



**DirectEmployers
Association**

Disability Hiring Interview Etiquette: What Can (Or Can't) Be Asked

Haley Moss

Haley Moss

Florida's first **openly autistic attorney**

Board Member for **Florida Bar Young Lawyers**

Division Board of Governors

Consultant with **DirectEmployers** on disability
and neurodiversity

Adjunct Professor at Taylor University

Author & advocate



Accessibility Notes

This webinar strives to be as **inclusive** as possible!

No one person can grant or gatekeep access. Access is something we **create together**.

We should have **captions and transcripts** if you need them.

If you need to take a break, log off, answer phone calls, stand up, twiddle your fingers, fidget, or feel overwhelmed – **go for it!**

If you would like a copy of these slides, the images have **alt text** and should be **screen reader accessible** too. 😊

Back to Basics: What Is Disability?

□ According to the Americans with Disabilities Act (1990):

- A **physical or mental impairment** which **substantially limits** a **major life activity**. Major life activities are functions important to most people's daily lives, which can include:

- Concentrating
- Communicating
- Reading
- Moving



Disability Etiquette 101

- ❑ When referring to disability, **avoid euphemisms.**
 - Unless, of course, the person uses them to refer to themselves
 - There is a lack of agreement over person-first or identity-first language. You can alternate between the two, or depending on your relationship with the person, ask how they describe themselves.
- ❑ Disability communities have **unique cultures.**
- ❑ Respect boundaries and treat us like anybody else.
- ❑ If you offer assistance, be prepared for a **“yes”** or a **“no.”**

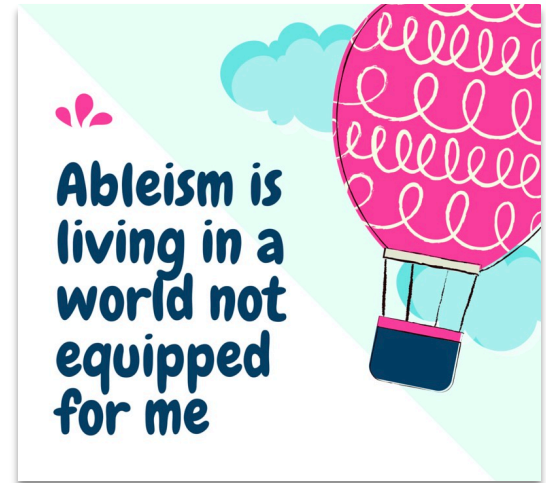


Recognizing Ableism

“A set of beliefs or practices that **devalue and discriminate** against people with physical, intellectual, or psychiatric disabilities and often rests on the assumption that disabled people need to be ‘fixed’ in one form or the other.

Ableism is intertwined in our culture, due to many **limiting beliefs about what disability does or does not mean**, how nondisabled people learn to **treat people with disabilities** and how we are often **not included at the table for key decisions.**”

– Center for Disability Rights



What Ableist Beliefs and Biases Do We Hold?

❑ Some overt examples:

- People with disabilities are lazy and helpless
- They are a burden on society or are a drain on economic resources
- We immediately feel sympathy or pity towards disabled people
- Deaf people can always read lips

❑ Some sneaky examples:

- The words we use
- Accessibility as an afterthought



The Legal Aspect of Disability at Work

Key Pieces of Legislation: Guiding Our Discussion

❑ Americans with Disabilities Act

- **The ADA** is a comprehensive, federal civil rights law that prohibits discrimination against people with disabilities in employment, public entities, public accommodations, telecommunications, etc.

❑ Rehabilitation Act

- **Section 503** lays out affirmative action goals for recruiting, hiring and employment people with disabilities for federal agencies, contractors and subcontractors.
- **Section 504** does not allow discrimination on the basis of disability in programs, entities, or activities from government agencies or any place or program receiving federal funding.



The Americans With Disabilities Act

“Title I of the Americans with Disabilities Act of 1990 **prohibits** private employers, State and local governments, employment agencies and labor unions from **discriminating against qualified individuals with disabilities** in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions, and privileges of employment.

The ADA covers employers with 15 or more employees, including State and local governments.

Your individual state civil rights laws may be more restrictive.

The Rehabilitation Act of 1973

- ❑ **Section 503:** employers are required to take **affirmative action** to recruit, hire, promote, and retain employees with disabilities.
 - Some of the obligations under Section 503 include an **affirmative action plan**, an **aspirational 7 percent utilization goal**, data retention, and **voluntary self-identification** of individuals with disabilities
 - Applies to any business or organization that holds **at least one federal contract or subcontract in excess of \$15,000**
 - Contractors with 50 or more employees and a single federal contract or subcontract of at least \$50,000 **must develop and maintain a compliant affirmative-action program**
- ❑ **Section 504:** prohibits discrimination against individuals with disabilities in **any program or activity receiving federal financial assistance**

To Summarize:

- ❑ **The Americans with Disabilities Act** forbids employers from discriminating against applicants or employees on the basis of disability.
- ❑ Under the ADA, the general rule is an employee or applicant does not have to disclose until an accommodation is needed.
- ❑ Title I of the ADA requires employers provide **reasonable accommodation** to **qualified individuals with disabilities** who are employees or applicants, except when it would cause an **undue hardship**.

Sharing Disability Status: Disclosure Scenarios



Let's Talk Disclosure and Self-Identification

- ❑ Why would someone disclose a disability in the job process?
 - The applicant wants to be proactive and avoid misunderstandings
 - The disability is evident or obvious (i.e., the person uses a mobility aid)
 - The applicant needs an accommodation under the **Americans with Disabilities Act**
- ❑ Applicants may choose to **disclosure voluntarily**:
 - They use a “take it or leave it” approach to bring their full selves to the interview and take **pride in their identities**
 - They want to be proactive and limit misunderstandings
 - They view disability as a **strength**
- ❑ Does disclosure help us, the recruiters and interviewers?
 - Disclosure can help **bridge the gap and provide context** about why an individual behaves a certain way, or to explain why a candidate may have held several jobs or inconsistent employment in the past. (Hensel, 2017).

What Does Disclosure Look Like?

❑ Soft disclosure

- When an applicant might hint at having a disability – but you might not be able to confirm or deny it
- Mentioning they are members of an allyship or affinity group
- Asking for support in a vague way

❑ Hard disclosure

- When an applicant precisely mentions they have a disability
- They describe it in a cover letter, resume, or other application materials
- They request an accommodation under the ADA

How do we navigate when someone shares with us?



ADA Compliance: Interviewing Disabled Candidates



Things We Can Ask!

❑ During an interview, an **employer may ask** without running afoul of the ADA:

- If an applicant can perform the essential functions of the position, with or without accommodation.
- For professionals: if an applicant is has a professional license or accreditation (or bar license), or will in a reasonable amount of time.
- What skills and training a person may have for the job.
- What an applicant's work history is
- If you know that an applicant has a disability, and it is reasonable to ask whether the disability might pose difficulties when performing a specific task, you can ask whether the applicant will need “reasonable accommodations” to perform that task



Things We Absolutely Should Never Ask

❑ Under Title I of the ADA, it is **discriminatory** for an employer to ask:

- Information about specific disabilities.
- If an applicant has ever received mental health treatment.
- If the applicant has a condition that might affect how they do their job
- What medication an applicant is taking (however, drug tests for illegal drugs are permissible. If the drug test shows lawfully prescribed medication, it is a confidential medical record).
- How someone became disabled



Takeaways

- ❑ As a guiding rule, we are asking applicants about their talents and abilities, not deficits and disabilities
- ❑ Interview with empathy – flip the script!





Haley Moss

Email: haley@haleymoss.com

LinkedIn:

Facebook/Twitter: @haleymossart

Instagram: @haley.moss