

Can you ask applicants if they have relatives on staff?

Q. On our applications, can we include a question that asks if applicants are related to any current employees? – T.B., Colorado

A. You don't say the reason you want to know this information but, as a rule of thumb, you shouldn't ask anything on an application that isn't related to the applicant's qualifications for the job. Asking if an applicant is related to an employee could expose you to a discrimination claim if the employee (and, therefore, possibly the applicant) is in a protected class.

For example, let's say an applicant lists Susan in accounting as a relative. You know that Susan is practicing a certain religion and requires Sundays off as an accommodation. You might assume that the related applicant practices the same religion. If you decide not to hire the applicant, you could be vulnerable to a religious discrimination claim on the basis that you made the decision because you didn't want to accommodate the applicant by giving her Sundays off, too.

On the other hand, the question may be appropriate if you have a firm anti-nepotism policy and don't hire any relatives. Whether or not you include the question, you should be careful to make all hiring decisions based on sound business reasons. That will minimize (although not eliminate) the risk of a successful discrimination claim.