



### Lawful & Unlawful Interview Questions

***Don't break the law!*** California law prohibits employers from asking about a candidate's race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, sex, age, or sexual orientation.

Following is a representative list of unlawful and lawful questions. Please note that this list is NOT all-inclusive. ***When in doubt, ask your HR representative!***

#### ***Marital Status***

***Unlawful:*** Whether the applicant is married, divorced, separated, engaged, widowed, etc. "What is your marital status? What is the name of relative/spouse/children? With whom do you reside? Do you live with your parents? How old are your children?"

***Lawful:*** "What are the names of relatives already employed by the company or a competitor?" Other than that specific question, NONE.

#### ***Residence***

***Unlawful:*** Names and relationships of persons with whom applicant resides. Whether applicant owns or rents a home.

***Lawful:*** Inquiries about address to the extent needed to facilitate contacting the applicant. (A post office box is a valid address.) "Will you have problems getting to work at 9 a.m.?" is also legal. Also asking about residence in the context of relocation is also legal, for example, "What are the challenges of you relocating for this position?"

#### ***Pregnancy***

***Unlawful:*** All questions relating to pregnancy and medical history concerning pregnancy, such as "Do you plan on having more children?"

***Lawful:*** Inquiries about duration of stay on a job or anticipated absences, which are made to males and females alike.

#### ***Physical Health***

***Unlawful:*** General questions ("Do you have any handicaps?"), which would tend to elicit information about handicaps or health conditions that do not relate reasonably to fitness to perform the job. "Have you ever had any serious illnesses?" or "Do you have any physical disabilities?" or "What is the prognosis of your handicap?"

**Lawful:** “Can you lift 40 pounds?” or “Do you need any special accommodations to perform the job you’ve applied for?” or “How many days did you miss from work (or school) in the past year?” Such questions must be specific and relate to requirements listed in the job description.

### **Family**

**Unlawful:** Questions concerning a spouse or spouse’s employment or salary, child-care arrangements, or dependents, such as “How will your husband feel about the amount of time you will be traveling if you get this job?” or “What kind of child-care arrangements have you made?”

**Lawful:** Whether an applicant can meet specified work schedules or has activities or commitments that may prevent him or her from meeting attendance requirements. “Can you work overtime?” or “Is there any reason why you can’t be on the job at 7:30 a.m.?” are acceptable.

### **Name**

**Unlawful:** Any inquiries about names, which would divulge marital status, lineage, ancestry, national origin, or descent. (e.g., “If your name has been legally changed, what was your former name?”)

**Lawful:** Whether an applicant has worked for the company or a competitor under any other name and if so, what name.

### **Photographs**

**Unlawful:** Requests that an applicant submit a photo at any time prior to hiring.

**Lawful:** A photo may be requested after hiring for identification purposes.

### **Age**

**Unlawful:** Questions that seek to identify applicants age 40 or older.

**Lawful:** “Are you at least 18 years of age?” or “If hired, can you furnish proof of age?”

### **Education**

**Unlawful:** Any question asking specifically the national, racial, or religious affiliation of a school.

**Lawful:** All questions related to academic, vocational, or professional education of an applicant, including the names of the schools attended, degrees/diplomas received, dates of graduation, and courses of study

### **Citizenship**

**Unlawful:** Asking whether an applicant is a citizen, or requiring a birth certificate, naturalization, or baptismal certificate. Questions such as “Are you a citizen of the United States?” or “Are your

parents and/or spouse 3 citizens of the United States?” or “Are you, your parents, or your spouse naturalized or native-born US citizens?”

**Lawful:** Whether an applicant is prevented from being lawfully employed in this country because of visa or immigration requirements, and/or whether the applicant can provide proof of citizenship (passport), visa, or alien registration number after hiring. For example, “If you are not a US citizen, do you have the legal right to remain permanently in the United States?” or “What is your visa status? Are you able to provide proof of employment eligibility upon hire?”

### ***National Origin/Ancestry***

**Unlawful:** Everything. “What is your nationality?” or “What language is spoken in your home?” or “What is your mother tongue?”

**Lawful:** “What languages do you speak, read, or write fluently?” This is only legal when the inquiry is based on a job requirement.

### ***Race or Color***

**Unlawful:** Any question that directly or indirectly relates to race or color.

**Lawful:** None

### ***Religion***

**Unlawful:** Any question that directly or indirectly relates to a religion.

**Lawful:** None except “Can you work on Saturdays or Sundays?” and then only if this is a requirement of the job.

### ***Organization***

**Unlawful:** “To what organizations, clubs, societies, and lodges do you belong?”

**Lawful:** “To what professional organizations do you belong?” These inquiries must only relate to the applicant’s professional qualifications.

### ***Military***

**Unlawful:** Type or condition of military discharge. An applicant’s experience in other than US armed forces. Request for discharge papers.

**Lawful:** Inquiries concerning education, training, or work experience in the armed forces of the United States. (Note: In many areas, veterans are a protected class.)

### ***Height and Weight***

**Unlawful:** Any inquiries not based on actual job requirements.

***Lawful:*** Inquiries about the ability to perform a certain job. Being of a certain weight or height will not be considered a job requirement unless the employer can show that no employee with the ineligible height and weight could do the work.

### ***Arrests and Convictions***

***Unlawful:*** All inquiries relating to arrests. For example, “Have you ever been arrested?”

***Lawful:*** None relating to arrests. Best to share that the role requires a background check and ask if there are any concerns with this.

### ***Salary History/Current***

***Unlawful:*** “What is your current salary?”

***Lawful:*** “What are your salary expectations?” “Does the salary range posted align with your expectations?”