

FAQs About Illegal Interview Questions

What is an Illegal Interview Question?

Various state and federal laws make discrimination on certain protected categories, such as national origin, citizenship, age, marital status, disabilities, arrest and conviction record, military discharge status, race, gender, or pregnancy status, illegal. Any question that asks a candidate to reveal information about such topics is a violation of the various laws.

Which Questions ARE Still Legal?

If employers can state questions so they directly relate to specific occupational qualifications, then the questions may be legitimate ones. Employers may also ask general questions. For example, an interviewer may NOT ask your age in an interview, but the interviewer may ask if you are over the age of 18 (if being over the age of 18 is a requirement of the job).

What Should I do if I am Asked an Illegal Question?

If you are asked an illegal question during an interview, you have three basic alternatives.

1. You can answer the question

By answering the question you may actually help your chances of getting the job, particularly if you give the "right" answer. Doing so, however, may convey to the interviewer that you are not familiar with the laws relevant to the interview process. You may also harm your chances of being hired if you give the "wrong" answer.

2. You can refuse to answer the question

You do have the right to not answer the illegal question. However, a flat refusal to answer may harm your chances of being hired for a position if the interviewer sees you as an uncooperative or stubborn person.

3. You can examine the intent behind the question

When an interviewer asks an illegal question they are often trying to find out information about you that is not directly related to the job. It is often easy to infer what the interviewer is really trying to find out from an illegal question. A simple compromise to the problem is to respond to the question as it may apply to the job. For example, if the interviewer asks "Are you a US citizen?", you may respond, "That question is in violation of the law, but yes, I am authorized to work in the United States." This third choice shows the interviewer that you are both aware of the law and able to quickly compromise and solve problems.

4. Other alternatives

You may feel more comfortable with one of these choices (which are just as valid as the first three) for responding to an illegal interview question:

- Ignore the question and move on
- Ask how the question relates to your qualifications or the requirements of the job
- Walk out

Information on the Web About Illegal Interviewing Questions

www.hrproonline.com/40204000.htm

Whatever alternative you choose depends on your personal preference. If you are asked an illegal question and you would prefer not to work for a company that asks such questions, then do not be afraid to refuse

to answer the question and tell the interviewer why. Pointing out illegal questions may persuade the interviewer not to ask them of other candidates in the future.

ILLEGAL INTERVIEWING QUESTIONS

INQUIRY AREA	APPROPRIATE	INAPPROPRIATE
Age	Questions about age are only permitted if it is necessary to ensure that a person is legally old enough to do the job.	Questions about age, dates of attending school, dates of military service, requests for birth certificate.
Address	What is your address?	Examples: Do you own or rent your home? How long have you lived at your current address?
Arrest Record	May ask about arrests or pending charges if they are substantially related to the job.	Questions about arrests or pending charges for jobs other than those that are substantially related to the particular job.
Convictions	May ask about convictions if they are substantially related to the job. May let applicants know that policy requires a background check prior to hire.	Questions about convictions that are not substantially related to the job.
Citizenship/ National Origin	May ask about legal authorization to work in the specific position if all applicants are asked.	Examples: Are you a US citizen? Where were you born? Where were your parents born? Are you an American? What kind of name is that?
Credit Rating or Garnishments	Only if the job requires significant financial responsibility or access to cash or funds. In most cases, no question is acceptable.	Questions about credit ratings since they have little or no relations to job performance.
Disability	Are you able to perform the essential functions of this job – with or without accommodations? Questions about knowledge of skills necessary to perform the job requirements.	Example: Do you have a disability? What is the nature of severity of your disability?
Education	Inquiries about degrees or equivalent experiences that are related to the job being applied for.	Questions about education that are not related to the job being applied for.
Family/Marital Status	Whether an applicant can meet work schedules or job requirements. If asking, should ask all applicants.	Any inquiry about marital status: married, single, separated, divorced, and engaged; children; pregnancy or child care plans.
Health	None	Example: How is your (or your family's) health?
Military	Type of education and experience in service as it relates to a particular job.	Type of discharge or registration status.
Name	May ask current legal name. "Is additional information, such as a different name or nickname necessary in order to check job references?"	Questions about national origin, ancestry, or prior marital status.
Organizations	Inquiries about professional organizations related to the position.	Inquiries about organizations that might indicate race, sex, religion or national origin.
Race or Appearance	None	Comments about complexion, color, height, or weight.
Religion	Describe the work schedule and ask whether applicant can work that schedule. If asking, should ask of all applicants.	Inquiries on religious preferences, affiliations, or denominations.
Sexual Orientation	None	Inquiries about sexual orientation. Inquiries revealing stereotypes for certain sexual orientation (i.e. why do you wear an earring?)

Work Experience	Applicants' previous employment experience.	Questions about sick leave use or worker's compensation claims in previous jobs.
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