

Hiring? A Human Rights Guide

EMPLOYMENT INTERVIEWS

At the interview stage of the employment process, the employer may expand the scope of job related questions if necessary to determine, for example, the applicant's qualifications or his/her ability to perform the essential duties of the job.

Questions about or related to the "Exceptions" are also permitted at the interview stage. Examples of permissible interview questions follow.

RACE / COLOUR / ANCESTRY / PLACE OF ORIGIN / ETHNIC ORIGIN

Permissible Questions

Questions about or relating to a service organization working with a particular community as to membership in the group served, if such membership can be justified as required to do the particular job.

Prohibited Questions

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

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.

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.

Questions which do not fall into the "Special Interest Organizations" exemptions set out by the Ontario Human Right Commission. They can be viewed at the following website: <http://www.ohrc.on.ca/en/resources/Guides/hiring?page=hiring-EXCEPTIO.html>.

CREED

Permissible Questions

Questions by a denominational school as to religious membership, if the job involves communicating religious values to students.

Prohibited Questions

Questions which do not fall into the "Special Interest Organizations" exemptions set out by the Ontario Human Right Commission. They can be viewed at the following website: <http://www.ohrc.on.ca/en/resources/Guides/hiring?page=hiring-EXCEPTIO.html>.

CITIZENSHIP

Permissible Questions

Questions about or relating to citizenship, if required by law for a particular job.

Questions about or relating to citizenship or permanent resident status, where cultural, educational, trade union or athletic activities can be restricted to Canadian citizens and permanent residents.

Questions about or relating to citizenship or place of residence with intention to obtain citizenship, when an organization requires that a senior executive position be held by a Canadian citizen or a person living in Canada with the intention to obtain citizenship.

Prohibited Questions

Questions about or relating to the applicant's citizenship that do not fall within the exceptions outlined in the *Code*.

SEX

Permissible Questions

Questions about or relating to gender, if it is a reasonable and genuine requirement for a particular job, such as employment in a shelter for battered women.

Prohibited Questions

All other questions concerning the applicant's sex, including questions regarding pregnancy or child-bearing plans.

SEXUAL ORIENTATION

Permissible Questions

None.

Prohibited Questions

All questions about or relating to sexual orientation.

RECORD OF OFFENSES

Permissible Questions

Questions to determine whether the applicant has been convicted of a criminal offence for which a pardon has not been granted. Questions to determine if an applicant is bondable, if being bondable is a reasonable and genuine qualification of the job.

Questions to determine if an applicant has a record of convictions under the Highway Traffic Act, if driving is an essential job duty (e.g. bus driver).

Prohibited Questions

All other questions except those with respect to unpardoned *Criminal Code* convictions.

HANDICAP / DISABILITY

Employers are obligated to offer candidates with disabilities an accommodation of their needs if required for any part of the interview or test screening process.

If the applicant's disability becomes an issue at the interview, e.g. where the applicant chooses to talk about his/her disability, an employer may make inquiries about the applicant's accommodation needs. Inquiries should be limited to the applicant's ability to perform the essential duties of the job. Questions should not be unnecessary, such as "How did you end up in a wheelchair?" or "Have you been blind all your life?". They should be asked with the aim of ascertaining the applicant's ability to perform essential duties.

Any questions beyond this scope should be made with great caution and care as it may lead to a complaint on the ground of disability should the applicant not be successful. Additionally, if an employer fails to canvass possible accommodation measures where disability has become an issue at an interview, this also could potentially lead to a complaint on the ground of disability should the applicant not be successful.

Any other disability issues should not be raised until a conditional offer of employment is made.

These protections also apply to other accommodation needs covered by the *Code*, such as pregnancy and religious needs, although the requirement to accommodate a disability is based on the needs of the individual, whereas other grounds are protected on the basis of needs of the group.

Permissible Questions

Questions directly related to the applicant's ability to perform the essential duties of the job.

Prohibited Questions

All other questions concerning the applicant's disability.

AGE

Permissible Questions

Questions about or relating to age if the employer serves a particular age group and/or if age requirements are reasonable and genuine to qualify for employment.

Prohibited Questions

All other questions about age.

MARITAL STATUS

Permissible Questions

Questions about or relating to marital status if the employer serves a particular group identified by marital status (e.g. single woman) and/or if marital status is a reasonable and genuine requirement for employment.

Prohibited Questions

All other questions as to marital status.

FAMILY STATUS

Permissible Questions

Questions about or relating to family status if family status is a reasonable and genuine requirement for employment. Please see further Nepotism or Anti-Nepotism Policies in “Section 7: Exceptions”

(<http://www.ohrc.on.ca/en/resources/Guides/hiring?page=hiring-EXCEPTIO.html>)

Prohibited Questions

All other questions as to family status.

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