

## MEA: Guide to Legally Permissible Interview Questions and Discussions

It is important to keep in mind when designing interview questions - and throughout all your interactions with job candidates - that your aim is to find a qualified person to fill a position. Employment and civil rights laws protect job-seekers from being excluded because of factors unrelated to their qualifications.

### IMPORTANT

All settings where you interact with job candidates, including informal gatherings with any members of the Harvard community - even those who are not on the interview team - are considered to be part of the interview. Everyone who will have contact with candidates should understand which areas are appropriate for questioning and discussion.

The chart below offers some guidelines as to specific questions you may and may not ask. As a precaution, check with your Recruiter or HR Consultant if you are unsure about whether or not certain types of questions would be appropriate to ask.

<u>Topic</u>	<u>CANNOT Ask</u>	<u>CAN Ask</u>
Address / Length of Residence	<ul style="list-style-type: none"> <li>About foreign addresses that would indicate national origin</li> <li>Names or relationships of people with whom applicant lives</li> <li>Whether applicant owns or rents</li> </ul>	<ul style="list-style-type: none"> <li>How long have you lived in (city, town)?</li> <li>Phone number and other contact information</li> </ul>
Age	<ul style="list-style-type: none"> <li>Age or date of birth</li> <li>Birth certificate (before hiring; it is okay to require proof of age after hiring)</li> <li>Questions that would tend to identify persons who are 40 and older ("Do you remember being at work before e-mail was introduced?")</li> </ul>	<ul style="list-style-type: none"> <li>If a minor, require proof of age in the form of a work permit or a certificate of age</li> <li>If age is a requirement, can ask, "If hired, will you be able to furnish a proof of age?"</li> </ul>
Arrest and Conviction	<ul style="list-style-type: none"> <li>Have you ever been arrested?</li> </ul>	<ul style="list-style-type: none"> <li>If you wish to ask about someone's criminal record, consult your HR Consultant <small>(*see the note from Wadleigh Law at the end of this document)</small></li> </ul>
Attendance, Reliability	<ul style="list-style-type: none"> <li>Number and/or ages of children?</li> <li>Who is going to baby-sit?</li> <li>What is your religion?</li> <li>Do you have pre-school age children at home?</li> <li>Do you have a car?</li> <li></li> </ul>	<ul style="list-style-type: none"> <li>What hours and days can you work?</li> <li>Are there specific times that you cannot work?</li> <li>Do you have any responsibilities that will interfere with specific job requirements such as traveling?</li> </ul>
Citizenship / National Origin	<ul style="list-style-type: none"> <li>What is your national origin?</li> <li>Are you native-born or naturalized?</li> <li>Where are your parents from?</li> <li>What is your maiden name?</li> <li>(Before hiring) can you show proof of citizenship?</li> </ul>	<ul style="list-style-type: none"> <li>Are you authorized to work in the United States?</li> <li>Have you ever worked under a different name?</li> <li></li> </ul>
Credit Record	<ul style="list-style-type: none"> <li>Do you own your home?</li> <li>Have your wages ever been garnished?</li> <li>Have you ever declared bankruptcy?</li> </ul>	<ul style="list-style-type: none"> <li>No questions</li> </ul>
Disabilities, Handicaps, Illness	<ul style="list-style-type: none"> <li>Do you have any (job) disabilities?</li> <li>About the nature of or severity of a disability/handicap;</li> <li>Have you ever been addicted to illegal drugs or treated for drug or alcohol abuse, received workers compensation, or been</li> </ul>	<ul style="list-style-type: none"> <li>Can you perform the duties of the job you are applying for (describe duties to candidate)?</li> <li>Can you meet the attendance requirements?</li> <li>What was your attendance record at your prior job?</li> </ul>

	hospitalized/treated for physical or mental health conditions, or ever been absent from work due to illness?	
Education	<ul style="list-style-type: none"> <li>When did you graduate from high school or college?</li> </ul>	<ul style="list-style-type: none"> <li>Do you have a high school diploma or equivalent?</li> <li>Do you have a university or college degree?</li> <li>What academic, professional, vocational schools did you attend?</li> <li>Can you provide us with an official transcript?</li> </ul>
Gender	<ul style="list-style-type: none"> <li>Do you wish to be addressed as Mr.?, Mrs.?, Miss?, or Ms.?</li> <li>What is your maiden/birth name?</li> </ul>	<ul style="list-style-type: none"> <li>Generally, no questions may be asked about gender unless gender is a bona fide occupational qualification (e.g. locker room attendant).</li> </ul>
Language	<ul style="list-style-type: none"> <li>What is your native language?</li> <li>Inquiry into how candidate acquired ability to read or write or speak a foreign language.</li> </ul>	<ul style="list-style-type: none"> <li>What languages do you speak and write fluently? (If the job requires additional languages.)</li> </ul>
Military Record	<ul style="list-style-type: none"> <li>What type of discharge did you receive?</li> </ul>	<ul style="list-style-type: none"> <li>What type of education, training, work experience did you receive while in the military?</li> </ul>
Organizations	<ul style="list-style-type: none"> <li>List all clubs, societies and lodges to which you belong.</li> </ul>	<ul style="list-style-type: none"> <li>Inquiry into candidate's membership in organizations which the candidate considers relevant to his or her ability to perform job.</li> </ul>
Parental Status	<ul style="list-style-type: none"> <li>Inquiry into whether candidate has children, plans to have children, or has child care arrangements.</li> <li></li> </ul>	<ul style="list-style-type: none"> <li>May ask if candidate can meet specified work schedules or has activities, commitments, or responsibilities that may prevent him or her from meeting work attendance requirements. If such questions are asked, they must be asked of both sexes.</li> </ul>
Physical Features	<ul style="list-style-type: none"> <li>It is illegal to ask about weight, height, impairment or other non-specified job-related physical data.</li> </ul>	<ul style="list-style-type: none"> <li>No questions</li> </ul>
Race or Color	<ul style="list-style-type: none"> <li>Complexion or color of skin</li> </ul>	<ul style="list-style-type: none"> <li>No questions</li> </ul>
Reference Checking	<ul style="list-style-type: none"> <li>What is your father's surname?</li> <li>What are the names of your relatives?</li> </ul>	<ul style="list-style-type: none"> <li>By whom were you referred for this position?</li> <li>Names of people willing to provide references.</li> </ul>
Religion or Creed	<ul style="list-style-type: none"> <li>Inquiry into candidate's religious denomination, religious affiliations, church, parish, pastor or religious holidays observed.</li> <li>Willingness to work any particular religious holiday.</li> </ul>	<ul style="list-style-type: none"> <li>Can advise candidate about normal hours and days of work required by the job to avoid possible conflict with religious or other observances</li> </ul>
Salary Expectations	<ul style="list-style-type: none"> <li>Is your salary expectation for this position higher or lower than your current/prior salary?</li> </ul>	<ul style="list-style-type: none"> <li>May obtain the expected salary range from the applicant tracking system as part of the application process but cannot use it to establish a salary offer. The salary offer should be equitable with others performing comparable work with comparable experience and skills and in consideration of the hiring range for the position.</li> </ul>
Salary History	<ul style="list-style-type: none"> <li>No questions</li> </ul>	<ul style="list-style-type: none"> <li>No questions</li> </ul>
Sexual Orientation	<ul style="list-style-type: none"> <li>No questions</li> </ul>	<ul style="list-style-type: none"> <li>No questions</li> </ul>
Worker's Compensation	<ul style="list-style-type: none"> <li>Have you ever filed for worker's compensation?</li> <li>Have you had any prior work injuries?</li> </ul>	<ul style="list-style-type: none"> <li>No questions</li> </ul>

Source: Harvard University. internet.huit.harvard.edu

This document was reviewed by Wadleigh Law and approved as a training document for the Sullivan School Board.

\*Note from Wadleigh: In New Hampshire, you are prohibited from asking about criminal history during the application/interview process. Once an offer has been made, then a background check can be performed, so offers of employment should be conditioned upon completion of a favorable background check.

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