

# ADA INFOBRIEF

## EMPLOYERS & JOB INTERVIEWS: DISABILITY-RELATED QUESTIONS

Employers use interviews and job applications to evaluate an individual's qualifications and skills for a particular position. The Americans with Disabilities Act (ADA) requires employers to do this in a way that does not discriminate against applicants with disabilities. Applicants with disabilities, like all other applicants, must be able to meet the employer requirements for the job (such as education, training, experience, skills, or licenses) and perform the essential functions of the job. But how can an employer find this out without violating the sometimes confusing rules of the ADA? *By remembering one basic rule: You can ask applicants about their abilities, but not their disabilities.*

### QUESTIONS EMPLOYERS CAN ASK

**General Rule: Employers CAN ask questions about an applicant's ability to perform specific job functions.**

**YES** - Can you perform all of the required job functions, tasks, and/or duties? (*Include a detailed list of job functions with the job application/interview.*)

*Note: In certain circumstances, employers can ask if applicants will need accommodations to perform a specific job function. See EXCEPTION on Page 2.*

**YES** - What education, skills, and training do you have related to the relevant job functions?

**YES** - What certifications/licenses do you have?

**YES** - Can you satisfy the physical requirements of this job? (*Have a list attached.*)

**YES** - How would you perform the specific job functions? (*If employers ask this, they must ask all applicants.*)

**YES** - How many days were you absent from your last job?

**YES** - Can you meet our attendance requirements?

**YES** - What is your work history? Why did you leave your last job?

### QUESTIONS EMPLOYERS CANNOT ASK

**General Rule: Employers may NOT ask questions relating to the existence, nature or severity of a disability.**

**NO** - Do you have conditions/disabilities that might affect your ability to do the job?

**NO** - Have you ever been treated for any mental health problems?

**NO** - Have you ever been hospitalized? For what?

**NO** - Do you have a heart condition? (No questions about specific health conditions.)

**NO** - How did you become disabled? Why do you use a wheelchair? (No questions about specific disabilities.)

**NO** - What medications do you take?

**NO** - How many days were you sick at your last job?

**NO** - Will you need to take leave for medical or disability-related reasons?

**NO** - Have you ever been injured on the job?

**NO** - Have you ever filed for worker's compensation?

(continued)

Employers also cannot ask previous employers or other third parties any of the “forbidden” questions listed above. They *can* ask former employers about the applicant’s performance of job functions and tasks, the quality and quantity of work performed, and other job issues that are not job-related.

**EXCEPTION TO THE RULES** ~ When employers know that an applicant has a disability - because it’s obvious or because the applicant has volunteered information - and it’s reasonable to ask whether the disability might pose difficulties when performing a specific job task, they can ask whether the applicant would need “reasonable accommodation” to perform that task. If the answer is “yes,” the employer may then ask about the type of accommodation needed but NOT the underlying physical condition. If the answer is “no,” then no further questions can be asked. *Example: Employers could ask applicants who are blind, and interviewing for positions that require working with computers, whether they will need accommodations, such as special software that will read information on the computer screen.*

**QUESTIONS AFTER JOB OFFERS ARE MADE** ~ After making a conditional job offer, and before an individual starts work, employers may ask disability-related questions and require medical examinations *IF*: (1) The exam or questions are required of all entering employees in the same job category, regardless of disability and (2) The information employers obtain through these questions/exams is keep confidential.

## TIPS

Employment discrimination is always intentional. Sometimes it happens because employers don’t have accurate information or make decisions based on stereotypes and unfounded fears. Here are some additional ways to ensure ADA compliance:

- ✓ Do a **job analysis** of the position to determine the essential functions and the knowledge, skills, abilities, characteristics and physical abilities required to successfully perform each function.
- ✓ Using the job analysis, include a detailed **job description** in applications and interviews. Refer to it when asking how applicants plan to perform job functions, giving them the chance to discuss their qualifications and strengths.
- ✓ Provide **written guidelines** on ADA hiring rules to relevant staff; consider **awareness training** for staff, including disability information and tips on helping interviewers feel more comfortable talking to people with different disabilities.

## RESOURCES

Check out the following *resources* for more detailed information on ADA hiring rules:

- ✓ **EEOC Questions & Answers on Enforcement Guidance on Disability-Related Inquiries/ Medical Exams of Employees Under the ADA** [www.eeoc.gov/policy/docs/qanda-inquiries.html](http://www.eeoc.gov/policy/docs/qanda-inquiries.html).
- ✓ **Job Accommodation Network**, a free service providing ADA information and individualized accommodations solutions to employers: 800/526-7234; [www.jan.wvu.edu](http://www.jan.wvu.edu).
- ✓ **Great Lakes ADA Center** providing information, training, and technical assistance on the ADA to employers, people with disabilities, and others: 800-949-4232 (v/tty). [www.adagreatlakes.org](http://www.adagreatlakes.org)

**Disclaimer:** *This ADA InfoBrief is intended to provide a general overview of ADA requirements and should not be considered legal advice. For more details on the ADA’s hiring rules, review the EEOC guidance and resources listed above.*