**Acceptable and Legally Permissible**

**Interview Questions and Discussions\***

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Subject** | **What May Be Asked** | **Acceptable Questions** | **What May NOT Be Asked** | **Unacceptable Questions** |
| **Name** | Whether the applicant has worked for the College under another name. Whether any other information, such as nickname or initials, is needed to check the candidate’s work or educational record. | *Have you ever worked for the College under a different name?**For record checking purposes, would you be recorded under a nickname or initials?*  | Maiden name of a married woman. Inquiries about the name that would seek to elicit information about the candidate’s ancestry or descent. | *What is the meaning and history behind your first/last name?* |
| **Age** | Discussion should be kept to questions about the applicant’s career stage.If a minor, may require proof of age in the form of a work permit or a certificate of age. | *Are you over the age of 18?**Are you legally eligible for employment in the United States?*If age is a legal requirement, can ask, *If hired, will you be able to furnish proof of age?* | Inquiry into the date of birth or age of an applicant. | *How old are you?*Questions that would tend to identify persons who are 40 and older (ex: *Do you remember being at work before email was introduced?; When did you graduate from high school?*). |
| **Gender** | No questions about gender, unless gender is a bonafide occupational qualification (ex: locker room attendant). |  | Inquiry into an applicant’s maiden name or any question that pertains to only one sex. | *Do you wish to be addressed as Mr.? Miss? Mrs.? Ms.?**What is your maiden/birth name?* |
| **Subject** | **What May Be Asked** | **Acceptable Questions** | **What May NOT Be Asked** | **Unacceptable Questions** |
| **Sexual Orientation** | No questions about sexual orientation. |  | Inquiry into applicant’s sexuality. | *What is your sexual orientation?* *Boyfriend? Girlfriend?* |
| **Education** | Inquiry into the academic, vocational, or professional education of an applicant for employment. | Do you have a high school diploma or equivalent?Do you have a college degree?What academic, professional, vocational schools did you attend? | Questions about education designed to determine how old the applicant is. | *When did you graduate from high school or college?* |
| **Birthplace/National Origin/Citizenship** | No questions about birthplace or national origin.An employer may require an employee to produce documentation that evidences Their identity and employment eligibility under federal immigration laws. | *Are you authorized to work in the United States?**Will you now or in the future require sponsorship for employment visa status?**Have you ever worked under a different name?* | Inquiry into the applicant’s lineage, ancestry, national origin, descent, parentage, or nationality; birthplace or nationality of parents, partner/significant other, or other close relatives; applicant’s native language. | *What is your national origin?**Where were you/ your parents born?**What is your maiden name?**What is your native language?**Are you a U.S. Citizen?**Do you intend to become a U.S. citizen?**What is your country of citizenship?* |
| **Subject** | **What May Be Asked** | **Acceptable Questions** | **What May NOT Be Asked** | **Unacceptable Questions** |
| **Language** | What languages the applicant can speak and write fluently, only if the job requires additional languages. | *What languages do you speak and write fluently?* (Only permitted if the job requires additional languages). | Inquiries about foreign language fluency unrelated to requirements of the job. | *What is your native language?**HoOw did you acquire your ability to read and write and speak a foreign language?* |
| **Race/Color**  | All questions regarding race, complexion, or color of skin are illegal. |  | Any question regarding race or color.  | *What race are you?**Are you a minority?* |
| **Address/Length of Residence** | Questions that afford contact for employment application purposes, including place of residence. | *How long have you lived in (city, town)?**What is your phone number, email address, or other contact info?* | Inquiry that would reveal foreign addresses (infers national origin); names or relationships of people with whom applicant lives; whether applicant owns or rents. | *Do you own or rent your home?**How long at each particular address?**Have you ever lived in a foreign country?* |
| **Relatives** | Names of applicant’s relatives already employed by the College. | *So, do you have family members already employed by the College?* | Names, ages, number, addresses, or other information concerning applicant’s children or relatives not employed by the College. | *How many children do you have, and what are their ages?**Do relatives live with you?* |
| **Marital/Family Status** | May ask if candidate can meet specified work schedules or has commitments or responsibilities that may prevent them from meeting attendance requirements (Must be asked of both sexes). | *Do you have responsibilities or commitments that would prevent you from meeting specified work schedules?**Would you be willing to relocate, if necessary?* | Inquiry into whether candidate is married, has children, plans to have children, or has child care arrangements. | *Are you married? Divorced? Do you have a partner?**What are your child care arrangements?**With whom do you live?* |
| **Subject** | **What May Be Asked** | **Acceptable Questions** | **What May NOT Be Asked** | **Unacceptable Questions** |
| **Disabilities, Handicaps, Illnesses or Workers’ Compensation Claims.** | You can ask an applicant about their ability to perform job-related functions, as long as the questions are not phrased in terms which would elicit whether the applicant has a disability, and as long as such questions are asked of all applicants similarly situated (such as in all interviews). | *Are you able to perform the essential duties of the job you’re applying for* (describe duties to candidate)*? How would you perform this particular task?*State the attendance requirements and ask if the applicant can meet them. *Can you meet the attendance requirements?**What was your attendance record at your prior job?***Note***:* Wait until the candidate requests or mentions an accommodation before discussing the topic of accommodations (it’s the candidate’s responsibility to make a request for accommodation). | Inquiry into whether applicant has a physical or mental disability or handicap or about the nature or severity of the disability. Inquiry into whether an applicant has ever been addicted to illegal drugs or treated for drug abuse or alcoholism. Inquiry into whether applicant has AIDS. Inquiry into whether applicant has ever received workers’ compensation. Inquiry as to whether applicant has ever been hospitalized/treated for medical or mental health conditions. Inquiry into whether an applicant has ever been absent from work due to illness. An employer may not inquire as to the nature, severity, treatment, or prognosis of an obvious handicap or disability or of a hidden disability or handicap voluntarily disclosed by applicant. | *Do you have any (job) disabilities?**How severe is your disability/handicap?**What happened to you?**What sort of treatment do you need?**Have you ever been addicted to illegal drugs or treated for drug or alcohol abuse?**Will you need accommodations? If so, what kind?**Ever had any work injuries? Received workers’ comp?* *Ever been absent from work due to illness?**Ever been treated by a psychiatrist or psychologist?* |
| **Subject** | **What May Be Asked** | **Acceptable Questions** | **What May NOT Be Asked** | **Unacceptable Questions** |
| **Physical Features** | Questions regarding height, weight, or strength may be asked only if the employer can prove these requirements are necessary to reasonably perform the job. | *Are you able to lift and carry 50 pounds of weight for 10 yards?* (Only if required by the job). | Any inquiry about physical appearance or capability not directly required by the job. | *How tall are you?**How heavy are you?* |
| **Pregnancy** | There is no acceptable inquiry related to pregnancy or family planning.  | *Do you have any restrictions that would prevent you from traveling* (Only if the job requires travel). | Any inquiry regarding pregnancy, medical history related to pregnancy, birth control, or capacity to reproduce.  | *What are your plans if you get pregnant?**Are you currently taking any form of birth control or fertility treatment?* |
| **Organizations, Affiliations** | Questions regarding membership in professional societies of organizations. | *What professional or other organizations that you belong to do you consider relevant to your ability to perform this job?* | Any inquiry about membership in specific professional organizations the names or characters of which indicate the race, creed, color, or national origin of its members. Any inquiry into applicant’s membership in nonprofessional organizations (ex: clubs, lodges, etc.). | *What clubs or fraternal organizations do you belong to?* |
| **Religion or Creed** | No acceptable inquiry about religion, except in extremely rare and narrow circumstances, with employer bearing heavy burden to prove. | You may advise candidates about normal hours/days of work required by job, to avoid conflict with religious observance. | Inquiry about religious beliefs and affiliation, observed religious holidays, willingness to work any religious holidays. | *What church do you attend? Regularly?**Are you willing to work on religious holidays.* |
| **Subject** | **What May Be Asked** | **Acceptable Questions** | **What May NOT Be Asked** | **Unacceptable Questions** |
| **Military Record** | If needed for employment history, you may ask about applicant’s military experience in the U.S. Armed Forces. | *What type of education, training, and work experience did you receive in the military?**In what branch of the armed services did you serve?* | Inquiry into applicant’s general militaryexperience or into type of discharge. | *What type of discharge did you receive?* |
| **Photograph** | There is no legally acceptable requirement of a photograph prior to hire. |  | An employer cannot ask for a photograph to accompany an application. |  |
| **Criminal Record** | Inquiry into actual felony convictions (not arrests) that relate reasonably to fitness to perform a particular job. | *Have you ever been convicted of a crime, other than minor traffic violations?* (Note: No applicant will be denied a job due to conviction unless there is a direct relationship between the offense and the job, or unless hiring would pose unreasonable risk). | Inquiry relating to arrests or misdemeanors. Any inquiry into a person’s arrest, court, or conviction record if not substantially related to functions and responsibilities of job. | *Have you ever been arrested?**Have you ever spent a night in jail?* |
| **Credit Record** | Credit references may be used for certain finance jobs, and must comply with the Fair Credit Reporting laws.  | No interview questions are permissible. | Any inquiry related to personal credit history. | *Have your wages ever been garnished?**Do you own your home?**Have you ever declared bankruptcy?* |

\*Acknowledgements: Excerpted and adapted from Harvard Office of Human Resources documents, and the MIT Faculty Search Committee Handbook.