

## **LEGAL AND ILLEGAL QUESTIONS IN PERSONAL INTERVIEWS**

Legal statutes prohibit employers from asking certain types of questions in personal interviews **BEFORE** selecting an employee. The following list provides examples of inquiries that have been ruled lawful and unlawful. [Source: NYS Fair Employment Practice Laws]

<b><i>It is unlawful to ask <u>ANY</u> questions on the following topics</i></b>				
<b>RACE OR COLOR</b>	<b>RELIGION OR CREED</b>	<b>NATIONAL ORIGIN</b>	<b>GENDER</b>	<b>MARITAL STATUS</b>
	<b>AGE DISABILITY</b>	<b>ARREST RECORD</b>	<b>BIRTHDATE/PLACE</b>	

### ***TO ASK OR NOT.....WHY?***

The key issue regarding what to ask, or not ask, is ***respect for privacy***. You can ask about any professional qualities related to the job, but do not ask about private issues. ***How old are you?*** is private, don't ask. ***How long did you teach xyz?*** is about the profession, ask away.

<b>SUBJECT</b>	<b>Lawful</b>	<b>Unlawful</b>
A. Address or duration at residence	What is your place of residence? How long have you been a resident of this state [or city]?	What are your personal/family plans? Will your spouse/children like it here?
B. Age	Are you 18 years of age or older? If not, state your age.	How old are you? What is your date of birth? What are the ages of your children, if any?
C. Arrest Record	Have you ever been <u>convicted</u> of a crime? (Give details)	Have you ever been arrested?
D. Birthdate	NONE	To require an applicant to submit a birth certificate, naturalization or baptismal record, or proof of age in the form of birth certificate or baptismal record.
E. Birthplace	NONE	Birthplace of applicant. Birthplace of applicant's parents, spouse or other close relatives.
F. Citizenship	If you are offered this position do you have the legal status to take this job in Canton, New York to begin the job for the date the position is needed?	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. 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.
G. Disability*	NONE	Do you have a disability? Have you ever been treated for any of the following diseases. . . . ? Do you have now, or have had, a drug or alcohol problem?

\* It is UNLAWFUL to inquire, either directly or indirectly, about an applicant's/employee's disabilities. An employer may inquire only whether a prospective employee can perform specific tasks in a reasonable manner. An employer may not disqualify an applicant/employee because of suspected FUTURE risk to his/her health while performing a specific job.

The above limitations apply equally to questions which may be asked of an employee who applies for or is under consideration for promotion, transfer, upgrading, etc. These limitations also apply equally to questions asked by a prospective employer, either in person, by telephone, in writing or otherwise, of a former employer, with reference to an application or a person under consideration for employment.

<b>SUBJECT</b>	<b>Lawful</b>	<b>Unlawful</b>
H. Driver's License	Do you possess a valid NYS driver's license (if a driver's license is necessary for the position applicant is seeking)?	Requirement that applicant produce a driver's license.
I. Education	Inquiry into applicant's academic, vocational or professional education and the public and private schools attended is allowed.	Questions about year(s) of attendance/ Date(s) of graduation are not allowed.
J. Experience	Inquiry into work experience is allowed.	
K. Language	If the duties of the position applicant is seeking require fluency in a particular language, inquiry may be made into whether applicant speaks or writes that language fluently.	What is you native language? Inquiry into how applicant acquired ability to read, write or speak a foreign language.
L. Marital Status	NONE	Do you wish to be addressed as Miss? Mrs.? Ms.? Are you married? Single? Divorced? Separated? Name or other information about spouse.
M. Military Experience	Inquiry into applicant's military experience in the Armed Forces of the United States or in a State Militia.  Inquiry into applicant's service in particular branch of United States Army, Navy, etc. Did you receive a dishonorable discharge?	Inquiry into applicant's military experience other than in the Armed Forces of the United States or in a State Militia.  Did you receive a discharge from the military in other than honorable circumstances?
N. Name	Have you ever worked for this company under a different name? Is 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.	Original names of an applicant whose name has been changed by court order or otherwise.  Maiden name of a married woman.
O. National Origin	NONE	Inquiry into applicant's lineage, ancestry, national origin, descent, parentage or nationality. Nationality of applicant's parents or spouse.
P. Race or Color	NONE	Complexion or color of skin. Coloring
Q. Religion/ Creed	NONE	Inquiry into applicant's religious denomination, religious affiliations, parish or church, religious holidays observed. Applicant may not be told "This is a (Catholic, Protestant, Jewish, etc.) organization."
R. Sexual Orientation/ Sex/Gender	NONE	All questions in this area unlawful