Interviewing: Practical & Legal Issues

The GME Team
Objectives

By the end of this session, participants will be able to:

- List the 4 major purposes of the interview
- List examples of permissible and impermissible discrimination
- Describe behavioral based interviewing
- Discuss the advantages to using behavioral based interviewing
Pre-Interview

1. Determine the primary purpose of the interview.
2. Determine how many applicants to interview.
3. Determine how many interviews each candidate will have.
4. Decide which interviewing format you will use.
5. Pre-determine the relative weight you are going to assign to the pre-screen information and the interview information.
6. Decide who has the final say in the ranking.
Candidates’ View of the Process

- What they like most
  - Structure and direction
  - Opportunities to talk with residents
  - Special requests met easily and smoothly
  - Meetings with the program director, faculty and chair (where appropriate)
  - Chance to tell their story and talk about their candidacy
  - Interviewers who are attentive, interested and prepared
Candidates’ View of the Process

- Major complaints
  - Interviewers late
  - Interruptions
  - Interviewers unprepared
  - Interviewers who talked all the time
  - Inappropriate questions
  - Interviews short or rushed
  - Interviews in a noisy environment
  - Lack of structure to interviews
  - “What will it take to get you to come here?” / “Where are you going to rank us?”
  - Implication that if the candidate does not come back for another visit, he/she will not be ranked highly
Purpose of Interviews

- Information Gathering
- Decision Making
- Verification/Clarification
- Recruitment
Gather information that is not available anywhere else. Do not use the interview to gather grades or test score information that is available elsewhere. Aim the interview at obtaining information about such areas as interpersonal skills, communication styles, or decision-making abilities.
# Inappropriate & Illegal Questions

Table 2. Examples of Inappropriate and Illegal Interview Questions

<table>
<thead>
<tr>
<th>Inappropriate Interview Questions</th>
<th>Illegal Interview Questions</th>
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<tbody>
<tr>
<td>Questions that courts have found to be evidence of discriminatory intent.</td>
<td>Questions that have been defined as illegal by statute; employers can be found liable and fined for asking these questions.</td>
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1. Are you married?
2. What does your spouse do?
3. Do you have children?
4. Do you plan to have children?
5. Where do you go to church?
6. Is your name [Irish]?
7. Do you smoke?
8. Where were you born?

1. Do you have any disabilities?
2. Have you ever had [back] problems?
3. Have you sought medical treatment for any condition in the last 12 months?
4. Are you currently taking any medications?

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Immigration Status

Questions such as:
• Are you a US citizen or permanent resident? or
• What type of visa do you need?
are inappropriate and illegal.

Table 3. Lawful Questions Regarding Visas/Immigration

1. Are you authorized to work in a full-time capacity in the United States?
2. If not, are you eligible to receive work authorization in the United States?

Table 4. Illegal and Lawful Questions Regarding Disabilities

<table>
<thead>
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<th>Illegal Questions</th>
<th>Lawful Questions</th>
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<tbody>
<tr>
<td>• Do you have any disabilities?</td>
<td>• Can you perform the essential functions of this job, with or without accommodation?</td>
</tr>
<tr>
<td>• Have you sought medical treatment for any condition in the last 12 months?</td>
<td></td>
</tr>
<tr>
<td>• Are you taking any medications?</td>
<td></td>
</tr>
<tr>
<td>• Have you ever had [back] problems?</td>
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Determine how much weight you wish to give the interview. Do all candidates passing the initial screen come to the interview equally, making the interview the determining factor? Do all candidates have both their academic and interview scores weighted in the final ranking decision? Structure and design the interview to aid the selection committee in deciding which candidates they wish to rank and how high to rank them.
Permissible v. Impermissible Discrimination

**Permissible** (program-related criteria)
- Preparedness
- Academic Credentials
- Communication Skills
- Personal Qualities (motivation, integrity)
- USMLE Score
- Class Rank

**Impermissible**
- Sex
- Religion
- Color
- Age
- National Origin
- Citizenship
- Race
- Ethnicity
- Visa Status
- Marital Status
- Disability
- Sexual Orientation
- Veteran Status
“Federal employment laws prohibit employers from discriminating with regard to sex, race, age, religion, color, national origin, disability, or any other applicable legally protected status. While it is not illegal to know this information, it is illegal to consider this information in any way when making hiring decisions. Many courts have found that collecting the information in the selection process is evidence of intent to discriminate.”

ERAS Filters

Table 1. ERAS Filters Recommended Be Blocked in Order to Comply with Federal Employment (Discrimination) Laws

1. Age (Birth date)  
2. Gender  
3. National Origin (Birthplace)  
4. Citizenship  
5. Race  
6. Felony Conviction*  
7. Ethnicity  
8. Visa Status  
9. Marital Status  
10. Disability  
11. Children  
12. Photograph

*Information can be provided by applicants on prior felony convictions. Laws vary from state to state regarding the use of prior criminal convictions in employment decisions. (See Criminal Background Checks below). Based on state law, institutions may elect to block this field from ERAS.

Verification/Clarification

- Use the interview to verify the accuracy of the information on the ERAS primary application. Clarify any information on the application that does not make sense to you.
Providing Structure to the Interview

- Works to prevent rater bias
  - Set number of categories to assess
  - List questions for each category
  - Use a rating scale
  - Train interviewers to use scale
  - Work to achieve consensus on expectations
  - Adjust interviewer’s evaluations if necessary (handicap)
Behavioral Based Interviews
Purpose=predict performance

Traditional methods=center on education, qualifications and experience

Behavior based=reach beyond what a person can do to determine what a person will do in a given situation
The best predictor of future performance is past performance in similar circumstances.
1. The **more recent** the past behavior, the greater its predictive power.

2. The **more longstanding** the behavior, the greater its predictive power.
Question Types

1. Credentials and technical
2. Experience
3. Opinion
4. Behavior description
Credentials and Technical

Provide an opportunity to obtain information about a person’s education, past achievements, etc., which is verifiable using other sources.

- Where did you go to medical school?
- What was your major?
- How do you do…?
- What special recognitions have you received?

DO NOT ASK BIOGRAPHICAL INFORMATION (many of these questions are illegal!)
Advantages=can provide good clues about what the person knows and can do.

Disadvantages=they do not tell what the person will choose to do in a given situation.
Experience

Provides information about what the applicant has done in the past.
Advantages=provide an overview of what the applicant has done in the past. Can be a helpful guide in probing for more specific information about performance.

Disadvantages=do not give any information about how well the applicant performed the described task or activity.
Opinion

Yield information that describes what the applicant thinks about a given topic. Opinion questions elicit self-evaluation, strengths/weaknesses, likes/dislikes, and idea of future behaviors, goals, and philosophies.

- What are your strengths?
- What are your weaknesses?
- What do you like best about...?
Advantages=reveal areas where the interviewer can seek for more specific behavioral information. They provide information about what the applicant thinks is important and allow for further probing in relation to the position.

Disadvantages=they do not provide any real evidence about what the candidate actually does. A candidate may be knowledgeable and have the skills necessary to perform a certain task or behavior but may choose not to do it when actually faced with the situation.
Behavior Description

Detailed accounts of specific events from the applicant’s past.

Tell me about the most difficult patient interview you faced last year. How did you prepare? How did you respond to the patient’s concerns?

Think about a time when you noticed the early warning signs of a potential error. When did you first notice the problem? What was the first thing you did to correct the problem?
Advantages=allows the interviewer to more objectively assess applicant qualifications, yielding accurate decisions.

Disadvantages=take more time. Interviewers require more skill and effort.
Use the interview as a tool for recruiting candidates to your program. Done well (especially if you treat the candidates with dignity and respect), the interview can be a means to share information easily and powerfully. If done too early, the recruitment phase can leave candidates feeling that they have not had a chance to talk about themselves. So, save the recruiting for the latter part of the interview.
How does your program do it?
Consider a post-interview survey of applicants if you don’t currently have one.