OHIO CIVIL RIGHTS COMMISSION

Pre-Employment Inquiries and Questions

It is illegal for employers, labor unions and employment agencies to discriminate against persons because of race, color, religion, sex, national origin, disability, age, military status or ancestry. Under Ohio law, these entities are prohibited from eliciting, keeping records of, or using any form of application seeking to elicit information about an applicant's protected class(es), prior to employment, unless the employer is required to obtain such information pursuant to a state, federal or local law or regulation or court order.

This brochure is not a complete definition of what can and cannot be asked of applicants. It attempts to provide examples of lawful and questionable inquiries. The law is not intended to prohibit employers from obtaining the information about applicants that is clearly job related and which cannot be used for discriminatory purposes.

The law does not restrict employers from defining qualifications necessary for satisfactory job performance, but it does require that standards of qualifications for hiring be applied alike to all persons regardless of race, color, religion, sex, national origin, ancestry, disability, age or military status.

Complaint Process

Any person who feels he or she is a victim of discrimination because of race, color, religion, sex, national origin, ancestry, disability, age or military status may file a formal complaint with the Ohio Civil Rights Commission (OCRC). A person may also file on the basis of retaliation if he or she believes that another person has retaliated against him or her for opposing unlawful discrimination, for exercising the right to file a charge or for otherwise participating in an investigation or proceeding concerning unlawful discriminatory practices. Charges must be filed within six months from the date of harm (or one year for cases alleging housing discrimination).

Parties to an OCRC charge will generally be offered an opportunity to participate in mediation. If the mediation process is unsuccessful, or if a party does not wish to participate in mediation, the case will be referred to an investigator. Through a series of actions, including witness interviews, document requests and site visits, the Commission will determine whether discrimination has occurred.

All services are **free** of charge and complaints can be filed in person at your local OCRC office, by telephone or by visiting www.crc.ohio.gov.

Regional Offices

Akron Regional Office
Ocasek Government Building
161 S. High St., Suite 205
Akron, OH 44308
330-643-3100
330-643-3120 (Fax)

Cleveland Regional Office
Lausche State Office Building
615 W. Superior Avenue, Suite 885
Cleveland, OH 44113
216-787-3150
216-787-4121 (Fax)

Columbus Regional Office
Rhodes State Office Tower
30 E. Broad St., 4th Floor
Columbus, OH 43215
614-466-5928
614-466-6250 (Fax)

Dayton Regional Office
3055 Kettering Blvd., Suite 111
Dayton, Ohio 45439
937-285-6500
937-285-6606 (Fax)

Toledo Regional Office
One Government Center
640 Jackson St., Suite 936
Toledo, OH 43604
419-245-2900
419-245-2668 (Fax)

Cincinnati Satellite Office
PNC Bank Building
7162 Reading Rd., Suite 606
Cincinnati, OH 45237
513-351-2541
513-351-2616 (Fax)

Questions Pertaining to Sex (Including Pregnancy & Marital Status)

Lawful	**Illegal under Ohio Law**	**Questionable** ***(Consider whether to ask)***
• What is your legal name? • Have you ever used an alias? • Minimum length of service to receive maternity leave is lawful *only if all persons similar in ability or inability to work needing leave are treated the same.*	• What is your maiden name? • Do you plan to marry? • Do you plan to have children? • Are you pregnant? • Who will watch the kids if you are hired? • What is your height/weight?	• Do you prefer Miss, Ms. or Mrs.? • Can you travel overnight? (*Ask all and only if an essential job function*) • Questions/statements regarding transgender or sex stereotyping.

Questions Pertaining to Age (Protected Category is 40 and Older)

• Inquiries to establish minimum or maximum age requirements required by law, regulation or BFOQ, such as: • Are you eighteen years of age? • Employers may ask about birth date *post-offer* for background checks.	• How old are you? • When do you plan to retire? • What year did you graduate high school? • Questions about or actions requiring *pre-offer* birth certificate, passport, driver's license, or other documents with DOB.	• Inquiries tending to reveal one's age, such as when did you attend college? • Do you have problems working long hours? *(Can suggest age or disability)* • Questions going beyond service time. *(What age did you start at the State?)*

Questions Pertaining to Disability

• Are you able to safely and substantially perform essential job functions, like lifting 30 pounds? *(If essential)* • Are you currently taking illegal drugs? • Do you have reliable transportation? • Pre-employment inquiries are acceptable *only if designed to determine whether applicant can perform essential job functions without significantly increasing occupational hazards to self or others.*	• How is your health? • Do you have any past workers compensation, disability or FML claims? • Are you currently taking any medications? *(Unless post-offer and for a drug screen)* • Do you have any impairments that would prevent you from doing the job? • Are you able to drive to work? *(If not an essential job function)* • Pre-offer physical exams/agility tests. *(Only legal if job-specific and offer is contingent)*	• Are your parents still alive? (*May lead to discussions about health history)* • Do you need a reasonable accommodation to perform the job? *(Ask only if applicant raises issue or post-offer)* • Explain gaps in your employment. • When did you last take illegal drugs? • Questions about attendance and sick leave usage at past jobs. *(This may lead to talk about a latent disability. Instead ask about Mondays/Fridays.)*

Questions Pertaining to Race, Color, National Origin & Ancestry

• Are you legally permitted to work in the United States? • Do you speak any other languages? *(If necessary or beneficial for job duties)* • How long have you lived at your current address/past addresses? • Whom can we notify in the event of an emergency? *(Ask applicant to list persons versus family members)* • Employers may secure proof of citizenship and authority to work after hire.	• Inquiries about race are *unlawful* unless made pursuant to a certified BFOQ. • Where were you born? • Is English your native tongue? • Where is your father/mother from? • What is skin, hair or eye color? • Please provide a photograph of yourself. *(Pre-offer)* • Are you native born or a naturalized citizen? • Where did you grow up?	• How did you learn to speak French? • In what clubs were you a member? *(Versus professional organizations)* • That is a beautiful accent. What is it? • Have you ever been arrested? *(Tends to screen out African-Americans)* • Note about conviction inquiries for Ohio's public employers - *Ban the box applies. Public employers may not ask this question on applications and only ask final candidates during interviews.*

Questions Pertaining to Religion

• Are you able to work the schedule required for this position? • Can you work weekends/nights? *(Only if a requirement of the specific job and asked of all applicants)*	• Are you Muslim? • What church do you attend? • Do you subscribe to Christian principles? *(Only if position is subject to a religion certified BFOQ)*	• Can you work on Christmas (or other religious holiday)? *(Only legal if essential and asked of all)* • Questions about LGBT or same-sex marriage.

Questions Pertaining to Military Status

• What training or experience did you receive in the military? What did you do? • Which military branch did you serve? • Invitation to self-identify. *(Federal contractors - voluntary and kept separately)*	• How often are you deployed? • How long will you be away for service? • Did you get injured while in combat? • When are you required to participate in National Guard or Reserve exercises?	• Did you receive an honorable discharge? *(Permissible for federal contractors for veteran preference or security clearance only)* • Asking for military records. (*Pre-offer)*