



Mineral



Question of the Week

April 17, 2024

Question

Are there questions or topics we should avoid during the hiring process? How can we be sure we don't accidentally get into one of those topics?

ANSWER

You should avoid asking questions that could be viewed as discriminatory or that infringe on a candidate's privacy. Essentially, you want to avoid any questions that are not directly related to the candidate's ability to perform the job. These would include questions about race, national origin, citizenship status, religious affiliation, disabilities, pregnancy (or desire to become pregnant in the future), sexual orientation or gender identity, past illnesses (including use of sick leave or filing of workers' comp claims), age, genetic information, or military service. You should also consider state laws that might apply, like prohibitions on asking for salary history or requesting that a candidate connect with you on social media so you can see what they post.

Asking these types of questions could result in rejected candidates claiming that the decision not to hire was based on their inclusion in these protected classes rather than job-related considerations. If you need information that might be *related* to a protected class, ask for it in a way that focuses on business needs. For example, if you need someone who can work Sunday mornings, don't ask candidates if or when they go to church; instead, provide them with the position's schedule and verify that they're available to work those hours. If you need to ensure that a candidate can do a physical aspect of the job, ask them if they're able to do that task with or without

accommodation, not if they have a disability that might interfere with their ability to do it.

Keep your questions and conversation focused on the job duties and the candidate's skills and abilities, and you'll be less likely to stumble into questions that could be discriminatory. If a candidate brings up their inclusion in a protected class, don't worry, but be sure to steer the conversation back to the job.

This Q&A does not constitute legal advice and does not address state or local law.