

GUIDELINES FOR NONDISCRIMINATORY INTERVIEWING

Once you reach the interview stage of a search, there are certain precautions you must take to assure no inappropriate inquiries are made. First, we suggest that you decide ahead of time what questions will be asked. This should be a list of basic, open-ended, form questions which should be asked of each interviewee. After each form question is asked, additional “follow-up” questions from the interviewer and any search committee member may be asked as necessary. Second, you should avoid any inquiries that elicit information regarding, race, color, ancestry, sex, age, religion, or disability. While questions about some areas, i.e., marital status or children, are not illegal per se, they are almost never job-related. The burden of proving that an applicant was not rejected on the basis of information from these inquiries rests with you, the employer.

The following is a list of information about questions which you should or should not ask.

Inquiries about Race or Color

No inquiries about race or color are appropriate in an interview. Employment decisions made on the basis of race, nationality, color, or religion violate Title VII of the Civil Rights Act of 1964 (Title VII), the Civil Rights Act of 1991, and many state laws.

Gender

Discrimination on the basis of sex violates Title VII and may also violate the Equal Pay Act, Executive Order 11246, and/or state fair employment laws. To justify requiring a particular sex for a position, the employer must show that sex is a bona fide occupational qualification (BFOQ). A strict burden of proof is on you, the employer, to demonstrate the validity of specifying a particular sex for a position.

Inquiries about Ancestry

Do not ask a person’s maiden name. This is not relevant to a person’s ability to perform a job and could be used for discriminatory purposes. A woman’s maiden name may be used as an indication of her religion or national origin.

Inquiries about Marital Status

Do not ask whether a person is married or has other “arrangements.”
Do not ask about pregnancies (past, present, future) or children.
Do not inquire about spouse’s occupation or whether s/he is likely to be transferred.

Inquiries about Age

The Age Discrimination in Employment Act of 1967 (ADEA) prohibits discrimination on the basis of age against individuals who are age 40 and above. A variety of state laws also prohibit age discrimination in employment, with some also protecting people under age 40 from age discrimination. Do not ask the applicant’s age or questions that may allude to his/her age.

Inquiries about Religion

Do not ask what religion a person professes or what accommodation would be required on the job to facilitate his or her religious practices. These type questions may be asked post employment offer, but not before an offer is made and accepted.

Inquiries about Health and Physical Status

The Americans with Disabilities Act (ADA) prohibits employers from discriminating against qualified individuals with disabilities and requires employers to provide reasonable accommodation for an applicant’s or employee’s disabilities.

It is inappropriate to ask about an impairment of any kind (physical or mental) that is likely to elicit information about a disability. You may ask if the person can perform the essential functions of the job. Essential functions of a job are the major responsibilities, not minor or occasional responsibilities. You may inquire about accommodation and disability issues post employment offer.

Inquiries about Memberships

Because memberships in organizations may reflect religion, national origin, or gender, discrimination based on memberships may violate Title VII.

Other areas of potential risk in an Interview

- Child Care
- Sexual Orientation
- Arrest Record
- Type of Discharge from the Military
- Willingness to Work Weekends (unless BFOQ)

Any information from minority or female applicants not routinely requested of white or male applicants.

WHAT CAN YOU ASK ABOUT?

For example, an applicant interviewing for a faculty position involving teaching and research may be asked about:

- Teaching abilities
- Teaching experience
- Student teacher ratings
- Knowledge of his or her subject
- Previous educational experience
- Grants experience
- Research agenda

Sensitive Questions

Applicants sometimes file civil rights complaints because they don't realize that seemingly inappropriate questions really are job related. Therefore, as an interviewer, you have two tasks: to ask only legal, job-related questions and to help the applicant understand the reasoning behind any questions that might appear to be sensitive.

It doesn't matter if you are well-intentioned or casual about prohibited inquiries; **they are still prohibited.**

Please feel free to contact Benita Peace, University Compliance Officer (ext. 44510) or email at btpeace@uncg.edu, if you have questions with the above information.