

Do I Have to Answer That? How to Handle Inappropriate Interview Questions

by *María Jimena Rivera*

Career services offices spend a great deal of time preparing students for interviews so that they can be well positioned to answer questions about their skills, qualifications, and interests in a job. However, students may find that unexpected questions come their way for which they have not prepared. During every job interview, for instance, there is usually some “small talk” that has nothing to do with the applicant’s abilities to perform a job, and this “small talk” can lead to inappropriate questions.

Applicants can naturally become very uncomfortable when asked a question about their personal life, marriage plans, or family planning during an interview — and employers risk violating Equal Employment Opportunity laws by broaching certain topics. Nevertheless, at some point in their job searches students are likely to be asked such questions. As a result, students should be prepared to identify inappropriate questions and to understand the potential employer concerns behind the questions. Career services offices are well positioned to train students in this area and to offer tips on handling inappropriate interview questions. This article, while not intended as legal advice, raises issues for students to consider during the job interview process.

What Is an Inappropriate Interview Question?

There are many laws and regulations that govern employment relations and, consequently, the interview process. While local laws and policies will vary, in general, federal and state laws prohibit an interviewer from asking questions that may directly or indirectly elicit information based on an applicant’s protected status, such as information concerning an applicant’s race, color, sex, age, marital status, religion, veteran status, sexual preference, national origin, and medical condition. Governing laws include Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Americans with Disabilities Act, the Equal Pay Act, the Civil Rights Act of 1991, and state and local labor codes. Moreover, the Association of American Law Schools mandates in its bylaws that law schools enforce non-discrimination policies in employment services to students and graduates. Thus, career services offices are well advised to regularly remind employers utilizing their services of their schools’ non-discrimination policies. Most employers will also have their own nondiscrimination policies governing their employment practices.

Here are some examples of questions that may seem innocuous at first glance but are inappropriate, not job-related, and could be considered illegal.

- What does your spouse do?

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- Is that your maiden name?
- Is that Ms. or Mrs.?
- Do you plan to have children?
- How old are your kids?
- Do you have child care available?
- How old are you?
- You have a unique name — where's it from?
- Where were you born?
- How did you learn Spanish?
- What church do you go to?
- Can you tell me about the nature of your disability?

One note about the final example: While counseling students with disabilities is outside of the scope of this article, it is important to note that determining when to tell a prospective employer that a reasonable accommodation will be required is a personal decision. Some applicants may choose to do so early in the application process, while others may wait until a job offer has been received. Sometimes reasonable accommodations will be needed for parts of the interview process itself. Career services offices should work closely with disability support services at their law schools or home institutions to provide the best guidance to their students. Helpful resources to review are the NALP booklet *Interviewing Tips for Law Students with Disabilities and Employers Who Recruit Them* and the Equal Employment Opportunity Commission's website.

Looking more broadly at all of the examples, these questions have nothing to do with an applicant's ability to perform the job and are often directed toward members or groups that have historically suffered from discrimination. Similarly, applicants should avoid opening up the door to non-job related questions by asking the interviewer personal questions. While it may be tempting for an applicant to comment on a partner's family picture on her desk, it can take the conversation down an

inappropriate path or put the interviewer in an uncomfortable position.

What Are They Really Getting At?

Sometimes inappropriate questions can mask an employer's underlying concern about an applicant's commitment to or ability to perform the job. Being able to discern some of the real issues employers may be trying to address through the guise of an inappropriate question can be helpful in deciding how to best respond.

For example, questions about family planning, marital status, and the number and age of children might really be questions about an applicant's ability to work the hours required, long-term commitment to the firm, or willingness to relocate. Questions about an applicant's health status may be trying to address whether the applicant can perform the job with a reasonable accommodation. Questions regarding an applicant's ancestry, ethnicity, or religion might be genuine interest in someone's background or an attempt to find commonalities with the interviewer.

Sometimes inappropriate questions come from inexperienced interviewers or as a result of a "slip up" on the part of the interviewer. Moreover, an applicant may be very interested in an employer and feel that an individual interviewer's inappropriate questions are not representative of the employer as a whole. It is important to be mindful, however, of whether that particular interviewer is someone who is going to supervise or work closely with the applicant. Students need to be reminded that the interview process is a two-way dialogue and that they too are interviewing the interviewer. The interview process can shed some light on how it will be to work for an organization.

Do I Have to Answer Every Question?

While applicants are under no obligation to answer inappropriate questions, they may choose to address these questions in a manner that supports

their interest in securing a job that fits their value systems and professional goals. If an applicant is comfortable answering the question, he or she may decide to do so and not draw attention to the issue. An applicant can also politely refuse to answer the question and point out that a question does not seem relevant. Of course, the applicant has to walk the fine line of not coming across as defensive or hostile and attempting instead to be tactful.

The following are some tips on how to respond to inappropriate questions in the interview setting when, depending on the context and tone of the question and the interest in the employer, applicants choose to respond.

Stay calm. First and foremost, when faced with an inappropriate or uncomfortable question, it is important to stay calm, act professionally, and handle oneself with decorum. As mentioned before, there are nondiscriminatory reasons why an interviewer may have asked an inappropriate question. An applicant may want to consider giving the interviewer the benefit of the doubt that the question does not have an illegal motive.

Ask the interviewer to repeat or clarify the question. Applicants should feel free to reply by saying things like, “Why do you ask?” or “I’m sorry, I am not sure I understood the question. Do you mind clarifying?” This gives the interviewer time to pause and rephrase the question or go in another direction. For example, if an employer asks “Do you speak Spanish at home?” an applicant may consider asking for clarification by saying “Could you elaborate on your question as it relates to the job so that I can fully address your question?” Further clarification might reveal that the employer needs someone to work with their Latin American clients and is concerned about an applicant’s fluency in Spanish. Now the applicant is better prepared to answer job-related questions about foreign language ability.

Address the issue underlying the question. Applicants can also choose to redirect the conversation back to relevant job skills in response to an in-

appropriate question. When the issue underlying the question appears to be whether one can effectively perform the job, applicants can address the employer’s concern rather than the question asked. For example, if an employer asks “Do you plan to have kids?” an applicant can consider answering in a number of ways depending on what the underlying concern appears to be. If the underlying concern appears to be meeting a demanding work schedule, then an applicant might respond with “If you are asking whether I will meet the work schedule or time requirements of this position, I will because of x, y, and z.”

If the underlying concern appears to be the degree of long-term interest in an employer, then the applicant can state “It is natural for companies to be concerned about an employee’s long-term commitment to the employer. As you will see from my résumé, I worked for my prior employer for five years.”

If an inappropriate question is asked about someone’s age and ability to keep up with a “younger team,” an applicant can consider responding by saying “I have never had a problem working with diverse teams of different ages, backgrounds, and experiences.”

Let career services know. Regardless of how an applicant chooses to respond, it is important that students be counseled to let their career services offices know when they have been asked inappropriate questions. Schools should have procedures in place to handle such student complaints, which could ultimately result in employers losing privileges to recruit through the school. Moreover, career services offices have ongoing relationships with employers and can often bring these matters to their attention while protecting an applicant’s anonymity.

Applicants also have the option of responding to such inappropriate questions outside of the interview setting through the firm’s human resources department, recruiter, or hiring committee. Ultimately, applicants can also seek legal remedies.

A Note to Employers

There are many reasons why employers need to spend the time to ensure good interviewing, not the least of which is ultimately making a good hire. Employers can easily gather bad publicity on a campus or on an Internet blog for poor interview practices. It is important that employers take the time to effectively train all of their interviewers on good interview practices and that interviewers understand their role in the process.

Interviewers should have clear guidance on the criteria the employer has identified as leading to a successful applicant. This requires employers to do some self-assessment about the competencies and behavioral qualities that lead to success at their organization. Employers should take a close look at their interview questions and evaluation

forms to ensure that only job-related information is being elicited from applicants. One way to do this is to ask consistent questions across interviews.

Employers should work collaboratively with human resources departments, general counsels' offices, and their recruiting personnel to promote fair and effective interviewing techniques. Career services offices can serve as good resources for both students and employers and should also serve as advocates of nondiscrimination in the interview process.

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