

# **EMPLOYMENT INQUIRIES**

## **WHAT CAN EMPLOYERS ASK APPLICANTS AND EMPLOYEES?**

The Department of Fair Employment and Housing has developed this guide to provide employers with guidance relating to inquiries that can be made to applicants and employees.

The California Fair Employment and Housing Act (FEHA) prohibits any non-job-related inquiries of applicants or employees, either verbally or through the use of an application form, that express, directly or indirectly a limitation, specification or discrimination as to race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation.

## EMPLOYMENT INQUIRIES

ACCEPTABLE	SUBJECT	UNACCEPTABLE
Name	<b>NAME</b>	<ul style="list-style-type: none"> <li>• Maiden name</li> </ul>
Place of residence	<b>RESIDENCE</b>	<ul style="list-style-type: none"> <li>• Questions regarding owning or renting.</li> </ul>
Statements that hire is subject to verification that applicants meet legal age requirements.	<b>AGE</b>	<ul style="list-style-type: none"> <li>•</li> </ul>
Statements/inquiries regarding verification of legal right to work in the United States.	<b>BIRTHPLACE, CITIZENSHIP</b>	<ul style="list-style-type: none"> <li>•</li> </ul>
Languages applicant reads, speaks or writes if use of language other than English is relevant to the job for which applicant is applying.	<b>NATIONAL ORIGIN</b>	
Statement by employer of regular days, hours, or shifts to be worked.	<b>RELIGION</b>	
Name and address of parent or guardian if applicant is a minor.  Statement of company policy regarding work assignment of employees who are related.	<b>SEX, MARITAL STATUS, FAMILY</b>	
	<b>RACE, COLOR, SEXUAL ORIENTATION</b>	
	<b>CREDIT REPORT</b>	
Statement that a photograph may be required after employment.	<b>PHYSICAL DESCRIPTION, PHOTOGRAPHS, FINGERPRINTS</b>	
Employer may inquire if applicant can perform job-related functions.  Statement that employment offer may be made contingent upon passing a job-related mental/physical examination.	<b>MENTAL/PHYSICAL DISABILITY, MENTAL CONDITION (APPLICANTS)</b>	

A medical/psychological examination/inquiry may be made as long as the examination/inquiry is job-related and consistent with business necessity and all applicants for the same job classification are subject to the same examination/inquiry.	<b>MENTAL/PHYSICAL DISABILITY, MEDICAL CONDITION (POST- OFFER/PRE-EMPLOYMENT)</b>	<ul style="list-style-type: none"> <li>Any inquiry into the applicant's general health, medical condition, or physical/mental disability, if not job-related and consistent with business necessity.</li> </ul>
A medical/psychological examination/inquiry may be made as long as the examination is job-related and consistent with business necessity.	<b>MENTAL/PHYSICAL DISABILITY, MEDICAL CONDITION (EMPLOYEES)</b>	<ul style="list-style-type: none"> <li>Any inquiry into the employee's general health, medical condition, or mental/physical disability, if not job-related and consistent with business necessity.</li> </ul>
Job-related questions about convictions, except those convictions which have been sealed, or expunged, or statutorily eradicated.	<b>ARREST, CRIMINAL RECORD</b>	<ul style="list-style-type: none"> <li>General questions regarding arrest record.</li> </ul>
Questions regarding relevant skills acquired during U.S. military service.	<b>MILITARY SERVICE</b>	<ul style="list-style-type: none"> <li>General questions regarding military service such as dates/type of discharge.</li> <li>Questions regarding service in a foreign military.</li> </ul>
Requesting lists of job-related organizations, clubs or professional societies omitting indications of protected bases.	<b>ORGANIZATIONS, ACTIVITIES</b>	<ul style="list-style-type: none"> <li>General questions regarding organizations, clubs, societies and lodges.</li> </ul>
Name of persons willing to provide professional and/or character references for applicant.	<b>REFERENCES</b>	<ul style="list-style-type: none"> <li>Questions of applicant's former employers or acquaintances which elicit information specifying applicant's race, etc.</li> </ul>
Name and address of person to be notified in case of accident or emergency.	<b>NOTICE IN CASE OF EMERGENCY</b>	<ul style="list-style-type: none"> <li>Name, address, and relationship of relative to be notified in case of accident or emergency.</li> </ul>

**NOTE: Any inquiry, even though neutral on its face, which has an adverse impact on persons on a basis enumerated in the Fair Employment and Housing Act, is permissible only if it is sufficiently related to an essential job function to warrant its use.**

For more information, contact the Department  
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TTY Number: **(800) 700-2320**

or visit our Web site at: [www.dfeh.ca.gov](http://www.dfeh.ca.gov)

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