

## Policy

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The California Department of Food and Agriculture (CDFA) is an equal employment opportunity employer and is committed to nondiscrimination. CDFA prohibits any non-job-related inquiry, either verbal or through the use of an application form, which directly or indirectly limits a person's employment opportunities because of race, color, religion, national origin, ancestry, medical condition, mental or physical disability, marital status, gender, pregnancy, or age (40+).

The Fair Employment and Housing Act does not limit the right of employers to seek full information about prospective employees or to establish the job performance qualifications they consider essential. However, whatever qualifications or standards are set must be applied equally to all persons.

CDFA is committed to a firm policy of equal employment opportunity and a discrimination-free work environment for all employees and applicants. Each manager and supervisor is expected to actively support the implementation and advancement of this policy. Complaints of discrimination regarding pre-employment inquiries will be given expedient and impartial consideration as provided for in Non-Discrimination/Complaint Procedure Policy 2.1.2.

## Authority

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Government Code Sections 12900-12907

California Code of Regulations, Title 2, Sections 11016 and 11017

California Labor Code Sections 430-435

## Definitions

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<i>Essential Functions Duty Statement:</i>	Clarifies job requirements, qualifications, knowledge, skills, and abilities necessary to accomplish a specific job.
<i>Job-Related:</i>	Any criteria used to determine whether a person will be hired, fired, transferred, promoted, given a salary increase, etc., must be directly related to the person's knowledge, skills and abilities required to successfully perform the tasks of the job.
<i>Pre-Employment Inquiry:</i>	Any oral or written request made by an employer for information concerning the qualifications of an applicant for employment or for an activity leading to employment.

## *Pre-Employment Inquiries*

*Recruitment:* The practice of an employer informing individuals about employment opportunities, or assisting an individual to apply for employment or an activity leading to employment.

### *Responsibility*

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It is the responsibility of managers and supervisors to ensure that job interviews comply with the guidelines set forth in this policy. Among the most critical decisions a supervisor or manager must make are those relating to the recruitment and selection of employees. Selecting employees with the knowledge, skills, and abilities to perform the job and to grow within the organization is crucial to the overall success of CDFA.

It is important for each person responsible for any part of the recruitment process to make sure the hiring process is free from discrimination.

It is the responsibility of supervisors and managers to ensure all interview questions and selection processes are job related and based on the essential functions of the position.

### *The Pre-Employment Interview*

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The process of interviewing prospective employees is a key component in maintaining and promoting equal employment practices. Information requested from applicants must be specifically job related. To provide an equitable hiring process, each candidate must be asked the same set of predetermined questions. Doing so will provide a valid base for your hiring decisions.

To minimize the risk of legal action and ensure compliance, supervisors and managers should:

- Define the specific job requirements based on the Essential Functions Duty Statement.
- Focus on only those areas of an applicant's background and capabilities that are job-related.
- Ensure that all applicants are evaluated on the same job-related skills and abilities.

To solicit an informed response to questions about performing job functions, the supervisor or manager should thoroughly explain the requirements of the job for which the applicant is interviewing. The job description and the Essential Functions Duty Statement will provide assistance in defining the job functions.

## Pre-Employment Inquiries

### Guidelines for Pre-Employment Inquiries

The following are some examples of questions that are unlawful or unwise to ask potential employees and questions that are better substitutes, if any exist.

<b>ACCEPTABLE</b>	<b>SUBJECT</b>	<b>UNACCEPTABLE</b>
Name	Name	Maiden Name
Place of Residence	Residence	Questions regarding owning or renting.
Statements that hire is subject to verification that applicants meet legal age requirements.	Age	Age, Birth date or questions that identify applicants over 40.
Statements/inquiries regarding verification of legal right to work in United States.	Birthplace, Citizenship	Birthplace of applicant or applicant's parents, spouse, or other relative. Requirements that applicant produce naturalization or alien card prior to employment.
Languages applicant reads, speaks or writes if use of language other than English is relevant to the job for which applicant is applying.	National Origin	Questions as to nationality, lineage, ancestry, national origin, descent or parentage of applicant, applicant's spouse, parent or relative.
Statement by employer of regular days, hours, or shifts to be worked.	Religion	Questions regarding applicant's religion. Religious days observed.
Name and address of person to be notified in case of accident or emergency.	Notice in Case of Emergency	Name, address and relationship of relative to be notified in case of accident or emergency.

*Pre-Employment Inquiries*

<b>ACCEPTABLE</b>	<b>SUBJECT</b>	<b>UNACCEPTABLE</b>
<p>Name and address of parent or guardian if applicant is a minor.</p> <p>Statement of company policy regarding work assignment of employees who are related.</p>	<p>Sex, Marital Status, Family</p>	<p>Questions to indicate applicant's sex, marital status, number/ages of children.</p> <p>Questions regarding pregnancy, child birth, or birth control.</p> <p>Name/address of relative, spouse or children of adult applicant.</p>
	<p>Race, Color, Sexual Orientation</p>	<p>Questions about applicant's race, complexion, color, hair type or sexual orientation.</p>
	<p>Credit Report</p>	<p>Any report which would indicate information which is otherwise illegal to ask, e.g, marital status, age, residency, etc.</p>
<p>Statement that a photograph may be required after employment.</p>	<p>Physical Description, Photographs, Fingerprints</p>	<p>Questions about applicant's height or weight.</p> <p>Requiring a photograph after interview but before employment.</p>
<p>Questions regarding relevant skills acquired during U.S. military service.</p>	<p>Military Service</p>	<p>General questions regarding military service such as date/type of discharge.</p> <p>Questions regarding service in a foreign military.</p>

## Pre-Employment Inquiries

ACCEPTABLE	SUBJECT	UNACCEPTABLE
<p>Employer may inquire if applicant can perform job-related functions.</p> <p>Statement that employment offer may be made contingent upon passing a job-related mental/physical examination.</p>	<p>Mental/Physical Disability, Mental Condition (Applicants)</p>	<p>Any inquiry into applicant's general health, medical condition, or mental/physical disability.</p> <p>Requiring a psychological/medical examination of any applicant.</p>
<p>A medical/psychology examination/inquiry may be made as long as the examination/inquiry is job-related and consistent with business necessity and all applicants for the same job classification are subject to the same examination/inquiry.</p>	<p>Mental/Physical Disability, Medical Condition (Post-Offer/Pre-Employment)</p>	<p>Any inquiry into applicant's general health, medical condition or physical/mental disability, if not job-related and consistent with business necessity.</p>
<p>Job related questions about convictions, except those convictions which have been sealed, expunged, or statutorily eradicated.</p>	<p>Arrest, Criminal Record</p>	<p>General questions regarding an arrest record.</p>
<p>Requesting lists of job-related organizations, clubs or professional societies.</p>	<p>Organizations, Activities</p>	<p>General questions regarding organizations, clubs, societies and lodges.</p>
<p>Name of persons willing to provide professional and/or character references for applicant.</p>	<p>References</p>	<p>Questions of applicant's former employers or acquaintances which elicit information specifying applicant's race, etc.</p>

## *Pre-Employment Inquiries*

### *Distribution*

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Distribution of this policy includes all employees.

Any employee, supervisor, or manager seeking advice, guidance or consultation regarding a particular situation, or any issue regarding pre-employment inquiries, may contact CDFA's EEO Office at (916) 654-1005.