

Pre-Employment Inquiries

What can you ask potential hires?



What kinds of pre-employment inquiries are acceptable under the Alberta Human Rights Act?

Purpose: To inform employers in understanding what kinds of pre-employment inquiries or questions are acceptable under the Alberta Human Rights Act.

There is no doubt that all employers seek out skilled and competent workers. While it is necessary to screen applicants, some information typically requested on job application forms and in job interviews is not relevant to an applicant's ability to perform a job, and may be intentionally or inadvertently discriminatory. The Alberta Human Rights Act prohibits employers from discrimination in employment practices, job applications and advertisements.

Some pre-employment questions that appear to be discriminatory, may be acceptable, however, must be justified and provide employers information in determining an individual's ability perform a job.

In order to prevent potential discrimination and or complaints, here are a few tips:

What you can or cannot ask a potential employee (continued)

Q: Can you ask job applicants if they are Canadian Citizens or Landed Immigrants?

A: Asking an applicant to reveal citizenship could require a non-Canadian applicant to disclose their origin, which is protected under the Act. Try asking if they are legally entitled to work in Canada.

Q: Can you ask job applicants for maiden or previous names?

A: No unless it is required for reference or criminal record checks.

Q: Can you ask job applicants for their date of birth or age?

A: It is not advisable to ask an applicant for their date of birth or age unless the job requires a candidate to be over a certain age. (For example, being 18 or older to operate a motor vehicle.)

Q: Can you ask applicants about present or past WCB claims?

A: This would require an applicant to provide information about their disability. This could be contrary to the Act. It would be best to ask the applicant if they can perform certain duties applicable to the job. (For example, ask if they are able to lift 10 lbs or more.)

Q: Can you ask applicants about their disabilities?

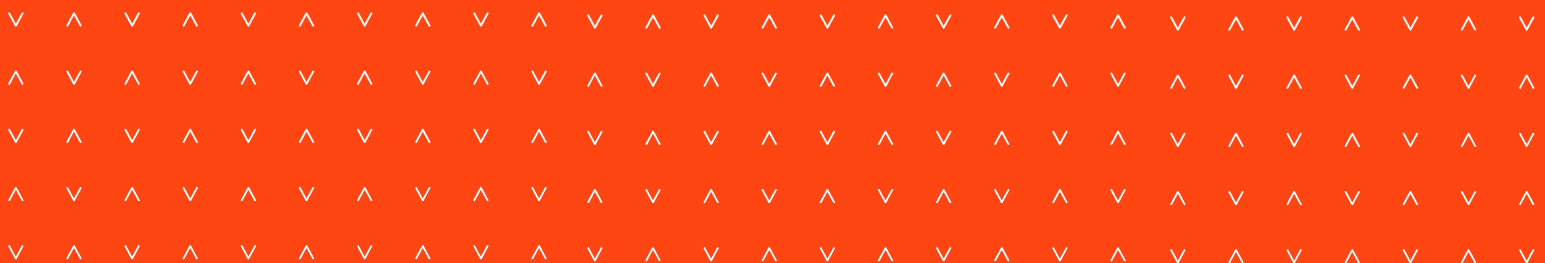
A: It would not be acceptable to ask applicants questions that don't pertain to being able to perform the job itself. It would be allowed to require a job-related medical examination after an applicant has accepted an employment offer. With that, you may include a declaration such as "I understand that a job-related medical examination is required and that the offer of employment is contingent upon the satisfactory medical examination."

Q: Can you ask job applicants to take physical fitness or psychological tests?

A: It is permissible to require a job-related examination after an applicant has accepted an employment offer. You may ask applicants to sign a declaration like "I understand that a job-related medical examination is required and that the offer of employment is contingent upon a satisfactory psychological or physical fitness examination."

Q: Can you ask job applicants to undergo drug or alcohol testing prior to hire?

A: No. If it is required for the job, you may have a statement or declaration stating the following: "If you are the successful applicant, you will be conditionally hired until you have undergone and successfully passed a drug and alcohol test. Due to the nature of the position, testing is required."



What you can or cannot ask a potential employee (continued)

Q: Can you ask job applicants what languages they are fluent in?

A: It is appropriate to ask applicants if they have some proficiency in the languages that are required for the job. The job description and employment advertisement should specify which languages are required. If applicants need proficiency in the language to do the job, employers should not use the word “fluent” to describe the language ability sought. The word fluent could be seen as presuming the applicant is from another country. This type of question could be interpreted as the employer requiring information about the place of origin or ancestry of the applicant, which is contrary to the Act.

Q: Can you ask for a photograph to be included with the employment application form?

A: Avoid asking or requiring applicants to provide a photograph. A photograph could reveal race, gender, colour, physical disabilities, etc. It could be considered as discriminatory, especially, if the applicant is not hired. If required for business purposes, ask for it after your offer of employment is accepted.



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