

Know your rights and what can/cannot be asked by an employer during an interview. You cannot be asked:

- Age
- National Origin
- Veteran/Military Status
- Marital/family status (*including asking if you have children or other dependents*)
- Race/Color
- Sexual Orientation
- Gender
- Arrests not followed by conviction
- Creed/Religion
- Disability

If you are asked illegal/inappropriate questions during a job interview, know that you can: 1) answer the question directly; 2) inform the interviewer that the question is illegal (but that will probably kill your chances of getting the offer); or, 3) Be polite and don't get defensive. Give a diplomatic response that emphasizes your skills in relation to the position for which you are interviewing. For example, if you are asked if you have children or are married, get to the root of their question. Ask the employer if they are concerned about you being able to work odd hours or travel. Assure them that the travel is something you look forward to or that the night shift fits perfectly with what you want and is one of the reasons you applied for the job. The employer doesn't necessarily care about your family situation, but rather wants to know if you can meet the job requirements. Assure them you can.

Subject: Age **see note regarding BFOQ*

Unlawful Inquiries: Any questions that tend to identify applicants age 40 or older.

Lawful Inquiries: "Are you 18 years of age?", "If hired, can you furnish proof of age?"

Subject: National Origin/Ancestry

Unlawful Inquiries: Everything. "What is your nationality?", "What language is spoken in your home?"

Lawful Inquiries: "What languages do you speak, read or write fluently." Only if based on a job requirement.

Subject: Citizenship

Unlawful Inquiries: Whether an applicant is a citizen. "Are you a citizen of the US?"

Lawful Inquiries: "Are you authorized to work in the United States?"

Subject: Race or Color

Unlawful Inquiries: Any question that directly or indirectly relates to a race or color.

Lawful Inquiries: None

Subject: Marital Status/Sexual Orientation

Unlawful Inquiries: Whether the applicant is married, divorced, has a domestic partner, or identifies as GLBT.

"What is your marital status?" "With whom do you reside?"

Lawful Inquiries: "What are the names of relatives already employed by the company or a competitor?"

Subject: Gender

Unlawful Inquiries: Any inquiry regarding gender. "Do you wish to be addressed as Mr./Mrs., Miss/Ms.?"

Lawful Inquiries: None

Subject: Family

Unlawful Inquiries: Questions concerning spouse, or spouse's employment, salary, child care, arrangements, or dependents. "How will your husband feel about the amount of time you will be travelling if you get this job?"

"What kind of childcare arrangements have you made?" "How old are your children?"

Lawful Inquiries: Whether applicant can meet specified work schedules and attendance requirements. "Can you work overtime?" "Is there any reason why you can't be on the job at 7:30am?"

Subject: Physical Health/Disabilities

Unlawful Inquiries: Any general questions which would divulge health conditions which do not relate to fitness to perform the job. "Have you ever had any serious illness?", "Do you have any physical disabilities?"

Lawful Inquiries: "Can you lift 40 lbs?" (if indeed required for the job), "Do you need any special accommodations to perform the job you've applied for?" The questions have to relate to the job.

Subject: Religion * see note regarding BFOQ

Unlawful Inquiries: Any question that directly or indirectly relates to a religion. "What religious holidays do you observe?" "What is your religious affiliation?"

Lawful Inquiries: Just those that are job-related i.e. "Can you work on Saturday/Sunday?"

Subject: Military

Unlawful Inquiries: Type or condition of military discharge. Applicant's experience in other than US armed forces. Request for discharge papers.

Lawful Inquiries: Inquiries concerning education, training or work experience in the Armed Forces.

Subject: Arrests & Convictions

Unlawful Inquiries: All inquiries relating to arrests. "Have you ever been arrested?" (Note: Arrests are *NOT* the same as convictions. Remember: an innocent person can be arrested.)

Lawful Inquiries: None relating to arrests. Legal inquiries about convictions are: "Have you ever been convicted of any crime? If so, when, where and disposition of case." "Have you ever been convicted under criminal law within the past five years (excluding minor traffic violations)?"

Subject: Pregnancy

Unlawful Inquiries: All questions relating to pregnancy and medical history concerning pregnancy.

Lawful Inquiries: Inquiries to duration of stay on a job or anticipated absences which are made to males and females alike. "Do you foresee any long term absences in the future?"

Subject: Photographs

Unlawful Inquiries: Requests that an applicant submit a photo at any time prior to hiring.

Lawful Inquiries: May be requested after hiring for identification purposes.

Subject: Organizations

Unlawful Inquiries: "To what organizations, clubs, societies and lodges do you belong?"

Lawful Inquiries: "To what PROFESSIONAL organizations do you belong?"

***A note about Bona Fide Occupational Qualifications (BFOQ):**

Discrimination against people based on their race, religion, gender, national origin, age or other protected status is generally prohibited under the laws of the U.S. However, in some rare circumstances, the very nature of the job requires candidates based on what are otherwise protected characteristics. Some examples include: age requirements set forth by airlines and law enforcement agencies due to safety issues as well as certain religion requirements set forth by faith-based organizations.

This information is not legal advice but rather is intended to serve as a guideline to help inform job candidates about what is protected information and how handle such inquiries. Further information can be obtained from the New York State Department of Labor www.labor.ny.gov or 1-888-4-NYSDOL or the Equal Employment Opportunity Commission www.eeoc.gov

This information was adapted from the NYSDOL and the University of Washington.