

Illegal Questions at an Employment Interview

An illegal question is one where the applicant is being asked to divulge information that has no bearing on the position applied for. An Employer’s questions- whether on the job application, in the interview, or during the testing process - **must be related to the job which the candidate is applying for**. For the employer, the focus must be: *“What do I need to know in order to assess whether the person is capable of performing the functions of this job?”*

Be aware that candidates have options if they are asked an illegal question:

1. They can answer the question; they are free to do so, if they wish. However, if they choose to answer an illegal question, remember that they are providing information that isn’t related to the job and cannot legally be used to make the hiring decision.
2. They can refuse to answer the question, which is well within their rights. Be careful in judging how they respond to the question; remember it should not have been asked. Asking such questions could put candidates in a difficult situation as they want to put their best foot forward and may not be comfortable to provide the answer or tell you that they uncomfortable doing so.
3. They can examine the question for its intent and respond with an answer as it might apply to the job. For example, if the interviewer asks an illegal question such as, “Are you a Canadian citizen?” or “what country are you from?” Candidates could respond with, “I am authorized to work in Canada.” Similarly, if asked “Who is going to take care of your children when you have to travel for the job?” Candidates might answer, “I can meet the travel and work schedule that this job requires.”

Be prepared. If candidates cannot see the intent behind the question, they might ask how it relates to their ability to fill the position. You should be prepared to provide the rationale or reword the question appropriately, as it is related to the position.

This table outlines some examples of illegal questions and their legal counter parts which you may want to consider asking instead:

Inquiry Area	<i>Illegal Questions</i>	<i>Legal Questions</i>
Nationality Origin/Citizenship	- Are you a Canadian citizen? -Where were you/your parents born? - What is your “native tongue”?	- Are you authorized to work in Canada? -What language do you read/ speak/write fluently? <i>(This question is okay only if this ability is relevant to the performance of the job.)</i>



Age	<ul style="list-style-type: none"> - How old are you? - When did you graduate? - What's your birth date? 	- Are you between the ages of 18 and 64?
Marital/Family Status	<ul style="list-style-type: none"> - What's your marital status? - Whom do you live with? - 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 by the job? <i>(This question is okay if it is asked of all applicants for the job.)</i> - Would you be able and willing to work overtime as necessary? <i>(Again, this question is okay assuming it is asked of all applicants for the job.)</i>
Affiliations	<ul style="list-style-type: none"> - What clubs or social organizations do you belong to? 	- 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? <i>(Questions about height and weight are not acceptable unless minimum standards are essential to the safe performance of the job.)</i> 	- Are you able to lift a 30kg weight and carry it 100 meters, 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 	<ul style="list-style-type: none"> - Are you able to perform the essential functions of this job? <i>(This question is okay if the interviewer has thoroughly described the job.)</i> - 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. <i>(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.)</i>

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Arrest Record	- Have you ever been arrested?	- Have you ever been convicted of _____? <i>(The crime named should be reasonably related to the performance of the job in question.)</i>
Sex	- Are you male or female? - What are the names and relationships of persons living with you?	- None
Race/Colour	- What is your race? - What colour is your hair, eyes, or skin?	- None
Religion	- What is your religious affiliation Or denomination? What church do you belong to? What is the name of your pastor, minister, or rabbi? What religious holidays do you observe?	- None <i>(If you wish to know if an applicant is available to work Saturday or Sunday shifts, ask: "Are you available to work on Saturdays and Sundays if needed?" Make sure you ask this question of all applicants.)</i>

Some questions may sound legal but show prejudice and stereotypical attitudes, specifically as it relates to working women. "How many kids do you have?" is just one example. "What are your child-care arrangements?" is another.

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