

Disclosure of a Disability in a Job Interview

by Betsy Johnsen, Esq. NACE Journal, February 2012

Even after 20 years of anti-discrimination laws and the low cost of reasonable accommodations, in the United States, qualified applicants with disabilities have lower rates of employment than the general population. This discrimination exists throughout all levels of income and education.

Job applicants with disabilities consider two things. First, do they have a choice in “disclosing” their disability? Second, if there is a choice, does disclosing disability-based strengths increase their likelihood of getting the job? The legal implications of disclosure are part of those decisions. Applicants are not required to disclose a disability at the time they apply for a job, even if they later need a workplace accommodation. They may wait until they actually are seeking accommodation—which may be months or years later—before they disclose. However, it is wise to seek accommodation before performance suffers.

When disclosure is the only option

For many, disclosure is not a choice. People with a visible disability (or visible accommodation) are already “out.” Asking for reasonable accommodations for the interview itself should be done through a separate (non-interviewing) administrator, and the request should be kept confidential.

Some job applicants decide disclosure is necessary to explain gaps of time in a resume, or to be able to include important activities, such as disability-related campus clubs or community activities. Whenever the interviewer is aware of a potential employee’s disability, the applicant may apply the strategy of “discuss and dispel”—discuss the disability’s impact on his or her professional life, and dispel any misconceptions.

Such discussion educates the prospective employer and dispels misinformation about a particular condition. An interviewer who knows only a label and no facts might imagine the worst. The applicant can set the record straight on the scope of his or her condition. For people with apparent visible disabilities, it is advantageous for the applicant to show how he or she can effectively use that awareness. For example, that attention may result in a sales rep that clients easily remember, or an HR person quickly recognized by co-workers. During the interview, an applicant can highlight the opportunities present in the job and show how he or she would handle that extra attention when relevant.

When there is a choice: Reasons to disclose

There is only one reason to reveal any personal or confidential information in a job interview: *to get hired*. An applicant is there to discuss employable skills, demonstrate an ability to interact, and find out whether he or she is a good fit with the employer. That one's favorite color is blue, enjoys acting or playing chess, or has a disability may or may not be relevant to this process. Disclosure of a disability is a very personal decision.

Because even the most practiced interviewers may be negatively influenced by factors they aren't aware of, it is best to keep irrelevant factors private.

The primary motive to disclose a disability during this process is to reveal relevant disability-based strengths.

College graduates with disabilities often have positive personal characteristics—skills, attitudes, and areas of knowledge—that arise from contending with their disabilities. Their activities have been transformed into advanced abilities and qualifications that employers want. Their skills routinely include problem solving, resourcefulness, and the ability to adapt and learn quickly. To get a college degree, grads with disabilities may have improved other skills, such as being organized, focused, and hardworking. They may also have acquired software, hardware, and research skills that are practical and valuable to employers.

Because most people with disabilities have had to ask for help or understanding, they often have highly developed communication skills, the ability to work with others, and active team-building skills. Many people with medical conditions have also learned about special topics, such as insurance, business, and benefits law. All these factors are reasons to mention a disability during an interview when the interviewer asks what the applicant can bring to the organization.

A second purpose to disclose one's disability status is the opportunity it provides to display leadership. Taking charge in the interview of the discussion of a disability can show that the applicant has the confidence to bring up and handle a complicated and sometimes awkward subject. This is particularly helpful because employers have legal limits in raising the subject of an applicant's disability.

Reasons not to disclose

Again, relevance to the job is the key. Any information revealed should be pertinent to the job's responsibilities and demonstrate the candidate is both qualified and capable. Otherwise, the traditional advice of employment lawyers holds: Don't disclose a disability and risk discrimination prior to a job offer.

First, if an applicant does not have an apparent disability, has no necessity to reveal the disability, and has no disability-based skill or experience relevant to the job, then raising the issue may merely distract the interviewer.

Second, some physical and mental conditions may trigger specific prejudice unlikely to be overcome. For example, 15 years ago, I counseled all clients with HIV/AIDS to conceal their diagnosis, even if they discussed some non-revealing symptoms. It was too difficult to educate employers about HIV transmission and deal with prejudice about HIV and potential homophobia, although those classes of discrimination were illegal in California. Similarly, a person today with certain types of mental illness or serious conditions may not want to risk the high level of misinformation often found regarding these conditions.

But many factors affect the likelihood of discrimination, such as celebrity revelations of a medical condition (e.g., Mike Wallace's revelation of suicidal depression), advances in medical treatment, the community where the interview occurs, the type of job sought, and the employer's characteristics, among others.

Reasonable accommodations

The need for reasonable accommodations on the job does not require disclosure or discussion of a disability prior to the start of employment.

An applicant's request for a reasonable accommodation may begin either before or after a job offer has been made. If the applicant feels that he or she has no disability-based strengths to discuss or feels that discrimination could be too large an issue, the applicant may disclose after the job offer. The Job Accommodation Network (JAN) (www.jan.wvu.edu) and the Equal Employment Opportunity Commission (EEOC) (www.eeoc.gov) websites offer guides on types of reasonable accommodations, and the EEOC also discusses when and how to request them.

Discrimination, conscious or otherwise, still exists. To ensure it doesn't influence the initial resume review, it is probably still a good idea for the job candidate to conceal or ignore his or her disability until after securing an interview, unless good reasons exist otherwise. Once the interview is confirmed, disclosure can begin, including requests for reasonable accommodations for the interview itself.

The actions of employers in the hiring process

Many employers are "disability friendly." They are interested in hiring diverse candidates both because of a sense of fairness and because they realize their clients want to see representatives of the business they can identify with—employees of color, lesbian and gay employees, and those who have dealt with medical conditions. Moreover, employers committed to diversity know if they want to hire and retain the best people for the job, they must include people with disabilities.

To reach out to this group, an employer should add welcome notices to job advertisements—such as statements that it is an "Equal Opportunity Employer" and welcomes diverse applicants—and send notices and applications to places where those with disabilities will see them. An employer should specify a contact person to facilitate communication, including provision of any reasonable accommodations likely required for the application process itself.

Before a job offer is made, employers may generally not ask an applicant any questions that are likely to reveal information about a disability. This rule bars direct questions about a particular disability (“Do you have any heart problems or mental illnesses?”), questions about the ability to perform “major life activities” unrelated to the job (“Have you ever been unable to take care of yourself?”), and most questions regarding prescription drug use (“Do you take painkillers or antidepressants?”). However, if the disability is obvious or if the applicant has voluntarily disclosed a disability and the employer reasonably believes that the applicant will need an accommodation to do the job, then the employer may ask limited questions about accommodations. (Refer to the table below for more examples of [legal and illegal questions](#).)

Employers can assist applicants in assessing whether they will need an accommodation by making clear the job requirements, the duties to be performed, and the expected level of performance.

College graduates with disabilities can often provide more than what appears in their transcript. Their disability-based strengths, disclosed during the interview process, may provide the opportunity for an employer to see them as competent, confident future employees.

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Pre-employment Inquiries Related to Disabilities

Courtesy of the [National Association of Colleges and Employers](#).

Examples of Pre-employment Inquiries Related to Disabilities

Illegal Questions	Legal Questions
Do you have any disabilities? Do you have a disability that would prevent you from performing the essential functions of the job with or without an accommodation?	Are you able to perform the essential functions of the job?
Please complete the following medical history as part of the application process. Have you had any recent or past illness or operations? If yes, list and give dates. What was the date of your last physical exam? What medications do you take?	As part of the hiring process, after a job offer has been made, you will be required to undergo a medical exam. The results will remain confidential and will only be used if emergency medical treatment is necessary or to assist in the determination of a job accommodation, if needed.

Illegal Questions	Legal Questions
Are you able to sit?	Can you sit for four hours at a time? (Assuming this is an essential function of the job.)
Can you carry objects?	Can you carry three-pound boxes to the copier? (Assuming this is an essential function of the job)
Are you colorblind?	Can you distinguish between color bands? (Assuming this is an essential function of the job.)
What is your corrected vision? When did you lose your eyesight? How did you lose your eyesight?	Do you have 20/20 vision? (If this is a job requirement.)
Do you see a psychiatrist for stress?	How well can you handle stress?
Are you an alcoholic? How often do you drink alcoholic beverages?	Do you drink alcoholic beverages?
What is wrong with your leg?	How did you break your leg? (If it is obvious the person's leg is broken because the person is wearing a cast.)
How often were you sick?	What was your attendance record? Can you demonstrate how you would perform the following job functions?
Why do you use a wheelchair and will we have to make any accommodations for the wheelchair?	Will you need any accommodation to participate in the recruiting process?
Tell me all of your disabilities.	What are your job skills, educational background, and prior work experience?