



The ADA and Personnel Training

What is The Americans with Disabilities Act?

The Americans with Disabilities Act (ADA) is a landmark piece of civil rights legislation that extends the prohibition against discrimination on the basis of race, color, sex, religion, national origin, and age to persons with disabilities. Because the ADA covers all aspects of participation in society, such as employment, public accommodations, transportation, and telecommunications, its impact is felt in business organizations in multiple ways. Businesses are covered by the ADA both as employers and as providers of goods and services. It is therefore important that each business organization equip its employees for compliance with the ADA by providing appropriate information and personnel training on the ADA's requirements, its relevance to the functioning of the organization as a whole, and the responsibilities of specific personnel.

Which Personnel in our Organization Should Receive ADA Training?

The impact of the ADA is broad. Everyone in your organization would find information and training on the ADA relevant to their jobs. General information could be useful to all employees, informing them of their rights and obligations under the ADA.

In the fall of 1998, the Society for Human Resource Management (SHRM) partnered with Cornell University to conduct a survey of SHRM members.¹ The purpose of this survey was to assess the ADA's impact on HR practice since implementation, and one of the items studied was training conducted on the ADA. The survey asked respondents if their organizations' employees had been trained in a number of ADA-related topics, including: non-discriminatory recruitment and hiring, the accommodation process, equal access in promotional opportunities and training, accommodation for mental health problems, defining essential job functions, confidentiality requirements of medical information, limitations and exclusions the ADA and other federal laws allow health plans to impose, non-discrimination in the disciplinary process or termination, conflict resolution in the accommodation process, disability awareness or sensitivity training, and interaction with other state and federal legislation. In nearly all of the areas, more than half of the respondents (813 SHRM members were interviewed) indicated their employees received training.

Employers should consider the best way to train their personnel so that they may benefit from ADA training both to ensure that their actions are in compliance with the ADA, and that they are properly responsive to persons with disabilities. Although all employees should receive some training, there are categories of personnel that should be considered for specialized training. These include: training or staff development personnel; human resource development professionals; top management;

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middle managers; front line supervisors; line employees; union leadership and field representatives; benefits and compensation staff; safety and environmental health personnel; recruitment and job interviewing personnel; industrial/organizational psychologists or other personnel doing pre-employment screening; organizational development personnel; ergonomic specialists; short and long-term disability managers; technology personnel; customer relations representatives; and receptionists and others who interact with the public.

Which Kinds of ADA Information Should be Shared with These Personnel?

All of your employees would benefit from some basic knowledge about the existence of the ADA and its requirements. More specific information should be directly relevant to the functioning of personnel in the job categories listed above, whose responsibilities might be impacted by the requirements of a particular provision of the ADA. The following are some examples of personnel training that can be considered and targeted to meet the unique information needs of personnel, dependent upon their job functioning:

- Overall knowledge of all titles of the ADA
- Knowledge specific to the ADA employment provisions
- Knowledge specific to the ADA public accommodations provisions
- Employment pre-screening and applicant interviewing under the ADA
- Medical, drug, and other testing under the ADA
- Relationship between the ADA and other state and federal employment and non-discrimination legislation
- Identifying essential job functions

- Writing job descriptions that identify essential job functions
- The reasonable accommodation process
- General information regarding specific disabilities and possible accommodations
- Job evaluation and compensation information for persons with disabilities
- Career equity/promotional considerations for persons with disabilities
- Re-skilling when disability occurs
- Non-discriminatory performance appraisals
- Impact of the ADA on accommodation requirements in personnel training
- Accessibility of information technology in the workplace
- Data/record keeping on accommodations
- Negotiation/conflict management in the reasonable accommodation process
- The place of job coaching and/or supportive employment in the reasonable accommodation process
- Customer relations with customers with disabilities

In training, selected topics, such as specific accommodations for persons with particular disabilities, may be best presented by coupling the information of an instructor familiar with the ADA with that of a professional with expertise on accommodation for such persons. Some examples of these professionals include ergonomists, physical or occupational therapists, rehabilitation counselors, supported employment specialists, mental health or drug and alcohol abuse therapist/counselors, or rehabilitation engineers.

Other topics that may not directly relate to the requirements of the ADA, but may support the intent of the ADA are training in such topics as: attitudes toward persons with a disability; disability as a facet of diversity; effective dis-

ability management; prevention of disability through workplace safety; and effective recruitment of persons with disabilities.

The above list is not exhaustive, but representative of many content areas that can be considered for effective information sharing and staff development on the provisions of the ADA. Specific content should be targeted toward the job responsibilities of personnel receiving the training. The nature of the work itself and the kinds of work-related illnesses and disabilities that occur more often for a particular employer may determine the focus provided on accommodations for particular types of disabling conditions.

Where is a Good Place to Start a Training Effort on the ADA?

As previously mentioned, personnel at all levels of an organization would benefit from ADA information and training. Respondents to the SHRM/Cornell survey indicated that top management commitment to training and nondiscrimination is the number one way to effectively reduce barriers in the employment and advancement of people with disabilities. It is important that any dissemination initiative on disability nondiscrimination and diversity be seen as a company-wide commitment for a real impact to occur.

In larger companies, where human resource professionals are chiefly responsible for employee recruitment, interviewing, pre-employment screening, benefits, compensation, and training, the human resources department may be the appropriate place to focus initial information dissemination and training efforts. It would also be useful to include employee and labor relations personnel in this round of training.

Manager training should come next in larger companies (and perhaps would be first in smaller companies). Some of the topics on the ADA employment provisions, which can be targeted to the information needs of supervisors, are as follows: pre-employment screening and ADA requirements; medical, drug, and other testing; writing job descriptions with essential job functions; the reasonable accommodation process; performance expectations and the person with a disability; and equal access for persons with disabilities to staff development and promotional opportunities.

What are Factors to Consider for Accessibility of Training to Persons with Disabilities?

The employment provisions of the ADA provide that no employer shall discriminate against an individual with a disability in regard to job training. This means that personnel trainers, to meet the accommodation needs of a trainee with a disability, would be required to provide a reasonable accommodation absent undue hardship. Examples of possible modifications include:

- Restructuring or simplifying training for mats to accommodate trainees with cognitive impairments
- Making training rooms wheelchair accessible
- Braille or audio taping print materials
- Providing a sign language interpreter or reader
- Captioning videotape materials
- Being aware of environmental irritants for chemically sensitive trainees
- Advocating on behalf of a trainee for training held elsewhere, when an accommodation needed for that individual

Trainers also might consider use of information technologies and other distance learning approaches, which are increasingly being used for personnel training. This can be a real asset for enhanced easy and cost-effective access to training, allowing the user to access the classroom from his/her own office or home. However, the transformation of the Internet from a text-based medium to a robust multi-media environment has created a growing digital divide in access for people with disabilities. Previously, people with visual impairments were able to read web pages with the help of audible screen readers. Today, graphical web pages are a barrier if they do not incorporate accessible web design. The barrier created by inaccessible web pages is not limited to people with visual and mobility disabilities, but applies also to persons with learning or cognitive disabilities. Similarly, persons with hearing impairments cannot access audio or video streaming contents unless they are captioned.²

Designing accessible on-line training can be beneficial to more than just employees with disabilities; many other employees will also find it more user-friendly. Some “do’s and don’ts” regarding IT access for people with disabilities include:

- when using a PDF format that is not translatable by screen readers³ (for persons with visual impairments), provide a text-only alternative;
- use alt-tags and labels to denote graphics/pictures;
- avoid the use of frames;
- avoid the use of Flash and javascript.

² The W3C Web Accessibility Initiative site has a list of tools for website evaluation tools at <http://www.w3.org/WAI/ER/tools/>

³ Go to http://www.afb.org/info_document_view.asp?documentID=1284 for an example of how a screen reader works,

Are There Other Related Training Responsibilities to Consider?

Under the ADA, covered entities cannot use a third party to discriminate on their behalf. Thus, employers may have to consider the possible ADA information needs of organizations with which they have contractual relationships, such as insurance companies, third-party administrators of worker compensation or health care benefits, labor unions, or employee assistance programs.

ADA Title I prohibits discriminating against a qualified individual with a disability in all terms, conditions, and privileges of employment, including health benefits. The ADA specifically prohibits a covered entity from participating in a discriminatory contractual or other arrangement with any organization that provides fringe benefits to employees.

Where employees are represented by a union, the union steward is the person in the union with whom each member may have direct contact; that is, to whom s/he brings his/her problems and grievances, from whom s/he gets information, and who s/he generally sees every day on the job. Management and the union should provide the shop steward with training so that s/he can help disseminate ADA information. In particular, the shop steward should be aware of the union's role in informing the workforce about the prohibitions against disability discrimination in employment and about the remedy of reasonable accommodation.

A number of ADA employment provisions are relevant to the functioning of Employee Assistance Program (EAP) professionals. Since EAPs have developed, they have serviced persons with addiction problems; certainly these individuals may be covered by the employment provisions of the ADA. Therefore, it is important to provide EAP professionals with

information about who qualifies as an individual with a disability under the ADA and what rights such individuals have under the law.

EAP professionals might also be able to assist with accommodation inquiries. SHRM members indicated in the survey that they would like more information on accommodations for persons with mental health problems, an area in which EAP personnel can be of assistance. In addition, persons with other kinds of disabilities may seek support from EAP professionals when facing difficulties in the workplace or elsewhere that arise from a disabling condition or serious illness. EAP professionals may be the counseling and support system that an organization uses, and therefore providing EAP professionals with information about the impact of disability, and the rights of persons with disabilities is most appropriate. EAPs are often also aware of local community resources and can refer employers and supervisors to relevant resources who can help in addressing an accommodation request.

Where can I get further resources to conduct training on the Americans with Disabilities Act?

Many private commercial distributors and not-for-profit organizations have now developed informational and training materials on the ADA. A comprehensive listing of print and audio visual materials on the employment provisions of the ADA are available from your local Disability and Business Technical Assistance Center; call 1-800-949-4232 to request such a list. A set of informational brochures on accommodations for particular disabilities is available from the Cornell University website at <http://www.ilr.cornell.edu/edi>, or call (607) 255-7727, or also from your disability and business technical assistance center as listed above.

Resources

ADA National Network
Technical Assistance Center Hotline
800.949.4232 (voice/TTY)
<http://www.adata.org>

Job Accommodation Network (JAN)
800.526.7234 (voice)
877.781.9403 (TTY) or visit <http://askjan.org>

Equal Employment Opportunity Commission,
1131 M Street, NE, Washington, DC 20507
800.669.4000 (Voice) or 800.669.6820 (TTY) to
reach EEOC field offices; for publications call
800.669.3302 (TTY) or 800.669.3362 (voice)
www.eeoc.gov

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The U.S. Equal Employment Opportunity Commission has reviewed it for accuracy. However, opinions about the Americans with Disabilities Act (ADA) expressed in this material are those of the author, and do not necessarily reflect the viewpoint of the Commission or the publisher. EEOC interpretations of the ADA are reflected in its ADA regulations (29 CFR Part 1630), Technical Assistance Manual for Title I of the Act, and Enforcement Guidance.

Cornell University is authorized by NIDRR to provide information, materials, and technical assistance to individuals and entities that are covered by the Americans with Disabilities Act (ADA). You should be aware that NIDRR is not responsible for enforcement of the ADA. The information, materials, and/or technical assistance are intended solely as informal guidance, and are neither a determination of your legal rights or responsibilities under the Act, nor binding on any agency with enforcement responsibility under the ADA.

The Equal Employment Opportunity Commission has issued enforcement guidance which provides additional clarification of various elements of the Title I provisions under the ADA. Copies of the guidance documents are available for viewing and downloading from the EEOC web site at:
<http://www.eeoc.gov>

About this Brochure

This brochure is one of a series on human resources practices and workplace accommodations for persons with disabilities edited by Susanne M. Bruyère, Ph.D., CRC, Director, Employment and Disability Institute, Cornell University ILR School.

This brochure was written by Susanne Bruyère in 1996, and updated in 2001. It was further updated in 2011 by Beth Reiter, an independent legal consultant, Ithaca, N.Y., with assistance from Sara Ferguson, a Cornell University Employment and Disability Institute student research assistant.

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The full text of this brochure, and others in this series, can be found at www.hrTips.org.

More information on accessibility and accommodation is available from the ADA National Network at 800.949.4232 (voice/ TTY), www.adata.org.

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