

Questions During Interviews, Revisited

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As Match season approaches, the issue once more arises about the types of questions site interviewers may ask applicants. Or, conversely, what questions either violate applicants' legal rights or infringe upon their privacy.

The issue is a recurring concern among intern applicants. Improper or inappropriate personal questions to applicants/interviewees also should be of concern to Training Directors and their staffs because such questions, ultimately, could have legal consequences. Even questions that are not inherently illegal may raise the specter of an illegal motive or action. This article is another attempt to provide guidance, both to interviewers and interviewees about permissible and non-permissible (or non-recommended) questions.

A general rule for interviewers is to ask only questions directly relevant to the applicant's qualifications; or to the internship position and duties. When in doubt, don't ask!

In particular, improper or inappropriate areas of questioning relate to areas in which applicants presumably have some interest in protecting their privacy, e.g., their physical or mental status or health; their marital, familial, or other close personal relationships; religion, etc. Generally, it is inappropriate - and possibly even illegal - to ask questions in these areas unless they directly relate to the internship or the applicant raises the issue first.

As I stated in my previous article:

- Generally, you may ask questions about an applicant/interviewee's education, language proficiency (if directly relevant to the requirements of the position), training and experience in psychology/mental health areas, past practice and placement, career interests and goals, professional memberships, and any other subjects directly related to the internship and the psychology profession. Ask the same basic questions of all applicants/interviewees insofar as possible.
- Conversely, you may not ask personal questions before hiring (i.e., either on an application or during an interview) unless, either, they relate to bona fide qualifications; or the applicant first raises such issues him/herself. For example, you should not ask questions about a candidate's marital or family status, religion, or physical conditions or limitations. An exception to this rule is that Federal government agencies, states and municipalities, and many state universities generally require an employee to be a U.S. citizen. They also may require some explanation of any criminal record other than misdemeanors. While it is not always clear whether an intern is an employee or a student, such questions may be permissible when the internship center is a government agency or government-affiliated entity.

Notwithstanding the above guidance-

- [E]ven impermissible questions sometimes may become permissible if the applicant first raises the issue. For example, if an applicant/interviewee asks questions about the hours of work and mentions family responsibilities or his/her religion and requests accommodations in work hours;

or asks about the physical demands of the position and mentions physical limitations, the interviewer may follow up on such questions.

- Other questions, which may be impermissible on an application or during an interview, may become permissible after the intern is hired. For example, proof of age and marital or parental/relationship status may become relevant, after hiring, for tax, insurance, and emergency contact purposes. Photographs also may be required after hiring for identification cards. Some questions are almost never permissible. For example, you should never ask questions about sexual preference or whether someone has a particular disease, such as AIDS.

Interviewers, however, continue to ask inappropriate or improper questions. While they may view these questions as establishing rapport with, or expressing personal concern about, the applicants, many applicants take offense at such questions. The following were samples of interview questions recently submitted to APPIC by unhappy applicants:

- In what ways do you think your older age will make it hard for you to fit in with the other interns?
- Do you have a partner/spouse and, if that person won't move, can you manage being parted from that person?
- Who will care for your children?
- Who is your therapist, and what specific issues have you worked on?
- Will a nose ring (an indicia of religion on someone from India) be problematic?

As mentioned above, while these questions may not be inherently illegal, they may suggest to some applicants improper motivation by the interviewer: The question about being older may make the applicant suspect that being older is a disadvantage, creating a possible allegation of age discrimination. The question about child care may make the applicant suspect that being married or involved in a relationship, or having children will place him/her at a disadvantage. Of course, the question would become a permissible one if the applicant first raised the issue of the hours and concern about child care.

The question about the name of the therapist and the specific issues worked on relate to an area in which an applicant may be presumed to have a significant privacy interest, so that he/she is unwilling to disclose that information. The applicant may feel pressured to disclose the information and may believe that, if he/she refuses to do so, he will be at a disadvantage in the selection process.

Note: The information in this article merely is intended to provide practical guidance. It is not intended to be definitive or to be relied on without first consulting your legal counsel.