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 under Georgia TAP 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, 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 OCCGA, §§ 6-6-1 through 6-6-17, §§ 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 revolves 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 felons 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 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” to “Engagement 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?”) regarding convictions involving sexual misconduct, which are almost always felonies. Question five (“Are you currently under 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 the 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 “subject of a pending investigation involving 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 enrolling guilt to a crime outside of Standard One’s purview, then the PSC is unlikely to 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 ever left school without permission (retired, resigned, been dismissed, terminated, or other non-renewal)” is particularly important. 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 Academic or Professional License Therefore, questions regarding academic or professional license, 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 changes 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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