When and How to Talk About Your Disability — “Disability Disclosure”

This fact sheet answers:

• Do I Need to Share That I Have a Disability When I Apply for a Job?
• What Should I Do if I Am Asked an Illegal Question?
• Can My Employer Tell Others That I Have a Disability?
• And More
Do I Need to Say That I Have a Disability When I Apply for a Job?

No. You usually do not have to tell anyone about your disability when you are applying for a job. You only need to if you need a reasonable accommodation for the hiring process itself, such as to fill out the job application or do an interview.

What if I Need to Ask for an Accommodation to Do the Job?

You still do not have to share information about your disability when you are applying for the job.

Am I Lying if I Do Not Share Information About My Disability?

No. This is a common concern, but you are not lying. The ADA tries to make sure that employers judge job applicants on their experience instead of their disability.

Will My Employer Be Mad Once They Find Out?

Your employer should not be angry with you. Many employers do not want you to disclose your disability during a job interview.

Even if the Law Says I Do Not Have To, Should I Share Information About My Disability?

This is a tough question. While you do not have to share information about your disability, many people choose to do so.

When to talk about your disability is a personal decision. Only you know what the right decision is for you.

Here are some reasons you might decide to share information about your disability:

- You want to use the hiring process to make sure that the employer is one you want to work for. Being up front about your disability can help you decide whether the employer is a good fit for you.
- Your see your disability as a strength or part of your personal identity.
- Your disability makes you more qualified for a job. For example, you are applying for a job as a substance abuse counselor and you have a history of substance abuse. Your experiences make you more qualified for this position.
- You are applying for a job with an employer with affirmative action policies for people with disabilities or that otherwise is known to want to hire people with disabilities.
Can an Interviewer Ask Questions About My Disability or Have Me Get a Medical Exam?

No. The ADA says that employers cannot ask questions that make you say if you have a disability, such as:

- Do you have a disability?
- Did you use a lot of sick leave at your last job?
- Do you need a reasonable accommodation?
- What type of medications do you take?
- Do you receive Social Security Disability Insurance benefits?

The ADA also says that employers cannot ask you to have a medical examination before you accept a conditional job offer. There are two times when an employer can ask disability-related questions before offering you a job.

The employer knows you have a disability and thinks you will need an accommodation.

- If an employer knows that you have a disability (either you told them or your disability is obvious) and thinks your disability will make it hard for you to do a specific task, then the employer can ask if you will need a reasonable accommodation. If you say yes, then the employer can ask what accommodation you will need.

The employer can ask voluntary questions for affirmative action purposes

- Many employers have affirmative action programs to get more people with disabilities in their workforce. These employers can ask you to disclose your disability. You don’t have to tell them.

Employers who ask questions for affirmative action purposes should tell you:

- Sharing information is voluntary
- Your information will be kept private
- You will not be penalized if you don’t answer
- The information will not be part of your application
- The information will be used as allowed by law

What Should I Do if I Am Asked an Illegal Question?

It depends on when you are asked the question.

Employment application

You should do what is most comfortable for you. You can simply leave this question blank.

Job interview

There is no perfect way to respond when asked an unlawful question. Some people find it helpful to tell the interviewer: “I would like to focus on my qualifications for this position.”

After the job interview

Contact Equip for Equality’s Employment Rights Helpline (1-844-RIGHTS-9). EFE has a project where we contact employers who ask improper disability-related questions to tell them about the ADA’s rules and ask them to agree to stop asking illegal questions.

You also have the right to file a charge of discrimination. Please see the Employment Rights Helpline Fact Sheet about Filing a Charge of Discrimination to learn more.
Once I Get the Job, What Can My Employer Ask About My Disability? What Kinds of Medical Exams Can It Require?

The rules depend on if you have started your job yet.

After you are given a conditional job offer, but before you start work
Your employer can ask questions about your disability or require medical exams. But only if the employer asks all employees in the same job category the same questions.

Your new employer cannot take back your job offer based on what it learns in this process unless your disability stops you from doing important parts of your job (even with a reasonable accommodation) or your disability is a direct threat to your (or others’) health or safety.

After you start work
Your employer can ask disability-related questions or require medical exams only when they are job-related and necessary for business reasons. This means that your employer can require you to share disability-related information when there is a reasonable basis to believe that you:

Are not qualified to do the job
• Example: You tell your supervisor that you are struggling in your job because you have been having back problems and your job requires a lot of lifting. Since back problems can stop you from lifting a lot, then it would likely be reasonable for your employer to ask about your disability.

Need a reasonable accommodation
• Example: After you ask for a reasonable accommodation your employer can ask for reasonable medical documentation if your disability or your need for an accommodation is not obvious.

Pose a direct threat to the health or safety of the employee or others
• Example: If you drive a forklift and have been seen falling asleep close to this machine, your employer can ask about your disability status.
Once I Get the Job, Do I Have to Share Information About My Disability?

No. Even after you are hired, you do not need to share information about your disability, unless you need an accommodation.

If I Have Several Disabilities, Do I Need to Disclose All of Them When Asking for a Reasonable Accommodation?

No. You only need to talk about your disability that is related to the accommodation you need. For example, if you have bipolar disorder and diabetes, but only need a reasonable accommodation for your diabetes, then you only need to talk about your diabetes.

Can My Employer Tell Others That I Have a Disability?

If your employer knows about your disability due to a required medical exam, medical question, or because you requested an accommodation, then the ADA says your employer must keep your disability-related information confidential.

Private information should be kept in its own medical file, apart from your personnel file.

Your employer can only share this information on a need-to-know basis, such as:

• A supervisor must know to provide the accommodation
• First aid and safety personnel if you would need emergency treatment

If your employer knows about your disability because you voluntarily shared it (separate from asking for an accommodation), then some courts say your employer does not have to keep this information private.
Where Can I Learn More?

- EEOC Guidance Document, Job Applicants and the Americans with Disabilities Act
- EEOC Guidance Document, Enforcement Guidance on Disability-Related Inquiries and Medical Examinations of Employees under the ADA
- EEOC Letter, Opinion on the Invitation to Self-Identify
- Job Accommodation Network, Disclosure Resources

Have More Questions?

Call Independent CAP at Equip for Equality.

855-ILCAP-25 (855-452-2725)
cap@equipforequality.org
www.equipforequality.org/cap