

Handling Illegal Questions

Various laws regulate the questions a prospective employer can ask you, the job seeker. An employer’s questions must be related to the job you’re applying for. For the employer, the focus must be: “What do I need to know to decide whether this person can perform the functions of this job?”

If you are asked an illegal question, you have three options:

- You can answer the question – you’re free to do so, if you wish. However, if you choose to answer an illegal question, you are giving information that isn’t related to the job; in fact, you might be giving the “wrong” answer, which could harm your chances of getting the job.
- You can refuse to answer the question, which is well within your rights. Unfortunately, depending on how you phrase your refusal, you run the risk of coming off as uncooperative or confrontational – hardly words an employer would use to describe the “ideal” candidate.
- You can examine the question for its **intent** and respond with an answer as it might apply to the job. For example, the interviewer asks, “Are you a Canadian citizen?” or “What country are you from?” You’ve been asked an illegal question. You could respond, however, with “I am authorized to work in Canada.”

Here are examples of some illegal questions and their legal counterparts.

Inquiry Area	Illegal Question	Legal Question
National Origin / Citizenship	<ul style="list-style-type: none"> ▪ Are you a Canadian citizen? ▪ Where were you/your parents born? ▪ What is your “native tongue”? 	<ul style="list-style-type: none"> ▪ Are you authorized to work in Canada? ▪ What languages do you read/speak/write fluently? (Only if this ability is relevant to the performance of the job.)
Age	<ul style="list-style-type: none"> ▪ How old are you? ▪ When did you graduate? ▪ What’s your birth date? 	<ul style="list-style-type: none"> ▪ Are you over the age of 18?
Marital / Family Status	<ul style="list-style-type: none"> ▪ What’s your marital status? ▪ Whom do you live with? ▪ Do you plan to have a family? When? ▪ How many kids do you have? ▪ What are your child-care arrangements? 	<ul style="list-style-type: none"> ▪ Would you be willing to relocate if necessary? ▪ Would you be able and willing to travel as needed by the job? (Only if it is asked to all applicants.) ▪ Would you be able and willing to work overtime as necessary? (Assuming it is asked of all applicants for the job.)
Affiliations	<ul style="list-style-type: none"> ▪ What clubs or social organizations do you belong to? 	<ul style="list-style-type: none"> ▪ List any professional or trade groups or other organizations that you belong to that you consider relevant to your ability to perform this job.
Personal	<ul style="list-style-type: none"> ▪ How tall are you? ▪ How much do you weigh? (Questions about height and weight are not acceptable unless minimum standards are essential to the safe performance of the job.) 	<ul style="list-style-type: none"> ▪ Are you able to lift a 30-pound weight and carry it 100 metres, as that is part of the job?
Arrest Record	<ul style="list-style-type: none"> ▪ Have you ever been arrested? 	<ul style="list-style-type: none"> ▪ Have you ever been convicted of _____? (The crime named should be reasonably related to the performance of the job in question.)

Adapted from: Interview Questions: Legal vs. Illegal (Canada Human Resources Centre) <http://www.canadahrcentre.com/base/interview-questions/>