



Working Effectively with Employees who have Sustained a Brain Injury

What is a Brain Injury?

The brain is a complex organ, the focal point of our capacities to: think; receive, understand language and respond; remember; feel and express emotions; and more. The brain is protected by the bones of the skull and by an intricate system of membranes, fluids and blood vessels. But, like anything else, the brain can be damaged.

The CDC estimates that about 1.7 million Americans experience a traumatic brain injury. Brain injury often results from a trauma to the head, but also occurs from infections, toxic exposures or when oxygen is denied to brain cells like in strokes or suffocation. Traumatic brain injury can result from a blow to the head, the head striking something or a force strong enough to cause the brain to move within the skull, such as shaken baby syndrome or high speed vehicle crashes. Injury can also occur, however, in situations not involving blunt force, including seizures, infections of the brain, heart attacks, aneurysms, toxic chemical exposure, drug overdoses, lung problems, and other ways that oxygen is denied to the brain. In many cases, a brain injury sustained as a result of one of these events will result in an increased need for support in one or more of the following areas: physical capacities (the way we move and manipulate things); behavioral and emotional capacities (the way we act, tolerate, and feel); and cognitive capacities (the way we think and process information).

A brain injury is different from many other disabilities because the onset can

be traumatic and sudden. Individuals who sustain a brain injury often lose the ability to perform what they once considered to be the simplest of daily tasks. For others, they may not realize that they are having problems doing something they used to do until they actually try it. The damage can be permanent and irreversible, which makes prevention the very best defense against injury.

Implications of the ADA for Individuals Who Have Sustained a Brain Injury

The Americans with Disabilities Act (ADA) prohibits discrimination against people with disabilities. The term disability under the ADA is defined as:

- 1) a physical or mental impairment that substantially limits one or more of the major life activities of such individual,
- 2) a record of such an impairment or,
- 3) being regarded as having such an impairment.

“Substantially limits” means that the person is unable to perform, or is significantly limited in the ability to perform, an activity as compared with an average person in the general population. “Major life activities” refers to functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

A brain injury does constitute a physical or mental impairment under the ADA. Whether it rises to the level of a disability, however, depends upon whether the impairment substantially limits one of the aforementioned major life activities. For example, an employee whose perception or information processing difficulties cause her to be unable to gain information from a staff meeting would likely have an ADA disability, especially if most

employees would have little or no difficulty gaining relevant information from the meeting. By contrast, the inability to take excellent notes of a highly detailed, eight-hour technical discussion would not constitute a substantial impairment because the average person would also not be able to do this.

The Americans with Disabilities Act requires employers to “reasonably accommodate” a qualified individual with a disability. An individual is qualified if he or she can perform the essential functions of the job with or without a reasonable accommodation. The employer then provides a reasonable accommodation for that qualified individual, which is defined as the modification or adjustment of a job, employment practice, or work environment that makes it possible for the individual with a disability to be employed. The law states that the employer needs to accommodate from the first contact with the person with the disability, during the application process, on the job, in training, on the work site, and when considering promotions and layoffs. If job duties change, new accommodations may need to be made.

The ADA does not require the employer to provide accommodation, however, if doing so would impose an undue hardship upon the business. If the cost of an accommodation would impose such a hardship and no funding is available from another source, an applicant or employee with a disability should be offered the option of paying for the portion of the cost that constitutes an undue hardship, or of providing the accommodation.

Accommodating an Applicant or Employee Who Has Sustained a Brain Injury

Identifying the essential job functions of every job at your company will assist you in determining whether or not an individual is quali-

fied for a job either applied for or held prior to injury. In cases of re-employment, involvement of the employer in the rehabilitation process is critical. Whenever the employee permits your involvement, you should help the rehabilitation team know exactly what that employee was like prior to injury, what her job entailed, and what essential job functions she will be required to perform upon returning to work.

Employee Selection Process:

As in all applicant cases, your main priority, regardless of disability, should be to determine whether an applicant has the necessary skills, experience, education, or other background to successfully perform the essential functions of the job. Your first step is to determine the components involved in applying for, obtaining, and maintaining a job, and being promoted within your company. Once you have clearly identified the different human resource activities an applicant or employee must go through, you will be able to determine possible accommodations that may make the process more accessible for a wider variety of applicants and potential employees.

When you advertise an open position, make sure the required qualifications and application directions are stated clearly and concisely. This will assist an individual who may have cognitive support needs in processing the information, allowing him/her to make a clear decision as to whether or not s/he may minimally qualify for the job.

The first rule of thumb when attempting to determine ways to increase the accessibility of human resources policies and practices within your company and accommodate an individual who has sustained a brain injury is to recognize that not all brain injuries result in the same support needs.

For example, one individual may have no

difficulty reading an application form, while another may have a vision problem resulting from his brain injury that affects his ability to read.

Another example would be a right-handed applicant with limited use of his/her right arm as a result of the brain injury. Some effective strategies to accommodate that individual include:

- Allowing the person to complete the application without time constraints;
- Allowing the person to take the application home and have assistance filling it out;
- Mailing the application to the candidate upon request;
- Offering the services of someone in the office to assist in completing it.

Some potentially effective human resources strategies to use when interviewing with an applicant who has sustained a brain injury include:

- Giving clear concise directions;
- If an applicant has requested reasonable accommodation for the interview, asking if s/he has an aide or assistant who might make the interview process more comfortable and aid him/her in presenting his/her skills and qualifications for the job;
- Following up spoken communications (e.g. phone calls, dialogues) with a more permanent record (e.g. letter, audiotape, e-mail) to assist a person who may have memory support needs;
- Making sure your interviewing site is accessible to aid the individual who may have physical support needs resulting from his/her injury.

When you are conducting an interview, be yourself. Disability does not mean inability.

Question the candidate with a disability about the same essential job functions as any other applicant. To increase your comfort level and accommodate the potential support needs of the applicant who has sustained a brain injury, be mindful of:

- Finding out support needs prior to the interview (a good time to ask is when setting up the interview, but this assumes that the applicant has disclosed that they have a disability and/or will need an accommodation for the interview);
- Speaking clearly and concisely;
- Repeating a statement that an applicant has told you is unclear or unintelligible;
- Minimizing distractions in the room (e.g., phone calls, interruptions, etc.);
- Doing a walk-through or a tour prior to the interview to make sure the locations involved in the interview are accessible;
- Initially introducing only essential personnel or explaining that s/he will meet quite a few people and it may take some time to get to know them all;
- When explaining tasks or jobs, breaking down each into steps that may be easier to remember or sequence;
- Encouraging the applicant to take notes if desired;
- Avoiding negatives during questioning (e.g. do you instead of don't you; would you instead of wouldn't you, etc.);
- Presenting ideas concretely rather than abstractly;
- Moving on to a new topic if the person seems to be getting frustrated and returning to the original topic later in the interview.

(Remember, not all applicants will need these accommodations. Assuming the applicant has requested accommodations, ask the applicant what may assist him/her).

Enhancing Productivity on the Job:

Why do we use a chair to reach dishes on a high shelf? Why do we use automatic pencil sharpeners? Why do we use ergonomically designed office chairs? Simply put, these adaptations make a task easier and may save time. These are examples of simple accommodations we make to be more productive and ease our workload.

Selecting an Accommodation:

The employee candidate who requests an accommodation has lived and perhaps worked while having the disability. He may already have identified what accommodations work best for him. Given that support needs are individualized based upon the severity of a brain injury, accommodations should similarly be catered to an individual's needs. The process of identifying and selecting an accommodation should involve a dialogue between the employee and the employer. The employer may be able to accommodate the employee using easily identified supports (low tech) or may provide more intensified and expensive supports (high tech).

An accommodation for an individual who has sustained a brain injury could potentially include a variety of support strategies such as: calendars, to-do lists, memory log books, audiotapes, or other electronic/computer reminders; wheelchair-accessible facilities; job sharing, more frequent breaks or other modifications to work schedules; job checklists and cues; timers; tools to assist the person in tracking while reading such as a ruler or piece of paper with a window cut in it; smaller job steps to improve sequencing; raised desks or tables to allow for a wheelchair; Telecommunication Device for the Deaf (TDD) if the person has difficulty with speech or hearing; electronic communication systems; ramps; handrails; computer keyboard guards; large phone

or computer keypads; changes in lighting or office location to minimize distractions; review of progress on job assignments at designated points in the day or week; and established routines during the day and across days. There are also numerous other potential accommodations that an employer may provide depending on the individual's needs.

Tips for On-The-Job Training:

All employees, regardless of disability, need the same introduction and orientation to a job and the same initial training. Determining the learning style of any new employee is a good human resources practice that maximizes the benefits of in-services and training provided. Ask the employee whether s/he learns best from strictly verbal instruction, or a combination style involving hands-on, written, and verbal instruction.

Any new employee has her own unique way of setting up a work station or organizing job tasks and supplies. Allowing the employee with a brain injury this flexibility can promote increased performance as long as job quality and quantity is not negatively affected.

In some cases, individuals with more severe disabilities may be represented by a rehabilitation agency or employment program that provides specialized support and technical assistance to employers regarding the employment of people with disabilities. Although these services can benefit the employer, they should not take the place of internal training, orientation, in-services, and promotional strategies and techniques utilized by your company. The key to successful on-the-job training is integrating, investing, and involving the new employee to the greatest degree possible without stigmatizing that person.

Resources

There are a number of resources that can assist employers and people who have sustained a brain injury and their prospective employers. If additional information is needed, consult the following organizations:

ADA Disability and Business Technical Assistance Center Hotline
800.949.4232 (voice/TTY).

Equal Employment Opportunity Commission, 131 M Street, NE, Washington, DC 20507, Technical Assistance - 800.669.4000 (voice) 800.669.6820 (TTY). Publications - 800.669.3362 (voice) 800.669.3302 (TTY). Provides an electronic "classified" system which allows employers to recruit qualified individuals with disabilities and allows people with disabilities to locate employment opportunities. Their magazine provides information on locating qualified readers, interpreters, personal assistants and assistive devices; on overcoming architectural, communication, and transportation barriers; and on performing job analysis, job modification, and job restructuring.

Association for Persons in Supported Employment (APSE), 804.278.9187, 1627 Monument Ave. Richmond, Virginia 23220

International association which can provide resources and information on how to utilize subsidized "supported employment" programs. Association also provides referral to state chapters which can then provide referral to local supported employment programs in your area.

Job Accommodation Network (JAN), 800.526.7234 (voice) or 877.781.9403 (TTY), West Virginia University, PO Box 6080, Morgantown, West Virginia 26506-6080

Employers talk with Human Factors Consultants about an individual with a disability (not limited to brain injury). The consultant will search JAN's database for information related to the functional requirements of the job, the functional limitations of the employee, environmental factors, etc. The search will provide information about similar situations, names and addresses of appropriate resources.

Brain Injury Association of America, 703.761.0750, 1608 Spring Hill Road, Suite 110 Vienna, VA 22182

<http://www.biausa.org/>

Provides informational services and resources on traumatic brain injury. Offers employment-related publications on vocational rehabilitation, job seeking skills, job placement, return-to-work and employment issues, and adaptive work behaviors for victims of brain injury. Local associations can be accessed for local information.

www.BrainLine.org

This multi-media website was created by WETA in Washington DC, the PBS station serving the Capital area. It contains videos and written information about various aspects of traumatic brain injury, including issues related to employment.

State Vocational Rehabilitation Office

State agency which provides vocational rehabilitation services to individuals with disabilities. Services can include: counseling, advocacy, job training, job placements, and a variety of additional support services including continuing, adult and post-secondary education. For the Office of Vocational Rehabilitation Services in your State, consult a phone directory.

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The U.S. Equal Employment Opportunity Commission has reviewed it for accuracy. However, opinions about the Americans with Disabilities Act (ADA) expressed in this material are those of the author, and do not necessarily reflect the viewpoint of the Commission or the publisher. EEOC interpretations of the ADA are reflected in its ADA regulations (29 CFR Part 1630), Technical Assistance Manual for Title I of the Act, and Enforcement Guidance.

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The Equal Employment Opportunity Commission has issued enforcement guidance which provides additional clarification of various elements of the Title I provisions under the ADA. Copies of the guidance documents are available for viewing and downloading from the EEOC web site at:
<http://www.eeoc.gov>

About this Brochure

This brochure is one of a series on human resources practices and workplace accommodations for persons with disabilities edited by Susanne M. Bruyère, Ph.D., CRC, Director, Employment and Disability Institute, Cornell University ILR School.

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The full text of this brochure, and others in this series, can be found at www.hrtps.org.

More information on accessibility and accommodation is available from the ADA National Network at 800.949.4232 (voice/ TTY), www.adata.org.

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