

# *7 Seemingly Harmless Topics to Avoid During the Interview Process*

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It can be tempting to start off every job interview with a little chit-chat, asking candidates about their family and private life. But you should be cautious before asking personal questions—what would be harmless small talk in any other context can easily raise the specter of discrimination during a hiring process.

To help you figure out how to avoid legal headaches, I have put together this list of common questions that might be welcome at a cocktail party but should not be asked about in an interview.

1. Are you married? Are you planning to have children?

Asking applicants about their family can seem like a nice ice-breaker, but in fact it is number one on my list of topics to avoid. State and federal laws prohibit employers from discriminating on the basis of sex. Asking female applicants whether they have or plan to have children implies that are you not interested in hiring women with

children—a direct violation of the law.

In addition, in Minnesota, all employees are protected from discrimination on the basis of familial status. So you should avoid asking whether candidates are married, or even whether they have family responsibilities.



Asking probing questions about applicants' family life can also be uncomfortable for gay and lesbian candidates, who are protected from discrimination under Minnesota law.

2. What country are you from originally? What's your ethnicity?

Most employers know not to ask candidates about their race. But it's just as important to avoid asking questions about a candidate's ethnicity or national origin. Even when candidates have obvious accents, you should avoid asking them what country they come from because state and federal laws bar discrimination against job candidates based on their country of origin.

3. Are you religious? What church do you attend?

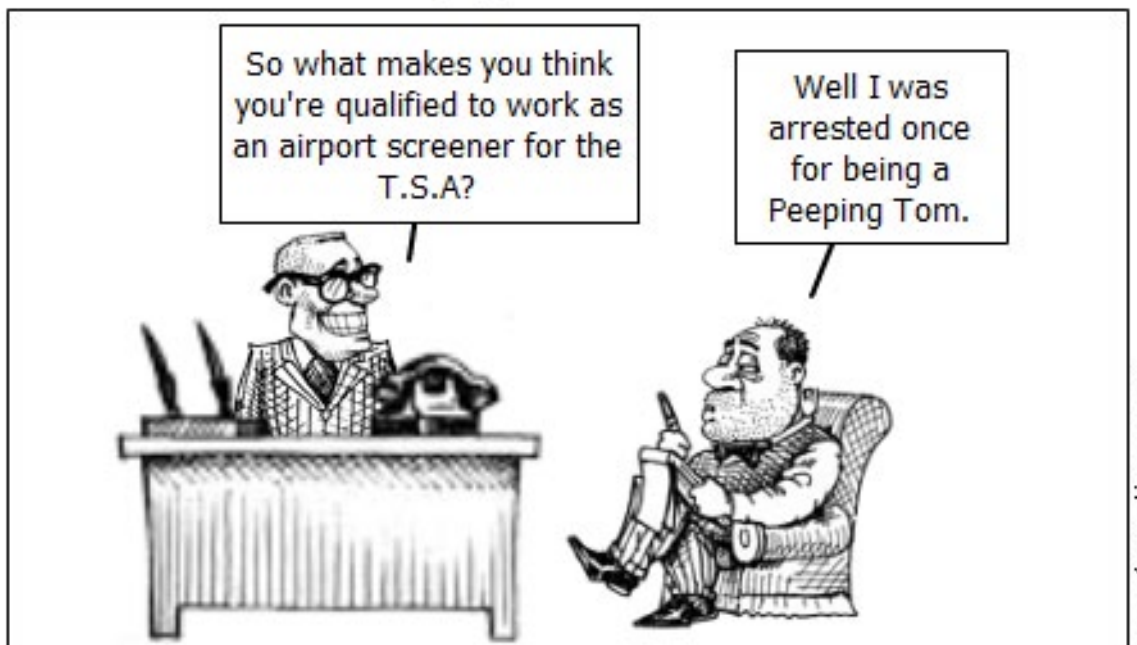
You may just be making small talk or trying to find common ground when you ask a candidate if they go to church, but

this is another topic that is best avoided. The law protects people from discrimination based on their religion, and any mention of religion could imply that you are only interested in hiring applicants who share your faith. Instead, discuss something more neutral like whether candidates have any hobbies outside of work.

4. Do you have any disabilities?

You should be very careful when discussing disabilities. If candidates have obvious disabilities that might make the job difficult, it is appropriate to ask how they plan to perform the job and what type of accommodation they may need. But unless you have a reason to believe a candidate has a disability that will impact his ability to do the job, do not ask about disabili-

### Job Interview by john horse



ties.

5. When did you graduate from school?

If you learn a candidate went to the same school as you, it may be reflex to ask when he graduated. But asking what year a candidate graduated—particularly from high school—is also an easy way to estimate how old he is. Since the law protects employees from discrimination based on age, this is a question you should definitely avoid.

6. I see you were in the military, what type of discharge did you receive?

Because federal law protects some veterans from employment discrimination, it is best to avoid probing into why someone was discharged. Instead, focus on talking about what candidates with military experience learned or what skills they used while they were serving.

You should also avoid asking candidates if they are likely to be called up for military duty, if they are members of the Reserves or National Guard, or any other questions that suggest that you are less likely to hire or promote someone because of their military ser-

vice.

7. Have you ever been arrested?

While the law allows employers to check a candidate's criminal history before hiring, you cannot ask about arrests. Because an arrest is not proof that a candidate committed a crime, it does not reflect on their character or ability to perform the job.

Even if a candidate has been convicted of a crime, it may be illegal for you to use that as a reason not to hire him if the crime isn't relevant to the position. In Minnesota, most employers are not allowed to ask job applicants about their criminal history when they first apply for a job. But once a candidate reaches the interview stage, it is legal to ask if he has a criminal record.

This article provides general information on employment law matters and should not be relied upon as legal advice. A qualified attorney must analyze all relevant facts and apply the applicable law to any matter before legal advice can be given. If you would like more information regarding employment law or other legal matters, please contact Zlimen & McGuiness, PLLC at 651-206-3203 or [pmcguiness@zmattorneys.com](mailto:pmcguiness@zmattorneys.com)