

LEGAL MAILBAG – MARCH 13, 2025



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The “Legal Mailbag Question of the Week” is a regular feature of the CAS Weekly NewsBlast. We invite readers to submit short, law-related questions of practical concern to school administrators. Each week, we will select a question and publish an answer. While these answers cannot be considered formal legal advice, they may be of help to you and your colleagues. We may edit your questions, and we will not identify the authors. Please submit your questions to: legalmailbag@casciac.org.

Dear Legal Mailbag,

As an administrator, I am involved on a regular basis in interviews of candidates to fill teaching positions. I am a curious fellow, and I like to probe with my questions to find out what makes a candidate tick. Recently, however, I was chastised for asking too many questions.

Every time we have an interview, HR sends those of us conducting the interview a list of questions that we are directed to ask. We are expected to “stick to the script” and move through the same questions with each candidate. Sometimes, that just does not seem right.

Last week, I was criticized for the following. A candidate for a teaching position mentioned that she had had three sets of twins, and I just wanted to know more. I asked her whether twins run in her family, how she was handling the situation, and whether her brood ever brings germs home from daycare. She seemed to appreciate my interest in her situation, but another member on the interview committee did not. After the interview, he told me that my nosy questions could get the district in trouble. How could that be?

Signed,
Call Me Curious

Dear Curious:

The guidance from Human Resources is based on a concern over discrimination complaints. As you know, both state and federal law protect applicants for employment from discrimination on the basis of a number of personal characteristics, such as race, color, national origin, gender, age, religion, disability, sexual orientation, gender identity and expression, and even present or past history of mental illness. When interviewers ask questions of applicants, they must be careful not to ask questions that relate to such personal characteristics. If a question related to a protected characteristic is asked (*e.g.*, how old are you?) without a job-related need, an unsuccessful candidate may later claim that the decision not to hire that candidate was based on the protected characteristic discussed in the interview and was thus discriminatory. Therefore, Legal Mailbag suggests that you stifle your curiosity about personal matters until a person is hired.

This danger stems from the nature of discrimination complaints. When people engage in misconduct, we are often able to rely on direct evidence to decide whether they did what they are accused of doing. Discrimination is different. Discrimination is usually established through inference based on all the facts because people do not typically come out and say that they are engaged in discrimination, even when they are. Many years ago, the Connecticut Supreme Court described the concern as follows:

One who indulges in discrimination does not usually shout it from the housetops. All too frequently persons publicly announce abhorrence of racial prejudice while privately practicing it. In this type of proceeding, therefore, greater latitude is accorded the tribunal to draw inferences from words and deeds than in cases where overt acts need be established.

Reliance Insurance Company v. CHRO, 172 Conn. 485 (1977). Accordingly, allegations of discrimination are not typically proven by direct evidence. Rather, illegal discrimination can be proven by establishing facts that give rise to a reasonable inference that discrimination has occurred. Asking inappropriate questions in a job interview about protected characteristics is an example of conduct that can give rise to an inference of discrimination.

Asking all candidates the same questions can also help avoid a discrimination claim in a different way. If different questions are posed to different candidates for the same job, an unsuccessful candidate may claim that the interviewers posed difficult questions to him or her and posed easy questions to the successful candidate to rig the interview to the disadvantage of the candidate who later claims discrimination. If such a claim is made, it is helpful to be able to show that all candidates were treated fairly by being asked the same questions.

Finally, as with all things, we must maintain perspective. An interview is intended to give those posing the questions information to assist them in their decision-making. While the foregoing discussion illustrates the danger of going off script (was it really necessary to ask about twins bringing home germs from daycare?), interviewers have a job to do. The “script” of questions provides an appropriate framework for an interview, but how a candidate answers the questions may lead to follow-up questions that are different from candidate to candidate. Follow-up questions based on such answers are fine as long as they are related to job requirements and do not inappropriately intrude into unrelated personal matters.