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30 Years of ADA Disability Compliance: Increasing Requests Prompt Teams to Regroup

There is no question that America is a better place when people with disabilities prominently and proudly work and participate in our businesses, schools, and communities. Thirty years ago, the Americans with Disabilities Act (ADA) promised equal access for Americans of all abilities. Today we are at a critical time regarding issues of disability accommodation.

ADA compliance is based on the belief that people with disabilities have equal rights just like people of any ethnicity, gender, or religious affiliation. In the 1990s, ADA considerations were largely focused on getting access and creating job opportunities for people with physical disabilities. At the time, people with significant disabilities often couldn't get into buildings for work let alone receive necessary accommodations. The ADA changed this fundamental need.

Since then, we hear that employers are fielding an increasing number of accommodation requests, which isn't surprising when you consider the Social Security Administration estimate that one in four Americans will become disabled before reaching age 67.¹

Most recently in 2020, the Centers for Disease Control and Prevention (CDC) released a list of medical conditions and told Americans with conditions on the

list they were at higher risk of complications if they got COVID-19. Since then, the CDC has expanded the list of people at higher risk of developing severe illness from COVID-19² to include more diagnoses than the U.S. population (as some individuals have multiple diagnoses).

This means a whole new generation of Americans may identify as disabled for medical conditions generally not considered "disabling" before COVID-19, such as those who have asthma. With this expanded population, more employees are asking for reasonable accommodations, such as working from home. This isn't expected to change, and employees with the greatest need may not get the support they require due to the volume of requests and staff constraints.

So how do employers ensure the pure and laudable intent of the ADA is realized?

1. Confirm that human resources disability compliance teams have the knowledge and skills to manage requests. If you cannot increase team size, ensure they are prepared for this difficult work, which involves determining which requests are covered by the ADA.

2. Ensure skill building efforts include designing consistently applied processes to manage requests. This includes

requiring medical documentation when a disability is not visible; clarification on work restrictions that necessitate workplace accommodations; and duration. Challenge healthcare providers to provide restrictions — not lists of preferred or preferable accommodations — and inform employees about what the interactive process entails. It may be more work at the start, but the time invested enables you to make more confident decisions.

As employers experience a virtual storm of ADA requests, remember the goals of this work. There is nothing more powerful and fulfilling than knowing you removed a barrier that would have restricted a qualified candidate from employment. Find the energy you need to do this work by remembering who you are helping and take pride in your successes. Your work ensures space in your organization for the people the ADA intends to protect.

References

1. NCBI. *Unmet Need for Workplace Accommodation*. May 16, 2019. Retrieved from <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6874222/#R30>
2. DC. *CDC Updates, Expands List of People at Risk of Severe COVID-19 Illness*. June 25, 2020. Retrieved from <https://www.cdc.gov/media/releases/2020/p0625-update-expands-covid-19.html>