

## **Pre-employment Inquiry Guidelines**

### **LAW**

The Washington State Law Against Discrimination makes it an unfair practice for an employer to ask a candidate about age, sex, marital status, race, creed, national origin, color, or the presence of a sensory, mental, or physical handicap. (*RCW 49.60.180, WAC 162-12*). If a WSU employee violates the rights of a candidate, the candidate may bring a civil action to enjoin further violations and to recover the actual damages and the cost of the legal action, which may include reasonable attorney fees. (*RCW 49.60.030 (2)*)

The Washington State Equal Pay and Opportunities makes it an unfair practice for employers to seek salary history of internal and external applicants (*RCW 49.58.020; WAC 357-16-215*)

### **ACCEPTABLE INQUIRIES**

An employer may ask anything directly related to bona fide job qualifications, such as the applicant's availability for the work schedule, job-related interests, ability and experience, or willingness to do the work.

An employer may ask the applicant questions about race, creed, color, sex, marital status, or national origin if the answer relates to a bona fide occupational qualification. (*WAC 162-12-135*) Review the circumstances with Compliance and Civil Rights (CCR) or Human Resource Services (HRS).

HRS and the CCR may ask questions about race, age, sex, and disability to comply with WSU affirmative action programs. The applicant furnishes this information voluntarily and it is treated confidentially. An employer may ask the applicant questions about race, creed, color, sex, marital status, or national origin if the federal government requires the information. (*WAC 162-12-150*)

Do not keep any information on race, creed, color, national origin, sex or marital status in the applicant's personnel file or in any other place where it is available to those who process the application. (*WAC 162-12-160*)

### **After Employment**

The rules do not prohibit collecting data on race, creed, color, national origin, sex, marital status, or age of persons after employment, unless the records are used to discriminate against the employee.

Citizenship and immigration status is reported for international employees on personnel actions.

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### **UNACCEPTABLE INQUIRIES**

The law explicitly prohibits many inquiries which have high potential for causing unlawful discrimination. The following examples identify situations as fair and unfair inquiries.

### **EXAMPLES**

These examples are provided to assist supervisors and other hiring authorities in pre-employment interviews and other inquiries. The examples include fair and unfair practices. These examples are not exhaustive. These examples are paraphrased from the Washington Human Rights Commission pre-employment inquiries guide in *WAC* 162-12-140.

<b>Subject</b>	<b>Fair Pre-employment Questions</b>	<b>Unfair and Illegal Pre-employment Questions</b>
Age	Birthdate and proof of true age	Any inquiry that implies a preference for employees under age 40.
Arrests	Consult with HRS prior to any inquiry regarding an arrest.	Any inquiry that does not meet the requirements for fair pre-employment inquiries.
Citizenship	Applicant's eligibility for U.S. employment and the applicant's ability to provide identification and eligibility verification as required by U.S. Citizenship and Immigration Services.	Whether applicant is a citizen. Any inquiry into citizenship that divulges applicant's ancestry, national origin, birthplace or present citizenship. It is also illegal to require a birth certificate or naturalization or baptismal records before hiring.
Convictions (see also Arrests)	Inquiries concerning convictions (or imprisonment) are considered justified by business necessity if the crimes inquired about relate reasonably to the job duties, and if such convictions (or releases from prison) occurred within the last ten years.	Inquiries concerning convictions and imprisonment that either do not relate reasonably to job duties or did not occur within the last ten years.

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Disability	Whether applicant is able to perform the essential functions of the job for which the applicant is applying, with or without reasonable accommodation. Requests that the applicant demonstrate or describe the performance of essential specific job functions with or without reasonable accommodation.	Inquiries about the nature, severity, or extent of a disability or whether the applicant requires reasonable accommodation prior to a conditional job offer. Inquiries as to whether or not the applicant has applied for or received worker's compensation. Any inquiry that is not job related or consistent with business necessity.
Family	Applicant's ability to meet specific work requirements such as specific work schedules, travel, and attendance.	Specific inquiries concerning spouse, spouse's employment or salary, children, child care arrangements, or other dependents.
Height and Weight	Inquiries concerning the ability to perform actual job requirements. (Being a certain height or weight is not considered a requirement unless the employer can show that an employee with an ineligible height or weight could not perform the essential functions of the job because of height or weight.)	All inquiries that are not based on actual job requirements and are not consistent with business necessity.

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Marital Status	None	Format of written questions: <input type="checkbox"/> Mr. <input type="checkbox"/> Mrs. <input type="checkbox"/> Miss <input type="checkbox"/> Ms. Whether the applicant is married, single, divorced, separated, engaged or widowed.
Military	Inquiries about education, training or work experience acquired in the armed forces of the U.S. Questions about type and dates of discharge may be asked about U.S. military service if an applicant claims veteran's preference.	Type or condition of military discharge. Whether an applicant has experience in other than U.S. armed forces. Requests for discharge papers.
Name	Whether applicant has worked for WSU under a different name and, if so, what name. Name applicant is known to references.	Inquiries about original name if the name has been changed by court order or marriage. Inquiries that could divulge marital status, lineage, ancestry, national origin or descent.
National Origin	Inquiries about foreign language skills if those skills are job requirements.	Inquiries into applicant's lineage, ancestry, national origin, descent, birthplace, or mother tongue. Inquiries about the national origin of applicant's parents or spouse.

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Organizations	Questions about job-related organization membership unless the organization membership is an indication of race, color, creed, sex, marital status, national origin, or ancestry of its members.	Requirements that the applicant list all organizations, clubs, societies, and lodges to which he/she belongs.
Photographs	May be requested <i>after</i> hiring for identification purposes.	Mandatory or optional request that applicant submit a photograph at any time before hiring.
Pregnancy (see also Disability)	Inquiries that are made to all applicants concerning any anticipated absences and expected duration of employment.	All questions about pregnancy, medical history concerning pregnancy and related matters.
Race	None	Any inquiries concerning race or color of skin, hair, eyes, etc.
Relatives (see <i>BPPM</i> 60.14)	Names of applicant's relatives already employed by WSU.	Any other inquiries regarding marital status, identity of one's spouse, or spouse's occupation are considered unfair practices in accordance with <i>WAC</i> 162-12-150.
Religion or Creed	None	Inquiries concerning applicant's religious preference, denomination, religious affiliation, church, parish, pastor, or religious holidays observed.

PERSONNEL  
60.08.6  
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Compliance and Civil Rights  
509-335-8288  
Human Resource Services  
509-335-4521

## BUSINESS POLICIES AND PROCEDURES MANUAL

### Pre-employment Inquiry Guidelines

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<b>Subject</b>	<b>Fair Pre-employment Questions</b>	<b>Unfair and Illegal Pre-employment Questions</b>
Residence	Mailing address and telephone number.	Names or relationships of people living with applicant. Whether applicant owns or rents his/her home.
Salary History	None	All inquiries
Sex	None	All inquiries.