

Questions resulting from HERC Webcast:

1. I have an autoimmune condition triggered by stress, & was working in an office w/ a verbally abusive supervisor whose communicat'n style exacerbated my disability symptoms. I reported this to HR, which didn't care, so I had to resign. What were my rights?

If you were forced to resign because your employer failed to stop your supervisor from abusing you, you may want to contact the federal agency that enforces the Americans with Disabilities Act (ADA) to find out what your options are. That agency is the Equal Employment Opportunity Commission (EEOC) and can be reached at 800-669-4000.

2. There are new federal regs requiring federal contractors to ask for disclosure at the pre-hire and post-hire stages. How do we ensure applicants that this information will not be used to exclude them yet follow the required regs from the OFCCP?

You should follow the guidelines outlined in our publication Affirmative Action and Disability: What Can Employers Ask? at <http://AskJAN.org/corner/vol05iss05.htm>.

3. If you have disclosed a disability that requires therapy or doctor appointments and the employer agreed to the terms but then they become resistant and don't like the terms at work after disclosing a disability, what is the best way to approach them?

Your next step might be to put something in writing to the employer giving an overview of your understanding of the accommodations the employer agreed to and then identify the problems you're encountering with getting the agreed-upon accommodations, and asking the employer to work with you to address the problems. If you encounter additional problems, you can contact JAN and discuss options with one of our consultants.

4. I have a mental illness that does not always manifest, and receiving "accommodations" has not proven successful. I disclosed to some people, but not my supervisor. What should I do, or are there any resources that are specific to mental illnesses?

Without more details about why you haven't been able to get your accommodations, I can't really make suggestions about what you should try next. However, we have consultants in JAN who specialize in accommodation ideas for people with mental health issues who might be able to make some practical suggestions about how to approach your situation. Feel free to contact us to discuss ideas.

5. How can you effectively disclose a mental health, and cognitive disability to a potential employer? Especially if you have fear of being thought of as incompetent - especially if you are a marketing/communications/pr role? What if you do not disclose your disability to your employer, and your job performance is suffering - can you say something? Is it too late?

We offer some general ideas about disclosing a disability in the following publication: Dos and Don'ts of Disclosure at <http://AskJAN.org/media/eaps/disclosureEAP.doc>. One thing we often suggest is making your disclosure and request for accommodation in writing so you can make sure you say what you want to say. You don't have to give a lot of details about your disability; your focus should be on suggesting accommodations and explaining how the accommodations will help you do your job. For more information, see [Employees' Practical Guide to Requesting and Negotiating Reasonable Accommodations Under the Americans with Disabilities Act \(ADA\)](http://AskJAN.org/EeGuide/) at <http://AskJAN.org/EeGuide/>

You can ask for an accommodation any time, but in general it may be in your best interest to request a reasonable accommodation before performance suffers or conduct problems occur because employers do not have to rescind any discipline or bad performance ratings that occur prior to the accommodation request.

6. Do you think I could ask the employer to provide me with a "list of expected tasks" and expect them to be inclusive of that? Does any of you have a preference of how much to disclose, and if so what are those aspects of myself that I should reveal?

If you're not clear what is expected of you at work, it's appropriate to ask your employer to clarify. You may want to ask the employer to share a copy of your job description. As far as how much to disclose, when making an accommodation request, you can disclose that you have a disability under the ADA, what you're having trouble doing at work, what limitations is causing the problem, and what accommodation ideas you have.

7. Do employers consider it deceiving if a new hire doesn't disclose disability until after being hired, even if the new hire knows she can perform the duties of the job? I'd like to modify the question I posted: Do employers consider it deceiving if a new hire doesn't disclose disability until after being hired, even if the new hire knows she can perform the duties of the job once accommodations are provided?

Some employer might find it deceiving, but the bottom line is applicants have no legal duty to disclose a disability until after being hired so employers who think that way don't have a valid complaint.

8. Is there a fee for JAN's assistance?

No, JAN is a free service of the Office of Disability Employment Services at the U.S. Department of Labor.

9. Hi, I would have a question to be addressed at the end of this presentation. I have a learning disability which translates into twice or more time needed to read, process information, and complete a given task. When there is noise in my work environment (such as people chatting, music, TV turned on in the background, in the company lounge) it contributes to me taking even more time and frustrates my whole day. When it comes to noise canceling headsets (if and when I am to disclose my learning disability to my employer) I believe that only the more expensive devices really partially cancel the background noise. Are employers supposed to provide such device and if they do and provide a cheap, non-functioning version is that considered "reasonable accommodation" from a legal standpoint?

If a disability is interfering with your productivity at work, then you can disclose to the employer requesting various strategies to overcome the limitations due to the disability. First I would educate myself about your employer's policies and procedures. If no "request for an accommodation form" is available then consider using JAN's form at: <http://askjan.org/topics/forms.htm>. We suggest you put your request in writing. JAN also has a publication on negotiating an accommodation. This publication can be found at: <http://askjan.org/Eeguide/IIRequest.htm> In terms of accommodation idea, please read through the following document for ideas - <http://askjan.org/media/LD.html> - or call a JAN Consultant at: 800-526-7234 Voice/877-781-9403 TTY.

If your employer offers a product that doesn't work for you, you should let the employer know. Under the ADA, employers must provide effective accommodations and a product that does not overcome your limitations is not an effective accommodation.

10. Do you have any suggestions for how to initiate disclosure/request for accommodations with an employer?

Here are a couple publications that might be useful:

Dos and Don'ts of Disclosure at <http://AskJAN.org/media/eaps/disclosureEAP.doc>

Employees' Practical Guide to Requesting and Negotiating Reasonable Accommodations Under the Americans with Disabilities Act (ADA) at <http://AskJAN.org/EeGuide/>

11. Can Louis talk about when he would recommend disclosing a non-visible disability? In particular, I would be curious if he hears from Employers that they would feel sandbagged if it wasn't disclosed in an interview but accommodations were requested after

Disclosure is a very personal decision. Some believe that they should disclose before being offered a job, even if legally they don't have to while others believe they should only disclose if they need an accommodation.

Yes, we do hear about employers feeling sandbagged because an employee didn't disclose during the interview, but the bottom line is applicants have no legal duty to disclose a disability until after being hired so employers who think that way don't have a valid complaint.

12. I have a disability that causes fatigue. What sorts of accommodations are common in office settings for this?

Accommodations vary depending on the person, the job, and the work environment, but here are a few general ideas:

Fatigue/Weakness:

- Reduce or eliminate physical exertion and workplace stress
- Schedule periodic rest breaks away from the workstation
- Allow a flexible work schedule and flexible use of leave time
- Allow work from home
- Implement ergonomic workstation design
- Provide a scooter or other mobility aid if walking cannot be reduced

13. Any advice on timing of disclosure of mental conditions (whether to tell employer immediately on the job or on an as-needed basis)?

Disclosure is a very personal decision. Some believe that they should disclose before being offered a job, even if legally they don't have to while others believe they should only disclose if they need an accommodation. But, if you're having trouble doing your job, it's a good idea to disclose and request a reasonable accommodation before performance suffers or conduct problems occur because employers do not have to rescind any discipline or bad performance ratings that occur prior to the accommodation request.

14. If I were to request an on-site presentation, where would the presenter be traveling from?

JAN conducts on-site training. This requires the sponsor to pay for the trainer's actual travel expenses. JAN Consultants travel from Morgantown, WV.