



It is the responsibility of every employer to ensure that all questions asked of a job applicant are lawful. An untrained or inexperienced interviewer may inadvertently stray into questioning that seems reasonable but is inappropriate and unlawful.

The **guiding principle** for lawful interview questions is: can the employer demonstrate a job-related necessity for asking the question?

GUIDELINES FOR INTERVIEW QUESTIONS

No questions are to be asked based on an applicant’s gender, race, color, age, national origin, religion*, marital status, disability, sexual orientation, or any other non-job-related basis. (*Note that churches and other religious organizations may give preference to individuals of their religion.)

EXAMPLES OF LAWFUL AND UNLAWFUL INTERVIEW QUESTIONS

Employers can ask many lawful questions that will help to determine the suitability of job applicants. Following are examples of both acceptable and unacceptable questions:

Topic	Unlawful	Lawful
Family	<ul style="list-style-type: none">• Number of children, ages• What are your babysitting arrangements?• Do you have preschool-age children at home?• Do you have a car?	<ul style="list-style-type: none">• What hours and days can you work?• Are there specific times that you cannot work?• What was your attendance record on your last job?• Do you have responsibilities other than work that will interfere with specific job requirements, including reliable attendance?
Citizenship/ National Origin	<ul style="list-style-type: none">• What is your national origin?• Where are your parents from?• What is your maiden name?	<ul style="list-style-type: none">• Do you have the legal right to work in the US?• Have you ever worked under a different name?
For Reference Checking	<ul style="list-style-type: none">• What is your father’s surname?• What are the names of your relatives?	<ul style="list-style-type: none">• Have you ever worked under a different name?
Arrest and Conviction	<ul style="list-style-type: none">• Have you ever been arrested?	<ul style="list-style-type: none">• Have you ever been convicted of a crime? If so when, where, and what was the disposition of the case?
Disabilities	<ul style="list-style-type: none">• Do you have any disabilities?• Have you been treated for any illnesses in the past 5 years?• Have you been treated for any mental condition?• Are you taking prescription drugs?• Is there any health-related reason you may not be able to perform this job?	<ul style="list-style-type: none">• Can you perform the essential duties of the job you are applying for with or without reasonable accommodation?



Topic	Unlawful	Lawful
<i>Emergency</i>	<ul style="list-style-type: none"> • What is the name of a relative to be notified in the case of an emergency? 	<ul style="list-style-type: none"> • What is the name of the person to be notified in case of emergency? (Ask only after the individual has been employed.)
<i>Credit Record</i>	<ul style="list-style-type: none"> • Do you own your own home? • Have your wages ever been garnished? • Have you ever declared bankruptcy? 	<ul style="list-style-type: none"> • None (Credit references may be obtained if in compliance with the Fair Credit Reporting Act of 1970 and the Consumer Credit Reporting Reform Act of 1996)
<i>Military Record</i>	<ul style="list-style-type: none"> • What type of discharge did you receive? 	<ul style="list-style-type: none"> • What type of education, training, and work experience did you receive when you were in the military?
<i>Language</i>	<ul style="list-style-type: none"> • What is your native language? 	<ul style="list-style-type: none"> • What languages do you speak and write fluently? (If job-related)
<i>Age</i>	<ul style="list-style-type: none"> • When were you born? 	<ul style="list-style-type: none"> • Can you prove your age with your ID? – Only in roles where applicants need to be legal adults
<i>Addresses</i>	<ul style="list-style-type: none"> • What was your previous address? • How long did you reside there? • How long have you lived at your current address? • Do you own your own home? 	<ul style="list-style-type: none"> • None, except as such information may be required for authorized consumer reports, as noted above.
<i>Worker’s Compensation</i>	<ul style="list-style-type: none"> • Have you ever filed for Worker’s Compensation? • Have you had any prior work injuries? 	<ul style="list-style-type: none"> • None
<i>Religion</i>	<ul style="list-style-type: none"> • Any inquiry into religious affiliation, including religious holidays observed, EXCEPT that churches and other religious organizations may give preference to applicants of their religion. 	<ul style="list-style-type: none"> • None, except as noted • Can you work on Saturdays?
<i>Gender/ Gender Identity</i>	<ul style="list-style-type: none"> • Do you wish to be addressed as Mr.? Mrs.? Miss? Ms.? • Are you a man or a woman? 	<ul style="list-style-type: none"> • None
<i>Race/ Ethnicity</i>	<ul style="list-style-type: none"> • Are you a minority? • Where are your parents from? 	<ul style="list-style-type: none"> • None
<i>Sex</i>	<ul style="list-style-type: none"> • Were you born a man or a woman? 	<ul style="list-style-type: none"> • None



Topic	Unlawful	Lawful
<i>Sexual Orientation</i>	<ul style="list-style-type: none"> Do you have a girlfriend or boyfriend? 	<ul style="list-style-type: none"> None
<i>Pregnancy</i>	<ul style="list-style-type: none"> Are you pregnant? Do you have or plan to have children? 	<ul style="list-style-type: none"> None
<i>Marital Status</i>	<ul style="list-style-type: none"> Are you married? Are you single? 	<ul style="list-style-type: none"> None

IF ASKED AN IMPROPER QUESTION, YOU HAVE A FEW OPTIONS:

- You are free to answer the question. However, keep in mind that if you provide this information, you may jeopardize your chances of getting hired, in the event you provide the “wrong” answer. There may be a legal recourse available to you, but this is not the preferred outcome for most job applicants.
- You can refuse to answer the question. Unfortunately, depending on how the refusal is phrased, you run the risk of appearing uncooperative or confrontational and losing the job. Again, there may be legal recourse, but this is hardly an ideal situation.
- You 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, “Are you a U.S. citizen?” or “What country are you from?” you have been asked an improper question. You could respond, however, with “I am authorized to work in the United States.” Similarly, if the interviewer asks, “Who is going to take care of your children when you have to travel for the job?” your answer could be, “I can meet the travel and work schedule that this job requires.”
- You can ask for clarification, for example, “I am happy to answer that question if you can tell me how it relates to the position roles and responsibilities for which I am interviewing”.
- For additional information, see resources at the Equal Employment Opportunity Commission website: <http://www.EEOC.gov>

Please Note: This information is provided for educational purposes only. It is not intended to be, and does not represent, legal advice in any form. If you require advice, it is suggested that you contact a competent legal professional to discuss the specifics of your circumstances and obtain the advice you require.