

## Lawful Inquiries: Religion, Military, Photo, Citizenship, Education, Conviction

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Dear Reader:

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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](https://www.mtas.tennessee.edu)

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## Lawful Inquiries: Religion, Military, Photo, Citizenship, Education, Conviction

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Employers may make inquiries into the following areas:

### **Religion**

- An applicant may be advised concerning normal hours and days of work required by the job to avoid possible conflict with religious or other personal conviction.

### **Military**

- Type of education and experience in service as it relates to a particular job.

### **Photo**

- A photo may be required after hiring for identification.

### **Citizenship**

- Whether applicant is prevented from lawfully being employed in this country because of visa or immigration requirements.
- Whether applicant can provide proof of citizenship (passport), visa, alien registration number after hiring.
- "If you are not a US citizen, do you have the legal right to remain permanently in the US?",
- "What is your visa status (if no to the previous question.)",
- Are you able to provide proof of employment eligibility upon hire?"

### **Ancestry of National Origin**

- Languages applicant reads or writes frequently (**based on job requirements**).

### **Education/Experience**

- Applicant's academic or professional education, school attended.
- Inquiry into language skills such as reading, speaking and writing foreign languages (based on job requirements).
- Applicant's work experience, names and addresses of previous employers, dates or reasons for leaving and salary history.
- Other countries visited.

### **Conviction**

- Inquiry into the actual convictions that reasonably relate to the applicant's fitness to perform a particular job. (A conviction is a court ruling where the party is found guilty as charged. An arrest is merely the apprehending or detaining of the person to answer the alleged crime.) If an employer's exclusionary policy or practice is *not* job related and consistent with business necessity, the fact that it was adopted to comply with a state or local law or regulation does not shield the employer from Title VII liability.<sup>14</sup>
- When asking questions about criminal records, limit inquiries to records for which exclusion would be job related for the position in question and consistent with business necessity

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[14] Int'l Union v. Johnson Controls, Inc., 499 U.S. 187, 210 (1991)

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