

**Q&A Column**  
**Author: Mark Swartz**

**Email Subject Line: Answering “Prohibited” Questions in Job Interview**

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**Summary:**

Question: In the column you wrote last week the person whose question you answered admitted to lying about the age of her children during a job interview so that she could appear younger. But isn't it illegal for an employer to even be asking about such things? What would be a proper way to respond?

Zohar V., Toronto, Ontario

**Landing Page copy**

**Headline : Answering “Prohibited” Questions in Job Interview**

**Dear Mark,**

Question: In the column you wrote last week the person whose question you answered admitted to lying about the age of her children during a job interview so that she could appear younger. But isn't it illegal for an employer to even be asking about such things? I was at an interview not long ago where the hiring manager inquired if I would be needing time off for any special religious celebrations. I was so flustered I had no idea what to say. What would be a proper way to respond?

Zohar V., Toronto, Ontario

**Dear Zohar,**

My reply to last week's column drew a huge response from readers. Many were outraged that the employer had breached the rights of the person whose question I answered by inquiring about the age of her children during a job interview. Those of you who wrote to point out that this line of questioning is “prohibited” were absolutely right. Unfortunately this doesn't stop employers from pursuing these types of queries with disturbing frequency.

I'll point out that our resident employment law expert, Norm Grosman, states on his law firm's website that “any questions that are directly or indirectly related to any prohibited grounds of discrimination, such as age, family status, place of origin, religion and other such discriminatory areas are in clear violation of existing human rights legislation.” So theoretically you are under no legal obligation to answer these types of inquiries.

In reality, things aren't so cut and dried. I remember when some female friends of mine graduated from law school were getting asked by legal firms if they were planning on getting pregnant in the near future. Personally I have been asked point blank how old I was (a basis for age discrimination), if I was married (which could be used for sexual preference discrimination), if I had children, if my wife worked outside the home, what type of daycare arrangements we had in place, if I was orthodox religiously...the list of breaches is long and ignominious.

You as the interviewee have a number of options when faced with this sort of situation:

- Answer the question honestly and let the chips fall where they may. Afterward you can decide if this is the type of organization you would really like to work for given their intrusive hiring policies. Also, if you do not receive an offer and believe that you have been discriminated against on the basis of one or more prohibited questions you answered, you could report the employer to your province's Human Rights Commission or pursue legal action. But you'd have to prove your allegation and this is often difficult to do.
- Politely refuse to answer the prohibited question. One way of doing so is to say something along the lines of "I would respectfully submit that this sort of detail would not affect my ability to perform my duties with utmost diligence. Are there other areas we could discuss at this time?" Note that when you balk at answering a question, even considerately, you run the risk of appearing evasive. Again you could report the employer to your Human Rights Commission or pursue legal action.
- Point out frankly that the employer would be breaching the Human Rights Code by asking these types of questions, and stating that you will leave the interview if this persists. Hardly a strategy for everyone. However I do know at least one person who got the job precisely because the employer was looking for a candidate who would "push back" in the face of adverse circumstances.
- Lie, or otherwise misrepresent the truth, to try and secure the offer of employment. Please refer to last week's article for the implications of this particular tactic.

To clarify: according to Grosman, "questions in an employment interview must be directed primarily to the individual's qualifications and suitability for the prospective position of employment. Moreover "any questions relating to an individual's age, birth place, sex, sexual orientation, marital status, race, religion, citizenship, record of offenses, health and even memberships in organizations would amount to discrimination in applying for employment." How you choose to reply, of course, is up to you.

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A note from Mark:

- > Please do not infer from my columns that I counsel job seekers to misrepresent the truth. Part of my role as a Career Advisor is to pragmatically suggest a range of options and then try to point out some possible implications.
- > As I do not possess a legal background kindly route any further questions you have on this type of matter to an Employment Lawyer.