

## Lawful and Prohibited Pre-Employment Inquiries

The following list describes specific information that can and cannot be addressed during the selection process.

**Any question you ask must be legal. Your questions should be designed to help you establish the applicant’s qualifications for the job. You should be aware that Equal Employment Opportunity (EEO) laws and regulations, as well as many individual state laws, prohibit discrimination against applicants on the basis of age, race, color, religion, sex, disability or national origin, sexual orientation and/or sexual identity.**

<b>SUBJECT</b>	<b><u>LAWFUL</u> INQUIRIES</b>	<b><i>PROHIBITED INQUIRIES</i></b>
	This information can be used to disqualify applicants.	This information <u>cannot</u> be used to disqualify applicants.
<b>Age*</b>	Whether the applicant meets minimum age requirements. Requirement that applicants submit proof of age after hire. Whether the applicant can meet terms and conditions of the job. “Do you meet the minimum qualifications for the position?”	Inquiry about applicant’s age. Request for applicant’s birth certificate. Any inquiry for purpose of excluding people age 40 and over. Inquiries as to date of graduation from college or high school to determine age should be avoided.
<b>Arrest Record</b>	None.	Any inquiry relating to arrest.
<b>Citizenship*</b>	Whether applicant can be lawfully employed in the United States because of visa or immigration status. Whether the applicant can provide proof of legal right to work in the U.S. after being hired.	Whether the applicant is a U.S. citizen. Requirement before hiring that applicant present birth certificate, naturalization, or baptismal records. Any inquiry into citizenship that would tend to divulge applicant’s lineage, ancestry, descent, or birthplace.
<b>Conviction Record</b>	Inquiries about actual convictions that relate reasonably to performing the particular job and occurred within the last ten years. Example: Convictions for theft, dishonesty or breach of trust. Request to complete the Criminal Records Check Consent Form. Positions with a direct responsibility for supervision, care, or treatment of children, mentally ill persons, or other vulnerable adults shall have a criminal history check.	Inquiries regarding convictions that do not relate to performing the particular job under consideration and did not occur within the previous ten years.

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	Whether an applicant is bondable. <i>See HR Admin Rule 3.11 (link to rule)</i>	
<b>Disability* **</b>	Inquiries about an applicant's ability to perform essential job functions or tasks, with or without accommodation. Requests that an applicant describe or demonstrate how they would perform essential job tasks or achieve job outcomes. Asking about an applicant's qualifications and skills, such as education, work history, and required certifications or licenses.	Any inquiry that would elicit information about an applicant's disability or health condition that is not relevant to job performance. Any inquiry about the nature, severity or extent of an applicant's disability. Whether an applicant has applied for or received worker's compensation. Whether reasonable accommodations should be made.
<b>Education</b>	Inquiries regarding degrees or equivalent experience. Information regarding courses relevant to a particular job.	Disqualification of an applicant who does not have a particular degree, unless the employer has proven that the specific degree is the only way to measure an applicant's ability to perform the job in question.
<b>Family</b>	Whether applicant can meet specified work schedules or has activities, commitments, or responsibilities that may prevent meeting work attendance requirements.	Inquiries concerning applicant's spouse, spouse's employment or salary, children, childcare arrangements, or dependents.
<b>Height/Weight</b>	None.	Any inquiry relating to height or weight.
<b>Marital Status</b>	None.	Any inquiry relating to the applicant's marital status: whether an applicant is married, single, divorced, separated, engaged, widowed, etc. Any form requesting identification by Mr., Mrs., Miss, or Ms. status.

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<b>Military Record*</b>	Type of experience, training, and education in the United States military service as it relates to a particular job.	Inquiries regarding type or condition of military discharge, unless it is the result of a military conviction.  Inquiries regarding applicant's experience in a military other than the United States military.
<b>Name</b>	Whether applicant has ever worked under a different name, and if so, what name.  Name by which applicant is known to references, if different from present name.	Inquiries that would divulge applicant's national origin, lineage, ancestry, descent or marital status.  Inquiry into original name when it has been changed by court order or marriage.
<b>National Origin*</b>	Whether applicant is legally eligible to work in the United States.  Inquiry into ability to read/write/speak foreign language when this is a job requirement.	Any inquiry into lineage, ancestry, descent, birthplace, native language, or national origin of applicant, or of applicant's spouse or parents.
<b>Organization Membership</b>	Inquiries into organization memberships, <b>excluding</b> any organization whose name or character indicates race, color, creed, sex, sexual orientation, marital status, religion, age, status as a disabled veteran, status as a Vietnam era veteran, disability, national origin, or ancestry of its members.	Inquiries about organization membership to determine the race, color, religion, sex, national origin or age of applicant.  Requirement to list all organizations, clubs, societies, etc., to which the applicant belongs.
<b>Photograph</b>	None. May request after hire for purpose of identification.	Any request for submission of applicant's photograph at any time prior to employment.
<b>Pregnancy</b> (see also Disability)	Inquiry as to duration of stay on the job or anticipated absences made to males and females alike.	Any inquiry related to pregnancy, medical history concerning pregnancy, and related matters.
<b>Race or Color*</b>	None.	Any inquiry concerning race or color.
<b>Relatives</b>	Names of relatives currently employed by the City of Portland.	Any other inquiry about marital status, spouse, or spouse's occupation.

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<b>Religion or Creed</b>	None.	Any inquiry concerning applicant's religious preference, affiliation, denomination, church, parish, pastor, or religious holidays observed.
<b>Residence</b>	Inquiry about address sufficient to facilitate contact with applicant.	Any inquiry regarding with whom applicant resides. Whether applicant owns or rents.
<b>Sex*</b>	None.	Any inquiry regarding gender.
<b>Sexual Orientation</b>	None.	Any inquiry regarding sexual orientation.
<b>Work Experience</b>	Applicant's previous job-related experience.	Inquiries to members of a protected class regarding work stereotypically associated with that class.

\*Use of the Affirmative Action Information Request form, asking applicants to voluntarily identify themselves as belonging to any group for whom the City takes affirmative action, is not a violation of these guidelines.

\*Bureau of Human Resources staff's request for a copy of military discharge papers in order to receive Veterans' Preference in civil service employment is not a violation of these guidelines.

\*\*There are several specific federal guidelines on permissible pre-employment, post-offer, and post-employment inquiries for persons with disabilities. If you receive an ADA accommodation request from an applicant or employee with a disability, immediately contact your [Human Resources Business Partner](#) (HRBP) for guidance. The HRBP will initiate the interactive process with the applicant or employee, and will work together with you to determine what, if any, reasonable accommodations can be made during the hiring process or in the work environment. The City maintains an [ADA fund](#) to support accommodations for applicants, interns, and employees with disabilities; if needed, the HRBP will facilitate access to the Fund to pay for accommodation-related products or services.