

The ADA and Total Quality Management

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, SPHR, Director, Program on Employment and Disability, School of Industrial and Labor Relations – Extension Division, Cornell University. It was written in 1996 by Dale S. Brown, Susanne M. Bruyère, and David Mank.

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Cornell University currently serves as the Northeast Disability and Business Technical Assistance Center. Cornell is also conducting employment policy and practices research, examining private and federal sector employer responses to disability civil rights legislation. This research has been funded by the U.S. Department of Education National Institute on Disability and Rehabilitation Research (Grant #H133A70005) and the Presidential Task Force on Employment of Adults with Disabilities.

The full text of this brochure, and others in this series, can be found at: www.ilr.cornell.edu/ped/ada. Research reports relating to employment practices and policies on disability civil rights legislation, are available at: www.ilr.cornell.edu/ped/surveyresults.html.

For further information, contact the Program on Employment and Disability, Cornell University, 102 ILR Extension, Ithaca, New York 14853-3901; 607/255-2906 (Voice), 607/255-2891 (TTY), or 607/255-2763 (Fax).

More information is also available from the ADA Technical Assistance Program and Regional Disability and Business Technical Assistance Centers, (800) 949-4232 (voice/TTY), www.adata.org

What is the Americans with Disabilities Act?

The Americans with Disabilities Act of 1990 (ADA) is a significant piece of civil rights legislation that extends the prohibition against discrimination on the basis of race, sex, religion, and national origin to persons with disabilities. The employment provisions in Title I prohibit discrimination against persons with disabilities in recruitment, pre-employment screening, hiring, promotions, layoffs and termination's, and any other term, condition, or privilege of employment. Title I covers private employers, state and local governments, employment agencies, and labor unions.

What Is Total Quality Management?

Total quality management (TQM) is a form of doing business in which managers and line employees work cooperatively toward improved quality and productivity. Three components are necessary for total quality management to flourish in any company: participatory management, continuous process improvement, and use of teams.

Participatory management is a process of trust and feedback that evolves between managers and employees. It means providing individual employees and teams with the skills and support they need to understand better how they do business, help improve the production process, and participate in making changes in the organization. A 1992 Gallup poll revealed that 39 percent of American managers had a quality improvement program in place and were pleased by the results.

Continuous process improvement means, accepting small, incremental gains as steps toward total quality. This approach enables employees to develop confidence in the total quality management process and gives managers opportunities to support and encourage employees and teams. Each process is studied, often by the employee responsible for doing it, to see how it can be improved.

Cross-functional teams (sometimes called quality improvement teams) meet frequently using TQM principles to study a particular area that needs work.

What Is "Reasonable Accommodation" under the ADA?

Reasonable accommodation, a critical concept in the employment provisions (Title I) of the ADA is a modification or adjustment to a job, employment practice, or work environment that enables a qualified individual with a disability to participate in and enjoy equal employment opportunity. The employer's obligation to provide a reasonable accommodation applies to all aspects of employment. This requirement may arise anytime a person's disability or job changes, unless the accommodation causes an undue hardship to the employer.

An undue hardship is an action that poses significant difficulty or expense in relation to the size of the company, available resources, or the nature of the business. A qualified individual with a disability or employee cannot be denied an employment opportunity solely because of the need to provide reasonable accommodation. If the employer can show that the cost of the accommodation would impose an undue hardship, it would still be required to provide the accommodation if funding is available from another source, e.g. a State vocational rehabilitation agency, or if tax deductions or credits are available to offset the cost of the accommodation. In the absence of such funding, the individual with the disability requesting the accommodation should be given the option of providing the accommodation or of paying that portion which constitutes the undue hardship on the operation of the business.

How Can TQM Be Used to Help Implement the ADA?

Total quality management can be used when implementing the ADA so as to improve human

resource practices in general, in addition to increasing employment opportunities for people with disabilities. The advantages of TQM apply not only to human resource departments responsible for recruitment, hiring, and employment in both large and small companies.

At least four features of total quality management focus on improvements in the workplace that can benefit all employees.

These four features are

- capacity building
- universal design
- focus on strengths rather than deficits
- use data for decision making

Emphasis on capacity building calls both for changing human resource methods and building the changes into day-to-day practice. Under the ADA, an employer may be required to make modifications or adjustments to a job application process that enable a qualified applicant to be considered for the position desired. Improving the capacity of human resource processes enhances opportunities for people with disabilities and all other potential employees.

Universal design concepts accommodate the diversity of the current and future workforce, including persons with disabilities. Whereas universal design is frequently discussed in terms of physical accessibility and environmental modifications, the same principles apply to services and processes. For example, the use of icons on application forms and computer programs allows a much broader range of people to recognize immediately the information needed.

Focus on strengths rather than deficits create the potential for configuring job duties to take advantage of individual differences. Traditional hiring processes often emphasize assumed requirements that extend beyond the essential functions of a specific job. As a result, they may eliminate potential employees who have transferable skills but do not meet all assumed requirements.

Use of data for decision making includes evaluation of progress and ways to improve processes. If a company intends to increase the diversity of its workforce by hiring employees with disabilities, then data about progress in recruiting, interviewing, and hiring will provide feedback about the effectiveness of its new human resource practices.

How can the Planning Process of Total Quality Management Be Applied to Reasonable Accommodation?

Most organizations that use total quality management use the Plan-Do-Check-Act (PDCA) cycle or a variation of it. Plan-Do-Check-Act can be used as a blueprint for supervisors faced with the need to provide a reasonable accommodation. The steps, spelled out below, can also help in devising an appropriate accommodation for a particular individual.

Plan. The individual with a disability and his or her supervisor should discuss the needed accommodation, evaluate alternative solutions, and select those that appear best. Worker, manager, and other experts work as a team. The President's Committee on Employment of People with Disabilities' Job Accommodation Network (see below) can help.

Do. Once the employee and his or her supervisor or employer agrees on an accommodation, it can be implemented. This should be done with the understanding that the accommodation may need to be reexamined and updated in the event of a job change or a change in the status of the employee's disability.

Check. Assess whether the accommodation is working. Ask the individual, observe outcomes of the individual's work, and observe the worker. If there are problems, return to the planning portion of the cycle.

Act. The request for accommodation may signal action needed to assess the causes of work-related injury to prevent future such occurrences. Also, the information

gained overtime on accommodations can be helpful if similar such accommodations are needed in the future.

Educating Personnel about the ADA

Because the ADA applies to all aspects of participation in society, including employment, public accommodations, transportation, and telecommunications, it will affect businesses both as employers and as providers of goods and services. Each business organization must educate its employees on the provisions of the ADA, its relevance to the functioning of the organization as a whole, and the responsibilities of specific personnel.

One way to introduce ADA nondiscrimination material might be to add it to TQM training efforts, which are being offered by many companies. A familiar term in TQM is bench-marking. Bench-marking is a formalized process for assessing current practices in work performance and outcomes and comparing that with desired or superior performance processes and outcomes. For example, training supervisors on effective bench-marking for unit effectiveness could include the number of work-related injuries for a particular quarter or the number of persons with disabilities who are newly recruited in the workplace. Using such examples will raise awareness of disability discrimination issues in the context of total quality management training for the organization.

Other ADA-related information of particular relevance to supervisors includes

- employment prescreening and applicant interviewing
- medical, drug, and other testing
- identification of essential job functions
- and equal access for persons with disabilities to staff development and promotional opportunities.

Reference

Jablonski, J.R. (1990). Implementing Total Quality Management competing in the 1990s. Albuquerque, N.M.: Technical Management Consortium.

Resources

ADA Regional Disability and Business Technical Assistance Center Hotline,
(800) 949-4232 (voice/TDD).

Job Accommodation Network,
918 Chestnut Ridge Road, Suite 1, Morgantown, WV
26506-6080,
(800) ADA-WORK (voice/TDD).

U.S. Equal Employment Opportunity Commission,
1801 L Street, NW,
Washington, DC 20507, (800) 669-4000 (voice),
(800) 800-3302 (TDD), or (800) 666-EEOC
(publications).

For a more extensive review of the topic see a publication entitled **“Quality Through Equality: Total Quality Management Applied to the Implementation of Title I of the Americans with Disabilities Act,”** by Dale Brown, Susanne Bruyère, and David Mank, which will be available for purchase from your Regional Disability and Business Technical Assistance Center at 800-949-4232 or from LRP Publications
PO Box 980
Horsham, PA 19044-0980
Phone 1-800-341-7874

Disclaimer

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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>