How to get ADA accommodations right: An employer's guide

When workplace accommodations are done right, everyone wins. Ideally, employers deliver timely, fair and inclusive support for employees who need accommodations. However, that ideal hasn't been universally achieved in the U.S.: In fiscal year 2024, the Equal Employment Opportunity Commission (EEOC) recovered nearly $700 million for almost 21,000 victims of employment discrimination.[1]

In this guide, we'll explore why employers so often fall short of providing an accessible workplace and examine some strategies to create a disability-friendly workplace environment that supports employee wellness, productivity, and retention, as well as ADA compliance. Finally, we've included a simple checklist to help frontline managers determine when an ADA accommodation might be appropriate for an employee, and what to do next.

What are the most common causes of employers not providing required accommodations under the ADA?

According to the Job Accommodation Network (JAN)[2], some of the most common causes include:

Insufficient training
Managers and supervisors may not be adequately trained to recognize and respond to accommodation requests. (Note: At Alight, we find that this is by far the most common cause of ADA issues. Your managers need to know what to do when they get an ADA accommodation request. Well-trained managers also recognize when an ADA accommodation may be appropriate, and know to ask an employee if they may need accommodation to be able to complete their job duties.)

Not understanding ADA requirements
Employers may not be familiar with the ADA's requirements or their responsibilities under the law or may not understand the process for determining reasonable accommodations.

Fear of undue hardship
Employers may mistakenly believe that providing accommodations will cause undue hardship, despite the fact that many accommodations are low-cost or no-cost. The Job Accommodation Network (JAN)'s 2024 employer survey found that more than half (56%) of the employers participating in the survey reported that accommodations they made cost absolutely nothing ($0) to implement.[3]

Misconceptions about disability
Employers may hold misconceptions about certain disabilities or the capabilities of individuals with disabilities, leading to hesitation in providing accommodations due to concern that the accommodation won't address the problem, or will change the workplace in ways that will be bad for the organization, or for other employees.

Communication issues
Poor communication between employers, employees, and healthcare providers can create delays in providing accommodations. Delayed responses from healthcare providers, in particular, are frequently cited by employers as a reason they have delayed making timely decisions about accommodations.

Delays in processing accommodation requests
Unnecessary delays in processing accommodation requests, deferring decisions for long periods of time, or requiring that an employee meet an unreasonable standard of proof of their need for an accommodation can result in a violation of the ADA.

Most of these challenges can be overcome with preparation and a clear understanding of the employer's responsibilities under the ADA.

ADA compliance — Setting your organization up for success

Providing a workplace environment where your employees can fulfill their job duties can sometimes be unexpectedly challenging. Here are some recommendations to help avoid ADA noncompliance:

1. **Have a policy regarding workplace accommodations, and make sure everyone is aware of it**

   Your HR team and frontline managers can deliver more consistent results if they have formal policies and procedures to refer to. They're more likely to handle accommodation requests properly and consistently, and a well-thought-out policy will include a consistent framework to guide accommodation decisions.

   A formal policy that's shared with employees will help them know what to expect if they request an accommodation; it also "normalizes" working with people who have disabilities by helping everyone understand that other employees might request and receive accommodations. Finally, formal procedures help employers document their efforts to comply with the ADA.

2. **Presume validity and focus on enabling**

   ADA fraud is rare.[4] Documentation requirements and unpaid leave both act as fraud deterrents (even though this isn't why they exist). Instead of assuming fraud, presume the validity of accommodation requests; concentrate resources on enabling accommodations rather than reasons to deny them.

3. **Train everyone — decision-makers, managers and supervisors**

   Educate decision-makers on the process, concepts, and exercise of discretion. Educate frontline managers on what the ADA is; what accommodations are; when to ask for assistance from HR; and most importantly, how to recognize and respond to accommodation requests. Employees only need to use plain English to request an accommodation.

4. **Have a documented accommodations process…and stick to that process**

   Engage in the interactive process, where the employee and employer work together to determine whether an accommodation is needed and what accommodation is appropriate. Start with the employee's issue or request and ask them what they would need to be able to perform their essential job functions. If the employee's disability and need for an accommodation is not obvious, employers can request medical certification. Follow up periodically to ensure the accommodations that have been provided are still effective.

5 Use effective communications and forms

The interactive process is a critical step. Craft communications and forms (used by employees explaining the need for accommodations) that facilitate the accommodations process — and make sure they're used consistently and updated as appropriate. At points in the process, you may need to get clarification from the employee and/or leverage existing medical documentation to keep the process moving forward. Using forms to facilitate the process, instead of asking for the employee to write an email or a letter, can help ensure consistency and complete information.

6 Understand the interactive process

The interactive process is a key requirement of the ADA: Employers must engage in a good faith "interactive process" with employees who request a reasonable accommodation for their disability or condition. The employer needs to communicate with the employee to attempt to identify a needed accommodation that doesn't present an "undue hardship" (a major difficulty or expense) for the employer. The employee's request can be formal or informal, and they don't have to mention the ADA specifically for the request to "count." The employee must provide the information and documentation, if applicable, to support their request and allow the employer to assess accommodation options and collaborate to find an effective solution.

7 Balancing interests

Keep in mind that the definition of "disability" is broad and that "undue hardship" is a high legal standard. Consider effective alternatives, and don't forget that options that don't require specialized equipment or new schedules, like reassignment, short-term leaves, or remote work may be reasonable accommodations. Set and enforce reasonable timeframes for accommodations processes to be completed.

Good planning, policies and training can help employers foster a culture that values inclusion, promotes accountability, and focuses on practical solutions to support employees with disabilities.

[1] https://www.eeoc.gov/2024-annual-performance-report

[2] https://askjan.org/publications/employers/employers-guide.cfm

[3] JAN, "Costs and Benefits of Accommodations", https://askjan.org/topics/costs.cfm?csSearch=2546498_1

[4] U.S. Department of Labor, Office of Disability Employment Policy, "Employers and the ADA: Myths and Facts", https://www.dol.gov/agencies/odep/ada/MythsandFacts#:~:text=Fact:%20The%20majority%20of%2 ADA,these%20complaints%20are%20usually%20dismissed

Accommodation decisions and preparedness checklist for employers

The following checklist is intended as a step-by-step guide to help people who directly supervise other workers identify and address ADA accommodation requests — or situations where an ADA accommodation may be appropriate. It's not intended as legal advice, nor is it a comprehensive guide to the ADA in the workplace.

— **If the employee *asked for an accommodation:***

- ○ Document the employee's request and refer them to the appropriate resource, which could be HR or a third-party administrator.

— **If the employee *has not asked for an accommodation:***

- ○ Have they mentioned a medical condition affecting their work?
- ○ Do they appear to struggle with tasks, or have observable limitations that impede their ability to do their job or access benefits?

Next step:

- ○ In a private setting, let the employee know that there may be accommodations that could help them.
- ○ Gather information: Regardless of how you learn that an employee may need a reasonable accommodation, the next step is to gather information. First, speak with the employee.
  - Open and obvious: Sometimes an employee's disability and/or need for an accommodation is open and obvious. For example, if an employee is hearing-impaired and asks for meeting minutes to be printed, both the disability and the accommodation need are open and obvious. In these cases, the employer is not allowed to request medical documentation.
  - Not open and obvious: In some cases, the disability and/or accommodation need is not open and obvious, or the employee may not be able to articulate the issue. In these cases, it may be appropriate to request documentation from the employee's healthcare provider. The ADA has **strict guidelines** about what information an employer can request. Remember only to ask for medical information that confirms the disability and that the employee needs an accommodation.

Documentation

— Has the employee provided:

- ○ information about their condition
- ○ its impact on their job performance
- ○ documentation supporting their need for the accommodation, if applicable?
  - If complete information isn't immediately available, is there an interim accommodation that can reasonably be provided in the meantime?
- ○ Is all documentation, whether provided by the employee or a medical provider, being kept confidential?
- ○ Is all documentation being kept separately from other employment records?

Interactive discussion

— Has the employee proposed an accommodation?

— Will the proposed accommodation allow the employee to perform the essential functions of their job?

— Are there alternative accommodations that could also be considered if necessary?

— What impact will the proposed accommodation have on the employer's ability to do business?

— What impact will the proposed accommodation have on other employees?

Managing leave and remote work accommodations

— How long will the leave accommodation(s) be needed?

— If the requested accommodation is remote work:

- ○ Has the remote work request been evaluated based on the essential functions of the job?
- ○ For how long will the employee need to work remotely to be able to perform the essential functions of their job?

Implementing the accommodation

○ Has the accommodation been communicated to the employee clearly?

Monitoring and follow-Up

○ Are accommodations periodically being reviewed and updated as necessary?

○ Have you determined when you'll revisit the need for, and the appropriateness of, the accommodations?

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