



Unlawful Inquiries: Name, Family Status, Age, Disabilities

Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](https://www.mtas.tennessee.edu)). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

The University of Tennessee
Municipal Technical Advisory Service
1610 University Avenue
Knoxville, TN 37921-6741
865-974-0411 phone
865-974-0423 fax
www.mtas.tennessee.edu

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The following inquiries should not be asked during the application process:

Name

- Inquiries about the name that would indicate applicant's lineage, ancestry, national origin or descent.
- Inquiry into previous name of applicant, whether it has been changed by court order or otherwise.
- Indicate: Miss, Mrs., or Ms.

Marital/Family Status

- Any inquiry indicating whether an applicant is married, single, divorced, engaged, etc.
- Number and age of children.
- Information on child-care arrangements.
- Any questions concerning pregnancy.
- Any questions that directly or indirectly result in the limitation of job opportunities in any way.

Age

- How old are you?
- When is your birthday?
- What year did you graduate from high school?
- Requirements that applicants produce proof of age in the form of a birth certificate or baptismal record prior to an offer of employment.

The Age Discrimination in Employment Act of 1967 forbids discrimination against persons over the age of 40 in your employment process.

Disabilities

- The Rehabilitation Act of 1973 and Americans With Disabilities Act (ADA) forbids employers from asking job applicants general questions about whether they are "handicapped/disabled" or asking them about the nature and severity of their "handicap/disability".
- An interviewer may not ask questions about a disability.
- Where an applicant has a visible disability or volunteered information about a disability, the interviewer may not ask questions about:
 - The nature of the disability;
 - The severity of the disability;
 - The condition causing the disability;
 - Any prognosis or expectation regarding the condition or disability;
 - Whether the individual will need treatment or special leave because of the disability; or.
 - **Whether the applicant needs accommodations.**
- An interviewer may not ask questions about the results of an individual's or family member's genetic tests.

An employer must be prepared to prove that any physical and mental requirements for a job are due to "business necessity" and the safe performance of the job. Except in cases where undue hardship can be proven, employers must make "reasonable accommodations" for the physical and mental limitations of an employee or applicant.

DISCLAIMER: The letters and publications written by the MTAS consultants were written based upon the law at the time and/or a specific sets of facts. The laws referenced in the letters and publications may have changed and/or the technical advice provided may not be applicable to your city or circumstances. Always consult with your city attorney or an MTAS consultant before taking any action based on information contained in this website.

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