

To Disclose or Not to Disclose - More Questions

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Objectives

- Define disclosure and confidentiality
- Legal and ethical parameters
- Decision-making process
- If the decision is to disclose,
who, what and when

Disclosure

Intentional release of information for a specific purpose:

- How disability affects capacity to learn or perform
- The environment, supports, and services you need to participate, access or excel in your job

Confidentiality

- Keeping information private
- Promise that limits access to information

Legislation

- Rehabilitation Act of 1973
 - Title V
- The Americans with Disabilities Act & ADAA
- Workforce Investment Act
 - Section 188
- Assistive Technology Act
- Health Insurance Portability and Accountability Act

Legislative Impact

- Definition of an individual with a disability
- Program accessibility
- Facility accessibility
- Reasonable accommodation
- Disclosure and confidentiality

Codes of Ethics

- Certified Rehabilitation Counselor
- Human Services Professions
- Licensed professional counselors
- APSE
- And more

Contractual Requirements

- Confidentiality elements are covered in most contracts including
 - VR agencies
 - Managed care
 - Insurance companies
 - Education
 - Medical services

Common Elements

- Right to privacy belongs to the consumer
- Provide consumer information about limitations to confidentiality, such as,
 - Harm to consumer or others
 - Court orders
 - Minimal disclosure
- Signed release needed to share covered information.

Common Elements

- Responsibility to minors or those lacking the capacity to consent
- Records
- Information shared with others, such as,
 - Payer, i.e., VR and insurance companies
 - Professional collaboration
- Not a one time event.

Where does the right of confidentiality rest?

Right of confidentiality rests with the consumer

When do you tell the consumer about the limits of confidentiality?

At the outset and reviewed frequently during the employment process

Question:

Is there any circumstance that an individual must disclose their disability?

Reasonable Accommodation

- Must disclose to receive
- No strict guidelines depends on workplace policy
 - Medical statement
 - Workplace assessment
 - Defining reasonable

Sam

Sam left the workforce five years ago to battle a medical condition that resulted in some permanent speech and dexterity limitations. He secured a position that was commensurate with his past work history. After he was on the job for a month, he realized that he needs some assistive technology to keep up with his paper work. When he requests the equipment, his employer asks him for medical information.

Alex

Alex is excited about the opportunity to work for the Houston school system. He is applying for a teacher aid position. He loves children and really likes the school schedule. His years of depression and drinking are behind him. He has been sober for 3 years after his incarceration. He is involved with a church group, regularly attending AA and is a sponsor for another young man in his group. James is feeling positive about his life.

Decision Making Process

- Self-determination—directing one's own life and empowering people to seek assistance when needed
- Informed choice—understanding the available options
- Considering relevant facts, pros and cons, before making a choice

Ability to Describe

- Strengths
- Limitations
- Disability
- Effective accommodations
- Need for assistance
- Past response to disclosure

Why is it important?

- Disclosure is to reveal or tell something that was unknown before
- Once the information is known it cannot be unknown.

Disclosure Pros

- Reasonable accommodation
- Legal protection under ADA & Rehab Act
- Encourage the development of self advocacy skills
- Reduce stress of “secret”
- Greater freedom to communicate changes in situation
- Solicit assistance in learning skills or developing accommodations

Disclosure Cons

- Risk of exclusion or different treatment
- Risk of being viewed as less than
- Difficult or embarrassing
- Blame
- Treated differently
- Overlooked for select spots
- Self image
- Object of curiosity

Reasonable Accommodation

Challenge

- Attendance
- Concentration
- Typing speed
- Staying on task
- Handling stress

Accommodation

- Flexibility to attend counseling
- Quiet location
- Assistive technology
- Station close to restroom
- Permission to call/text a support person

Pros & Cons

Exercise

Read the scenario.

List the advantages and disadvantages of disclosing.

June

June wants a job in a medical setting. You are working with the human resources representative, Joe, in regional hospital near her home. You have assisted June in completing the online application and are accompanying her to the interview. When Joe sees you in the lobby, he asks you what is up with June.

Maria

Maria is completing an online application. She comes to a question that stops her cold. “Do you have a disability?”

Cal

Cal has just turned 18 and wants a job to earn money for a car. He lives with his father and step-mother. He is working with you to identify the type of work that interests him. Cal really desires to work in auto parts supply.

You get a call from his father. Dad asks what are you doing trying to get Cal a job as this will mess up his benefits checks on which the family depends.

Mike

Mike is working in an office. Because he uses a screen reader, he has been assigned to an office with a real door. Co-workers who perform the same type work as Mike are housed in a series of cubicles. Mike overhears one of his co-workers complaining about Mike's special treatment.

Che'

Che' is very sensitive to chemicals commonly found in perfume. He had just accepted a job in the mail room. On his first day on the job, he is paired with Juan. Juan wears heavy cologne that gives Che' a migraine.

Section 503 contractors

The Office of Management and Budget (OMB) has just approved the revised form for voluntary self-identification of disability status by applicants and employees with disabilities who work for organizations covered by Section 503 of the Rehabilitation Act. Section 503 prohibits federal contractors and subcontractors from engaging in employment discrimination against individuals with disabilities, and requires various affirmative action practices in recruitment, hiring, promotion, and retention of protected individuals.

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