

Ask Me Anything Webinar with Lou Orslene, May 16, 2018

Webinar recording starts again at 12:24.

David: Good afternoon, everyone, and welcome to Ask Me Anything about Employment with Lou Orslene. My name is David Blair, and I will be your moderator today. This webinar is not a presentation, but an interactive question and answer period. And for the next hour, Lou will take any questions you have related to disclosure and accommodations. Lou has over 25 years of experience in the field of disability employment. He is the co-Director of the Job Accommodation Network (or JAN) and Fiscal Officer for both JAN and the Disability Research Policy Center at West Virginia University. JAN is the premier national resource for free, expert, and confidential guidance on workplace accommodations and disability employment. Today's event is a part of the National Resources Center on Employment jointly funded by the National Institute on Disability, Independent Living, and Rehabilitation Research, and from the Center for Mental Health Services within the Substance Abuse and Mental Health Services Administration, part of the Department of Health and Human Services. The content of this webinar does not represent the views or policies of the funding agencies and you should not assume endorsement by the Federal government. During registration for the event, you were given the opportunity to submit a question in advance. Over the course of the webinar, we will alternate between questions submitted in advance and ones you have for us today. To ask a question over the phone, please just indicate that you would like to in the chat box, and when called upon, you will press star-star on your phone to unmute yourself. You may also type your question into the chat box, and I will read them to Lou on your behalf. Your participation now is critical to the success of this event. And as a reminder, if you have joined us by telephone, please make sure to mute your computer speakers before asking a question. It causes an echo sound that is not pleasing to anyone listening. So with that, welcome to the webinar, and I hope you enjoy the next hour. Lou, welcome, I'm really glad to have you here today, and a lot of people have a lot of great questions. I'm going to start with one of the ones that was submitted in advance, and then we'll go from there. As soon as people start typing in questions, we'll switch back and forth. Sound good?

Lou: Sounds good. Hey, David, I just wanted to thank you guys very much for this opportunity for us to speak today. And just to let everybody know that in addition to me, I am very lucky to that Melanie Whetzel, our lead consultant on the Mental Health Team was able to join us this afternoon as well, so we'll both be fielding your questions. So again, thank you for the opportunity, and by all means, let's get into the questions.

David: Yes, and welcome, Melanie. I really hope you do share with us any advice you have, and you can both answer all the questions. I think you'd bring a different perspective, or the same, that's fine. So, our first question comes from Angelina, "When do I need to disclose to an employer that I need an accommodation? And to whom should I disclose it to? As a third party,

how can we best help our clients with disabilities maintain employment while still being transparent with their employer?" So it's 3-in-1, but I think they're all related.

Lou: They are related. I think I'll start with the third one first. I think as a service provider, you really need to provide or let the person be the lead in terms of their disclosure and what information gets shared with the employer. So, I think that's really important in all the work that we do. The person themselves, whoever you're supporting, really needs to be the lead on that. They need to make an educated choice, a balanced disclosure. So let's just talk about disclosure then. Under the Americans with Disabilities Act, the way the regulations are and practiced is that the person themselves really needs to disclose their disability to the employer. It's their obligation. It's certainly what we need to do, we really need for that person to be again informed about the implications of that disclosure. And there are a number of great resources out there. For instance, the Collaboration Team at one of the TA Centers, the Technical Assistance Centers, at the Office of Disability Policy, has a publication that disclose the 411 of Disclosure. There's two of them, one for an individual and then one for service providers, advocates, and parents. So I would encourage folks to dive into those really to look at the pros, the cons, and to make an informed decision about disclosure. In terms of disclosure, I would say, and I'll rely on Melanie to give us her opinion as well, I think it's very situational. I think to determine when you need to request an accommodation or disclose. I think a disclosure really needs to address some kind of accommodation that you need. However, if you have a company that you know is very inclusive, is very far along on the, what I call, the inclusion continuum; companies like, E & Y, large companies that are very well known, are highly rated, or that belong to the United States Business Leadership Network, or are on the Top 10 Companies of Diversities list of companies that are friendly to people with disabilities. Then it's a much more open environment, and you can, of course, discuss I think more readily disability in companies such as those that are very inclusive. But typically, people wait until they need an accommodation. But if you need an accommodation during the recruiting process, say for instance, if you're really not able to use the, what we call, an applicant tracking system, which are the online career portals that many companies use. Then at that point, if you can't use it, you can't submit your application because of a disability that you have, then that's the point you would ask for an accommodation. Or perhaps you can get through the applicant tracking system and you're invited in for the first interview. And for that, realizing that the company is providing instructions of when to arrive, what's the building's like, what the expectation is of the interview. And say, for instance, you have a very challenging time during team interviews. These interviews at some companies where there are multiple, multiple people shooting questions at you in a conference room, then if you need an accommodation, if you ask for a more private environment or if you ask for a change in that interview process, then that would be an appropriate time to ask for an accommodation. Then you may not, in either of those circumstances, you may not need an accommodation, but you may need one say during the onboarding process or once you're an employee of the organization or the enterprise, so it's at that point. So, I think overall, the point I really want to make is disclosure is very personal, first of all. You really need to be educated in terms of the pros and cons of

disclosure, and also it's very situational in that I would encourage people to learn as much as possible about the company that they are applying so that they know where that company is on the inclusion continuum, how friendly they are to people with disabilities, and I think that will assist the person in making a determination of how and when. Before I turn it over to Mel, sorry I didn't mean to monopolize this totally. But I would also encourage that individual, the applicant or candidate or employee, really seek out the policies and procedures of that company because that really is going to tell you who to disclose to. While we know that research conducted by Cornell that most people will, or a great many people, will to their immediate supervisor. In most companies or in many companies, there are policies and procedures in place, and either you may go to a representative in Human Resources, in Employee Relations, or in some of the more inclusive companies these days have a Diversity and Inclusion Department, and one would go to a representative. Typically there is a subject matter expert and disability consultant within D & I (Diversity and Inclusion), and one would go there to disclose and request an accommodation. Anything you can add there, Mel?

Mel: No, the only thing I was going to say was a lot of times employees don't want their supervisors or managers to know about their medical condition, and that's why it's a really good idea to go to HR. A supervisor or manager may need to be involved in the accommodation process, but not need to know the medical information. And one other thing is you don't want to wait too late to disclose a disability when you get into any conduct or performance issues. You want to disclose before it becomes too much of a problem because the employer doesn't have to rescind any discipline that was administered before they knew that there was a disability involved.

Lou: In some circumstances, Mel, I totally agree with that. It's one of those important parts or points to make because I think if you wait too long and there is discipline, then in that disciplinary meeting or counseling session that the reasonable accommodation request gets very muddled and questioned. Like, why didn't you ask for this before? Are you using this disability as an excuse or such? Sometimes it has to happen that way and it happens. It's not optimal. And you want to, I think, whether one is the supervisor or whether one is the employee, you want to avoid disclosure and request for an accommodation during a counseling session or a performance evaluation.

David: Absolutely. You know guys, I have a couple of things, and I usually don't do this, so at first, you started talking about the 4-1-1 resource online, and I put the link in the room for everyone about on the JAN website you have a disclosure page that has some 4-1-1 listed and some things, so I put that up there for everyone. (<https://askjan.org/topics/discl.htm>)

Lou: Great!

David: Around disclosure, there's a lot of questions people submitted in advance, and so I'm gonna try to go through those here and maybe we could just go through the whole beginning of

this going through those things just around disclosure because it's such a big topic area. Before I do that, James in the room just asked, "Did he say it is the "obligation" of the client to disclose?"

Lou: Under the Americans with Disabilities Act, it is the obligation of the individual to disclose and request an accommodation, yes.

David: Ok.

Lou: Unless, it is a disability known by the employer. Let's say, for instance, and we could tease this out a little bit further, but I would say most generally, it is the responsibility of the individual to disclose. There are circumstances, someone is injured at work, someone has taken family medical leave act. So the organization is aware of their disability, they've been certified, they understand the disability, it happened, so in that circumstance, the employer should just be negotiating, it should be talking about accommodations with the individual. So everybody is aware that there's a disability that's impacting the person's work. But those are the more rare circumstances. In most circumstances, it is going to be the individual who discloses.

Mel: And in the case of someone with like a developmental disability or an intellectual disability, they may not really understand that they can get an accommodation, and if the employer realizes that they need to help that person, then it would be up to the employer to start that process.

Lou: And certainly an advocate or a family member could be part of that disclosure and request for accommodation.

David: Ok. And then to summarize in terms of the timing of the disclosure, it seems to be the answer is before you need it, not in the heat of the moment because that will muddle the message, and it doesn't help. Oh, go ahead, it looks like I said something wrong there.

Lou: No, not before you need it, it would be as you need it. So for instance, and I'll give you a for instance here because I want to be real clear on this. So, there are circumstances where people are very open and very generous with information and they want to be very honest. So you go into an employer and during the initial interview, you disclose the disability and you don't need an accommodation. Unless it is a very inclusive organization and is very far on that inclusion continuum, we would suggest, and I would certainly suggest against that. I would really just wait, I would wait until I needed an accommodation. So, if I could not, because of a cognitive impairment that I had related to maybe my medication I'm taking, and therefore, I'm not able to quickly go through the applicant tracking system, the career portal to put my application in online; if I'm having that issue there, then I'm going to request an accommodation at that point. I think the point that Melonie and I were making is that if it's a performance issue, then you do not want to wait until there's a performance issue and receive

discipline. And I'm glad that we're really discussing this thoroughly because this is very confusing, and there are lots of nuances of it, so we'll hit it as many times as we need to, right Mel, to get these points across?

Mel: And let me say this, too, that sometimes an employee doesn't realize that their performance or their conduct is an issue, and the employer can bring that to their attention. And it opens up that pathway for a discussion about accommodations.

David: Ok. So going off all of that, one of the questions that someone submitted in advance, it actually happened multiple times is, "In job applications, it asks if you need an accommodation. And the question is, if they say 'No' there, what's the repercussion?"

Lou: That, I think the corporation is simply trying to comply and to be open with people with a disability by including that on their job application. My presumption there would be that there on the application itself that that specific request is such that just so that you know the company is open to receive a request for an accommodation and disclosure throughout the hiring process. So if you need an accommodation for that process. Again, if that statement is on an applicant tracking system online, then unless you would need that accommodation specifically for that process that you're now engaged in, I see no reason to disclose and to ask for an accommodation.

David: Ok. And so I'm trying to group questions because there are so many very, very similar questions that people asked. Debra, Leslie, people all over asked, "What is the best way to disclose an individual's disability to a potential employer?" So, how do you talk about it?

Lou: I really think the best way is to be proactive and to think it through. First of all, and I hit this already, but I would encourage people again to understand their internal processes. That's really important because there are, there very well may be a form that you need to disclose, there may be a specific person that you need to disclose to. So there's a number of things within the process the enterprise, the company's process that you need to be aware of. So that's what I would encourage first is to know what the process is so you can do it appropriately. I think what's also important is to really think about what your impairment, your disability, or your health condition, the challenge that is presenting at work. And I encourage that because often times the employer is not fluent or is not very educated in terms of specific disabilities. So they don't know the implications of that in the workplace. So you, as the person with the disability, need to build that bridge for them. You need to help them understand, that again, that I have a medication change, I have to take it at 7:00 in the morning, and this really creates an issue for me being at work at 8:30, so can I have a more flexible schedule for the next three weeks until that medication is clearly in my system, on something like that. So, you really need to build a bridge for the employer to help them understand, I am a person with a disability, this is the challenges, the limitations that I'm facing because of this disability at this moment. And this is what I have to do at work, and this is what it's creating a challenge for me.

So, let me just think about different ideas about how we can overcome these challenges. And then propose a few accommodations, and that's where the Job Accommodations Network can come in. For you to be proactive and be prepared, you can call Melanie, and Melanie can talk you through it. Offer a number of accommodations that might work for you in that circumstance, and you can propose different accommodations. And you can just say, and the employer may think, well, this one doesn't work, but maybe that one works, so let's go with that one. So, Mel?

Mel: Yeah, and I think one of the things that you need to prepare, that the individuals needs to be prepared to share medical information because the employer can request that they have medical documentation that substantiates the need for that accommodation and shows that the person does have an ADA disability. So, you want to think through that and think how much information are you willing to share? Even possibly have that letter with information from your doctor ready to provide when you ask for that accommodation. As we said, there may be internal policies, where you have to submit some paperwork, sometimes they don't, and you can write a letter. We recommend that they put their request in writing, but you're not required to do that under the ADA. Under the ADA, you can say something as simple as something like, "I'm having trouble getting to work on time because the medication I take for a medical condition. Can we talk about that?" And so it can be that simple, but then if you have that written, you can always talk to your employer about that and follow that up in writing, and that just gives you documentation that you did ask for an accommodation at this time.

Lou: And so, everyone knows that we do have an accommodation form, if you are one of those employers that really are not familiar with this process, do not have a process or a form in place, then we do have a form that you can complete and attach your medical information, if you choose to do that, in order to provide that accommodation. We also have a mobile accommodation solution app on. It's a free downloadable app, and an individual with a disability can go in a use that app to track your accommodations, and make notes on your accommodations, and complete a form, the interactive request form, and then submit that to your employers. So that's one of the tools that we provide.

David: And what was the name of that app?

Lou: It's the mobile accommodation solution app, and it's in the Apple store as well as the Google store.

David: Alright, I just put a link in the room for the Apple store for everyone, (<https://itunes.apple.com/us/app/mobile-accommodation-solution/id1291959434?mt=8>), and I'll try to find the Google store, as well. Something that isn't asked directly in the question, it seems implied to me, is a lot of people don't have the words to begin the conversation. They don't know how to approach it. And that's what they're getting at when they say, what is the best way? They need the sentence to begin the conversation, and they just don't have that. Do you have something like that for them?

Melanie: We have a simple sample, a simple sample accommodation letter, and it's just simply states, "I'm asking for an accommodation under the ADA because I have a disability." It can be as simple as that. Or like I stated earlier, "I'm having trouble getting my reports done on time because I get distracted in the afternoon." You know, it can be as simple as that, just so that the employer understands. At first, just so the employer understands what you're saying that there is a problem with your performance or your conduct and you're relating it back to your disability. If a person just goes to their employer and says, you know, "Hey, I'm just kind of distracted," and doesn't relate it to a medical condition or a disability, then the employer's not sure if that's a yay or what; and so they can only ask questions to clarify that. But it's really a good idea think that through, and then in the simplest way possible, just explain what the difficulty is that you're having on the job and how your disability is related to that.

Lou: And I think, too, that the context, the environment is really important, too, so I also would encourage people to do is to plan it, schedule it, ask for a private room if it isn't something that you want to talk about in the hallway while you're in between projects or in between meetings. This is something that is very personal, very private, and you really want the full attention of the supervisor. So I think setting up the meeting is as important as how you launch the meeting. So set it up, a private room or a conference room with your supervisor, perhaps HR needs to be involved because they're more educated about really what needs to happen, and they're listening for requests for accommodations. And then, as Melanie said, just put it out there. "I'm really having a problem doing this. This is the impairment or chronic condition I have. I'm thinking these things might help me. What do you think?" And I think really to humanize it as much as possible and to make it as least intimidating as possible, and positive as possible, too, so you come with options. You're not just coming to put it all out there and for them to solve all of the issues. You want to propose some ideas. You're part of the discussion, you're part of the negotiation. I think that's really important because we know that even in this day and age, I mean there's still so much stigma around disability and even more so around mental health conditions. We all wish it wasn't so, but it is so; so we need to deal with that. And the way that we deal with that is just to be prepared. We want to normalize mental health conversations as much as possible in the workplace, as much as we need to in order to disclose and ask for an accommodation. And this is the way we're going to do it, we're just going to be very authentic, very human, and just take the intimidation out for everybody. It's as simple as "this is what I'm experiencing, and this is kind of what I think I'm needing."

David: Ok. You know, and for anyone listening, I'm trying to group these questions, so we can really get to the bulk of things. But if I'm missing nuances as I group questions, please type them in the box and we'll get back to those nuances that I'm kind of ignoring to kind of get to the more questions, because there's more questions that have been asked than we can get to. And so I'm going to group two more, and this is from the room right now. And this is from Mercy and Ilana, and they both are asking about ways to find jobs from employers who are accommodating. You know, is there a resource out there that is a collection of these employers that are really progressive? Or you know, how do they identify the type of employers that will work well with people with disabilities?

Lou: There are a number of things I would look for. First of all, I had mentioned the United States Business Leadership Network before. I would go to the USBLN site, and look for all the corporations that have sponsored and who are engaged in the USBLN. I would go to Diversity, Inc., a magazine. I would

put in my web browser, 10 top companies for disability and Disability Inc., and you will pull up those 10 companies that are most inclusive of people with disabilities. So I would, that's what I would start doing. I would also be aware that in the Federal sector that there is a Schedule A provision, which is an affirmative, in many ways, an affirmative action program for people with disabilities to become hired in the Federal government. So I would know that the Federal government would be in that, in my list. So, if I was doing the discovery in order to approach employers, that's sort of the approach that I would take. Now, if I was just looking at a specific employer, I would go to their website. I would want to know if, I would want to know how they provide their equal employment opportunity statement. If it varied somewhere 10 pages, 10 clicks, or is it on a third page? I would go to the career portal. How about their, a button that says "Request an Accommodation." Is that on the first page, second page, third page, or is that buried seven clicks? Those are some of the things that tell me that the company is more inclusive in thinking about people with disabilities. I would look at their visuals. I would look at any marketing information they have. Are individuals with disabilities, with various disabilities included in their marketing information? So, that's some of the ways that I would, some of the ques that I would use to know whether or not that company is inclusive of individuals with disabilities. And then in further, that informs me that in terms of my, the way that I disclose, when I disclose, who do I disclose to? So, you know, it builds out the scenario for me, so I know what to do next. Anything you can think of, Mel?

Melanie: No, I don't have a thing to add to that. That was good.

David: Alright. So with that, we'll move onto a question from the room. Joan asks, "What is the best practice corrective action with individuals who self-sabotage their jobs and will not give a valid reason for the sabotage? After losing the job that was connected to their specific career path, they complain about needing a job, so they want to resume the job search in the same area of interest. And they say that also seems to be connected to attention seeking."

Lou: Well, you know, I think that's one of the toughest situations, of course. It's a very challenging situation. I think though that ultimately people should be allowed to fail. And if they sabotage themselves, and they're getting the other supports that they need, I'm not sure that there's a lot we can do about that, to be honest. And, you know, it's so complicated because as I have mentioned before, the stigma with mental health conditions. My experience is that I've seen people lose their jobs, instead of really being upfront and be willing to put themselves out there to disclose and ask for an accommodation that we believe could work for them. Again, that's not a decision that I can make for anybody, besides myself. And if that's their decision, then you know, I'm not sure that there's much we can do about that. If they have very specific sabotage behaviors, I'm supporting that person, I'm an advocate, I'm a family member, then I'm certainly going to engage with them and point out those sabotage behaviors and just talk about what my experience is as their advocate or family member and seeing this happen. And see if there's any way that I can influence their behavior ultimately with a job or a job search. Anything you can add?

Melanie: I was just thinking about, you know, counseling. As professionals, they could help maybe work through that.

Lou: If they're still employed, then always remember, too, that many of the large employers have employee assistance programs, EAPs as they're traditionally called. Although sometimes they're called different things within enterprises within companies. So if I'm a coworker and that person engages with me, and I'm close enough for them to disclose and for them to ask for my support, then you may want to direct people to the employee assistance program of the company. And perhaps they can help them and they can counsel them, and provide that support so that they can be more objective about these sabotage behaviors. But admittedly, that's one of the most, one of the largest challenges. It really is, when someone engages in those kinds of behaviors.

David: Alright, thank you. And I wanted to let everyone know if you haven't paid attention to the chat box, I put the link to the Android app store as well, and as well as the Diversity, Inc. and the USBLN sponsors for people who are looking for those more progressive employers.

<https://play.google.com/store/apps/details?id=org.askjan.mobile.android>

<https://www.diversityinc.com/>

<http://www.usbln.org/who-we-are/corporate-partners/>

Debbie, in the room, asks, "What are the separate obligations for communication-related accommodations, even as they might apply to a person with an intellectual disability, spectrum-related functional limitations, etc.?"

Lou: Could you read that again? I think I need that teased out a little bit more to give a good response. So if you read it again, let's start with that.

David: Yeah, and I think the broader subject is disclosing and dealing with intellectual disabilities as well, but her specific question is, "What are the separate obligations for communication-related accommodations, even as they might apply to a person with an intellectual disability, spectrum-related functional limitations, etc.?"

Lou: And the complexity, of course, is if you're a service provider involved, I'm going to presume that if somebody has an intellectual disability that they may be working with a service provider and the employer may be informed. I can tell you when we talk to employers, we coach them on when you are working with somebody with an intellectual disability that to very closely monitor your language so that they're certainly understanding what you're requesting of them. So, and in terms of communication, again as Melanie stated, under the law and under the regulations, it's just required that the person share that they have a medical condition and that it's interfering with work. It could be a very simple verbal statement, which again on the flipside, when we talk to employers and supervisors, often times what we just suggest is that somebody brings up a medical condition, then they have the responsibility to clarify with that person to really understand why they're disclosing that disability because it may be accommodation related or it may not. Best practice there for employers really is just to take a step back and say, "I understand that you're disclosing this medical condition to me now, but what I need to do to understand to make sure that I live up to my responsibility and that I

comply with the law, is to understand if you're asking for an accommodation." So that's what we coach employers on. And again, we're looking at specific communication, so it could be that simple verbal statement, right? Or it could be that that advocate, service provider, family member assists the person with that letter, using the format, using the letter, that interactive form that we developed. So, either of those approaches I think would be effective in requesting an accommodation. Ok, I hope we were clear on that. I'm still not sure that really hit that that well. But if the person could ask supplemental questions or if they could tease it out a little better for us, then we're certainly open.

David: Yeah, and I don't see anything from them yet, but if they do post again, then I'll bring it back up. I got a couple of questions in the room now, and even in the submitted ones, around disclosing anxiety, you know, disability requests. And people seem to want help around how to specifically go about an anxiety-related accommodation request. Do you have advice that's specific to them, or is it the same as what you've been saying?

Melanie: I think one of the things people want to be clear on is that they need to provide information to the employer about what's causing the anxiety because that's what it comes down to. How do we accommodate that? A lot of times employers, from the information we receive, employers will get requests from doctors that the employee needs a stress-free job or an anxiety-free workplace, and that's not really possible, at least I don't really think that is.

Lou: Right, I don't think so either!

Melanie: So what is it about the workplace or the job that is causing the anxiety? And it may be something in their personal life, things from home that are an issue. But what are the things on the job that are exacerbating the anxiety? You know, is it the location? Is it the distractions? Is it job tasks that need to be done in a certain order? The employee needs to have that specific information, so the employer can understand that. So, if they're gonna try to reduce that anxiety in the workplace, they really need to know where that anxiety is coming from.

Lou: And again, I just want to hone in on what I said earlier, too. So when you're looking at disclosure and requesting an accommodation, you have a medical condition, which you want to list, you're having a challenge at work, which you want to provide to the employer, so you're building that bridge. And then, if possible, you want to propose a couple of solutions. You want to be proactive and as positive as possible. And that's really the way to do it.

David: Ok, so moving along so we can get through more of these. This question is kind of flipping the question around, this is from Rupali and they ask, "What questions can the HR (Human Resources) person ask the candidate with disability about their disability when interviewing? So as the employer, what can I ask someone, who has disclosed to me?"

Lou: Well, and that last part is really what I'm listening for because I wouldn't expect that anyone would be asking about my disability, unless I disclosed and let them know that I had some kind of limitation and that I was having a challenge. So, really people should not be in HR, ER, or somebody in inclusion should be asking about disability; and there's an exception, and I'll talk about that in a second, but unless you disclosed. And once you've disclosed and you're asking for an accommodation, then they engage in what's called, the interactive process. And then it's their obligation, really, to sort out whether your disability is covered, whether they understand enough about your disability that they can seek solutions and accommodations, and understand what kind of accommodation that could work for you in that specific setting and that workplace. So I hope that's clear. The exception to that, of course, is that if a company has a Federal contract with, a contract with the Federal government, in which case they fall under Section 503, under the Rehabilitation Act, they more than likely have to have affirmative action, depending upon the clause on the contract, but we'll presume most of them are pretty large. So, they've have to have an Affirmative Action program, and what they'll have to do is that there's a goal out there of 7% of your workforce should be people with disabilities, an aspirational goal. So in order to meet that goal, they have to collect metrics. So everyone that's hired with that Federal contractor may be asked to self-identify. It's a completed form, which is a governmental form that designed by the Department of Labor. So in that circumstance, you may run into that type of, and then, we call that self-identify, not disclosure. But it's very confusing for people. I can just tell you, and I can tell you that it's confusing for supervisors and it's confusing for individuals with disabilities looking for work and starting to work at an organization when that form is presented to them. So there's two very distinct processes. One is disclosing and requesting an accommodation, and the other one is self-identifying, specifically for the employer, or future employer, to meet the obligations of Section 503 as a Federal contractor.

David: And it goes off of that question that they asked, "As an employer, are there questions that they shouldn't be asking?" Does that make sense to you?

Lou: Yeah, I think very specifically, but you know there isn't, but employers do. We have to be real about that. And you also have to be prepared, I think to take that question and turn it around in as positive way as you possibly can to get around the question. Because I think employers are not very far along on the inclusion continuum, as spoken of before, and they're going to ask inappropriate questions. It think that's just, it happens. You really need to be prepared for that, and you really need to prepare to move past that question and to get at maybe the root of what they're asking. What employers are permitted to ask, if I disclose a disability and I say that I have this type of challenge, then what they very well may do, and they may do this for all candidates, is that they can ask, how can you perform this job? So if you have that specific disability, could you just enlighten and tell me, so how would you do this then, this particular process, this on-the-job description? Can you tell me that? And that's most typical, that what most employers are going to ask and that's within that sort of safe area for employers to ask, is that how will you perform that certain aspect of this position? But if an

employer is asking personal questions about your medical condition and what meds you're on, then I would just encourage them and keep re-steering them to the accommodation, and this is the way that I would do my job in a positive way because you want the job, right? Ultimately, you want the job, you want to set an example, you want to blaze the path, and you want to be that person now that's successful in the organization so that organization is going to grow beyond disability, and disability is more normalized within that organization, right? That's what we all want to move towards, that's the world we want to move towards, right? So you want to engage with them in a positive way, and you really just want to keep steering them to this is the job that I have to do, even though I have this disability, I know I can do, and this is how I can do it. Mel?

Melanie: That's exactly right.

David: Alright. I'm going to group two questions here. One from Carolyn, who asks, "What happens when my employers find out about my mental illness? Do I have to disclose? And then Alison, in the room, asks, "If you ask for sick time for an appointment, can your supervisor ask you what kind of appointment?"

Lou: So, first of all, whether you need to ask? The first part of that was?

Melanie: If your supervisor finds out you have a mental illness issue, do you have to disclose that?

Lou: No.

Melanie: No, and I don't know how your supervisor finds that out. And one of the things we recommend to people is you don't have to disclose to everybody, so you want to be really careful at the workplace who you tell what. There are people who just tell everything about themselves and all their problems, and then they get upset when that comes back at them. And so the best thing to do is not to be secretive or hiding, I don't mean that, but just not disclose to everyone and then there's less of a chance of that information getting out.

Lou: But to go back to the supervisor, of what use would that be to the supervisor to know that you have a mental health condition? Unless I need an accommodation, that is the only way that it is relevant to both me and the supervisor. If it has something to do with my productivity, not what it needs to be, or something of that sort. So it's not really appropriate for a supervisor to ask about mental health conditions. Although I fully agree with Mel, some people unfortunately position themselves in such a way that they tell everyone everything, and again, are not as educated as they should be in the workplace about mental health or disabilities in general, and so these things do happen. Again, if my supervisor did approach me and wanted to talk about it, I would say that information is really confidential, and I would prefer not to discuss it.

Melanie: Yeah, now one of the questions we get frequently from employers is, “We suspect somebody has a mental health impairment, what do we do?” And our advice is, you just go along as you would for everyone else. If it’s a conduct issue, if it’s a performance issue, you address it as that. You don’t bring anything else into it. You don’t say, I have a disability or a medical condition and you need an accommodation. You can say, here’s where your performance is, here’s where you need to be, how can we help you? Which is kind of the same thing when you ask for an accommodation, but that way you’re not assuming someone has a disability. And that gives the employee the opportunity to disclose that, if they do have a mental health impairment at that time or not. Sometimes that might be a good time to disclose if the supervisors bring it up, a performance or a conduct issue. Some employees will disclose at that time, and others won’t, but we will direct employers to not go down that path until the employee actually says, yes they do have a mental health condition, and then talk about it.

David: Alright. Janet asks that if you have resources for Canadians. Where can a Canadian look for information about accommodations?

Lou: Sure, what I would do is go straight to askjan.org, our website. In the question box, I would put mental health. And that’s probably the easiest way. And then it will pull up, the way that our website works, is it pulls up all the documents that we have—all of the plan documents, the accommodation documents, etiquette documents; it all comes up under that window. And typically, the first publication is the one that is the most thorough and contains a number of accommodations. We also have a searchable online accommodation resource called, THOR, and it’s a tool that people also use to search for accommodations. But ultimately, remember that our core service is people can call our 800 number (800-526-7234), they can chat, they can Skype, they can email us (<https://askjan.org/JANonDemand.htm>), they can use our virtual office and second life and talk to our avatar. If they’re really uncomfortable about talking about their mental health condition, which happens, so there’s a myriad of ways that one can contact us. And what we’ll do is we’ll coach you through the entire process. So you know, this is what my employer said now, now what do I do in the next step?, kind of thing. And I think that’s where we can be instrumental in supporting you on your, on the journey. We have a case management tool, if you want to provide your name. Then we set up a case for you. If you’re not really confident and you don’t trust that your information will be kept confidential, and some people are leery of, then you can just be anonymous. The only thing is that creates issues that we don’t know what your past record is, and we can’t start with you where we ended the last consultation. But we’ll definitely support you through that process and give you tips on what this is what my employer said now, is that appropriate? No, that’s not appropriate, but let’s try to approach it this way to either get you that job or to keep you employed.

David: You know, you actually answered a different question. I think I stuttered, but that was a really useful answer for all these people who seem to be looking for help just for them. But the question was for Canada, the neighbors just to the north of us. Where can they look for resources about accommodations? Do you know?

Lou: Well, here is, first of all, anyone globally can use our website, so all that information is available. And we worked with a number of countries: Australia has replicated the JAN model, Taiwan, South Korea we've done some work there. So there's a number of countries that we have worked with to replicate aspects, Japan has replicated our searchable accommodations online. I understand that there is a group that is your vocational rehabilitation group, I almost have their name, but ?? something in Canada, and I know that they assist and provide information that we provide. I believe it's proprietary though. I think you have to be a member and pay for their services. But ultimately, you can access any of our information online, or email us, or use our searchable accommodation resource that service that we have, and we do not block requests for any other country.

David: Ok. Nina asks, and this is from an employer, "If an accommodation is requested in a format process that is outside of the employer's typical process, must the accommodation still be considered or granted?"

Lou: Can you give me an example of that?

David: Oh, she's typing. Let's see, I think it's that they have a formal method of requesting accommodations, if I'm to guess, and if someone is going outside of that method. You know, not following an internal process of a company.

Lou: Right, so let's go back to our original conversation at the beginning. The EOC only requires that a person disclose verbally that it's a medical condition and a challenge at work. That is a disclosure, that is enough information that under the law the employer has now an obligation to move forward with the interactive process. So let's start there. However, if say for instance, a person asks for it verbally from their supervisor, which is not outside of our process. Our process is you go to Human Resources, to our disability specialist; and they haven't done that, and they haven't completed the paperwork, then what I would suggest is that the person in HR, ER, or DNI steer that person to the process, inform them of the process, and provide the support that they need in order to complete the process. So say for instance, say it is somebody with an intellectual disability, and they're not really able to complete the forms that need to be completed, the employer has to continuous obligation to assist that person with that accommodation process. And it could be an alternate way that we typically do it. So once that person discloses, requests an accommodation, and it's obvious that it's an accommodation request, then the obligation moves to the employer. And at that point, regardless of what their policies and procedures are, they have been alerted by the regulation, and they need to move forward with that request.

Melanie: And I would just say that frontline supervisors need to be trained in what to do if they receive a request, but it's not up to them to do that, then they direct that person to who they

need to go to or they forward that information onto the right person, so it doesn't just lie there on the supervisor's desk because it's not the supervisor's job.

Lou: And that's where we can help employers, too. So what we developed over the last couple of years is called, the Workplace Accommodation Toolkit. And we have sample policies and procedures, and also metrics for benchmarking and monitoring your accommodation program. Also, what we suggest is, as best practice, is having, at the very least, a spreadsheet tracking system, but also getting an accommodation tracking system so that you can track them. What we find is that so many times problems are created when there's a new supervisor, when information isn't conveyed appropriately and timely to an individual who has the responsibility to directly accommodate that person. That's where we really find a real sore spot. So that's really important for accommodations to be tracked, and we would encourage that. And we have samples we can either provide you with the Excel spreadsheet as a sample, or we could provide you with a list of vendors that make those accommodation tracking systems.

David: Ok. We're starting to run out of time here, so I'm gonna wrap this up pretty soon. So, we're going to do two last questions. One comes from Siao Yen and they ask, "Has there been any research findings on how to best approach disclosure? Specifically, whether it turns out to be more favorable for the person with mental health issues to disclose at his or her workplace, not at all, or selectively? And if selectively, would you agree that it works well or best if they disclose only to the head of the organization they're employed by, or to their immediate supervisor, for example? Just the general research and the best way to do it. Is that out there?"

Lou: You know, I'm not familiar with that kind of research. Are you guys, David, do you have anything there at Boston University?

David: Not that I am individually aware of, but there are so many of us that someone could be working on it and I wouldn't know.

Lou: Sure, maybe that's something that we can look at together. So not so much based in research, but I can certainly say from the JAN perspective, we receive or conduct 47,000 consultations at least per year, so we have a pretty decent grasp over what's happening. And again, it's so situational that I think that really is where the focus needs to be is on the organization, their policies and practices. I don't find anyone that would disclose to the CEO or somebody in the C suite or the VP suite, the Vice President suite, not really appropriate. You know, it would be, I would look at the policies and procedures and I would follow them. If there's a subject matter expert that consulted, an internal consultant on disability issues, that's the person you really want to talk to. That's the person who knows the process, that the person who's most sensitive to these issues, and that's how I would make my determination. I don't think on a large scale, understanding the dynamics out there are really helpful. I think you really need to focus on what your needs are first, understanding your needs, understanding how to request those needs, and what kind of accommodations would work, and understanding how

you then connect with your organization. Where do you plug in the information? It that what's make it so situational and so challenging, admittedly for both the employer and the individual, there's no doubt about it. But I really think you really need to, you, your advocate, your family members supporting you need to sort that out and make those determinations based on your situation on your company on their processes. That's what I would say. Anything to add there?

Melanie: No, the only thing I would say is, generally speaking, you would want to go to HR, not your supervisor or manager if you're concerned about the nature of your disability diagnosis getting out because the person, whoever's designated to do that, keeps that information confidential. Needs that medical information to determine yes, there is a disability under the ADA or not. Then they file that away, and that is kept confidential, no one really has access to that. And so that is probably the best thing to do. Now as I said earlier, sometimes the supervisor or manager is going to need to be involved in the accommodation process. Say someone wants to work from home and the HR says, you know we don't see a problem with that. The supervisor or manager needs to be involved to make sure that's something that's going to be effective and to know that the person is working at home and not going to be reporting in, but they don't need to know anything about the medical condition, just the limitations, which could be lots of different disabilities and medical conditions would have the same limitations.

Lou: And I think it's important, I think you're absolutely right, Mel, and I think it's important to note that HR person, the person in employer relations or in DNI should only be sharing information on a need to know basis, which means no medical information, only the functional information that the person needs in order to provide that accommodation. And just very quickly, too, the group in Canada that has a similar service, but I think it is proprietary for pay is the Job Accommodation Service. We worked with them a couple of decades ago, and they're sponsored by the Canadian Council on Rehabilitation and Work.

David: Alright. Well, we are out of time, and I wanted to thank everyone in the room for trying to help each other out because we were not able to get to even half of the questions today. And I wanted to thank both you, Lou and Mel, for answering the questions everyone had, and really everyone for attending. The next Ask Me Anything about Employment session is coming soon, and you'll receive an announcement by e-mail because you signed up. In the next few days, the attendees here will also receive a survey about their experience, and we would love to get your feedback about this event. Thank you again everyone, and we look forward to seeing you next time. Have a good day.

Lou: We appreciate the opportunity, and thanks everybody.

David: Bye, thank you.

Lou: Bye, bye now.