

Hiring? A Human Rights Guide

ADVERTISING

Job advertisements should not contain questions that ask directly or indirectly about race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, record of offences, age, marital status, family status or handicap.

Some qualifications may not mention a ground of the Code directly, but may unfairly prevent or discourage people from applying for a job. Advertisements for jobs that require “Canadian experience” or that indicate a preference for childless applicants are examples of “qualifications” that may be discriminatory barriers.

Requirements or duties for employment should be reasonable, genuine and directly related to the performance of the job. For example, it is reasonable, genuine and job-related to require a receptionist to speak clear, intelligible English, but it is not acceptable to require “unaccented English”. Or, if it is essential that the person must drive for the job, the advertisement may state that a valid driver’s license (with the required class) is required.

APPLICATION FORMS

It is not appropriate to include on application forms any questions that relate directly or indirectly to the following prohibited grounds of discrimination: *race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, record of offenses, age, marital status, family status or handicap.*

Employment-related medical examinations or inquiries, that are part of the applicant screening process, are also not permitted (see the Commission’s Policy on Employment-Related Medical Information).

RACE / COLOUR

Permissible Questions

None.

Prohibited Questions

Questions about or relating to physical characteristics such as colour of eyes, hair, skin, height, weight, or requests for photographs.

Questions about mother tongue, where language skills were obtained and whether one speaks English or French fluently, unless fluency in English or French is a reasonable and genuine requirement for the position.

CREED

Permissible Questions

None.

Prohibited Questions

Questions about or relating to religious affiliation/membership, religious institutions attended, frequency of attendance, religious holidays, customs observed, willingness to work on a specific day which may conflict with requirements of a particular faith (e.g., Saturday or Sunday Sabbath days).

Requests for character references that would indicate religious affiliation.

CITIZENSHIP / PLACE OF ORIGIN / ETHNIC ORIGIN

Permissible Questions

Are you legally entitled to work in Canada?

Prohibited Questions

Questions about or relating to birth-place, nationality of ancestors, spouse and other relatives, Canadian citizenship, landed immigrant status, permanent residency, naturalization, requests for proof of Canadian citizenship or Social Insurance Number (A S.I.N. may contain information about an applicant's place of origin or citizenship status. A S.I.N. may be requested following a conditional offer of employment).

Questions about or relating to "Canadian" experience for a particular job.

Questions about or relating to membership in organizations which are identified by a prohibited ground of discrimination, such as an Anglo-Canadian organization.

Questions about the name and location of schools attended.

SEX

Permissible Questions

None.

Prohibited Questions

Categories on application forms or inquiries such as surname or last name before marriage (maiden or birth name); Mr., Mrs., Miss, Ms; relationship with person to be notified in case of emergency or insurance beneficiary.

SEXUAL ORIENTATION

Permissible Questions

None.

Prohibited Questions

Any questions regarding the applicant's sexual orientation.

Categories on application forms or inquiries such as married, divorced, common law relationship, single, separated; information about spouse and their employment (e.g., is spouse willing to transfer?); relationship with person to be notified in case of emergency or insurance beneficiary are prohibited.

MARITAL STATUS

Permissible Questions

None.

Prohibited Questions

Categories on application forms such as married, divorced, common law relationship, single, separated; last name or surname before marriage (maiden or birth name; Mr., Mrs., Miss, Ms; information about spouse and their employment (e.g., is spouse willing to transfer?); second income; relationship with person to be notified in case of emergency or insurance beneficiary.

FAMILY STATUS

Permissible Questions

None.

Prohibited Questions

Categories on application forms such as married, divorced, common law relationship, single, separated; maiden or birth name; Mr., Mrs., Miss, Ms; children or dependants; child care arrangements; information about spouse and their employment (e.g., is spouse willing to transfer?); second income; relationship with person to be notified in case of emergency or insurance beneficiary.

RECORD OF OFFENCES

Permissible Questions

An employer may ask whether an applicant has been convicted of a criminal offence for which a pardon has not been granted. If being bondable is a reasonable and genuine requirement of the job, an employer may ask if the applicant is eligible.

Prohibited Questions

Questions about or relating to whether an applicant has ever been arrested; convicted of any offence (this question invites information on pardoned offences); has ever spent time in jail; has ever been convicted under a provincial statute (e.g., Highway Traffic Act); has a criminal record, or has been convicted of an offence for which a pardon has been granted.

AGE

Permissible Questions

Are you 18 years of age or older and less than 65 years of age?

Prohibited Questions

Questions about or relating to age, date of birth or requests for birth certificates or baptismal records, or other documents such as driver's license which indicate age.

HANDICAP / DISABILITY

Permissible Questions

None.

Prohibited Questions

Questions about or relating to health, disabilities, illnesses, mental disorders, physical or intellectual limitations, developmental handicaps or intellectual impairment, medical history, learning disability, injuries or Workplace Safety and Insurance claims, medication, membership in medical or patient associations (e.g., Alcoholics Anonymous).

An employer may not ask for a listing of disabilities, limitations or health problems.

An employer is prohibited from asking an applicant whether they drink or use drugs, whether they have ever received psychiatric care, and if they have ever been hospitalized for emotional problems.

Questions about or relating to whether accommodation of disability related needs is required, and as to the nature of such accommodation.

Requirements that applicants undergo pre employment medical examinations.

Indication of eligibility for or possession of a valid driver's license.

Source: The information in this document was developed by the Ontario Human Rights Commission, and can be found by visiting:
www.ohrc.on.ca/en/resources/Guides/hiring?page=hiring-Contents.html