

# Avoid Common Mistakes Made on Certificate Applications

By Matthew Pence, PAGE Staff Attorney



At least every five years, certified educators in Georgia must submit documentation to the Professional Standards Commission (PSC) for certificate renewal. During this process, educators must answer personal affirmation questions regarding criminal behavior and professional misconduct. Applicants for a pre-service certificate as well as initial applicants pursuing certification through an alternative plan of study, such as Georgia TAPP, must also answer these questions. Because Standard Four of the Code of Ethics for Educators (Honesty) governs applications for initial certification, upgrades and renewals, and because an answer of “yes” to any of these questions will automatically trigger an ethics investigation by the PSC, it is imperative that Georgia educators answer these questions correctly.

Currently, there are nine personal affirmation questions. This article seeks to analyze those questions and provide educators with examples of common mistakes in answering them. The article also addresses questions posed by school systems on employment applications. As a threshold matter, it is important for educators to know that an answer of “no” is always appropriate for matters that the PSC has investigated in

the past (even where a sanction was issued) or is currently investigating.

## Standard One Criminal Questions

Standard One of the Code of Ethics governs legal compliance. Under this standard, it is unethical for a Georgia educator to commit a felony or a misdemeanor involving a crime of moral turpitude; to commit any sexual offense as provided by O.C.G.A. § 16-6-1 through § 16-6-17, § 16-16-20, § 16-6-22.2, or § 16-12-100; or commit any criminal offense involving the manufacture, distribution, trafficking, sale, or possession of a controlled substance or marijuana. Four of the affirmation questions (numbers five, seven, eight and nine) regard allegations of criminal misconduct.

Question seven narrows itself to final judgments issued by a court, not cases that are currently pending before one. The PSC inquires about a broad litany of final judgments under this question, including orders of pre-trial diversion and first-offender status. Question seven also is limited to felonies and misdemeanors involving moral turpitude. The definition of whether a crime is a felony or one of moral turpitude rests with the General Assembly and Georgia courts, particularly

the Georgia Supreme Court. The application does, though, provide specific examples of crimes that the courts have declared to be crimes of moral turpitude, as well as crimes that are not.

The most common mistake regarding question seven is answering “no” under the impression that some past criminal activity is expunged

or that a court order allows the educator to answer “no.” Expungement by a court does not mean that the PSC may not ask about an applicant’s past criminal conduct, nor does it mean that the applicant may tell the PSC “no” when asked about that conduct. Another common mistake under this question is answering “no” because the final judgment was some sort of first-offender status or pre-trial diversion program. The question itself makes it clear that this is a mistake.

Question eight (“Have you ever been convicted, or pled to a lesser offense for any sexual offense?”) regards convictions involving sexual misconduct, which are almost always felonies. Question five (“Are you currently the subject of an investigation involving sexual misconduct or physical harm to a child?”) broadens sexual misconduct to include current investigations of sexual misconduct against a child. Question five further asks about current investigations involving physical harm to a child, which if true, can present educators with ethics issues under Standard One, Standard Two (Conduct with Students), and Standard Nine (Professional Conduct) of the Code of Ethics.

The PSC inquires about the drug component of Standard One in the ninth question (“Have you been convicted of a drug offense, felony or misdemeanor?”). Educators must remember that this inquiry is about all drug-related crimes. It is not limited to specific drugs or offenses. The most common mistake here is answering “no” because the underlying criminal charge involved less than an ounce of marijuana.

## The Non-Standard One Criminal Question

Question six asks if the educator is “the subject of a pending investigation involv-

The most common mistake on applications for employment is failure to reveal past negative summative evaluations.

ing a criminal act.” This is a broad question and is not limited to Standard One’s restrictions on felonies, misdemeanors involving moral turpitude or drugs. At the time of the application, if the educator is currently under investigation for any criminal act, he/she should answer “yes” to this question. If the disposition of the case is either an acquittal, dismissal or any final judgment encompassing guilt to a crime outside of Standard One’s purview, then the PSC will ultimately issue a finding of no probable cause.

## Professional Misconduct as an Educator or in Another Capacity

Question four asks about misconduct as an educator: “While under investigation, have you left an employment position (retired, resigned, been dismissed, terminated, non-renewed or otherwise?)” The question does not define “investigation,” nor does it narrow itself to specific misconduct. It does not limit an “investigation” to a school district’s internal investigation or a formal investigation by law enforcement. It also does not limit itself to just employment as an educator. Questions regarding this inquiry are best addressed on a case-by-case basis. Any educator with questions about how to appropriately answer this question should consult with one of the in-house PAGE attorneys for guidance.

Questions one and two inquire about other professional licenses, including teaching licenses issued by other states. Question one seeks to glean information about past sanctions against professional certificates issued by any agency other than the PSC, while question two asks about current open investigations by some other licensing agency. The most common mistake here is answering “yes” under the impression that “agency” includes a Georgia school system and

### GaPSC Certification Update Application

(Application excerpt printed by permission of GaPSC)

**Personal Affirmation:** The applicant should enter a truthful “Yes” or “No” response to each of the following questions. All questions must have a response in order for the application process to continue. “YES” responses automatically open an investigation and require an attached explanation along with any additional supporting documentation. **DO NOT include matters that the GaPSC has investigated or is currently investigating.**

1. Have you ever had an adverse action (i.e. warning, reprimand, suspension, revocation, denial, voluntary surrender, disbarment) taken against a professional certificate, license or permit issued by an agency **OTHER THAN the Georgia Professional Standards Commission?**
2. Are you currently the subject of an investigation involving a violation of a profession’s laws, rules, standards or Code of Ethics by an agency **OTHER THAN the Georgia Professional Standards Commission?**
3. Have you ever received a less than honorable discharge from any branch of the armed services? (If “yes,” provide a copy of form DD214.)
4. While under investigation, have you ever left an employment position (retired, resigned, been dismissed, terminated, non-renewed or otherwise)?
5. Are you currently the subject of an investigation involving sexual misconduct or physical harm to a child?
6. Are you the subject of a pending investigation involving a criminal act?
7. For any **felony** or any **crime involving moral turpitude**, have you ever:
  - ◆ Pled guilty;
  - ◆ Entered a plea of *nolo contendere*;
  - ◆ Been found guilty;
  - ◆ Pled guilty to a lesser offense;
  - ◆ Been granted first offender treatment without adjudication of guilt;
  - ◆ Participated in a pre-trial diversion program;
  - ◆ Been found not guilty by reason of insanity; or
  - ◆ Been placed under a court order whereby an adjudication or sentence was withheld?
8. Have you ever been convicted, or pled to a lesser offense for any sexual offense?
9. Have you been convicted of a drug offense (felony or misdemeanor)?

I affirm that all information is true and correct. I hereby give permission to the Georgia Professional Standards Commission to obtain copies of any criminal and personnel records relating to me which are held by any local, state or federal government agency or private entity. I authorize any such agency or entity to release those records to the Commission.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**NOTE:** This application must be received by the GaPSC within 90 days of the date of signature.

**Moral Turpitude**

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| <p><b>Crimes involving moral turpitude:</b></p> <ul style="list-style-type: none"> <li>• Fraud or false pretenses in obtaining something of value</li> <li>• Larceny or a misdemeanor theft by taking</li> <li>• Larceny after trust</li> <li>• Murder</li> <li>• Soliciting for prostitutes</li> <li>• Voluntary manslaughter</li> <li>• Sale of narcotics or other illegal drugs</li> <li>• Pattern of failure to file federal tax returns</li> <li>• Criminal issuance of a bad check</li> <li>• Making a false report of a crime</li> </ul> | <p><b>Crimes NOT involving moral turpitude:</b></p> <ul style="list-style-type: none"> <li>• Public drunkenness</li> <li>• Driving under the influence</li> <li>• Carrying a concealed weapon</li> <li>• Unlawful sale of liquor</li> <li>• Simple Battery and Simple Assault</li> <li>• Misdemeanor criminal trespass</li> <li>• Child abandonment</li> <li>• Misdemeanor offense of escape</li> <li>• Obstruction of a law enforcement officer (Misd.)</li> <li>• Most traffic offenses</li> </ul> |
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that an “adverse action” encompasses some sort of letter of direction or professional development plan. This is not an appropriate reading of these questions, as these questions are limited to state agencies that issue professional certificates, such as the state medical board or real estate commission.

## Employment Application Question

These nine questions relate only to PSC certification. School systems may ask additional questions on job applications. For example, a hiring school system may inquire about past professional development plans or letters of direction, even though the PSC’s ethics division is not interested in these matters. If asked, the expectation is that the educator will answer honestly. Failure to do so can result in a sanction for dishonesty,

even when the PSC is not interested in the underlying substantive matter. The most common mistake on applications for employment is failure to reveal past negative summative evaluations.

Finally, applications for employment are continuing applications. This means that educators are duty bound under Standard Four to amend an application when an answer to any question changed since the initial submission.

Educators with any questions regarding PSC applications or employment applications are encouraged to call PAGE for a consultation with one of the in-house attorneys.

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