

“Illegal” job interview questions?



Article By

[Labor & Employment Practice](#)
[Greenberg Traurig, LLP](#)

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Saturday, March 17, 2012

Recent blog posts highlight the general confusion employers still have regarding the types of questions they may legally ask during a job interview. For example, a recent [CBS MoneyWatch post](#) asserted that **there are many topics which employers are not “legally allowed” to address in an interview, including race, sex, religion, marital status and age, just to name a few.** [A rebuttal post](#) retorted that, to the contrary, employers are not legally prohibited from asking these questions and, therefore, “managers should not be paranoid about conversations that wander into ‘dangerous’ territory.”

Both are wrong ... and right. Most interview questions generally treated as off-limits by employers are, indeed, not actually “illegal” (such as race, sex, religion, marital status and age). But, they are ill-advised because the fact they were asked may evidence discriminatory intent or the existence of an illegal requirement imposed by the employer. On the other hand, certain questions expressly cannot be asked during a job interview. **Under the ADA, before making an offer of employment, an employer may not ask job applicants about the existence, nature, or severity of a disability. Under GINA, an employer may not ask a job applicant about his or her “genetic information,” which includes family medical history. According to the NLRB, an employer may not ask questions about an applicant’s former union membership or union preference.**

In general, **employers should avoid interview inquiries that are not job-related.** Inquiries relating to an applicant’s protected class status or non-job-related private matters should be avoided, even if they are not actually “illegal.”

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