

The Legal Intelligencer

Another Bite at the Apple: Neuroinclusion as a Way to Lead the Diversity Challenge

By **Jessica L. Mazzeo and Lovita Tandy**

March 08, 2024

In the last year, we have seen many attacks on DEI efforts within educational institutions, corporate America, and beyond. This resistance is nothing new as there has always been pushback when trying to make room at the table for everyone. In these last 12 months, we have seen a significant rise in attempts to eliminate DEI with attacks on affirmative action, lawsuits aimed at diversity initiatives within corporations and law firms, and even some states removing elimination of bias CLE requirements. While opponents of DEI focus mainly on race and gender, as has been discussed before in “More Than Meets the Eye: Tackling Deep Level Diversity in the Law,” true diversity runs far deeper. This still-evolving diversity challenge provides our profession with something of a second bite at the apple. We continue to lag far behind other professions when it comes to making lasting progress on inclusion, diversity, equity, and access issues related to race, gender, LGBTQ+, and disability. Just as we remain hopeful that our profession will strengthen and broaden its commitment to true diversity in these areas, we are heartened by the opportunity for our profession to become a leader in workplace neuroinclusion efforts. If we as a profession are thoughtful and intentional in our acceptance of our neurodiverse colleagues, we can



Courtesy photos

Jessica L. Mazzeo of Griesing Mazzeo Law and Lovita Tandy of Lawrence & Bundy.

harness its benefits in our service to our clients, our profession, and our communities. As we approach Neurodiversity Celebration Week, which takes place March 18-24, it is a great time to take stock of your current neurodiversity efforts, assess what specific actions you can take to become more inclusive, and become a change agent.

Understanding Neurodiversity

Neurodivergent refers to a range of brain-based differences in thinking, learning, and behaving. Historically, people with these differences were considered deficient, impaired, or somehow less than “normal” (or neurotypical) people. In truth, these

differences are normal variations in the human brain. We all recognize natural biological variations when it comes to other characteristics like height. For example, while more than 95% of men in the United States are 6'2" or shorter, the average height of a professional basketball player is 6'6", yet we do not view their height as a deficiency or impairment. It is estimated that 15-20% of the population have neurodiverse conditions, including Autism Spectrum Disorder, Dyslexia, Attention Deficit Hyperactivity Disorder, traumatic brain injuries, and various mental health conditions (e.g., major depressive disorder, obsessive-compulsive disorder and anxiety).

Neurodiversity in the Workplace

Although neurodivergent adults are one of the largest minority groups in the country, second only to Hispanic individuals, they continue to be underutilized in the workforce. Due to the skewed impression many hold when it comes to those who are neurodivergent, those who are employed often work below their skill level or in environments that do not support maximizing their skills and talent. Neurodivergent employees are a built-in talent pool of people who not only think differently but also can excel in many areas that employers look for when hiring candidates. Studies have shown that individuals on the autism spectrum are known to have strengths that include excellent attention to detail, greater efficiency, high levels of creativity, a greater ability to focus, and stronger memory skills; individuals with dyslexia may have a strong memory for stories, excellent abstract and critical thinking skills, and the ability to think outside the box; and individuals with ADHD may have one or more "superpowers," such as the ability to hyperfocus on tasks, creativity, resilience, and higher levels of social intelligence.

Unquestionably, every law firm and in-house legal department can benefit from lawyers with these

qualities. It is particularly important to learn how to provide individuals with ADHD with the support they need to excel because as a 2016 ABA study indicates, the rate of ADHD is two to three times greater in the legal profession than in the community at large.

Supporting Neurodiversity in Your Workplace

When implementing any new policy or initiative, we all know that you need buy-in from the top otherwise the efforts become stale or ineffective rather quickly. While lawyers and other professions struggle with continuing to promote diversity efforts in the wake of a growing effort to silence these initiatives, here are some tips for making neuroinclusion a part of your culture: If your website contains stories or videos from diverse individuals, make a point to include stories or videos from neurodiverse employees. Not only does this signal to neurodiverse applicants and employees that yours is a welcoming organization, but it also shows clients that your organization understands the neurodiversity imperative and is working towards creating a more inclusive environment that will allow you to leverage diversity to their advantage.

The legal hiring process remains shrouded in mystery for many. Many people, particularly those with certain neurodivergent conditions, have no idea what to expect when they show up for a law firm interview. Providing this information can go a long way toward leveling the playing field. For example, Reed Smith's career website for summer associates contains a page describing the interview process. Pairing this with sample interview questions, information on the dress code, the number and length of interviews, and detailed instructions on gaining access to the firm's offices reduces ambiguity and anxiety for those with various neurodivergent conditions. Although some may balk at the notion of providing sample interview questions, unless we are testing the ability to think critically on your feet, there is little reason to withhold this information.

Increase awareness within your organization by providing training on neurodiversity issues, including issues unique to neurodiverse attorneys. Neurodiversity is a relatively new concept, and all employees must understand the concept and how different neurodivergent conditions present. For example, knowing that many people on the autism spectrum struggle with eye contact and small talk helps those involved in the recruiting process avoid jumping to negative conclusions when they encounter this behavior. Knowing that individuals with ADHD often close their office doors or use headphones to prevent auditory distractions helps your employees better appreciate different work styles.

Because acceptance and integration into the workplace can be challenging, individuals often mask or hide their neurodiversity. This is understandable, given the high rates of bullying, exclusion, and stigmatism they face. Find ways to provide psychological safety for neurodiverse employees who want to reveal this aspect of their identities. Consider forming an employee resource group for neurodiverse workers and their allies. Publicize internally your organization's desire to work one-on-one with its neurodiverse employees to find ways to help them thrive and let them know where they should turn for assistance if needed.

Many neurodiverse employees struggle with high levels of ambiguity. Helping them understand the nature and scope of assignments is critical. Are you looking for a three-paragraph email or a 20-page memo? Role clarity is also important because it helps neurodiverse employees understand their function within the team. Moreover, clear deadlines and task prioritization are critical.

The goal is to create an environment where every employee can thrive. We should approach neuroinclusion with this in mind. Tackling neurodiversity challenges is hard work. As the saying goes, if you've met one person with autism, then you've met one person with autism. Even when dealing with employees with the same neurodivergent condition, employers must be wary of a cookie-cutter approach. Luckily, our profession provides a level of flexibility and creativity that offers opportunities to create highly individualized solutions in a way that may be more difficult than in other industries. We don't often get a second bite at the apple, but when we do, we need to use it to lead the way.

Jessica L. Mazzeo is a member and the chief operating officer of Griesing Mazzeo Law. She counsels clients on overall employee issues and employment best practices and advises on legal strategies that align with her client's business goals. Mazzeo also oversees and implements all of her firm's business operations while establishing policies that promote and retain her firm's culture and strategic vision. She also leads business development efforts to help grow and retain her firm's client base. You can reach Jessica at 215-732-3922 or jmazzeo@griesingmazzeo.com.

Lovita Tandy is a partner at Lawrence & Bundy. She serves as a trusted adviser to and litigator for organizations on employment law issues. Her practice also includes conducting internal investigations and providing employment law and DEI training. She is a diversity consultant and leads the Mosaic Project, which helps normalize neurodiversity in the profession by sharing the stories of neurodiverse attorneys and other legal professionals. You can reach Tandy at 404-400-3337 or lovita.tandy@lawrencebundy.com.