Illegal Interview Questions and Answers

In the United States it is illegal for an employer to discriminate against a job applicant because of race, color, religion, gender, age, national origin or disability. There are federal and state laws in place to prevent discriminatory employment practices. The following are some illegal interview questions along with related questions that are legal, and a discussion of how to answer them.

Work/Visa Status and Citizenship

- Illegal: Are you a U.S. citizen? You sound like you have an accent, where are you from? Where were your parents born? What is your native language?
- Legal: Are you authorized to work in the U.S.? What languages do you speak (if relevant to the position)?

Marital/Family Status

- Illegal: Are you married? Do you have children? If so, what do you do for child care? Are you planning to have children soon? Have you ever been divorced? Where is your spouse employed?
- Legal: Are you willing and able to put in the amount of overtime and/or travel the position requires? Are you willing to relocate?

Age

- Illegal: How old are you? When were you born? When did you graduate from college? How long have you been working?
- Legal: Do you have any concerns about handling the long hours and extensive travel that this job entails? Are you at least 18 years of age?

Disability Status

- Illegal: Do you have any disabilities or medical conditions? If so, how serious? How is your health? Do you take any prescription drugs? Have you been diagnosed with a mental illness? Have you ever been an alcoholic? Have you ever been in rehab?
- Legal: Are you able to perform this job with or without reasonable accommodation? Do you have any conditions that would keep you from performing this job? Do you take illegal drugs?

NOTE: Employers may require that all job candidates for certain positions pass a medical exam relevant to the responsibilities of the job, and to pass a drug test.

Religion

- Illegal: What is your religion? Are you practicing?
- Legal: Can you work on weekends (should only be asked if the position requires working on weekends)?

NOTE: Questions about an applicant’s religious affiliation or beliefs (unless the religion is a bona fide occupational qualification), are generally viewed as non-job-related and problematic under federal law. Religious corporations, associations, educational institutions, or societies are exempt from the federal laws that
the U.S. Equal Employment Opportunity Commission enforces when it comes to the employment of individuals based on their particular religion. In other words, an employer whose purpose and character is primarily religious is permitted to lean towards hiring persons of the same religion.

**Arrest Record**

- Illegal: Have you ever been arrested?
- Legal: Have you ever been convicted of any crime other than a traffic violation?

**NOTE:** There is no Federal law that clearly prohibits an employer from asking about arrest and conviction records, however several state laws limit the use of arrest and conviction records by prospective employers. Review state-specific laws for additional guidelines.

**Three options for answering illegal questions:**

1. Answer it. If you think the interviewer was simply trying to get to know you, and naively asked an illegal question, you can choose to answer the question. Consider the intent of the question. For example, was the interviewer asking about your birthplace because he or she grew up in the same region and is trying to get to know you, or because of they have concerns about your social status or ethnic background. If you are comfortable answering, then it’s fine to do so.

2. Side-step it. You could discretely refuse to answer the question yet address the concerns that they raise. For example, if your interviewer asks you whether or not you have children, he or she might really be getting at whether your family responsibilities would interfere with the frequent travel that the job requires. You could respond by saying something like “I can assure you that my personal life will not interfere with my professional responsibilities.”

3. Question the relevance. You can ask your interviewer how the question relates to the position you’re interviewing for. This may alert them to the inappropriate nature of their question. If you feel that they are asking an inappropriate or discriminatory question, you can refuse to answer their question and either try changing the subject, or you could choose to excuse yourself from the interview.

More information on federal laws regarding prohibited employment policies and practices can be found on the U.S. Equal Employment Opportunities Commission website - www.eeoc.gov.