Successful Interviewing Guide

Iowa Workforce Development



Writing a Job Description
Advertising the Job
Discovering Applicant's Qualifications
Avoiding Discrimination During the Hiring Process
Summary for Pre-Employment Questions
Sample Employment Application

Successful Interviewing Guide

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Notice:
This guidance document is designed for general educational purposes only and is not intended, nor should it be construed as or relied upon, as legal advice. Please consult your legal counsel or other employment advisor for specific legal advice.

Successful Interviewing Guide

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Introduction: "Hiring Fair… Hiring Qualified"

Most employers want to treat job applicants fairly and without prejudice and all employers want to hire the most qualified person for the job.

Both goals can be met when the employer is versed in effective techniques for interviewing job applicants.

In regard to fairness, it is easy to recite the reasons why fair and effective interviewing can sometimes seem elusive. Laws, regulations, and their interpretation by courts and regulators are constantly changing.

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A quick review of the "Do's and Don'ts" of equal employment opportunity interviewing appears at the end of this booklet, and is titled, *Summary Guide to Pre-Employment Inquiries*. Consistent with the guide's placement at the close of this booklet, it is most effectively used after reading the more detailed material preceding it.

The thought provoking questions under the section titled, *Discovering an Applicant's Qualifications* examine the applicant's qualifications, work attitudes, and career plans. They will help the interviewer discover the most qualified person for the job.

The "Successful Interviewing Guide" was developed by Iowa Workforce Development based on information provided by the Iowa Civil Rights Commission and the U.S. Equal Employment Opportunity Commission, the agencies charged with enforcing discrimination laws.

Before the Interview Begins: Writing a Job Description

Your goal during the job advertisement, screening, and interviewing process is to discover the most capable person for the job. To accomplish this, you must accurately communicate to the applicant(s) the requirements of the job and the related working conditions. Be prepared to provide information and respond to a job candidate's questions. A successful hiring process will start with a complete and accurate job description.

A Job Description Should Include:

- Essential functions, duties and responsibilities of the job
- Relationship of those functions to the rest of the unit, division, or department
- Experience, knowledge, skills, education, abilities or other qualifications required to perform the essential functions, duties and responsibilities of the job
- Nature of supervision the applicant can expect and the related reporting relationships for the position
- General working conditions (i.e. hours of work, travel requirements, work environment, overtime, flextime, rotating shifts, clothing requirements, tools or equipment provided)
- Wage or salary and benefits provided, also the potential for promotion or advancement

Some of the same information should be reflected in any job advertisement or listing for the position, along with requirements for any mandatory pre-employment drug/alcohol testing.

A Word About Bona Fide Occupational Qualifications

As you develop a job description, please be aware many jobs may still have acquired a classification as either a "man's job," or a "woman's job," based on generalizations or stereotypes about strength, size, or apparent preferences of men and women, without taking into account individual qualifications. Court interpretations of discrimination laws rarely allowed the dividing of jobs on the basis of sex.

Sex is a "bona fide occupational qualification" (BFOQ) only for positions requiring the physical characteristics possessed by one sex. For example, occupations such as restroom attendants and artists' models may justify a specific gender as a BFOQ. Other than such limited examples, all jobs and opportunities must be made equally available to both sexes.

State and federal discrimination laws make no provision for BFOQ on the basis of race or color. A BFOQ on the basis of religion may apply where an educational institution is owned, supported, and controlled by a particular religious group, or its curriculum is directed toward the promotion of a particular religion.

Before the Interview Begins: Advertising the Job

Basic to providing equal employment opportunity is a practice of open advertising of all available positions. An employer should indicate in its advertising the company or firm is an "equal opportunity employer," and all qualified applicants, regardless of race, color, sex, sexual orientation, gender identity, age, national origin, religion, or disability are encouraged to apply.

Job advertisements are subject to a few easily met legal guidelines. The Iowa Administrative Code prohibits any employment preference, limitation, or specification based on sex, unless sex is a bona fide occupational qualification. Also barred is advertising or otherwise publishing any employment preference, limitation, or specification based upon age, except as provided in the Iowa Civil Rights Commission's rules, unless the employer, employment agency, or labor organization files an affidavit with the publication indicating that the age requirement is a BFOQ.

Job advertisements or help wanted notices should not contain terms or phrases expressing an age preference, such as "young," "boy," "girl," or "recent college graduate," unless there is a BFOQ for the position.

For jobs which in the past were traditionally typed as "male" or "female," employers should stress that applicants of both sexes are encouraged to apply.

The Iowa Administrative Code prohibits any employment reference, limitation, or specification based on sex, unless sex is a bona fide occupational qualification.



Recruiting a work force that accurately reflects the mix of the community frequently has two major advantages for the employer. First, through the employees, the employer's product or service becomes favorably known to a wider spectrum of consumers. When both sexes, all racial and ethnic groups, persons with disabilities, and persons of varying ages are familiar with a product, the market for the product expands. Second, customers feel comfortable coming into a business where all segments of the community are represented, including those with which they closely identify. This makes customers more likely to return to do business later.

Planning the Interview: Discovering an Applicant's Qualifications

The key to a successful interview is preparation, organization, and planning. Take time to prepare solid, job-related questions, and then ask these questions consistently to all applicants to ensure equal treatment during the interview. Organize your questions into a logical sequence. Listen attentively to the answers generated by your questions. Present information about the job accurately, clearly and consistently to all applicants.

Interview Questions Should Be:

- **Job-Related** based on the requirements of the job as set out in the job description and job advertisement
- **Objective** and have objective responses as well as, allow objective evaluation of answers from all applicants
- **Consistent** and applied to all applicants

Sample Questions

1. Why did you leave your job with your previous employer (or why are you thinking of leaving your present job)?
2. Describe a typical day at your previous or present job.
3. What particular parts of previous jobs did you enjoy the most?
4. In what areas of past jobs did you have the most success?
5. What duties of your past jobs did you enjoy least?
6. In what areas of past jobs did you have the most difficulty?
7. How does the job for which you are applying relate to past job experience? Do you have relevant past experiences outside of paid employment?
8. What is your educational background? How have you utilized your education in your past jobs?
9. Why did you select your major? Would you choose the same major today?
10. How did you do in school or training courses?
11. What will your supervisor at your previous or current employer tell me about your work performance?
12. What do you think you did particularly well when you were at your previous or current employer?
13. Have you ever been discharged or asked to resign from any job? If yes, please explain.
14. How well do you get along with your co-employees?
15. Have you ever been warned, or suspended, for violating a company work rule?

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Sample Questions

16. Describe a difficult project or decision you encountered in your past jobs. How did you handle these situations? Were you satisfied with the results? Would you try any thing different today?
17. What type of supervision do you prefer, close supervision with specific directions or minimal supervision with general directions? Are you more satisfied in a structured job situation or do you like the flexibility to accomplish responsibilities in your own way? What are the personal qualities you see in yourself that lead you to this preference?
18. Considering the duties of this job, which are you prepared to assume immediately? Which will require some time for you to learn?
19. A type of problem that occasionally comes up in the position is _____. How would you handle a situation of this kind?
20. What are the abilities and qualities in yourself that will help you to be successful in this position? Where do you think you might have some difficulty?
21. What aspects of this job do you anticipate liking the most or having the most success with? What aspects of this job do you anticipate disliking the most? Explain.
22. Career-wise, where would you like to be in five years? Where would you like to be in ten years?
23. This position requires _____ (days of) travel per week/month. Will this be a problem for you?
24. This position requires occasional (long/early) days and/or occasional (overtime/emergency/ short-notice) duty. Will this be a problem for you?
25. If selected, how much time should be allowed to give notice to your present employer?
26. Is there anything else you would like to talk about which we have not discussed?

The key to a successful interview is preparation, organization, and planning.

Take time to prepare solid, job-related questions, and then ask these questions consistently to all applicants to ensure equal treatment during the interview.



Avoiding Discrimination During the Hiring Process



Discrimination in hiring practices is prohibited in Iowa under several state and federal laws, as well as a Governor's executive order. A summary of the most important of these laws follows.

Discrimination on the basis of sex, race, color, religion, or national origin is prohibited by the Civil Rights Act of 1964, specifically Title VII of that Act which deals with employment. Discrimination on the basis of age is prohibited by the Age Discrimination in Employment Act of 1967 ("ADEA").

The Americans with Disabilities Act of 1990 ("ADA") requires all employers and private employers of 15 or more employees to ensure equal employment opportunities to persons with physical or mental disabilities who are qualified for the jobs they seek. Employers are required to make "reasonable accommodations" for disabled employees who are qualified to perform the essential functions of their jobs, unless such accommodations would impose an "undue hardship" on the operation of the employer's business.

The Federal Rehabilitation Act of 1973 requires government contractors and subcontractors to ensure equal employment opportunities to persons with physical or mental disabilities who are otherwise qualified for the jobs they seek. Employers are required to make "reasonable accommodations" for disabled employees who are qualified to perform the essential functions of their jobs, unless such an accommodation would impose an "undue hardship" on the operation of the employer's business.

The Iowa Civil Rights Act prohibits employment discrimination against any applicant or employee on the basis of age, race, creed, color, sex, national origin, religion, disability, gender identity, or sexual orientation. Iowa's commitment to equal employment also was established by Governor Robert Ray's Executive Order No. 15 (1973), which affirms the U.S. Civil Rights Act of 1964. The term "creed" has been interpreted by the Attorney General's office to mean "religion."

The Iowa Civil Rights Act is enforced by the Iowa Civil Rights Commission ("ICRC") and covers employers with four or more employees. Anti-discrimination cases may also be filed with a local human rights commission and/or the U.S. Equal Employment Opportunity Commission ("EEOC").

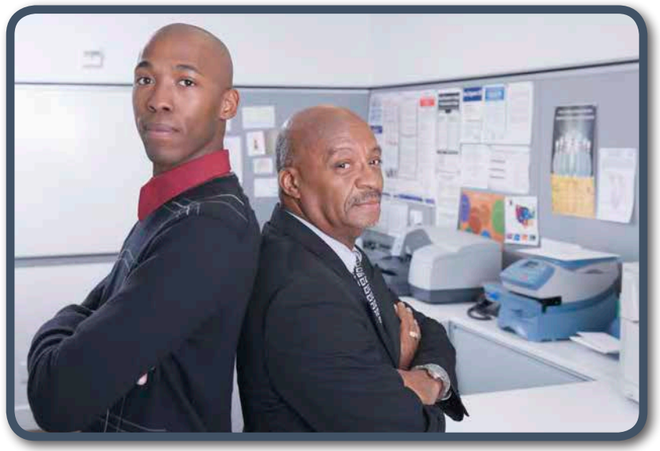
An employer seeking to hire an applicant or make other employment decisions, should inquire about skills, education, and past experiences that relate to actual job performance. Although Title VII and the Iowa Civil Rights Act do not expressly prohibit the use of any specific question in an interview or on a job application, they do prohibit the use of non-job-related information solicited for a discriminatory purpose. It can be very difficult for an employer who has included non-job-related questions in an interview to prove the information generated by such questions was not part of a final hiring decision.

An employer should keep in mind the goal is to find the best possible match between the requirements of the job and the experience, skills, education, and characteristics of the applicant. Application and interview questions should be related to that goal.

The EEOC and the ICRC have found a list of questions to be discriminatory, or primarily aimed at collecting information to be used for discriminatory reasons, and thus should be avoided. A short summary of these questions is included at the end of this guidance document at pages 23 - 25.

Age and Date of Birth

The Age Discrimination in Employment Act ("ADEA") prohibits discrimination on the basis of age against individuals who are 40 years of age or more. However, the ADEA does not prohibit employers from favoring an older employee over a younger employee.



In Iowa, the prohibition of age discrimination is broader than that imposed by federal law. The Iowa Civil Rights Act prohibits discrimination on the basis of age against individuals who are age 18 and older, or otherwise considered by law to be adults.

Most people graduate from high school and college around specific ages, so this information can be used to approximate an applicant's age. Asking an applicant what years they attended high school, and/or what year they graduated from high school or college, does not directly violate the ADEA, but could be interpreted as a method of discriminating against the applicant based on age. Unless graduation dates are needed for a specific purpose, it is preferable to ask where the applicant went to school, how many years they attended, and what degree they obtained.

Arrests and Convictions (Other Than Traffic Violations)

As you are aware, an arrest is no indication of guilt. Because members of some minority groups are arrested substantially more than whites in proportion to their numbers in the population, making employment decisions on the basis of arrest records involving no subsequent convictions has an adverse

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impact on the employment opportunities of those groups. Thus, such records alone cannot be used to routinely exclude persons from employment. Exclusion is justified only if it appears the applicant or employee engaged in the conduct for which he was arrested and the conduct is job-related and relatively recent.

Similarly, an employer's policy or practice of excluding individuals from employment on the basis of their conviction records has an adverse impact on minority populations. The EEOC has found that an employer may exclude an individual from employment on the basis of a conviction record only if the employer's decision was "justified by business necessity." The relevant factors, the EEOC says, include: (1) the nature and seriousness of the offense; (2) time passed since the conviction and/or completion of the sentence; and (3) the nature of the job held or sought. Thus, a blanket exclusion based on conviction records can seldom be justified. Application forms asking about conviction records should include a statement to the effect that whether a conviction will disqualify an applicant depends on the nature of the offense, the nature of the job, and the length of time since conviction and incarceration.

Background and Reference Checks

Before making a conditional job offer, an employer may not ask previous employers, family members, or other sources any questions about the job applicant that cannot be directly asked of the applicant. The employer may inquire about job-related issues, but should not make any inquiry related to age, sex, national origin, race, color, creed, religion, physical disability or mental disability.

If an employer uses an outside firm to conduct background checks, the employer should make certain the outside firm complies with all relevant discrimination laws. Such a firm is an agent of the employer, and the employer is responsible for the actions of its agent. The agent may not do anything through a contractual relationship that the employer may not do directly.

For example, the EEOC warns an employer (or its agent) should not ask a previous employer or other sources certain questions.

Questions that should not be asked:

- How old is the candidate?
- Has the candidate ever filed a discrimination charge with any local, state or federal agency?
- Has the candidate ever filed a workers' compensation claim?
- Does the applicant have a disability or suffer from any illness?

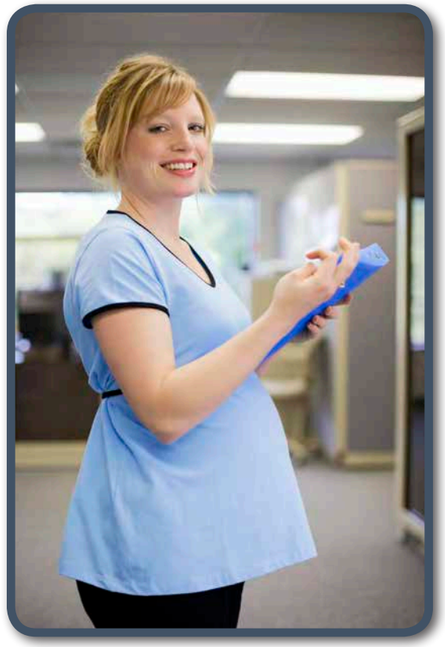
Or any subject the employer may not directly ask the applicant during the pre offer stage.

Questions that can be asked:

- What were/are the job functions and tasks performed by the applicant
- The quality and quantity of work performed
- How job functions were performed
- Overall attendance record

And other job-related issues that do not relate to disability

If an applicant has a known disability and has indicated the ability to perform a job with a reasonable accommodation, a previous employer may be asked about accommodations made by that employer.



Childbirth and Pregnancy

The federal Title VII law prohibits discrimination based on pregnancy, childbirth, and related medical conditions. Therefore, employers should not ask questions regarding pregnancy or future child-bearing plans.

The Iowa Civil Rights Act requires women affected by pregnancy or potentially affected by pregnancy and related medical conditions, must be treated the same as other job applicants and employees on the basis of their ability or inability to work. Accordingly, employers are prohibited under Iowa law from refusing to hire, promote, or terminate the employment of a women because she is pregnant, has had an abortion, or medical conditions related to those conditions. The Iowa Civil Rights Act also specifically provides at Section 216.6(2.)(b) an eligible employer must provide a leave of absence for a woman disabled by pregnancy, childbirth, or related medical conditions, for the time period the woman is disabled, or for eight weeks, whichever is less. The employee is required to provide timely notice of the need for leave. Before granting the leave, the employer may require medical verification of the need for the requested leave.

Child-Care and Family Responsibilities

Questions asking about number of children, how many children are under the age of 18, and child-care are often used to discriminate against women. The EEOC considers it a violation of Title VII to require pre-employment information about child-care arrangements from female applicants only, and employers cannot have different hiring policies for men and women with pre-school age children. Information about dependents for tax, insurance, or Social Security purposes can be obtained after the applicant is hired.

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Citizenship and Immigration

The federal Title VII law extends coverage to both United States citizens and non-citizens with respect to employment within the United States. Although Title VII and the Iowa Civil Rights Act do not specifically prohibit discrimination on the basis of citizenship, questions about citizenship, or requirements for an applicant be a citizen of the United States, may violate the law where they have the purpose or effect of discriminating on the basis of national origin.

Imposing a citizenship requirement for the purpose of excluding people on the basis of national origin violates Title VII. Even if a citizenship requirement is not intentionally discriminatory, Title VII can be violated if the requirement disproportionately excludes persons of a particular national origin and the employer cannot establish the requirement is job-related and consistent with business necessity. See the next two subsections for information on federal law prohibitions against employing undocumented workers and related non-discrimination provisions.

Eligibility to Work and Proof of Identity

The federal Immigration Reform and Control Act of 1986, makes it a crime to knowingly hire an unlawful alien and requires all employers to verify the employment eligibility of all newly hired applicants before they are put to work. Asking an applicant if they are a citizen of the United States (which would make them eligible for employment within the U.S.) puts an employer at risk for national origin discrimination. The appropriate inquiry is, “Can you, after being hired, verify your legal right to work in the United States?” Another acceptable inquiry is, “Are you a U.S. citizen or otherwise eligible to work in the United States?” The answer of yes or no to that question does not divulge national origin information.



About the “I-9 Process”

Before putting a new employee to work, the federal Immigration and Reform Act requires the new employee to show proof of their identity and eligibility to work in the United States. This is often called the “I-9” process. Employers are required to maintain such I-9 compliance records.

Documenting identity and employment eligibility should not be difficult. An applicant who produces a valid driver’s license and an original social security card has met these requirements. In addition, a passport, certificate of U.S. citizenship, alien registration card, or an unexpired foreign passport with employment authorization stamp may be sufficient to show both identity and eligibility to work. Another approach is to use two documents to show: (1) identity; and (2) employment eligibility. For example, a state-issued driver’s license is sufficient under the federal immigration law to establish identity. A birth certificate or original social security card is sufficient to demonstrate employment eligibility. There are other documents in tandem that may satisfy the identity and employment eligibility requirements. A list of those documents can be obtained from the U.S. Citizenship and Immigration Services.

Use of Native Language

The EEOC, the ICRC, and the courts have interpreted Title VII and the Iowa Civil Rights Act as barring employment policies requiring employees to speak English only on the job, unless the employer can show the English-only policy is job-related and consistent with business necessity, such as safety, communication with customers, co-workers, or supervisors.



Disability and Health

Employers have a legitimate concern in hiring employees who are physically and mentally able to do their jobs. Many persons have been screened out from employment because of real or perceived physical or mental conditions which may not be related to their ability to perform work required by an employer.

Under the federal Americans With Disabilities Act ("ADA"), it is specifically unlawful to ask whether an applicant is disabled, or to inquire about the nature or severity of an illness or disability. The Iowa Civil Rights Act's prohibition on disability discrimination follows the federal ADA. These laws prohibit disability-related questions on application forms, during job interviews, or in background or reference checks. Employers may ask an applicant questions about the person's ability to perform the essential functions of the job. Employers may also ask an applicant to describe or demonstrate how, with or without reasonable accommodation, that the applicant can perform job-related functions.

An applicant or employee must be qualified for the job, that is, they must satisfy the job requirements for educational background, employment experience, skills, licenses, or other job-related qualification standards. The ADA and Iowa Civil Rights Act do not interfere with the employer's right to hire the best qualified applicant. Nor do these laws impose any affirmative action obligations. The law simply prohibits the employer from discriminating against a qualified applicant or employee because of a disability.

Under the ADA, a disability is defined as a physical or mental impairment that substantially limits a major life activity. The ADA also protects individuals who have a record of such impairment, or who are regarded as having such impairment. The Act makes it unlawful to discriminate against a qualified applicant or employee because of the disability of an individual with whom the applicant or employee is known to have a family, business, social or other relationship or association.
An employer may not use a physical or mental condition to disqualify an applicant merely because the employer believes the applicant's condition would pose a health or safety threat. The employer must show the condition poses a "significant risk of substantial harm." An assessment of the condition must be based on valid medical evidence.

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For example, under the ADA, merely making the following types of inquiries during the interview/ pre-job-offer stage is unlawful.

Questions under the ADA that are unlawful:

- Do you have a disability or major illness?
- What is the nature or severity of your disability?

  (NOTE: Or the nature and severity of any conditions or diseases for which an applicant has been treated.)
- Have you ever been hospitalized?
- Have you ever been treated for a mental illness?
- Questions about an applicant's past record of a disability, his or her record of drug/alcohol addiction or the nature of related treatment.

  (NOTE: It would be unlawful to decide not to hire an applicant based only on the knowledge the applicant had a record of disability, or had received related treatment for it.)
- Have you ever filed a worker's compensation claim or suffered a disabling injury in a previous job?
- Will you need time off for medical treatments or for other reasons associated with a disability?



During the interview/pre-offer, an employer may ask an applicant, previous employer or reference the following:

- Can the applicant perform the duties of the job, with or without accommodation? (This should be asked of all applicants)
- Does the applicant have the ability and experience related to the specific duties and perform the essential functions of the job?
- Does the applicant have the necessary licenses, diplomas, training certificates, or other required qualifications?
- Describe or demonstrate how the applicant will perform the specific functions, if this is required of everyone, regardless of disability.

  (NOTE: The EEOC advises an employer may single out an applicant to ask for a description or demonstration of performance for specific functions if the applicant has a known disability that the employer reasonably believes could interfere with the performance of those job functions. If a demonstration is requested, the employer must be ready to provide a necessary accommodation to allow a person with a disability to perform the demonstration or reschedule the demonstration to allow the employer to provide the necessary accommodation.)
- Can the applicant meet the requirements of the employer's work hours, overtime work, travel, and attendance policies?
- Describe the quality of previous job functions and tasks performed by the applicant, the quality and quantity of the work performed, the applicant's attendance record, as well as other job-related questions not likely to disclose disability.



Reasonable and Necessary Accommodations During the Hiring Process

The ADA requires reasonable accommodations be made for applicants with disabilities during every step of the hiring process. (Note: This section only deals with the hiring process and not potential issues of accommodation during the actual employment process.)

The ADA requires individuals whose disabilities impair sensory, speaking or manual skills be given tests in a format that does not require use of the impaired skills, unless the test is designed to measure that skill.

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Accommodations Include:

- Substitute a written test for an oral test (or written instructions for oral instructions) for people with disabilities impairing speech or hearing
- Give the test in large print, Braille, by a reader, or on a computer for people with visual or other reading disabilities
- Provide the services of a sign language interpreter during the interview or testing procedures for applicants with impaired hearing

Medical Examinations



Under the ADA it is unlawful for the employer to require an applicant to take a medical examination before making a job offer. After a job offer is made and prior to the commencement of employment duties, an applicant may be required to take a medical examination if everyone who will be working in the job category must also take the examination. The job offer may be made conditional on the results of the medical examination. However, if an individual is not hired because a medical examination reveals the existence of a disability, the employer must be able to show the reasons for exclusion are job-related and necessary to conduct business. Also, the employer must be able to show there was no reasonable accommodation that would have made it possible for the individual to perform the essential job functions.

While a person is employed, an employer cannot require an employee undergo a medical examination or inquiry unless it is job related and consistent with business necessity. The employer's evidence of job-related problems should be objective. When an employee is injured on or off the job, becomes ill, or otherwise disabled, a medical examination may be necessary to determine if the person can continue to perform the essential functions of the job, with or without a reasonable accommodation. The examination may also be necessary to determine the need for or extent of reasonable accommodation.

Employers may conduct periodic examinations and other medical screening and monitoring required by federal, state, or local laws. Employers may also conduct voluntary medical examinations and screening as part of an employee health and wellness program.

Information obtained from an employee medical examination or inquiry may not be used to discriminate against the employee. All information obtained from employee medical examinations and inquiries must be maintained in secured files separate from personnel files, and must be used in accordance with ADA confidentiality requirements.



Alcohol and Drug Abuse

In dealing with alcohol and drug abuse, a distinction needs to be made between a past history of abuse and recovery from such abuse, and current alcohol or drug abuse. Under state and federal law, recovery from alcoholism or drug addiction is considered a covered disability by virtue of "having a history" of an impairment. An applicant should not be rejected from employment solely because of a history of and recovery from drug or alcohol abuse. The Iowa Administrative Code Section 161-8.27(1)(b) allows an employer to reject an applicant whose current disability, such as alcoholism, would create a danger to the life or health of fellow employees.

Under the ADA, an individual who is currently engaging in illegal use of drugs is not an "individual with a disability," and is specifically excluded from coverage under this law. However, someone who currently abuses alcohol is not excluded from coverage under the ADA, and may need accommodation in undergoing treatment should the employee voluntarily undertake treatment. This does not mean, however, an employer has to tolerate an employee under the influence of alcohol on the job site. Lastly, a person seeking treatment for alcoholism may have leave rights under the Family and Medical Leave Act ("FMLA").

An alcohol test is considered a medical examination under the ADA. Therefore, if an employer has a policy of pre-employment testing for alcohol use, an applicant can be tested for alcohol only after a conditional offer of employment has been made. Because the illegal use of drugs in not protected by the ADA, an employer can test an applicant for illegal drugs at any time in the screening and hiring process.

Iowa law, Section 730.5, allows private sector drug and alcohol testing of prospective and current employees in a limited number of circumstances, and with a carefully worded testing policy. (See pages 21 - 22 for details.)

The federal Drug-Free Workplace Act of 1988 requires employers having federal contracts of $25,000 or more or receiving federal grants, establish a drug use policy and maintain drug-free awareness programs. That figure was changed to $100,000 for all contracts entered into on, or after December 1, 2003.



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AIDS

AIDS (Acquired Immune Deficiency Syndrome), ARC (AIDS-related Complex), and testing positive for HIV (Human Immunodeficiency Virus) have become matters of concern for employers because of fear about the communicability of AIDS. Present research shows there is no transmittal of disease through casual contact, and where there is a slight risk of infection through contact with body fluids, precautions can be taken to reduce risk.

Persons with AIDS and HIV disease are protected from discrimination under the Americans with Disabilities Act of 1990. The Rehabilitation Act of 1973, as amended, Section 503, prohibits federal government contractors and subcontractors from discrimination against qualified disabled applicants and employees. Several recent court rulings have determined AIDS is considered to be a disability covered under federal law. Iowa Code Section 216.2(5) states that a positive HIV test result, a diagnosis of AIDS, AIDS-related Complex or other conditions related to AIDS, is considered to be a disability.

Iowa Code Section 216.6(1.)(d.), prohibits requiring as a condition of employment, any employee or prospective employee, to take a test for the presence of the antibody to HIV, or to use the test or results of such a test to affect the terms, conditions or privileges of employment or to terminate an employee solely as a result of the test.

Dress and Appearance

An employer may have a legitimate business interest in having employees present the company's desired image and appearance to its customers and public. Courts have ruled reasonable dress and appearance codes are a proper exercise of management authority, so long as the standards are directly related to the requirements of the position, and do not have an adverse impact on any protected class, such as sex, race, or religion. Employers should be aware that an appearance requirement based on offensive or demeaning sex stereotypes may be a Title VII or Iowa Civil Rights Act violation.



In addition, if an employer has a dress or grooming policy that conflicts with the practices or beliefs of an employee's religion, the employee may ask for an exception to the policy as a reasonable accommodation. For example, religious grooming practices may relate to shaving or hair length. Religious dress may include clothes, head or face coverings, jewelry, or other items. Absent undue hardship, an employer must accommodate the employee's religious dress or grooming practices.

Fidelity Bond

Asking if an applicant has ever been denied a fidelity bond presumably represents an indirect effort to find flaws which may exist in an individual's past. A fidelity bond may have been denied for totally arbitrary and discriminatory reasons and the individual did not have an adequate opportunity to know of or challenge the action. The regulatory agencies recommend this method of ascertaining an individual's past financial history, if related to the job requirements, be dropped in favor of some other method.

Financial Status: Home, Car Ownership, Credit Record

Rejection of applicants because of poor credit ratings can have a disparate impact on minority groups. If so, asking for credit information is unlawful unless a business necessity can be shown. Such inquiries also might have a disparate impact on women because many women do not have a credit history separate from their husband's credit history.

Inquiries about an applicant's financial status, such as bankruptcy, car ownership, rental or ownership of a house, length of residence at an address, if used to make employment decisions, may also violate Title VII. For example, asking how an employee is going to get to work could solicit information about car ownership. The more appropriate inquiry is whether the applicant will be able to get to work at the scheduled time.



Friends or Relatives Working for Us?

Asking an applicant for the names of the applicant's friends or relatives already employed by the employer is acceptable if the employer has a policy or practice about work assignments of employees who are related or friends, and/or an anti-nepotism policy. Be aware, however, that Title VII may be violated if the employer's work force consists primarily of one race or ethnic group and the employer hires only friends and relatives of employees.

Successful Interviewing Guide
Avoiding Discrimination During the Hiring Process

Garnishments

Iowa law, specifically Section 642.21(2)(c), prohibits an employer from discharging an employee because the employee's wages are being garnished. In addition, federal courts have ruled discharging an employee because of a wage garnishment(s) violates Title VII because minorities incur wage garnishments more often than non-minorities, and wage garnishments do not affect an employee's ability to perform his/her job.

Height and Weight

Minimum height and weight requirements are considered unlawful if they screen out a disproportionate number of minority group individuals (e.g., Hispanics or Asian Americans) or women, and the employer cannot show that these standards are job-related and consistent with business necessity.



Marital Status

Because the question, "what is your maiden name" generally applies only to women, and it is not relevant to a person's ability to perform a job, the EEOC and ICRC warn responses to it could be used for discriminatory purposes. If an employer needs the information for purposes of a pre-employment background investigation, a permissible alternative is to inquire as to all the names used by an applicant. Information about marital status needed for tax, insurance, or social security purposes may be obtained after making the offer of employment to the applicant.

Similarly, questions as to whether an applicant is married, single, separated or divorced should be eliminated because they are not job-related.

An employer also would violate Title VII if it refused to hire a married woman or pay her the same as a married man for the same work. In addition, an employer cannot refuse to hire a married woman because of the employer's beliefs concerning morality or family responsibility.

Finally, asking an applicant if they prefer to be known as Ms., Miss, or Mrs. is considered another way of inappropriately asking the applicant's sex or marital status.



Military Service

Discharge Status

An employment policy which arbitrarily eliminates candidates who have less than an honorable military discharge may violate Title VII and Iowa law because it could have an unfair impact on minority applicants. There is evidence that proportionately more minority males than white males are given dishonorable discharges from military service.

Veteran's Preference

Federal and state laws forbid discriminating against veterans in employment decisions. In addition, Iowa Code Section 35C.1. states veterans are entitled to preference over other applicants of "no greater qualifications" with regard to all state, city, county, and public school positions. Iowa Code at Section 400.10 also calls for special scoring for veterans with regard to civil service grading. Lastly, federal law requires recipients of federal contracts in excess of $100,000 take affirmative steps to employ qualified covered veterans.

Religion - Saturday and Sunday Work

Although it is perfectly reasonable to ask if an applicant can work on weekends if there is a need, government regulators advise the question may discourage applicants of certain religions which prohibit working on Friday nights, Saturdays, or Sundays. If there is a business necessity for asking this question, an employer should explain the regular work schedule in terms of days (including weekends), shifts, and hours, and ask to the effect, "Is there anything that would prevent you from meeting this work schedule?" The employer should make it clear it will make a reasonable effort to accommodate the employee's religious practices without undue hardship on the employer's business.

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Salary (Lowest Acceptable)

Questions such as "what is the lowest salary you will accept," or "how much salary do you need," or "how much money does your husband make," are not permissible. The EEOC reasons women generally have been relegated to lower-paying jobs than men, and paid less for the same work. As a result, a woman might be willing to work for less pay than a man in the same job would find acceptable. Pursuant to the Equal Pay Act, men and women performing substantially the same job must be paid equal wages. If the employer's objective is to find out an applicant's desired salary, the employer should ask all applicants about their salary expectations.

Sex

Title VII and the Iowa Civil Rights Act prohibit discrimination in employment on the basis of sex except in the few instances in which sex may be a "bona fide occupational qualification ("BFOQ") reasonably necessary to the normal operation" of the employer's business. There are virtually no jobs which can be performed by only one sex or the other. For this reason, any question asking the applicant's sex should be omitted from an application form.

Sexual Orientation/Gender Identity

The Iowa Civil Rights Act was amended July 1, 2007 to prohibit discrimination on the basis of sexual orientation and gender identity. Several municipalities in Iowa also consider sexual orientation a protected classification. The federal Title VII law does not include sexual orientation as a protected classification. Title VII and the Iowa Civil Rights Act also prohibit harassment on the basis of sex, which has been interpreted by the courts to prohibit "same sex" harassment.

Spouse's Name & Spouse's Work

To the extent this question asks for marital status, the comments made above about marital status apply, and questions about a spouse's name and work should not be asked. A spouse's name also can be used as an indication of religion or national origin. If there is a need for a spouse's name or contact telephone number for a spouse in case of an emergency, such information can be collected after an applicant is hired.



Testing

Pre-Employment

The purpose of any pre-employment testing procedure is to help the employer accurately select employees on the basis of their ability to do the job. Testing procedures are more than just paper and pencil tests; other examples include performance testing, training programs, educational or work experience requirements, and probationary periods. The test must be job-related and consistent with business necessity.

Under the Americans with Disabilities Act (ADA), employers must also make it possible for a person with a disability to participate in the application process. For example, if an applicant is blind, the employer must provide assistance with the written application and any required written test. The personnel office and testing site should be accessible to persons with disabilities, or alternate arrangements must be available.

The state and federal regulations on test validation and selection procedures are highly technical. But in general, an employer should not use any testing or selection procedure that has an adverse impact on members of a racial, ethnic, age, sex group, or people with disabilities. At a minimum, an employer should review job requirements to be sure they are job-related and appropriate for the job classification.

A uniform, scored interview process will also assist the employer in keeping selection decisions as objective as possible. Keeping records of applicant flow and selection rates for each job category will enable the employer to determine if any adverse impact is occurring.

For technical assistance in test validation, an employer can contact state or federal civil rights agencies or a professional testing consultant.

Lie Detector (Polygraph)

Iowa Code Section 730.4 prohibits employers from requiring job applicants or employees to take a polygraph or lie detector test, including a voice stress analyzer, as a condition of initial or continued employment. This law does not apply to peace officers and correctional officers.

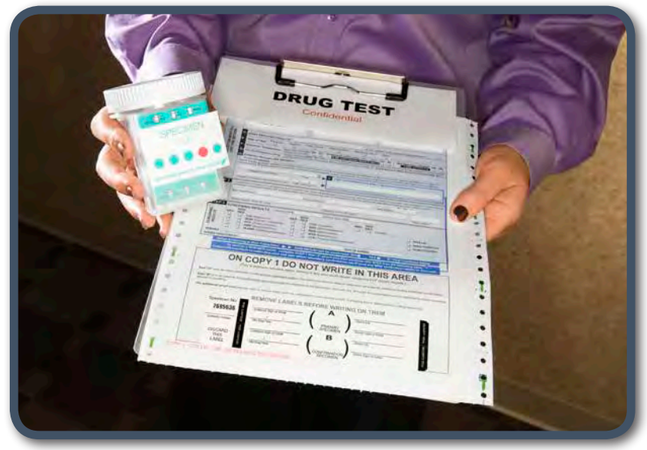
The Federal Employee Polygraph Protection Act prohibits most private employers from requiring or suggesting a job applicant or employee take a lie detector or polygraph test. The law does allow some very limited private employer exceptions. The law does not apply to the United States government, or any state, local, or political subdivision employer.



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Drugs and Alcohol Testing

Recent changes were made in Iowa's law on drug and alcohol testing in the workplace expanding an employer's role in testing applicants and employees for drug or alcohol abuse.



The law, found at Iowa Code Section 730.5, applies only to private sector employees. The state and its political subdivisions, as well as Native American tribes and the federal government, are excluded from the definition of "employer." The Act also provides its requirements do not apply to drug or alcohol tests of employees required to be tested by federal law.

In order to engage in drug or alcohol testing, an employer must have a written policy, available to employees and prospective employees, governing drug or alcohol testing. The policy must also spell out the uniform disciplinary or rehabilitative actions an employer will take following a positive test.

An employer also must establish a drug and alcohol awareness program in the workplace before conducting testing. Employees must receive notice of the benefits and services available under an employee assistance program, or information on community services concerning alcohol and drug abuse.

The law permits testing of job applicants. It also permits unannounced drug or alcohol testing of employees selected from the entire employee population, or who work at a particular work site, or from all employees working in a safety-sensitive position. Testing also is permitted based on reasonable suspicion of being under the influence, or to investigate an accident at work. Confidentiality of test results is required, except for use of the results as allowed by the Iowa testing law.

The Iowa testing law provides an employer shall not be liable for actions taken in good faith based on a positive drug or alcohol test. It also establishes a test conducted in accordance with the Act is presumed valid, and an employer is not liable for monetary damages if the employer's reliance on a false positive test was reasonable and in good faith.

An employer interested in drug or alcohol testing should obtain a copy of the Iowa statute and consult with legal counsel before starting such a program.

Questions considered inadvisable can be found under the heading titled *Inadvisable*, and in some very limited instances, illegal on their face, by the U.S. Equal Employment Opportunity Commission and the Iowa Civil Rights Commission.

No.	Topic	Acceptable	Inadvisable
1	Age	Whether candidate meets minimum legal age requirements for the job	Age, date of birth, any inquiry aimed at identifying age or excluding persons of a particular age (e.g., high school or college attendance, graduation dates, what are your retirement plans, how long do you plan to work, how can someone so young handle this job?)
2	Arrest Records	None. (For convictions, see No. 5)	Number and kinds of arrest.
3	Availability for Work on Weekends, Evenings	If asked of all applicants and is a business necessity for the person to be available to work weekends and/or evenings.	Any inquiry about religious observance, child care, inquiries directed only to persons of one sex.
4	Citizenship, Birthplace & National Origin	The only legitimate concern here is whether the applicant is eligible to work in the United States, under Terms of the Immigration Reform and Control Act of 1986. There is a fair and advisable way to obtain this information. The best approach is to ask: Are you EITHER a U.S. citizen OR legally authorized to work in the United States? The “Yes” or “No” answer that follows provides all needed information while not disclosing citizenship or national origin information.	Birthplace, national origin, ancestry, or lineage of applicant, applicant’s parents, or applicant’s spouse.
5	Conviction Records	Inquiry into convictions if job-related. Include disclaimer stating that conviction does not automatically bar candidate, depending on the job, time, nature and seriousness of the conviction and related rehabilitation.	Any inquiry about conviction unrelated to job requirements

Successful Interviewing Guide
Summary Guide to Application and Pre-Employment Questions

No.	Topic	Acceptable	Inadvisable
6	Creed or Religion	None, except where religion is a bona fide occupational qualification.	Applicant’s religious affiliation, church, parish, or religious holidays observed.
7	Credit Records/ Finances	None, unless job-related.	Inquiries about charge accounts, bank accounts, car and home ownership, credit rating, garnishments, fidelity bonds, etc., that do not relate to performing the particular job.
8	Disability	Whether applicant can perform essential functions of the job, with or without accommodation.	To ask applicant if he/she is disabled and/or to list illness or disabilities or any inquiries that elicit information about disabilities or health, e.g., “Do you have any medical limitations that would prohibit performance of this job? How many sick days did you use in your last job? Have you ever sought treatment for a mental condition?”
9	Drinking	May ask if an applicant drinks alcohol or has ever been arrested for driving while under the influence.	Birthplace, national origin, ancestry, or lineage of applicant, applicant’s parents, or applicant’s spouse.
10	Family Status	Whether applicant has responsibilities or commitments which will prevent meeting work schedules, if asked of all applicants regardless of sex.	Marital status, number and age of children, spouse’s job.
11	Height & Weight	None, unless job-related.	None, unless job-related.
12	Language	Language applicant speaks or writes fluently, if job-related.	Language used by applicant or family members at home, or how applicant acquired the ability to read, write, or speak a foreign language.
13	Marital Status	None, other than if candidate can meet work schedule of the job, whether candidate has activities, responsibilities, or commitments that may hinder work requirements. (Should be asked of both sexes.)	Whether applicant is married, single, divorced, separated, engaged or widowed.
14	Military Service	Military experience or training, or education.	Type or condition of discharge, unless it is the result of a military conviction.

Successful Interviewing Guide

Summary Guide to Application and Pre-Employment Questions

No.	Topic	Acceptable	Inadvisable
15	Name	All previous names used by applicant.	The original name of an applicant whose name has been legally changed or the national origin of an applicant's name.
16	Organizations	Applicant's membership in professional organizations if job-related.	All churches, clubs, social fraternities, societies, lodges, or organizations to which an applicant belongs.
17	Photographs	None except after hiring.	Photograph with application or after interview, but before hiring.
18	Pregnancy	None.	Any inquiry into pregnancy, medical history of pregnancy or family plans.
19	Race or Color	None.	Applicant's race or color of applicant's skin.
20	References	Name/s of references.	Name of applicant's pastor or religious leader.
21	Relatives/ Friends	Names of applicant's relatives, friends already employed by employer if employer has assignment policies, practices related to friends, relatives and/or an anti-nepotism policy. Employer may not give preference if women and minorities are underrepresented in its workforce.	Names of relatives, other than those working for the company, names of friends, relatives working for a competitor.
22	Sex	None, except where sex is a bona fide occupational qualification (BFOQ).	Any inquiry except where BFOQ.
23	Sexual Orientation/ Gender Identity	None, except for the narrow exceptions specified in the law.	Any inquiry except for the narrow exceptions specified in the law.
24	Workers' Compensation	None, except for the narrow exceptions specified in the law.	Any inquiry except for the narrow exceptions specified in the law.

Successful Interviewing Guide

Workforce Resources for Employers

Are you an employer with questions on how to develop your workforce or find the right applicant for the job?
Iowa Workforce Development has the answers!

We offer a full range of services designed to help employers recruit, train and develop workers. Many of these services are offered at no cost. Check with your local Iowa*WORKS* Center for these and other resources as well as hours of service.

Recruitment Once you identify the skills and requirements of the jobs you want to fill, we will help you start looking for the best qualified applicants. Here are some of the ways we can help.

Help Finding Qualified Applicants

- List jobs on our web site at no cost just by placing a job order at one of our local Iowa*WORKS* Centers. Employers may also post jobs online at Iowajobs.org.
- In addition to posting jobs at iowajobs.org (the state's largest electronic job board), job openings listed with Iowa*WORKS* also post automatically to multiple other web sites including, JobCentral.com, which is a new job bank featuring employment opportunities in at least 38 states. SmartCareerMove.com, which lists job opportunities paying at least $30,000 a year; VetCentral.com, a partner of JobCentral National Labor Exchange featuring jobs for Veterans; any of 15 regional job banks; and to a number of economic development web sites.
- Office space is available at our Iowa*WORKS* Centers for employers to use to conduct initial interviews and screening.

Screening and Assessment Tools Our Centers offer proficiency testing in typing and data entry to help identify skills of applicants. This is one way we can help provide a good match between your job requirements and the available applicants. This helps reduce turnover costs and also helps you identify training and development opportunities.

We also provide OPAC® and WorkKeys®, tools to match the best job with the right applicant and reduce turnover. The assessment tools can be used with applicants, as well as current employees, to identify training areas to help increase work productivity. Contact your local Iowa*WORKS* Center for additional information.

Employer Development After helping staff your business, we can also help train and improve your employees. In conjunction with area community colleges and other job training resources, a training program can be tailored just for you.

Other Employer Resources Iowa*WORKS* Center's provide consulting services about laws governing employment and the workforce. Employers may obtain consultation on OSHA, tax information, Workers' Compensation, unemployment insurance, hiring practices and other general employment issues and from the "Frequently Asked Questions" knowledge base on our web site at www.iowaworkforce.org. In addition to these resources, we can also customize services to meet your needs.

Successful Interviewing Guide

Workforce Resources for Employers

The sample job application which appears on the following page was developed by Iowa Workforce Development. Feel free to copy and use this application in your personnel operation. This application is not discriminatory because it asks only job-related questions. It does not arbitrarily exclude applicants from the selection process by making non-job related inquiries.

Detailed questions on equal employment, and requests for training regarding equal employment opportunity and fair housing, can be directed to:

Iowa Civil Rights Commission
Grimes State Office Building
400 East 14th Street
Des Moines, Iowa 50319-1004
515-281-4121
1-800-457-4416
515-242-5840 Fax
www.state.ia.us/government/crc

Other sources are local human rights or human relations agencies, or the district office of the:

Equal Employment Opportunity Commission (EEOC)
310 West Wisconsin Avenue, Suite 800
Milwaukee, Wisconsin 52303-2292
414-297-1115
1-800-669-6820 TTY
414-297-4133 Fax

For all your employment needs, contact your nearest Iowa*WORKS* Center or:

Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
515-281-5387
1-800-JOB-IOWA
workforce.iowa.gov

GENERIC APPLICATION FOR EMPLOYMENT
(Print neatly and complete all blanks)

Provided by Iowa Workforce Development for: _____ **Date:** _____
(Company Name)

IWD is an Equal Opportunity Employer/Program
Auxiliary aids and services are available upon request to individuals with disabilities.

PERSONAL

Full Name _____
First Middle Initial Last

Current Address _____
Number Street City State Zip

Telephone Number (____) _____ **Social Security Number** _____

Are you 18 years of age or older? Yes ☐ No ☐ Are you a military Veteran? Yes ☐ No ☐

Are you legally able to work in the United States? Yes ☐ No ☐ If Yes, Dates of Active Duty: _____ to _____

Have you ever been known by any other name(s) that this company will require to verify any of the information on this application?

EMPLOYMENT DESIRED

Job Title: _____ **Date you can start:** _____ **Wage Desired:** _____

Are you available for work: Full-Time ☐ Part-Time ☐

EDUCATION

Do you have a High School Diploma or GED? Yes ☐ No ☐

Name of last school attended: _____
City State

Circle last year of school completed: 6 7 8 9 10 11 12 13 14 15 16 17 18

Circle the highest degree earned: High School Diploma GED Certificate AA BD MD PHD Other

Area of Concentration and/or degree(s), certificates, licenses, endorsements:

Other Training or Skills (Factory or Office Machines Operated, Special Courses, Computer Skills, etc.):

PERSONAL

Former Employment (List employers, starting with the current or most recent. Explain all gaps in time of employment.)

Company Name: _____ **Job Title** _____

Address: _____
Number Street City State Zip

Start Date: ___/___/___ **End Date:** ___/___/___ **Rate of Pay:** _____

Detailed Job Duties: _____

_____

Reason for Leaving: _____

Company Name: _____ **Job Title** _____

Address: _____
Number Street City State Zip

Start Date: ___/___/___ **End Date:** ___/___/___ **Rate of Pay:** _____

Detailed Job Duties: _____

_____

Reason for Leaving: _____

Company Name: _____ **Job Title** _____

Address: _____
Number Street City State Zip

Start Date: ___/___/___ **End Date:** ___/___/___ **Rate of Pay:** _____

Detailed Job Duties: _____

_____

Reason for Leaving: _____

May we contact your former employers to verify this information? Yes ☐ No ☐

May we contact your present employers to verify this information? Yes ☐ No ☐

Federal and Iowa law prohibit discrimination in hiring due to age, race, color, creed, sex, national origin, religion, disability or veteran's status. Iowa law also prohibits discrimination on the basis of sexual orientation and gender identity.

Please provide any additional information about your abilities or interests that makes you a good candidate for this position:

_____

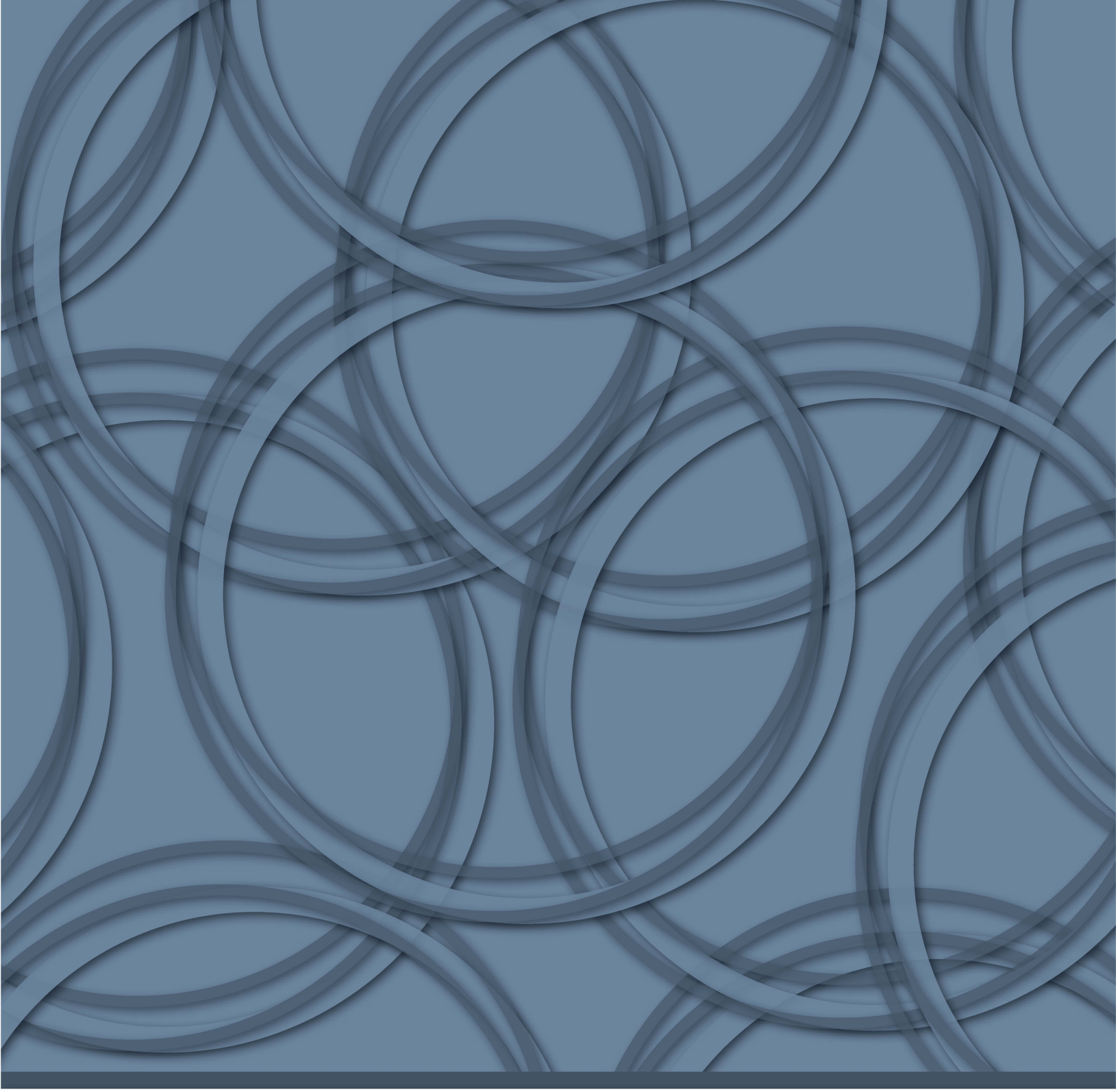
_____

I authorize investigation of all statements contained in the application. I understand that omission or misrepresentation of facts is cause for dismissal.

Signature: _____ **Date** _____

Equal Opportunity Employer/Program.
Auxiliary aids and services are available upon request to individuals with disabilities.
For deaf and hard of hearing, use Relay 711.

70-0006 (11-25)



IOWA

Iowa Workforce Development