



Illegal Interviewing

As you conduct your job search, you may encounter job applications containing questions that may be considered illegal or unnecessary in determining your competency or qualifications for the position for which you are applying. Similar questions might arise during job interviews. As a job seeker, you need to be aware of your rights and carefully weigh your answers to such questions, if you choose to answer them at all. Following are options for answering such questions:

- You are free to answer the question—but if you choose to do so, realize that you are giving information that is not job related. You could harm your candidacy by giving the “wrong” answer.
- You can refuse to answer the question. By selecting this option, you will be within your rights, but you are also running the risk of coming off as uncooperative or confrontational. Hardly the words an employer would use to describe the “ideal” candidate.
- You can examine the intent behind the question and respond with an answer as it might apply to the job. For example, the interviewer asks, “Are you a U.S. citizen?” or, “What country are you from?” You have just been asked an illegal question. However, you could answer “I am authorized to work in the United States”. Or, if your interviewer asks, “Who is going to take care of your children when you have to travel?” You might answer, “I can meet the travel and work schedule that this job requires”.

Following are some examples of illegal questions and their legal counterparts:

INQUIRY AREA	ILLEGAL QUESTION	LEGAL QUESTION
National Origin/ Citizenship	<ul style="list-style-type: none"> • Are you a U.S. Citizen? • Where were you /your parents born? • What is your native language? 	<ul style="list-style-type: none"> • Are you authorized to work in the U.S. • What languages do you read, speak, or write fluently? (This question is okay, as long as this ability is relevant to the performance of the job).
Age	<ul style="list-style-type: none"> • How old are you? • When is your birthday? 	<ul style="list-style-type: none"> • Are you over the age of 18?
Marital/Family Status	<ul style="list-style-type: none"> • What is your marital status? • With whom do you live? • Do you plan to have a family? • How many kids do you have? • What are your childcare arrangements? • Are you widowed, divorced, or separated? 	<ul style="list-style-type: none"> • Would you be willing to relocate when necessary? • Travel is an important part of the job. Would you be willing to travel as needed by the job? • This job requires overtime occasionally. Would you be willing and able to work overtime as necessary?
Personal	<ul style="list-style-type: none"> • How tall are you? • How much do you weigh? 	<ul style="list-style-type: none"> • Are you able to lift a 50lb weight and carry it 100 yards, as this is part of the job? (Questions about height and weight are not acceptable unless minimum standards are essential to safe performance).
Race	<ul style="list-style-type: none"> • What is your racial/ethnic group? 	<ul style="list-style-type: none"> • Almost nothing is legal until after the candidate is hired.
Names	<ul style="list-style-type: none"> • What was your maiden name? 	<ul style="list-style-type: none"> • Have you ever been employed under any other name?
Physical Characteristics	<ul style="list-style-type: none"> • Are you a U.S. Citizen? • Where were you /your parents born? • What is your native language? 	<ul style="list-style-type: none"> • Are you authorized to work in the U.S. • What languages do you read, speak, or write fluently? (This question is okay, as long as this ability is relevant to the performance of the job).



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Affiliations	<ul style="list-style-type: none"> What clubs or social organizations do you belong to? 	<ul style="list-style-type: none"> List any professional or trade groups or other organizations that you belong to that you consider relevant to your ability to perform the job.
Religion	<ul style="list-style-type: none"> Do you belong to a church? What is your religion? 	<ul style="list-style-type: none"> May tell candidates the hours when they would be required to work.
Disabilities	<ul style="list-style-type: none"> Do you have any disabilities? Please complete the following medical history. Have you had any recent or past illnesses, or operations? If yes, list and give dates. What was the date of your last physical exam? How is your family's health? When did you lose your eyesight? How? Have you ever filed a worker's compensation claim? 	<ul style="list-style-type: none"> Based on the job description, are you able to perform the essentials of the job? Would you require accommodations to perform the essential functions of the job? Are you willing to complete a medical exam after we have made the offer? (The results must be kept strictly confidential, except medical/safety personnel may be informed if emergency medical treatment is required. Supervisors/managers may be informed about necessary accommodations to the job, based on the results of the exam). Do you understand that any offer of employment is conditional based on the results of a medical exam/drug screening?
Arrest Record	<ul style="list-style-type: none"> Have you ever been arrested? 	<ul style="list-style-type: none"> Have you ever been convicted of? (The crime named should be reasonably related to the performance of the job in question.)
Military	<ul style="list-style-type: none"> If you have been in the military, were you honorably discharged? 	<ul style="list-style-type: none"> In what branch of the Armed Forces did you serve? What type of training or education did you receive in the military?
Financial	<ul style="list-style-type: none"> Do you own your own home? What is your credit score? What is your garnishment record? 	<ul style="list-style-type: none"> Unless it is job related, you should not be asked about your financial status or credit history.

Social Security Number

You are not required to disclose your social security number to an employer before being hired. If a job application requests your social security number, it should also include a statement that the disclosure is optional.

Additional Info

Many employers request that each applicant fill out a form about race, sex, age, and other areas. These forms provide employers with statistical information required by the federal government. Completion of such forms should be optional and they should be returned to employers separately from the applications. They should not contain any information that would identify you as the respondent; they should be completely anonymous, not simply confidential.

Many applications include statements authorizing employers to conduct various types of investigations into your background. Applications often contain waivers of liability stating that you will not take action against anyone giving employers information about you. Despite the waiver, if someone knowingly gives an employer false information about you that adversely affects your chances of employment, you can take legal action.