

GOING THE DISTANCE

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Shining a Light on Invisible Disabilities

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Non-apparent disabilities are common and present unique challenges to law students and lawyers. To employers, these disabilities can be unfamiliar territory, causing uncertainty in the hiring process and beyond. This program will provide resources to those working with students on the school side (self-assessment, when and how to disclose, academic support, and more), and recruiters seeking best practices (the business case for diversity, overcoming stereotypes, types and cost of accommodations, and more).

Presenters:

- Cometria Cooper, Associate Director, Office of Career Planning, University of San Francisco, School of Law
- Sara Eng, Talent Acquisition & Development Manager, West Coast Region, Paul Hastings LLP
- Annabrooke Temple, Associate Director, Career Development, UC Hastings College of the Law
- Priscilla J. Zaccalini, Diversity & Professional Development Programs Coordinator, Farella Braun + Martel LLP

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Attorneys with Disabilities: A Quick Reference Guide for Legal Employers

Legal employers *must* recruit and retain a diverse group of attorneys to maintain the pipeline of talent needed to solve today's complex legal problems. As legal career professionals, we are tasked with bringing the best minds to the forefront of these business challenges; however, in some cases, failing to make a minor and often costless adjustment in the employment process can impede our ability to source talent.

Know the Law

We know the business case for diversity hiring. But we should also know the law! For a comprehensive guide about accommodating attorneys with disabilities, please refer to the Equal Employment Opportunity Commission (EEOC) guide for attorneys with disabilities:
<http://www.eeoc.gov/facts/accommodations-attorneys.html>

The Americans With Disabilities Act (ADA) of 1990 prohibits discrimination on the basis of disability.

An individual with a disability is defined by the ADA as:

- A person who has a physical or mental impairment that substantially limits one or more major life activities; or
- A person who has a history or record of such an impairment; or
- A person who is perceived by others as having such an impairment.

Title I of the ADA ensures people with disabilities are afforded equal opportunity in the workplace, and:

- Applies to employers with 15 or more employees;
- Requires employers to provide reasonable accommodations to qualified applicants or employees;
- Is regulated and enforced by the EEOC.

Be Reasonable

A “reasonable accommodation” is a change that accommodates employees with disabilities without causing the employer “undue hardship”.

Employers are required to make reasonable accommodations in:

- The job application process (OCI, online or headhunter submissions, partner tours)
- The work environment (office and desktop setups, administrative support, building and facilities)
- The benefits and privileges of employment (summer associate social events, telecommuting options, in-house CLE programs)

The conversation about a candidate's disability and what is needed to accommodate him/her should be **collaborative, iterative, and prospective**. The conversation should address whether the attorney has a disability as defined by the ADA, and whether a reasonable accommodation is needed and what that accommodation might look like. However, when an employee's disability is not apparent, employers are not allowed to begin the discussion about reasonable accommodations – they must rely on the applicant/employee to disclose the disability first.

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Make it Work

Once an employee or applicant has disclosed a disability, focus the conversation on specific questions that will help clarify the nature of the disability, how the disability affects the employee's productivity, and suggested accommodations.

A few examples of accommodations for non-apparent disabilities in a law firm or professional setting can be found below. Suggested or sample prices are noted where applicable.

For Mental Health Impairments (depression, addiction, anxiety, schizophrenia, etc.):

- Alternative work schedules or telecommuting
- Counseling or employee assistance programs (\$12-\$40/employee)
- Mentor programs
- Sensitivity training for all office personnel (\$1500 average guest speaker fee)

For Cognitive Impairments (Alzheimer's, chronic fatigue, MS, dyslexia, etc.):

- White noise machines (\$25-\$50)
- Assistive technology such as dictation or voice recording applications (\$50-\$100)
- Electronic organizers or calendars (free - \$100)
- Reduced face-time requirements and flexible work schedules

For Motor and Mobility Impairments (cancer, heart conditions, Crohn's, fibromyalgia, etc.):

- Writing and grip aids (\$5-\$20)
- Change individual office or parking location to be closer to restroom or elevator
- Compact lifting devices (\$250-\$950)
- Automatic door openers and ramps (supplied by building per Title 3 of ADA)

For Sensory Impairments (blindness, deafness, respiratory issues, etc.):

- Sign language interpreters or voice translation applications (\$25/hour)
- Large monitors and screen magnifiers (\$100 - \$500)
- Adjusting workplace temperature or humidity

For additional solutions for workplace success, please visit the Job Accommodation Network at askjan.org.

A Guide to the Disclosure Conversation

Please note: this is a guide, and not a replacement for an in-depth conversation. Many of these questions appear simple on their face, but may require a lot of thought and discussion.

Part I: Should I disclose my not-readily-apparent disability?

- Is my disability readily apparent?
- Will I need an accommodation during any part of the interview process? (Consider the possible interview formats: Group? Meal? Written component?)
- Do I know the essential functions of this job, and will I want or need an accommodation to accomplish them?
- Have I used accommodations in school or work before (whether formally requested or not)?

Part II: Timing- When should I Disclose?

- Does disclosure at any of these stages get me closer to the next round of the hiring process, and getting the accommodation I need?
- Resume/cover letter
- Screening interview
- Call-back interview
- Post-offer, before acceptance
- Post-acceptance, before you start work
- While working

Part III: Have you done your due diligence?

- Does the firm/organization have a resource or affinity group for people with disabilities?
- Have I researched the firm/organization to find out their hiring and retention practices of professionals with disabilities?
- Am I familiar with the ADA?

Part IV: Will you disclose?

If yes:

- Write out your reasons for disclosure
- When will you disclose?
- How will you disclose? Practice!

If no:

- Write out your reasons for choosing not to disclose
- Remain open to the possibility of disclosure and requesting accommodations if your work performance and/or your well-being suggest they're needed

Resource List for Students and Employees with Non-Apparent Disabilities

ABA Commission on Disability Rights - www.americanbar.org/groups/disabilityrights.html

Association on Higher Education and Disability - www.ahead.org

Employer Assistance and Resource Network - www.askearn.org

- Includes a guide to Interviewing Applicants with Disabilities:
<http://www.askearn.org/refdesk/Recruitment/Interviewing>

Equal Employment Opportunity Commission - www.eeoc.gov

Getting Support, Supporting Others: a handbook for working with non-visible disabilities, by Ernst & Young - [http://www.ey.com/Publication/vwLUAssets/Getting-support-handbook-non-visible-disabilities/\\$FILE/Getting-support-handbook-non-visible-disabilities.pdf](http://www.ey.com/Publication/vwLUAssets/Getting-support-handbook-non-visible-disabilities/$FILE/Getting-support-handbook-non-visible-disabilities.pdf)

Invisible Disabilities Association - <https://invisibledisabilities.org/>

Job Accommodation Network - <https://askjan.org/>

Local bar associations' disability rights committees

National Association of Law Students with Disabilities (NALSWD) - www.nalswd.org

National Collaborative on Workforce and Disability –

- Includes a Hidden Disabilities Quick Reference Guide - <http://www.ncwd-youth.info/quick-reference-guide/hidden-disabilities>

