

Pre-Employment Inquiries

Aside from the common courtesy due to anyone being interviewed, regardless of disability, the Americans with Disabilities Act (ADA) places some restrictions on the employer's pre-employment inquiries.

What Are The Restrictions On Pre-Employment Inquiries?

Questionnaires, applications, medical examinations, and tests are often used by employers to determine the competency of the applicant. Keep in mind that, at the pre-offer stage, disability-related questions and medical examinations are prohibited under the ADA.

How Can I Make Sure I Comply With The ADA Restrictions On Pre-Employment Inquiries?

Develop a thorough job description that identifies the essential elements of the job. By relying on this description, both the interviewer and applicant are aware of the essential elements of the job. Employers should also review old application forms to ensure that medical histories are not requested, since this is no longer appropriate.

How Should I Handle Pre-Employment Inquiries During The Interview Process?

Make sure to ask only questions regarding the information on the individual's application form. You may ask the applicant what prior job duties he or she performed. Be careful not to ask applicants about visible physical characteristics or their health status. It is not legal to inquire if the applicant has a psychiatric disability, a history of having a psychiatric disability, or if he or she has consulted with a psychiatrist.

Nor may questions be asked about past drug addiction.

May I Conduct An Employment Physical?

The law permits a medical examination if the medical evaluation is conducted after an offer of employment has been made. However, if physicals are conducted, they must be conducted for all employees in that job category and the medical information gathered must be kept separate from the personnel file. Drug testing is not considered a "medical examination" under the law. Therefore, pre-employment tests for illegal drug use are permitted by the ADA.

Where Can I Obtain Additional Information?

President's Committee on Employment of People with Disabilities
(202) 376-6200 (VOICE), (202) 376-6205 (TTY/TTD),

(202) 276-6219 (FAX)

President's Committee on Employment of People with Disabilities' Job
Accommodation Network (JAN)

(800) 526-7234 (VOICE/TTY/TTD), (304) 293-5407 (FAX)

jan@jan.icdi.wvu.edu(e-mail)

Disability and Business Technical Assistance Centers (DBTACs)

(800) 949-4232 (VOICE/TTY/TTD), (703) 525-6835 (FAX)

Equal Employment Opportunity Commission

(800) 669-4000 (VOICE), (800)669-6820 (TTY/TTD),

(513) 489-8692 (FAX)

(EEOC has issued Final Guidance on Pre-employment Disability-Related
Questions and Medical Examinations under the ADA, October 10, 1995)