

WHAT QUESTIONS CAN EMPLOYERS ASK DURING THE INTERVIEW PROCESS?

	YES	NO
SEX	Questions as to "male" or "female" are okay provided that the inquiry is made in good faith for a nondiscriminatory purpose. This is very rare. One example may be a female attendant in a woman's bathroom.	If sex is not a bona fide occupational qualification, an employer should not inquire into the applicant's sex.
RELIGION	Describe with particularity the working hours of the position and ask whether the applicant can work those hours.	"Religion?" "Can you work Saturdays and/or Sundays?" Questions relating to facial hair or other physical characteristics that may indicate religion.
CITIZENSHIP/ NATIONAL ORIGIN/ RACE/COLOR	"Are you legally authorized to work in the United States?"	"Are you a U.S. citizen?" "Place of birth?" "What is your first/native language?" An employer should also not inquire about the applicant's eye and hair color, complexion, height or weight.
NAME(S)	"Have you worked under any other names in the past?" If an employer is going to make this inquiry, it must do so with both female and male applicants.	"Are you married?" "What's your maiden name?" "Mr., Ms., Mrs. or Miss."
MARITAL STATUS	None.	"Spouse's name?" "Spouse's employer?" "Are you married, single, separated, divorced, widowed?" "Do you intend to marry?" "Would your spouse object to your hours?" "Relationship to your emergency contact?"
PREGNANCY	"Future job availability?" "Future employment plans?"	"Do you have any children?" "What are your plans for having children?" "What are the ages of your children?" "What arrangements will you make for child care?"
STATUS WITH REGARD TO PUBLIC ASSISTANCE	None.	"Have you ever received public assistance?" "Do you currently receive public assistance?" "Do you own your home, car, etc.?" "How do you feel about people receiving public assistance?"
AGE	"Will you be able to provide proof of age/legal ability to work?" "Past employers for last five years."	"Age." "Date of birth." "Date of graduation." "Dates of previous employment."
SEXUAL ORIENTATION	None.	"What is your sexual orientation?" "Marital status?" "Relationship to emergency contact?"
EDUCATIONAL REQUIREMENTS	"Describe your education."	"What years did you go to school?" "What year did you graduate from school?" (These questions intrude upon the applicant's age.)
WORK HISTORY	"Describe your work history." "What experience do you have that qualifies you for this job?"	"What dates did you work for each of your former employers?"
ORGANIZATION MEMBERSHIP/ ACTIVITIES	An employer can ask only if it is job related.	"List all organizations to which you belong."
UNION MEMBERSHIP	None.	"Are you now or have you ever been a member of a union?" "What organizations do you belong to?" "How do you feel about unions?"
MILITARY SERVICE/ OBLIGATIONS	"Describe your military experience or training."	"What are your military obligations?" "Do you anticipate needing any leaves of absence?" "Type of discharge?"
NON-WORK ACTIVITIES	"What are your hobbies?" "How do you spend your free time?"	"Do you drink?" "Do you use tobacco?"
EMERGENCY CONTACT	Ask after hiring: "Name and phone number of individual to contact in case of emergency?"	"Name and phone number of relative to be notified in case of emergency?" (May indicate marital status, national origin.)
CRIMINAL HISTORY	"Have you ever been convicted of a crime?" "What was the crime you were convicted of?" An employer can further question about the conviction only if there is some relationship between the nature of the crime and the ability to perform the job.	"Have you ever been arrested?" An employer cannot inquire into arrests.

Continued on back page

WHAT QUESTIONS CAN EMPLOYERS ASK DURING THE INTERVIEW PROCESS?

	YES	NO
CREDIT HISTORY	"Have you ever been denied credit?" (Employers may use credit checks, however the employer must notify the applicant of the agency's name and address if a credit report is used to deny employment.)	(Credit checks cannot be used if there is no legitimate business reason for the inquiry.)
PHYSICAL REQUIREMENTS	"Are you able to perform the job related functions?" (The employer should accurately communicate the physical requirements to the applicant and allow the applicant to judge whether they can meet those requirements.)	"What is your height and weight?" "Male or female?"
DISABILITY	"Are you able to perform the specific job functions?" (Describe in detail the essential elements of the job and ask whether the applicant can perform the functions of the job with or without reasonable accommodation.)	"Do you have a disability?" "Have you ever applied for or received workers compensation?" "How many days have you missed from work as a result of an illness?" "Do you anticipate needing time off for treatment of a disability or illness?"
MEDICAL EXAMINATIONS	"If you are offered this job, you will be required to undergo a medical examination, do you have a problem with this?" (An employer can require a medical examination after an employment offer has been made and may condition such offer on results of the examination.)	"Have you ever tested positive for HIV or AIDS?" "Have you ever been turned down for life insurance?" (An employer cannot require a medical examination before an employment offer has been made.)
DRUG AND ALCOHOL TESTING	"You will be required to take a drug test as part of this interview, do you have a problem with this?" (Drug testing may be conducted on all applicants, there is no requirement of a job offer. However for alcohol testing, there first must be a job offer.)	"Are you an alcoholic?" (Employers should not revoke a job offer because of a positive alcohol test where it is not job related, not related or consistent with business necessity, and reasonable accommodations could have been made.)
RESIDENCE/ PERSONAL PROPERTY	"Address."	"Do you own your own home, furniture, car?" (May indicate status with regard to public assistance.)
RELATIVES	"What are the names of your relatives who are currently employed by this company or its competitors?"	"Tell us by name, address, and relation your immediate relatives."
PHOTOGRAPHS	None except after hiring.	"Please provide a photograph with your application or at your interview."

This chart is for educational purposes only. It is not intended to be legal advice. It is also not intended to be exclusive or exhaustive of questions an employer may or may not ask during the interview process.

This document prepared by:
Michelle M. Donarski
Anderson & Bottrell Law Firm
4132 30th Avenue South, Suite 100
Fargo, ND 58104
(701)235-3300