

Working Effectively with Persons who have Cognitive Disabilities

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, SPHR, Director, Program on Employment and Disability, School of Industrial and Labor Relations – Extension Division, Cornell University. It has been updated by Sharon Davis, Ph.D. Director, Professional and Family Services, The Arc of the United States, from the original, which was written in January 1994 by Susanne M. Bruyère, Ph.D., C.R.C., Director, and Thomas P. Golden, Training Coordinator, Program on Employment and Disability, School of Industrial and Labor Relations, Cornell University.

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The full text of this brochure, and others in this series, can be found at: www.ilr.cornell.edu/ped/ada. Research reports relating to employment practices and policies on disability civil rights legislation, are available at: www.ilr.cornell.edu/ped/.

For further information, contact the Program on Employment and Disability, Cornell University, 102 ILR Extension, Ithaca, New York 14853-3901; 607/255-2906 (Voice), 607/255-2891 (TTY), or 607/255-2763 (Fax).

More information is also available from the ADA Technical Assistance Program and Regional Disability and Business Technical Assistance Centers, (800) 949-4232 (voice/TTY), www.adata.org

What Is the ADA?

The Americans with Disabilities Act of 1990 is a federal law that prohibits discrimination on the basis of disability in the areas of employment, public accommodations, transportation, and telecommunications services. The first section of the law, Title I, governs employment discrimination.

What Does Title I Say About Employment?

Title I of the ADA provides that employers cannot discriminate against qualified applicants and employees with disabilities. A qualified individual with a disability is an individual who meets both the educational and experience requirements of a position held or desired and can perform the essential functions of the position with or without a reasonable accommodation. Providing a necessary reasonable accommodation is a key part of the ADA's nondiscrimination requirements.

What is Reasonable Accommodation?

Reasonable accommodation is any modification or adjustment to the application process, a job, an employment practice, or the work environment that makes it possible for a qualified individual with a disability to participate in and enjoy an equal employment opportunity. The employer's obligation to provide a reasonable accommodation applies to all aspects of employment. The duty is ongoing and may arise any time a person's disability or job changes. An employment opportunity cannot be denied to a qualified applicant or employee because of the need to provide reasonable accommodation.

However, the ADA does not require an employer to provide a reasonable accommodation that will impose an undue hardship on the operation of its business

An undue hardship means that an accommodation would be unduly costly, extensive, substantial or disruptive, or would fundamentally alter the nature or operation of the business. According to the ADA, if the cost of an accommodation would impose an undue hardship on the employer, and no outside funding is available, the individual with a disability must be given the option of paying for the portion of the cost that causes the undue hardship or providing the accommodation. The employer and the employee should discuss what the employee's needs are and together determine an effective reasonable accommodation through an informal interactive process.

Who is Likely to Need an Accommodation for a Cognitive Disability?

Cognitive disabilities are disabilities that affect a person's awareness; memory; and ability to learn, process information, communicate, and make decisions. They affect a person's cognition, that is, the act or process of knowing, including awareness and judgment. "Cognition" refers to "understanding," the ability to comprehend what you see and hear, and to infer information from social cues and body language. People with these impairments may have trouble learning new things, making generalizations from one situation to another, and expressing themselves through spoken or written language. Cognitive limitations can arise at any age but those encountered in people of employable age are very likely to have existed since childhood; in this case the limitation may have affected life experience as well as school learning.

Cognitive limitations of varying degrees can often be found in people who have been classified in school as having a learning disability, mental retardation, autism, multiple disabilities, or who have been diagnosed as having traumatic brain injury. It is important, however, not to approach an individual with any preconceived notions as to his or her specific capabilities. Since the type of supports needed is highly individual, an employer should take time to get acquainted with the applicant or employee and structure job accommodations accordingly.

What Considerations Might be Important in the Job Application and Interview Process?

Individuals with cognitive disabilities may require help during the job application and interview process. Some easy accommodations to make during this process could include:

- using multiple formats to advertise job postings, such as newspaper and radio advertising.
- simplifying and minimizing wording on the job application;
- clarifying issues and assisting an individual in completing information required on the job application;
- conducting a verbal interview to obtain job application information that may be more complex in nature and difficult to put in writing;
- allowing others to help the applicant fill out the application;
- describing job requirements clearly, concisely and simply, or showing the person the job;

- adjusting length of interview to maximize applicant's ability to remain attentive and decrease stress levels; and
- interviewing in a quiet, informal, distraction-free environment.

What About Job Training and Performance Considerations?

Individuals with cognitive disabilities may have relevant work experience, but sometimes will require job training. In this case, the reasonable accommodation needed may be to have added assistance in job training. This type of accommodation could mean that the employer or supervisor:

- spends additional time in training the new employee;
- breaks job tasks down into smaller steps that are more clearly defined;
- use very clear and basic language to provide job instructions;
- develops a set routine in a job;
- develops a consistent work sequence;
- allows the employee to use alarm watches or timers;
- develops pictures or diagrams showing the job sequence to assist in learning tasks;
- teaches the employee with the disability how to follow the example of co-workers to learn work routines and appropriate work behaviors;
- encourages co-worker involvement in ongoing support, if needed; and
- provides extended supervision.

The employer should maintain an open relationship with the employee regarding performance and work behavior expectations. The employer or supervisor should take time to orient the employee to company rules as presented in the basic orientation training or company handbook. The employer must be sure the employee understands the expected quantity and quality of work and how that will be judged.

Another accommodation may involve job restructuring. The employer would reallocate or redistribute to others the job functions that an employee is unable to perform because of the cognitive disability. Job functions may also be exchanged among employees, so that the employee with a disability is assigned job functions that other employees may have performed. The result is a restructured job that accommodates the employee's disability. The employer does not have to eliminate an essential job function when restructuring a job. A person who cannot perform an essential function, a fundamental duty of the position, is not considered qualified for the job.

However, an employer could modify when or how an essential function is performed. For example, allowing an employee to do paperwork in the morning when s/he is more rested rather than at the end of the day, or allowing the use of talking software instead of traditional word processing software.

The employer may also provide a reasonable accommodation by allowing an employee with a disability to work a modified or part-time schedule. An example of this is allowing an employee who depends on public transportation to adjust work arrival and departure times to coincide with the bus schedule. Another example is job sharing where two individuals with a disability each work half time to perform one full-time job.

Other accommodations include making existing facilities accessible, acquiring or modifying equipment used in the job, and, as a last resort, reassignment to a vacant position.

What Is Reasonable Accommodation Related to Benefits and Privileges of Employment?

The ADA's mandate to accommodate includes all aspects of employment. The benefits and privileges of employment are those enjoyed by similarly situated employees without disabilities. Examples of benefits and privileges include training; services such as cafeterias, credit unions and transportation; and parties and other business-related social functions. The person with a cognitive disability may need assistance in fitting in with co-workers. The employee might need added assistance to be included in company social events, to participate in employer-sponsored training, and to be considered for job advancement and promotional opportunities.

Supports of this nature could include:

- developing a transportation network to aid the employee in attending social activities;
- facilitating relationships with co-workers;
- ensuring the employee with a disability has access to information communicated to all employees;
- ensuring accessibility of training activities;
- having the trainer adapt materials and instruction to meet the needs of employees with cognitive disabilities;
- investigating other jobs for promotion potential; and
- modifying a workplace policy to accommodate the employee's disability

Are There Other Possible Considerations in Working with People with Cognitive Disabilities?

The ADA encourages an informal, interactive, reasonable accommodation process, which starts with the employer and the person with the disability jointly exploring what the best accommodation might be to support the individual. In the case of a person with cognitive disabilities, it may be desirable to involve someone who can serve as an advocate and assist in communication, such as a job coach, family member, or rehabilitation counselor in this process. The potential employee should, to the maximum extent possible, be central in these discussions.

Individuals with cognitive disabilities who aspire to enter the job market generally have some sense of their own limitations. In fact, such a sense is usually a positive indicator of success; at the same time, the individual is likely to be sensitive to the stigma attached to his or her limitations and eager not to be identified as "retarded" or "stupid." The initial encounter is therefore very important. Creating an atmosphere of acceptance and trust at the outset facilitates accessibility and is a good business practice.

While an individual with a cognitive disability may require support in the various areas discussed, it is important to check with the individual regarding the level of support that he or she may need. Other considerations may include:

- not speaking in so simple, loud, or basic a manner as to offend the individual;
- assigning and matching jobs that appropriately challenge and engage the individual;
- speaking directly to the individual regarding matters of concern;
- encouraging natural social relationships with co-workers; and
- when using adaptations, job modifications or other supports, making sure the individual with the disability is included in deciding which kinds of aids will be useful.

Where Can I Find Resources to Assist in the Accommodation Process?

The local office of the state vocational rehabilitation agency and other community-based employment agencies for people with cognitive disabilities are possible resources for job coaches to assist the individual in the job application process, learning the tasks of the job, and sustaining and progressing in the job. Additional resources are listed below.

Resources

President's Committee on Employment of People with Disabilities

1331 F St., Suite 300
Washington, DC 20004.
(202) 376-6200 (voice); (202) 376-6205 (TTY).
[www.pcepd.gov].
PCEPD answers employment questions and funds the Job Accommodation Network (see below).

Job Accommodation Network

1-800-526-7234 (VTTY).
[www.jan.wvu.edu/]
The Job Accommodation Network is an international toll-free consulting service that provides information about job accommodations and the employability of people with disabilities.

ADA Regional Disability and Business Technical Assistance Center Hotline

(800) 949-4232 (voice/TTY).
This connects the caller to the nearest Disability and Business Technical Assistance Center established in ten regions specifically to answer questions about the Americans with Disabilities Act.

State Offices of Vocational Rehabilitation, [http://janweb.icdi.wvu.edu/sbses/VOCREHAB.HTM]

This site locates each state vocational rehabilitation agency. These agencies coordinate and provide a number of services for people with disabilities, including counseling, evaluation, training and job placement.

The Association for Persons in Supported Employment (APSE)

1627 Monument Avenue
Richmond, VA 23220
phone(804) 278-9187
[http://apse.org/]
Information on supported employment for people with cognitive disabilities.

The Arc of the United States

1010 Wayne Ave., Suite 650
Silver Spring, MD 20910
(301) 565-3842
[http://TheArc.org]
Contact The Arc for information on employment of people with mental retardation and related disabilities.

The Arc's Publications Desk, 3300 Pleasant Valley Lane, Suite C, Arlington, Texas 76015, ((888) 368-8009.
[www.TheArcPub.com]

Video and brochure: Everybody Wins! Tips for Supervising the Employee with Mental Retardation and other employment publications.

U.S. Equal Employment Opportunity Commission

1801 L Street, NW
Washington, DC 20507
This is the federal agency that deals with ADA title I issues. To be connected to the nearest field office, call (800) 669-4000 (voice); (800) 669-6820 (TTY). .
To order publications, call (800) 669-3362 (voice); (800) 800-3302 (TTY).
Publication on line: Enforcement Guidance: Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act. [Available at
<http://www.eeoc.gov/docs/accommodation.html>]

Disclaimer

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Cornell University is authorized by the National Institute on Disability and Rehabilitation Research (NIDRR) to provide information, materials, and technical assistance to individuals and entities that are covered by the Americans with Disabilities Act (ADA). However, you should be aware that NIDRR is not responsible for enforcement of the ADA. The information, materials, and/or technical assistance are intended solely as informal guidance, and are neither a determination of your legal rights or responsibilities under the Act, nor binding on any agency with enforcement responsibility under the ADA.

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>