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Illegal Interview Questions and Female Applicants

Unfortunately, women are often subject to certain forms of employment discrimination -- even before being hired for a job. Despite warnings to the contrary, some employers ask inappropriate questions during the job interview process that border on illegality including questions about a female applicant's family life, marital status, and child rearing plans. Employers often ask questions of this nature due to the assumption that female employees are not as committed to their work, or will be absent and less productive than their male counterparts. When these assumptions surface during the job interview and later in the hiring and firing process employers face the potential for violating laws aimed at preventing [employment discrimination](#).

Anti-Discrimination Laws Relating to Female Applicants

Both federal and state laws prohibit employment discrimination of many kinds. For instance, [Title VII of the Civil Rights Act of 1964](#) prohibits employment discrimination based on race, color, religion, sex, or national origin. Similarly, the [Americans with Disabilities Act \(ADA\)](#) prohibits discriminations in the workplace based on a person's physical disabilities, including a prohibition against pre-employment questioning about the disability. In addition, the [Older Workers Benefit Protection Act](#) forbids questions about a person's age and other factors during in the pre-employment process.

Federal laws that relate specifically to women include the [Pregnancy Discrimination Act \(PDA\)](#) -- prohibiting discrimination on the basis of pregnancy, childbirth, or related medical conditions, and the [Family and Medical Leave Act \(FMLA\)](#) -- prohibiting discrimination against pregnant women and parents who take leave from their employment responsibilities to care for a newborn baby, sick child, or aging parent. Employers who violate these laws are typically engaging in a form a Family Responsibilities Discrimination (FRD), also known as "caregiver discrimination," discrimination against applicants and employees who have family caregiving responsibilities outside of their employment.

Many states also have anti-discrimination laws geared toward protecting a woman's right to fair employment. State agencies, such as Fair Employment Practices Agencies (FEPAs), also seek to protect employee rights in the workplace. Moreover, both federal and state employment discrimination laws have been applied to government and public employers, as well as employers in the private sector.

While federal and state laws prohibit prospective employers from asking certain questions that primarily relate to women, it is illegal to ask *any* job applicant about their age, race, gender, and sexual orientation, among other questions, except in certain circumstances, or where there is no intent to discriminate.

Illegal Interview Questions to Avoid

It's not that women have an unfair advantage over men during the interview process, yet some federal and state laws prohibit prospective employers from asking certain questions that primarily relate to women.

Examples of questions that may discriminate include:

- Do you have any children? If so, how many and what are their ages?
- Are you single, married, divorced, or engaged?
- What kind of childcare arrangements do you have in place?
- Are you currently taking any form of birth control or fertility treatment?
- What are your plans if you get pregnant?
- Does your spouse work? If so, what does your spouse do for a living?
- Should we refer to you as Mr., Miss, or Mrs.?

Appropriate Interview Questions to Ask

While it's perfectly legal to ask questions assessing an applicant's job experience, qualifications, and motivation, employers must avoid interview questions that single out female applicants, and are not also asked of male applicants.

Below are examples of what may be asked during a job interview, so long as these questions are asked of all applicants:

- Do you have any restrictions that would prevent you from traveling?
- Do you have any commitments that will conflict with your work schedule?
- Do you anticipate any absences from work on a regular basis?

Tips for Female Job Applicants

Female job applicants should be particularly careful not to expose personal information during the interview process that is not relevant to the job position itself. Oftentimes a person may inadvertently offer information during the pre-interview phase to "break the ice" information that would be considered illegal if asked by the interviewer. To further your chances of success during an interview, it is best to leave personal information out of all discussions during the interview phase, including follow up discussions by phone and email.

If faced with an illegal interview question, you can: 1) answer the question and move on, 2) ask the relevance of the question to the position, 3) answer the intent of the question by addressing the employers underlying concern, or 4) explain that you are not comfortable answering that type of question.

If you believe you've been discriminated against during a job interview, which ultimately led to a negative hiring or firing decision, you may wish to [hire an employment lawyer](#) who may inform you of your rights in your particular case.

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