



**Mirfak
Associates,
Inc.**

577 Ygnacio Valley Road
Walnut Creek, CA 94596-3801

(925) 296-0300
Fax (925) 296-0301

Eugene E. Van de Bittner,
Ph.D., CRC, CLCP
Susan Van de Bittner,
Ph.D., RN, CLCP
Jill A. Moeller,
M.R.C., CRC

www.mirfak.com

g@mirfak.com
s@mirfak.com
j@mirfak.com

Vocational Evaluations

Life Care Planning

Labor Market Research

Job Analyses

Vocational Rehabilitation

Expert Testimony

Employability Analysis Process (EA Process)

The Employability Analysis Process (EA Process) is a 10-step methodology for empirically evaluating an individual's employability for occupations in the open, competitive labor market.

A. Review of Medical Records

First review any medical, psychiatric and psychological reports, and deposition transcripts. Look for permanent restrictions and opinions regarding the applicant's or plaintiff's ability to participate in the open labor market. Ask the referring attorney or attorneys to obtain an opinion on medical restrictions if there are none in the medical records. Also review functional capacity assessment reports for information regarding demonstrated work tolerances.

B. Review of School, Employment, and Vocational Rehabilitation Records

School and employment records provide valuable information about applicant's or plaintiff's employment skills that can be considered in relation to past, present, and future employment opportunities in the open labor market.

On some occasions, the applicant or plaintiff will have attempted vocational rehabilitation, either self-directed or with professional assistance. Assess the outcome of any vocational rehabilitation efforts.

C. Review Deposition Transcripts and Videotapes

If unable to interview the applicant or plaintiff, review his or her deposition transcript and view surveillance videos, if available, to gain a better understanding of his or her vocational strengths and weaknesses and his or her ability to perform physical activities. In some cases, it will be appropriate to comment on any inconsistencies between an in-person interview and information learned from the review of a deposition transcript or surveillance video of the applicant or plaintiff.

D. Interview and Test the Applicant or Plaintiff

A comprehensive in-person interview of the applicant or plaintiff is the best way to obtain first-hand information from and about the applicant or plaintiff to be used to develop opinions regarding employability. An interview outline is recommended for this purpose. The interview

should be designed to provide all of the information needed for a subsequent analysis of transferable skills and an ultimate analysis of employability.

Vocational testing provides a more detailed and specific measure of an applicant's or plaintiff's academic and employment skills and potential for training. Should the applicant or plaintiff not be available for the interview and testing, those skill levels can be established through a review of school, employment, and vocational rehabilitation records, as well as deposition transcripts.

E. Evaluate Self-initiated Return to Work Efforts

Thoroughly explore all self-initiated efforts by the applicant or plaintiff to return to work through self-directed activities or with professional assistance. In addition, explore any volunteer, childcare, elder care, training, and other work-like activities.

F. Complete a Transferable Skills Analysis

A comprehensive transferable skills analysis is completed and compared with other information available to that point. Consider a computerized program, such as the *McCroskey Transferable Skills Program* (MTSP) (McCroskey, 2014), *OASYS* (Truthan, 2015), *SkillTRAN* (Truthan, 2015), or consider a manual method for analyzing transferable skills, such as described by Weed and Field (2012).

G. Determine Vocational Feasibility and Amenability to Rehabilitation

Assess the applicant's or plaintiff's ability to benefit from vocational rehabilitation services to return to work in the open, competitive labor market. Determine whether the applicant or plaintiff is amenable to rehabilitation. Consider all relevant medical and vocational factors.

H. Analyze Employability

The overall purpose of the employability analysis is to assess the applicant's or plaintiff's ability to obtain and maintain employment in the open, competitive labor market when considering medical and vocational factors.

1. Labor Market Access

The employability analysis begins with an analysis of the applicant's or plaintiff's labor market access, the percentage of his or her access to jobs in the open labor market.

a. Medical Labor Market Access

Medical labor market access addresses the availability of occupations in the open labor market that are compatible with the medical

restrictions, functional limitations, and psychiatric impairments of evaluating and treating physicians in a combined, interactive, and synergistic manner. Various scenarios of medical opinions may be needed based on the opinions of different physicians. Medical apportionment is also considered.

Government, private, university, and other sources of occupational, employment, and disability statistics are consulted to develop an empirically-based opinion regarding measurable medical labor market access.

b. Vocational Labor Market Access and Placeability

Vocational labor market access and placeability consider both medical and vocational factors in a combined, interactive, and synergistic manner. They address an individual's ability to obtain and maintain employment. As such, vocational labor market access and placeability consider the opinions of the evaluating and treating physicians. In addition, vocational factors, such as the individual's work and school history, test scores, transferable skills, personal presentation, demonstrated ability to perform work-like activities, the effects of pain and medication, the effects of outward signs of disability, the results of vocational rehabilitation efforts, apportionment, and the requirements of employers are also considered in assessing the individual's vocational labor market access and placeability. Vocational feasibility, one's ability to benefit from the provision of vocational rehabilitation services, is also considered in assessing an individual's vocational labor market access and placeability. Amenability to rehabilitation is also assessed.

2. Labor Market Survey

A labor market survey is conducted to determine whether or not job openings exist in the open labor market that are compatible with the opinions of the evaluating and treating physicians and vocational factors affecting employability.

I. Analyze Apportionment of Employability

An analysis of apportionment of employability is then completed based on medical opinions regarding apportionment and any vocational factors affecting apportionment, such as a learning disability, limited education, limited ability to speak English, or a felony conviction.

J. Reporting

A summary of the evaluation findings is then developed into a written report or file notes with the conclusion that the applicant or plaintiff is employable or not. If employable, the report will show specific examples of job options through direct placement or following vocational training.