

How To T.R.I.U.M.P.H. Over Illegal Interview Questions for Latinos Part 2 - Scenarios and Strategies

Myth: Interviewers control the entire process, there is nothing you can do if you encounter an interviewer who is biased.

Truth: Not every interviewer is trained in performing interviews, particularly in smaller companies. Often times when an interviewer asks an illegal question they are doing it inadvertently.

Reality 1: Part of the preparation you do for an interview requires that you be prepared and knowledgeable about legal and illegal questions. This way you will feel confident and can take control if such a situation arises.

Reality 2: If an interviewer is biased and asks illegal or inappropriate questions you have several alternatives on how to handle the situation including filing a charge of discrimination. The important point is to address it so that future applicants will not face similar treatment.

Your interview is going just as you envisioned and prepared for. You think you have nailed it.

Then you are blindsided with an illegal, inappropriate, or offensive question.

So what do you do if it happens to you? In our experience, illegal questions are most often asked in one of four situations. If you are able to determine which of these scenarios is at work, it may impact your decision as to how to react. We'll discuss the scenarios first, and then provide possible responses.

Scenario 1. Small Talk

Many topics appropriate for personal and social discussions are illegal or inappropriate during an interview. This is why illegal questions are often asked during the first few minutes of ice breaking or after the formal interview is over.

Example: During an informal conversation after the interview, you mention the community fair you attended the day before. The interviewer asks, "Oh, do you have kids? How old are your kids? How many kids do you have?" While these questions may be fine at a party, they are not appropriate or legal in an interview.

Scenario 2. R sum  Follow-Up

An interviewer may be reviewing your r sum  and asking questions about information listed on your r sum . Some of these questions are inappropriate.

Example: Your r sum  mentions that you are “Fluent in Spanish.” The interviewer says, “I see you are fluent in Spanish.” Okay and legal so far. Then she follows up with, “Are you a native Spanish speaker?” or “Did you learn Spanish at home from your parents or in a class at school?” These kinds of questions are illegal.

Another example: You have listed on your r sum  “Vice President, Latino Student Association.” The interviewer asks, “I see you are VP of the Latino student organization. What country is your family from and how long have they been in the United States?” Again these are illegal questions.

Now there is something of a fine line here. It is not illegal per se for interviewers to ask about your involvement in student organizations if you have listed them on your r sum . An organization referenced on your r sum  is fair game, and the employer will assume you want to talk about it. It is perfectly appropriate for an interviewer to ask about leadership skills you are developing as VP of the organization, or what events the group will be holding this year. But the interviewer cannot use these kinds of leading questions to ask about your ethnicity or national origin.

Scenario 3. Legitimate Purpose—Question

Sometimes there is an arguably legitimate question underlying an illegal question.

Example: The interviewer asks, “Are you married, and if so what does your spouse do?”

This question has all sorts of illegal implications—it potentially touches on marital status or even sexual orientation. Why would an interviewer ask such a blatantly inappropriate question? The interviewer may be inquiring because they are concerned about retention. They may want to determine whether you are “attached” to anyone who may work in a high turnover industry, who may be transferred to another city next year and take you along. But the question is still inappropriate.

Scenario 4. Bias

Sadly, one of the reasons that interviewers may ask illegal questions is the most obvious. It may be a red flag that your interviewer is insensitive to diversity issues and perhaps even downright discriminatory.

Example: In this day and age our clients still encounter interviewers who ask job seekers if they are Mexican or Puerto Rican; who make derogatory remarks about one group or the other; comment that “these are the only Latino jobs we have at our company”; question if Latinas can work with white male supervisors; make a point of mentioning that the employer frowns on speaking Spanish on the company property,

playing loud Spanish music, and partying in employee break areas and parking lots. Unfortunately the list goes on and on.

1. Take a step back, evaluate the question and the situation.

Perhaps the question did not come out as the interviewer intended. If the interviewer is given a chance to think about it, he or she might quickly recognize their error.

Ask yourself these questions:

- How uncomfortable does this question make you feel?
- Does the interviewer seem unaware that the question is illegal?
- Does your gut feeling tell you that this illegal question is an interviewer's mistake, or does it indicate deeper problems with the company?
- Is this interviewer going to be your boss?
- If you believe the questions reflect the culture of the company, is this a place you want to work?

Tactfully ask for a clarification to give the interviewer enough time to pause and rephrase or strike the question.

Example:

Their Question: Are you from Central America?

Your Question: "Could you elaborate on your question as it relates to the job so that I can be sure to provide all the information you need?"

If Their Answer Is: Repeating the same inappropriate question

or

The person we hire for this position will service our customers in Central America.

Can you tell us what sales and marketing experience do you have in this region?

Then respond in a way that that you prepared for and is comfortable for you.

2. Respond to the question directly

There's no rule saying that you can't respond directly to an illegal question, if you are comfortable with it — There is only a rule saying that the employer shouldn't ask the question. Maybe your company research or instincts tell you that answering will help you land the job.

The following factors may be useful in assessing whether you want to answer a non job-related question directly:

- ❑ If you determine that it's OK to disclose information and that you do not believe the question will harm your candidacy.
- ❑ Preferably, reply to it briefly, and then move on to something else.

or

- ❑ Elaborate on your response, if you have assessed that that the question was asked so you could link your qualifications to the employers' needs. Be careful here.
- ❑ By replying to the question, you may actually improve your chances of getting the job, particularly if you provide the "right" answer or response the interviewer is looking for.
- ❑ If you choose to do so, realize that you are giving information that is not job-related. You can also harm your candidacy by giving the "wrong" answer.

3. Identify the intent behind the question and respond indirectly with an answer that relates to the requirements of the position

Maybe the interviewer is asking a question such as “are you married?” because he or she is worried that you will not be able to travel or work long hours. If you are a Latina, this kind of question might signal gender bias and Hispana stereotyping.

Another common illegal question is asking for your immigration status. The interviewer may be concerned about whether you can be lawfully hired, how long you will be able to work for the company, and whether you are going to ask for sponsorship. In some cases, they may assume you are not familiar with U.S. business practices.

Example:

Their Question: What country are you from and what is your specific immigration status?

Your Answer: I am authorized to work in the U.S. As my r sum  and portfolio show, I have extensive experience successfully working with your products and customers. I would be more than happy to demonstrate my expertise for you.

4. Upstage and ignore the question by redirecting the conversation

Courteously overlook the question by not giving the information requested. You won't have to sacrifice your principles while you avoid offending or embarrassing the employer.

Example:

Their Question: "Are you married?"

Your Answer: “If you are asking whether I will be able meet the work schedule or time requirements of the position, the answer is yes. You are an excellent company and I believe I will be an asset to you because . . .

5. Mention the error diplomatically

Examples:

Their Question: “Are you a U.S. citizen?”

Your Answer: “Yes, I am. I hope you do not mind but you may not be aware that the question as worded is unlawful. I believe it is appropriate to ask applicants if they are authorized to work in the United States.”

or

Their Question: “Do you have children?”

Your Answer: “I know we’re not really supposed to talk about these types of things in an interview setting, but I have one child.”

These responses should keep the interviewer from going any further with inappropriate lines of inquiry. It also shows the interviewer that you are knowledgeable about the law and able to quickly compromise and solve problems.

6. Politely refuse to answer the question

You have the right to refuse to answer an illegal question. It is understandable that you would refuse to do so. But bear in mind that there is a fair chance that you will not get the job if you decline to answer. You may or may not.

A flat refusal to answer may harm your chances of being hired for a position if the interviewer sees you as an uncooperative or stubborn person.

By selecting this option, you'll be within your rights, but you'll also run the risk of coming off as uncooperative, stubborn or confrontational - hardly the words an employer would use to describe the "ideal" candidate.

Example: If the interviewer repeats the same illegal question after you tactfully ask for a clarification as to the job relatedness of the question.

Their Question: You have one child are you planning to have more?

Your Answer: “I do not feel comfortable answering this question because it is not related to the requirements of the job or my ability to perform them.”

Start Taking Notes: At this point you should openly take notes including the specific question, the context surrounding the question, date, time, location, interviewer's name, witnesses (if any), business unit and the company.

Most employers will realize the potential consequences when you start documenting your discussion, and it is unlikely that the interviewer will pursue the issue further.

7. Hit the road. Gracefully and professionally excuse yourself.

If the idea of working for an employer who condones the asking of inappropriate or illegal questions turns you off, and you know that you would not want to work for this company, then you may want to end the interview.

Example:

Their Question: What does a smart cute chica like you think it takes to be successful in this job?

Your Answer: Excuse me? What do you mean by this question?

Their Reply: You know what I mean. We have several well-qualified applicants for this job. What can you offer me that they can't?

Your Response: I think I am ending this interview right now. It is not appropriate or professional of you to call me a “smart cute chica”. I am offended by the implication that I have to offer you anything to get this job beside my skills and qualifications.