

Handling Illegal Questions

Various federal, state, and local laws regulate the questions a prospective employer can ask you, the job candidate. An employer’s questions—whether on the job application, in the interview, or during the testing process—must be related to the job you’re seeking. For the employer, the focus must be: “What do I need to know to decide whether this person can perform the functions of this job?”

If asked an illegal question, you have three options:

- You can answer the question—you’re free to do so, if you wish. However, if you choose to answer an illegal question, remember that you are giving information that isn’t related to the job; in fact, you might be giving the “wrong” answer, which could harm your chances of getting the job.
- You can refuse to answer the question, which is well within your rights. Unfortunately, depending on how you phrase your refusal, you run the risk of coming off as uncooperative or confrontational—hardly words an employer would use to describe the “ideal” candidate.
- You can examine the question for its intent 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’ve been asked an illegal question. You could respond, however, with “I am authorized to work in the United States.” Similarly, let’s say the interviewer asks, “Who is going to take care of your children when you have to travel for the job?” You might answer, “I can meet the travel and work schedule that this job requires.”

Here are examples of some illegal questions and their legal counterparts.

Inquiry Area	Illegal Questions	Legal Questions
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 tongue”? 	<ul style="list-style-type: none"> • Are you authorized to work in the United States? • What language do you read/speak/write fluently? (This question is okay only if this ability is relevant to the performance of the job.)
Age	<ul style="list-style-type: none"> • How old are you? • When did you graduate? • What’s your birth date? 	<ul style="list-style-type: none"> • Are you over the age of 18?
Marital/Family Status	<ul style="list-style-type: none"> • What’s your marital status? • With whom do you live? • Do you plan to have a family? When? • How many kids do you have? • What are your child-care arrangements? 	<ul style="list-style-type: none"> • Would you be willing to relocate if necessary? • Would you be able and willing to travel as needed for the job? (This question is okay if it is asked of all applicants for the job.) • Would you be able and willing to work overtime as necessary? (Again, this question is okay assuming it is asked of all applicants for the job.)

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 this job.
Personal	<ul style="list-style-type: none"> • How tall are you? How much do you weigh? (Questions about height and weight are not acceptable unless minimum standards are essential for the safe performance of the job.) 	<ul style="list-style-type: none"> • Are you able to lift a 50-pound weight and carry it 100 yards, as that is part of the job?
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 them and give dates when these occurred. • What was the date of your last physical exam? • How's your family's health? • When did you lose your eyesight? How? • Do you need an accommodation to perform the job? (This question can be asked only after a job offer has been made.) 	<ul style="list-style-type: none"> • Are you able to perform the essential functions of this job? (This question is okay if the interviewer has thoroughly described the job.) • Can you demonstrate how you would perform the following job-related functions? • As part of the hiring process, after a job offer has been made, you will be required to undergo a medical exam. (Exam results must be kept strictly confidential, except medical/safety personnel may be informed if emergency medical treatment is required, and supervisors may be informed about necessary job accommodations, based on exam results.)
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've 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?

Source: *Planning Job Choices: 2000*