

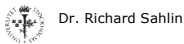
Identifying and Accommodating Learning Dis-abled Students and Employees: A Comparative Analysis

Dr. Richard Sahlin, University of Stockholm



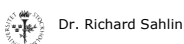
Introduction

- Disabled persons as a heterogeneous group with different needs and experiences
- Learning disabled persons as one of the most vulnerable subgroups
- Legal instruments
 - Anti-Discrimination Legislation
 - Other sources of legislation



Overview

- Who are learning disabled students and employees?
- What is a reasonable accommodation?
- A list of academic and professional measures designed to accommodate learning disabled students and employees
- Case law
- Some concluding remarks



Who students and employees with a learning disability?

- In a simple definition:
 - Those having a learning disability
 - Those covered by anti-discrimination legislation



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Definitions of „learning disabilities“

- ... Scientific concepts (USA Experts)
 - Cause for difficulties in acquiring and using listening, speaking, reading, writing, reasoning, or mathematical abilities,
 - presumed to be caused by central nervous system dysfunction,
 - Often combined with average or above average intelligence,
 - Leading to dramatic discrepancy between educational aptitude and actual educational achievement,
 - chronic, although their manifestations may vary somewhat throughout a person's life



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Definitions of “learning disabilities“

- ... Scientific concepts (USA Experts)
- No universally recognised definition



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Definitions of “learning disabilities“

- ... Scientific concepts (USA Experts)
- No universally recognised definition
 - The U.S: ADD and ADHD are not technically but practically covered
 - The U.K: The concept also refers to learning difficulty that includes mental retardment
 - Sweden: The concept is not used but neuropsychiatric impairment (including ADD/ADHD, Aspergers syndrome and Tourette Syndrome) are recognised as disability



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Definitions of “learning disabilities“

- ... Scientific Concepts (USA Experts)
- No universally recognised definition
- My own definition (work in progress) :
 - The concept will have a broad meaning, including all mental and psychiatric disorders that impair the person’s ability to study and work effectively, but excluding mental retardation.



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Learning Disability: Legal Definition

- The U.S: physical or mental impairment that substantially limits one or more of the major life activities of such individual
- The U.K: physical or mental impairment which has a substantial and long-term adverse effect on the ability to carry out normal day-to-day activities
- Sweden: Permanent physical, mental or intellectual limitation of functional capacity as a consequence of an injury or an illness that existed at birth, has arisen thereafter or which may be expected to arise



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Legal Definition: Single Elements

- Impairment
- Severity of learning disability
- Duration of learning disability
- Status of learning disability and association
- Certain activities
 - (to qualify as student/employee)



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Reasonable Accommodation

- Different from positive action
- Factors to be taken into account
 - Type and severity of (learning) disability
 - Type and duration of programme (post)
 - Effect and cost of measures
 - Financial/ administrative situation of institution, availability of funds



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Reasonable Accommodation

- Different from positive action
- Factors to be taken into account
- Limits of reasonable accommodation
 - Fundamental alteration of programme/post
 - Disproportionate burden
 - Threat to health and safety of anyone involved



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Reasonable Accommodation

- Different from positive action
- Accommodation, factors
- Reasonableness, factors
- Limits of reasonable accommodation
- When does duty apply?
 - Relation to education provider's (employer's) services, facilities, policies
 - No personal aids
 - Sweden: limited to physical alterations in tertiary education



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A List of Measures

- Schedule modification
 - Flexible study/working hours
 - More frequent breaks
 - Opportunity for part time study/work



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A List of Measures

- Schedule modification
- Academic modifications
 - Course substitution
 - Reassigning tasks among other students /employees
 - Reassignment to a vacant position



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A List of Measures

- Schedule modification
- Academic modifications
- Modification of physical environment
 - Enclosed exam rooms, work space, office
 - Blocking noise
 - Light walls



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A List of Measures

- Schedule modification
- Academic modifications
- Modification of physical environment
- Changes in policy
 - Leave for treatments & therapy
 - Extended deadlines
 - Private space to rest, cry, talk with support personnel
 - Information to fellow students/employees, instructors ect
 - Sitting rule, flexible internet policy



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A List of Measures

- Schedule modification
- Academic modifications
- Modification of physical environment
- Changes in policy
- Providing assistance
 - Contact persons
 - Reader/proof reader
 - Tutor or job coach
 - Computer equipment for home study



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Case law

- Sweden: one single case
 - Dyslexia and the merit principle
- UK: scarce case law
 - Secondary education: disciplinary measures
- US: wealth of case law
 - Admission tests, course substitution, re-allocation etc
 - In particular: Guckenberger et al.



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Thank you for your
attention!

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Juridicum
