

# GUIDANCE TO AVOIDING DISABILITY DISCRIMINATION CLAIMS DURING INTERVIEWS

Certain jobs may necessitate physical capability. However, state and federal disability discrimination laws limit the types of inquiries that prospective employers can make to determine which applicants are able to do the job, with or without accommodation.

As a service to our members, The Ohio Manufacturers' Association provides the following suggested questions that can be incorporated into interview questions. These suggestions are not intended to constitute legal advice, nor do they fit every situation or industry. Consult with your company's legal counsel to understand specific limitations that may apply to your operations.

## YOU CAN ASK:

- How are you? (general questions about well-being such as noting a person looks tired or ill, or if s/he is feeling alright; asking an applicant who is sneezing or coughing whether s/he has a cold or allergies, etc.)
- Here is a copy of the position description. Are you able to perform the functions of this job, with or without reasonable accommodation?
- Please describe/demonstrate how you would perform these functions.
- Can you meet the attendance requirements of this job?
- How many days of unexcused absence did you have last year?
- How many Mondays or Fridays did you miss last year (other than approved leaves)?
- Are you currently using illegal drugs?
- How do you handle stress? (Alternatively, how well can you handle stress?) Do you work better or worse under pressure?

## YOU CANNOT ASK:

- Do you have a disability that would interfere with your ability to perform the job? Do you have a disability that would prevent you from performing the essential functions of the job with or without reasonable accommodation? Are there parts of this job you cannot perform on account of any medical condition?
- Do you have [condition, disease]?
- How many days were you sick last year? How often will you require leave for treatment of [condition, disease]?
- How much alcohol do you drink each week? Have you ever been treated for alcohol problems? Are you an alcoholic? How often have you used illegal drugs in the past? Have you ever been treated for drug abuse/drug addiction?
- Have you ever been treated for mental health problems?
- What prescription drugs/medications are you currently taking?
- What is your corrected vision? What is your uncorrected vision?
- Have you sought treatment for your inability to handle stress? Do you ever get lose time from work or become ill due to stress? Does stress affect your ability to be productive? Have you ever been unable to cope with work-related stress?
- (If an applicant voluntarily discloses a disability) How debilitating is your disability? Does it limit your ability to work? Do you expect your condition to get worse?
- Do you have job-related injuries? What is your workers' compensation history? Have you ever filed for workers' compensation?
- Broad questions about a person's ability to perform major life activities are generally prohibited (e.g., "Can you stand?" or "Can you walk?").