

# ILLEGAL JOB INTERVIEW QUESTIONS (AND LEGAL ALTERNATIVES)

The following questions should not be asked of any job applicant. If there is any question about the following list, consult with Human Resources.

## Nationality

Certainly, you want to be sure that a candidate can legally work for you, but it's important to be careful how you ask. These questions address citizenship, language and other touchy subjects.

1. **What you can't ask:** Are you a U.S. citizen?

Although this seems like the simplest and most direct way to find out if an interviewee is legally able to work for your company, it's hands-off. Rather than inquiring about citizenship, question whether or not the candidate is authorized for work.

*What to ask instead:* Are you authorized to work in the U.S.?

2. **What you can't ask:** What is your native tongue?

Finding out about a candidate's native language may seem like a good way to find out about their fluency, but you may offend applicants that are sensitive to common assumptions about their language. Additionally, as an employer, it's not your concern how the applicant attained fluency in a language — just that they are fluent.

*What to ask instead:* What languages do you read, speak or write fluently?

3. **What you can't ask:** How long have you lived here?

Familiarity with local culture may be important to the position, but it's important not to ask about a candidate's residency in the country or region directly. Rather, ask about their current situation, and they may volunteer information about their past along the way.

*What to ask instead:* What is your current address and phone number? Do you have any alternative locations where you can be reached?

## Religion

Religion is a subject that should be treaded upon lightly at the office, and even more so in interviews. Protect yourself from overstepping the boundaries but still get the information you need with these questions.

4. **What you can't ask:** What religion do you practice?

You may want to know about religious practices to find out about weekend work schedules, but it's imperative that you refrain from asking directly about a candidate's beliefs. Instead, just ask directly when they're able to work, and there will be no confusion.

*What to ask instead:* What days are you available to work?

5. **What you can't ask:** Which religious holidays do you observe?

Again, scheduling is important, but don't risk stepping on toes to find out what you need to know. Simply confirm that your interviewee can work when you need them to.

*What to ask instead:* Are you able to work with our required schedule?

6. **What you can't ask:** Do you belong to a club or social organization?

This question is too revealing of political and religious affiliations that candidates are not required to share such information with potential employers. Additionally, this question has little to no relation to a candidate's ability to do a job. For this question, it's important that the wording focuses on work.

*What to ask instead:* Are you a member of a professional or trade group that is relevant to our industry?

## Age

Maturity is essential for most positions, but it's important that you don't make assumptions about a candidate's maturity based on age. Alternately, you have to be careful about discrimination towards applicants nearing retirement. These questions will keep you in the clear.

7. **What you can't ask:** How old are you?

While it seems like a simple question, it's in fact quite loaded. Knowledge of an applicant's age can set you up for discrimination troubles down the road. To be safe, just ensure that the candidate is legally old enough to work for your firm.

*What to ask instead:* Are you over the age of 18?

8. **What you can't ask:** How much longer do you plan to work before you retire?

Again, asking this question opens up discrimination troubles. While you may not want to hire an older worker who will retire in a few years, you can't dismiss an applicant for this reason. Instead, see what the candidate's plans are for the future; they may plan to work for a number of years.

*What to ask instead:* What are your long-term career goals?

## Marital and Family Status

These questions primarily concern women with children, but they're applicable to everyone. Ensure that you don't make assumptions, and avoid embarrassing candidates by using the following questions.

9. **What you can't ask:** Is this your maiden name?

This question, like many others, may seem innocent and simple, but it's off-limits. A woman's marital status isn't something that's required to be shared with employers. Instead, verify whether or not she's gained experience using any other names.

*What to ask instead:* Have you worked or earned a degree under another name?

**10. What you can't ask:** Do you have or plan to have children?

Clearly, the concern here is that family obligations will get in the way of work hours. Instead of asking about or making assumptions on family situations, get to the root of the issue by asking directly about the candidate's availability.

*What to ask instead:* Are you available to work overtime on occasion? Can you travel?

**11. What you can't ask:** Can you get a babysitter on short notice for overtime or travel?

Don't make the mistake of assuming that a candidate has children or that they don't already have proper child care plans. As with many other questions, the key here is to ask directly about availability.

*What to ask instead:* You'll be required to travel or work overtime on short notice. Is this a problem for you?

**12. What you can't ask:** Do you have kids?

This one is for positions in which the candidate may work with children. The added experience of children at home may be a bonus for you, but it's not an employer's place to ask about this. Rather, inquire about the candidate's experience, and they may volunteer this information to you anyway.

*What to ask instead:* What is your experience with "x" age group?

**13. What you can't ask:** Who is your closest relative to notify in case of an emergency?

Although not especially offensive, this question makes assumptions about the candidate's personal life. They may not be close to relatives and instead prefer to list a friend or caretaker.

*What to ask instead:* In case of emergency, who should we notify?

**14. What you can't ask:** What do your parents do for a living?

Asking a candidate about their parents can reveal a lot, but it's not directly related to their future performance in a position. However, if you are trying to find out if your candidate's family has traditionally worked in your industry, this question is a good way to find out.

*What to ask instead:* Tell me how you became interested in the "x" industry.

**15. What you can't ask:** If you get pregnant, will you continue to work, and will you come back after maternity leave?

Ultimately, you want to invest your time in a candidate that will stick around, but you can't ask a woman to share her pregnancy plans, or lack thereof, with you. Discuss her general plans for the future to gauge her commitment level, baby or not.

*What to ask instead:* What are your long-term career goals?

## **Gender**

Once you've reached the interview stage, a candidate's gender is almost always clear. It is important, however, to ensure that you don't make assumptions about a person's abilities based on this information.

16. **What you can't ask:** We've always had a man/woman do this job. How do you think you will stack up?

Leave gender out of this question, and you should be fine. Inquire about the applicant's ability to handle the job, but don't ask directly about how being a man or woman could affect it.

*What to ask instead:* What do you have to offer our company?

17. **What you can't ask:** How do you feel about supervising men/women?

This question, although it may seem like a valid concern, is not acceptable. The candidate may not have any issues working with the opposite or same sex, and you'll seem crass for even bringing it up.

*What to ask instead:* Tell me about your previous experience managing teams.

18. **What you can't ask:** What do you think of interoffice dating?

The practice of interoffice dating can be distracting, break up teams and cause a number of other problems in the workplace. But asking this question makes assumptions about the candidate's marital status and may even be interpreted as a come-on.

*What to ask instead:* Have you ever been disciplined for your behavior at work?

## **Health and Physical Abilities**

Your employees' health and abilities may be essential to getting the job done, but it's important to avoid assumptions and discrimination. Stick to these questions in order to avoid embarrassment and legal troubles.

19. **What you can't ask:** Do you smoke or drink?

As an employer, you probably want to avoid someone who has a drinking problem or will take multiple smoke breaks throughout the day. It's even a concern for insurance. Instead of asking about this directly, find out if they've had trouble with health policies in the past.

*What to ask instead:* In the past, have you been disciplined for violating company policies forbidding the use of alcohol or tobacco products?

**20. What you can't ask:** Do you take drugs?

This question is just a simple confusion of terms. Your interviewee may think you're asking about prescription drugs, which is off-limits. Make sure you specify that you want to know about illegal drug use instead.

*What to ask instead:* Do you use illegal drugs?

**21. What you can't ask:** How tall are you?

In a labor environment, height may be essential to the job, but this question is too personal. As with many of these questions, it's best just to ask directly about the candidate's ability to do what's required of them.

*What to ask instead:* Are you able to reach items on a shelf that's five feet tall?

**22. What you can't ask:** How much do you weigh?

This highly personal question is embarrassing for most and is not necessarily relevant to a candidate's ability to do even a physical-labor job. Avoid making assumptions, and ask about abilities directly.

*What to ask instead:* Are you able to lift boxes weighing up to 50 pounds?

**23. What you can't ask:** How many sick days did you take last year?

No one wants a flaky employee, but even the most dedicated workers get sick every now and then. Take a look at missed days as a whole to measure the candidate's commitment.

*What to ask instead:* How many days of work did you miss last year?

**24. What you can't ask:** Do you have any disabilities?

Disabilities, whether they're physical or mental, may affect a candidate's ability to do the job, but it's critical that you avoid asking about them. Rather, find out if the applicant can handle doing what's required.

*What to ask instead:* Are you able to perform the specific duties of this position?

**25. What you can't ask:** Have you had any recent or past illnesses or operations?

Again, gauging commitment is important, but illness isn't something that most people can help. The answer here is to make sure that the candidate can perform the job while avoiding questions about his or her physical abilities.

*What to ask instead:* Are you able to perform the essential functions of this job with or without reasonable accommodations?

## Miscellaneous

Avoid interviewing gaffes by sidestepping these questions about residence, legal troubles and military service.

**26. What you can't ask:** How far is your commute?

Although hiring employees who live close by may be convenient, you can't choose candidates based on their location. Find out about their availability instead.

*What to ask instead:* Are you able to start work at 8 a.m.?

**27. What you can't ask:** Do you live nearby?

If your candidate lives outside of the city your company is hiring in, it may be necessary to have them move to your area. But again, you can't discriminate based on location. Rather, find out if the applicant is willing to move closer to the office.

*What to ask instead:* Are you willing to relocate?

**28. What you can't ask:** Have you ever been arrested?

In sensitive positions, like those that deal with money, you may want to find out about your candidate's legal fortitude. But ensure that you ask only directly about crimes that relate to your concern.

*What to ask instead:* Have you ever been convicted of "x" (fraud, theft and so on)?

**29. What you can't ask:** Were you honorably discharged from the military?

A bad military record can be illuminating, but you can't ask about it. Instead, ask about the candidate's experience, and they may volunteer this information on their own.

*What to ask instead:* Tell me how your experience in the military can benefit the company.

**30. What you can't ask:** Are you a member of the National Guard or Reserves?

Losing an employee to military service can be disrupting, but it's critical that you don't discriminate based on assumptions of a candidate's upcoming military commitments. Find out what their plans are for the short term instead.

*What to ask instead:* Do you have any upcoming events that would require extensive time away from work?

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