

# Managing the Workplace

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# IBD In The Workplace

- Your Legal Rights
- The Job Search
- Managing the Workplace
- Managing Yourself
- Reasonable Accommodation
- Best practice tips...from those who have been there
- Q&A



# Your Legal Rights

- American with Disabilities Act (“ADA”)
  - Accommodations are required for “disabled” individuals
  - Definition of “disabled” is broadly construed
    - The ADA defines a disability as: “(A) a physical or mental impairment that substantially limits one or more major life activities of such individual; (B) a record of such an impairment; or (C) being regarded as having such an impairment....”
    - “(i) Unable to perform a major life activity that the average person in the general population can perform; or (ii) Significantly restricted as to the condition, manner or duration under which an individual can perform a particular major life activity as compared to the condition, manner, or duration under which the average person in the general population can perform that same major life activity.”
  - Crohn’s and Colitis are a disability

# The Job Search

- Types of organizations/companies to look for
- Roles
  - Flexibility
- The interview process
  - How much to disclose
  - When to disclose

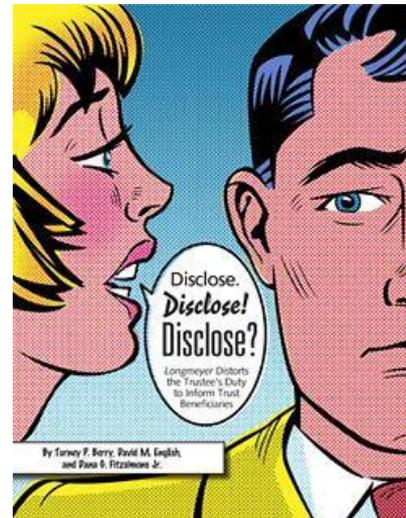


# What To Disclose...

- Disclosing a Disability in a Job Interview
  - Landing job is priority
    - **"Do what it takes to get the job. Don't disclose unless you absolutely, positively have to."** Ed R. Williams, Program Coordinator of the STEPS Program at the University of Arkansas at Little Rock.
  - The STEPS Program is a transition to postsecondary education program funded by OSERS. Williams spoke to Transition and Disability Service professionals at the session "To Disclose or Not to Disclose," at the 1996 AHEAD Conference in New Orleans this July.
    - His advice, based on a combination of research, past experience as an employer, and work with students gives individuals some practical guidelines from which to approach this difficult question.

# What To Disclose

- Williams listed **five opportunities** an applicant or employee has to disclose their disability to an employer:
  - The Job Application
  - The Interview
  - After the job offer
  - After you have started working
  - If a problem exist in the workplace
    - The worst time to disclose, of course, is after you've been fired.
    - On the other hand, you may never choose to disclose. Recommend disclosing only when need reasonable accommodation or requesting medical leave of absence
- **Interview Tips**
  - describe work-related experiences
  - answer all questions
  - answer with confidence
  - do not give unnecessary information
  - do not discuss disability
  - do not take notes during an interview
  - close the interview



# Case Example

- *Sjöstrand v. Ohio State University*
  - Plaintiff claimed OSU denied her admission to the school psychology program because of her Crohn's disease. She claimed she was better qualified than chosen candidates and that the faculty expressed a general concern about students missing class and specifically questioned the impact Crohn's disease would have on her class attendance.
    - Court found that it was proper for OSU to ask the applicant how she handles stress and that the question was not likely to elicit information considering her disability.
    - Once plaintiff voluntarily disclosed her experience with Crohn's disease, OSU was permitted to question her about it.
    - Also, plaintiff was not able to demonstrate her qualifications were so superior so as to infer she was discriminated against.
  - Court granted summary judgment in favor of OSU.

# Reasonable Accommodations

- A “reasonable accommodation” is a modification or adjustment to a job or the work environment that will enable a qualified individual with a disability to perform the essential functions of the job
- An employer is required to make a reasonable accommodation only when there is a known disability. Typically, if the employee doesn't ask for an accommodation, the employer isn't required to provide one.
- Requesting an accommodation:
  - Be specific about your needs
  - Place request in writing
  - Engage in interactive process
  - Be willing to compromise
    - The law doesn't require you to get the accommodation you want.
    - Find an accommodation that meets your medical needs with the least burden on the employer.





Best practices...tips from  
those who have been there

When in a meeting, sit next to the door- for easy exit (less disruptive)

Have an excuse ready (urgent call, something in my eye, need to get air)

Nausea sounds better than diarrhea

Others??

# Case Example

- *Crevier v. Town of Spencer*
  - Employer claimed plaintiff's performance was deficient because of frequent absences due to Crohn's disease. Plaintiff requested accommodations such as medical leave, flexible working hours and permission to accomplish tasks at home.
  - Court denied employer summary judgment; plaintiff claimed it would not have imposed hardship to allow her to work from the home



Questions???



Thank you.