

Spasmodic Dysphonia and the Americans with Disabilities Act

Derek Isetti, Ph.D., CCC-SLP

Assistant Professor, University of the Pacific, Stockton CA

Voices on the Job

Effective communication skills are often essential to a number of jobs in today's workforce, with up to 30% of the US population considering the voice to be a primary tool of the trade¹. It stands to reason that when the vocal mechanism is compromised, this can lead to not only social but vocational barriers as well. Qualitative interviews have revealed that some employees with chronic voice disorders such as spasmodic dysphonia (SD) actually go out of their way to avoid performing certain tasks at work because of the effort required to speak². Imagine an elementary school teacher who would love to read a story to her class, but who reluctantly has the class work silently instead. Thus through intervention, many clinicians are assisting individuals with SD to not just be physically present at their jobs, but also helping to ensure that the quality of the work performed is not compromised.

Voice Disorders as a Disability under the ADA

Many individuals presenting to voice clinics may not even realize that a voice disorder that "substantially limits one or more major life activities" is classified as a disability in the eyes of the government³. The Americans with Disabilities Act (ADA) even includes the specific terms "speaking", "communicating", and "working" under the umbrella of major life activities. This may be brand new information for those with SD who are under the false assumption that a disability must involve some kind of restriction in physical mobility (i.e., wheelchair use).

Changes to the ADA

With the amendments made to the ADA in 2008, the designation of disability is now to be assigned at an individual's baseline functioning, regardless of the effects of any "mitigating measures." Mitigating measures refer to such things as pharmaceutical/medical interventions or physical devices. Many people with SD might feel that their symptoms are "manageable" with a combination of BOTOX and speech therapy. However, what if those treatments were completely withheld? Imagine someone with SD never having access to medical interventions or services. Would speaking be substantially limited in that case? If the answer is yes, then your SD is considered a disability under the ADA. Establishing the status of disability at baseline functioning (pre-intervention) enables individuals to ask for time off from work (considered a "reasonable accommodation") in order to access the medical interventions that allow them to continue working in an optimal capacity.

When the original ADA was created in 1990, the assumption was that impairments should last for 6 months or longer in order to be classified as disabilities. However, the Equal Employment Opportunity Commission (EEOC) has recently stipulated that impairments no longer need to be chronic in order to be classified as disabilities. Episodic or transitory voice disorders are now covered as long as they substantially limit an individual's functioning when flare-ups occur⁴. This implies that virtually *any* voice disorder, whether acute or chronic, has the potential to be

recognized as a disability even if symptoms are not consistent. Even a person whose symptoms might be more prominent at the end of a workday or towards the end of a workweek might now qualify for workplace accommodations.

Resources for Clinicians and People with SD

In terms of patient counseling and education, the two primary resources that might be helpful are the Job Accommodation Network (JAN, www.askjan.org) and the EEOC (www.eeoc.gov). The JAN offers pdf pamphlets with suggested accommodations for a wide variety of disability categories. (Note: the specific voice disorders pamphlet is located under the disability category of Speech-Language Impairments). These pamphlets can easily be printed and offered to individuals with SD to bring to their employers should any accommodations be required. Over 20 suggested accommodations are listed, ranging anywhere from allowing flexible use of leave time to pursue treatment, to relocating workstations away from sources of background noise.

The EEOC is a bi-partisan law enforcement agency tasked with handling many issues related to how the policies of the ADA are enforced. Individuals with voice disorders should be directed to the EEOC's website if their employers are unwilling to make the reasonable accommodations that are put forth by the JAN. The EEOC should be every worker's first point of contact when discrimination related to the ADA is suspected. In fact, discrimination lawsuits involving the ADA are typically only filed once mediation attempts between the EEOC and an employer have failed.

Speech-language pathologists (SLPs) and physicians are certainly not vocational counselors by training. However, considering that we are the primary and often only members of the treatment team in cases where patients with voice disorders self-select for treatment⁵, providing job-related resources and advice may be more important than we realize.

Note: For a more thorough discussion of the ADA as applied to voice disorders, readers are directed to: Isetti, D., Eadie, T. (2015) The Americans with Disabilities Act and Voice Disorders: Practical Guidelines for Voice Clinicians. Journal of Voice (In Press online May 7th 2015) doi: 10.1016/j.jvoice.2015.04.006.

References

1. Titze, I. R., Lemke, J., & Montequin, D. Populations in the U.S. workforce who rely on voice as a primary tool of trade: A preliminary report. *Journal of Voice*. 1997;11(3), 254–259.
2. Isetti, D., Meyer, T. (2014) Workplace Productivity and Voice Disorders: A Cognitive Interviewing Study on Presenteeism in Individuals with Spasmodic Dysphonia. *Journal of Voice*, Vol 28 (6), 700-710.
3. Americans With Disabilities Act of 1990, Pub. L. No. 101-336, 104 Stat. 328 (1990).
4. Government Printing Office. *Code of Federal Regulations*. 2013. Retrieved from <http://www.gpo.gov/fdsys/pkg/CFR-2013-title29-vol4/xml/CFR-2013-title29-vol4-part1630.xml>
5. Eadie, T. L., Hapner, E.R. Current Issues in Voice Assessment and Intervention in the USA. In E. Yiu, *International Perspectives on Voice Disorders* (pp. 90-102). 2013. Multilingual Matters.

Abstract from the *Journal of the Voice*

The Americans With Disabilities Act and Voice Disorders: Practical Guidelines for Voice Clinicians

[J Voice](#). 2016 May;30(3):293-300. doi: 10.1016/j.jvoice.2015.04.006. Epub 2015 May 7.
[Isetti D](#)¹, [Eadie T](#)².

OBJECTIVE:

The Americans with Disabilities Act Amendments Act of 2008 (ADAAA) resulted in changes to the legal definition of disability and substantially affected how those with voice disorders may qualify for reasonable accommodations under the law. However, there has been little guidance and a lack of awareness about these changes within the voice literature. This article examines the Americans with Disabilities Act of 1990 (ADA), the changes made in 2008 (ADAAA), and how the law applies to individuals with voice disorders.

STUDY DESIGN: This is a review article.

METHODS:

The ADA and ADAAA are summarized with a particular focus on individuals with voice disorders. Types of reasonable accommodations within the workplace are suggested, and online resources are provided which outline the disclosure and accommodation process. Practical examples are used to provide guidance for clinicians who may be involved in counseling this clinical population.

RESULTS/CONCLUSIONS:

Many individuals with voice disorders may not realize that their conditions can be classified as disabilities under the law, entitling them to workplace accommodations and time off to pursue medical treatment. However, disclosure laws such as the right to refrain from mentioning a disability during a job interview may not be protective of individuals with severe voice impairments, as symptoms are often difficult to conceal. Clinical implications and directions for future research are discussed.