

## **Are there certain questions that an employer may not ask during a job interview?**

There are several types of questions that an employer is legally prohibited from asking in a job interview. For example, an employer may not seek medical information regarding an applicant, at least not before the applicant has received a conditional job offer. Questions that seek inappropriate medical information include: Are you disabled? How many sick days did you take last year? Have you ever made a workers' compensation claim? and Will you require any form of physical accommodation for this job? An employer may, however, describe the duties of a job to an applicant and ask if the applicant can perform those duties, either with or without reasonable accommodation. In addition, if the applicant clearly has a physical disability that would seem to prevent the applicant from performing the relevant job duties, the employer may ask how the employee proposes to perform them.

In addition to medical inquiries, an employer may not ask an applicant about his or her race, national origin, or religion, or about his or her family status or plans, such as whether a female applicant has or plans to have children.

Often, state anti-discrimination laws also prohibit an employer from inquiring about whether an applicant is in a protected class, such as whether he or she is over age forty or a minority group member.

An employer typically may ask an applicant if he or she has ever been convicted of a crime. Asking whether an applicant has been arrested, however, may violate anti-discrimination laws, because the Equal Employment Opportunity Commission has stated that minority group members tend to be disproportionately targeted for arrest, and whether someone has been arrested is not an indication that he or she has actually committed a crime. As a result, an employer who asks applicants whether they have been arrested, and then excludes those who have, may be engaged in discriminatory hiring practices against minority applicants.

Finally, an employer is also prohibited from asking an applicant whether he or she has participated in a strike in the past or performed union organization activities.

Copyright © 2008 FindLaw, a Thomson Reuters business

DISCLAIMER: This site and any information contained herein are intended for informational purposes only and should not be construed as legal advice. Seek competent counsel for advice on any legal matter.