



SMALL ADJUSTMENTS; BIG IMPACT: SUPPORTING NEURODIVERSITY IN RECRUITING AND ADVISING

NALP Annual Education Conference 2023

ABA Commission on Disability Rights: <https://americanbar.org/groups/diversity/disabilityrights>

Department of Labor: <https://www.dol.gov/general/topic/disability/ada>

EEOC Guidance: *Reasonable Accommodations for Attorneys with Disabilities*:
<https://www.eeoc.gov/laws/guidance/resonable-accommodations-attorneys-disabilities>

***Great Minds Think Differently: Neurodiversity for Lawyers and Other Professionals*, Haley Moss (2021):**

<https://www.americanbar.org/products/inv/book/413499755/?fbclid=IwAR0wm0oBA8IG99MnYi2bfewNRNg6-btj2B3kibD-bHkyYxUbV8uPMmFiTdA>

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

National Disability Law Students Association: <https://ndlsa.org>

PROGRAMMING

Demystifying Disability: What to Know, What to Say, and How to Be an Ally (3/9/2023):
[Watch the video here.](#)

Join the Neurodiversity Task force for an author talk session with Emily Ladau, author of *Demystifying Disability: What to Know, What to Say, and How to be an Ally*.

***Great Minds Think Differently: Neurodiversity for Lawyers and Other Professionals*, A Conversation with Haley Moss (10/26/2022):** [Watch the video here.](#)

Join members of the Neurodiversity in the Legal Profession Task Force on Wednesday, October 26 at 1:00 pm ET for a conversation with Haley Moss – author, attorney, and advocate. Haley is a neurodiversity expert, and her book, *Neurodiversity for Lawyers and Other Professionals*, examines neurodiversity and presents ideas for creating a more inclusive legal profession. Don't miss the opportunity to engage with Haley about her book, her experience, and ways we can come together to embrace neurodiversity in the legal field.

Neurodiversity Discussion Part 2 (4/20/2022): [Watch the video here.](#)

Join members of the Neurodiversity Task Force this Wednesday, April 20th, at 4 pm EST, for an interactive Zoom workshop for all NALP members as we continue to learn how to advise neurodiverse students and lawyers and facilitate the recruiting and hiring processes for neurodiverse candidates in a way that supports and celebrates differences. Through a series of short hypothetical scenarios, attendees will get practical tips on advising students through the

hiring process, supporting an effective interviewing process, and training interviewers and recruiting teams about engaging with neurodiverse candidates.

Neurodiversity Discussion Part 1 (1/19/2022): [Watch the video here.](#)

Neurodiversity refers to variations in the human brain regarding sociability, learning, attention, mood, and other mental functions; however, often it is used solely to describe autism. Contrary to that view, neurodiversity can be broadly applied to those whose brains are wired to function in ways that may differ from the majority of people. Students and attorneys who are neurodiverse are often overtly or inadvertently excluded from, or unsuccessful in, the legal recruiting process; though studies have shown that companies can benefit from having a Neurodiversity strategy as well as a neurodiverse talent pool. This program features neurodiversity experts Haley Moss and AJ Link, who share a bit about their own journeys, provide a foundational understanding of relevant definitions and terminology within the neurodiverse community, and share their perspectives on ways the legal industry can address the challenges that neurodiverse candidates face in the recruiting process.

Neurodiversity in the Workforce: Perspectives from Other Industries (2/16/22): [Watch the video here.](#)

Learn about neurodiversity in the workplace with guest experts from industries outside of the legal profession: Andrew Eddy, CEO of Untapped; Jennifer Feldman, Manager, Corporate Engagement at Specialisterne North America; and Doug Fischer, Lead Human Factors Engineer at Boeing. Explore how organizations can develop effective support structures to recruit, integrate, and retain neurodiverse employees and help them thrive.

HANDOUT

A copy of the below handout is included in the following pages.

Making the Case for Neurodiverse Talent, 2020 Professional Development Institute

Handout courtesy of Nirvana Dove, AJ Link, and Rachael Bosch

NALP BULLETIN ARTICLES

Copies of the below articles are included in the following pages.

Neurodiversity in the Legal Profession: Progress in Recruiting and Support Efforts Present New Disclosure Questions (March 2023)

Supporting Neurodiversity in Legal Recruiting – Top 10 Tips (December 2022)

Neurodiversity: A Primer, Paul Johnson and Angela Sordi (September 2021)

Accessibility without Disadvantage: Supporting Neurodivergent Lawyers and Law Students, Angela Sordi (March 2022)

Neurodiversity and Recruiting for Legal Employers, Tom Lee (March 2022)

MAKING THE CASE FOR NEURODIVERSE TALENT

National Study of Lawyers with Disabilities and Lawyers Who Identify as LGBTQ

25%

reported a health
impairment, condition, or
disability

31%

reported a mental health
condition

22%

reported subtle and
intentional biases

16%

reported discrimination

12%

reported harassment and
bullying

43%

who reported a health
condition, impairment, or
disability, reported requesting
an accommodation

28%

reported requesting
workplace
accommodation

39%

reported subtle but
unintentional biases

Many
accommodation
requests were
fulfilled, with the
most common
being changes in
work tasks, job
structure and
scheduling

2019 NALP Report

0.59% of associates & 0.46% of
partners at law firms reported
having a disability

2.5% and 3.5% of graduates
self-identify as having a
disability

2013 ABA Membership Survey

8% of attorneys reported having
a disability

2016 Cornell University Analysis of Census Data

12.8% of the noninstitutionalized
U.S. population has a disability



NDLSA CHAPTERS

University of San Francisco
Lewis & Clark
Boston College
Chicago
Florida International University
UDC David A. Clarke
Rutgers-Newark
University of Virginia
Rutgers-Camden
University of Idaho College of Law
Fordham University
University of Washington in St. Louis
University of Wisconsin
New York University School of Law
Boston University School of Law
McGeorge School of law
Loyola Law School
University of Mississippi School of Law
Syracuse University College of Law
University of Baltimore
Harvard Law School
Yale Law School
UT Austin School of Law
Case Western Reserve
George Mason University (Scalia)



VOCABULARY MATTERS

USE

- Ableism
- Accessible
- Access Barriers
- Disabliaphobia
- Neurodiversity
- Universal Design

AVOID

- Lame
- Insane
- Crazy
- Stupid
- Moron
- Idiot
- Inspiring

ELIMINATE

- R Word
- Wheelchair Bound/Confined
- Handicapped
- Handicapble
- Differently-abled
- Special Needs*

note: exception when referring to special needs trusts

- Comparing disabled folks to "normal" people
- Challenged (mentally or physically)



GLOSSARY

***Ableism:** Discrimination and social prejudice against disabled people or people who are perceived to have disabilities. Ableism characterizes persons as inferior based on their disabilities. (1)

***Accessible:** In the case of a facility, readily usable by a particular individual; in the case of a program or activity, presented or provided in such a way that a particular individual can participate, with or without auxiliary aid(s); in the case of electronic resources, accessible with or without assistive computer technology.

***Access barriers:** Any obstruction that prevents people with disabilities from using standard facilities, equipment and resources.

Accommodation: An adjustment to make a program, facility, or resource accessible to a person with a disability.

Adaptive technology: Hardware or software products that provide access to a computer that is otherwise inaccessible to an individual with a disability.

Americans with Disabilities Act of 1990 (ADA): A comprehensive federal law that prohibits discrimination on the basis of disability in employment, public services, public accommodations and services operated by private entities, and telecommunications.

Assistive technology: Technology used to assist a person with a disability, e.g., wheelchair, handsplints, computer-based equipment.

Braille: System of embossed characters formed by using a Braille cell, a combination of six dots consisting of two vertical columns of three dots each. Each simple Braille character is formed by one or more of these dots and occupies a full cell or space. Some Braille may use eight dots.

1. Linton, Simi (1998). *Claiming Disability Knowledge and Identity*. New York: New York University Press



GLOSSARY

Captioned film or videos: Transcription of the verbal portion of films or videos displayed to make them accessible to people who are deaf.

Captioning: Text that is included with video presentations or broadcasts that enables people with hearing impairments to have access to the audio portion of the material.

Communication device: Hardware that allows a person who has difficulty using their voice clearly to use words or symbols for communication. May range in complexity from a simple picture board to complex electronic devices that allow personalized, unique construction of ideas.

Compensatory tools: Assistive computing systems that allow people with disabilities to use computers to complete tasks that they would have difficulty doing without a computer, e.g., reading, writing, communicating, accessing information.

Disability: Physical or mental impairment that substantially limits one or more major life activities; a record of such an impairment; or being regarded as having such an impairment (Americans with Disabilities Act of 1990).

Discrimination: Act of making a difference in treatment or favor on a basis other than individual merit.

***Disabiliphobia:** a fear of people with disabilities or perhaps a fear of what they may represent, a fear of becoming disabled. (2)

Hearing impairments: Complete or partial loss of ability to hear caused by a variety of injuries or diseases including congenital defects.

Identity-first language: disability comes before the person in the description (e.g. autistic person, Deaf person, disabled person). Used by self-advocates in response to person-first language. (3)

2. "Disabilities: Insights from Across Fields and Around the World,"
by [Martha E. Banks Ph.D.](#) (Editor), [Mariah S. Gover](#) (Editor), [Elizabeth Kendall](#) (Editor)
3. Definition provided by AJ Link



GLOSSARY

Interpreter: Professional person who assists a deaf or nonverbal person in communicating with hearing people.

Large print books: Most ordinary print is six to ten points in height (about 1/16 to 1/8 of an inch). Large type is fourteen to eighteen points (about 1/8 to 1/4 of an inch) and sometimes larger. The format of large print books is also proportionately larger (usually 8 1/2 x 11 inches).

Mainstreaming, inclusion: The inclusion of people with disabilities, with or without special accommodations, in programs, activities, and facilities with their non-disabled peers.

Major life activities: Functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, and participating in community activities (Americans with Disabilities Act of 1990).

Mobility impairment: Disability that affects movement ranging from gross motor skills such as walking to fine motor movement involving manipulation of objects by hand.

Models of Disability: Mary Ann Jackson has identified six models of disability: the Charity Model, the Medical Model, the Social Model, the Relational Model, the Diversity Model, and the Human Rights Model (4)

***Neurodiversity:** term generally credited to Judy Singer that describes the diversity of human minds, the infinite variation in neurocognitive functioning within our species. (5)

Neurodivergent: refers to individuals who are neuroatypical (e.g. Autistic, ADHD, Dyslexic) rather than neurotypical. (6)

4. Jackson, Mary Ann. "Models of Disability and Human Rights: Informing the Improvement of Built Environment Accessibility for People with Disability at Neighborhood Scale?"

5. Definition provided by AJ Link

6. Definition provided by AJ Link



GLOSSARY

Person-first language: disability comes after the person in the description (e.g. person with autism, person who is deaf, person with a disability). Predominantly used by nondisabled individuals as a sign of respect and courtesy. (7)

Physical or mental impairment: Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities (Americans with Disabilities Act of 1990).

Qualified individual with a disability: An individual with a disability who, with or without reasonable modification to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity (Americans with Disabilities Act of 1990).

Reader: Volunteer or employee of an individual with a disability (e.g., visual impairment, learning disability) who reads printed material in person or records to audiotape.

Repetitive Stress Injury (RSI): A disability that may be chronic or acute and usually is described as pain caused by overuse of extremities, usually hands and wrists.

Screen reader: Software used to echo text on a computer screen to audio output, often used by people who are blind, with visual impairments, or with learning disabilities.

7. Definition provided by AJ Link



GLOSSARY

Section 508 of the Rehabilitation Act: Legislation that requires federal agencies to develop, procure, and use accessible electronic and information technology.

Sensory impairment: A disability that affects touch, sight and/or hearing.

Sign language: Manual communication commonly used by deaf. The gestures or symbols in sign language are organized in a linguistic way. Each individual gesture is called a sign. Each sign has three distinct parts; the handshape, the position of the hands, and the movement of the hands. American Sign Language (ASL) is the most commonly used sign language in the United States. Deaf people from different countries speak different sign languages.

Specific Learning Disability: Disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in difficulties listening, thinking, speaking, reading, writing, spelling, or doing mathematical calculations. Frequent limitations include hyperactivity, distractibility, emotional instability, visual and/or auditory perception difficulties and/or motor limitations, depending on the type(s) of learning disability.

Speech impairment: Problems in communication and related areas such as oral motor function, ranging from simple sound substitutions to the inability to understand or use language or use the oral-motor mechanism for functional speech.

Traumatic Brain Injury (TBI): Open and closed head injuries resulting in impairments in one or more areas, including cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not apply to brain injuries that are congenital, degenerative, or induced by birth trauma.



GLOSSARY

***Universal design:** Designing programs, services, tools, and facilities so that they are useable, without modification, by the widest range of users possible, taking into account a variety of abilities and disabilities.

Vision impairments: Complete or partial loss of ability to see, caused by a variety of injuries or diseases including congenital defects. Legal blindness is defined as visual acuity of 20/200 or less in the better eye with correcting lenses, or widest diameter of visual field subtending an angular distance no greater than 20 degrees.

Unless otherwise noted, definitions come from DO-IT at the University of Washington
<https://www.washington.edu/doit/glossary-disability-related-terms>.

RESOURCES & CONTACTS





NEURODIVERSITY IN THE LEGAL PROFESSION: **PROGRESS IN RECRUITING AND SUPPORT EFFORTS PRESENTS NEW DISCLOSURE QUESTIONS**

By Joanna Craig and Nirvana Dove

AT A GLANCE

- 7 min read
- Neurodivergent individuals think differently than neurotypical individuals.
- Law students and lawyers who are neurodivergent have often been overtly, or inadvertently, excluded from recruiting and DEI efforts.
- Steps to continue making progress at your firm or school.



Neurodiversity, or neurodivergence, refers to variations in the human brain regarding sociability, learning, attention, mood, and other mental functions. Neurotypical refers to someone whose brain behaves like most of society while neurodivergent refers to someone whose brain behaves differently. While neurodivergence can be associated with disability and mental illness, not all people who identify as neurodivergent identify as disabled. Similarly, some people who are neurodivergent have a disability and for some, their neurodivergence can be disabling in certain specific environments.

Studies show that 15-20% of the U.S. population is neurodivergent, however, in 2021, just over 1% of U.S.-based law firm lawyers self-reported having any disability at all and only 4.5% of law school graduates self-reported as having a disability. Historically, law students and lawyers who are neurodivergent have often been overtly, or inadvertently, excluded from recruiting and diversity, equity, and inclusion (DEI) efforts. The lower rates of

self-reporting and lack of inclusion are likely due to the continued stigma associated with neurodiverse conditions. That said, in recent years, the legal industry has begun to recognize neurodiversity as diversity within the profession, resulting in incremental increases in disclosure and modifications to recruiting and DEI processes.

Traditional Disclosure and Accommodation

Various aspects of the application and interviewing process can be difficult for neurodivergent students and lawyers. Traditionally, neurodivergent candidates have first confronted the issue of whether to disclose their neurodivergence to an employer when deciding whether to request an accommodation they are entitled to through the Americans with Disabilities Act during the application and/or interview process. Accommodations may include allowing a candidate to turn off their camera during a virtual interview, reducing the number of interviewers

Continued on page 15

participating in an interview, or providing interview questions in advance.

Small adjustments can have a big impact on a neurodivergent candidate's ability to fully participate in the recruiting process and best showcase themselves and their skills to potential employers. It is important to note that many adjustments can also be made available across the board to the benefit of all candidates, whether they identify as neurodivergent or not. When employers recognize and implement broader changes, neurodivergent applicants can take advantage of those adjustments to the application and interview process without the concern of whether to share information prematurely or unnecessarily about a disability in exchange for an accommodation.

Where Are We Now?

More recently, law students and lawyers have experienced new reasons beyond a potential accommodation request to consider whether to disclose that they are neurodivergent. In the past several years, the legal industry has developed new recruitment and support initiatives, including legal industry networks, law school and employer affinity groups,

and diversity recruiting fellowships and scholarships, that may be available to neurodivergent law students and lawyers. In 2019, a group of law students formed the National Disabled Law Student Association (NDLSA) in recognition of the additional barriers to success in the legal profession faced by disabled law students. In 2022, NDLSA reported 51 law school chapters with more than 650 law student members.

On the employer side, the past few years have seen rapid expansion in law firm diversity initiatives and recruiting. AmLaw 100 firms include disability in their diversity statements and 39 have signed on to the ABA Pledge for Change: Disability Diversity in the Legal Profession. (The ABA Pledge, created in response to the lack of lawyers with disabilities in the profession, affirms the signatory's commitment to diversity, specifically disability diversity, and recognizes that diversity is in the best interest of the profession, those the profession serves, as well as the organization making the commitment). Similarly, an increasing number of law firms have launched disability-focused affinity groups and many employers have expanded the definition of diversity for their diversity scholarship and fellowship programs to

include neurodiversity specifically, or disability generally.

Implications of Progress

With the exciting and much-needed growth of recruitment and support for disabled law students in the legal industry, it is important to note that participation in the corresponding opportunities requires neurodivergent

personal decision to disclose whether they are neurodivergent must be made by the law student or lawyer themselves and may differ from situation to situation. CSOs may assist in talking through concerns and whether they outweigh the access provided by taking advantage of support, employment, and financial opportunities. In making this difficult decision, neurodivergent law students

Create an environment that accounts for that fact that people think, learn, and communicate differently.

students and lawyers to determine whether they are comfortable "softly disclosing" their neurodiversity. As a result, CSOs will more and more be asked for advice by their law students, alumni, or disabled law student associations about disclosure. The very

and lawyers are concerned about what assumptions, biases, and discrimination they may face after such a disclosure. They are also concerned about the extent that their

personal health information may be shared with others, whether directly or indirectly, such as through inclusion in a membership directory or by securing the title of diversity fellow.

If our broader goal as a legal community is to increase participation by disabled lawyers and the goal of employers is to increase participation by their neurodivergent candidates and lawyers in initiatives that may require some form of disclosure, employers will need to continue to find ways to address these valid concerns. Developing programs, support systems, and other initiatives is an important part of increasing neurodiversity in the legal community, but for any of these efforts to succeed, we must create environments where lawyers and law students feel comfortable enough to take advantage of these initiatives. Firms that can demonstrate that they are supportive of their lawyers with disabilities, that inclusion of disabled lawyers is embedded in their firm culture, and that disabled lawyers recruitment and retention is a priority, will go a long way toward easing concerns about disclosure and ensuring the success of their initiatives.

What's Next?

For law schools and employers who are looking to begin or deepen support for neurodivergent and/or disabled students and lawyers, the following suggestions are great places to start.

Provide Education – Opening the dialogue about neurodiversity and disability through organization-wide educational programs and targeted training for recruiting and professional development teams are a great first step toward disability and neurodiversity inclusion. Useful programs can feature internal/external speakers who share their own personal experiences or training that provides definitions and terminology.

Consider Developing or Supporting an Affinity Network – If a disabled lawyer or student network is not currently in place, consider offering confidential interest groups to gauge interest in a publicly available group, discuss the challenges faced by those who identify as neurodivergent and/or disabled, identify ways that an affinity network can help support or alleviate those challenges, and outline ways that leadership can support their efforts.

Implement a Positive Culture of

Adjustments – Whenever possible, law schools and legal employers should create an environment that accounts for that fact that people think, learn, and communicate differently. Making small adjustments across the organization or hiring process, such as using closed captioning and offering interviews and programs in a variety of formats, can allow anyone to benefit from various options to best meet their needs and allow disabled students and lawyers to self-accommodate without the extra time, paperwork, and disclosure required to request an individual accommodation.

Identify and Combat Bias – To make disabled lawyers more likely to identify as such and improve disability diversity in the legal profession, we must commit to the training and work required to recognize and fight unconscious bias. Law schools and employers need to create open dialogue with disabled individuals and affinity groups in their organization, ensuring that they listen to them about their needs and goals rather than making assumptions.

Support Mental Health and Well-Being

– Legal employers and law schools that

provide and encourage their lawyers and law students to make use of mental health support and opportunities to focus on their own well-being indicate to neurodivergent law students and lawyers that these needs are a priority. +

This article was submitted on behalf of the Inclusion: Neurodiversity in the Legal Profession Task Force.



Joanna Craig

Joanna Craig (jocraig@law.upenn.edu) is Director for Private Sector Recruiting in the Office of Career Strategy at the University of Pennsylvania Carey Law School.



Nirvana Dove

Nirvana Dove (nirvana.dove@skadden.com) is Diversity, Equity & Inclusion Global Manager at Skadden, Arps, Slate, Meagher & Flom LLP.

10 TIPS FOR SUPPORTING NEURODIVERSITY IN LEGAL RECRUITING

By Mary Beth Nielsen and Angela Sordi

As law schools and legal employers think about legal hiring, it's important to not only understand neurodiversity, but to actively support the hiring and retention of neurodivergent candidates. Neurodiversity is a term that generally describes the diversity of human minds and the infinite variation of neurocognitive function of our species. Traditional legal recruiting and networking processes do not provide for transparency and clarity of expectations, relying heavily in interviews on social cues. Individuals who have autism, Asperger syndrome, dyslexia, epilepsy, attention deficit/hyperactivity disorder (ADHD), depression, anxiety, and obsessive-compulsive disorder (OCD) are examples of individuals who may be neurodivergent. Below are 10 tips for supporting neurodiversity in your organization. As the legal profession moves to a place

of broader acceptance — recognizing the inherent strength in diversity, equity, inclusion, and accessibility — understanding these areas can help make a positive impact on the recruitment and retention of neurodivergent candidates.

TIP 1: Acknowledge that Clarity Is Key

Studies have shown correlations between uncertainty and elevated levels of stress for neurodivergent individuals. Therefore, when it comes to aspects of the recruitment process, neurodivergent candidates benefit from knowing exactly what to expect at each stage of the process. Traditional legal recruiting and networking processes do not provide for transparency and clarity of expectations. Traditionally, the interview process

Continued on page 15

AT A GLANCE

- 8 min read
- Many firms have increased efforts to recruit neurodiverse individuals.
- Mapping out some of the best practices for supporting these professionals.
- Awareness, training, and normalization will help support neurodiverse candidates.

has relied heavily on social cues such as body language, eye contact, communication skills, and a general understanding of the unwritten rules for conforming in certain social and professional circumstances. The recruiting process can be opened up by communicating with candidates and students about the process, the purpose, and expectations of candidates at each stage.

TIP 2: Provide Varied Opportunities

Traditional networking opportunities such as large cocktail receptions or dinners, where one is expected to “work the room” and mingle with a variety of individuals, can be disproportionately challenging and overwhelming for some neurodivergent students. Employers should think about different ways for students to engage with their recruiters and legal professionals. Fortunately, many firms have the opportunity and resources to provide varied options. Employers should think about offering a suite of opportunities and allow students to choose from a menu of ways to engage; allowing them to choose the options that feel most comfortable to them. Examples might be one-on-one phone/video conversations with legal professionals, small group coffee chats, virtual panels, cocktail receptions, or office tours. Gone are

the days for the one-size-fits-all approach to networking.

TIP 3: Train Your Workforce

The biggest issue in the recruiting process for neurodivergent candidates is a lack of understanding by interviewers. The reliance on body language, eye contact, and particular communication skills often results in neurodivergent candidates being judged as “lacking” or “not a fit” when their substantive skills are stellar. Firms can educate their lawyers and staff about neurodiversity to move the needle and eliminate bias. It starts with normalizing the conversation, introducing the concept of neurodiversity, and providing resources for independent research and learning. You can bring in experts to provide training to recruiting, engagement, EDI, and professional development teams. The more you normalize the conversation, the easier it becomes for attorneys to self-identify and communicate with neurodivergent candidates about a firm’s support during the recruiting process.

TIP 4: Discuss Disclosure

Make it easy for students to disclose and request accommodations and adjustments in the recruiting process. While there are many

reasons why a student may need to or want to disclose, many still hesitate. They are genuinely afraid that they will be discriminated against if they disclose because many have had a lifetime of experiencing a wide range of bias to reinforce these fears. Employers are expected to treat disability-related information as confidential, sharing with others only on a need-to-know basis, but there is rarely transparency about this. Provide students answers and detailed information from the start about how they should request accommodations. For assessments, in particular, let students know up front who the contact is if they need to request an accommodation. Being clear about the process and making the information available to everyone makes it easier for anyone who needs it.

TIP 5: Create a Safe Space

Employers must consciously strive to create a safe space so that candidates are comfortable disclosing and making requests for accommodations or adjustments. Creating a safe space means being proactive in providing information to potential candidates. It is helpful to provide information beyond how students can request an accommodation to include who they go to, how the information

will be treated, and who among the hiring team will be made aware of the disclosure. Transparency rarely exists about any of the aforementioned situations, and as a result, the onus gets placed on the students to ask difficult questions.

TIP 6: Set Clear Expectations

Part of creating a safe space means clearly communicating up front what the employer’s expectations are around the career opportunity and the recruitment process. Clarity begins with the actual job posting or job description. Consider using clear and succinct language when describing the skills and experience needed, ensure that recruitment materials include an inclusive hiring statement, and offer to provide adjustments.

Students want details in a clear format that outlines the whole recruitment process, such as what to expect through the application process, during networking or informational sessions, and during the interview process. Employers should consider equipping all students with clear directions to the office, a map of the office space, and the names of lawyers who will be interviewing them. A

dedicated information page outlining all the relevant information for accessing buildings and the interview structure is extremely helpful. Employers might want to consider offering virtual tours of their facilities and the surrounding areas. Clear communication allows *all* students the opportunity to pre-plan and arrive prepared while simultaneously enabling neurodivergent candidates to perform at their best.

TIP 7: Emphasize that We Are Better Together – Schools and Firms Should Partner to Better Facilitate the Student Experience

Law schools and law firms are working to serve students and guide them through the recruiting process. Law schools can provide additional details and clarity to neurodivergent candidates at the start of the process. Law firms can discuss with law schools the details of their processes, ways to request adjustments to the process, and how accommodations are handled. By opening up the lines of communication, both sides can prepare students, provide resources, and ensure students are supported throughout the process.

TIP 8: Personalize the Process

The legal industry’s standard recruiting practices tend to not be accessible or inclusive for a wide range of students. We tend to rely on a body of unwritten rules that support success. Thinking beyond the “one-size-fits-all” mindset truly recognizes the diversity of candidates and allows employers to create bespoke experiences. We know that standard or traditional interview styles can be difficult or overwhelming for neurodivergent students. Once students disclose or ask for accommodations, employers can focus on ensuring the process is accessible to these specific students. In some cases, this may involve changing the interviewers or the interview style, providing students with the competency metric and sample questions in advance, and focusing on questions that rely on specific experiences listed in resumes or CVs. Personalizing the process ensures a more inclusive and accessible process for all students.

TIP 9: Be Progressive and Inclusive

Assessment technology is increasingly used to level the playing field and encourage meritocratic hiring; however, some

approaches can disadvantage neurodivergent candidates. When implementing these assessment tools, it is critical that the vendor can eliminate processes that can have a disproportionately negative impact on neurodivergent candidates, as well as the sort of questions that may disadvantage candidates from other underrepresented backgrounds. When using assessment technology, communicate with candidates about the purpose of the assessment and what the candidate can expect. Also, provide clear instructions to candidates about requesting accommodations when sending the initial request for the assessment to ease concerns and better facilitate the process.

TIP 10: Recognize that Recruiting Is Not Enough

Recruiting neurodivergent talent is only the beginning of recognizing and accepting the value and contributions of this talent pool. Firms and other professional organizations must work toward ensuring that their internal processes and structures support these new employees toward continued professional success. Employers and their law school partners must be committed to providing education and training to all their

people. Building awareness, training, and normalizing the conversation around neurodiverse talent within these organizations supports success for students and candidates with the added benefit of helping move the needle in efforts to make the legal industry more inclusive. +



Mary Beth Nielsen

Mary Beth Nielsen (mnielsen@smu.edu) is Director, Office of Career Services at the SMU Dedman School of Law.



Angela Sordi

Angela Sordi (asordi@blg.com) is Senior Director, Professional Development at Fasken Martineau DuMoulin LLP.

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Bulletin

September 2021

NEURODIVERSITY: A PRIMER / 12

**How Can You Improve Your
NALP Member Experience?**

Jump In! / 4

**How to Increase Collaboration
Between Recruiting and DEI
Departments / 17**





NEURODIVERSITY: A PRIMER

By Paul Johnson and Angela Sordi

The neurodiversity movement challenges us to rethink autism through the lens of human diversity.

As the importance of understanding neurodiversity grows globally and within the legal profession, NALP has dedicated resources to helping its members learn about the issues involved. NALP President Traci Mundy Jenkins established the Neurodiversity in the Legal Profession Task Force for the 2021-22 NALP year, with Paul Johnson and Angela Sordi as Co-Chairs. Our purpose is to review the barriers to inclusion of neurodiverse law students and lawyers including stigma, lack of understanding, and hesitancy to disclose/under reporting. The Task Force is excited to engage with NALP members over the coming months through a Discussion Series that will explore issues of identity, advocacy, and interpersonal relations in a law firm setting. We kicked off the effort this year with a NALP Member Town Hall, “Including and Supporting Our Neurodiverse Colleagues and Students in the Transition Back to the Office and the Campus,” on June 30, 2021. The following article provides a basic framework to explore neurodiversity and some of the major areas of inquiry that have arisen in recent years.

What Is the Neurodiversity Paradigm?

An individual who identifies as neurodiverse or neurodivergent is someone who thinks differently from the way most of the population “expects” that they would. Individuals who have autism, Asperger syndrome, dyslexia, epilepsy, ADHD, obsessive-compulsive disorder (OCD), and Tourette syndrome (TS) are examples of individuals who might identify as neurodiverse.

Australian sociologist Judy Singer first coined the term “neurodiversity” in 1998 (as a portmanteau of “neurological” and “diversity”). It was Singer’s hope and objective that by identifying individuals as neurodiverse and accepting that certain brain functions are non-pathological — not altered or caused by disease — we would ultimately shift away from referring to these mental functions as deficits, disorders, or impairments.

What Is the Neurodiversity Movement?

Neurodiversity activists argue that autism and other neurological variations are not flaws and should not be viewed as something

pathological that should be cured. Activists seek to dispel the notion that individuals living with neurological differences are somehow broken or incomplete versions of normal people.

As opposed to only focusing on impairments, the neurodiversity model sees neurodivergent individuals as possessing a complex combination of cognitive strengths and challenges. The neurodiversity approach is a call to include and respect people whose brains do not work in neurotypical ways.

The neurodiversity movement would insist that support systems allow individuals with autism to live as someone with autism. In other words, suggesting that support systems (such as inclusion-focused services, accommodations, communication and assistive technologies, occupational training, and independent living support) be developed with the goal of allowing those who are neurodivergent to live their lives as they are, rather than being cured, coerced, or forced to adopt accepted ideas of what is perceived as “normal.”

Continued on page 14

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What (or Who) is Neurotypical?

The opposite of neurodiverse is *neurotypical* — someone whose brain behaves like most of society. It is commonly used to describe a person whose neurological development and state are typical and conforms to what most people would perceive as “normal.” The term neurotypical first originated in the autistic community to refer to non-autistic people.

Why Is the Neurodiversity Movement Controversial?

There appears to be a deep divide in the broader community about whether the neurodiversity movement is truly reflective of the broader group of individuals living with certain brain functions.

Supporters of the neurodiversity movement maintain that various conditions represent a neurological difference and sometimes a disability — not a disease — but one that society should accept and accommodate rather than try to prevent or cure. Moreover, the movement maintains that the difficulties experienced by people living with neurodivergent conditions are contextual and that living

Continued on page 15



in a society designed for non-autistic people, for example, exacerbates the challenges experienced by those autistic individuals. Other individuals on the spectrum or their families, including those with more severe examples of autism, view autism as a medical condition that often requires intense treatment.

Others believe that the two coexist — where the autism spectrum is viewed as a constellation of conditions — celebrating the neurodiversity of individuals, while also believing that other aspects of their autism represent conditions that can be alleviated to facilitate independent living, personal safety, and overall psychosocial well being. This seems most apparent within the autism community where a broad spectrum of individuals might identify as autistic.

Is the Neurodiversity Movement Making an Impact?

The neurodiversity movement challenges us to rethink autism through the lens of human diversity. It asks us to value neurodiversity as we would value diversity in gender, race, ethnicity, religion, or sexual orientation. Although there may be different perspectives

on autism as a condition, the neurodiversity lens helps us illuminate and value the unique contributions that these individuals bring to the workplace, while at the same time providing an environment in which they can thrive.

The Opportunities That Lie Ahead...

Technologies and workplace transformation are needed because many talented neurodiverse individuals experience disproportionate levels of under-employment and unemployment, with some estimates above 80%. This is clearly far too high in general, but especially in relation to the actual skills and talents of the people who are adversely affected. Employers who recognize that neurodiverse individuals have unique skills to contribute will be best placed to overcome this challenge.

The change currently sweeping the marketplace is the intentional recruiting and employment of neurodivergent individuals, and to match them to roles that capitalize on their talents and play to their strengths. There is certainly a movement afoot to build technologies and transform workplaces in a way that increases employment opportunities

— and not just any employment, but sustained, meaningful employment for neurodiverse individuals. That is the guiding mission of the Frist Center for Autism and Innovation at Vanderbilt University, and companies from Microsoft to Boeing to Ernst & Young have realized extraordinary benefits to their business performance as autistic employees demonstrate different approaches to problem-solving that have resulted in higher productivity.

This should be seen as a call to action for legal employers to proactively think about how they recruit, interview, hire, and retain this talent. It will be important for employers to partner with law schools to develop frameworks and recruitment systems that support students who identify as neurodiverse as they enter a competitive professional environment that — despite recognizing the need for change — can often be slow to adapt.

Stay tuned for more from this Task Force. +



Paul Johnson

Paul Johnson (johnsonp@uic.edu) is Associate Director of Career Services at the University of Illinois Chicago School of Law. This article was submitted on behalf of the Neurodiversity in the Legal Profession Task Force.



Angela Sordi

Angela Sordi (asordi@blg.com) is Director, Professional Recruiting at Borden Ladner Gervais LLP.

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ACCESSIBILITY WITHOUT A DISADVANTAGE: SUPPORTING NEURODIVERGENT LAWYERS AND LAW STUDENTS

By Angela Sordi



This article focuses on a conversation with Simon Margolis, a Disputes Associate at Borden Ladner Gervais LLP in Toronto, Canada. He is currently transitioning toward a specialty in research and knowledge management. He was called to the Bar in 2020. He has a Juris Doctor from the University of Toronto, Faculty of Law and a Bachelor of Arts in History and Political Science from the University of Michigan-Ann Arbor. Prior to law school, he worked at an autism advocacy organization in Washington, DC which promoted an identity approach to autism and neurodiversity. While in Washington, he worked with Congressional offices on autism and disability services legislation.

I first met Simon Margolis back in the Fall of 2017. I had just started in my role as the Director of Professional Recruitment at BLG's Toronto office and it was my very first 2L Toronto summer recruiting season. At the time, I had very little experience working with people with disabilities or who identify as neurodivergent, and I was just beginning to familiarize myself with the firm's DEI initiatives. We received hundreds of applications for our 2L summer program that year and Simon's was one of the packages that stood out. At the time, grit and resilience were the competencies du jour and I vividly remember thinking to myself – who would have more grit or resilience than an autistic law student at U of T? I mean, not only did this student

secure a spot in this highly competitive program but he was doing exceedingly well.

We were one of five firms that offered Simon an on-campus interview (OCI) that year.

During his 17-minute interview, Simon not only impressed me, but he managed to wow the corporate partner I was interviewing with (candidly, not an easy feat). Now, I realize how incredibly difficult the “speed-dating” curtailed-off experience must have been for Simon. How disorienting the 17-minute time-frame, the loud announcements, and all the moving about must have been for him? But he did it anyways and did it well.

Continued on page 20

Fast forward, Simon is now an associate at the firm.

Over the years, I've only ever had one conversation with Simon about his autism. Perhaps not the thing to admit here because looking back, I should have had more. It was uncomfortable and hard back then. But it was one conversation that changed my perspective forever. Today, as co-chair of NALP's Neurodiversity in the Legal Profession Task Force, I jumped at the opportunity to interview Simon for this *Bulletin+* article. I feel privileged to be sharing his perspective with all of you and adding his voice to our conversation.

We know neurodiversity is a broad term, one that sparks discussion and some debate. We know everyone's lived experience is different and it was important to Simon to stress that his experiences and his story are his.

I'm sure this was one of the questions we asked you when we first interviewed you during OCIs in Fall 2017 ... why law school?

Simon Margolis: *Growing up, I learned early on how to advocate for myself. I would attend all my IEP [Individualized Education Program] meetings. I learned how to ask questions and*

ask for what I needed. I learned how to figure out what would be in my best interest and what would not. Law school would allow me to use my distinctive analytic abilities and parlay my advocacy experience into a career that would provide me with an introduction to the corporate world.

Can you speak to some the challenges you faced navigating law school?

There were different challenges I faced through all levels of school. But the main challenge is always adapting to the sensory experiences of the school. The main difficulties related to my autism is that sensory experiences are multiplied. Sounds are louder, colors can be brighter, and as a result, anxieties are multiplied and your reaction to the environment around you is heightened.

Law school meant a new building, new classrooms, new sights; and it took a bit of time to get adjusted. I think the most difficult thing to get used to involves the difference in the lecturing methods (Socratic vs other methods) at law school as opposed to undergrad and high school. It has always been difficult for me to take notes. I must first process what

Continued on page 21

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is being said to really think about it, and it's that processing that takes up a lot of my bandwidth. If I'm focused on taking notes, I can't really learn. Until the end of undergrad, I had a strong memory. I understood the intellectual frameworks that my professors relied on, I was able to plug information into those frameworks, and was able to follow along.

Law school presented new frameworks and new methods of thinking and taking notes became a real challenge. You are expected to take notes both while completing readings and during lectures. This was extremely difficult for me. Professors were still discouraging or disallowing the use of computers and recording lectures was prohibited. This was very difficult and required me to work extremely hard during first year to get the grades I needed. In fact, my study schedule and method were not sustainable. As a result, I never really felt that my intellectual abilities were accurately reflected in my transcripts. Even though overall I had above-average marks, I don't believe my true potential was fully realized.

I don't think the EDI [Equity, Diversity, and Inclusion] sphere had properly developed in the disability space back then; it was pretty

sophisticated in other areas; but in the area of disabilities there was still a way to go. Looking back, I think disclosure rules were still archaic and that career counseling for students with disabilities was still evolving. I think we faced a number of assumptions when it came to the business community and how accessible it would be for us. Among them was an assumption there was little room for persons with disabilities within a traditional and conservative business law culture and this was very discouraging.

You identified as autistic in your application to the firm — was the decision to disclose ever a question for you?

I've always been a discloser and I can credit that to my parents. My parents always framed it like it wasn't a problem. In fact, growing up they would refer to my autism as my "super power," which is a concept with its own problems, but was probably better than being left feeling hopeless. When I was growing up, I didn't think my autism was a barrier for me.

I was loosely diagnosed when I was three years old but we received a clearer diagnosis when I was about seven or eight. My parents always operated on the assumption that it ran in the family and that many of my

autistic relatives had been quite successful. I guess they normalized it. I thought it was one thing they did quite right. To be honest, I was shocked in adulthood when I began to understand that not all adults thought about it the same way or had the same experiences.

In my view, my autism was something I just couldn't hide. I knew that if I tried to hide my autism, I would not have done well through the process. I continue to take this same approach today. I think it depends on the work environment but in my experience, many of the professionals I know with autism have decided to disclose. In hindsight, I think that maybe I should have pushed it or highlighted it more than I did back then.

There is a real lack of understanding around how much bandwidth is required for an autistic student to succeed in school.

What changes do you think we need to see in the way we recruit or evaluate neurodivergent students and lawyers?

I don't want to focus too much on my own personal grievances here but there are a few steps legal pedagogy needs to take before the profession is able to assess neurodivergent students.

I found the expectation to produce a two-page CV [Curriculum Vitae; resume] extremely difficult.

The one thing that immediately jumps out for me is the expectation to explain gaps in application materials. While I prefer not to use "functioning" labels, there is a 70-85% unemployment rate among autistic persons labeled "high functioning" — it's fairly consistent across the spectrum. Believe it or not, high-functioning autistic people do not have a particularly higher rate. Through the job search process, you are constantly reminded that employers will focus on the gaps in your materials or on service-type jobs as ways to assess your ability to multitask or work hard.

Most of the autistic students that I know don't have part-time jobs and don't participate in

many extra-curricular activities. There is a real lack of understanding around how much bandwidth is required for an autistic student to succeed in school. Working at McDonald's was never going to be an option for me. As a student, I was so exhausted from a day of processing and adapting to everything going on around me that I was happy and relieved to have my books and my television at the end of the day.

Looking back, I think it would have been great if the employers who met me had a better understanding of the sensory adjustments I was having to make while participating in the interview process. I found it very difficult to answer behavioral questions. I also found the weird questions for which I had not prepared, like, "What kind of animal would you be?" to be challenging. For me, I was so overwhelmed by the interview environment that it was extremely hard for me to process and understand on the spot why I was being asked those sorts of questions. I take things at face value and so trying to think about and understand that line of questioning is extremely stressful. I really process things in the here and now and so it's difficult to think back on experiences and look forward to experiences that "might" happen. I would suggest that when someone

has disclosed that they are autistic, employers avoid those sorts of questions.

I remember at one firm's information session, someone from the firm joked about students today bringing fidget spinners to interviews. I don't use a fidget spinner, but I do use a pencil and I'm constantly spinning it. It was never really communicated to me that it was OK to spin my pencil.

What aspects of the practice/culture of law do you find leverages your strengths?

I think legal analysis plays to my strengths. I excel at research and problem-solving. Through legal analysis I can come up with different solutions to problems. I don't necessarily work faster or identify more solutions than someone else, but I can come up with different and novel solutions. I know autistic lawyers who have done really well in the tax planning or IP areas. I think different neurotypes will excel in different areas. For example, I know of lawyers with dyslexia who have great memories and make confident courtroom litigators.

Are there aspects of the practice/culture of law you find challenging?

My autism affects my executive functioning.

There is a perception that all autistic people are anti-social. ... This is simply not true.

Navigation, organization, and time management are my biggest challenges in practice. Applying structure clashes with the chaotic lens by which I view things.

Because it's challenging to adapt and process new materials, I tend to be hyper-concerned with protecting my time and doing well. As a result, sometimes I might hold back on taking on new work or knocking on doors for new work. I worry that this is construed as a lack of confidence or trying to avoid work when it really is me trying to map out and process work and deadlines in my head. When I'm approached by a lawyer with a work assignment, I have the habit of verbally articulating all the work I have on the go and the related deadlines. I've had to explain that the reason I do this is to organize my schedule and not because I am trying to send a message that I'm busy.

Taking notes continues to be a challenge for me. As I mentioned, once upon a time, I was able to keep everything in my head; now I

really need to focus on writing things down or diarizing.

Also, I find some of the focus on wellness in our profession distracting or too reminiscent of difficult childhood therapy. Some of the language that surrounds wellness, or things like meditation or yoga bring me immediately back to my ABA therapy years ... I am working on that!

What would you say are some of the biggest misconceptions facing professionals who identify as neurodiverse?

I worry that my executive functioning skills or navigation skills that I continue to work through might be perceived as some sort of mental health issue ... and there's the sensory stuff sometimes. For example, brushing hair is a big sensory thing for me and I really don't brush my hair. I sometimes worry that this could be viewed as a sign of a mental health issue like sadness, anxiety, or depression.

Another thing is the social piece. There is a perception that all autistic people are anti-social. People will say something like “remote working is probably a positive thing for you.” This is simply not true. I’m not inclined to make connections with people, but the office is the only place where I get to be social and speak to others without having to go out of my way to do so. Working from home has been difficult in this sense.

The expectation to start work early in the morning is something that I’m still getting used to. Autistic people often have wonky sleep cycles. I tend to stay up late working and then sleep in. I’ve worked hard to adjust to a more traditional work schedule because I think there is still a belief that productive and eager lawyers start their day early.

Sharing a workspace with strangers can also be a bit of a challenge. If I don’t know someone who is working with me or speaking to me, I find myself distracted by trying to process who they are, what they might want, or why they are speaking with me, etc. This is definitely getting better, though, with time and practice. Similarly, surprise conversations and walk-ins are also difficult for me. Before the pandemic, I was starting to get used to

the drop-in nature of the open-door office environment.

The assumptions that others make about autistic professionals are often flawed. For example, not all autistic people want to be engineers or are good at math. I didn’t take calculus as an undergrad. I’m particularly sensitive to comments like, “we are all nerdy here” or “all lawyers are a bit OCD.” I consider these microaggressions and they happen all the time. Not all nerdy people are autistic and not all autistic people have OCD.

The labels that are often applied to describe autistic people are high-functioning/low-functioning. I’m opposed to these labels because they tend to minimize the accommodations needed on the high end while at the

Accessibility is when I am in a position where I can be most effective, most productive, and not feel like I’m at a disadvantage.

same time stigmatize those individuals on the low end.

These labels tend to hurt autistic professionals because there is a perception that because they are “high functioning” they are OK and might require fewer accommodations.

I remember early on, when you joined us as a summer student, I asked you if you might share anything you thought I should know/understand about you ... looking back, was that the right approach?

[Laughing] No – it was way too open-ended. Especially when someone is coming from an experience that until very recently the basic features of autism were considered problematic. It’s incredibly difficult to talk about this stuff and especially scary when you are a student waiting for hireback. It’s scary because you don’t want to ask for too much or justify flaws. Specific and direct questions are better. They are challenging but clear and easy to understand what is being asked and why.

What does accessibility mean to you?

It really is contextual and depends on the environment – school is different than work.

But for me, accessibility is when I am in a position where I can be most effective, most productive, and not feel like I’m at a disadvantage. Is there is someone I can go to if I require an accommodation ... if the florescent lights are buzzing, a lot of autistic people can hear buzzing from florescent lights ... am I able to go to someone and get this resolved?

Fast-forward, where do you hope to see yourself in 10 years?

I’m not too sure. I can definitely see myself here at the firm for sure.

I hope to achieve success, be productive, and thrive in what I’m doing. I’d like to create solutions and be a mentor. I want to lead by example.

Thank you, Simon. +



Angela Sordi (asordi@blg.com) is the Director of Professional Recruiting at Borden Ladner Gervais LLP's Toronto office.

NEURODIVERSITY AND RECRUITING FOR LEGAL EMPLOYERS

By Tom Lee

The term *neurodiverse* is related to the concept of [neurodiversity](#), which proposes that variation in brain functioning within the human population is normal and that brain functioning that is not neurotypical should not be stigmatized. The term first appeared in Webster's Dictionary in 2002.

Conservative estimates place 8% to 10% of the population as neurodiverse. In June 2020, Dentons published an article about neurodiversity in the workplace and indicates that 15% of the UK population are neurodiverse. The business case to support neurodiverse

conditions is to expand your talent pool. Employers that adjust their recruitment selection and career development policies to reflect inclusivity of neurodiverse talent, along with other historically marginalized communities, will have a competitive advantage. Microsoft, Deloitte, and JPMorgan Chase are early examples of prominent companies that have reformed their processes.

Legal employers that seek access to neurodiverse candidates should offer sensory-friendly environments. During interviews and recruiting events, there should be mindfulness toward lower sound levels, adjusted lighting

capability, designated quiet areas, and extra staff for support. These steps seek to prevent auditory overstimulation. Sometimes neurodiverse people exhibit challenging behavior. Successful accommodations and management of challenges are minor in comparison to the potential returns. Employers should be prepared to offer an experience to neurodiverse candidates where conventional rules don't apply, for example allowing candidates to talk and leave the room and use electronic devices, as needed. Employers that offer similar experiences within and outside the recruiting context will advance the organization's diversity, equity, and inclusion efforts.

To prepare for sensory-friendly hiring, recruiters will have to conduct extensive research and should consider consulting with neurodivergent professionals with autism. The goal is to host recruiting events (especially interviews) that are mindful and sensitive to the issues around neurodiversity.

Being inclusive can work if people and organizations are willing to let go of "traditional" beliefs or assumptions long enough to embrace other ways of thinking, speaking, and behaving.

Building and Supporting Neurodiversity in the Workplace

1. Get buy-in from leadership
2. Identify groups that can help employers find and attract neurodiverse talent
3. Adjust your hiring practices
4. Be patient
5. Organize expert-driven skills training for staff and attorneys
6. Be ready to accommodate

RESOURCES

Hastwell, Claire, "[How to Build and Support Neurodiversity in the Workplace. Great Place to Work](#)," Sept. 28, 2021.



Tom Lee (thomas.lee@psu.edu) is Assistant Director of Career Services at Penn State Dickinson Law in Carlisle, PA. Newcomer's Corner is a column of the Newer Professionals Section.

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