



## 5 questions you should never ask a job candidate

September 20, 2010 | [Curtis Smolar](#)

Interviewing a candidate for a job can be an exciting prospect. Your company is hiring and you are anticipating finding a new star player for your team. However, it's also a time when you might say something that can cause you trouble later.

You may know that it's illegal to consider a candidate's gender, race, ethnicity and/or national origin, marital or maternity status, religion, sexual orientation, veteran status or disability when they apply for a job – but here are five questions you should never, ever ask:

**1. I love your accent ... where is it from?** – Even if the origin of the accent is clear, don't ask.

Accents can be interpreted as asking where the candidate is from. Discrimination based on national origin is illegal. It may seem like small talk, but avoid the question.

**2. Did you miss many days of work last year?** – Excessive absence from work can be highly relevant, of course, but this kind of question seems to invite answers about physical disabilities or maternity leave, both of which are unlawful to ask about.

It should be noted that you can ask if the candidate is qualified for the position and/or is physically able to perform the tasks required, without

reasonable accommodation. You *should*, therefore, ask what qualifications they have to do the job.

Additionally, you can ask if the candidate can do specific physical work if that work is related to the job. For example, if the job requires that the candidate be able to lift 20 pounds, you can tell them that doing so is a job requirement and ask them if they can do it.

**3. Do you have kids?** – Again, you may think you are making small talk, but asking about familial status, including husbands, wives, children and/or aging parents who may be cared for at home, is off limits. Even if the candidate brings it up, steer clear! It is easy to fall into a casual conversation that will come back to haunt you.

**4. What year did you graduate school?** – Even if your candidate appears straight from high school, avoid any questions that are related to age. Likewise, don't ask a question that cannot be answered without giving away their age. You can ask the candidate what degree they have, especially if the position requires a certain educational background.

**5. Do you attend Church locally?** – This may just be a social interest that you have in the candidate. After all, a lot of people may go to a local church, synagogue or mosque. Alternatively, you may be trying to find out, for scheduling purposes, if the candidate will be taking off work during Easter or Rosh Hashanah. But bottom line, it's not your business, and asking about religious affiliation is illegal.

This is just a sampling, of course. Other topics that you should not discuss include the candidate's status as a veteran of the armed services; whether they smoke or drink (off duty); or whether they have any illnesses.

Remember, many of these rules are from the federal government, but there are also a number of state rules you have to keep in mind. For example, in California, an appellate court decided that asking about marijuana arrests violated an applicant's rights.

So, to avoid an potential lawsuits, here a some interview suggestions:  
stick to a pre-written list of questions and let the candidate speak freely. If  
you are interested in the candidate, contact their references – as well as  
any references suggested by those references.

Fortunately, there are enough legal ways for you to research whether or  
not a candidate is a good fit for any job, and, those legal methods are more  
likely to lead you to the best hiring decision.