

Illegal or Impermissible Questions

Career Center: Decide it. Experience it. Live it.

Name	Inquiries about whether applicant has worked under a different name; also, applicant cannot be
Relationship Status	Inquiries indicating orientation whether an applicant is married, single, divorced, engaged, etc.
Family Status	Any questions about number and age of children, number of dependents, pregnancy or child care arrangements.
Disabilities	The Rehabilitation Act of 1973 forbids employers from asking job applicants general questions about whether they have a disability or asking them about the nature and severity of the disability. Further, inquiries about an applicant's general medical condition or whether the applicant has received worker's compensation are unlawful.
Age	Questions which require the applicant to state age (exception for minors: proof of age in the form of a work permit or certificate of age) or date of birth which tend to identify applicants 40-64 years of age. Also, applicant cannot be asked to provide birth or baptismal record.
Gender	Asking applicant to indicate sex (or other inquiry that would indicate sex), height, and weight are permissible only where a bona fide occupational qualification exists.
Race/Ancestry/ National Origin/ Citizenship	Inquiries about the applicant's "national origin, lineage, parents or spouse are unlawful. Further, questions about date of arrival in the United States, native tongue or how he/she acquired the ability to read, write, or speak a foreign language are unlawful. To ask race or color of an applicant's skin, complexion, or eyes is unlawful if it indicates directly or indirectly his/her race or color. Asking about citizenship status is unlawful. It is legal to ask, "Are you authorized to work in the United States?"
Religion	Inquiries that seek to gain information about the applicant's religious denomination or affiliation, church, parish, pastor, or religious holidays observed. Applicants may not be told that any particular religious groups are required to work on their religious holidays. Applicants cannot be asked to submit the name of a religious reference.
Photograph	Requesting that applicant submit photograph at his/her option or affix a photograph to application form at any point prior to being hired.
Education	Questions about dates of last high school attendance.
Character	Any questions directly relating to arrests (Have you ever been charged with a crime?); asking actual convictions that relate to fitness to perform a particular job is lawful .
Experience	Questions about military experience (general) or type of discharge.

Relatives/ Notification in Case of Emergency	Applicants cannot be asked for the name and address of a relative to be notified in case of an accident or an emergency; rather, they can be asked for a person to notify. Any other questions about relatives outside of any who may already be employed by the company or name and addresses of minor's parents/guardians are unlawful.
Organizations	Asking applicants to list all organizations, clubs, societies and lodges to which you belong is unlawful; applicants must be given the option to exclude any names the character of which indicate race, religious creed, color, national origin, or ancestry of its members.
Finances	All questions concerning credit rating or charge accounts.
Other	Any inquiry that is not job-related or necessary for determining the applicant's eligibility for employment.

How to Field Illegal Questions Intelligently and Assertively

Many applicants know they shouldn't have to answer "illegal" questions; yet in an imperfect world, such questions occur and few candidates are prepared to respond.

- Prepare thoroughly for the possibility of being asked an appropriate question during the interview.
- Review your resume and personal situation to identify the types of questions you might be asked.
- Some candidates stand more to lose by not answering the question. You may respond by saying, "I'm more than willing to answer the question, but could you please tell me how it's relevant to the job."
- Candidates whose circumstances (age, disability, pregnancy, etc.) invite certain job-related questions should raise the issues themselves and then offer solutions.
- After resolving uncomfortable questions, try to initiate a conversation about your qualifications.
- Decide if the interviewer made a mistake or is deliberately trying to avoid hiring you; consider whether you want to join an organization that condones such behavior.
- Getting upset, defensive or threatening to call in a lawyer will not improve your chances of getting the job. The best advice is to use your own judgment.

Sources: SC Pre-Employment Inquiries (interviewing):

What you need to know (BLR)

www.blr.com/HR-Employment/Discrimination/Pre-Employment-Inquiries-Interviewing-in-South-Carolina

Pre-Employment Inquiry Guide

<http://www.is.mines.edu/hr/Faculty%20Search%20Materials/Pre-Employment%20Inquiries.pdf>