



Reynolds Resource Group does NOT provide legal advice.
These materials are summarized from Federal and MA State laws
and are not meant to be in lieu of consultation with an attorney.

General Rules for Interview Questions and Hiring:

Under federal law, employers can't base hiring decisions on personal characteristics that are NOT job-related such as:

- Age : Young or Old
- Race or Color
- Gender or Sexual Orientation
- Religious Affiliation
- National Origin or Heritage
- Disability
- Military Service

YOU MAY NOT ASK AGE RELATED QUESTIONS THAT EITHER FAVOR YOUTH OR TYPECAST OLDER WORKERS: Questions like these are in direct violation of the law, so please do not ask them:

- What year were you born?



- Where were you when JFK was assassinated?
- How old are your children?
- How old are you?
- Do you think you still have what it takes to do this job?
- Do you believe your maturity is a benefit in the workplace?
- Due to your many years in the workplace, are you overqualified for this position?

Legally Permissible Age Related Questions You *MAY* Ask:

- Are you a minor?
- Can you show me proof that you are of legal age?

General Rules for Information About a Person's Criminal Record.

You May NOT Ask any of the following questions: Questions like these are in direct violation of the law, so please do not ask them:

- Have you ever broken the law?
- How many misdemeanors do you have?
- When was the last time you were arrested?



If no conviction ever resulted, you may NOT inquire into the criminal history of an applicant. The same holds true for first convictions for speeding and minor traffic violations, disturbing the peace, DUI, and simple assaults. If any infraction occurred five years *prior to* application, you may not make inquiries. If an infraction occurred *within* five years prior to application you are able to request information.

General Rules on Obtaining Personal Information

Do Not Ask Questions Like These: Questions like these are in direct violation of the law, so please do not ask them:

- What is your marital status?
- Do you have any offspring?
- What is your family's Heritage?
- Are you heterosexual?

Interview Questions You *May* Ask:

An interviewer can, however, ask about a personal characteristic if it could hinder your ability to fulfill the job's requirements. Some examples might be:

Can you prove that you are eligible to work in the US?

Can you do this job with or without reasonable accommodations?

Ground Rules About Employers Providing References for Ex-Employees:

A previous employer may release job and performance related information about an ex-employee as long as the information is accurate and will not harm the employee or is



not considered malevolent. Any employer who denigrates an employee may be found to be answerable to charges relating to slander. That is why many employers choose to only confirm dates of employment and perhaps compensation. This way they avoid any potential liabilities.

General Rules About Employment At Will:

In Massachusetts, unless you have an employment contract, you are considered employed “at will”.

- It is perfectly legal to terminate ‘at will’ employees for no apparent reason. However, an employee may not be terminated on the basis of race, sexual orientation, gender, pregnancy, disability, age or religion. This is illegal.
- Employees under terms of a contract may only be terminated for violating terms of the contract and no other reason.

Employee Handbooks are a Good Idea:

There is no law mandating that an employee handbook exist. However, we strongly suggest an employer consider the creation of a handbook in order to provide a resource for your organization’s policies and procedures. This way no one is listening to ‘hear say’, which takes on a life of its own in the workplace. We recommend that your handbook include at least the following:

- An equal employment opportunity statement
- Policies addressing sexual and other types of harassment in the workplace.
- Usage policies concerning: Internet access, e-mail, and telephone usage.
- The Family Medical Leave Act



General Rules Regarding Discrimination and Wrongful Termination:

Employers are not allowed to terminate or discriminate against employees for the following reasons:

- Age: Young or Old
- Race
- Gender or Sexual Orientation
- Religious Affiliation
- National Origin or Heritage
- Disability
- Pregnancy
- Military Service

It is illegal for an employer to consider any of the above personal characteristics when making decisions regarding:

- Promotions
- Job assignments
- Termination
- Wages



It is illegal for an employer to terminate an employee:

- For refusing to break the law
- In retaliation for filing a claim against the company
- For taking advantage of the Family and Medical Leave Act
- In a manner that is not according to policy or procedures.
- For reasons outside the employment contract, if one exists

A Brief Summary of the Family and Medical Leave Act:

Under federal law, eligible employees are allowed to take up to twelve (12) weeks of unpaid medical leave, with continued medical benefits and restoration of their original position upon return.

Employees are eligible when they:

- Have continually worked for the same employer for the previous twelve (12) months
- Have accumulated at least 1250 hours of work in the previous twelve (12) months
- Work for a "covered" employer, including: federal, state, and local governments; private employers with fifty (50) or more employees for twenty (20) weeks in the calendar year who are engaged in interstate commerce. For more information, contact: [U.S. Department of Labor](http://www.dol.gov), Frances Perkins Building 200 Constitution Avenue, NW Washington, DC 202101-866-4-USWAGE