

LEARNING DISABILITIES IN THE WORKPLACE

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Abstract

Learning disabilities have a significant and not yet fully understood impact on workplace environments. Identification of learning disabilities can be made only through diagnostic testing administered by qualified professionals, and is required for employees who choose to disclose learning disabilities to employers and request accommodations. The Americans with Disabilities Act of 1990 includes learning disabilities and requires employers to make reasonable accommodations for qualified employees who request them. Employers have legal responsibilities for confidentiality and accommodating employees with disabilities. Most accommodations are simple and inexpensive and can create a better working environment for everyone.

Introduction

Learning disabilities affect many individuals in ways that are only just now being defined. Research continues into various types of learning disabilities and how these affect functionality in employment and educational settings. Learning disabilities impact work environments in many ways, including what is required for disclosure, when disclosure of a disability may be made, and how supervisors can accommodate individuals to provide opportunities for successful employment, with little cost or impact on the organization. This paper does not examine different types of learning disabilities but focuses on legal obligations and responsibilities of the employer throughout the disclosure and accommodation process.

Supervisors facing actual situations concerning employees with learning disabilities are urged to seek advice and training from their local personnel officials; including human resources, Affirmative Action, or other relevant institutional offices.

Learning Disability Awareness

The Learning Disabilities Association of Kansas (LDAK) (2005) defines a learning disability as “a lifelong disorder which affects the manner in which individuals with average, above average or gifted intelligence select, retain and express information. Incoming or outgoing information

may become scrambled as it travels between the senses and the brain.” These limitations can show up in many ways: as specific difficulties with spoken and written language, coordination, self-control, or attention. Learning disabilities are classed as hidden disabilities because they cannot always be directly inferred from observation. (Office of Career Development and Placement, Muhlenberg College, 2003) While statistics vary, advances in knowledge and assessment practices have resulted in an increased number of individuals diagnosed with these disorders. As a result, today’s employer is more likely to encounter an applicant, or even a current employee, who has a learning disability.

Workers with Learning Disabilities

A presumed dysfunction of the central nervous system, a learning disability is an unchanging characteristic of a particular individual. Learning disabilities are not a result of other physical disabilities (such as blindness), nor are they caused by a lack of schooling. A person who has below average intelligence or a mental retardation would not be classified as learning disabled. Dyslexia (reading and language), dyscalculia (mathematics), and dysgraphia (writing and fine motor skills) are all examples of different learning disabilities. (Learning Disabilities Association of America, 2005) These disabilities may manifest by significant difficulties in listening, speaking, reading, writing, or math. Although many people discover they have a learning disability while in school, they may be discovered across the life span. Adults with learning disabilities usually experienced significant difficulty learning as students. Many never learn to read, write, spell, or compute particularly well. Some adults found that their social skills were either an asset or a liability in compensating for the disability. Because of this, it is important to remember that only a trained professional can diagnose someone with a learning disability. (Corley and Tibbetts, 2002)

Many problems exist in the workplace for employees with learning disabilities. Someone with a learning disability may take longer to do the same tasks as others. Mistakes may be frequent, especially if the employee feels pressure to work more quickly. Examples of particularly difficult tasks include counting money, filling out order forms, reading instructions, and writing memos. In addition to these problems affecting productivity, some adults with learning disabilities find that they are easily startled or may cause injuries or property damage through visual perception problems, causing them to collide with objects.

Supervisors often report that it takes longer to train workers with learning disabilities because some adults have difficulty with learning a sequence of tasks. If the sequence is performed in the incorrect order, errors result. Time management and social skills can be problematic as well. An employee may arrive late to work and work-related meetings or overcompensate by arriving extremely early. He or she may also have difficulty meeting deadlines. These traits, of course, are found in employees without learning disabilities, again illustrating that a professional diagnosis of learning disabilities is required. Social skills and good relationships with co-workers, supervisors, and customers/clients are critical to effective job performance for all employees in an organization.

The National Center for Learning Disabilities (NCLD) identifies three laws that protect the rights of people with learning disabilities.

1. The Individuals with Disabilities Education Act (IDEA) of 1997 provides federal financial assistance to state and local education agencies to guarantee special education and related services for children and young people with disabilities up to their 22nd birthday.
2. Section 504 of the Rehabilitation Act (Pl 93-112) is a national law that protects qualified individuals from discrimination based solely on their disability. The nondiscrimination requirements of the law apply to employers and organizations that receive financial assistance from any Federal department or agency.
3. Title I of the Americans with Disabilities Act (ADA) of 1990 makes it illegal for an employer to discriminate against a qualified applicant with a disability. The ADA applies to private employers with 15 or more employees and to all state and local governments. (National Center for Learning Disabilities, 2005) An individual's limitations must be caused by the learning disability to be covered by the ADA. Employees are considered substantially limited only when they are unable to perform many jobs, not just one position. (Office of Career Development and Placement, Muhlenberg College 2003)

These three laws give individuals with learning disabilities the same civil rights protection given to people with other disabilities. Disability laws are civil rights laws, not affirmative action laws to make up for past discrimination. For that reason, substantial changes in standards for employment are not required. Certification and qualification obstacles must be met when these rights are exercised. (Young, 1996) Employers should have policies in place that identify the documentation that will be required when offering accommodations. (Office of Career Development and Placement, Muhlenberg College, 2003)

While these three laws can open doors to people with learning disabilities, having a disability does not create absolute entitlement to a job. The purpose of anti-discrimination laws is to ensure that people with learning disabilities have equal employment opportunity. To be covered by civil rights protection, individuals with learning disabilities must still meet all qualifications for the job, either on their own or with the help of reasonable accommodation. Passing over an applicant because he or she does not have the basic qualifications for the job, or who cannot perform the essential functions, is not discrimination. (Latham, 1998)

Essential and Nonessential Job Functions

To comply with the three laws that guarantee the rights of those with disabilities, employers are required to focus on the essential functions of a position to determine whether an individual is qualified. Essential job functions are the fundamental job duties that an applicant or employee must be able to perform, with or without reasonable accommodation. For example, a webmaster may be required to know html language and a receptionist must be able to answer a multi-line telephone. It is important to note that an accommodation does not need to be made for a person who cannot perform the essential functions of the job, or who does not meet the educational and

skill level requirements of a job. For example, if it is required that a Spanish teacher speak and read fluent Spanish, and an applicant cannot demonstrate that ability, ADA accommodations would not pertain regardless of the presence of a learning disability, because the applicant does not meet the basic requirements.

ADA requires an employer to focus on the essential functions of a job to determine whether a person with a disability is qualified. This is an important nondiscrimination requirement, as many people with disabilities who can perform essential job functions are denied employment because they cannot do tasks that are only marginal to the job. For example, a store clerk position description may state that the employee shelve videos. If the essential function of the job is to operate the cash register, and shelving is generally handled by other employees, a person whose dyslexia causes problems with shelving but is qualified to operate the cash register, should not be considered unqualified for this position.

The Equal Employment Opportunity Commission (EEOC) has identified three factors to consider in determining if a job function is essential.

1. A function may be essential if the position exists to perform that specific task. For instance, if a person is hired to proofread the company's newsletter, the ability to proofread accurately is an essential function, because this is the reason that the position exists.
2. A function may be essential if there are a limited number of other employees available to perform the function. This may be a factor when there are only a few other employees at a time to absorb various duties. Answering and transferring the telephone may be an essential function for a library reference desk if there are only one or two librarians at any given time.
3. A function may be essential if the function is highly specialized and a person is hired for the special expertise or ability to perform it. If a teacher is hired specifically to teach Spanish, speaking fluid and accurate Spanish is an essential function.

Other kinds of evidence that EEOC will consider includes: "the actual work experience of present or past employees, time spent performing a function, consequences of not requiring that an employee perform a function, and terms of a collective bargaining agreement." (The U.S. Equal Employment Opportunity Commission, 2005)

Disclosure of Learning Disabilities

Disability laws forbid employers from asking, as part of their interview process, if a person has a disability. It is therefore the responsibility of the employee to self-identify in order to be guaranteed protection under the law. If a candidate discloses a learning disability during the job interview, interviewers should be extremely careful not to make direct or indirect inquiries regarding the applicant's disability. Questions should remain job-related at all times. It is legal to

ask an applicant to demonstrate or describe how he or she will carry out both the essential and marginal functions of the job, but only the ability to perform essential job functions should be considered in the final hiring decisions.

Employers are not required to determine if an employee with a learning disability needs accommodation, or what type of accommodation is the most appropriate. Individuals with learning disabilities are responsible for disclosure, informing the employer how the disability affects his or her performance, and working with the employer in how best to accommodate the disability. (Office of Career Development and Placement, Muhlenberg College 2003)
Determining when to disclose a learning disability is a personal and often difficult decision, and may be made at any time during the employment process.

Advantages and disadvantages exist in disclosing during the job application, interview or after the start of a position. If an applicant does not need an accommodation in the application process, he or she will generally not disclose at that time. Once on the job, if the employee sees that part of the job is a problem and an accommodation may be necessary, it is best for the employee to act promptly to disclose rather than allowing a long period of poor performance. Disclosure of the disability does not have to be made in writing, and the request for accommodation may even come from someone other than the employee. When the need for accommodation is not obvious, the employer may request reasonable documentation to verify the existence of a learning disability and the need for accommodation. Waiting until job performance problems have been identified to disclose a disability is unfortunately common. Although employers are still required to accommodate after such disclosure, the employee may have created a negative work impression that can be difficult to overcome because of many errors already made. At this point, often the employee will not disclose, choosing instead to resign in lieu of disclosure. (Greene-Black, 2005)

Accommodations and Legal Responsibility

Although it is generally considered good management practice to provide all employees with the tools, training, and environment to be productive, employers are not required to provide disability accommodations unless the person with a learning disability states that he or she has a disability and provides official documentation to verify that declaration. Documentation consists of a letter or report from the health care professional that evaluated the employee, including the diagnosis, tests, and methods used in the diagnostic process. Evaluation statements regarding how the impairment affects the employee and some recommended reasonable accommodations should also be included. Self diagnosis is not adequate for this official purpose. Once the employee has disclosed that he or she has a learning disability, the employer cannot share this information with anyone without obtaining written consent from the person with the disability. Confidentiality is crucial.

Once an employee has disclosed that he or she has a learning disability, it is the employer's responsibility to make reasonable accommodations to enable the employee to work effectively. The employee should be able to suggest changes that will allow him or her to perform the job

duties successfully. Reasonable accommodations might include changes to the environment, modifications in how the work is accomplished, or adaptations of the circumstances surrounding the work to be done. Reasonable accommodations for a qualified individual would enable an employee with a disability to enjoy equal benefits and privileges of employment.

Whether or not a worker has a learning disability, the same standards and rules of the organization apply to all employees, including qualifications for the job and standards of performance. Once an organization has made reasonable accommodation for the employee, there is no other need for special treatment. The employee is then expected to conform to the standards and rules of the organization. Reasonable accommodations do not include changing the rules in an attempt to make it easier for the person with a learning disability to perform the work than for other employees.

If the employee has performance or conduct issues, these should be addressed according to procedure just as they would for any other employee in regards to discipline, counseling, suspension, and termination. Disclosure of disabilities only applies to future job performance after the disclosure, not past conduct. Failure of an employee to disclose cannot be used as a reason for misconduct after the misconduct has happened.

When management is considering candidates for promotion, the supervisor should talk with the disabled candidate to explain new responsibilities. The discussion should also include the possible accommodations that might be needed for success in the new position.

Undue Hardships

Reasonable accommodations for an employee with disabilities should not create an “undue hardship” for the employer, and should be determined on a case by case basis. (Corley and Tibbetts, 2002) Any accommodation that may be considered an undue hardship should be discussed with the office overseeing ADA matters before proceeding.

What constitutes undue hardship differs from organization to organization. “...Undue hardship must be based on an individualized assessment of current circumstances that show that a specific reasonable accommodation would cause significant difficulty or expense.” (The U.S. Equal Employment Opportunity Commission, 2005) Some factors to consider when calculating this are the net costs, the employer’s financial resources, and employer’s type of operation. Many reasonable accommodations for learning disabilities are inexpensive, and may consist of simple solutions such as a small notebook for notes, or free software that will read documents aloud.

When considering the employer’s financial resources compared to the cost of reasonable accommodation, it is important to remember that the court system is likely to look at the umbrella hiring agency, if one exists. What might be undue hardship to a small fledgling business in the private sector would not be a hardship at all for a very large organization. Another consideration is the type of operation or business. Special consideration for academic institutions would include effectiveness and accuracy of information flow and scholarly content.

If accommodation would hamper academic processes to the extent of creating undue hardship, the employer should discuss these hardships with the regulatory office overseeing ADA for the institution. (U.S. Equal Employment Opportunity Commission, 2002)

Another situation relevant to some academic institution is the presence of collective bargaining units. These units have various responsibilities to ADA and making reasonable accommodation for disabilities. All operations must be in compliance with ADA. By-laws and other documents of the collective bargaining unit must be in a format that all of their members can access and understand, such as publishing documents in large print or electronically so that assistive technology can be used effectively. Collective bargaining units also have an instrumental role to carry out in supporting negotiations between employees and employers as they attempt to agree on reasonable accommodations for the employee, such as acting as facilitators of the process or supporters of the employee in difficult situations. Any agreement that a collective bargaining unit negotiates must be in compliance with ADA.

Reasonable Accommodations

Accommodations may include several techniques that are associated with the broader topic of work redesign in adjusting or modifying the workflow of the organization. Specific job restructuring would modify how work is accomplished and change task assignments, redistributing duties among the available employees. Fatigue or lack of focus often exacerbates the symptoms of the disability. Adjusting the position to part time or modifying the work schedule to a time of better job performance of the employee are techniques that can help the employee focus and suffer less fatigue. Vacant positions in the organization create opportunity and flexibility for organization redesign.

Adjusting or modifying training materials or policies of the organization may be a wise accommodation, not only for those with learning disabilities, but for all employees. If training sessions contain more than one method of delivery, employees with different learning styles will benefit as well. Rather than relying only on the traditional reading and writing techniques of training and instruction, employers should consider demonstration and discussion as supplementary delivery methods. Manuals and other documents should be provided in electronic format so that assistive technology can readily be used. It may be necessary to provide qualified readers or interpreters for documents that cannot be provided in an electronic format.

By making the workplace readily accessible and usable, productivity will likely improve and everyone will enjoy the increased convenience, providing tangible evidence of an organization's commitment to all employees.

Assistance for Employers

Many resources exist to help employers determine reasonable accommodations, including the free and reputable websites that are listed in the resource list. As state and local policies may vary, it is critical to seek assistance at the local level. Most academic institutions have resources

available to assist department and unit heads, supervisors, and individuals with disabilities with requests for reasonable accommodation. The qualified individual with a disability, or his or her representative, is encouraged to communicate the need for an accommodation with the supervisor. Typical offices to turn to for assistance include Affirmative Action, human resources, employee relations, or possibly the legal counsel for the institution. These offices can assist in evaluating requests for a workplace accommodation, determining what kind of documentation is necessary, and determining if the request for accommodation is appropriate and effective. Some institutions offer disability awareness training, including an overview of the Americans with Disabilities Act, employer/employee responsibilities, reasonable accommodation, discrimination, fair employment practices, and local policy concerning the ADA.

Conclusion

As illustrated, accommodating employees with learning disabilities is not only required by law, but is often at low cost and low impact to the organization, yielding wonderful results in creating an enhanced work environment for everyone. The costs and efforts are a small price to pay in improved employee morale that has a much broader effect beyond the employees with the learning disabilities.

Appendix I: Accommodations Exercise

This exercise illustrates that accommodating learning disabilities often consists of simple solutions that cost nothing or very little to the employer. This exercise was adapted from one included in the ERIC Document ED480446, *Learning disabilities in the workplace: A professional development packet* by Corley and Tibbetts, 2002. As an ERIC document, this information is in the public domain. These scenarios are brief summaries of actual, real life situations with the actual accommodations (and costs where known) included, drawn from the Job Accommodation Network (www.jan.wvu.edu).

1. A custodian was assigned several duties and had trouble remembering. He also had difficulty reading the job postings.

He was assigned only one job at a time. When a new position opened, Human Resources brought it to his attention rather than relying on him to read written job postings. [No cost to employer.]

2. A police officer had a learning disability and was diagnosed with an expressive writing disorder.

The officer was allowed extra time to take examinations and was provided with a dictionary to use during the exams. [No cost to employer.]

3. A saw operator with a learning disability had difficulty measuring to the fraction of an inch.

A small card to fit in a wallet was developed with the fractions listed on an enlarged picture of an inch. The employee could compare that fraction with the location on the ruler. [Cost: \$5.]

- 4. A computer programmer had a learning disability and deficiencies in reading, mathematics, and spelling. She was a learner with visual discrimination difficulties.**

A schematic chart summarizing procedures was provided, as were tutorial readers and 'talking back' auditory tapes.

- 5. A clerk with a learning disability maintained files and had difficulty categorizing and sorting paperwork.**

The office was rearranged to eliminate visual distractions. Task sequencing was used, as were reading templates, colored marker tabs, and incandescent lighting. [Cost: \$20.]

- 6. A clerk receptionist with a learning disability had difficulty typing from the printed originals.**

To avoid skipping lines, an automatic line guide was provided, as were a lamp and magnified cursor. [Cost: \$256.]

- 7. An electronics repair student with a learning disability had difficulty reading.**

A tape recorder for lectures, books on tape, and a survival reading skills class. [Cost: \$127.]

- 8. A typist with dyslexia was transposing the digits of telephone numbers.**

Verbal verification of the phone numbers and extra time to proofread letters. [No cost to employer.]

- 9. A juvenile officer with dyslexia had difficulty with follow-up casework.**

A dictation machine was provided, plus weekly meetings with supervisors and casework forms. [No cost to the employer.]

- 10. A child-care assistant with a learning disability had low reading skills.**

A video to teach a children's story and the hand motions to accompany the story. The employee viewed the video to prepare lessons. [Cost: \$50.]

- 11. A clerk needed extra reinforcement when performing duties that included answering the phone, distributing pamphlets, entering 'leads' into the computer, and answering questions.**

A peer job coach was assigned for 2 weeks and then used as needed for reinforcement. [No cost to employer.]

12. A dishwasher with LD had many tasks to complete. He had difficulty with organization and efficiency.

A list of job duties (especially at closing time) was provided with words/pictures to help employee stay on task. [No cost to employer.]

13. A cutter with LD had a deficiency in mathematics, and difficulties with sequencing. He was responsible for cutting parts from foam sheets.

A pocket-sized card was developed w/math calibrations to help employee cut the foam sheets. [Cost: \$25 for pocket cards.]

14. A record maintenance clerk with a learning disability and epilepsy was responsible for filing claims, searching for materials, and classifying material.

A job trainer re-trained him on many aspects of the job. [No cost to the employer.]

15. An account clerk with Attention Deficit Disorder and a learning disability was having difficulty concentrating on her work.

Office was soundproofed and employee provided a personal stereo w/nature sounds as white noise. [Cost: under \$1000.]

Resources

The ADA: Your responsibilities as an employer. (2005). Retrieved 2/03, 2006 from www.eeoc.gov/facts/ada17.html

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