

Legal Do's and Don'ts

Various governing bodies that prohibit employment discrimination have established laws. Laws are not intended to prohibit employers from obtaining job-related information from candidates, but rather to give all candidates equal opportunity. It is the policy of The Ohio State University to employ the best-qualified individuals without regard to race, color, religion, sex, age national origin, sexual orientation, citizenship or disability. Two key thoughts to keep in mind during the interview process: (1) is this information directly related to the job; (2) am I asking the same or similar questions of every candidate. It is important to use the job relevance and consistency "test" not only during the interview itself, but also during casual conversations with the candidate(s), in written notes, and when rating candidates and making selection decisions.

Topic	Do's...	Don'ts...
Name	<ul style="list-style-type: none"> Do ask candidate's name. 	<ul style="list-style-type: none"> Don't inquire into any title that indicates race, color, religion, sex, national origin, handicap age or ancestry.
Economic Status	<ul style="list-style-type: none"> Do be aware that casual conversations about things like the type of car the candidate drives, playing golf, the schools their children attend, stock market investments, etc. can be uncomfortable for some people. 	<ul style="list-style-type: none"> Don't acknowledge or inquire about where a candidate lives because it's not relevant to their ability to do a job. Don't ask about/comment on the length of the candidate's commute or how they got to the interview.
Race, Color, Religion, or National Origin	<ul style="list-style-type: none"> Do be aware that casual conversation about race, ethnicity, religion, etc. is inappropriate and offensive. Do be aware that "Asian" represents several national origins. Do keep abreast of politically correct terms (e.g., "African American" preferred over "Black", "Latino" preferred over "Hispanic"). 	<ul style="list-style-type: none"> Don't inquire about or comment on a candidate's place of birth, origin of name, ethnic dress or customs, race, religion, national origin, or accent (e.g., "What an interesting name..." "What a beautiful sari..."). Don't assume familiarity based on personal experience or other relationships. Avoid generalizations about categories of people (e.g., "All Asians are smart").
Disability	<ul style="list-style-type: none"> Do state/ask: "This job requires x, y, z. Can you perform these tasks with or without reasonable accommodation?" Do ask the previous question of all candidates (not just candidates who <i>appear</i> to have some sort of disability). Do use the term "disability". If candidate offers information voluntarily, <i>see</i> first bullet point. 	<ul style="list-style-type: none"> Don't inquire about candidate's physical disabilities. Don't use the term "handicapped". Don't assume you are familiar with a disability based on personal experience or other relationships. Don't ask how a disability occurred.
Citizenship	<ul style="list-style-type: none"> Ask "Are you authorized to accept employment in the US for an indefinite term?" Do require proof of citizenship after being hired. 	<ul style="list-style-type: none"> Don't inquire about citizenship. Don't ask whether parents or spouse are native-born or naturalized.

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Education Required/Age	<ul style="list-style-type: none"> Do inquire into the nature and extent of academic, professional or vocational training. 	<ul style="list-style-type: none"> Don't inquire or acknowledge GPA unless pertinent to the job. Don't inquire about length of time to complete a degree. Don't inquire about the nationality or religious affiliation of a school.
English Language Skills	<ul style="list-style-type: none"> Do ask, "This job requires x, y, and z language: are you fluent in said language (written and spoken)?" 	<ul style="list-style-type: none"> Don't inquire about or acknowledge a candidate's accent. Don't assume familiarity based on personal experience or other relationships. Don't inquire about how candidate learned to speak. Don't inquire about primary language used or spoken.
Marital Status/Childcare	<ul style="list-style-type: none"> Do state the hours and days required to work. Inquire if candidate is able to work the required schedule. If candidate offers information voluntarily, see first bullet. 	<ul style="list-style-type: none"> Don't inquire about a candidate's marital status or childcare arrangements. It is not relevant to their ability to do a job.
Sex		<ul style="list-style-type: none"> Don't make any inquiry that would indicate sex or sexual preference.
Height/Weight	<ul style="list-style-type: none"> Do ask if the candidate is able to perform the job requirements. 	<ul style="list-style-type: none"> Being a certain height and weight will not be considered to be a job requirement unless the employer can show that no employee with the ineligible height or weight could do the work.
Arrest and Convictions	<ul style="list-style-type: none"> Do ask if the candidate has been <u>convicted</u> of a crime relevant to the job applied for. 	<ul style="list-style-type: none"> Don't ask about prior arrests without convictions.
Military Service	<ul style="list-style-type: none"> Do inquire into experience in the service when such service is a qualification of the job. Do require military discharge certificate after being hired. 	<ul style="list-style-type: none"> Don't ask about prior military service in countries other than the US. Don't request military service records. Don't inquire into type of discharge.
Organizations	<ul style="list-style-type: none"> Do inquire into memberships in professional organizations and offices held, excluding any organization, the name or character of which indicates the race, color, religion, sex, national origin, handicap, age or ancestry of its members. 	<ul style="list-style-type: none"> Don't inquire into every club and organization where membership is held.
Photographs	<ul style="list-style-type: none"> May be required after hiring for identification 	<ul style="list-style-type: none"> Don't ask for photographs prior to hiring.
Work Schedule	<ul style="list-style-type: none"> Do inquire into the candidate's willingness or ability to work required work schedule (e.g. specific shift time) 	<ul style="list-style-type: none"> Don't inquire into candidate's willingness or ability to work any particular religious holiday.
References	<ul style="list-style-type: none"> Do ask for general personal and work references which do not reveal the race, color, religions, sex, national origin, handicap, age or ancestry of the candidate 	<ul style="list-style-type: none"> Don't request references specifically from clergymen or any other persons who might reflect race, color, religion, sex, national origin, handicap, age or ancestry of applicant.