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National ADA Network Audio Conference

Reasonable Accommodation in the Workplace

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June 21, 2011
University of Maryland
DBTAC: Mid-Atlantic ADA Center

Webinar Features

- **Closed captioning** – click **CC** icon (top of screen) or control-F8 and adjust your screen
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ADA-Audio Conference: Reasonable Accommodation

Presented by: The National ADA Network

Date: June 21, 2011 - 2:00pm - 3:30pm

- **Speakers:**
Dr. Ellen Fabian, Professor & Director, Research Team, Mid-Atlantic ADA Center University of Maryland
- **Dr. Kim MacDonald-Wilson**, Co-director, Research Team, Mid-Atlantic ADA Center University of Maryland
- The provision of reasonable accommodations (RAs) to jobseekers and employees with disabilities has been viewed as an essential component of hiring and retention. This session summarizes research findings from multiple studies we conducted related to factors influencing the request and provision of reasonable accommodations from the perspective of employees and employers. We suggest specific strategies and recommendations that employees, employers, disability advocates and others can use to improve the process and resolution of reasonable accommodation requests.

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Reasonable Accommodations Research Project Purpose

Develop a model of the individual, organizational, and job setting factors affecting the provision of accommodations in the workplace.

Collaboration between

- Region 3 DBTAC Mid-Atlantic ADA Center
- University of Maryland Rehabilitation Program
- DBTAC Research Coordinating Center (VCU)

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Sources for Recommendations on Accommodations

- Comprehensive Literature Review
- RA Factor Survey
- In-depth interviews with employees, employers, and service providers about RA experiences
- Focus Groups
- Attitudes and characteristics of employers regarding RAs

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Agenda

- Research Studies at UMD
 - In-Depth Interviews
 - What's important to employers in the decision regarding provision of accommodations
- Recommendations for Practice
 - Employees
 - Employers
 - Advocates

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Need for the Project

- RA discrimination charges are 2nd most frequently filed complaint with EEOC under ADA Title I (West et al., 2008)
- Incomplete understanding of the factors involved in RA requests and provision (Balsler, 2007)
- Despite decades of study, still unclear what employer factors influence positive outcomes.

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Reasonable Accommodations: Title I of the ADA

In general, an accommodation is any change in the work environment or in the way things are done that allow people with disabilities to enjoy equal employment opportunities as long as the required modifications do not result in an "undue hardship" for the employer

EEOC, 2000

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Types of Accommodations

Including but not limited to:

- Making existing facilities accessible
- Job restructuring
- Part-time or modified work schedules
- Acquiring or modifying equipment
- Changing tests, training materials, or policies
- Providing qualified readers or interpreters
- Reassignment to a vacant position

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Job Accommodations

- Require disability disclosure
- Burden on employee to request RA
- Must be able to perform essential job functions
- Accommodation needs (such as interpreter) must be related to functional impairment (such as hearing loss)
- Come in "units of one"
- Resource on identifying accommodations <http://AskJAN.org/soar>

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Findings from Literature: Outcomes of Providing RAs

- Reduces or removes barriers to employment
- Positively affects work retention/job tenure
- Increases job satisfaction of PWD
- Reduces overall costs (replacement and hiring/training)
- Improves productivity
- Influences job advancement
- Promotes earlier return to work
- Accrues benefits to the employer, not just the employee (equity, diversity commitment)

(MacDonald-Wilson, Fabian & Dong, 2008)

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Findings from the Literature: Factors associated with RA outcome

- Business characteristics (size, dedicated ADA resource person, previous experience with PWD)
- Perceived employer supportiveness affects RA requests and outcomes
- Having job specialist/rehab professional involved
- Employee skills, confidence in requesting RAs
- Employer knowledge of ADA and accommodation
- Employee knowledge of ADA - strong
- Linking functional need to accommodation - strong

MacDonald-Wilson, Fabian & Dong, 2008

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In-Depth Interviews

- Interviews with 20 Stakeholders
 - Employees with Disabilities (8)
 - Employers (8)
 - Service Providers (7)
 - Variety of Industries represented
 - Job Level Unskilled to Professional-Technical
- Interviews – 1 hour, telephone, open-ended
 - Experience with Job Accommodations
- Qualitative Analysis to identify Themes

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Disclosing Skillfully

Disclosing skillfully is related to the success of the accommodation process.

And then I've had some students who decided to go on and disclose ... They didn't do it very well and it scared off the employer. So, I think if you're going to disclose, doing it the right way, with the right support, at the right time, is really important.

Service Provider, Transitioning Youth

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Job Demands, Limitations, and Accommodations

Knowing how job demands, limitations due to disability, and accommodations interact facilitates the accommodation process.

Most of the training is really on how they need to behave with the employee when the accommodation has been made so that they don't fall into the trap of overcompensating when they don't need to ... most of the issues that we've encountered to be honest with you once the accommodation has been made has been with the employee that pushes the envelope a little bit.

HR Manager

I have learned to adapt to the environment without having the environment adapt to me.

Financial Analyst with Dwarfism

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Nature of Accommodations

The nature of the accommodation (simple or complex, involves others, cost) affects how formally the employer responds.

...The more intrusive the request, the more likely the need for documentation to establish the need for it.

Human Resource Professional

I have to remind them all the time it is very hard for me to talk over the phone. In the previous job, people just grabbed the phone from me without asking them to do the phone call for me.

Employee with Hearing Impairment

Work Culture and Accommodation

Different work cultures respond to accommodation requests in clearly different ways.

For clients [employers] that have been service-oriented businesses, where they're selling, relying on the intellectual capital of their employees, they are much more willing to accommodate.

Consultant to Technology Employer

The manager finally called me that night and I missed the call so I called her back in the morning and she started yelling at me, telling me that Corporate had told her that they were afraid that I would be bad for business.

Sales Associate with Breast Cancer

Social Context of Accommodation

Accommodation is an interactive process that **everyone** involved has a responsibility to do skillfully.

And on more than one occasion, we found that the issue was a disability that the employee doesn't want to disclose ... And we went straight from disciplinary action to talking with him and I said to him, listen, in the absence of any explanation, these are grounds for termination, I just can't do anything else for you. That is when he came up and he got the accommodation and now he is just fine ... You'd be amazed at how many people would prefer to be fired than to admit that they have a disability.

Employer on effective communication

Battling for Fair Play

Employees with disabilities report high intensity negative reactions as they battle with the employer for fairness.

I got stuck with an assistant manager who blew up at me because I wanted to know why I wasn't getting a schedule and all other staff were getting a schedule. So I was reprimanded, I was scolded, I was humiliated, I was basically very belittled about the whole thing and I walked out.

Retail Sales Associate with Breast Cancer

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Employer/Business Characteristics & Attitudes regarding RA

We looked at:

- Attitudes/beliefs of employers
- Whether type of disability matters in RAs
- Nature of accommodations provided
- Company characteristics of respondents related to outcomes
- Personal characteristics of respondents

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Case Study of "John"

- Developed from interview study examples
 - Vetted by PAR team and other experts
- Type of disability embedded in the case study
 - Only factor that varied among 3 versions of case study of "John"
 - Psychiatric, Sensory, Physical
- Provided a list of accommodations

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Case Example (Case B) Cont.

- John, a 52 year old manager has been with your organization for five (5) years and has consistently received acceptable annual reviews. He primarily supervises staff, including assigning tasks, evaluating his employees' work and coordinating with clients or with you about needed changes at his department.

About 18 months ago John was diagnosed with **macular degeneration** (a significant visual disorder that may lead to blindness). His eyesight has been rapidly deteriorating. He has been out of work for three months undergoing training and rehabilitation. His work since his return seems acceptable, although you have received informal reports from colleagues that John seems stressed. You also heard that he "chewed out" an employee for a relatively minor problem, which is not typical for him. You learn that his supervisor has spoken to him about his behavior, but there are increased complaints from his supervisees and coworkers.

Case Example (Case B (Cont.))

- You know that John has visited the Employee Assistance Program although you are not privy to the specific services he received. You call him and ask him how things are going, and mention concerns that he appears to be stressed. He acknowledges having some issues without going into any details and says he is on a new medication and is not sleeping well. He asks to be able to come in a few hours later working an 11a.m. to 7p.m. shift. He would also like to work from home a few days per week for a while until he finds the right medication dosage. He becomes fairly insistent about these accommodations, even stating that he is aware of the ADA and he knows he is entitled to an accommodation.

John's supervisor explains that she prefers that John works in the office every day, at least between 9 a.m. and 4 p.m. when she is also in the office. In addition, she stated that other production managers in the organization are required to work on site. In order to work from home, the organization will need to purchase a laptop equipped with proprietary software for John.

John has brought in a letter from his doctor explaining that John may need to work part-time on a flexible schedule and/or tele-work as part of managing John's condition, without further explanation or any details regarding his condition or prognosis.

Respondents (395)

- 58% of respondents female
- 41% were HR personnel
- 66% in position more than 5 years
- About 1/3 selected each of the 3 cases
- 75% would provide at least one accommodation
- Size of company
- 93% were knowledgeable about ADA

Disability Type by RA

CASE	Physical	Psychiatric	Sensory
Tele-Work	36%	31%	33%
Shift Change	42%	47%	46%
Time Off	58%	52%	48%
Purchase equipment	31%	28%	32%
None	28%	28%	29%

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What's important to all employers:

- Belief in employees with disabilities
- Effectiveness of accommodation
- Feasibility of accommodation
- Legal obligation to provide RA
- Match between job & RA request
- Employee Documentation of disability
- Employer Knowledge of the ADA

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Findings: Respondents Who Provided RAs

Based their decision most strongly on:

- The relationship with employee
- The perceived impact of the accommodation on coworkers
- The timing of the request
- The previous experience of the person being asked with disability

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Findings: Respondents Who Did Not Provide RAs

Based their decision on:

- The duration of the accommodation
- The extent to which it is linked to specific functional limitations
- Whether the employee was involved in the request process
- Available disability documentation

Findings: Which employer characteristics influenced decision to accommodate?

- Knowledge of ADA & RA
- Have experience in accommodations
- Position in the company
- Having a company RA policy
- Gender

How much did these matter?

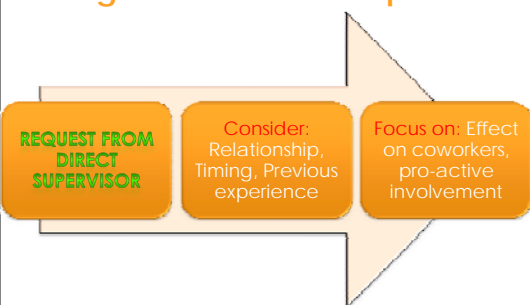
- Being the Direct supervisor (5 times more likely compared to HR)
- Smaller company (3-4 times more likely with < 100 employees)
- National or less in scope (4 times more likely)
- Private vs. public or non-profit (2 times more likely)

What doesn't matter?

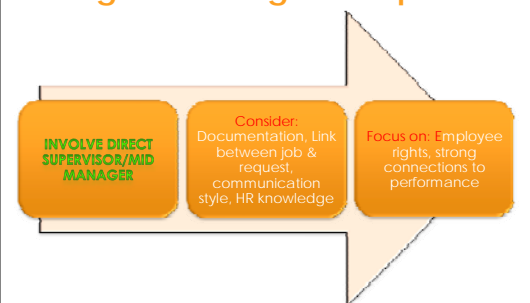
Not significant

- Respondent's own or family disability
- Whether there is a designated person in the company making decisions
- Whether the company had hired a PWD previously

Strategies for small companies



Strategies for Large Companies



Recommendations for Employees

- Understand the demands of the job
- See if self-accommodation is an option
- Present accommodation request positively
 - Enhancements to job performance
 - Benefits to the employer, coworkers
- Improve relationships and communication skills
 - Disclosing
 - Identifying and requesting accommodations
 - Negotiating
 - Managing reactions to accommodation requests

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Recommendations for Business

- Train managers to respond to requests for accommodations
- Develop and disseminate accommodation policy
- Always involve the direct supervisor in process
- Understand the physical, emotional, and cognitive demands of the job
- Be sensitive to reactions to disability in employees themselves, managers, and coworkers
- Accommodation as a Tool to Enhance Productivity
- Accommodations and Universal Design can benefit all employees

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Recommendations for Advocates

- Balanced perspective on both business and employee needs
- Explore disclosure decision with applicants/employee including reactions to having a disability
- Develop skilled approach to accommodation process
- Use positive, strengths-based approach to requesting accommodations
- Company characteristics (size, policy, etc.) do matter – adjust your approach to employers accordingly
- Involve direct supervisor as much as possible
- Locate work cultures that are more creative/collaborative
- In hierarchical cultures, present accommodation requests to address the “bottom line”

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For More Information

If you have any question on this research or other projects under the grant, you may contact:

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