

30 WAYS TO STAY OUT OF COURT

OR

QUESTIONS NOT TO ASK IN AN INTERVIEW

AND WHY

Nationality

Certainly, you want to be sure that a candidate can legally work for you, but it's important to be careful how you ask. These questions address citizenship, language and other touchy subjects.

What you can't ask: Are you a U.S. citizen?

Although this seems like the simplest and most direct way to find out if an interviewee is legally able to work for your company, it's hands-off. Rather than inquiring about citizenship, question whether or not the candidate is authorized for work.

What to ask instead: Are you authorized to work in the U.S.?

Religion

Religion is a subject that should be treaded upon lightly at the office, and even more so in interviews. Protect yourself from overstepping the boundaries but still get the information you need with these questions.

What you can't ask: What religion do you practice?

You may want to know about religious practices to find out about weekend work schedules, but it's imperative that you refrain from asking directly about a candidate's beliefs. Instead, just ask directly when they're able to work, and there will be no confusion.

What to ask instead: What days are you available to work?

What you can't ask: Which religious holidays do you observe?

Again, scheduling is important, but don't risk stepping on toes to find out what you need to know. Simply confirm that your interviewee can work when you need them to.

What to ask instead: Are you able to work with our required schedule?

Age

Maturity is essential for most positions, but it's important that you don't make assumptions about a candidate's maturity based on age. Alternately, you have to be careful about discrimination towards applicants nearing retirement. These questions will keep you in the clear.

What you can't ask: How old are you?

While it seems like a simple question, it's in fact quite loaded. Knowledge of an applicant's age can set you up for discrimination troubles down the road. To be safe, just ensure that the candidate is legally old enough to work for your firm.

What to ask instead: Are you over the age of 18?

What you can't ask: How much longer do you plan to work before you retire?

Again, asking this question opens up discrimination troubles. While you may not want to hire an older worker who will retire in a few years, you can't dismiss an applicant for this reason. Instead, see what the candidate's plans are for the future; they may plan to work for a number of years.

What to ask instead: What are your long-term career goals?

Marital and Family Status

These questions primarily concern women with children, but they're applicable to everyone. Ensure that you don't make assumptions, and avoid embarrassing candidates by using the following questions.

What you can't ask: Do you have or plan to have children?

Clearly, the concern here is that family obligations will get in the way of work hours. Instead of asking about or making assumptions on family situations, get to the root of the issue by asking directly about the candidate's availability.

What to ask instead: Are you available to work overtime on occasion? Can you travel?

What you can't ask: Can you get a babysitter on short notice for overtime or travel?

Don't make the mistake of assuming that a candidate has children or that they don't already have proper child care plans. As with many other questions, the key here is to ask directly about availability.

What to ask instead: You'll be required to travel or work overtime on short notice. Is this a problem for you?

What you can't ask: If you get pregnant, will you continue to work, and will you come back after maternity leave?

Ultimately, you want to invest your time in a candidate that will stick around, but you can't ask a woman to share her pregnancy plans, or lack thereof, with you. Discuss her general plans for the future to gauge her commitment level, baby or not.

What to ask instead: What are your long-term career goals?

Gender

Once you've reached the interview stage, a candidate's gender is almost always clear. It is important, however, to ensure that you don't make assumptions about a person's abilities based on this information.

What you can't ask: We've always had a man/woman do this job. How do you think you will stack up?

Leave gender out of this question, and you should be fine. Inquire about the applicant's ability to handle the job, but don't ask directly about how being a man or woman could affect it.

What to ask instead: What do you have to offer our company?

What you can't ask: What do you think of interoffice dating?

The practice of interoffice dating can be distracting, break up teams and cause a number of other problems in the workplace. But asking this question makes assumptions about the candidate's marital status **and may even be interpreted as a come-on.**

What to ask instead: Have you ever been disciplined for your behavior at work?

Health and Physical Abilities

Your employees' health and abilities may be essential to getting the job done, but it's important to avoid assumptions and discrimination. Stick to these questions in order to avoid embarrassment and legal troubles.

What you can't ask: Do you smoke or drink?

As an employer, you probably want to avoid someone who has a drinking problem or will take multiple smoke breaks throughout the day. It's even a concern for insurance. Instead of asking about this directly, find out if they've had trouble with health policies in the past.

What to ask instead: In the past, have you been disciplined for violating company policies forbidding the use of alcohol or tobacco products? BE CAREFUL WITH THIS WHOLE DISCUSSION.

What you can't ask: Do you take drugs?

This question is just a simple confusion of terms. Your interviewee may think you're asking about prescription drugs, which is off-limits. Make sure you specify that you want to know about illegal drug use instead. **DO PEOPLE ANSWER THIS QUESTION HONESTLY?**

What to ask instead: Do you use illegal drugs? BE CAREFUL WITH THIS WHOLE DISCUSSION.

Health and Physical Abilities - cont

What you can't ask: How tall are you?

In a labor environment, height may be essential to the job, but this question is too personal. As with many of these questions, it's best just to ask directly about the candidate's ability to do what's required of them.

What to ask instead: Are you able to reach items on a shelf that's five feet tall?

What you can't ask: How much do you weigh?

This highly personal question is embarrassing for most and is not necessarily relevant to a candidate's ability to do even a physical-labor job. Avoid making assumptions, and ask about abilities directly.

What to ask instead: Are you able to lift boxes weighing up to 50 pounds?

What you can't ask: How many sick days did you take last year?

No one wants a flaky employee, but even the most dedicated workers get sick every now and then. Take a look at missed days as a whole to measure the candidate's commitment.

What to ask instead: How many days of work did you miss last year? BE CAREFUL WITH THIS WHOLE DISCUSSION.

What you can't ask: Do you have any disabilities? VERY IMPORTANT – PREGNANCY FALLS UNDER ADA..

Disabilities, whether they're physical or mental, may affect a candidate's ability to do the job, but it's critical that you avoid asking about them. Rather, find out if the applicant can handle doing what's required.

What to ask instead: Are you able to perform the specific duties of this position?

What you can't ask: Have you had any recent or past illnesses or operations?

Again, gauging commitment is important, but illness isn't something that most people can help. The answer here is to make sure that the candidate can perform the job while avoiding questions about his or her physical abilities.

What to ask instead: Are you able to perform the essential functions of this job with or without reasonable accommodations?

Miscellaneous

Avoid interviewing gaffes by sidestepping these questions about residence, legal troubles and military service.

What you can't ask: How far is your commute? WHY?

Although hiring employees who live close by may be convenient, you can't choose candidates based on their location. Find out about their availability instead.

What to ask instead: Are you able to start work at 8 a.m.?

What you can't ask: Have you ever been arrested?

In sensitive positions, like those that deal with money, you may want to find out about your candidate's legal fortitude. But ensure that you ask only directly about crimes that relate to your concern.

What to ask instead: Have you ever been convicted of "x" (fraud, theft and so on)?

What you can't ask: Are you a member of the National Guard or Reserves?

Losing an employee to military service can be disrupting, but it's critical that you don't discriminate based on assumptions of a candidate's upcoming military commitments. Find out what their plans are for the short term instead.

What to ask instead: Do you have any upcoming events that would require extensive time away from work?