



# Getting a Job When You Have a Disability: Things to Know When You Apply

## Self-Help Guide



Arizona Center for Disability Law

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This guide will answer these questions:

1. What should you tell an employer when you're trying to get a job? .....Page 3
2. What's OK for an employer to ask you when you're trying to get a job? .....Page 9
3. What should you do if an employer asks a question that's against the law? .....Page 20
4. Where can you learn more? (more about ADA, websites, tools) .....Page 21

### **As a person with a disability,...**

You may face barriers to getting a job. For example:

- You apply for a job as an office manager with a large company. You use a wheelchair. Your job interview is in a building that has stairs leading up to it and no ramp.
- You apply for a job repairing washing machines. Your right arm is paralyzed. The manager asks you to show how you'll do the job.
- You apply for a job with hours from 9-to-5 on weekdays. You'll need to leave for a group counseling session an hour early every Friday.

The ADA (Americans with Disabilities Act) is a law that can help you with problems like these. **A major goal of the ADA is to help people with disabilities get and keep jobs.** We have many self-help guides like this one at our Center offices and on our website.

### **The Americans with Disabilities Act (ADA)**

The ADA says that a covered employer may **not** discriminate against a qualified person with a disability. This is true whether you're applying for a job or already in a job. The ADA may apply to you if you can answer **yes** to all four of these questions:

1. Is the employer covered under the ADA?
2. Do you have a disability under the ADA?
3. Do you have the skills needed to do the job?
4. Has the employer treated you unfairly **because** of your disability?

A **covered employer** is one with 15 employees or more. The employees **don't** need to work together. They can be in many different places, working for the same employer.

A **disability** can be a problem with the body or mind that greatly limits you in doing major life activities. Major life activities are things like seeing, walking, working, and learning. A disability can also be a **past** problem or illness that has greatly limited you. The ADA can also protect you if other people **think** you have a problem that greatly limits you.

For help answering the four questions above, see the Center's self-help guide, *B-5: Have You Been Treated Unfairly at Work?*

To learn how to file a complaint against an employer, see the guide, *B-3: Taking Action: How to File a Charge When You've Been Treated Unfairly Because You Have a Disability.*

## Key Points in This Guide

- An employer **doesn't** need to know about your disability or history of disability when you apply for a job. See page 3.
- An employer **can't** ask about your disability until after he or she has offered you a job. See page 9.
- Even after offering you a job, the employer can only ask questions about your disability that relate to the job. See page 18.
- You can ask an employer for a reasonable accommodation when:
  - applying for a job (page 4)
  - testing for a job (page 16)
  - offered a job (page 6)
  - on the job (page 8)
- Get these things in writing:
  - proof of your disability (page 29)
  - your request for accommodation (page 31)
  - accommodations your employer has agreed to (page 32)
- Get help or learn more. See page 21.

## Are you looking for extra help and are you...

... confused by a lot of the words employers and ADA lawyers use?

- Go to page 25 for a list of **Words to Know**.

... wondering how the ADA can help with your job search?

- Visit these Web sites: [www.pcepd.gov/joblinks.htm](http://www.pcepd.gov/joblinks.htm) or [www.jobaccess.org](http://www.jobaccess.org)  
Or call the Center at one of the numbers below.

... getting ready to apply for a job?

- Go to page 20.

... worried about what you'll be asked at an interview?

- Go to page 9.

... afraid you've been turned away from a job because of your disability?

- Call the Arizona Center for Disability Law  
Phoenix: 602-274-6287 (Voice or TTY) 800-927-2260 (Toll free)

## 1. What should you tell an employer when you're trying to get a job?

Before the ADA, employers often asked people about their disabilities when they applied for jobs. If you talked about your disability and didn't get the job, you wouldn't know why. Was it because of the disability or for some other reason?

Now employers must make their hiring choices in two steps:

**Step 1:** The employer chooses the most qualified person. The employer offers the job **without** considering disabilities. A question about a disability at this stage is against the law (illegal). It doesn't matter how the question is asked: on an application form, in a job interview, or during a background or reference check. And it doesn't matter if the employer asks the question or has someone else ask it. The question is still against the law.

**Step 2:** After offering the job, the employer can ask about disabilities only as they relate to doing the job.

Altogether, there are three steps to getting a job:

1. You apply for the job.
2. The employer offers you the job.
3. You start work.

What you should tell the employer depends on which step you're on.

### Step 1: You apply for the job.

This is when you fill out an application form. You may also have a meeting (interview) with the employer.

During this step, you **don't** have to tell an employer about your disability unless you need an accommodation. You **don't** have to talk about any disability you've had in the past, either. And the employer may **not** ask if you have a hidden disability.



Examples of hidden disabilities: diabetes, past drug addiction, mental illness.

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**hidden disability** – a disability that you can't see

**illegal** – against the law

**reference** – past employer, teacher, friend, or other person who can give information about you

## Should you talk about your disability?

If your disability is obvious, you may choose to talk about it:

- You may want to correct any wrong ideas the employer may have about your disability.
- You may want to describe how your disability makes you a great employee. For example, you could talk about how you deal with challenges and solve problems creatively.

**It's up to you.** If you do choose to talk about your disability, **you** control how much to tell. The employer may **not** ask follow-up questions.

### ✓ Example of when to talk about a disability:

An obvious disability may be that you have a service dog with you. You may want to let the employer know that the dog **isn't** a pet. He's well trained and will help you with daily tasks, such as picking things up off the floor and carrying things for you. He can also support you if you need to get up and down from the floor. The employer **can't** ask you follow-up questions about your disability.

## What if you need help for your disability to apply for the job?

The employer should give you this help if you ask for it. This kind of help is called an accommodation. Ask for the accommodation when you go to apply for the job. The employer may ask for a letter from your doctor proving that you need the help. **See the sample letter on page 30.**

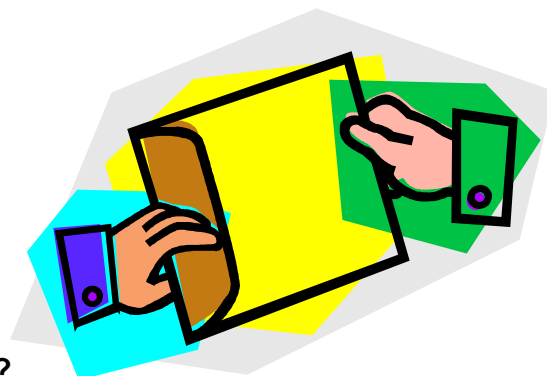
### ✓ Examples of accommodations:

- a reader for a person who is blind
- access to a building for a person who **can't** climb stairs
- help filling out an application for a person who has trouble reading or writing

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**accommodation** – a change to the workplace or how work is done to help someone apply for or do a job

- ❑ It's good to have written proof of your disability *with* you if you think you may need an accommodation.



What *other* forms do you need to fill out?

### Affirmative Action

Many employers have affirmative action programs. You may have to fill out an affirmative action form. The form asks questions about you, including whether you have a disability.

**You** choose how to answer questions on this form. You **don't** have to give information about your disability. Whatever you answer, the employer may **not** use the information for hiring decisions. The employer must keep your affirmative action form private and separate from the rest of your application. See page 14 for more about affirmative action.

### Work Opportunity Credit Act

The Work Opportunity Credit Act is a law that lets employers earn tax credits for hiring people in certain groups. People with disabilities are one of those groups. Employers may want to find out if hiring you would earn them a tax credit. But they may **not** force you to reveal that you have a disability before offering you a job. See page 15 for more about the Work Opportunity Credit Act.

### Other Forms

The employer may give you other forms to fill out when you apply. You don't have to answer any question that reveals your disability. But you may feel like you have to answer these questions. It's OK. Do what feels best. Then write down any questions that bother you. See page 20 for how to deal with these hard questions.



## Step 2: The employer offers you the job.

Congratulations! The employer has offered you the job. Now it's time to talk about any help (accommodations) you will need on the job.

### How can you get an accommodation?

- Be sure to ask for the accommodation you need **before** you start work. It's best to ask in writing. **See a sample request letter on page 32.**
- Your new employer may want proof that you need the accommodation. This proof is called documentation. **See the guidelines for asking your doctor or other provider for written proof on page 29.**
- Once your employer has agreed to accommodate you, get that in writing, too. Have the employer write you a letter saying what the employer will do.



**Sometimes, employers agree to accommodations, and then change their minds. Having a written record helps protect you.**

For more about asking for accommodations, see the guide *E-4: The ADA and Reasonable Accommodations*.

### Will you need emergency care at work because of your disability?

- Be sure to talk about what needs to be done in an emergency **before** you start working.
- The employer may want this information in writing from your doctor. It's best to have a letter ready.



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**accommodation** – a change to the workplace or how work is done to help someone apply for or do a job

**documentation** – written proof



What if the employer takes back the job offer *after* you explain your disability?

If the employer decides *not* to hire you at this point, then the employer must show all three of these things:

1. The offer was taken back because of the needs of the job.
2. You could **not** do the most important tasks (essential functions) of the job with or without accommodations.
3. The employer could **not** accommodate you.

**Or:**

**The employer must show that you would pose a real health and safety risk on the job to yourself or others, even with accommodation.**

✗ Example of what an employer may **not** do:

Josefina applies for a job in a supermarket. She is hired and assigned to work as a clerk at the bakery counter. Her job is ringing up sales and getting baked goods for customers.

Before she starts working, Josefina has to show that she can lift 50 pounds. The employer says that all store clerks must be able to lift this weight without help. Josefina has arthritis. She **can't** lift 50 pounds without help. The employer takes the job offer back.

Taking back the job offer because Josefina can't lift 50 pounds is against the law. Why? For two reasons:

1. Lifting 50 pounds is **not** essential to being a clerk at a bakery counter. The important parts of her job are ringing up sales and getting baked goods for customers. She **doesn't** really need to lift the weight by herself to do her job.
2. It would be easy for the employer to accommodate her because there's always more than one person working in the bakery. So there's always someone who can help Josefina.

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**accommodate** – to change something to help someone apply for or do a job

**essential functions** – the main or basic tasks of a job

### Step 3: You start work.

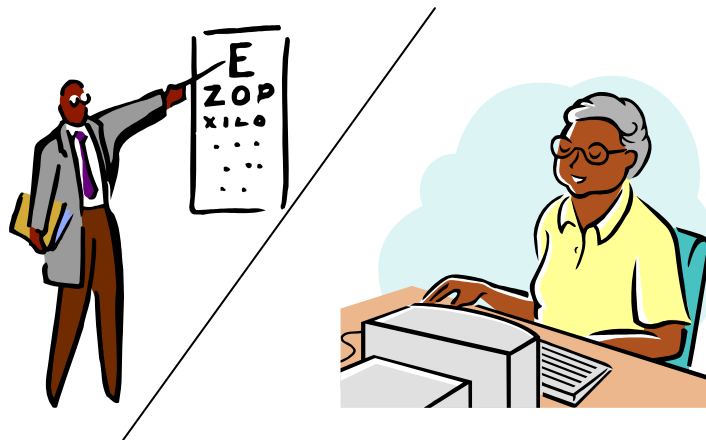
Sometimes you **don't** need an accommodation when you start a new job. But things can change. Your disability may change. Or your job duties may change.

- ❑ **You can ask for an accommodation any time you need it. Your employer may want proof that you need the accommodation. This is called documentation. See the sample documentation on page 30.**

✓ **Example of an employer asking for proof of need for accommodation:**

Maxine works for a law firm. In her job she edits a lot of forms. She does most of her work on a computer. Maxine has a visual impairment, and her eyesight is getting worse. She used to be able to do her work with a magnifier in front of her computer screen.

Now Maxine needs a large screen for her computer and software that makes the print larger. Maxine asks her employer for a larger screen. Her employer asks for a letter from Maxine's eye doctor, explaining what she needs.



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**accommodation** – a change to the workplace or how work is done to help someone apply for or do a job

**documentation** – written proof

**visual impairment** – a problem seeing

## 2. What's OK for an employer to ask you when you're trying to get a job?

The ADA makes it **illegal** for employers to ask job seekers about their disabilities before making a job offer. Just **asking** a disability-related question violates the ADA.

Remember, there are three steps to getting a job:

1. You apply for the job.
2. The employer offers you the job.
3. You start work.

What the employer is allowed to ask you depends on which step you're on.

### Step 1: You apply for the job.

Congress **didn't** mean for the ADA to make things hard for employers. Employers have the right to ask questions to find out if you're qualified for a job.

For example, an employer may hand you a job description or list of job tasks. He or she may then ask if you can do everything on the list. The employer should ask if you can do these things "**with or without a reasonable accommodation.**" This kind of question is OK.

But employers may **not** ask about your **disability** before offering you a job. That's against the law.

This can really help you if you have a hidden disability. Examples of hidden disabilities: diabetes, past drug addiction, mental illness.

We list some sample questions employers may ask on page 27. Questions employers may **not** ask are on page 28. You might see these questions on an application form or hear them in an interview. Note which questions are OK (legal) and which are **not** OK (illegal).



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**disability-related question** – a question to find out if you have a disability, what kind of disability you have, or how serious (severe) your disability is

**illegal** – against the law

**legal** – following the law

**reasonable accommodation** – an accommodation, or change, that's **not** too hard or too expensive for the employer to make

## What if the employer already knows you have a disability?

The ADA **can't** prevent an employer from **noticing** an obvious disability. Examples of obvious disabilities: you use a wheelchair or service animal; you've lost an arm or leg. The employer still **can't** ask you about your disability. But he or she may ask if you need an **accommodation**.

The questions should focus on your ability to do the job, **not** on your disability.

## What if your answer to a question reveals your disability?

Some of your answers may tell the employer you have a disability. But that **doesn't** make the question itself wrong. To be against the law, the question must **tend to draw out** disability information **before** a job offer. If facts about your disability just happen to come out, it's **not** against the law.

Still, the employer may **not** ask follow-up questions about your disability. The job interview should focus on your ability to do the job, **not** on your disability.

### ✓ Examples of legal questions:

#### Example 1

Ana fills out an application. The form asks her to list all her jobs and dates of employment. During her interview, the employer asks Ana why there is a 2-year gap in her employment. Ana says she was getting treatment for a medical condition, which has gotten better. The question is OK. At this stage, Ana **doesn't** need to say any more about the condition or treatment.

#### Example 2

Sherilyn applies for a job as a mailroom clerk. The employer tells her the job duties: receiving mail, sorting mail, taking the mail in a cart to different offices, lifting boxes that weigh up to 50 pounds, and climbing a ladder to put the boxes on shelves.

The employer then asks Sherilyn if she can perform these duties with or without a reasonable accommodation. This question is OK.

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**reasonable accommodation** – an accommodation, or change, that's not too hard or too expensive to make

✗ Examples of **illegal** questions (**Not OK**):

**Example 1**

Raul fills out an application that asks for the names of schools he attended. He went to a special school for students with disabilities. During the interview, the employer asks why Raul went to a school for students with disabilities. The question on the application is legal. But the follow-up question by the interviewer is against the law.

**Example 2**

Samuel applies for a job as a limo driver. Samuel has a mental illness and takes medicine for it. Samuel decides to give this information during the interview. Then the interviewer asks these questions:

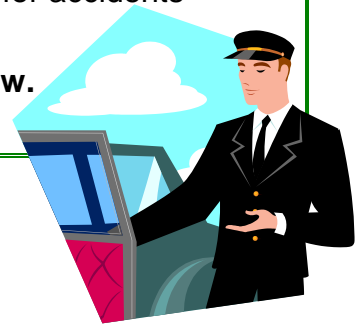
- Will this affect your driving?
- How long have you had the illness?
- What medicine do you take?

**Asking these questions during the interview is against the law.**

In **Example 2**, the interviewer **could** have asked Samuel these questions:

- Do you have a valid chauffeur's license?
- What accidents have you had?
- Have you made any claims on your auto insurance for accidents (collisions)?

**These questions would be OK during the interview.**



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**valid** – legal and not yet expired

## What if you have to sign a waiver?

Many job applications have a waiver for you to sign.

✗ The waiver will include words like these:

“I give you, the employer, the right to investigate all information given and to secure additional information if necessary. ...I understand that this inquiry includes information as to my character, general reputation, and personal characteristics, ...In accordance with the law, I hereby release from all liability or responsibility all companies or corporations furnishing this information.”

**Waivers like this may be against the law.** Contact the Center or a private lawyer if an employer:

- makes you sign a waiver like this, OR
- will **not** let you apply for a job because you **won't** sign a waiver like this.

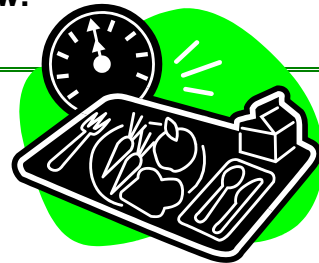
## What about “lifestyle” questions?

It may be OK for employers to ask you about your lifestyle. For example, employers can ask about your eating habits, exercise habits, hobbies, and sports. But there are limits to what they can ask. For example, being very overweight (morbidly obese) is a disability. If you are obese, then an employer may **not** ask about your weight.

✓ Example of a legal lifestyle question:

Do you eat three meals a day?

**It is OK to ask this question during an interview.**



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**morbidly obese** – weighing twice your ideal weight or more

**waiver** – a paper that gives away your right to something

✗ Example of an illegal lifestyle question:

Do you need to eat snacks throughout the day to keep up your energy?

**It is *not* OK to ask this question. It can lead you to reveal you have diabetes.**

**What about alcohol and drug use questions?**

It's OK for employers to ask if you drink alcohol. But it's **not** OK to ask how much you drink.

✗ Examples of other questions employers may **not** ask:

- Do you drink every day?
- Do you drink only with others or alone?
- Have you ever been in an alcohol rehab (rehabilitation) program?
- Are you an alcoholic?
- Does drinking alcohol interfere with your daily activities?

**It's OK for employers to ask if you use illegal drugs.** The ADA does **not** protect current drug users.

But employers may **not** ask about your **past** drug use. The ADA protects you if you:

- have a history of drug addiction, OR
- have completed a drug rehab program, OR
- are **not** abusing drugs anymore.

Employers may **not** ask you about prescription drugs. This could reveal a disability like diabetes, epilepsy, heart disease, cancer, or HIV.

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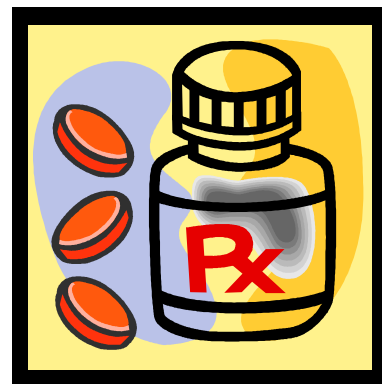
**alcoholic** – a person with an illness that makes it unhealthy or dangerous to drink alcohol

**illegal drugs** – drugs used to “get high”

## What if your meds show up on a drug test?

Employers are allowed to give you a test for illegal drugs before hiring you. Some prescription drugs may show up on these tests.

Employers can only ask you about your prescription drugs **after** offering you the job. But you **may** want to tell the employer about your meds when you take the drug test. To learn more, see the guide, *E-5 Drug and Alcohol Testing Under the ADA*.



## What about affirmative action?

Employers who have affirmative action programs may ask if you have a disability. **It's up to you whether or not to tell them.**

If you do let an employer know you have a disability, the employer **must** protect you from discrimination. The employer must tell you **clearly**:

- The information will be kept private and used **only** for the affirmative action program.
- You will **not** be rejected if you refuse to fill out the form.
- Telling the employer you are disabled is **voluntary**. (That means it's your choice. You **don't** have to do it.)

### Very important:

- The form that says you are disabled must be kept **separate** from your application form.
- The person deciding who gets the job is **not** allowed to see the affirmative action form.

In other words, the employer is **not** allowed to decide whether to give you the job based on your disability.

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**discrimination** – treating someone unfairly

**prescription drugs** – medicines that the doctor has ordered for you

**voluntary** – something you can freely choose to do or not do



## What about the Work Opportunity Tax Credit?

The employer may **not** ask about your disability, not even for tax credits under the Work Opportunity Credit Act.

✗ Employers may **not** ask you to answer a list of questions that starts like this:

“We are asking that all applicants help our Company participate in a Federal Program by answering the following questions. Please check the “Yes” or “No” box for **each** question....”

It’s **not** OK to make you answer ALL of the questions, even though some questions in the list are OK.

✗ This question is **not** OK. It’s against the law:

Have you been helped by a Vocational Rehabilitation Agency?

Yes  No

Only people with disabilities get vocational rehabilitation services. So it’s against the law for an employer to ask you to say “yes” or “no” to the question above.

✓ But employers **may** ask you to answer a list of questions that starts like this:

We are asking that all applicants help our Company participate in a Federal Program by answering the following questions. Please check “Yes” if **any** of these questions apply to you and “No” if you answered “no” to all of these questions. Yes  No

The example above is legal because it doesn’t make you answer “yes” or “no” to any **one** question. This way, it **doesn’t** make you reveal that you have a disability.

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**vocational rehabilitation services** – services to help people with disabilities prepare for, get, or keep jobs

## What about references?

Employers often call family members, friends, old employers, or other sources you list on your application. When they call, employers may **not** ask your references anything they couldn't ask you. In other words, they may **not** ask questions about your disability.



### ✗ Example of what the employer may **not** do:

During an interview, Grace says that she took a year off after her last job. The interviewer asks her why she took a year off. Grace tells the interviewer it was to get treatment for a medical condition that has improved. The interviewer does not ask any further questions about the medical condition.

Later, the interviewer calls Grace's last employer to check her references. During the reference check, the interviewer asks Grace's former employer about the medical condition that caused Grace to leave her job. The interviewer broke the law when he asked this question.

## What if you have to take a test?

Employers are allowed to give tests to people who apply for jobs. Employers use these tests to learn if you have the skills needed for the job. But they must give the tests in a way that treats everyone equally. And they have to give accommodations to people who need them to take the tests. For more about testing before a job offer, contact the Center staff.

## What if the employer asks you to *show* how you would do the job?

Employers may ask you to show or describe how you would do certain job tasks. That's OK if they ask **everyone** who applies, **not** just people with disabilities. There is an exception to this rule though: Employers **may** ask just **you** to show or describe a task **if** they have good reason to think your disability will affect the task.

If you need an accommodation to show a job skill, the employer has to give you the accommodation. Employers who **can't** must let you **describe** how you would do the skill if you had the accommodation.

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**accommodation** – a change to the workplace or how work is done to help someone apply for or do a job

**references** – past employers, teachers, friends, or others who can give information about you

✓ Example of an employer **legally** asking everyone to do the same thing:

Rebecca and James both apply for an office assistant job where the assistant must type, do filing, and proofread letters. Rebecca has trouble with her eyes (visual impairment). It is OK for the employer to ask both Rebecca and James to do a typing test. The employer may also give them a sample letter to proofread.

✓ Example of an employer **legally** asking **just** the person with the disability to show something:

Oscar and Albert both apply for a job as a service repairman for washers and dryers. They both have to describe their training and experience in repair. But Oscar has only one arm. The employer wants Oscar to show how he would use some tools that are made for two hands. Since using these tools is part of the job, it's OK for the employer to ask only Oscar to do this.

**Step 2: The employer offers you the job.**

Once an employer has offered you a job, it's OK to ask about your disabilities. But the employer must:

- ask the question of everyone starting the same kind of job, and
- keep your information private.



✓ Example of a legal question:

A construction company asks all newly hired construction workers if they have ever had back or knee problems. The company does **not** ask this of people who are hired for the office or sales work. It's OK for the employer to do this.

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**visual impairment**—a problem seeing

**Important:** If the employer takes back (withdraws) the job offer after learning about your disability, the employer must prove:

1. The offer was taken back because of the needs of the job.
2. You could **not** do the essential job functions with or without reasonable accommodation.
3. The employer could **not** accommodate you.

**Or:**

**The employer must show that you would pose a real health and safety risk on the job to yourself or others, even with an accommodation.**

### **Step 3: You start work.**

After you start work, your employer can only ask disability-related questions that:

- relate directly to the job, and
- have to do with important tasks (essential functions) of the job.

The employer has to tell you **why** you're being asked the question, too. It may be because:

- You ask for an accommodation. Or your employer sees that you're having trouble and thinks you may need an accommodation.
- You're **not** doing your job safely, and your employer thinks it's because of your disability.
- You choose to join a company wellness program. If you do, the company has to keep your disability information private. Your employer may **not** use it to make any decisions about your job.

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**accommodation** – a change to the workplace or how work is done to help someone apply for or do a job

**disability-related question** – a question asked to get information about a disability

**essential functions** – main or basic tasks of a job

**wellness program** – a program offered by an employer to help workers stay healthy

✓Example of a **legal** reason to ask disability-related questions:

Roy is a teacher at a high school. He checked into a hospital for depression. He used some sick leave while he was in the hospital. When Roy came back to work, the principal noticed that Roy was absent a lot. Roy had used up all his saved leave, too. The principal asked Roy if the absences were related to his disability. Roy said yes.

They talked about different ways to accommodate Roy. Some options were a shorter work schedule for one semester or taking an unpaid leave. The principal's talk with Roy was OK.

**Employers have to keep your disability information private.**

The ADA says that employers have to keep your medical information separate from your other job records. And only people who need to see the information are allowed to see it. **This is true even after you leave the job.**



✓Examples of people who may need to see your information:

- Managers who may need to accommodate you
- First aid or safety workers who may have to give you emergency help
- Government workers checking to see if the company is obeying the law
- Insurance companies or worker's compensation offices checking on your benefits

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**accommodate** – to change something to help someone apply for or do a job

**benefits** – payments or services from insurance

**depression** – a kind of mental illness

### 3. What should you do if an employer asks a question that's against the law?

Here's the quick answer: **Don't** answer the question. Call the Center office for help. But it's **not** always that simple. Here are some tips.

#### How to deal with illegal questions on applications

Be prepared:

- Bring the list of illegal questions on page 28 when you apply for a job.
- Bring some paper to write down any questions that worry you, in case you **can't** take a copy of the application home.
- Write down the question exactly the way it is on the form.
- On the same paper, list the date, company name, and address where you got the form.

#### What happens if you answer the question?

Let's say you answer a disability-related question on a job application and you **don't** get the job. In this case, you can file a complaint against the employer.

What if you get the job anyway? That's great. But you can still talk to us about it. We can write a letter to the employer asking them to remove the question.

#### What happens if you leave the question blank?

You can leave the question blank. That might work fine, or it might lead to one of these problems:

- The employer will reject your application because it's not complete. OR
- The employer will ask you the question during your interview.

If you get this question during an interview, you **don't** have to answer it. In either case, you can file a complaint if you don't get the job.

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**file a complaint** – to have a paper sent to a company telling them that they have done something illegal; to make a record of your complaint

**reject** – to turn away or refuse someone

## What happens if you choose to *not* apply for the job?

You can stop your application and ask for help from the Center or a private lawyer. Either the Center or your lawyer can tell the employer that the application has illegal questions. They can ask the employer to take those questions off the application form.

The employer **does not need to know it was you** who told the Center about the illegal questions. If the employer agrees to change the form, you can go back and apply. If the employer refuses, you can still file a complaint.

## How to deal with illegal questions in interviews

If the employer asks you an illegal question, you can refuse to answer it. You can tell the employer the question violates the ADA. Or you can answer the question. Either way, you can file a complaint if you don't get the job.



## 4. Where can you learn more?

- The next page tells more about job recruiting under the ADA.
- Starting on page 23 is a list of websites. These sites have information for people with disabilities about jobs and how to get jobs.
- Starting on page 24 are some tools to help you. They include a list of **Words to Know**, along with samples and forms you can use when applying for a job.

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**file a complaint** – have a paper sent to a company telling them that they have done something illegal; to make a record of your complaint

**illegal** – against the law

## Job Recruiting under the ADA

Under the ADA, employers must recruit workers using job ads and notices that **don't** discriminate. They also have to give job applicants reasonable accommodations in the application and testing stage. And they must use tests that correctly measure how well a job seeker can do the job.

The ADA was created to give people with disabilities an equal opportunity in all work areas, including hiring decisions. That's why the ADA breaks up the hiring process into two steps: choosing the person to hire and offering the job. During Step 1, the employer is **not** allowed to consider disabilities. During Step 2, the employer may **only** consider disabilities as they relate to the job.

These steps best protect people who have hidden disabilities or a history of a disability.

The ADA is the **only** law that makes it **illegal** for employers to ask job seekers about their disabilities before making a job offer.



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**discriminate** – to treat unfairly

**hidden disability** – a disability you can't see

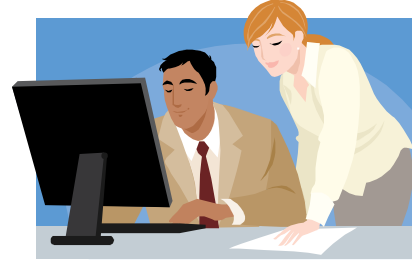
**illegal** – against the law

**reasonable accommodations** – accommodations, or changes, that aren't too hard or too expensive to make

**reference** – past employer, teacher, friend, or other person who can give information about you



## Websites



- **President's Committee on Employment of People with Disabilities: Job Links**  
<http://www.pcepd.gov/joblinks.htm>

- **America's Job Bank**  
<http://www.ajb.dni.us>

The Job Bank links State employment offices. According to the U.S. Employment Service, this is the largest pool of job openings anywhere.

- **CareerPath.com**  
<http://www.careerpath.com>

This site has job listings from many leading U.S. newspapers and employer websites. It also has career resources including a resume database and employer profiles.

- **Occupational Outlook Handbook**  
<http://www.bls.gov/oco/>

The U.S. Bureau of Labor Statistics publishes this site. Here you can find:

- what kinds of jobs are hiring the most workers now
- which jobs will likely be hiring more in the future
- job search methods and tips
- links to other sources of career information

The handbook also describes different jobs, including the training needed, working conditions, and physical tasks.

- **JOB Access**  
[www.jobaccess.org](http://www.jobaccess.org)

JOB Access is a site where companies can list job descriptions. People with disabilities can search for jobs by location and job type. They can match their skills, post resumes online, and set up links to get company information. They can also get resume samples and advice, and find out more about the ADA.

JOB Access exists to reduce discrimination in hiring and bring qualified people with disabilities together with employers who have job openings.

## Tools in This Guide

The following tools may help you apply for and get a job. You can tear them out or copy them when you need them.

1. Words to Know ..... page 25
2. Questions an Employer May Ask  
When You Apply for a Job (Legal Questions) ..... page 27
3. Questions an Employer May *Not* Ask  
When You Apply for a Job (Illegal Questions)..... page 28
4. Guidelines for Proving Disability or Need  
for Accommodation ..... page 29
5. Sample Letter Proving Disability or Need  
for Accommodation ..... page 30
6. Guidelines for Requesting an Accommodation ..... page 31
7. Sample Letter Asking for an Accommodation ..... page 32

## Words to Know

**Accommodation** – This is a change to a job or workplace that the employer makes so a person with a disability can apply for or do a job. A **reasonable** accommodation is one the employer can make without a lot of trouble or expense.

**ADA** (see Americans with Disabilities Act)

**Affirmative action** – Affirmative action refers to a set of laws and programs meant to help get rid of discrimination based on race, color, religion, sex, or national origin.

**Americans with Disabilities Act (ADA)** – Made law in 1990, the ADA protects the rights of people with disabilities.

**Benefits** – Benefits are payments or services that you get from an insurance or pension company. Benefits can also be things you get from your employer like sick leave and health insurance.

**Covered employer** – A covered employer is one that is “covered” by the ADA. That means the employer must follow ADA rules. Covered employers **may not** discriminate against people with disabilities. All private employers with at least 15 employees are covered. So are all public employers except the U.S. government. The ADA also covers employment agencies and labor groups, like unions.

**Disability** – A disability is something that “limits one or more major life activities.” Major life activities are things like caring for yourself, learning, working, walking, seeing, hearing, talking, breathing, and feeling close to other people.

**Disability-related question** – This is a question asked to find out:

- if you have a disability,
- what kind of disability you have, OR
- how serious (severe) your disability is.

**Discriminate** – Treating someone differently than others without good reason is discriminating against that person.

**Employer** – An employer is someone who pays other people to do work.

**Employee** – An employee is a person who has a paying job.

**Essential functions** – These are the things you need to do to perform a job. To qualify for a job, you must be able to do the essential functions with or without accommodation.

**Interview** – An interview is a meeting where one person wants to learn about the other. At a job interview, an employer asks questions to learn whether you would be the best person for a job. You can also ask questions to learn more about the job and the company.

**Illegal** – Something illegal is against the law. Doing something illegal is breaking the law.



## **Words to Know (continued)**

**Work Opportunity Tax Credit** – The Work Opportunity Tax Credit (WOTC) is a Federal tax credit that private companies can apply for. To get the credit, the employer has to hire someone who belongs to one of 12 target groups. These groups include people with disabilities. A company can save money on taxes if they can prove they hired someone from one of these groups.

**Legal** – To do something legal is to obey the law.

**Qualified** – A qualified person has the ability, skills, and education to do a job.

**Reasonable accommodation** – A reasonable accommodation is any change that gives a disabled person an equal chance to compete for a job. Once hired, a reasonable accommodation is a change that helps the employee get the job done.

**Visual impairment** – A visual impairment is a problem with how well a person can see.

**Voluntary** – Something voluntary is something you can choose to do or **not** do, without getting in trouble for your choice.

**Waiver** – A waiver gives away a known right or claim. One kind of waiver says it's OK for an employer to ask other people personal questions about you. By signing the waiver, you promise not to complain or sue the employer if they ask these questions. This kind of waiver may be against the law.

**Workers' compensation** – Also called workers' comp, this is a kind of insurance. Workers' comp helps pay the extra cost of an employee who gets hurt on the job.

✓ **Questions the Employer May Ask When You Apply for a Job (Legal Questions)**

1. Can you perform the job with or without reasonable accommodation(s)?\*
2. Describe/demonstrate how you would perform the job tasks **with or without reasonable accommodations.** \* **(The employer must give you accommodations if you ask for them or let you explain in words what you would do).**
3. Can you come to work on time and follow the work schedule **with or without reasonable accommodations?**\*
4. How many days did you take leave last year?
5. How many Mondays or Fridays were you absent from work last year?
6. Did you have any unauthorized absences from your job last year?
7. Do you illegally use drugs?
8. Do you have the licenses or certificates for the job?

\*The first 3 questions above must have the words “**with or without reasonable accommodations.**” Otherwise, the employer may be breaking the law.

✗ Questions the Employer May Not Ask When You Apply for a Job (Illegal Questions)  
(Copy this page and take it with you when you apply for jobs.)

It's against the law for an employer to ask any of these questions:

1. Do you have AIDS? (Or asthma, depression, or any other impairment or condition.)
2. Do you have a disability that would interfere with your ability to perform the job? (Or other words like condition or impairment.)
3. What is your disability?
4. How disabled are you? (or how severe is your disability?)
5. How many days were you sick last year?
6. Have you ever filed for worker's compensation?
7. Have you ever been injured on the job?
8. How much alcohol do you drink each week?
9. Have you ever been treated for alcohol problems?
10. Have you ever been treated for mental health problems?
11. What prescription drugs are you currently taking?
12. Have you ever been hospitalized? If so, for what condition?
13. Have you ever been treated by a psychiatrist or psychologist?  
For what condition(s)?
14. Have you had a major illness in the last five years?
15. Have you ever been treated for drug addiction?

These are only examples of disability-related questions. You may hear others.

## Guidelines for Proving Disability or Need for Accommodation

(Copy this sheet for the person giving you documentation of your disability.)

The documentation may be provided by a:

- doctor
- psychologist
- rehabilitation counselor
- other professional with knowledge of disability and functional limitations
- independent living specialist
- occupational therapist
- physical therapist

The documentation should include:

- the date of the documentation
  - the nature of the impairment
  - how the impairment substantially limits at least **one** major life activity or bodily function. Major life activities include, but are not limited to:
    - hearing
    - seeing
    - lifting
    - performing manual tasks
    - working (a wide class of jobs, not just a single job)\*
    - walking
    - standing
    - learning
- \*Don't include "working" unless **no** other activity is greatly limited.

Bodily functions include, but are not limited to:

- immune system
- normal cell growth
- digestion
- bowel
- bladder
- nerve system
- brain
- circulation
- respiration
- endocrine system
- reproductive system

- a statement that the person needs an accommodation because of his/her disability
- the type of accommodation needed or recommended (optional)

[Sample Text:]

\_\_\_\_\_ has the following physical/mental impairment: \_\_\_\_\_.

The impairment causes functional limitations in the major life activity(ies) of \_\_\_\_\_.

S/he is impaired in the areas in the following ways: \_\_\_\_\_

S/he is a qualified individual with a disability. As a result s/he needs an accommodation(s) in the workplace because of his/her disability. I recommend the following accommodation(s). \_\_\_\_\_

Please keep this medical documentation confidential as required by the employment provisions of the Americans with Disabilities Act.

\_\_\_\_\_  
Signature of Professional and Credentials

## Sample Letter Proving Disability or Need for Accommodation

January 15, 2010

Mr. Joe Employer  
ABC Company  
123 West Smith Street  
Tucson, AZ 85743

Dear Mr. Employer:

Joseph Jones has a physical impairment consisting of a spinal cord injury. He has paraplegia resulting in paralysis of his legs, but does have full use of his arms and hands. The physical impairment causes significant functional limitations in the major life activity of walking. He is unable to walk and uses a wheelchair. Joseph Jones is an individual with a disability according to the definition of the ADA.

As a result, he will need some accommodations in the workplace because of his disability. Generally, he will need an accessible worksite and ramp into the building where his worksite is located.

I am a vocational rehabilitation counselor who has worked with Mr. Jones. I would be able to offer you some specific recommendations on how to make his worksite accessible.

Call me at my office at 123-4567.

Sincerely,

Rebecca Smith,  
Vocational Counselor



## Guidelines for Requesting an Accommodation

Your letter or memo to the employer should include:

- the date
- that this is a request for an accommodation
- that the accommodation is needed because of a disability
- the type of accommodation(s) you think you need to be able to perform the job
- a copy of documentation from an appropriate professional regarding the disability and need for an accommodation

The letter or memo may also include:

- any information the employer may need to get the accommodation
- any resources for assistance in getting information about accommodations

[Sample text:]

I have the following condition \_\_\_\_\_, which is a disability. I have also attached a letter from \_\_\_\_\_ (professional) regarding the existence of my disability and the need for workplace accommodations. Because of my disability, I will need an accommodation. I believe the following accommodations would be effective to enable me to perform my job. \_\_\_\_\_ (professional) agrees that these are necessary and effective accommodations.

[List accommodations requested.]

Please let me know by \_\_\_\_\_ (date) whether you will be providing these or other accommodations. If you need more information about the request, please let me know.

---

Employee

## **Sample Letter Asking for an Accommodation**

(Use this sample to help in writing a letter or memo to an employer.)

TO: Ann Supervisor  
FROM: Joe Employee  
RE: ADA Accommodation  
DATE: December 1, 2009

I have the following condition: bipolar disorder. I have also attached a letter from my therapist, Dr. Jane Psychiatrist, which confirms that I have a disability due to the bipolar condition and need an accommodation. Because of my disability, I will need a flexible schedule to be able to attend therapy appointments. I have group counseling one time per week which cannot be scheduled outside of work hours. I would like a flexible schedule on Tuesdays to be able to come in early so that I may leave by 3:30 p.m. for these appointments. Dr. Psychiatrist has included in her letter that this is a necessary accommodation.

Please notify me by December 15 whether you will be granting me this accommodation. If you need additional information about this request, please let me know.