

**PRE-EMPLOYMENT INQUIRY GUIDE**  
**LEAGUE OF MINNESOTA CITIES**  
**HR Reference Manual – Hiring Chapter**

**Note:** This document is not meant to encompass all of the laws governing pre-employment inquiries. Police positions in particular are subject to different laws. Call your city attorney or the League with questions.

SUBJECT	YOU CANNOT ASK	YOU CAN ASK
<b>RACE OR COLOR</b>	<ul style="list-style-type: none"> <li>• What is your racial identity?</li> <li>• Questions regarding color of hair, eyes, etc.</li> <li>• How do you get your hair to look like that?</li> <li>• Are you a minority?</li> </ul>	<ul style="list-style-type: none"> <li>• NONE.</li> </ul>
<b>RELIGION OR CREED</b>	<ul style="list-style-type: none"> <li>• What is your religious affiliation?</li> <li>• What church do you attend?</li> <li>• What is the name of your religious leader?</li> <li>• What religious holiday do you observe?</li> </ul>	<ul style="list-style-type: none"> <li>• This position is required to work (list days, times).</li> <li>• <b><i>Please note</i></b> you may have to accommodate an employee's scheduling needs for reasons related to religion and/or disability.</li> <li>• Are you able to work that schedule?</li> </ul>
<b>SEX</b> <b>MARITAL STATUS</b> <b>FAMILIAL STATUS</b> <b>PREGNANCY OR RELATED CONDITIONS</b> <b>SEXUAL ORIENTATION</b>	<ul style="list-style-type: none"> <li>• What are your living arrangements?</li> <li>• What sex were you assigned at birth?</li> <li>• Are you single, married, divorced, or widowed? What is your maiden name?</li> <li>• Do you have any children?</li> <li>• Are you pregnant? Do you plan to have children within the next year?</li> <li>• Are you adopting children?</li> <li>• Does your spouse work for the city?</li> <li>• Do you plan to have children?</li> <li>• Who will care for your children when you travel?</li> <li>• Questions asking who to contact in case of an emergency (until after hire).</li> <li>• What does your spouse do?</li> <li>• Can you work nights and weekends?*</li> </ul>	<ul style="list-style-type: none"> <li>• Other than your spouse, do you have any relatives working for the city?</li> <li>• Are any of your references or qualifications under another name?</li> </ul> <p><i>**This question can be viewed as one relating to religious observance or a way to gather family status data; instead consider asking, can you work in the days/schedule required for this position?</i></p>

<b>CRIMINAL HISTORY</b>	<ul style="list-style-type: none"> <li>• Have you ever been arrested?</li> <li>• Have you ever been charged with a crime?</li> </ul>	<ul style="list-style-type: none"> <li>• For most positions, questions about criminal history can only be asked AFTER the applicant has been selected for an interview.</li> <li>• Remember - past convictions are not an absolute bar to employment, you must consider relationship to the job and evidence of rehabilitation. Refer to <a href="#">Minn. Stat. §364.03</a>.</li> <li>• Cities will want to follow Minn. Chapter §364 and the Equal Employment Opportunity Commission's Guidance on Consideration of Arrest and Conviction Records in Employment Decisions <a href="http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm">http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm</a></li> </ul>
<b>POLITICAL AFFILIATIONS OR GROUP MEMBERSHIPS</b>	<ul style="list-style-type: none"> <li>• To what social organizations, clubs, and societies do you belong?</li> <li>• What sorority/fraternity did you join?</li> </ul>	<ul style="list-style-type: none"> <li>• Could reveal protected class (religious, political, etc.), so instead consider asking all applicants, are you a member of any <i>professional group relevant to this position</i>?</li> </ul>
<b>CREDIT INQUIRIES</b>	<ul style="list-style-type: none"> <li>• Do you own a home or rent?</li> <li>• Do you have a bank account?</li> <li>• Have your wages ever been garnished?</li> </ul>	<ul style="list-style-type: none"> <li>• Work with your City Attorney to determine if financial background questions are permitted under the Fair Credit Reporting Act of 1970 and the Consumer Credit Reporting Reform Act of 1996.</li> </ul>
<b>PAY HISTORY</b>	<ul style="list-style-type: none"> <li>• How much do you make currently?</li> <li>• How much did you make in your past job?</li> </ul>	<ul style="list-style-type: none"> <li>• Under the Minnesota Human Rights Act, an employer cannot ask, encourage, or prompt an applicant to disclose their pay history for the purpose of negotiating wages, salary, benefits, or other compensation. However, <a href="#">Minn. Stat. § 363A.08, Subd 8</a> allows <u>an applicant to voluntarily, without asking, encouraging or prompting,</u> offer pay history to an employer.</li> <li>• The State of MN offers pay history scenarios that are helpful reference guidance.</li> </ul>

<b>UNION MEMBERSHIP</b>	<ul style="list-style-type: none"> <li>Are you now, or have you ever been, in a union?</li> </ul>	<ul style="list-style-type: none"> <li>In Minnesota, we follow the Public Employment Labor Relations Act (PELRA) and <a href="#">§179.06</a> addresses rights and obligations of employees which include the right to organize and express a view on any matter related to the conditions of compensation or public employment. While you can tell an applicant about the union status associated with the position, avoid asking about their current or past affiliation with a union.</li> </ul>
<b>WHAT BRANCH OF MILITARY SERVICE</b>	<ul style="list-style-type: none"> <li>Do you serve in the National Guard or Reserves?</li> </ul>	<ul style="list-style-type: none"> <li><a href="#">Minn. Stat. § 181.535</a> prohibits employers from asking if an applicant is a member of the National Guard or Reservist. A public sector employer may request the information only to determine if Veterans' Preference applies.</li> </ul>
<b>AGE</b>	<ul style="list-style-type: none"> <li>What is your age /date of birth?</li> <li>When did you graduate from high school?</li> <li>Dates of military service? How old are your children?</li> </ul>	<ul style="list-style-type: none"> <li>Are you 18 years of age or older?</li> <li>About military service on the Veterans' Preference application form.</li> </ul>
<b>DISABILITY GENETICS AND FAMILY MEDICAL HISTORY</b>	<ul style="list-style-type: none"> <li>Are you disabled? Do you have a disability?</li> <li>Do you have any disability conditions?</li> <li>What medications are you currently taking?</li> <li>Do mental health conditions run in your family?</li> <li>Whether they have ever taken leave for surgery or medical treatment, or how much sick leave they have taken in the past year?</li> <li>Have you ever filed a workers' compensation claim?</li> <li>What is your workers' compensation history?</li> <li>What is your general health condition?</li> <li>Have you received disability insurance?</li> <li>Do you smoke?</li> <li>Are you under a doctor's care?</li> <li>Medical providers, especially as part of a conditional job offer pre-employment physical should be directed not to inquire about genetic information in violation of the Genetic Nondiscrimination in Employment Act (GINA).</li> </ul>	<ul style="list-style-type: none"> <li>Can you perform the essential functions of the position, with or without reasonable accommodations?</li> <li>GINA prohibits the use of genetic information in employment decisions including hiring, firing, pay, job assignments, training, etc. Family medical history is included in the definition of genetic information.</li> </ul>

<b>CITIZENSHIP OR NATIONAL ORIGIN</b>	<ul style="list-style-type: none"> <li>• Of what country are you a citizen?</li> <li>• When did you become a U.S. citizen?</li> <li>• Do you intend to become a U.S. citizen?</li> <li>• What country are you from?</li> <li>• Where were you born?</li> <li>• Can you provide a birth certificate?</li> <li>• Where did you learn to speak a foreign language?</li> <li>• What languages do you speak at home?</li> </ul>	<ul style="list-style-type: none"> <li>• Are you authorized to work in the U.S.?</li> <li>• After employment, can you submit proof of U.S. citizenship, authorization to work in the U.S?</li> <li>• What languages do you speak fluently? (if job-related)</li> <li>• Wait to ask for emergency contact names until after hired, as it could be viewed as a question about national origin or sexual orientation.</li> </ul>
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