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Permissibility of Interview Questions and Medical Examinations Under the ADA

Type of Action	Stage of Interaction	Allowable under the ADA?
Interview Question that: --asks about the existence or degree of disability, or – is “likely to elicit” information concerning the existence or degree of disability	Pre-offer of Employment	no , 29 C.F.R § 1630.13, unless voluntary disclosure is invited pursuant to an employer’s affirmative action policy
	Post-conditional Offer of Employment	yes , as long as all entering employees in that job category are asked the same question, 29 C.F.R. §1630.14(b) <u>note</u> : if the question screens out a person with a disability, would have to show that reason for rejection is job related and consistent with business necessity, 29 C.F.R. § 1630.14(c)
“Medical” Examination (a procedure that seeks information about an individual’s physical or mental impairments or health)	Pre-offer of Employment	no , 29 C.F.R § 1630.13
	Post-conditional Offer of Employment	yes , as long as all entering employees in that job category

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		<p>are subject to that same examination, 29 C.F.R. §1630.14(b)</p> <p><u>note</u>: if the examination screens out a person with a disability, would have to show that reason for rejection is job related and consistent with business necessity, 29 C.F.R. § 1630.14(c)</p>
	Existing Employees	<p>Not unless the reason for rejection is job related and consistent with business necessity</p> <p>If person is screened out for safety reasons, must show that the person is a “direct threat” (significant risk to self or others that can be ameliorated through the provision of a reasonable accommodation), 29 C.F.R. §§ 1630.10, 1630.14(b)(3).</p>
Other types of Examinations that are not “medical,” such as physical ability, or physical agility examinations	Pre or Post Offer of Employment, or Existing employees	allowable because they are not medical examinations, but to the extent that they “screen out” individuals with disabilities, they have to be job related and consistent with business necessity