

The Employers' Reasonable Accommodation Handbook: Intellectual Disabilities Learner's Guide

Table of Contents

<u>Overview</u>	Page 2
<u>Intellectual and Developmental Disabilities</u>	Pages 2-3
<u>Disability Inclusive Workplace</u>	Pages 3-7
<u>Interactive Process and Accommodations</u>	Pages 7-16
<u>Conclusion</u>	Page 16
<u>Resources</u>	Pages 17-21

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Overview

Opportunities for Ohioans with Disabilities (OOD) supports employers in creating workplaces that are diverse and inclusive of employees with disabilities. One way OOD does this is through providing consultations and training on Title I of the Americans with Disabilities Act (ADA), worksite accessibility, reasonable accommodations, and disability inclusion.

This learner's guide is a reference companion for the webinar titled "Intellectual Disabilities" which is the first in the six-part series "The Employers' Reasonable Accommodation Handbook". This educational series will include an overview of various disability groups and address ways to provide effective reasonable accommodations and foster a disability inclusive culture. In this first session of the handbook, these topics will be addressed:

- Intellectual and Developmental Disabilities,
- Disability Inclusive Workplace Culture, and
- Interactive Process and Reasonable Accommodations.

The information included is for educational purposes, is not an exhaustive list, and is not intended as legal advice.

Intellectual and Developmental Disabilities

Developmental and intellectual disabilities are often referred to together because intellectual disabilities are one type of developmental disability. However, these two terms have different meanings. Not all developmental disabilities include an intellectual disability.

Developmental Disability

A developmental disability includes conditions which can impact an individual's physical, cognitive, and/or emotional development. This disability type presents before the age of 22, is attributed to a mental or physical impairment, is often a chronic and severe condition, includes substantial limitations of three or more major life activities, and generally results in needing lifelong supports or assistance.

According to the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (DD Act), the major life activities that may be impacted include self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency. Examples of developmental disabilities that may include an intellectual disability include autism, cerebral palsy, Down syndrome, fetal alcohol syndrome, fragile X syndrome, and Prader-Willi Syndrome.

Intellectual Disability

An intellectual disability significantly limits an individual's intellectual functioning and adaptive behavior. This disability type presents during the developmental period which is defined as before the age of 22 and can be caused by physical, genetic, and social factors; by a head injury, stroke, or an illness; or the cause can be unknown.

Intellectual functioning refers to general mental capacity such as learning, reasoning, and problem solving. Adaptive behavior refers to conceptual, social, and practical skills that people learn and use in daily life activities. Here are some examples of these from the American Association on Intellectual and Developmental Disabilities (AAIDD):

- Conceptual skills include language and literacy; concepts involving money, time, and numbers; and self-direction.
- Social skills include interpersonal skills, social responsibility, self-esteem, gullibility, naivete, social problem solving, and the ability to follow rules and obey laws to prevent being victimized.

- Practical skills include personal care skills (activities of daily living), occupational skills, healthcare, travel and transportation, schedules and routines, safety, use of money, and use of telephone.

Individuals with intellectual disabilities may experience some of these limitations but rarely experience all of them. The degree to which an individual is impacted is unique. Each person’s abilities, strengths, and skills are also unique.

Some conditions that include an intellectual disability may also include physical and/or mental health disabilities. Physical disabilities will be discussed in the second session of The Employers’ Reasonable Accommodation Handbook. Mental health disabilities will be discussed in the third session of The Employers’ Reasonable Accommodation Handbook. This first session in the handbook is focused on intellectual disabilities.

ADA Definition of Disability

Individuals who meet the definition of disability according to the ADA and are qualified for the job are eligible to receive protection under Title I from employment discrimination based on disability. The ADA defines a person with a disability as “...a person who has a physical or mental impairment that substantially limits one or more major life activity.”

Major life activities are those daily functions that are important to most individuals and that most individuals in the general population can perform with little or no difficulty. The ADA provides two non-exhaustive lists which include examples of major life activities and major bodily functions. Here are some examples of each:

- Major life activities: performing manual tasks, seeing, hearing, walking, standing, sitting, reaching, lifting, bending, speaking, learning, reading, concentrating, thinking, and communicating.
- Major bodily functions: immune system, digestive system, neurological and brain functions, respiratory and cardiovascular functions, and musculoskeletal functions.

The major life activities substantially limited by an intellectual disability will be unique to the individual. The major bodily function substantially limited by an intellectual disability is brain functioning.

The ADA does not provide an exclusive list of individual diseases, diagnoses, or conditions that qualify as a disability. However, the ADA National Network [resource](#) “The Americans with Disabilities Act Questions and Answers” includes a list of conditions which should “easily be concluded” to be a disability. Intellectual disability is among the examples included.

OOD Resource:

For more information on the ADA’s definition of disability, view “**The Employers’ ADA Handbook – Title I Overview**” on the employer’s page of the OOD [website](#).

Disability-Inclusive Workplace

Employers who wish to hire, retain, and advance individuals with disabilities make efforts to foster a disability-inclusive workplace culture. Many of these strategies are the same across disability types. This learner’s guide highlights ways to create a culture that is inclusive of individuals with intellectual and developmental disabilities by addressing disclosure, generalizations, and disability etiquette.

Disclosure

Under Title I of the ADA, individuals with disabilities can request a reasonable accommodation at any point in the hiring process and during employment, including in response to a low performance rating. To receive a reasonable

accommodation, an individual must disclose their disability. Disclosing is a personal choice and can be a difficult and overwhelming decision to make.

Fostering a disability-inclusive culture in the workplace may help individuals with disabilities feel comfortable to request a reasonable accommodation if they need one. Here are strategies employers can consider:

- Have a policy or procedures for providing reasonable accommodations,
- Provide training on policies/procedures for all employees at onboarding and annually,
- Know what constitutes a request for an accommodation and make it easy for an individual to request one,
- Post reasonable accommodation statements in key areas in the built and digital work environments,
- Use plain language in training communications and statements,
- Include images of individuals with disabilities in marketing materials and on websites,
- Ensure employee newsletters include topics related to disability,
- Train supervisors to recognize a request for an accommodation and to direct the employee to human resources,
- Provide disability etiquette and awareness training for all employees,
- Be familiar with effective reasonable accommodations, and
- Respect privacy and follow protocols for confidentiality.

Generalizations

Individuals with intellectual and developmental disabilities have variance in their abilities, limitations, and needs just as people without intellectual and developmental disabilities do and can perform a variety of types of jobs. However, individuals with intellectual and developmental disabilities can be impacted negatively in the hiring process and at work when generalizations are made about their abilities. Here are examples of myths and facts about developmental and intellectual disabilities from a variety of sources:

Myths versus Facts

Myth	Fact
A person with a developmental disability also always has an intellectual disability.	A person with a developmental disability does not always have an intellectual disability; sometimes the disability is entirely physical.
An intellectual disability is almost always severe.	85% of people with an intellectual disability have mild intellectual impairment which does not limit obtaining an education and performing a job.
All people with an intellectual disability are the same.	People with an intellectual disability and people without an intellectual disability are unique individuals with abilities and limitations, preferences and dislikes, and hopes and goals.
A person with an intellectual disability cannot perform a job.	Most people with an intellectual disability can perform work when provided with necessary training, like all people.
Intellectual disability is a mental illness.	Intellectual disability is not a mental illness. A person with an intellectual disability may also have a mental health condition, like anyone can. Having an intellectual disability can increase the risk of developing a mental health condition, like

	depression and anxiety. But these are separate disability types.
People who have intellectual disabilities cannot lead productive and meaningful lives	People who have intellectual disabilities can lead fulfilling lives like anyone else, including learning, working, having relationships, and pursuing interests.
Vocational and career training is not suitable for people with developmental disabilities.	People with developmental disabilities can benefit greatly from vocational and career training to prepare for interviews, perform the job, obtain soft skills, and ways to communicate at work.
People with developmental disabilities want to be pitied and to be given special attention.	All individuals may seek attention at times, including people with developmental disabilities. Most people with developmental disabilities want to be treated with dignity and respect and do not want or need special treatment.
Most people with an intellectual disability are not qualified for jobs.	Companies that employ individuals with intellectual disabilities report these employees as “engaged, dependable, having great attendance, motivated, high attention to work quality and high productivity.”
Employees with intellectual disabilities need a significant amount of extra training.	All employees bring their own unique learning style to a training, and individuals with intellectual disabilities are no different. Some may not need any accommodations to successfully complete the training while others may benefit from peer support or a few modifications (for example, providing oral instruction rather than written).

According to an article on the website of the National Association of County Behavioral Health and Developmental Disability Directors (NACBHDD), employers value the job performance of employees with intellectual and developmental disabilities. Employers identified these ratings for employees with intellectual and developmental disabilities:

- 89% Dependability
- 88% Engagement
- 87% Integration with Coworkers
- 86% Motivation
- 84% Attendance
- 79% Work Quality
- 74% Productivity
- 59% Adaptability

Guidance from the EEOC states that most adults with an intellectual disability are unemployed or underemployed. Individuals with intellectual disabilities experience a degree of limitations, strengths, and abilities; and perform a wide

range of jobs. Employment decisions should be based on an individual's ability to meet the job's qualification standards and perform the job's main duties, or essential functions; not based on myths, fears, stereotypes, or generalizations.

Disability Etiquette

Employers who are committed to fostering a disability-inclusive culture and hiring qualified individuals with disabilities often provide disability etiquette training for all employees. This training addresses what disability is, provides general and disability-specific guidelines, and addresses proper language usage. This type of education can help all employees feel more comfortable interacting with colleagues with disabilities. Disability etiquette and awareness training geared toward the interview process can help hiring professionals to feel more comfortable and address any unintentional biases they may have.

General Guidelines

- **Show Respect** – People with disabilities are people first. Concentrate on the person and not the disability. Remember to treat people with disabilities as the independent individuals they are.
- **Be Courteous** – Respect people's personal space. Try not to grab or move people without asking and avoid touching service animals and equipment such as wheelchairs, canes, and walking aids. People often consider these to be an extension of their body.
- **Don't Assume** – Every person, and every disability, is different. Never assume what a person can or can't do. Let the person decide, and if you're unsure, just ask.
- **Ask First** – If a person appears to need assistance, make sure you ask before helping. Acknowledge and respect the person's ability to make decisions and judgments on their own, even if they decline your offer to help.

Guidelines for Interacting with People with Intellectual and Developmental Disabilities

- Be direct with your questions.
- Communicate clearly and concisely.
- Avoid jargon and slang terms.
- Be patient and give the person time to respond.
- Remain comfortable with breaks in conversation.
- It may take the person with an intellectual or developmental disability a little bit longer to process what you have said, and to formulate a response.
- If you are asked to repeat a question, try to explain it in a different way.
- It may be helpful to write information down or use images.

Using Appropriate Language

Language can evolve over time to take on a negative connotation that is hurtful and excludes individuals with disabilities. Educating all employees on proper ways to communicate can contribute to fostering an inclusive culture. Here are some tips for inclusive communications:

- Instead of referring to a person as "handicapped", instead say "person with a disability".
- Instead of referring to a person as "normal" or "able-bodied", instead say "person without a disability".
- Instead of referring to environmental features as "handicapped", instead say "accessible", such as accessible parking or entrances.
- Avoid using negative words and phrases, such as retarded, crippled, dumb, victim, afflicted, and confined to a wheelchair.

A best practice is to think of how you would want someone to talk to you and always remember to be respectful.

For additional communication tips consult these helpful resources:

- “Communication Tips for Working with Individuals with Disabilities” on the Job Accommodation Network’s [website](#).
- “Communication Tips – Intellectual Disabilities” on the employers’ page of the OOD [website](#).

OOD Resource:

For information on Disability Etiquette and Disability Awareness training, view OOD’s on-demand webinar “**Disability Etiquette Training**” on the employer’s page of the [website](#).

For information on OOD’s no-cost Disability Etiquette and Disability Awareness training for employers, view OOD’s “**Disability Education Resources**” on the employer’s page of the [website](#).

Interactive Process and Accommodations

Title I of the ADA requires covered employers to provide reasonable accommodations to qualified applicants and employees with disabilities, unless doing so causes an undue hardship. A reasonable accommodation is a change in the hiring process or workplace that removes a barrier and enables an individual with a disability to access equal employment opportunities and participate in work-related activities. Covered employers are required to provide reasonable accommodations in three categories of employment which enable qualified applicants and employees to access the hiring process, perform the job’s essential functions, and enjoy the privileges of employment.

Not all individuals with intellectual disabilities need a reasonable accommodation at work. When an accommodation is needed, it is unique to the individual, the job, and the work environment. Most accommodations an individual needs come with little to no cost.

Request for Reasonable Accommodation

Providing a reasonable accommodation generally begins with a request from an applicant or employee with a disability. An individual with a disability may request an accommodation at any point in the hiring process or during employment. Here are criteria from the Equal Employment Opportunity Commission (EEOC) of what constitutes a request for a reasonable accommodation:

- Must indicate a request for a change at work related to a medical condition or disability,
- May be communicated in the individual’s preferred form of communication, and
- May include plain language that is not required to reference the ADA or use the term “reasonable accommodation.”

A request can also come from the individual’s family, friend, medical provider, or other representative.

Here are examples summarized from the EEOC [guidance](#) of what constitutes a request for an accommodation:

- An individual with an obvious intellectual disability is applying for a job at a large retail store. The store manager gives him the application form. The individual tells the manager he needs someone to assist him with the application. This is a request for a reasonable accommodation.
- A clerk with an intellectual disability is scheduled to begin his shift when the store opens at 10:00 a.m. The clerk informs his supervisor he needs to change his schedule because the medication he takes at night makes it difficult for him to wake up before noon. This is a request for a reasonable accommodation.

- A store clerk with Down syndrome is experiencing problems on the job and his job coach requests a meeting with his supervisor to discuss some possible solutions. This is a request for a reasonable accommodation.

There are times the employer has the obligation to ask an employee whether a reasonable accommodation is needed even if the employee has not requested one. Guidance from the EEOC indicates employers should ask an individual with an intellectual disability if they need an accommodation when all these conditions are met:

- The employer knows the employee has a disability,
- The employer knows or has reason to know the employee is having difficulty at work related to their disability, and
- The employer knows or has reason to know the disability prevents the employee from asking for a reasonable accommodation.

Here is an example summarized from the EEOC [guidance](#) of when an employer should initiate a conversation about reasonable accommodation with an employee with an intellectual disability:

- An employee with an intellectual disability works in a flower shop. She stocks the containers in the refrigerator with flowers after they arrive from suppliers. Each type of flower goes into a designated container and the container goes into a specific location in the refrigerator. The employee often misplaces the flowers and the containers. The employer knows the employee has an intellectual disability, suspects the performance problem is related to the disability, and knows the employee is unable to ask for an accommodation because of the disability. The employer asks the employee about the misplaced items and asks if it would be helpful to label the containers and refrigerator shelves. The employee replies that this would be helpful. The employer then labels the containers and refrigerator shelves with the appropriate flower name or picture as a reasonable accommodation.

Interactive Process

Upon receiving a request, a covered employer is expected to act quickly and begin the interactive process to identify the need for the accommodation and an effective solution. This training is focused on aspects of the interactive process unique to facilitating the process with an individual with an intellectual disability.

Documentation

When a disability and/or the need for a reasonable accommodation are not obvious, an employer is permitted to obtain reasonable documentation to verify a disability exists and/or identify the need for the reasonable accommodation. Because an intellectual disability may not always be obvious, the employer may choose to obtain documentation to verify the disability exists. When it is obvious, an employer cannot request documentation to verify the disability, but may obtain documentation that describes the disability-related limitations being impacted at work and why the accommodation is needed. Here is an example summarized from the EEOC [guidance](#):

- A marketing assistant with an intellectual disability has difficulty concentrating. He meets with his supervisor every morning to discuss his daily tasks. To recall his assigned tasks, the assistance needs his instructions in writing. His disability prevents him from writing clearly. The assistant tells his supervisor about his disability and requests a Smart phone or iPad where his supervisor can record, and he can retrieve an audio and video version of the instructions for his work tasks. Recognizing this as a request for a reasonable accommodation, the supervisor refers the assistant to the appropriate contact in human resources to begin the interactive process. As a part of the process, human resources may ask the employee for reasonable documentation about his disability and why the disability requires the use of a Smart phone or iPad.

Some employers choose to create a medical documentation form that applicants and employees can use to obtain the necessary information from their treating source or provider. An example of a medical inquiry form is available for employers to review on the Job Accommodation Network's (JAN's) [website](#). This example from JAN may help employers to customize a form that suits their workplace.

Identifying an Effective Reasonable Accommodation

Once the disability has been verified and the need for the reasonable accommodation has been identified, the employer and the individual begin the collaborative interactive process to determine an effective solution.

The interactive process begins with understanding how the disability-related limitation is impacted at work, what barriers are present, and what essential functions of the job are affected. The limitations an individual with an intellectual disability may experience include brain functions like learning, reasoning, problem solving, reading, and thinking. In addition, adaptive functioning may also be impacted, which includes skills such as language and literacy; concepts involving money, time, and numbers; self-direction; interpersonal skills; social problem solving; following rules; schedules and routines; safety; and use of telephone.

Next the employer and the individual explore ideas for effective reasonable accommodations. The best place to start with identifying an effective solution is by asking the employee who made the request – he or she is likely to know what solution will work best. An employer is also permitted to consult the individual's supervisor to discuss essential functions of the job and the work environment to help with identifying an effective solution. An effective reasonable accommodation is always identified on a case-by-case basis as each individual, job, and employer is unique.

It can be helpful for employers to be aware of common types of accommodations available. The EEOC organizes reasonable accommodations into these types:

- Making the work environment accessible,
- Restructuring a job,
- Permitting a flexible schedule,
- Altering or providing equipment or services,
- Altering supervisory methods,
- Modifying policies, and
- Providing reassignment.

Not all modifications and items are considered a form of reasonable accommodation. For example, employers are not required to:

- Eliminate a job's essential functions,
- Lower quality or production standards, or
- Provide personal use items or services.

Covered employers are not required to provide accommodations that cause a direct threat to health or safety or that cause an undue hardship. An undue hardship is an accommodation that is too costly or difficult to implement. Determining undue hardship requires a case-by-case assessment.

Reasonable Accommodation Examples

Here are examples of reasonable accommodations by type:

- Making the work environment accessible:



- Relocating a workstation to a location with minimal distractions to increase focus for work tasks.
- Breaking an interview conducted with a panel of interviewers into individual interviews.
- Providing interview questions in advance.
- Permitting a job developer to be present during an interview.
- Restructuring a job:
 - Permitting the use of task management tools such as checklists, task flow chart, color coding, outlines, calendar, and maps.
 - Providing written materials in alternative formats, such as large print, plain language, color coding, audio, or images.
 - Permitting the use of electronic organizers, timers, watches, and reminder apps.
- Permitting a flexible schedule:
 - Permitting an adjustment to the start and end times of a shift to accommodate the schedule of public transportation.
 - Allowing a modified break schedule, such as more frequent breaks or fewer but longer breaks, to enable time to tend to medical or medication needs or participate in stress-reducing activities.
- Altering or providing equipment or services
 - Use of a Smart device to use with time and task management apps.
 - Color contrast overlays to discern written materials more easily.
 - Smartpen to record audio and upload into written notes that can be edited and distributed.
 - Permit the use of a job coach for onboarding and when new job tasks are added.
- Altering supervisory methods:
 - Modifying supervision according to the individual's request and needs, such as meeting more frequently, providing written follow-up after meetings, or making an audio version of directives or messages.
- Modifying policies
 - Modifying a training policy to permit additional time for training, to permit a job coach, to provide a mentor, or to include training refreshers.
 - Modifying an attendance policy to permit a flexible schedule.
 - Modifying a no-animal policy to permit the use of a service animal or an emotional support animal.

Here are examples of reasonable accommodations for the hiring process summarized from the EEOC [guidance](#):

- Provide a reader to read application materials for a person who has limited ability to understand complex information.
- Demonstrate the job tasks to the applicant rather than describe the job tasks.
- Modify exams, training materials, and/or policy manuals.
- Replace a written test with an "expanded interview." Here is an example of an expanded interview summarized from the EEOC [guidance](#):
 - A candidate with an intellectual disability is scheduled for an interview for a position as a baker. The individual also has a speech disability and is hard of hearing. The candidate requests to demonstrate his ability to do the job as a reasonable accommodation. The employer provides this accommodation by conducting an expanded interview.

Here is an example of a reasonable accommodation for the hiring process summarized from JAN's [website](#):

- An individual with a mild intellectual disability was interviewing for a job in a company's mail room. The individual was concerned with interviewing successfully and completing the necessary training for the position. The individual was provided a job coach through a local vocational rehabilitation program to accompany him during the interview. After being hired, the employer provided the employee with a job coach for the initial phase of training for the new job.

Here are examples of reasonable accommodations for performing the job summarized from the EEOC [guidance](#):

- Reallocate marginal tasks to another employee. Here is an example:
 - An individual with an intellectual disability is hired to work at the concession stand at a baseball stadium as a part of a crew of three employees. Part of his closing duties include cleaning the counters and equipment and restocking supplies. He cannot perform the closing duty of counting money, which is a marginal task because it's usually performed by the manager. A coworker who can count money also performs the closing duty of placing empty boxes and trash in designated bins, which is also a marginal task. The employee with an intellectual disability can perform these marginal tasks. As a reasonable accommodation, the employer swaps the marginal tasks of these closing duties with the employees.
- Provide training or detailed instructions to do the job, such as giving instructions at a slower pace; allowing additional time for training; breaking job tasks into sequential steps; and using charts, pictures, or colors." Here are examples:
 - A restaurant worker with an intellectual disability has a job task to refill condiment containers. As a reasonable accommodation, the manager color-coded the containers so the employee can identify the specific condiment that goes in each container
 - A retail store employee with an intellectual disability has a job task to load purchased items into customers' cars. He often fails to follow the store's dress code. As a reasonable accommodation, his supervisor provides him with a sheet of photographs to demonstrate both proper attire and prohibited items of clothing according to the store's dress code.
- Provide an audio recording of directions for an employee to reference as a reminder of the steps to take to complete a job task.
- Provide a detailed flow chart or schedule for the order of task completion.
- Provide additional training. Here is an example:
 - A member of a hotel cleaning crew who has an intellectual disability is not performing his work duties to the expected quality standards. As a reasonable accommodation, the employer provides him with additional training to assist with learning proper cleaning techniques.
- Provide a job coach who can:
 - Assist the employee with learning new job tasks.
 - Provide monitoring, training, assessment, and support.
 - Help develop a professional working relationship between the employee and management by encouraging appropriate social interaction.
 - Assist in determining what reasonable accommodation is needed.
- Provide a flexible schedule, a shift change, or modified breaks. Here is an example:
 - A grocery stock worker with an intellectual disability is scheduled to attend therapy sessions on Tuesdays near the end of the workday. As a reasonable accommodation, her employer permits her to work a modified schedule. The employee can leave early on Tuesday to attend her therapy session and make up the missed time by beginning her shift earlier the next day.

- Provide assistance with understanding performance evaluations or counseling for misconduct. Here is an example:
 - As a reasonable accommodation, an employer allows an employee to bring someone to a performance evaluation or counseling meeting to help explain the purpose of the meeting, assist the employee with asking questions, and to explain the evaluation results or outcomes.
- Provide or modify items or equipment. Here is an example:
 - A receptionist with an intellectual disability has difficulty remembering the telephone numbers of office workers when transferring calls. As a reasonable accommodation, the employer purchased an office telephone that permits labeling of buttons for the receptionist to quickly transfer calls to staff effectively.
- Relocate the workstation placement. Here is an example:
 - As a reasonable accommodation, an employee with an intellectual disability who works in data entry is permitted to relocate her workstation away from a high traffic area to increase her ability to concentrate and focus on work tasks.
- Provide reassignment to a vacant position. Here is an example:
 - For several years an employee with an intellectual disability working in a manufacturing environment operated a manual cutting tool. The employer recently replaced the manual tool with a complex automated machine. The employee has received training but his disability limits him from learning to operate the new machine. Reasonable accommodations have been explored and no effective solutions have been identified. The employee requests to be reassigned to a vacant position that he is qualified for. Based on EEOC guidance, “the employer should work with the employee to determine whether he can be reassigned to a vacant position for which he is qualified. The vacant position must be equivalent in terms of pay and status to the original job, or as close as possible if no equivalent position exists. The position need not be a promotion, although the employee should be able to compete for any promotion for which he is eligible.”

Here is an example of reasonable accommodations for performing the job summarized from JAN’s [website](#):

- A gaming store associate with an intellectual disability did not know the alphabet and could not read. These limitations led to difficulty stocking product on shelves correctly. JAN suggested the employer make picture labels for the cases that match the shelf displays as a reasonable accommodation. This allowed the employee to perform the job successfully by matching pictures, not words, when placing product on shelves.

Confidentiality

During the interactive process, all personal and medical information obtained must be kept confidential. This includes information received through accommodation requests, discussions, disability-related inquiries, medical examinations, and documentation. The EEOC indicates medical information should be kept in separate medical files apart from general personnel files, whether stored in physical filing cabinets or in electronic databases. There are circumstances when medical information may be shared with designated parties. Here are some examples:

- Necessary information may be shared with employees responsible for facilitating reasonable accommodations including when handling safety and emergency situations,
- Information specific to the proper implementation and use of a reasonable accommodation may be shared with designated supervisors, and

- Information requested for a compliance investigation or to assess an insurance claim, such as a workers' compensation claim, may be shared with designated parties.

For the most part, supervisors and employees who implement reasonable accommodations do not need to know the employee's disability, medical condition, or related limitations to implement the accommodation. In this case, they may only know what reasonable accommodation is needed. When confidential disability-related information needs to be shared to effectively implement a reasonable accommodation, the employer should consult with the employee first and explain why this information needs to be shared.

How to Respond to Questions

Sometimes an employee's disability is invisible, but the reasonable accommodation is not. For example, a coworker may notice a colleague is given extra time to finish training which is generally not permitted. This can lead to coworkers asking their supervisors and the employees who implement reasonable accommodations about the accommodations they notice in the workplace.

Because the ADA prohibits employers from disclosing an employee's disability, the supervisor and the employee implementing an accommodation are not permitted to tell the coworker the colleague has a disability or is receiving a reasonable accommodation. Instead, what the employer may consider is providing training for supervisors and employees who implement accommodations on confidentiality guidelines and how to respond to these types of questions. According to the EEOC guidance, here are examples of how the employee or supervisor may respond:

- Emphasize it is the employer's policy to assist any employee who encounters difficulty at work,
- Explain that these types of situations are personal, and it is the employer's policy to follow confidentiality guidelines, and
- Reassure the coworker that his or her privacy would be respected in a similar situation.

A best practice is to be proactive and provide ongoing training for all employees on the laws the employer is required to follow, including the right to reasonable accommodation for qualified employees with disabilities.

Performance, Conduct, and Safety

Performance

Title I of the ADA provides protection from employment discrimination for qualified individuals with disabilities. To be considered qualified under the ADA, an individual with a disability must meet the employer's qualification standards that are job-related and consistent with business necessity and be able to perform the essential functions of the job, with or without reasonable accommodation. Based on this, employers may expect all employees, including employees with disabilities to be qualified to perform the essential functions of the job.

When evaluating an employee's work performance, employers should generally evaluate all employees using the same criteria, including employees with disabilities. Low performance should generally be addressed with employees with disabilities in the same way it is addressed with all employees in the same job class. An evaluation that reveals low performance may be the first indication to an employee that their disability is contributing to work performance. An employee may choose to disclose a disability during this discussion and may or may not request a reasonable accommodation. When an employee responds to a low performance rating by disclosing a disability and requests a reasonable accommodation, one must be considered, and the interactive process should begin promptly. When an employee with a disability responds to a low performance rating by disclosing a disability and states this is contributing, the employer is permitted to apply the consequences that apply to any employee with low performance in the same job class.

Low performance of a job is often unrelated to an employee's disability. However, based on guidance from the EEOC, an employer may ask if an employee's low performance is related to their disability under this circumstance:

- The employer knows the employee has a disability,
- The employer has observed the employee's low performance or has received reliable information from someone else like a family member or a coworker, and
- The employer reasonably believes the disability is contributing to the low performance.

Here is an example of a scenario summarized from the EEOC [guidance](#):

- A clerk with an intellectual disability works in the mailroom sorting and delivering mail. He has performed these tasks successfully for five years. Recently the employee has been making errors and appears anxious and emotional. The supervisor observed these changes after the employee reported moving into his brother's house. The supervisor can ask the employee why his performance has declined and discuss ways to improve his performance. The supervisor may not ask questions about the employee's intellectual disability unless she has objective evidence that the employee's low performance is related to his disability.

Conduct

Title I of the ADA does not generally prevent an employer from establishing conduct rules and consequences for misconduct. Employers may expect all employees, including employees with disabilities, to meet conduct standards. When an employee with a disability violates a conduct rule and the disability is not a contributing factor, the employee may be disciplined with the same consequences that would apply to any employee who violates the same conduct rule.

When an employee with a disability responds to counseling or discipline for misconduct by disclosing a disability and requesting a reasonable accommodation, the employer may apply the consequences for the misconduct and must begin the interactive process, "except where the punishment for the violation is termination." This is because reasonable accommodation is "prospective" and does not require employers to excuse past misconduct or withhold consequences for conduct violations when an employee indicates a disability contributed. The conduct rule must be "job-related and consistent with business necessity" and equally applied to all employees.

Safety

Under Title I of the ADA, employers may require, as a qualification standard, that applicants and employees not pose a direct threat in the work environment. A direct threat is defined as "a significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation." Based on [guidance](#) from the EEOC, an employer may ask an employee with an intellectual disability about their disability when they have a reasonable belief based on objective evidence that the employee may not be able to perform the job safely due to their disability.

When determining direct threat, an employer should assess the risk by using the criteria provided by the ADA and avoid making decisions based on myths, fears, generalizations, and/or stereotypes. This includes assessing the individual's knowledge, skills, experience, and the ability to safely perform the job. The EEOC criteria states to establish direct threat, an employer must:

- Show a significant risk of substantial harm exists,
- Identify the specific risk,
- Show the risk is current, not speculative, or remote,
- Perform an assessment based on objective evidence, and

- Determine if the risk can be eliminated or reduced through reasonable accommodation.

Here is an example summarized from the EEOC [guidance](#) related to intellectual disabilities and direct threat:

- An employer is not permitted to deny an applicant with an intellectual disability a job preparing food based on an assumption that people with intellectual disabilities cannot safely use sharp knives. To assess whether a direct threat exists, the employer must consider information from the applicant and/or from an appropriate professional about the limitations imposed by the disability. The employer should also consider the applicant's training and/or prior work experience and whether he has had any safety problems performing the work tasks similar to the position he is applying for.

Employment Stories

Individuals with developmental and intellectual disabilities work in a variety of work settings performing an array of jobs. Here are several examples of employment stories that have been featured in previous editions of the OODWorks newsletter.

Cole

Cole has an intellectual disability because of a traumatic brain injury he experienced at age 14. He has challenges with short-term memory and social situations. Through vocational rehabilitation services provided by Opportunities for Ohioans with Disabilities, Cole attended college and completed his degree. He graduated in December of 2020 from Bowling Green State University with a degree in Construction Management. He works as an assistant estimator at Loveland Excavating and Paving. The entire story is available in the OODWorks [newsletter](#).

Destiny

Destiny has Down syndrome. Her dream during school was to work in a cafeteria or a restaurant. To pursue this dream, she participated in vocational rehabilitation services through OOD and obtained work experience at three different job sites. Destiny then began working with a job developer who helped her with her interview skills and accompanied her on interviews. In September of 2021 Destiny was offered a position with The University of Dayton in a dining hall. Destiny utilized job coaching to assist with gaining the tools and skills needed to succeed on the job which included creating a board to help keep up with orders, a laminated chart to track stock, and a timer set on her watch to help with managing her time with work tasks. Destiny's General Manager reports "Destiny has a great personality, is a hard worker, and I couldn't ask for a better employee." The entire story is available in the OODWorks [newsletter](#).

Haley

Haley has an intellectual disability accompanied by a non-verbal learning disability, attention deficit hyperactivity disorder, and anxiety. Her disabilities impact her attention and emotional control. Haley participated in Project SEARCH, an intensive nine-month program that offers training and education geared toward preparing individuals for competitive employment. Through this program, Haley participated in work experiences in a variety of settings. In addition, Haley worked with a job developer to create her resume and prepare for interviews. Haley was offered a part-time position as a Pet Care Specialist at the Red Dog Pet Resort and Spa. Her job duties include cleaning kennels, feeding animals, walking dogs, washing bowls, doing laundry, and playing with dogs. Haley utilized job coaching to learn how to clock her time, use a checklist to stay on task, and to manage her time. Her supervisor reports Haley is "an employee with a great work ethic and attitude, who gets along with her co-workers, and is doing large amounts of work." Haley has also taken classes in veterinary technology at Sinclair College in Mason, Ohio. The entire story is available in the OODWorks [newsletter](#).

Matthew

Matthew has Down syndrome. During high school he participated in work experiences and internships to gain employment skills. His goal was to work in the community, and he obtained a part-time job working at Wendy's as a lobby attendant and kitchen assistant. Matthew worked with a job coach as he was learning his new work duties. His job coach worked with him on organizational, food preparation, and stocking skills. The manager at Wendy's added to Matthew's responsibilities at work which include helping to cook in the kitchen. A job coach was available to Matthew to assist with learning this new job task but was not needed as Matthew acquired the new task independently. The entire story is available in the OODWorks [newsletter](#).

Nate

Nate has Down syndrome and a speech delay. He knew before he graduated high school he wanted a job where he could interact with others and that was related to farming. He participated in pre-employment transition services and vocational rehabilitation services which focused on job exploration, workplace readiness, and counseling on post-secondary options. Nate participated in work experiences which included job tasks such as cleaning, landscaping, painting, and managing trash. He also worked with a job developer to focus on job seeking skills training. Nate accepted a job offer working up to 30-hours a week at Rural King as a greeter, loader, and stocker. He has become a local favorite and customers often request Nate assist with loading their purchases into their cars. The entire story is available in the OODWorks [newsletter](#).

Zack

Zack has a developmental disability. He began working at Walmart performing a third-shift stocking job and then moved to a position in the maintenance department. He works full-time maintaining floors, cleaning bathrooms, breaking down boxes, and has additional duties. Zack utilized a job coach as a reasonable accommodation as he was being trained to perform the job. He is described as a "hard worker." The entire story is available in the OODWorks [newsletter](#).

OOD Resource:

For information on the employer's responsibility to provide RAs, view OOD's on-demand webinar "**The Employers' ADA Handbook: Reasonable Accommodations and Undue Hardship**" on the employer's page of the [website](#).

For information on best practices for providing reasonable accommodations, view OOD's on-demand webinar "**Workplace Accommodations**" on the employer's page of the OOD [website](#).

For information on establishing a formal interactive process, view OOD's on-demand webinar "**Navigating the Reasonable Accommodation Process**" on the employer's page of the [website](#).

Conclusion

OOD appreciates your interest in identifying solutions and resources to support a workplace that is diverse and inclusive of employees with disabilities. Each employee, each employer, and each workplace are unique and because of this, the effective strategy to create a work environment that is accessible and inclusive will be unique. We hope the information shared in this learner's guide and webinar is helpful in supporting your efforts.

Resources

Intellectual and Developmental Disabilities

- ADA National Network. [“The Americans with Disabilities Act Questions and Answers”](#)
- Administration for Community Living. [“The Developmental Disabilities Assistance and Bill of Rights Act of 2000”](#)
- Administration for Community Living. [“The President’s Committee for People with Intellectual Disabilities \(PCPID\)”](#)
- American Association on Intellectual and Developmental Disabilities. [“Defining Criteria for Intellectual Disability”](#)
- American Psychiatric Association. [“What is Intellectual Disability”](#)
- Job Accommodation Network. [“Intellectual Impairment”](#)
- National Association of Councils on Developmental Disabilities. [“Learn More About DD”](#)
- Noah’s Ark of Central Florida. [“What’s the Difference Between Intellectual and Developmental Disabilities?”](#)
- Opportunities for Ohioans with Disabilities. [“The Employers’ ADA Handbook – Title I Overview”](#)
- U.S. Equal Employment Opportunity Commission. [“Persons with Intellectual Disabilities in the Workplace and the ADA”](#)
- U.S. Equal Employment Opportunity Commission. [“Your Employment Rights as an Individual with a Disability”](#)

Disability Inclusive Workplace

- Friends of Cyrus II. [“7 Myths about Developmental Disability in 2020”](#)
- Job Accommodation Network. [“Disability Disclosure”](#)
- Job Accommodation Network. [“Intellectual Impairment”](#)
- National Association of County Behavioral Health and Developmental Disability Directors. [“The importance of work for individuals with intellectual/developmental disabilities”](#)
- Noah’s Ark of Central Florida. [“10 Myths About People with Intellectual and Developmental Disabilities”](#)
- Opportunities for Ohioans with Disabilities. [“Communication Tips Best Practices – Employees with Intellectual Disabilities”](#)
- Opportunities for Ohioans with Disabilities. [“Disability Education Resources”](#)
- Opportunities for Ohioans with Disabilities. [“Disability Etiquette Training”](#)
- U.S. Equal Employment Opportunity Commission. [“Persons with Intellectual Disabilities in the Workplace and the ADA”](#)
- Voya Financial. [“Debunking the top myths of hiring people with intellectual or developmental disabilities”](#)

Interactive Process and Accommodations

- American Psychiatric Association. [“What is Intellectual Disability”](#)
- Employer Assistance and Resource Network on Disability Inclusion. [“Performance Management”](#)
- Job Accommodation Network. [“Accommodation Scenarios for the Interviewing Process”](#)
- Job Accommodation Network. [“Confidentiality of Medical Information Under the ADA”](#)
- Job Accommodation Network. [“Intellectual Impairment”](#)
- Job Accommodation Network. [“Sample and Partner Example Accommodation Policies, Processes, Forms, and Training”](#)
- Job Accommodation Network. [“Technical Assistance Manual for Title I of the ADA”](#)
- Opportunities for Ohioans with Disabilities. [“Cole Defeats Obstacles and Launches Career”](#)
- Opportunities for Ohioans with Disabilities. [“Destiny Made Her Passion a Reality after High School”](#)
- Opportunities for Ohioans with Disabilities. [“Haley Finds Self-Confidence Through Her Job”](#)

- Opportunities for Ohioans with Disabilities. ["Inclusive Employer Handbook"](#)
- Opportunities for Ohioans with Disabilities. ["Matthew Thomas Gains Independent Living Skills"](#)
- Opportunities for Ohioans with Disabilities. ["Nate Discovers the Perfect Job Fit"](#)
- Opportunities for Ohioans with Disabilities. ["Navigating the Reasonable Accommodation Process"](#)
- Opportunities for Ohioans with Disabilities. ["The Employers' ADA Handbook"](#)
- Opportunities for Ohioans with Disabilities. ["Zack Kinney Discovers Greater Independence"](#)
- Society for Human Resource Management. ["Hiring People with Intellectual Disabilities"](#)
- U.S. Department of Labor. ["Planning for Performance Management – for All Employees"](#)
- U.S. Equal Employment Opportunity Commission. ["Enforcement Guidance on Disability-Related Inquiries and Medical Examinations of Employees under the ADA"](#)
- U.S. Equal Employment Opportunity Commission. ["Enforcement Guidance on Reasonable Accommodation and Undue Hardship under the ADA"](#)
- U.S. Equal Employment Opportunity Commission. ["Persons with Intellectual Disabilities in the Workplace and the ADA"](#)

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BUSINESS RELATIONS SERVICES MAP



