

PRE-EMPLOYMENT INQUIRIES

PURPOSE: To ensure compliance with Federal, State, and County requirements under the County Personnel Ordinance.

SCOPE: This policy applies to all departments and to all pre-employment inquiries conducted. The methodology used to hire temporary employees or other unclassified positions may differ from the hiring of applicants to regular classified positions, however, compliance with all Federal, State and County requirements will still apply.

POLICY STATEMENT:

The County's hiring process includes a final interview of eligible job applicants. During the testing phase of the recruitment process the hiring manager or supervisor may assist Employee Services with a structured oral board interview. It is critically important that the hiring manager/supervisor be aware of regulations which prohibit any non job-related inquiries.

Interviews should consist of inquiries which can be proven to be job-related. The Supervisor's Guide to Recruitment and Selection covers this information. This guide is available through the Department of Employee Services.

The Bureau of Labor and Industries notes the following with regards to interviewing:

Questions asked on applications or in interviews could lead an applicant to believe he or she was denied a job illegally. Thus the employer should be prepared to show why the information requested was needed, and how it was used in the hiring decision.

Federal and State law prohibits employers from advertising or making any inquiry expressing a preference based on protected class status. All pre-employment questions should be designed to obtain information relating only to qualifications for successful performance on the job.

To lessen the likelihood that discrimination might occur or be perceived in hiring, it is important for employers to ask only job-related questions. Inappropriate inquiries are those which elicit information about someone's protected class status. There are three main types of inappropriate inquiries:

1. Questions asking for direct information about an individual's race, sex, age, marital status, etc.
2. Questions asking for information typically evaluated differently for men and women; such as questions regarding child care arrangements.
3. Questions asking for information that could be used to screen out members of protected classes, which are protected by law, such as questions regarding height, weight, or religious organizations.

The attachment, GUIDELINES FOR PRE-EMPLOYMENT INQUIRIES, is provided to assist you in conducting interviews. This guide is based on information made available by a variety of state and federal agencies including the Bureau of Labor and Industries. Categories include inquiries by subject, and lists inquiries as either "Lawful-Questions You Can Ask" or "Unlawful-Questions You Can't Ask". Please review and utilize these guidelines to ensure that your interviews and other employment practices are in accordance with acceptable methods and are in fact job related.

As you are aware, not only does Clackamas County use interviews and application forms to assess candidates for employment, but candidates also receive an impression about the County from all phases of the selection process. Even if an area of inquiry is based upon a bona fide occupational qualification, proving that to the Bureau of Labor and Industries, the EEOC and/or the courts is a costly process. It is therefore necessary to conduct interviews which do not leave room for an applicant to perceive that she/he may be subject to discrimination.

Non job-related interviewing practices or complaints about interviews from candidates can lead to poor employment decisions, discrimination complaints, and lawsuits. Any of these outcomes can result in a loss of time, money and credibility.

If you have any questions regarding interviewing or other employment practices, please contact the Department of Employee Services.

INTERNET LINKS

County Ordinance (<http://www.clackamas.us/docs/code/title2.pdf>)

Oregon Technical Assistance for Employers (<http://www.boli.state.or.us/>)

Attachment

**GUIDELINES FOR
PRE-EMPLOYMENT INQUIRIES**

Subject	Lawful-Questions You Can Ask	Unlawful-Questions You Can't Ask
Name	<p>Applicant's full name.</p> <p>Have you ever worked for this company under a different name?</p> <p>Is any additional information relative to a different name necessary to check your work record? If yes, explain.</p>	<p>Original name of an applicant whose name has been changed by a court order or otherwise.</p> <p>Applicant's maiden name.</p>
Address or duration of residence	How long have you been a resident of this state or city?	
Birthplace	Nothing	<p>Birthplace of applicant.</p> <p>Birthplace of applicant's parents, spouse, or other close relatives.</p> <p>Requirements that applicant submit birth certificate, naturalization, or baptismal record.</p>
Age	Are you 18 years old or older? This question may be asked only for the purpose of determining whether applicants are of legal age for employment.	
Religion or Creed	Nothing	Inquiry into an applicant's religious denomination, religious affiliations, church, parish, pastor, or religious holidays observed.
Race or Color	Nothing	Complexion or color of skin.
Photograph	Nothing	Any requirement for a photograph prior to hire.
Height	Nothing	Inquiry regarding applicant's height.
Weight	Nothing	Inquiry regarding applicant's weight.
Marital Status	Nothing	Requirement that an applicant provide any information regarding marital status or children. Are you single or married? Do you have any children? Is your spouse employed? What is your spouse's name?

Subject	Lawful-Questions You Can Ask	Unlawful-Questions You Can't Ask
Citizenship	<p>Are you a citizen of the United States?</p> <p>If not a citizen of the United States, does applicant intend to become a citizen of the United States?</p> <p>If you are not a United States citizen, have you the legal right to remain permanently in the United States? Do you intend to remain permanently in the United States?</p> <p>To avoid discrimination based on national origin, the questions above should be asked after the individual has been hired even if it is related to the federal I-9 process.</p>	<p>Questions below are unlawful unless asked as part of the federal I-9 process.</p> <p>Of what country are you a citizen?</p> <p>Whether an applicant is naturalized or a native-born citizen; the date when the applicant acquired citizenship.</p> <p>Requirement that an applicant produce naturalization papers or first papers.</p> <p>Whether applicant's parents or spouse are naturalized or native-born citizens of the United States: the date when such parent or spouse acquired citizenship.</p>
National Origin	Inquiry into language that applicant speaks and writes fluently.	<p>Inquiry into applicant's lineage, ancestry, national origin, descent, parentage, or nationality.</p> <p>Nationality of applicant's parents or spouse.</p>
Education	Inquiry into the academic, vocational, or professional education of an applicant and public and private schools attended.	Inquiry into how applicant acquired ability to read, writes, or speaks a foreign language.
Experience	Inquiry into work experience.	
Arrests or Criminal Records	<p>Have you ever been convicted of a crime?</p> <p>Are there any felony charges pending against you?</p>	<p>Inquiry regarding arrests that did not result in conviction.</p> <p>(Except for law enforcement agencies)</p>
Relatives	Names of applicant's relatives already employed by this company.	Address of any relative of applicant, other than address (within the US) of applicant's father and mother, husband or wife, and minor dependent children.

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Notice in Case of Emergency	Name and address of person to be notified in case of accident or emergency.	Name and address of nearest relative to be notified in case of accident or emergency.
Organizations	Inquiry into the professional or business related organizations of which an applicant is a member, <i>excluding</i> organizations the name or character of would indicate the race, color, religion, national origin, or ancestry of its members.	List all clubs, societies, and lodges to which you belong.
Disability	Whether applicant can perform the essential functions of the job.	Inquiry regarding any disability. Nature or severity of a disability. Have they ever filed a workers comp claim. Recent or past surgeries. Past medical problems.
Military Record	Type of experience related to the job.	Military service in any other country.

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Disability	Whether applicant can perform the essential functions of the job.	Inquiry regarding any disability. Nature or severity of a disability. Have they ever filed a workers comp claim. Recent or past surgeries. Past medical problems.
Military Record	Type of experience related to the job.	Military service in any other country.