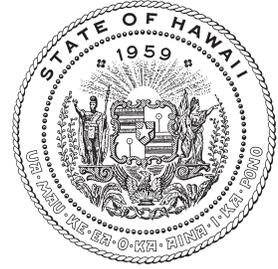


Americans with Disabilities Act - Title I

Non-discrimination in the Hiring Process



Covered Entities

Title I of the Americans with Disabilities Act of 1990 (P.L. 101-336) applies to **covered entities**. Covered entities are private employers, state and local governments, employment agencies, labor unions, and joint labor management committees with 15 or more employees.

Discrimination Prohibited

Title I prohibits covered entities from discriminating based on disability in the recruitment and application process.



Recruitment Notices

Job announcements, advertisements, and other recruitment notices should include information on the essential functions of the job. Specific information about essential functions will attract applicants, including individuals with disabilities who have appropriate qualifications.

Covered entities should make information about job openings accessible to people with different disabilities. Title I does not require covered entities to provide written information in various formats in advance, but should make information available in an accessible format upon request.

Pre-employment Inquiries



Title I prohibits a covered entity from making a pre-employment inquiry about a disability to ensure that it does not screen out a qualified candidate because of a disability before evaluating the individual's ability to do a job.

The prohibition on pre-employment inquiries about disability does not prevent a covered entity from obtaining necessary information regarding an applicant's qualifications, including medical information necessary to assess qualifications and assure health and safety on the job.



Title I requires covered entities to make such inquiries in two separate stages.

1. Before making a job offer. At this stage, a covered entity may ask questions about an applicant's ability to perform specific job functions and make a job offer that is conditioned on satisfactory results of a post-offer medical examination or inquiry. A covered entity may not inquire about a disability at this stage.
2. After making a conditional job offer and before an individual starts work. At this stage, a covered entity may conduct a medical examination or ask health-related questions, provided that all candidates who receive a conditional job offer in the same job category have to take the same examination and/or respond to the same inquiries.

Pre-offer Inquiry and Interview Requirements



A covered entity may ask job applicants questions about their ability to perform specific job functions, tasks, or duties, as long as it does not phrase the questions in terms of a disability. A covered entity may ask questions regarding an applicant's ability to perform all job functions, not only those that are essential to the job.

A covered entity may ask all applicants to describe or demonstrate how they would perform a job, with or without an accommodation. A covered entity may ask, "Are you able to perform these tasks with or without an accommodation?" If the applicant indicates an ability to perform the tasks with an accommodation, the covered entity may ask, "How would you perform the tasks, and with what accommodation(s)?"

If a job applicant has a known disability that might interfere with or prevent performance of job functions, a covered entity may ask the applicant to describe or demonstrate how the applicant would perform the functions, with or without an accommodation, whether or not the covered entity asks other applicants to do so. However, if a known disability would not interfere with performance of job functions, a covered entity may only require an individual to describe or demonstrate how the applicant would perform a job if it requires the same of all applicants for the position.

A covered entity may condition a job offer on the results of a medical examination or on the responses to medical inquiries if it requires such an examination or inquiry of all entering employees in the same job category, regardless of disability.

A covered entity may provide information about its regular work hours, leave policies, and any special attendance needs of the job, and ask whether the applicant can meet these requirements (provided that the covered entity applies the requirements to employees in a particular job).

A covered entity may obtain information about previous work attendance records on the application form, in the interview or in reference checks, but the questions should not refer to illness or disability.



Impermissible Inquiries

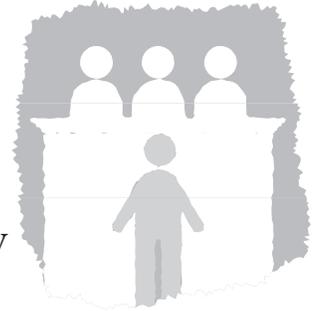
A covered entity may not make a pre-employment inquiry about a disability or about the nature or severity of a disability on application forms, in job interviews, or in background or reference checks.

A covered entity may not make any medical inquiry or conduct any medical examination before making a conditional offer of employment.

A covered entity may not ask questions about a disability, but may obtain more specific information about an individual's ability to perform job tasks and any needed accommodation.

Where an applicant has a visible disability has volunteered information about a disability, the covered entity may not ask questions about the nature of the disability, the severity of the disability, the condition causing the disability, any prognosis or expectation regarding the condition or disability, or whether the individual will need treatment or special leave because of the disability.

A covered entity may not ask whether an applicant will need or request leave for medical treatment or for other reasons related to a disability.



Testing Limitations

Covered entities may use any kind of test to determine job qualifications. Title I has two major requirements in relation to tests.

1. A test may screen out or tend to screen out an individual with a disability or a class of such individuals based on disability, only if it is job related and consistent with business necessity. This applies to all kinds of tests, including, but not limited to, aptitude tests, tests of knowledge and skill, intelligence tests, agility tests, and job demonstrations.
2. Covered entities must give tests to people that have impaired sensory, speaking, or manual skills in a format and manner that does not require use of the impaired skill, unless the test is designed to measure that skill. Sensory skills include the abilities to hear, see, and to process information. The purpose of this requirement is to assure that tests accurately reflect an individual's job skills and aptitudes instead of an individual's impaired skills.



Accommodations

A covered entity must provide an accommodation, if needed, to enable an applicant to have an equal opportunity in the hiring process. Accommodation examples include the following:

- Providing a sign language interpreter for a deaf person or a reader for a blind person;



- Simplifying test language for people who have limited language skills because of a disability;
- Scheduling rest breaks for people with mental and other disabilities that require such relief;
- Making a test site accessible for a person with a mobility disability;
- Allowing a person with a mental disability who cannot perform well if there are distractions to take a test in a separate room, if a group test setting is not relevant to the job itself;
- Where it is not possible to test an individual with a disability in an alternative format, Title I may require a covered entity, as a reasonable accommodation, to evaluate the skill or ability through an alternative method, such as an interview, education, work experience, licenses or certification, or a job demonstration for a trial period;
- Substituting a written test for an oral test (or written instructions for oral instructions) for people with impaired speaking or hearing skills;
- Administering a test in large print, in Braille, by a reader, or on a computer for people with visual or other reading disabilities;
- Allowing people with visual or learning disabilities or who have limited use of their hands to record test answers by tape recorder, dictation, or computer; and
- Providing additional time to complete a test for people with certain learning disabilities or impaired writing skills.

ADA Information

Visit the EEOC web site to see the Title I regulations and related guidance at eoc.gov.

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