

Handbook Highlight from the Montana Municipal Officials Handbook

3.204 Interviewing and Hiring People with Disabilities

The following guidelines ensure that persons with disabilities are afforded a fair and equitable opportunity to present their job qualifications.

- The municipality's application and interviewing procedures should comply with the Americans with Disabilities Act (ADA). The ADA prohibits disability related questions or medical exams **BEFORE** a job offer is made.
- Make sure the municipality's employment offices and interviewing location(s) are accessible to applicants with mobility, visual, hearing or cognitive disabilities.
- Be willing to make appropriate and reasonable accommodations to enable a job applicant with a disability to present him or herself in the best possible light. When setting up the interview, explain what the hiring process involves and ask the individual if he or she will need reasonable accommodations for any part of the interview process (ask all applicants, not just those who have identified themselves as needing accommodations).
- Do not include a rehabilitation counselor, social worker or other third party in an interview unless the applicant requests it.
- Make sure all questions asked during the interview are job-related. Speak to the essential job functions, as well as why, how, where, when and by whom each task or operation is performed. Do not ask if the individual needs an accommodation to perform these functions, because such information is likely to reveal whether or not the individual has a disability. This is an ADA requirement to ensure that an applicant with a disability is not excluded before a job offer is made.
- If the applicant has a known disability (because it is obvious or it was

revealed by the applicant), the employer may ask an applicant to describe how they would perform a certain job function if it is an essential part of the job. In addition, in the situation of a known disability, the employer may ask the individual if he or she needs reasonable accommodations and what type(s) of accommodations.

- Concentrate on the applicant's technical and professional knowledge, skills, abilities, experiences, and interests, not on the disability.
- Disability related questions and medical examinations are prohibited under the ADA at the pre-employment offer stage. After a job offer has been made, the offer may be conditioned on the results of disability related questions and/or medical examinations, but only if the examination or inquiry is required for all entering employees in similar jobs and only if all medical information is kept confidential. Disability related questions and medical examinations at the post offer stage do not have to be related to the job. However, if the offer is withdrawn, the employer must show that the individual could not perform the essential function of the position or would pose a direct threat.
- If testing is part of the interview process, make sure the test does not reveal information about physical or mental impairments. Make sure it is not a medical examination. Other tests, which demonstrate the applicant's ability to perform actual or simulated job tasks, are permitted under the ADA. Inform all applicants before the interview that a test will be part of the interview process. Any applicant can then request an accommodation.
- An employer is required to make an accommodation to the known disability of a qualified applicant or employee if it would not impose an "undue hardship" on the operation of the employer's business. Undue hardship is defined as an action requiring significant difficulty or expense when considered in light of factors such as an employer's size, financial resources, and the nature and scope of the position.
- Any question or concern regarding an applicant and their actual, perceived or potential disability and any possible reasonable accommodation should be carefully researched by legal counsel before any decision is made by the municipality.