

The Most Common Illegal Job Interview Questions You Should Watch Out For

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Interviewing for a job doesn't mean you have to give up all of your personal information and backstory. Whether you're prepping for an upcoming interview, or wondering about a previous one, these are the questions you're legally protected from having to answer.

"How Old Are You?"

A company always has the legal right to make sure you're old enough to work for them, but other than that, they aren't supposed to ask your age (especially if you're older than 40). The Age Discrimination in Employment Act (ADEA) is designed to protect you from any discrimination or ageism down the road. Unfortunately, the ADEA doesn't offer the same protection for those under 40, but Michelle Cash at Experience explains that you should still check in with your state's laws. Some states have similar laws in place for people of all ages.

Keep an eye out for questions that can reveal your age indirectly too. They might ask "how long have you been working?" or "when did you graduate high school?" These questions might seem like harmless inquiries, but they are designed to figure out your age. In the same vein, they can't ask when you plan to retire. It's just another roundabout way of determining how old you might be and how many years they might get out of you.

"Have You Ever Been Arrested?"

If you're interviewing for a sensitive position where criminal history can be used to determine your trustworthiness, employers are allowed to ask if you've ever been convicted of a crime. What they can't ask, however, is if you've ever been arrested in general. That being said, Peter Studner, author of *Super Job Search IV: The Complete Manual for Job Seekers and*

Career Changers, suggests it might be information worth volunteering in some circumstances. Especially if know they'll doing a thorough background check:

In these kinds of cases where a future employer might uncover prior arrests, it is important to discuss the incident up front and point out that it was a thing of the past, never to be repeated. The more serious the offense, the more convincing you have to be.

So while it's illegal for them to ask if you've been arrested, you might still have an opportunity to demonstrate integrity and show that you can learn from your mistakes. It all depends on the situation, so make sure you're prepared beforehand.

"How Is Your Health?"

Questions relating to your general health and physical ability can be a very tricky subject. It's illegal for employers to ask you if you're in good health, how tall you are, how much you weigh, if you've had any past illness or operations, or how many sick days you took at your last job. However, employers are allowed to ask you about specific physical abilities related to tasks you'd be required to perform. For example, they can ask if you're capable of lifting up to 50 pounds, if you can stand on your feet for certain lengths of time, or if you are capable of reaching items on a shelf that's so-and-so feet tall.

It's also illegal for them to directly ask if you have any disabilities. The Americans with Disabilities Act (ADA) specifically states that employers can't ask you about the existence, nature, or severity of any pre-existing disability. They may ask if you can perform the basic functions of the position without accommodation, however, so in most instances, it's to everyone's benefit to be honest. It never hurts to ask questions yourself and see what they expect from you.

"Are You Married?"

This is one of the most loaded questions you can be asked, so it makes sense why it's illegal. Answering a question like this can disclose a lot more information than you realize, and that information can easily be used to discriminate. [Hannah Keyser at Mental Floss](#) explains how sneaky this question can be:

Anything that fishes for information about a candidate's family plans (marriage, engagement, and child planning) is technically illegal because it falls under pregnancy discrimination. It can often seem like a hiring manager is just making pleasant conversation and trying to get to know you better, but job applicants are not obligated to disclose any personal information. This could also be a subtle way to question someone about their sexual orientation—another protected class.

If you do choose to talk about the kids you have—or plan on having—do so at your own risk, and watch out for more digging for information. Questions like “who will take care of your children while you're at work?” or “could you get a babysitter on short notice?” are illegal. Remember, anything regarding your personal relationships, marital status, family, or sexual orientation are all protected.

“What Is Your Religion?”

This question is a major no-no, but employers will ask it to try and determine work scheduling for weekends and holidays. [HR attorney Charles A. Krugel suggests](#), however, that Employers may try to skirt the issue by using simple tricks to get the information a different way. They might show you a required work schedule and ask if you can work with their schedule, or flat out ask you what days you are available or unavailable to work.

Neither of those questions are illegal and could potentially reveal that information whether you tell them or not. Still, the religion you practice, the holidays you observe, and anything related to those things are personal information you never have to disclose yourself. This also includes if you are a member of any general organizations that aren't related to job or company you're interviewing for.

“What Is Your Nationality?”

An employer has every right to check that you can legally work for them, but they can't ask any questions regarding your race or place of birth. Employer's are not allowed to ask if you are a U.S. citizen, but they can ask if you're authorized to work in the U.S. Anything in the realm of “what country are you from?” or “what country are you from originally?” is illegal.

Employers aren't allowed to ask you what your native tongue is, or if English is your first language, either. The [editors at HR World](#) explain that employers may ask this question with good intentions to learn about your fluency, but it can still be offensive or used to discriminate. What they may ask instead, is what languages you read, speak, or write fluently, which is completely legal.

“Do You Like to Drink Socially?”

Some employers like to ask questions that may pertain to how well you might fit in with the company's culture. This can lead to personal questions about hobbies, likes, dislikes, and even if you like to drink socially. It might seem harmless, but as [Vivian Giang at Business Insider](#) points out, it's actually illegal under the Americans with Disabilities Act (ADA):

For example, if you're a recovering alcoholic, treatment of alcoholism is protected under this act and you don't have to disclose any disability information before landing an official job offer.

Whether you're a recovering alcoholic or not, they aren't supposed to ask. And if you choose to answer and say “no,” they can't discriminate against you. Any questions regarding whether you drink or even smoke cigarettes are off limits.

“Have You Ever Used Drugs In the Past?”

This is another example of a loaded question that can mean a lot of things. First off, “drugs” can mean anything from illegal narcotics to prescription drugs, so it's not clear to begin with. Secondly, [ADA Policy](#)

Director Chris Kuczynski explains that an employer can't ask about your past use unless it was perhaps tied into a crime you were convicted of (forcing you to mention it). And even then, it's a sketchy subject to bring up without a good reason.

What they can ask you is if you are using any *illegal* drugs **currently**. You may even have to take a drug test at some point, so if you are, it may not matter how you answer this question. Just remember, your past is not information you usually have to disclose unless you're interviewing for a government job or a job that requires some kind of thorough background check.

How to React to Illegal Questions and Discrimination

If you do encounter illegal questions like these it can be a bit awkward. If the question doesn't seem to have any malicious intent, Michelle Cash at Experience suggests you try to determine what information they're really after:

For example, if an interviewer asks if you have children, you may deduce that she wants to know if you'd be missing work often to care for them. You might simply answer that you have no problem meeting the position's attendance requirements.

They may just not be very good at interviews, or maybe they're new to it entirely. Try to give them what they want without giving up the information you know is yours to keep.

If it does feel like they are being discriminatory, however, or if you think you were denied a job because you refused to answer an illegal question, check with the U.S. Equal Employment Opportunity Commission. There you can file a charge of employment discrimination and learn more about the laws that protect you while you continue your job search. Don't let your interviews turn into a horror story if you can help it, and always go in prepared and knowing your rights.