



Small Business and the ADA

An ADA Knowledge Translation Center Research Brief

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What is the ADA?

The Americans with Disabilities Act (ADA) passed on July 26, 1990. It provides a legal framework for people with disabilities to challenge discrimination. The ADA's importance extends well beyond the court system. The ADA is also a broader symbol of bipartisan support for disability inclusion in all parts of public life. Under the ADA, disability is formally recognized as a source of discrimination. It is similar to how "race, color, religion, sex, or national origin" is recognized by the Civil Rights Act of 1964. The ADA provides a legal framework for individuals with disabilities to challenge discriminatory practices in work settings, state and local government, and places of public use. The larger goal of the law is to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for all individuals with disabilities.

The ADA and Small Business

Small business is an important part of the United States economy. Small businesses spur job growth and develop market-based solutions to meet the needs of the communities they serve. According to the Small Business Administration (SBA), there are over 28.8 million small businesses in the United States (those with fewer than 500 employees), representing 99.7% of all employers and employing 56.8 million people, which amounts to 48% of the private workforce. In fact, small businesses account for 63% of all new job creation – nearly two out of every three new private sector jobs.^{1,i}

Several areas of the ADA relate to small businesses. Businesses with 15 or more employees are covered by Title I of the ADA. Title I of the ADA prohibits employers from discriminating against qualified individuals because of disability. This covers the application process, hiring, advancement, compensation, job-training opportunities, and the firing process. Title III of the ADA also affects small businesses and prohibits discrimination because of disability in activities that are available to the public. These include retail stores, banks, theaters, restaurants, recreational facilities, day care facilities, and numerous other places of the business. There are tax incentives (<https://adata.org/factsheet/quicktips-tax>) that can help with the costs of creating businesses that are more accessible or accommodating employees. Some states even offer additional state tax credits that can increase the incentives that were made to encourage ADA compliance.

This research brief provides highlights of current research affecting ADA implementation in small businesses, focusing on Title I and Title III, and provides on-the-ground examples of practitioners working with small businesses and the ADA.

HIGHLIGHTS OF FINDINGS

- There is a large gap in research specific to small business and the ADA. However, many of the same issues found in disability employment research generally also apply to small businesses. This can include discrimination facing employees with disabilities, concerns over cost of accommodations for employers, and ensuring access for customers.
- There are misperceptions by small businesses about the costs associated with accommodations, hiring and healthcare for employees with disabilities. Training and education that includes resources about costs and benefits of ADA implementation is important for small businesses.
- Supporting employees with disabilities also benefits customers. Often, the accommodations and features that benefit employees also improve access for customers. Additionally, hiring people with disabilities can improve customer relationships and open new markets.

ⁱ There are differences between States. The profiles for individual states can be found here: <https://www.sba.gov/advocacy/2017-small-business-profiles-states-and-territories>.

Research about the ADA and Small Business

There is limited research specific to the ADA and small business. We highlight key issues from current research related to small business hiring and accommodations for employees and customers.

Title I: Supporting People with Disabilities as Employees Barriers

Only 22.6% of companies that have between 15 and 249 employees report that they currently have an employee with a disability. By contrast, 53.1% of larger companies report having an employee with a disability.² Recruiting and retaining qualified employees with disabilities has been a barrier for small business.³ While this barrier is influenced by several factors, small business employers noted that not having enough information regarding disabilities, tax incentives, and other related policies were found to influence their attitudes toward hiring people with disabilities.⁴ Small business employers worried that people with disabilities would not be able to complete work tasks and that employees with disabilities might be less safe while working.

A key aspect addressed by the ADA, is a fear, on the part of small businesses, of increased costs related to healthcare and accommodations. Small businesses also report a fear of litigation related to discrimination as reasons for not hiring people with disabilities.^{4,5,6} Anticipated costs of accommodations are one of the most significant barriers to employing people with disabilities in small business.³ Cost considerations of accommodations have been reported as more important for hiring decisions in small business than larger businesses.^{7,8}

What employers believe will be the direct costs of reasonable accommodations often do not match the experience of providing them. Only 50% of people with disabilities require accommodations in their workplace. Additionally, because they have fewer employees, small businesses are much less likely than larger businesses to have to provide accommodations.⁹ A study by the Job Accommodation Network found that, on average, accommodations cost employers \$500. Most accommodations, 59%, did not cost anything.¹⁰ While most accommodations are low cost or free, negative stereotypes or fear of making a mistake may prevent workplace discussions about providing job accommodations from even taking place.

Facilitators

Several factors help increase employment of people with disabilities in small business. Researchers found that having support for hiring people with disabilities from top-level management was an important factor.¹¹ A clear commitment to employ people with disabilities from top management is important for employee recruitment. Gaining buy-in from multiple levels of the organization to implement related activities and policies is also crucial.¹² Further, hiring decisions in small business are often affected by social contacts, cultural values and identity, and exposure to people with disabilities. For inclusive workplaces that are open to hiring people with disabilities, in-person contact, professional relationships and awareness of the ADA are also key factors.¹³

A national survey found small businesses use multiple strategies to support employees with disabilities in the workplace.² Some of these strategies include mentoring programs, providing assistive technology, disability targeted internship programs, disability awareness training, and flexible work schedules. Some of these strategies fall under the category of “accommodations,” and the provision of accommodations is a key component for hiring and retaining employees with disabilities. Over half of small businesses in the national study indicated that they would find it helpful to use centralized funds to support hiring and

rention.² Having this type of program is influenced by the commitment of top level management, company culture, and available resources. Other employee engagement strategies, such as employee resource groups, were also useful when supporting professional development and retention of employees with disabilities.¹² These types of activities not only help retain employees with disabilities, but also help employees excel while at work.

Benefits of Providing Accommodations/Employing People with Disabilities

Despite the assumed costs of providing accommodations, one study found that the perceived benefits of having these accommodations outweighed the costs.¹⁴ Small business employers reported several direct and indirect benefits related to providing accommodations.¹⁵ Some small businesses even stated a number of benefits that are less commonly reported in larger companies, such as increasing worker productivity and improved coworker relationships. In a national study of small businesses that had provided accommodations, various personnel in charge of employee decisions reported a number of benefits including:

Retention: Both small and large businesses alike report (90%) that retaining qualified employees is the most important direct benefit of accommodation. Retention is important for small business operation that also has indirect costs associated with replacing, training, and lost work during the hiring or re-hiring process.

Increased productivity: Nine out of ten small businesses report increased productivity based on accommodating a worker with disabilities. While 67% of large businesses report that accommodations improved the overall productivity. Because accommodations are tailored to individual needs, they are a vital part of helping people with disabilities reach their full potential in workplace settings.

There are multiple proven strategies to help small businesses recruit, hire, retain, and generally make more inclusive workplace environments for employees with disabilities. For example, the Employer Assistance and Resource Network on Disability Inclusion (EARN) has developed a toolkit (<http://www.askearn.org/StepsToSuccess/small-businesses/>) for recruiting and retaining workers with disabilities in small business settings. The toolkit looks at the importance of internships and mentoring, expressions of commitment, partnerships, workplace flexibility, veteran targeting, overall accessibility, transportation considerations, and return-to-work/stay-at-work strategies.

Title III: Serving Customers with Disabilities

The ADA recognizes that people with disabilities are members of the public. The law, therefore, requires that businesses comply by removing architectural barriers and becoming accessible. Doing so not only ensures that all customers, regardless of disability, are able to access the same goods and services, it also increases the number of customers served. Small businesses reported that they had concerns about how accommodating people with disabilities could affect the growth of the business.³ For example, the cost of removing architectural barriers affects small businesses differently than larger businesses. A report published by the SBA found that small businesses had building costs 2.2 to 4.1 times greater per square foot than that of large businesses to address architectural barriers.¹⁶

Despite these costs, there are valuable benefits when small businesses are more inclusive of customers with disabilities. In 2007, the Department of Justice (DOJ) conducted research looking at the experiences of customers with disabilities. They found that not only are people with disabilities a valuable customer base, but also that those businesses can benefit by listening to customers about their preferences, desires, and requirements. Doing so can lead to innovations in product development, customer service

strategies, and marketing strategies to boost their bottom line.¹⁷ Research shows that small business owners who anticipate such gains through compliance with the ADA are also more willing to invest in providing public accommodations.¹⁸

Although hiring employees with disabilities and serving customers with disabilities are covered under different parts of the ADA, both of these elements work hand-in-hand for small businesses in moving beyond compliance and creating more inclusive business settings. One study noted that an indirect benefit of hiring employees with disabilities is improved interactions with customers. Small businesses were four times more likely than large businesses to report this benefit of hiring people with disabilities.¹⁵ A national survey found that 87% of customers stated that they are more likely to shop at businesses where people with disabilities are employed.¹⁹ Business owners and operators may not always realize the shared benefit of hiring and serving people with disabilities. One study shows that small business owners and operators are more willing and likely to spend money to accommodate customers with disabilities than to accommodate employees with disabilities.¹⁸ More education and training on the ADA requirements and disability awareness can emphasize the shared benefits of creating accessible and inclusive business settings.

Conclusions

ADA implementation in small business is understudied. Continuing research on disability inclusion is important because of the growing small business workforce. Limited exposure to workers with disabilities continues to be a barrier to implementation of the ADA. Addressing disability inclusion through hiring and accommodating workers with disabilities will have lasting impact on community inclusion and an expanded customer base

Examples from the ADA National Network

Below are a few examples of how the ADA National Network is addressing the issues raised in this brief. For further information on how the ADA Centers can help with issues related to the ADA, please contact the ADA National Network. (<https://adata.org/>)

- **Planning for Accessible Design:** One ADA Center is frequently contacted by restaurants and other small businesses that are being built or altered in a state that has its own, unique accessibility requirements. This causes confusion since the buildings need to comply with both the ADA Standards for Accessible Design and the state building code. The small businesses contact the ADA Center to determine what is required. Often, they send an architectural plan with specific questions. Since the ADA Center is familiar with the state codes in their region and with the ADA Standards, they consult with the businesses to ensure they are in compliance with both requirements. In addition to answering specific questions, the ADA Center also conducts architectural plan reviews and often suggests changes to the plans to improve accessibility. This assistance and information helps the businesses comply with the ADA, as well as state requirements, and often increases accessibility for customers with disabilities.
- **Identifying Barriers to Physical Access:** One of the ADA Centers recently worked with an owner of a small bookstore located in a historic Chicago neighborhood, who contacted the ADA Center seeking information on how to improve access to the building. The bookstore was interested in ideas and suggestions for providing access to people with mobility disabilities. A Technical Assistance (TA) Specialist from the ADA Center visited the business with the owner to conduct an informal site review. The TA Specialist identified a three-inch step at the entrance and inadequate space inside the store for someone to access the bookshelves. Due to limited space on the sidewalk in front of the store, the owner purchased a portable ramp for the entrance. An

intercom system was installed at the entrance along with a sign displaying the universal symbol of accessibility. Persons requiring the portable ramp in order to enter the store may contact staff for assistance. The bookshelves were rearranged so persons using mobility devices could access this area of the bookstore.

- **Helping to Ensure Compliance:** One of the ADA Centers received a request for an assessment of a medical supply business's physical accessibility. A TA Specialist visited the site and made observations and recommendations about entry doors, curb ramps, and parking lot compliance issues. Based on those recommendations, the business reconstructed their curb ramps to be ADA compliant. Other changes were made and the whole building is now accessible. The landlord paid for the changes.
- **Mediating ADA Complaints:** The architect of a new restaurant contacted one ADA Center after it recently opened in an existing building and a local resident threatened to sue since the building did not have an accessible entrance. The ADA Center explained the ADA requirements for accessible spaces in existing buildings and the ongoing requirements by the business to ensure for barrier removal. The ADA Center recommended the business review their project with the owner and document their findings. A few months later a ramp was added to the front entrance; and the following summer the restaurant added a new deck off the ramp for outdoor dining space for everyone.

Additional Resources

Resources are available to help small businesses better engage with employees and customers with disabilities. Below is a brief list that may be useful for creating an inclusive business.

The **ADA National Network** provides training and technical assistance for businesses to better understand and implement inclusive policies, as outlined in the ADA:

- Fact sheet for small business: <https://adata.org/factsheet/ada-and-small-business>
- Disability etiquette: <https://adata.org/factsheet/customer-service>

ADA.gov is a website maintained by the **U.S. Department of Justice** that provides information and guidance related to the Americans with Disabilities Act:

- ADA Small Business Primer: <https://www.ada.gov/regs2010/smallbusiness/smallbusprimer2010.htm>
- Business outreach to customers with disabilities: <https://www.ada.gov/reachingout/intro1.htm>

The **Job Accommodation Network (JAN)** is supported by the U.S. Department of Labor, Office of Disability Employment Policy and it has multiple resources and information regarding workplace accommodations.

- Job Accommodation Network website: <http://www.askjan.org/>

References:

1. SBA. (2016). *Annual Report of the Office of Economic Research* Retrieved from Office of Advocacy of the U.S. Small Business Administration, Washington, DC: https://www.sba.gov/sites/default/files/OER_Annual_Report_FY2016.pdf
2. Domzal, C., Houtenville, A., & Sharma, R. (2008). *Survey of Employer Perspectives on the Employment of People with Disabilities: Technical Report*, U.S. Department of Labor.

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3. Linkow, P. (2014). *Opening the doors of small business to employees with disabilities: Critical concerns and strategies for success*. Employer Assistance Resource Network. Retrieved from <https://www.askearn.org/wp-content/uploads/docs/smallbusiness-openingdoors.pdf>
 4. Houtenville, A., & Kalargyrou, V. (2015). Employers' perspectives about employing people with disabilities: A comparative study across industries. *Cornell Hospitality Quarterly*, 56(2), 168-179.
 5. Fraser, R. T., Johnson, K., Hebert, J., Ajzen, I., Copeland, J., Brown, P., & Chan, F. (2010). Understanding employers' hiring intentions in relation to qualified workers with disabilities: Preliminary findings. *Journal of occupational rehabilitation*, 20(4), 420-426.
 6. Kaye, H. S., Jans, L. H., & Jones, E. C. (2011). Why don't employers hire and retain workers with disabilities? *Journal of occupational rehabilitation*, 21(4), 526-536.
 7. Chen, R. K., Blankenship, C. J., Austin, B. S., Cantu, V. C., & Kotbungkair, W. (2016). Hiring of people with disabilities: Perceptions of Hispanic small business owners. *Journal of Vocational Rehabilitation*, 45(2), 185-196.
 8. Graffam, J., Shinkfield, A., Smith, D., & Polzin, U. (2002). Factors that influence employer decisions in hiring and retaining an employee with a disability. *Journal of Vocational Rehabilitation*, 17(3), 175-181
 9. Bruyère, S. M., Erickson, W. A., & VanLooy, S. A. (2006). The Impact of Business Size on Employer ADA Response. *Rehabilitation Counseling Bulletin*, 49(4), 194-206.
 10. Loy, B. (2017) Workplace Accommodations: Low Cost, High Impact. *Accommodation and Compliance Series* (pp. 1-z). Morgantown, WV: Job Accommodation Network.
 11. Waterhouse, P., Kimberley, H., Jonas, P., & Glover, J. (2010). *What Would It Take? Employer Perspectives on Employing People with a Disability. A National Vocational Education and Training Research and Evaluation Program Report*. National Centre for Vocational Education Research Ltd.
 12. Broughton, A., & Strebler, M. (2008). Reaping benefits from diversity. *Strategic HR Review*, 7(5), 5-10.
 13. Chen, R. K., Zanskas, S. A., Kuo, H. J., & Ysasi, N. A. (2017). Factors Influencing the Decisions of Women Small Business Owners on Hiring People with Disabilities. *Journal of Disability Studies*, 2(1), 3-10.
 14. Schur, L., Nishii, L., Adya, M., Kruse, D., Bruyère, S. M., & Blanck, P. (2014). Accommodating Employees With and Without Disabilities. *Human Resource Management*, 53(4), 593-621.
 15. Solovieva, T. I., Dowler, D. L., & Walls, R. T. (2011). Employer benefits from making workplace accommodations. *Disability and Health Journal*, 4(1), 39-45.
 16. Bollman, A. (2007). *Evaluation of barrier removal costs associated with 2004 Americans with Disabilities Act (ADA) accessibility guidelines*. Washington, D.C.: Retrieved from <https://www.sba.gov/advocacy/evaluation-barrier-removal-costs-associated-2004-americans-disabilities-act-ada>
 17. DOJ. (2007). *Gathering Input from Customers with Disabilities*. Washington, DC: Department of Justice, Civil Rights Division Disability Rights Section.
 18. Moore, D. P., Moore, J. W., & Moore, J. L. (2007). After fifteen years: The response of small businesses to the Americans with Disabilities Act. *Work*, 29(2), 113-126.
 19. Siperstein, G. N., Romano, N., Mohler, A., & Parker, R. (2006). A national survey of consumer attitudes towards companies that hire people with disabilities. *Journal of Vocational Rehabilitation*, 24(1), 3-9.

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