGAL AND ILLEGAL PRE-EMPLOYMENT QUESTIONS

Here is a series of questions which the New York State Division of Human Rights has compiled as being lawful and unlawful pre-employment inquiries.

<u>SUBJECT</u>	<u>LAWFUL*</u>	<u>UNLAWFUL</u>
Race or Color:		Complexion or Color of Skin Coloring
Religion or Creed:		Inquiry into applicant's religious denomination, religious affiliations, church, parish, pastor or religious holidays observed. Applicant may not be told "This is a (Catholic, Protestant or Jewish) organization."
National:		Inquiry into applicant's lineage, ancestry, national origin, descent, parentage or nationality. Nationality of applicant's parents or spouse. What is your mother tongue?
Sex:		Inquiry as to sex. Do you wish to be addressed as Mr.? Mrs.? Miss? Ms?
Marital Status:		Are you married? Single? Divorced? Separated? Name or other information about spouse. Where does your spouse work? What are the ages of your children, if any?
Birth Control:		Inquiry as to capacity to reproduce, advocacy of any form of birth control or family planned?
Age:	Are you between 18 and 70 years of age? If not, state your age.	How old are you? What is your date of birth?
Arrest Record:	Have you ever been convicted of a crime? (Give details.)	Have you ever been arrested?

*Inquiries which would otherwise be deemed lawful may, in certain circumstances, be deemed an evidence of unlawful discrimination when the inquiry seeks to elicit information about a selection criterion which is not job—related and which has a disproportionately burdensome effect upon the member of a minority group and cannot be justified by business necessity.

SUBJECT	LAWFUL*	UNLAWFUL
Disability:	Do you have any impairments, physical, mental or medical which would interfere with your ability to perform the job for which you have applied?	Do you have a disability? Have you ever been treated for any of the following...?
	If there are any positions for which you should not be considered or job duties you cannot perform because of physical, mental or medical disability, please describe.	
Name:	Have you ever worked for this company under a different name?	Original name of an applicant whose name has been changed by court order or otherwise.
	Is any additional information relative to change of name, use of an assumed name or nickname necessary to enable a check on your work record? If yes, explain.	Maiden name of a married woman. If you have ever worked under another name, state name and dates.
Address or Duration of Residence:	Applicant's place of residence. How long a resident of this state or city?	
Birthplace:		Birthplace of applicant. Birthplace of applicant's parents, spouse or other close relatives.
Birth Date:		Requirement that applicant submit birth certificate, naturalization or baptismal record. Requirement that applicant produce proof of age in the form of a birth certificate or baptismal record.
Citizenship:	Are you a citizen of the United States? If not a citizen of the United States, do you intend to become a citizen of the United States? If you are not a United States citizen, have you the legal right to remain permanently in the United States? Do you intend to remain permanently in the United States?	Of what country are you a citizen? Whether an applicant is naturalized or a native-born citizen; the date when the applicant acquired citizenship. Requirement that applicant produce naturalization papers or first papers. Whether applicant's parents or spouse are naturalized or native—born citizens of the United States; the date when such parents or spouse acquired citizenship.

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Photograph:		Requirement or option that applicant affix a photograph to employment form at any time before hiring.
Language:	Inquiry into languages applicant speaks and writes fluently.	What is your native language? Inquiry into how applicant acquired ability to read, write or speak a foreign language.
Education:	Inquiry into applicant's academic, vocational or professional education and the public and private schools attended.	
Experience:	Inquiry into work experience.	
Relatives:	Name of applicant's relatives, other than spouse, already employed by the company.	Names, addresses, ages, number or other information concerning applicant's spouse, children or other relatives not employed by the company.
Notice in Case of Emergency:		Name and address of person to be notified in case of accident or emergency.
Military Experience:	Inquiry into the applicant's military job experience in the Armed Forces of the United States or in a State Militia.	Inquiry into applicant's general lifestyle in the Armed Forces or in the State Militia.
Organization:	Inquiry into applicant's membership in organizations which the applicant considers relevant to his or her ability to perform the job.	List all clubs, societies and lodges to which you belong
Driver's License:	Do you possess a valid driver's license?	Requirement that applicant produce a driver's license prior to employment?

The New York State Division of Human Rights has indicated that the information on this chart is accurate as of January, 1984