

## Ten Interview Subjects To Avoid

When conducting hiring interviews, interviewers would be wise to avoid the following ten subjects that can lead into legally troubling territory:

### **1) Marital Status:**

“Are you married?” “Are you engaged?” “Have you ever been married?” are irrelevant to a person’s ability to do the job, and this status is protected by many states’ laws.

### **2) Disabilities/Absences/Workers’ Comp Claims:**

“How many times were you absent from your last job due to being sick?” “Have you ever filed a Workers’ Compensation Claim against an employer?” “Do you ever need time off for health reasons?” “Do you have health issues that may prevent you from coming to work on time?” are all questions that can lead into dangerous territory.

### **3) Family Responsibilities and Obligations:**

“Are you caring for any ill relatives?” “Do you have child care obligations?” “Have you needed to take time off to care for sick children?” “What responsibilities do you have to your family?” These questions lead to troubling areas, and can touch on familial status, which may be protected under local laws.

### **4) Arrests or Convictions unrelated to the job:**

“Have you ever been arrested?” is illegal in many states. Questions about convictions may be asked, but employers must consider certain factors when making hiring decisions (such as the nature of the crime, its relationship to the job, how long ago the crime was committed, rehabilitation, etc.)

### **5) Age (except for establishing if the applicant is over 18):**

“What year did you graduate?” “When did you get that degree?” can be landmines.

### **6) Outside Activities unrelated to the job or industry activities:**

“How do you spend your spare time?” “What do you do outside of work?” Some states prohibit employers from considering outside legal activities, and participation in certain organizations or activities may reveal race/national origin or sexual orientation information that should not be part of the hiring decision. Asking about career or work-related organizations to which they belong and their degree of participation is both permissible and insightful.

## 7) Languages Spoken, unless job related:

“List the languages you read/write/speak, along with proficiency” can lead into national origin discrimination claims unless there is a business need. For example, if many of the business’s clients are Hispanic, asking if the applicant is fluent/proficient in Spanish is permissible if necessary for the job.

## 8) Citizenship Status

Applicants can be asked if, after they are hired, they will be able to provide documentation of their eligibility to work in the U.S. Citizenship is a protected category and (except for work for certain governmental agencies and/or on certain governmental projects) cannot be considered in hiring.

## 9) Financial Condition / Bankruptcies (where not job-related)

“How much do you owe on credit cards?” “Have you ever filed for bankruptcy?” “How much do you need to earn to pay your bills?” are questions that may have a discriminatory impact and, unless you are hiring a CFO whose personal finances may give insight into his or her financial judgment, or treasury person or accounts manager, these questions are likely irrelevant to the performance of a job. Question hesitation at an offered salary, however (made after a determination to hire the individual) to ensure it is a living wage for the individual. Job applications may seek prior salaries and ask about expected salary for this job.

## 10) Transportation

“Do you have reliable transportation to get to work?” “How do you intend to get here?” “What are you going to do if your car breaks down?” also may have a discriminatory impact. Better to ask the question you want answered: “This job requires regular and punctual attendance. If I hire you, can you be here every day you are scheduled to work on time on a regular basis?”

Interview questions should be focused on:

- Past performance and accomplishments
- Past experience
- Job-related skills and abilities
- Hypothetical questions posed asking how the applicant would handle a situation?
- Work-place factors
- Other areas specifically related to the job in question.

**Interview questions can lead employers into dangerous territory when treading in areas unrelated to the individual’s ability to do their job. Employment lawyers who represent businesses can help clarify the legal areas of inquiry and steer interviewers away from potential landmines.**