

## What You Can and Cannot Ask In an Interview

Equal employment legislation makes it impossible to be indifferent about how employers conduct their hiring process and what can or can't be asked in a job interview. When in doubt about an interview question, focus on the applicant's abilities as they relate to the job requirements. Avoid potential discriminatory questions that pertain to unnecessary personal information, biases and stereotypes.

**MRA Helpful Tip #1:** Interview questions should be relevant to the job. Prior to preparing questions, know the behaviors demonstrated by successful employees and ask targeted, competency or behavioral-based questions. For example, if problem solving skills are important, consider asking, "Tell me about a specific time when you were confronted with a problem and needed to solve it." These required job behaviors could also be verified by checking references and administering assessments.

During the interview process you may ask questions and/or discuss:

- The duties and responsibilities of the job
- Individual's qualifications, experience, and education
- Individual's past performance relevant to the job
- Issues or challenges experienced in past jobs
- Likes and/or dislikes of past employment
- Where the job is located, facilities available, travel and other requirements of the job
- Why they are in the job market
- What are the applicant's compensation expectations
- The organization's vision, mission, and values
- Career development and growth opportunities

**MRA Helpful Tip #2:** If a candidate reveals information you are not allowed to discuss (i.e. it relates to protected class information), do not ask follow-up questions. Do not pursue the topic further or document the information shared. Redirect the interview and defer to your structured interview questions.

**MRA Helpful Tip #3:** To quickly gauge whether your interview questions might run afoul of discrimination laws, ask yourself: "**What does this question have to do with the job?**" and "**What response can be solicited from the candidate?**"

The following is a sample listing of interview questions that shouldn't be asked and possible alternatives:

Topic	Illegal-Don't Ask	Legal-Ask Instead
<b>Age</b>	<ul style="list-style-type: none"> <li>• How old are you?</li> <li>• What is your date of birth?</li> <li>• What year did you graduate from high school/ college?</li> </ul>	<ul style="list-style-type: none"> <li>• If hired, can you furnish proof that you are 18 or over?*</li> </ul> <p><i>*only if the position requires.</i></p>
<b>Arrests and/or Convictions</b>	<ul style="list-style-type: none"> <li>• Have you ever been arrested?</li> <li>• Tell me about any convicted crimes that are on your record?</li> </ul>	<p>Can explain that the organization conducts background checks (if applicable) and that any conviction that is job-related to the position being interviewed for may prevent the applicant from qualification.</p>

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<b>Citizenship</b>	<ul style="list-style-type: none"> <li>• Are you a citizen of the United States?</li> <li>• Did you take the exam to become a citizen?</li> </ul>	<ul style="list-style-type: none"> <li>• Upon hire, employees are required to provide proof of eligibility to work in the United States. If hired, would you be able to submit proof of eligibility to work in the U.S.?<sup>*</sup></li> </ul> <p><i>*If asked in an interview, must be asked of all applicants.</i></p>
<b>Color</b>	<ul style="list-style-type: none"> <li>• You appear to be light-skinned. What color are you?</li> </ul>	<ul style="list-style-type: none"> <li>• None</li> </ul>
<b>Credit Rating</b>	<ul style="list-style-type: none"> <li>• What's your credit score?</li> <li>• Have you gone through a bankruptcy?</li> </ul>	<p>Can explain that the organization conducts credit history checks, only if applicable and allowed by law.</p>
<b>Disability-Mental or Physical</b>	<ul style="list-style-type: none"> <li>• What disabilities do you have?</li> <li>• Do you have any mental or physical conditions which would prevent you from doing this job?</li> </ul>	<ul style="list-style-type: none"> <li>• Are you able to perform this essential function of the job? (If no) What accommodation would be needed?<sup>*</sup></li> </ul> <p><i>*Question should be accompanied by the job description (where each essential job function is reviewed) and asked consistently of all applicants.</i></p>
<b>Familial Status</b>	<ul style="list-style-type: none"> <li>• How many children do you have?</li> <li>• How old are your children?</li> <li>• What childcare arrangements have you made?</li> <li>• Do you own a car?</li> </ul>	<ul style="list-style-type: none"> <li>• Are you able to meet the work schedule and attendance requirements of the job?<sup>*</sup></li> <li>• Do you have reliable transportation which would allow you to arrive for work on time?</li> <li>• The position requires 45% travel. Will you be available for the travel requirements of the job?</li> </ul> <p><i>*Asked after first explaining the work schedules and attendance requirements of the job. Must be asked of all applicants.</i></p>
<b>Gender/Sex</b>	<ul style="list-style-type: none"> <li>• Are you a Ms. or Mr.?</li> </ul>	<ul style="list-style-type: none"> <li>• How do you wish to be addressed?</li> </ul> <p>Questions to identify gender are not appropriate, unless there is a bona fide occupational qualification such as "locker room attendant" or "female model"</p>
<b>Genetic Information</b>	<ul style="list-style-type: none"> <li>• Do you have serious diseases that run in your family?</li> <li>• I noticed online that you are involved in promoting cancer research. Do you have relatives affected by cancer?</li> </ul>	<ul style="list-style-type: none"> <li>• None</li> </ul>

<b>Marital Status</b>	<ul style="list-style-type: none"> <li>• Are you married?</li> <li>• What does your spouse do for work?</li> <li>• Does your spouse's job require that you move around a lot?</li> <li>• What was your maiden name?</li> </ul>	<ul style="list-style-type: none"> <li>• None</li> </ul>
<b>Military Service/Record</b>	<ul style="list-style-type: none"> <li>• What countries did you serve while in the military?</li> <li>• What type of discharge did you receive?</li> <li>• When is your annual military training scheduled?</li> </ul>	<ul style="list-style-type: none"> <li>• What education or job-related experience did you obtain in the military that would relate to the job you are being considered for?</li> <li>• The position requires extensive travel during the summer months. Will you be available for the travel requirements of the job?</li> </ul>
<b>National Origin/Ancestry</b>	<ul style="list-style-type: none"> <li>• What country were you born in?</li> <li>• Where are your parents from?</li> <li>• What accent is that?</li> </ul>	<ul style="list-style-type: none"> <li>• None</li> </ul>
<b>Public Assistance Status</b>	<ul style="list-style-type: none"> <li>• Do you receive financial assistance from the state or federal government?</li> </ul>	<ul style="list-style-type: none"> <li>• None</li> </ul>
<b>Pregnancy</b>	<ul style="list-style-type: none"> <li>• Do you plan to have children?</li> <li>• How far along are you?</li> <li>• When are you due?</li> <li>• What childcare arrangements have you made after your baby is born?</li> </ul>	<ul style="list-style-type: none"> <li>• None</li> </ul>
<b>Race</b>	<ul style="list-style-type: none"> <li>• What race do you identify with?</li> <li>• Your last name is Smith but you look Latino. What race are you?</li> </ul>	<ul style="list-style-type: none"> <li>• None</li> </ul>
<b>Religion/Creed</b>	<ul style="list-style-type: none"> <li>• What church do you go to?</li> <li>• Do you have to pray during the day?</li> <li>• Do you always have to wear that hijab?</li> <li>• What religion are you?</li> </ul>	<ul style="list-style-type: none"> <li>• None</li> </ul> <p>If a religious observance is disclosed during interview, can ask the applicant if he/she is able to meet the work schedule and attendance requirements of the job with reasonable accommodation.</p> <p>Can explain dress code requirements, however it must be explained to all applicants and reasonable accommodations must be made.</p>
<b>Sexual Orientation/ Gender Identity</b>	<ul style="list-style-type: none"> <li>• When is your transition surgery?</li> <li>• What sexual orientation are you?</li> </ul>	<ul style="list-style-type: none"> <li>• None</li> </ul>

<b>Tobacco and Alcohol-Use of Lawful Substances</b>	<ul style="list-style-type: none"> <li>• Do you use any type of tobacco or e-cigarettes?</li> <li>• How much alcohol do you drink?</li> <li>• Do you own and use a gun?</li> </ul>	<ul style="list-style-type: none"> <li>• None</li> </ul>
<b>Union Membership</b>	<ul style="list-style-type: none"> <li>• Did you belong to a union at your previous job?</li> </ul>	<ul style="list-style-type: none"> <li>• None</li> </ul>
<b>Worker's Compensation</b>	<ul style="list-style-type: none"> <li>• Have you ever had a work-related injury?</li> <li>• Have you ever filed for Worker's Compensation?</li> </ul>	<ul style="list-style-type: none"> <li>• None</li> </ul>

In addition to traits protected by federal law, such as: Race, National Origin, Color, Religion, Sex/Gender, Age, Pregnancy, Disability, Citizenship Status, and Genetic Information, also be mindful of various state laws to avoid asking unlawful interview questions. See below for additional protected classes in Wisconsin, Minnesota, Illinois, and Iowa:

**Wisconsin-** All Federal Protected Classes, Ancestry, Arrest and Conviction Record, Marital Status, Sexual Orientation, Military Status, Use or Non-Use of Lawful Products, Declining to Attend a Meeting Or Participate in any Communication about Religious or Political Matters, Emergency Responder.

**Minnesota-** All Federal Protected Classes, Marital Status, Familial Status, Public Assistance, Sexual Orientation, Membership or Activity in a Local Commission, Use of Lawful Products Outside of Work, Lawful Medical Marijuana Patient Status.

**Illinois-** All Federal Protected Classes, Military Status, Marital Status, Sexual Orientation, Gender Identity, Unfavorable Military Discharge, Arrest Record, Order of Protection, Homelessness, Use of Lawful Products.

**Iowa-** All Federal Protected Classes, Age (over 18), Gender Identity, Sexual Orientation, Military Status.

**NOTE:** The above list is not meant to be inclusive of all protected areas. For example, some municipalities have additional protected classes beyond this list.