

In Pursuit of Inc

Working With Apprentices With Disabilities

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Inclusivity:

By offering hands-on, practical learning opportunities, the apprenticeship model inherently accommodates individuals who learn differently. However, registered apprenticeship program sponsors cannot rely on happenstance inclusion, as new regulations require them to revisit their processes for recruiting and selecting people with disabilities.

Since late 2016, the U.S. Department of Labor (DOL) has been carefully revisiting legislation pertaining to the representation of and hiring practices for persons with disabilities. In response, employers and multiemployer apprenticeship funds nationwide have had to revise their hiring policies and affirmative action plans (AAPs) to include the consideration of people with disabilities, including proper and reasonable accommodations in recruitment, outreach and selection procedures.

The updated rule was published on December 16, 2016, and went into effect on January 18, 2017. It states: “It is unlawful for a sponsor of a registered apprenticeship program to discriminate against an apprentice or applicant for apprenticeship on the basis of race, color, religion, national origin, sex, sexual orientation, age (40 or older), genetic information, or disability.”¹

In fact, at a certain threshold, employers of apprentices are subject to employ persons with a documented disability at a rate of 7% if they hope to conduct or continue business with the federal government.²

Prior to this revision, DOL had not touched its equal employment opportunity (EEO) rule since 1978, when the Department amended the regulation to require the inclusion of female apprentices in written AAPs.³ As such, perhaps the greatest challenges facing apprenticeship programs are the years of policy, tradition and culture that have not actively taken into consideration the unique needs of potential employees who are also living and working with disabilities. In addition, directed professional development is lacking for trainers, mentors and administrators of apprenticeship programs regarding the law, its implications and best practices for inclusion.

Disability Defined

Under the Americans with Disabilities Act of 1990 (ADA), an *individual with a disability* is a person who has a physical or mental impairment that substantially limits a major life activity (such as seeing, hearing, learning, reading, concentrating or thinking) or a major bodily system (such as neurological, endocrine or digestive functionality). The determination of whether an indi-

vidual has a disability generally should not demand extensive analysis and must be made without regard to any positive effects of measures such as medication, medical supplies or equipment, low-vision devices (other than ordinary eyeglasses or contact lenses), prosthetics, hearing aids or cochlear implants, or mobility devices. However, negative effects, such as side effects of medication or burdens associated with following a particular treatment regimen, should be considered when determining whether an individual's impairment substantially limits a major life activity.

As understanding and education about disabilities of all shapes and forms continue to evolve, it seems pertinent to include that the number of people in the workforce functioning with a disability is actually quite high. As testing for learning disabilities grows more sophisticated and diagnoses grow more accurate, we are slowly unraveling a tapestry of the workforce that is already home to many capable, active and contributing employees who also have learning disabilities.

A *learning disability* is "a disorder in one or more basic psychological pro-

cesses that may manifest itself as an imperfect ability in certain areas of learning, such as reading, written expression or mathematics."⁴ It is a common misconception, however, that all who live with a learning disability will inherently exhibit poor academic success. An individual with a learning disability may achieve a high level of academic success but nevertheless may be substantially limited in one or more of the major life activities of reading, writing, speaking or learning due to the additional time or effort he or she must spend to accomplish these tasks compared with the average candidate. Time limits on testing are especially prohibitive in these cases and are perhaps the most commonly used accommodation. If these time limits are not provided for correctly, it can often constitute a major, sometimes detrimental, ADA violation.

Testing Accommodations

Unfortunately, as with any type of AAP, there is the potential for misuse and outright abuse. However, there are provisions in place that limit abuse and validate disabilities without infringing upon the rights of the individual. Disabilities, specifically learning and developmental disabilities, are defined in a self-identified manner, meaning an employer or agency is not allowed or required to identify an individual living with a disability. Instead, it is the responsibility of individuals to not only disclose specific challenges but also provide reasonable, credible documentation of his or her disability.

If required by a testing entity, this documentation should request testing accommodations that are both reasonable and limited to the need of the applicant. Perhaps, for example, a pro-

takeaways

- An updated Department of Labor (DOL) rule makes it unlawful for sponsors of registered apprenticeship programs to discriminate on the basis of disability.
- Under the Americans with Disabilities Act of 1990 (ADA), an *individual with a disability* is a person who has a physical or mental impairment that substantially limits a major life activity or a major bodily system.
- The apprenticeship model inherently accommodates and provides for learning disabilities; hands-on, practical learning specifically caters to individuals who learn differently.
- Areas in which apprenticeship programs may find opportunities to become more inclusive include the interview process, the classroom setting and on-the-job training.
- Technology, including programs that allow candidates to document their skills with video-based skill portfolios, may help apprenticeship funds with inclusion efforts

gram requires a timed test; if the candidate provides documentation that evidences a need for extra time or a scheduled break, test administrators must comply, assuming the requests do not entirely negate the efficacy of the test.

Examples of viable documentation types include:

- Recommendations from qualified professionals
- Proof of past testing accommodations
- Observations by educators
- Results of psychoeducational or other professional evaluations
- An applicant's history of diagnosis
- An applicant's statement of testing accommodation history.

To address the myriad needs of each distinct applicant and their specific disability, testing accommodations may include measures such as:

- Large-print exam booklets
- Screen-reading technology
- Scribes to transfer answers to answer sheets or record dictated notes and essays
- Adjusted time limits
- Wheelchair-accessible testing stations
- Distraction-free rooms
- Physical prompts (as for individuals with hearing impairments)
- Permission to bring and take medications during the exam (for example, for individuals with diabetes who must monitor their blood sugar and administer insulin).

Apprenticeships and People With Disabilities: Already a Good Match

Registered apprenticeships are the logical path for many applicants looking to the trades for a career, regardless of ability. They are also, not surprisingly, the spaces where new policies must be implemented initially and without error, since they serve as a springboard for an entire trajectory of gainful employment. It is in apprenticeships where the actual rubber of regulations meets the road of practicality. The DOL Office of Apprenticeship (OA) registers apprenticeship programs that meet certain minimum labor standards. These standards, set forth at 29 CFR parts 29 and 30, are intended to provide for more uniform training of apprentices and to promote equal opportunity in apprenticeship.⁵

One of the greatest values of registered apprenticeships is the proven and successful methods of learning and earning they provide. Though about half of apprentices are in the building and construction trades, many other industries use registered apprenticeships to either train new workers or upgrade the skills of existing workers. In addition, the apprenticeship model actually inherently accommodates and provides for learning disabilities; hands-on, practical learning specifically can cater to individuals who learn differently by providing relevant and real applications for skills and knowledge, by allowing people to earn while they learn.

Learning disability is a classification that includes several areas of functioning in which a person has difficulty learning in a typical manner, usually caused by an unknown factor or factors. Given the “difficulty learning in a typical manner,” this does not exclude the *ability* to learn in a different manner. Therefore, some people can be more accurately described as having a *learning difference*, thus avoiding any misconception of being disabled with a lack of ability to learn and possible negative stereotyping.⁶

By providing alternative avenues of learning, apprenticeships, knowingly or unknowingly, have been accommodating those who have learning disabilities for many years—They simply aren't recognized as institutions that do so.

Complying With New Rules

With the advent of this updated EEO rule, many practices and beliefs must be revisited to be inclusive. There are opportunities at every stage to implement the sentiments and regulations included.

The interview process should remain analytical and objective without sacrificing the special considerations required to fairly evaluate a prospective employee with disabilities. That is, employers must earnestly consider: Can *reasonable* accommodations be made to affect employment? Are there ways, though they might be considered unconventional, in which I can evaluate the candidate that simultaneously meets the necessary requirements while taking into consideration the candidate's special needs? In short, can we pave a new road to the same destination?

Classroom settings should provide trained instructors and tutors for individuals requiring additional specialized support. For example, if candidates require their questions to be read aloud to them, an aide must be available to do so.

Apprenticeship programs should provide teaching and training about harassment in the workplace, including but not limited to harassment of people with disabilities. Likewise, employers must remain aware and updated on legalities, providing safe and supportive work environments for all employees, regardless of ability.

The facets that constitute an inclusive environment are pervasive and many; they are also intertwined and depend wholly on universal adoption to be effective.

The nuances of creating and implementing universal hiring guidelines or practices for people with disabilities, especially in the skilled trades, can be a difficult, seemingly impossible task. Rightfully so, since nearly every position requires different physical and mental aptitudes, many of which can be restrictive even for those who live without disabilities. Thus, establishing “universal” parameters is often a fruitless, illogical and ineffective task. The applicant, his or her pool of skills, aptitude and what, exactly, the job will require are all considerations that must be made by hiring committees. Not only are the employer’s wants and needs a point of contention when entering into the hiring process of a person with disabilities, but the happiness, safety and well-being of potential employees must also be given the proper consideration. No one is served—neither employer nor employee—when a job placement simply will not work but is enforced in the name of diplomacy.

Of course, accommodations can be made in most instances to facilitate greater accessibility for people with disabilities. Blanket solutions rarely work effectively; grouping all disabilities into a single category is problematic, for the simple fact that each disability and the accommodations it requires differ widely among developmental or learning disabilities. Assuming the needs of all persons with disabilities can be neatly addressed with a single policy is, in short, dismissive and reductive. One disability is not like the other and treating these unique challenges as interchangeable is about as useful as ignoring them altogether. Instead, each party must be treated individually, given special consideration based on where they have come from, the unique challenges they have faced and the desired trajectory of their future.

Help Is on the Way

These tasks are not simple and, at first glance, appear overwhelming without proper guidance. Apprenticeship programs may find help in implementing training programs from a DOL program. The DOL Office of Disability Employment Policy (ODEP) is funding the Apprenticeship Inclusion Models (AIM) Demonstration Project, seeking to expand access to occupational skills training, credential attainment, and job placement and retention through apprenticeship and preapprenticeship models for working-age youth and adults with disabilities. In supporting, researching and evaluating innovative apprenticeship pilot models in high-growth, in-demand industries/sectors (information technology [IT], health care and advanced manufacturing), AIM strives to learn as much as possible about how the apprenticeship and preapprenticeship model is serving and can be adapted to serve people with disabilities.

Boasting pilot programs including the Industrial Manufacturing Technician (IMT) and Healthcare Career Advancement Program (H-CAP), at companies such as Amazon and Microsoft, AIM is building apprenticeship pathways that target youth and adults with disabilities and place them into high-demand, well-paying careers. As time and materials allow, AIM will aid in collecting valuable insights on how to scale-up inclusive apprenticeship opportunities by contributing ideas and actionable practices to the national conversation on apprenticeship.

Many state and local agencies also are revising apprenticeship practices and processes as well, offering specialized support and training courses to ensure not only compliance but acceptance.

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Education

Apprenticeship Program Answer Guide Online Resource

Visit www.ifebp.org/arg for more details.

Designing Curriculum to Close the Skills Gap July 21-23, Brookfield (Milwaukee), Wisconsin

Visit www.ifebp.org/skills-gap for more information.

From the Bookstore

Trustee Handbook: A Guide to Labor-Management Employee Benefit Plans, Eighth Edition

Lawrence R. Beebe. International Foundation. 2017.
Visit www.ifebp.org/trusteehandbook for more details.

Financial Tools for the Trades: Trainer Toolkit

Port Jobs. 2015.
Visit www.ifebp.org/books.asp?9101 for more information.

Technology Also May Help

Part of the challenge of complying with the new regulation is due to its demand for profound personalization, concerted efforts by employers and the added pressure of legal responsibility. All disabilities are unique, even among a common diagnosis; accommodations must, therefore, be tailored to address the distinct needs of each individual. Modernizing workspaces and practices to not only accept but welcome applicants living with disabilities begins at the apprenticeship level but comes to fruition in the everyday work and procedures implemented by unions and other employment agencies.

The trades and apprenticeship sectors are finding that technology can play a role in this effort. Mobile applications, like IMTFolio and STEMFolio, are revolutionizing the landscape of workforce development. In fact, similar applications have been created using software adapted from National Science Foundation-funded work with the goal of providing personalized and portable e-portfolios to more accurately reflect the skills and proficiencies of those seeking careers in the science, technology, engineering and math (STEM) sectors. As IMTFolio and STEMFolio evolve, they will likely involve a nominal subscription fee. STEMFolio is being developed through a research grant from the National Science Foundation; IMTFolio is an adaptation of STEMFolio funded through the DOL AIM.

Web-based, personalized and portable, these applications allow users to create custom and multidimensional portfolios. Preapprentices can document their skills on the app with videos of themselves performing actual tasks, thereby producing both veritable and virtual resumes. Participants can upload diagrams as well as recommendation letters, test results and certificates they've received to supplement and even completely replace a traditional resume. Wherein some individuals with learning disabilities might struggle to assemble a credible portfolio, preapprenticeships, registered apprenticeships and technology all convalesce in these apps to produce the next generation of workforce credentials.

Technological implementation, as manifested in these applications, provides a framework for designing a workforce and tools that are inclusive for all people, regardless of ability. While the Code of Federal Regulations legislation is the

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stick, the carrots are the realizations and adjustments we've made to adapt to changing ideas of humanity.

Looking to the future, inclusivity legislation will undoubtedly become more and more nuanced as both the landscape of the workforce and the nature of identity evolve to include other subgroups that remain underrepresented. Likewise, technology continues to evolve and permeate every aspect of the workforce, including the trades and union work. Agencies, individuals and processes that remain sincerely dedicated to workforce development, sustainability and unfettered growth will continue their concerted efforts to ensure not just compliance but the creation and proliferation of industries that are prepared to adapt to the always-evolving composition of our diverse populace and the technology that serves it. 🌐

Endnotes

1. Code of Federal Regulations, Part 29: Labor Standard for the Registration of Apprenticeship Programs; §30.3(a)(1).
2. See www.dol.gov/general/topic/disability/employersresponsibilities.
3. See www.federalregister.gov/documents/2016/12/19/2016-29910/apprenticeship-programs-equal-employment-opportunity.
4. See www.ldaamerica.org/advocacy/lda-position-papers/what-are-learning-disabilities/.
5. See www.federalregister.gov/documents/2016/12/19/2016-29910/apprenticeship-programs-equal-employment-opportunity.



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