Also, don’t ask: “What was your original name if your name has been changed?”

**Arrest Record**
Do not ask: “Have you ever been arrested?” An arrest does not mean that someone has actually committed a crime. Instead, ask: “Have you ever been convicted of a felony?”

**Height and Weight**
Do not ask unless standards are essential to the performance of the job.

**Religion**
Do not ask. Applicants who indicate the need for days off for religious reasons may not be discriminated against on that basis unless the company can demonstrate that the request for time off cannot be met without undue hardship.

**Public Assistance**
Do not ask an applicant about the receipt of public assistance. Be cautious that even simple questions such as, “Where do you live?” or “What part of town are you from?” can, in some instances, reveal that the person is receiving public assistance.

**Lawful Activity**
Any lawful activity that an applicant engages in off the employer’s premises during non-working hours which is not in direct conflict with the essential business-related function of the employer should not be used as a basis to disqualify an applicant when making hiring decisions.

The question, “Do you have a second income?” or even inquiries into a person’s interests or hobbies may reveal activity that the employer disagrees with, but that is not against the law. A decision not to employ in either of these situations could be a violation of the North Dakota Human Rights Act.

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**Be Consistent**
In addition to eliminating inquiries into the listed areas, employers can reduce their risk of being found liable in a discrimination charge by being consistent throughout the application and interview process.

Employers should distribute the same job application to all applicants. Generic employment application forms can be obtained from Job Service North Dakota. It may also be helpful for the employer to determine ahead of time how many applicants will be interviewed and on what bases the applicants will be chosen for an interview.

Employers are advised to conduct the interviews in a consistent manner by asking each applicant the same interview questions. Additionally, it is recommended that more than one person conduct the interview with the applicant.

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Have Additional Questions?
Need assistance with this information?
Contact us at:

**North Dakota Department of Labor and Human Rights**
600 East Boulevard Ave, Dept. 406
Bismarck, ND 58505-0340
Phone - (701)328-2660 or 1-800-582-8032
TTY (Relay ND) - 1-800-366-6888 or -6889
Fax - (701)328-2031
E-Mail - labor@nd.gov
Web site - nd.gov/labor

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When used properly, applications and interviews are excellent tools to successfully match employers and employees. However, even well-meaning employers can encounter discrimination charges due to the questions they ask. This brochure is designed to educate employees and employers about the hiring process.

Questions That Should be Avoided
As a general rule, questions regarding the following should be avoided unless they relate to a bona fide occupational qualification (b.f.o.q.).

**Age or Date of Birth**
Questions that could reveal a person’s age (including school graduation dates) should not be asked.

If state or federal law requires that age 18 is the minimum age for a certain occupation, rather than ask an applicant’s specific age or birth date, simply ask: “Are you at least 18 years of age?”

**Sex or Gender**
Do not ask an applicant’s sex or gender.

**Race, Birthplace, and National Origin**
Do not ask: “What is your citizenship, your parents’ citizenship, or your birthplace?” Instead, ask: “Can you show that you are eligible to work in the United States?”

**Marital Status, Dependents, and Child Care Arrangements**
Do not ask: “What is your marital status? How many children do you have? Who will care for your children while you are at work?”