

Illegal Questions

by Roger Manning

We are living in an age where sexuality, is thrown in our faces on primetime television or in the movie theatres. Sexual orientation is openly discussed and demanding attention in society. Racial issues, socio-economic status ranking, political organization philosophies and religious doctrine are openly debated and discussed in America. But is there a place for it in the job interview?

Would you recognize an illegal question from an interviewer?

A minority male with an accent was asked, "Are you a Muslim? The candidate was immediately defensive and unsure whether to respond or ask whether the interviewer had a problem with Muslims.

The female candidate was asked, "Do you plan to have children?" She was taken aback by the question and wasn't sure how to answer.

A heavy-set, red faced male candidate was asked, "What is your health like? Are you able to work a full day?"

A single young woman (not wearing a wedding ring) was asked, "Do you see yourself getting married in the next 2 years?"

As I see it, these people had three choices:

- A. To answer the question honestly even though they did not want to.
- B. To tell the interviewer it is none of his/her business and the question is illegal.
- C. To deal with the concern behind the question, ignoring the illegal question itself.

How would you answer the question if you were one of these candidates?

The best answer is "C."

An appropriate answer from the minority candidate might have been, "You are correct that I am a minority candidate but I need to know how this or my religious denomination is relevant to the position or to your Company?" I am very capable of performing the job duties that you have described regardless of my national origin or religion."

An appropriate answer from the either of the female candidates might have been, "Whether or not I plan to have children in the future is not really relevant to my career. I plan to work and have a career no matter what happens in my personal life."

Why is this type of question asked in an interview? Why are interviewers concerned about your plans to reproduce, your marital status and your retirement plans? It's

simple; they want to make sure you are the solution to a problem, not the source of more headaches.

When the female candidate was asked her plans regarding future motherhood, the interviewer may have been trying to determine whether she was in for the long-term or just until the company could pay for the birth of her firstborn. It is clearly a discriminatory question, one that would probably never be asked of a male candidate, and it is illegal!

Technically, it is illegal for an interviewer to ask anything personal that is not directly job-related. Off-limit questions include (but are not limited to): information regarding your age, marital status, country of origin, religion, sexual preference and health status. Almost any legal information about you is illegal in the job interview.

There are some exceptions to this rule, which might be confusing. Personal questions considered to be job-related usually are allowed in the interview or on the job application.

Legal Personal Questions:

Have you ever been convicted of a crime?

Depending on the type of job you are applying for, this could be critical.

Can you show proof of your eligibility to work in the US?

Every new employee, regardless of place of origin, must provide such documentation during the first days on the job.

Can you perform the job's essential functions with or without reasonable accommodation?

This question must be accompanied by a job description covering the essential functions.

The concerns behind these questions are relevant to the job's requirements and performance. As an example, if you have been convicted of embezzlement, you will probably not be considered for a job handling money. The concern is that you had a problem in your past that could be a problem again.

The interviewer wants to know if you can report to work and do the job. Any information that could be enlightening is important. But the interviewer's questions should focus on the job and your qualifications to do it.

By becoming aware of illegal questions, you will be prepared to deal with them if confronted in an interview. Pre-interview thinking and preparation can spare some embarrassing or uncomfortable moments during the interview.

Probable Areas for Illegal-Based Questions

- Birthday; questions relating to your age;
- Race or national origin
- Religious affiliation
- Organization membership that relates to age, race, or religion
- Financial status; ie; price of your home or even the neighborhood that you live in; socio-economic status---exceptions to this rule will be jobs that require managing money such as in the banking industry. These employers will require Credit Reports;
- Inquiries about your family such as number of children or even your marital status;
- Sexual orientation
- Health or Handicaps/Disabilities-unless it has a direct relationship to your ability to perform the job duties

Before you charge that the interviewer is going down an illegal pathway, be sure that you understand the job duties and how this question may be related to those duties. If there is no apparent connection, ask them to explain it or provide a written copy of the job description.

In such a litigious society, it is easy to be motivated sue a discriminatory employer. However, it is this author's recommendation that you simply gauge whether or not you would want to work for a company that feels they need to know your personal life in this way. I personally would not want to work there and would spend my energies finding that ideal employer that appreciates me for my abilities.