



Disability Disclosure:

Practical & Ethical Issues for Supported Employment Professionals

Kentucky APSE 2016 Conference

April 28, 2016

Disclaimer

- Information, materials, and/or technical assistance are intended solely as informal guidance, and are neither a determination of your legal rights or responsibilities under the ADA, nor binding on any agency with enforcement responsibility under the ADA.
- ADA Center is funded by the National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR)

Session Agenda

- Understand the ADA-related provisions related to disclosure
- Discuss strategies for successful disclosure
- Understand the role of the SE professional in the disclosure process
- Offer resources and answer your questions

SO WHAT DOES THE ADA SAY ABOUT DISCLOSURE?

Some Basics About Disability Inquiries & the ADA

- The phase of the employment process matters!
 - Pre-employment/pre-offer – no inquiries allowed
 - Pre-employment/post-offer – inquiries allowed if made of ALL candidates in a job category
 - Employment – only if the inquiry is job related and of a business necessity

So what's a “disability inquiry”?

- A question or series of questions likely to solicit information about a person's disability or related medical condition

What Employers Can't Ask

Questions about:

- Whether a person has or had a disability
- Medical documentation of a condition
- Genetic information
- Prior workers' compensation history
- Current or past prescription medication usage

What Employers Can Ask

Questions about:

- A person's general well-being
- A non disability-related impairment
- Whether a person can perform the job functions
- Whether a person has been drinking
- Current illegal use of drugs
- Pregnancy info like due date and well-being
- Emergency contact information

Practical ADA Implications for Disclosure

- Disclosure is not required under the ADA
 - One exception – requesting reasonable accommodations
- Disclosure can occur at any time during the employment relationship
- Individuals cannot be retaliated against for disclosure-related issues

Disclosure & Self-Identification

- Self-identification: invitation from an employer to voluntarily check a box that says the individual has a disability, anonymous, typically used for data collection purposes
- Disclosure: voluntarily sharing information about a disability

Some Disclosure Basics

- No standardized form or set of basic information required for disclosure in the workplace
- A personal decision that each individual must make

DISCLOSURE DECISIONS

Why Disclose?

- The person has an obvious disability and wants to address any concerns head-on
- The person needs an accommodation to participate in the interview or do the job
- Disclosure would offer a competitive advantage in the selection process
- The person wants to bring his/her “whole self” to work
- Explain the participation of a job coach or employment specialist in the process

When to Disclosure?

- Let's talk through some scenarios!
 - Cover letter/resume
 - Before an interview
 - At the interview
 - Before starting a job
 - After starting a job
 - Never

How Should a Person Disclose?

- Important to focus on job qualifications, not a disability
- Articulate and demonstrate how essential job functions will be performed
- Avoid medical terms and human service jargon
- Discuss work barriers, not diagnoses
- Focus on current, positive activity, not past negative experiences

Helpful Advice

- It's not necessary to share EVERYTHING about a disability and its effects.
- Instead, focus on:
 - How the disability impacts the ability to do a job effectively
 - What accommodations, workplace supports, and tools will help the person excel in the job

Whom to Disclose to?

- Varies greatly depending on the employer
- Possible audiences – recruiters, hiring managers, supervisors/managers, human resources staff, EEO staff, co-workers, health and safety staff
- The key – only tell those who need to know

THE ROLE OF THE SUPPORTED EMPLOYMENT PROFESSIONAL IN DISCLOSURE

Your Primary Role

- It's not your job to decide if a person should disclose!
 - Help weigh factors and guide a decision
 - Show support by respecting the decision to disclose or not
 - Offer advice about how, when, and to whom to disclose

Goal of Disclosure

- Gain employer's trust
- Eliminate concerns
- Move the employment process to the next steps – exploring job openings, interviewing, hiring

Key Principles to Keep in Mind

Privacy

Confidentiality

Prerogative

Disclosure Basics

- Always get permission from the job seeker
 - Written authorization with a description of what is to be disclosed
- Never share personal information about the job seeker with supervisors and co-workers at a job site
- Be careful what you share with your co-workers

When Communicating with an Employer...

- Focus on the person's abilities
- Offer proposed solutions that allows the person to complete the job tasks
- Discuss the advantages of hiring a person who has access to supported employment services
- Avoid medical jargon and diagnoses – focus on functional limitations and strategies for addressing them
- Focus on past success and personal life experiences that demonstrate skills and abilities
- Be prepared to answer questions about a specific disability

Help the Person Prepare

- How to deal with a visibly obvious disability
- Explaining gaps in work history
- Focus on qualifications, not limitations
- Prepare a list of benefits of hiring a person with disability
- Prepare for non-compliant interview questions
- Practice demonstrating the essential functions of the job

Some More Preparation for the Interview

- Coaching strategies for answering behavioral event interviewing questions (e.g., Tell me about a time when...)
- Provide strategies for social media presence
- Prepare for pre-employment testing

DISCLOSURE RESOURCES

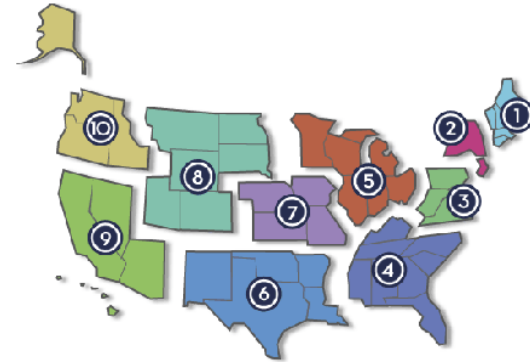
Disclosure Tools

- [The 411 on Disability Disclosure Workbook](#) (National Collaborative on Workforce and Disability for Youth)
- [Advising Youth with Disabilities on Disclosure](#) (ODEP)
- [The Art of Disclosing Your Disability](#) (Richard Pimentel)
- [Disclosure Decisions to Get the Job](#) (VCU)
- [Disclosure Tools](#) (Job Accommodation Network)

ADA Information

- [Enforcement Guidance: Pre-employment Disability-Related Questions and Medical Examinations](#) (EEOC)
- [Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees under the ADA](#) (EEOC)

National Network of ADA Centers



- Ten regional centers funded by the Administration on Community Living, NIDILRR
- The ADA National Network provides information, guidance and training on the Americans with Disabilities Act (ADA), tailored to meet the needs of business, government and individuals at local, regional and national levels.
- Contact information
 - Toll free hot line - 800-949-4232 (voice/TTY)
 - Web site - www.adata.org

Still Have Questions?

Contact the **Southeast ADA Center!**

By telephone

404-541-9001

800-949-4232

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By e-mail

adasoutheast@law.syr.edu

Visit us online

www.adasoutheast.org