

# ILLEGAL INTERVIEW QUESTIONS AND HOW TO HANDLE THEM

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Job interviews are stressful enough, but illegal interview questions make things worse. There's reason for you to be concerned, especially with a job on the line.

Illegal interview questions pose an interesting conundrum for job hunters. Do you answer them, knowing they're illegal? Or refuse to answer them, knowing that it might cost you the job?

## LET'S GET FAMILIARIZED WITH SOME ILLEGAL INTERVIEW QUESTIONS.

### HOW OLD ARE YOU?

With so many people choosing to stay employed beyond the retirement age of 65, it changes the balance of the employee pool. Unfortunately, this can also mean more age-based discrimination. Some employers prefer a younger hire with fewer potential health costs, while others might prefer an older pro without the same social stereotypes (partying outside of work, immaturity) as someone half their age might. It doesn't matter -- it's still an illegal interview question.

Legally, employers can ask if you're over the age of 18, which is especially conducive to a working environment where a minor wouldn't be allowed on the premises. But if the question gets into specifics, it's treading on dangerous territory.

### WHERE WERE YOU BORN?

As new immigrants seek work, their country of origin should not be a factor in their hiring. Answering this question gives employers the information they need to obtain someone's personal history and possibly their race. If an employer has an implied preference toward race or origin, this spells danger for the applicant through no fault of their own.

Employers can ask, however, whether or not you can legally work in the country, but they can't use your country of origin as part of their hiring decision. Additionally, employers can use forms to collect personal information for affirmative action purposes, but it must be separate from the job application and it can't be gathered in an interview setting.

### ARE YOU MARRIED?

Some employers believe that an applicant's marital status plays a vital role in their availability. It's the perception that married people might work less or get burned out, while singles might work more. On the flip side, other employers might think singles are less reliable and married employees are more mature. Either way, it's an illegal interview question.

Marital status also hints at an applicant's current family situation. To an employer, a spouse and kids could immediately be equated with "busy." If a recruiter does ask this question, they're certainly not following the rules, and you don't have to either. Your smartest option is to avoid discussing your personal life and any of your children in an interview.

### DO YOU HAVE A DISABILITY?

Health care costs have long been a concern for employers. They don't want to think about whether an employee's physical challenges could affect their efficiency on the job. When the job can be done reasonably by a disabled applicant, the employer cannot make a judgment on hiring (or not hiring) him based on his condition. Employers can't ask this illegal interview question.

Chronic illnesses are another thing that employers often touch on because they don't want to deal with rising health costs and a lot of sick days. This means that questions related to an applicant's medication or their history of sick days are also out of bounds. Keep in mind, however, that a job interview isn't the same thing as filling out questionnaires for employee medical benefits.

### DO YOU DRINK ALCOHOL?

What you do on your watch is none of anyone's business but your own. When it comes to questions about alcohol, they can't be discussed in a job interview setting. That's because it's a legal substance that you consume on your own time. It also has no bearing on your job duties. You don't need employers to decide that you're trouble because you hit the bottle from time to time.

For smokers, any questions about their habit aren't allowed in job interviews either. There might be specific laws against it in the workplace and rules against it, but that doesn't mean that you will automatically smoke at work if you already smoke.

### HAVE YOU EVER BEEN ARRESTED?

In North America, the law operates under the assumption that a person is innocent until proven guilty. Following that logic, if you're arrested, it certainly doesn't mean you're a convicted felon. Therefore, questions about arrest history aren't admissible in the court of job interviews.

What's important to know is that employers can ask if you've been convicted of a crime and if you have a criminal record. This is legal when it's relevant to the job. Banks and other money-based companies often perform criminal background checks on potential employees because a degree of security clearance is necessary for all of their hires. Nevertheless, if you've been arrested, but not convicted, there's no criminal record to worry about and no reason to be asked about your arrest history.

### **ARE YOU AFFILIATED WITH ANY ORGANIZATIONS?**

Your affiliations, whether they're political, professional or otherwise aren't part of your job, unless some element of your affiliation would present a conflict of interest. Even so, this is still an illegal interview question. To make it legal, a potential employer would need to ask a question that describes the job duties and whether they could present a problem for any current affiliations.

In addition to professional and political affiliations, personal affiliations and religious observances are also off the table. Employers cannot ask if there are certain holidays that you celebrate during the year. Just because you have affiliations, it doesn't mean your employer needs to know or share them.

### **WHAT IS YOUR HEIGHT?**

Employers might want to know how adept you are at physical work and if the job involves lifting or traveling great distances, they want to know if you're fit enough to take care of things. Height is still an illegal question, so employers need to ask how good you are at specific tasks without asking such a generalized personal question. The lone exception for asking for height is when there is a regulated minimum height for doing the job in a safe way.

Weight is another hot topic and it's also an illegal interview question. Since physical duties often involve lifting and carrying items, it's arguable that someone's weight won't specifically tell them whether someone can do these essential tasks or not.

## **HANDLING ILLEGAL INTERVIEW QUESTIONS**

### **AS A JOB APPLICANT**

The main thing to realize is that most interviewers don't realize their question is illegal and, to the employer, it has little bearing on who gets the job. But that doesn't make it right; it just puts it in perspective. With that in mind, you can politely ask an interviewer how the illegal question is important to the job. This might allow them to correct their question and rephrase it. Alternately, you can analyze the question and answer its true point instead ("I can legally work in this country" or "I can handle the physical tasks of the job"). If you do feel that you are qualified for the job and that there might be discrimination going on, you can contact an employment attorney and look at filing an official complaint. Most complaints are handled through the Equal Employment Opportunity Commission.

### **AS AN INTERVIEWER**

The best way to handle an illegal interview question is to prevent it in the first place. Make it a habit to study the actual position and which questions are relevant. Do this well in advance of the interview and create a template that everyone in HR can use for screening candidates. This will ensure that everyone asks the same questions to all applicants. Otherwise, this is how discriminatory patterns can emerge, whether they are intentional or not.

### **LEGAL AND LEGIT**

As a job seeker, you might have heard some or all of these questions before. As a job recruiter, there's a good chance that you've asked them. Shockingly, a Cleveland law firm found that all of the 100 companies they approached asked all five illegal interview questions used for their study.

Legally, the main issue in winning an official complaint is the hiring company's intent. If the business didn't use the questions for discriminatory purposes, the chances of them being found guilty are much lower than if the questions were specifically used to discriminate. Either way, illegal interview questions are an unnecessary practice that takes the issue away from the job applicant with the risk of making things personal, awkward and damaging for all involved.