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From the ADP Spark Blog.

Knowing what questions to ask and what questions to avoid is critical to conducting an effective and compliant interview. Some questions are expressly prohibited by law while others may directly or indirectly reveal an applicant is a member of a protected group. Both types of questions should be avoided during interviews.

Here are five examples of interview questions to avoid, along with some suggested alternatives.

Avoid #1: How much did you earn in your previous job?

Several states and local jurisdictions have passed laws that restrict employers from

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or similar types of interview questions. Keep in mind some jurisdictions, such as Connecticut, require employers to disclose the salary range for the position.

Avoid #2: Are you vaccinated against COVID-19?

Some states have enacted laws that restrict or prohibit employers from requiring employees to be vaccinated against COVID-19. For example, Florida enacted legislation in 2021 that prohibits private employers from imposing a COVID-19 vaccination mandate without providing exemptions for medical reasons (including pregnancy and anticipated pregnancy), religious reasons, COVID-19 immunity, periodic testing, and the use of employer-provided personal protective equipment (PPE). Many of these laws, including Florida's, have specific requirements for handling exemption requests. Check your state law for details.

In addition, asking an applicant about their vaccination status could lead an applicant to disclose protected information about their medical or disability status. Under federal law, the Americans with Disabilities Act (ADA) generally prohibits disability-related inquiries and medical exams prior to a conditional offer of employment. Once an employee begins work, those inquiries must be job related and consistent with business necessity. As such, it is a best practice to avoid questions about vaccination status during job interviews.

Alternative: None. Where vaccination requirements are allowed, employers can wait until after they have extended a conditional job offer to confirm the individual's vaccination status. Keep in mind that reasonable accommodations may still be required under federal and/or state laws.

Avoid #3: Do you smoke? Do you drink alcohol? Are you a marijuana user?

Several states prohibit discrimination against individuals who use tobacco products

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communicate your drug and alcohol policy as long as you do so consistently for all similarly situated applicants.

Avoid #4: Do you have religious obligations that would prevent you from working Friday evenings, Saturdays or Sundays? Do you wear that head scarf for religious reasons?

Employers are prohibited from discriminating against individuals on the basis of religion. This includes religious beliefs (both traditional as well as non-traditional) and religious practices, such as attending religious services, praying or wearing religious attire. Generally, you should avoid questions that elicit information about religious beliefs and practices.

Alternative: If you want to confirm an applicant is able to work the hours required for the job, state the regular days, hours or shifts for the job, and ask whether the candidate can work such a schedule. Keep in mind you may be required to reasonably accommodate an employee's religious beliefs or practices, such as allowing an employee to voluntarily swap shifts with a co-worker so they can attend religious services. Interviewers should also be familiar with the company's dress code (or any other policy that might call for a religious accommodation) and be ready to ask applicants if they can comply, with or without a reasonable accommodation. This question can spark a discussion over possible accommodations, if applicable. If you do ask this question, be consistent and ask it of all applicants.

Avoid #5: How old are you? We went to the same high school ... what year did you graduate? Do you plan to retire soon?

Under federal law, employers are prohibited from discriminating against applicants and employees who are age 40 and older. Many states also prohibit age

discrimination, some protecting even younger workers. The answers to the questions

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job-related information. Next week, we will cover five more questions to avoid.

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