



Mineral



Question of the Week

February 26, 2025

Question

Are we permitted to ask applicants about their immigration status?

ANSWER

No, you shouldn't ask applicants about their immigration status—for example, whether they are a citizen, naturalized citizen, lawful permanent resident, or refugee. Asking about applicants' immigration status (or any protected class) could lead to discrimination claims in the following ways:

1. You ask and then intentionally use the information in your hiring decision (illegal)
2. You ask and then unintentionally use the information in your hiring decision, likely because of unconscious bias (also illegal)
3. You ask and do not use the information, but the applicant believes the information was a factor in your hiring decision (not illegal, but could still lead to legal drama and expense)

You *are* allowed to ask questions about an applicant's lawful ability to work in the United States or their potential need for sponsorship. For example, you could ask, "Are you legally authorized to work in the United States?" or "Do you now or will you in the future require employer sponsorship?"

If you ask either of these questions, do so for all candidates and not just for those you suspect might need visa sponsorship or who may not be obviously eligible to work in the United States. You can add these questions to your job application or screening questions to ensure consistency.

You can learn more about [discrimination based on national origin](#) on the platform.

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