

HB312 - DISCRIMINATION IN EMPLOYMENT —REASONABLE ACCOMMODATIONS
FOR APPLICANTS WITH DISABILITIES

SUPPORT TESTIMONY

Testimony of Laura Owens, Ph.D., CESP
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Chair Davis, Vice Chair Dumais, and Member of the Economic Matters
Committee,

Thank you for the opportunity to testify today in support of HB 312:
Discrimination in Employment - Reasonable Accommodations for Applicants
With Disabilities.

My name is Laura Owens and I have been working in the disability field,
specifically in the area of employment for individuals with disabilities, for over 30
years. I am currently the President of TransCen, Inc., a non-profit organization
based in Rockville, MD where we assist individuals with disabilities in obtaining
and maintaining integrated employment. Our expertise is in offering employment
supports to young adults as they transition from school to work and adults with
disabilities.

Employment is central to the goals of the Americans with Disabilities Act (ADA)
for equality of opportunity, full participation, independent living, and economic
self-sufficiency. Unfortunately, individuals with disabilities continue to have high
unemployment rates around the country – approximately 40 percent of working
aged adults with disabilities have a job, compared to 79 percent of working aged
adults without disabilities.

Opportunities for employment start with the interview process. Many times,
individuals with disabilities often not able to fully and equally participate in a
traditional interview process. The ADA is not about providing preferential
treatment, but rather providing equal access to all aspects of American life,
including employment. Simply stated, the ADA it is about leveling the playing
field. HB 312 supports the regulations of the ADA, taking it one-step further by,
and I quote, “Prohibiting an employer from failing or refusing to make a

reasonable accommodation for the known disability of an otherwise qualified applicant for employment, and expanding a certain undue hardship exception for employers regarding providing a certain reasonable accommodation to include certain qualified disabled applicants for employment.” This reasonable accommodation includes the support of a job coach during the interview process.

A job coach can make an important difference for job seekers with disabilities. In their role, job coaches are a support to both the employee and the employer, helping each make the appropriate adjustments during the interview process, as well as providing on-the-job support once the individual is hired. Job coaches are typically employed by rehabilitation facilities; educational and vocational training facilities; and privately owned and operated nonprofit organizations such as TransCen. Funding for job coaches generally come from the state Division of Rehabilitation Services (DORS), Developmental Disabilities Administration (DDA), local education authorities (LEA), or through family private pay.

The role of the job coach is to work with job seekers with disabilities leading up to an interview, and assist in resume writing, dressing for success, and interviewing preparation. The job coach also works closely with the job seeker to determine what type of job in which an individual is interested in working. The job coach’s role is two-fold. In addition to working with the job seeker, the job coach also works with employers to identify needs of the local business community. Once employer needs are identified, the job coach identifies a match between the job seeker and business.

The job coach provides invaluable guidance and support to job seekers with disabilities by introducing the types of responsibilities needed to be successful once employed. Because the job coach works so closely with the individual prior to the interview, the job seeker is more prepared for the actual interview. Being prepared for the interview and having the qualifications to perform the essential functions of the job are the critical first steps to employment. However, the role of the job coach is to provide the individual with “coaching” during all phases of the job search, and if the candidate requires a job coach as a reasonable accommodation for the interview, the job coach should be permitted to stay with the candidate during the actual interview.

During the interview, a job coach does not speak on behalf of the job seeker but rather interfaces directly with the candidate, prompting them as necessary and/or assisting with any challenging situations that may arise during the interview. Because the job coach understands what the candidate’s support needs are during

the interview, individualized supports are provided to meet the specific needs on a case-by-case basis. Each individual with a disability is unique; therefore, each job seeker will require different supports from the job coach. How much, or how little the job coach is needed dictates the role the job coach takes during the interview process.

When an employer has identified a qualified candidate and proceeds to the next step —**the interview process**— some, not all candidates with disabilities, may request a job coach as a reasonable accommodation during the interview. In my 30+ years of professional experience supporting job seekers with disabilities, employers have frequently not honored this request, and in doing so, have mistakenly stated that a job coach is only permitted to support the individual with a disability once hired. HB 312 will ensure that state law protects job seekers with disabilities during the interview process (pre-employment), allowing for the reasonable accommodation of a job coach.

HB 312 is important for several reasons. One of the most important reasons is that individuals with disabilities continue to have significantly higher rates of unemployment and underemployed as compared to the general population. In fact, approximately 40 percent of working aged adults with disabilities have a job, compared to 79 percent of working aged adults without disabilities. Additionally, of individuals with disabilities seeking employment, the employment numbers have stayed relatively low—and almost unchanged for the past 29 years.

Another important reason HB 312 is critical is an economic one. It is important to note that 25.6 percent of Americans have some type of disability; in Maryland, 21.5 percent have some type of disability. Increasing the employment outcomes for Maryland citizens with disabilities will ultimately increase tax revenue and infuse the economy with additional discretionary income. The discretionary income of individuals with disabilities of working age alone is estimated to be \$21 billion. This means businesses are missing out on an enormous market share.

Employers who have not taken the opportunity to interview and hire individuals with disabilities sometimes believe that there are limits to what someone with a disability can contribute to the workplace. Since the passage of the ADA in 1990 individuals with disabilities have sought employment equality. Unfortunately, opportunities for employment have been limited by the inaccurate perception within the business community. Qualified individuals with disabilities are just as capable as non-disabled employees. In fact, employees with disabilities are excellent problem solvers, stable workers, contribute to a safer workplace, and are

frequently more productive, according to some studies (e.g., Institute for Corporate Productivity, U.S. Small Business Administration). These studies have shown that employees with disabilities are absent less and are more likely to stay on the job longer than non-disabled worker (30% higher retention rate). A study conducted by the DuPont company concluded that workers with disabilities had a significantly higher performance in the area of safety than their non-disabled co-workers without disabilities. Further, hiring individuals with disabilities increases diversity in the workplace.

Further, eligible businesses can receive tax credits to aid in hiring and accommodating employees with disabilities. The Work Opportunity Tax Credit (WOTC) passed Congress in 1996, provides tax credits to businesses that hire individuals with disabilities. These tax credits can be used to offset expenses related to the purchase of adaptive technology or equipment for employees with disabilities, or for modifications needed to make the building accessible. Studies by the Job Accommodation Network have shown that 15% of accommodations have no cost and just over half of requested accommodations cost under \$500. It is important to note that for the business conducting an interview of a candidate with a disability, the request for a job coach as a reasonable accommodation does not have any associated cost.

The passage of HB 312 has the potential to increase employment outcomes for Maryland citizens with disabilities by improving the interview experience for candidates with disabilities. The increase in employment rates for individuals with disabilities can lead to an increase in tax revenue and infuse the state's economy with additional discretionary income,

Not allowing a person with a disability the right to have job coach support during the interview process denies an otherwise qualified candidate the right to "do their absolute best" during the interview. A candidate with a disability who requests a job coach be present during the interview is in fact leveling the playing field, which results in providing an equal opportunity for the job seeker to obtain competitive employment.

By providing a job coach as a reasonable accommodation a candidate with a disability has the same potential of being offered a position as their non-disabled counterpart. Of course, having this reasonable accommodation does not guarantee that the individual will be offered the position for which they are applying. However, it does provide the opportunity for the job seeker with a disability to compete for the job fairly by "leveling the playing field." Providing a job coach as

a reasonable accommodation may provide the job seeker the opportunity to have the same competitive advantage. All the disability community is asking for is an equal opportunity to compete for employment.

The importance of HB 312 cannot be overstated. Protecting the civil rights of individuals with disabilities is the cornerstone of this law.

I look forward to working with employers in the future that because of the passage of this bill have a full understanding of the rights of **all** job seekers in Maryland.

Thank you for the opportunity to submit this statement.