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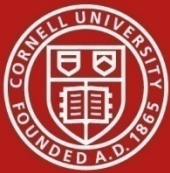
Conversation with Patricia A. Shiu: The OFCCP's Regulatory Agenda

Supporting the Creation of Disability Inclusive Workplaces

March 27, 2015

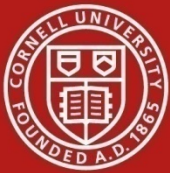
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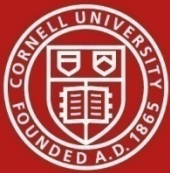
Focus of My Presentation

- What current data tell us about areas where individuals with disabilities perceive the occurrence of workplace exclusion
- Ways to measure workplace inclusion
- Workplace policies that contribute to a disability- inclusive environment
- The critical role supervisors play in creating a disability inclusive environment
- Implications for employers/corporate legal counsels



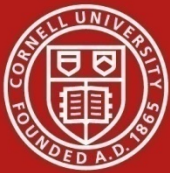
Value-add of Inclusive Workplaces in the New Regulatory Climate

- New Section 503 regulations establishes a 7% utilization goal for individuals with disabilities in all job categories and requires federal contractors to invite applicants to self-identify pre- and post hire
- Self-identification is voluntary and compliance with utilization goal depends on the comfort level of applicants/employees with disclosure
- Inclusive workplaces increase likelihood of self-identification



What Current Data Tells Us About Where Discrimination Is Perceived to Be Occurring

- U.S. Equal Employment Opportunity Commission data since 1993; focus on last five years
- Types of disabilities where employment disability discrimination is perceived
- Parts of the employment process where alleged discrimination is occurring
- What this might tell us about workplace climate considerations
- Select trends that inform practice –
 - Non-obvious disabilities
 - Level of charges compared to other protected populations
 - Impact of an aging workforce

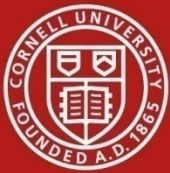


Most Common Specific Conditions Cited on ADA Charges: 2005-2010

Condition	Percent of Charges
Orthopedic/Structural Back Impairment	9.3
Non-paralytic Orthopedic Impairment	6.9
Depression	6.0
Diabetes	4.6
Heart/Cardiovascular	3.6
Anxiety Disorder	3.5
Cancer	3.2
Hearing Impairment	3.1
Manic Depression (Bi-Polar)	3.1

Note: a charge may cite more than one basis.

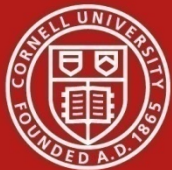
Non-specific conditions were not included in the table: Other Disability 26.7%; Retaliation 17.7%; Regarded as Disabled 12.8%
Record of disability 4.8%; Other 3.6%



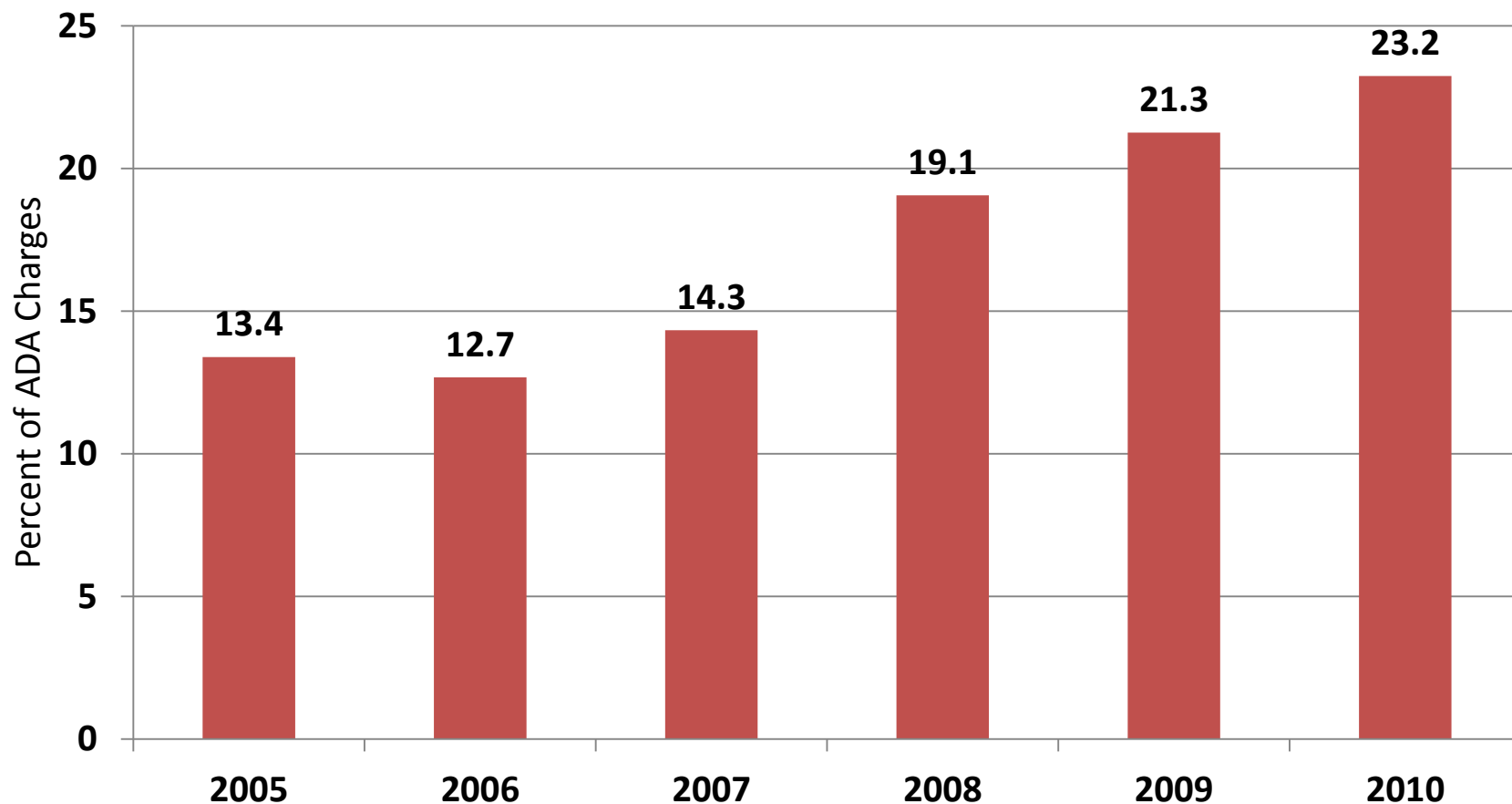
Most Common Issues Cited on ADA Charges: 2005-2010

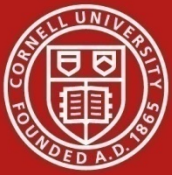
Condition	Percent of Charges
Discharge	58.4
Reasonable Accommodation	28.2
Terms and Conditions	19.8
Harassment	14.8
Discipline	8.6
Hiring	6.7

Note: a charge may cite one or more issues.

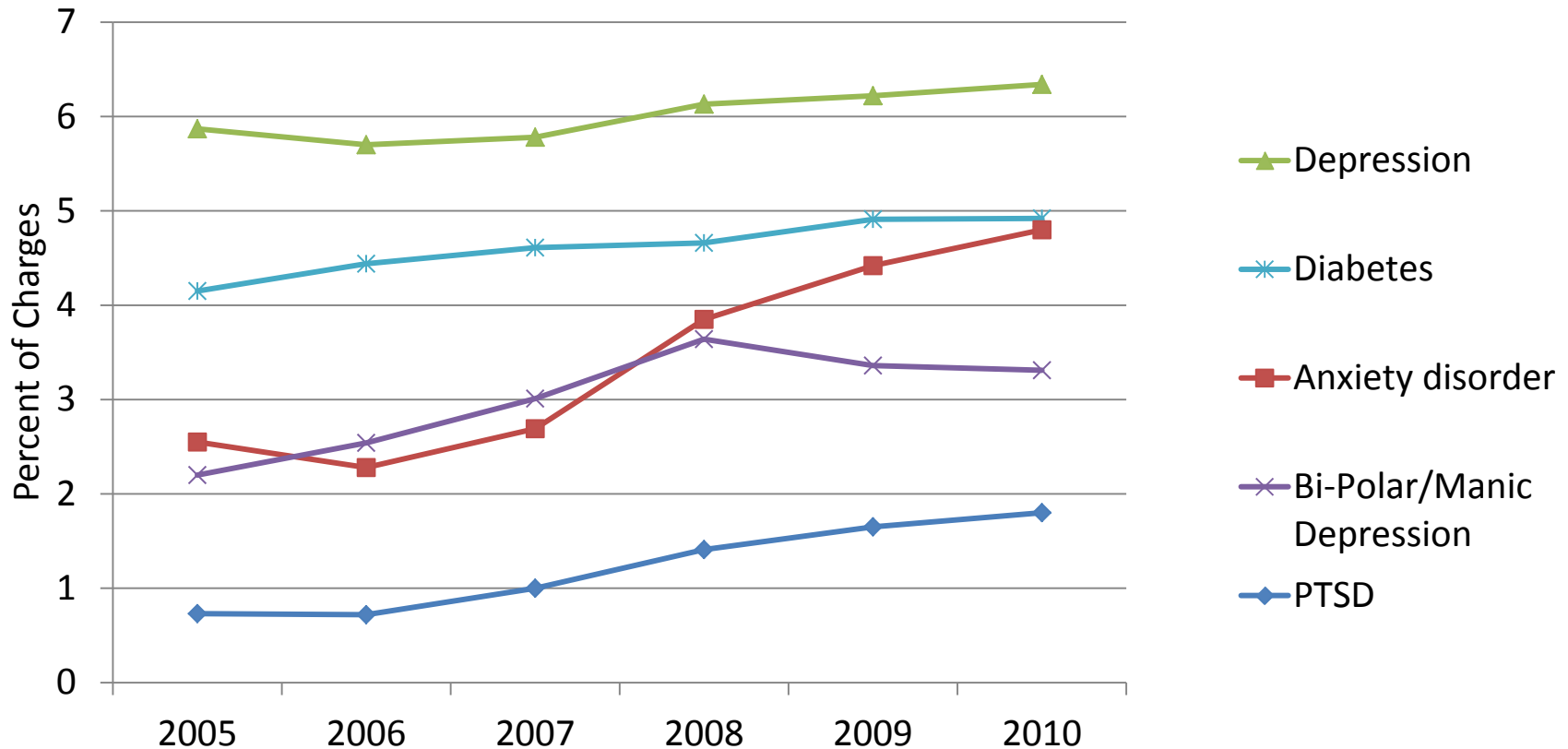


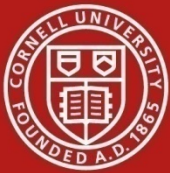
More ADA Charges Citing Retaliation





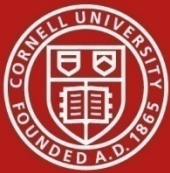
Increasing Percentages of ADA Charges Citing Non-obvious Disabilities





Disability Disclosure as an Index of an Inclusive Workplace

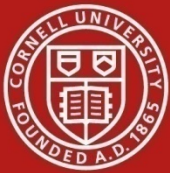
- Organizations are increasingly concerned with accurately capturing the proportion of their employees who have a disability.
- Their ability to do this is dependent in large part on the willingness of employees to disclose that they have a disability.
- Little is known about the factors that influence disclosure.
- Results of recent Cornell/AAPD study



“Very Important” Factors When Deciding to Disclose a Disability to an Employer

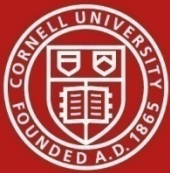
	Persons <u>with</u> a disability (N=598)
Need for accommodation	68.2
Supportive supervisor relationship	63.5
Disability friendly workplace	56.8
Active disability recruiting	50.5
Knowing of other successes	49.9
Disability in diversity statement	48.9
Belief in new opportunities	40.7

von Schrader, S., Malzer, V., Bruyère, S. (2014). Perspectives on disability disclosure: The importance of employer practices and workplace climate. *Employer Responsibilities and Rights Journal*. DOI: 10.1007/s10672-013-9227-9.



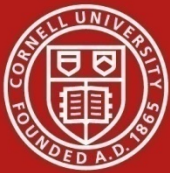
“Very Important” Factors When Deciding NOT to Disclose a Disability to an Employer

	Persons <u>with</u> a disability (N=598)
Risk of being fired/not hired	73.0
Employer may focus on disability	62.0
Risk of losing health care	61.5
Fear of limited opportunities	61.1
Supervisor may not be supportive	60.1
Risk being treated differently	57.8
Risk being viewed differently	53.8
No impact on job ability	44.0
Desire for privacy	27.9



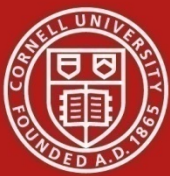
Choosing to Disclose: Other Important Factors

- Company offers flexible work opportunities
- Disability awareness/anti-stigma training offered to all employees
- “HR personnel who are familiar with disabilities, accommodations and understand it is a goal for companies.”
- “Knowing the employer has a fair system in place to resolve complaints.”

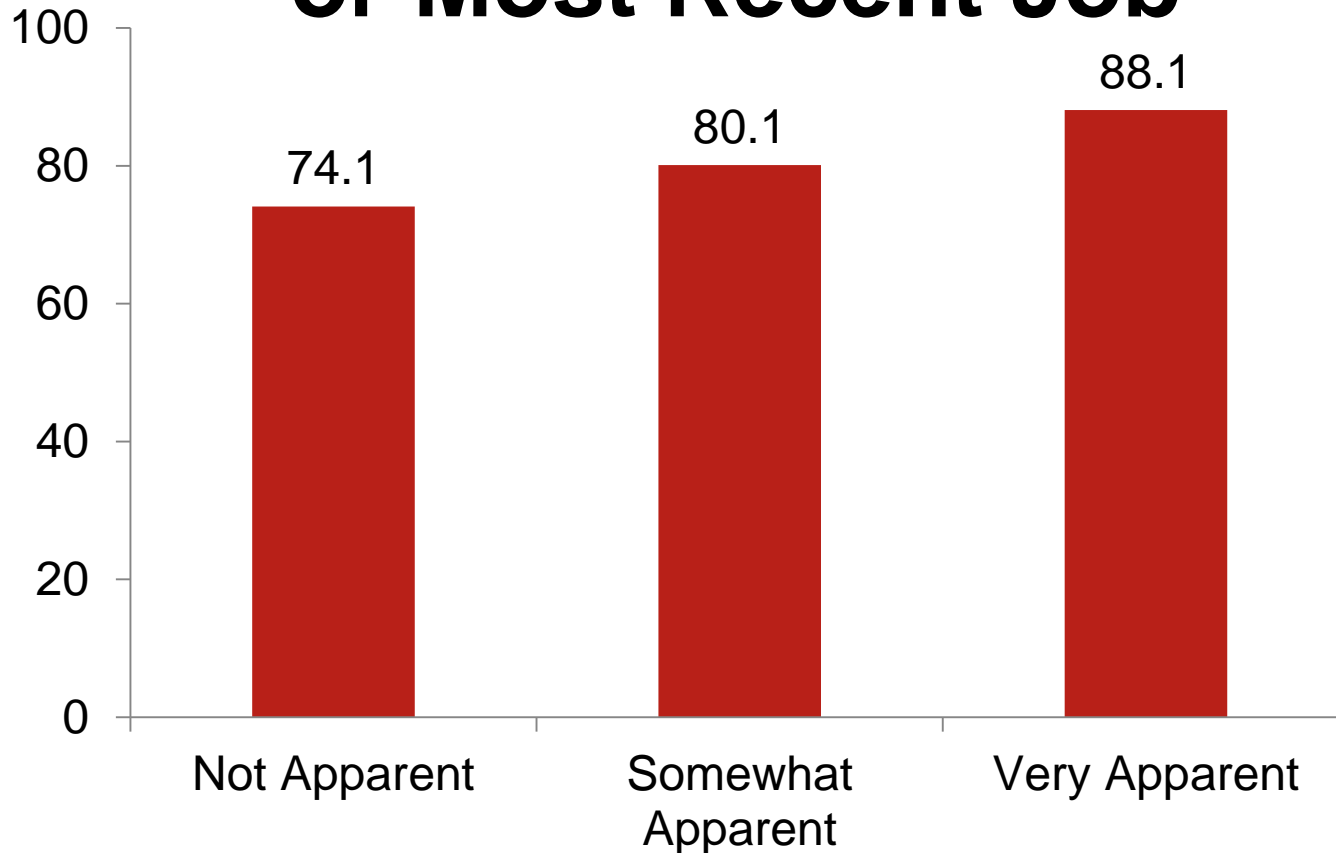


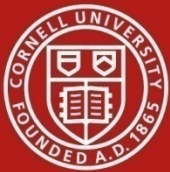
Choosing to Disclose: Other Important Factors (cont.)

- Accessible workplace building and facilities
- Organization supports diversity more generally
- “Data presented on hiring and promotion of people with disabilities”
- “Participation and support by employers in community awareness events/activities”

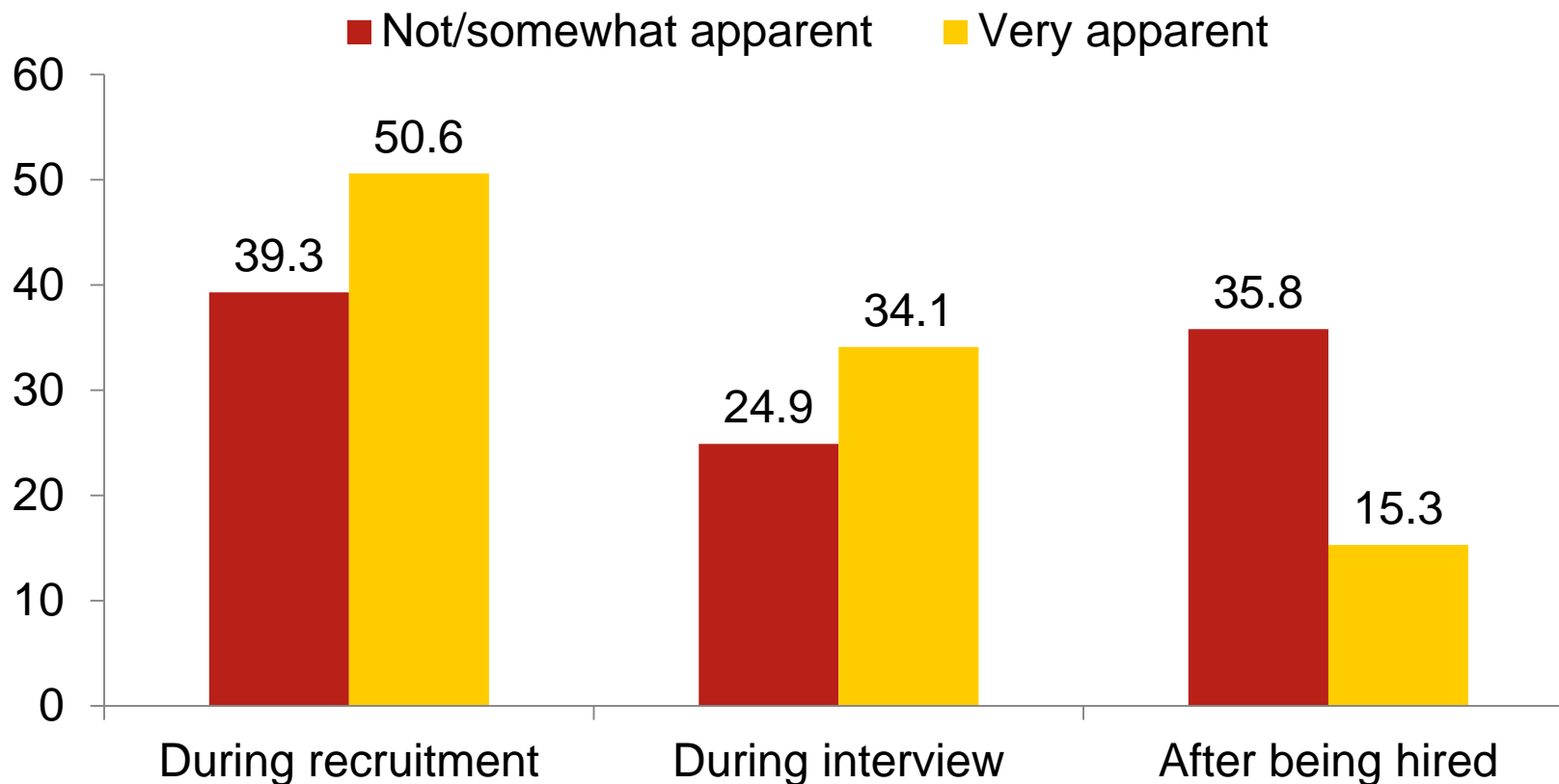


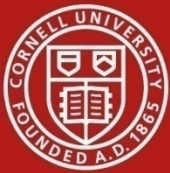
Percent Who Disclosed in Current or Most Recent Job



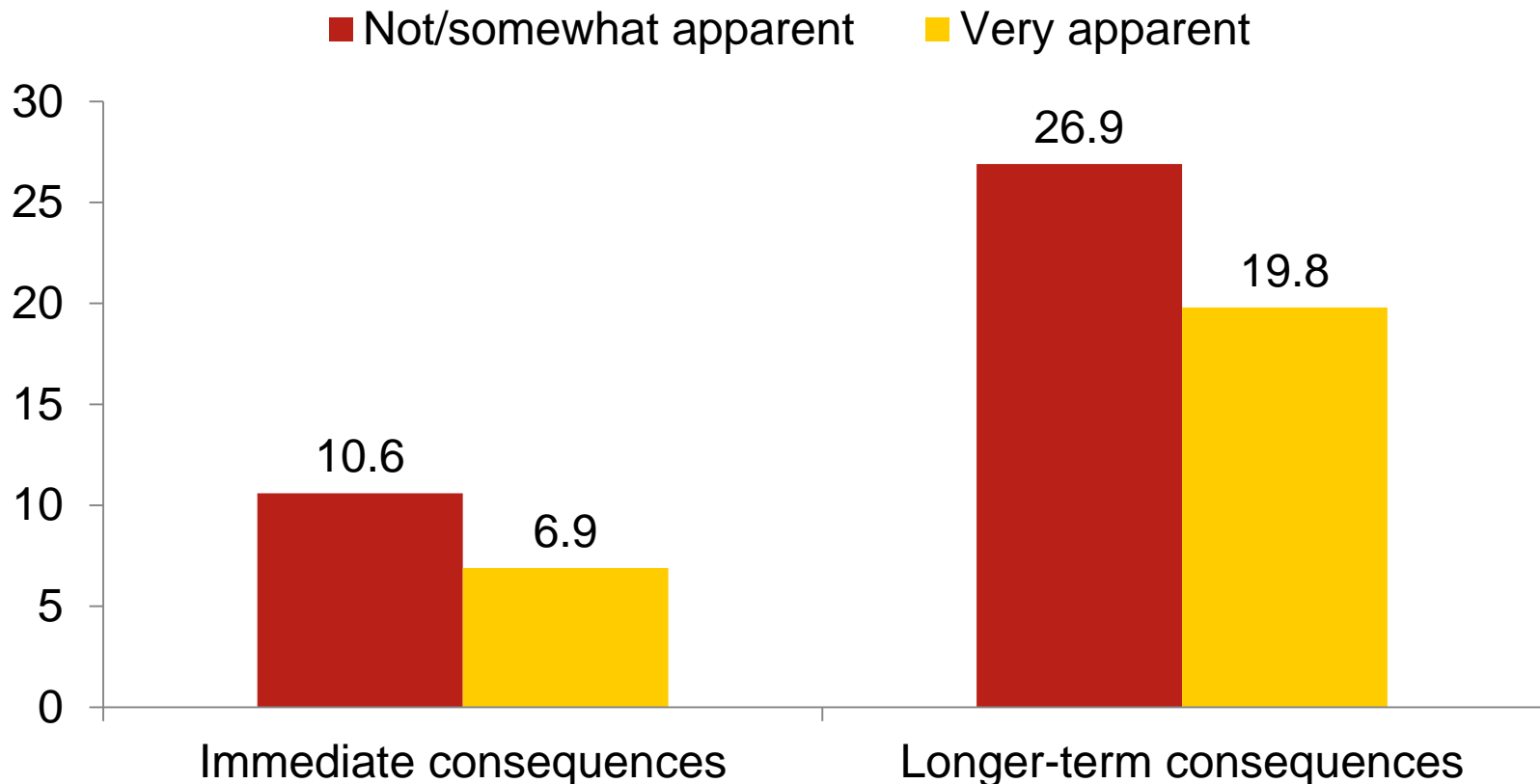


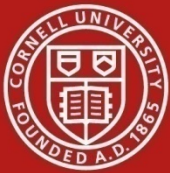
Percent Who Disclosed at Different Points in the Employment Process





Percent Who Experienced Negative Consequences of Disclosure

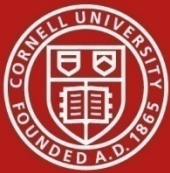




Do HR policies and practices matter?



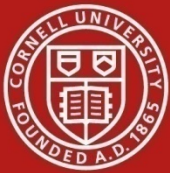
YES!



Under what conditions are employees more likely to disclose their disability?

When cues in their organizational environment indicate it is safe to do so:

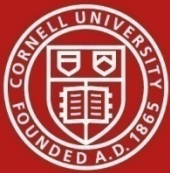
- 1 Perceived fairness of HR practices
- 2 Pro-disability climate
- 3 Perceived management commitment to disability
- 4 Perceptions that disability advisory/employee resource group is effective



Key Findings

Perceptions of HR Practices

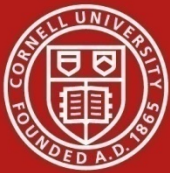
- Perceived fairness of work arrangements and HR practices for employee
 - Perceived fairness is significantly lower for employees with disabilities, compared to employees without disabilities
 - Biggest differences for perceived fairness of job responsibilities and access to valuable mentors
 - Among people with disabilities, perceptions of fairness of HR practices were higher when their supervisor(s) had friends with disabilities
- Procedural and interactional justice experienced during accommodation process
 - Significantly lower for employees with disabilities
 - Perceptions of interactional justice are more important than procedural justice (for predicting commitment and satisfaction)



Key Findings

Perceptions of Organizational Climate

- Climate for Inclusion
 - **Fairness of employment practices**
 - When employees perceive the organization is effective at hiring people with disabilities, supporting disability networks, and including disability in diversity policy, they perceive employment practices to be fairer overall
 - **Openness of the work environment**
 - Managers' perceptions of the openness of the work environment predict discrimination experienced by employees with disabilities
 - **Inclusion in decision-making**
 - The more inclusive the decision-making environment, the more psychologically empowered employees feel, the more they feel supported and valued by the organization, and the less conflict they experience in their group



Experiences Are Better in Inclusive Units

- Individuals with disabilities who work in inclusive climates report significantly
 - Greater success at having their accommodation requests granted
 - Greater coworker support of their accommodations
 - Better experiences of procedural and interactional justice during accommodations
 - Lower levels of disability harassment/discrimination
 - Higher organizational commitment and satisfaction
 - Lower turnover intentions

Employees with disabilities are

AT LEAST 60%

**MORE LIKELY
TO DISCLOSE
THEIR DISABILITY TO THEIR**

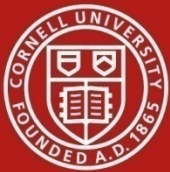


than to



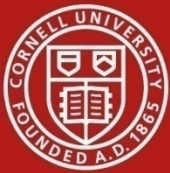
SUPERVISOR

HR



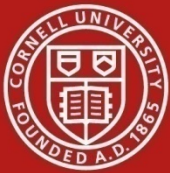
Direct Self-Disclosure Common Patterns

- Across organizations, employees are significantly more likely (**at least 1.57 times more likely**) to self-disclose to other individuals than to formal organizational entities (HR, EEO, employee records, etc.).
- When employees with disabilities work within departments in which employees overall feel supported, fairly treated, and embedded, they are more likely to feel “safe” about disclosing their disability.
- Employees who have been with the organization longer tend to have more positive experiences when disclosing to formal organizational entities.
- Disability type and visibility do not appear to predict the favorability of disclosure experiences.



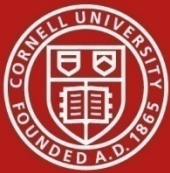
Managers' Role is Critical

- Managers are key to the experiences of persons with disabilities in the workplace
- Managers' perceptions of organizational motivation for disability inclusion (true inclusion interests rather than legal compliance) positively impacts disability climate
- In both private and federal sectors, disability disclosure most often occurs with the manager or co-workers, rather than with HR, and therefore education and training about how to deal with disability disclosure is imperative to fostering inclusive workplace culture



Experiences Are Better for Employees With Disabilities Who Enjoy High Quality Relationships With Their Managers

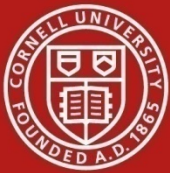
- Individuals with disabilities who are included in their manager's "in-group" report:
 - Higher fit between skills and demands of job
 - Higher empowerment
 - Fairer treatment during the accommodation process
 - Higher organizational commitment, satisfaction, and willingness to engage in citizenship behaviors
 - Lower turnover intentions



Impact of Managers' Perceptions on Employees with Disabilities

When managers perceive that disability practices are adopted merely to comply with legal pressures or keep up with industry trends, team members with disabilities who report to them have less positive experiences:

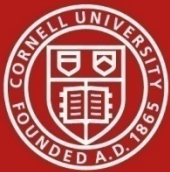
- Less likely to perceive disability practices as effective
- More likely to report experiencing problems as a result of requesting an accommodation
- Less likely to perceive the workplace as inclusive



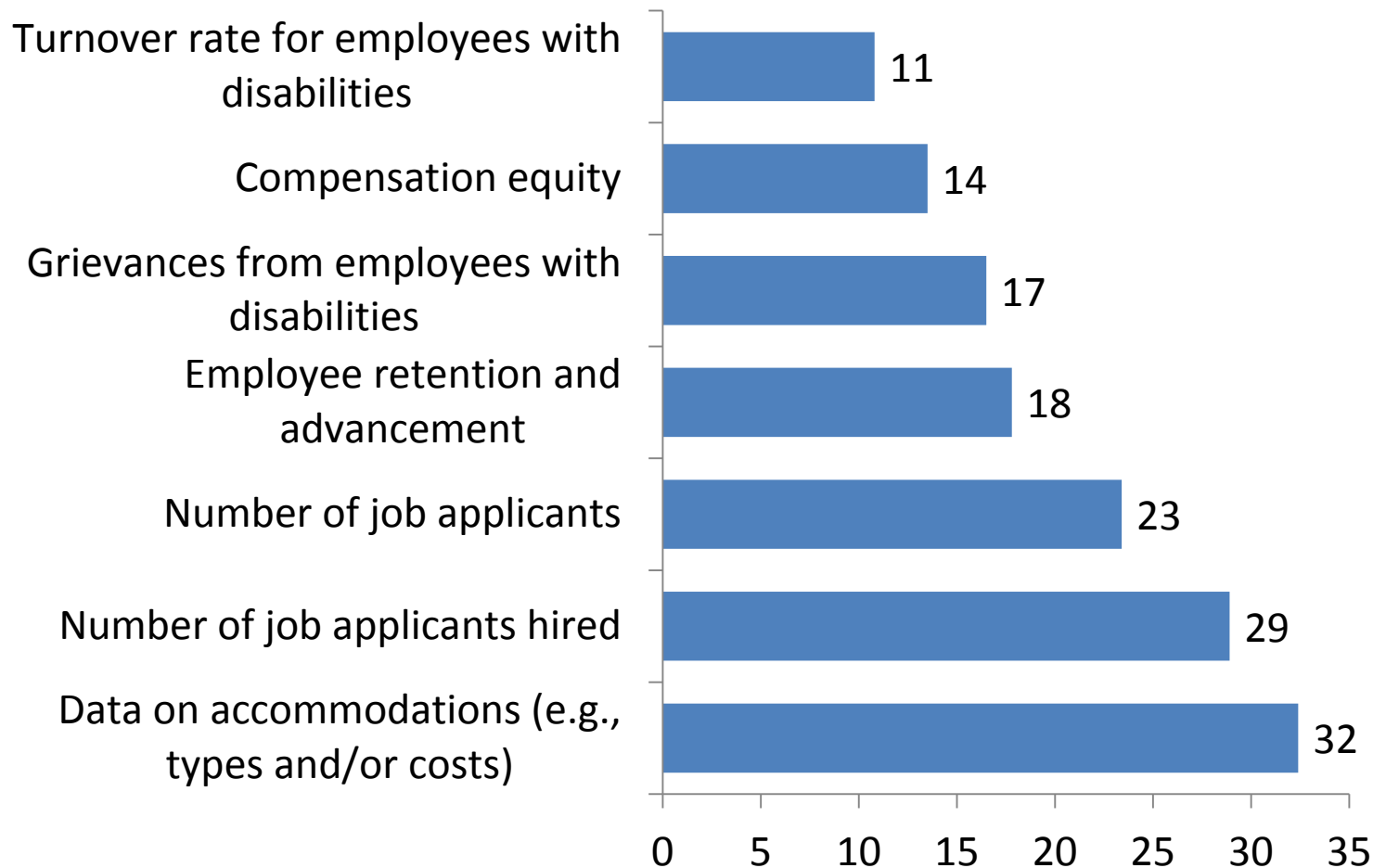
Metrics

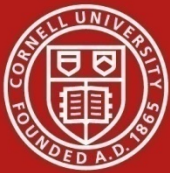
What are organizations measuring?



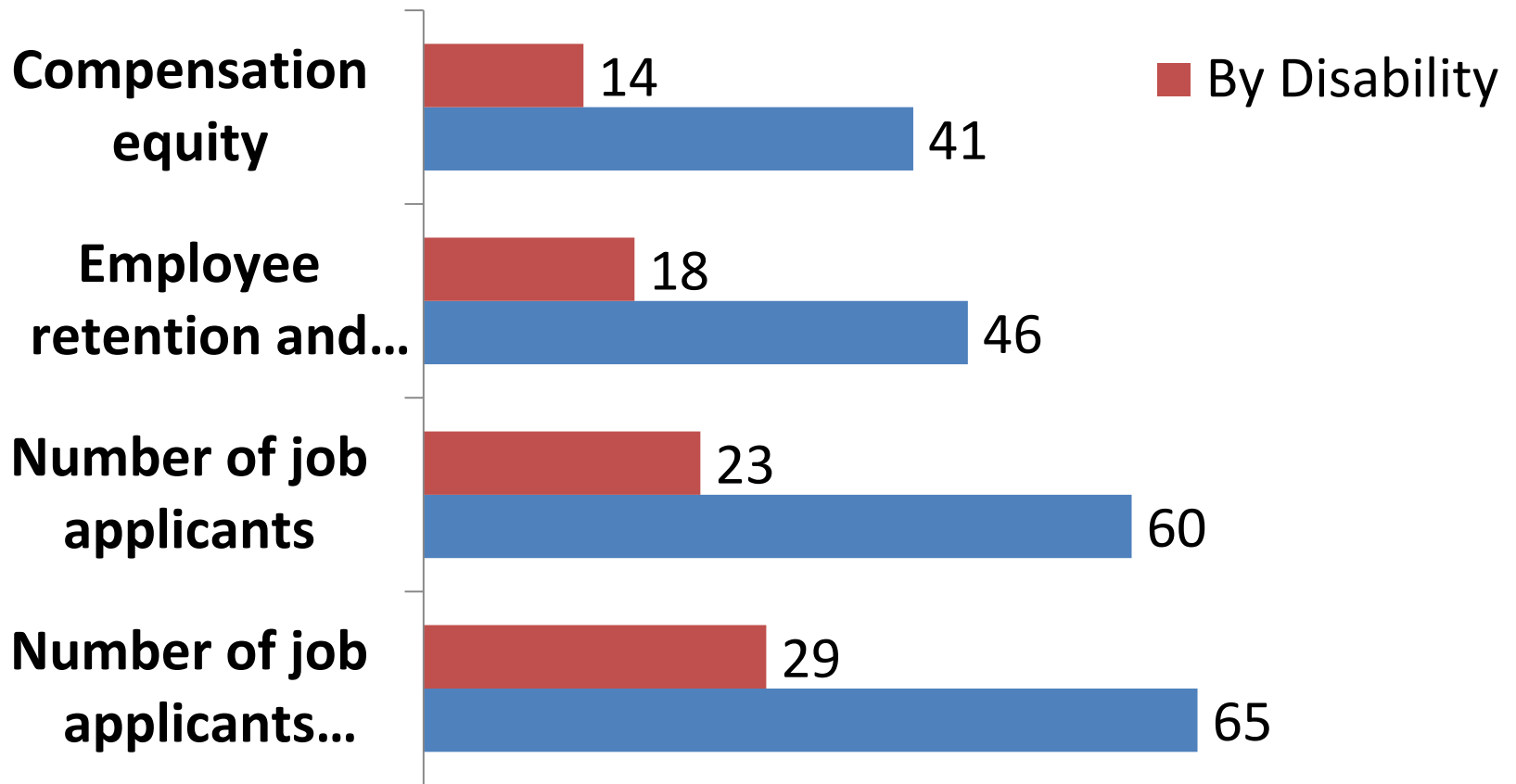


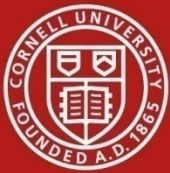
% Organizations tracking disability metrics





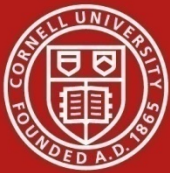
Metrics Tracked by Organizations





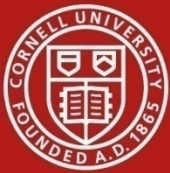
Implications for Employers and Corporate Legal Counsels

- Urge message comes from top leadership
- Encourage proactive policies and practices
- Reinforce the message that this is about more than just regulatory compliance – it's good business and in line with company values
- Reassure importance/keeping of good metrics
- Support significant management training and disability awareness efforts company-wide



References and Related Publications

- Erickson, W. von Schrader, S. Bruyère, S & VanLooy, S. (2013). The Employment Environment: Employer Perspectives, Policies, and Practices Regarding the Employment of Persons with Disabilities. *Rehabilitation Counseling Bulletin*. Published online before print November 14, 2013, doi: 10.1177/0034355213509841
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- von Schrader, S., & Nazarov, Z. (in press). *Employer Characteristics Associated With Discrimination Charges Under the Americans With Disabilities Act*. *Journal of Disability Policy Studies*.



Related Cornell Disability Resources

- **Employer Practices RRTC Project**
<http://employerpracticesrrtc.org/>
- **U.S. EEOC Disability Charge tabulations online tool**
<http://www.disabilitystatistics.org/eecoc/>
- **Just-In-Time Tool Kit for Managers**
<http://www.disabilitytoolkit.org/>
- **Employer Practices Disability and Compensation Catalog**
<http://www.disabilitystatistics.org/eprrtc/codebook.cfm>
- **Tips for Human Resource (HR) Professionals**
<http://www.hrtips.org/>
- **Employment Law Repository/ ADA Decisions & Settlements**
(to be released in Spring, 2015)
- **BenchmarkABILITY** (to be released in June, 2015)