

FROM DEI TO DEIA: HOW TO INCORPORATE ACCESSIBILITY INTO YOUR DIVERSITY, EQUITY, AND INCLUSION PLAN

Insights
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If you work in the DEI space, then you're likely familiar with recent efforts to add "accessibility" to diversity, equity, and inclusion programs. Even if the term "DEIA" is new to you, your organization may be looking for ways to ensure workers with disabilities can thrive in the workplace. The benefits are clear for workers and employers alike: focusing on inclusion can increase employee morale, job satisfaction, and productivity – and help you build and retain a stellar workforce. So how can you integrate accessibility into your HR initiatives? Here are eight tips to consider for best practices and legal compliance.

1. Understand How Disabilities Affect Employees and Employment

As you're thinking about your accessibility goals, consider the statistics that impact the workplace:

- About 27% of U.S. adults have a disability, [according to the CDC](#).
- Even though employment opportunities for workers with disabilities have been steadily improving over the last few years, the unemployment rate is still double that of workers without disabilities, [according to Bureau of Labor Statistics \(BLS\) data](#).
- Many disabilities are not apparent (and are sometimes referred to as "invisible disabilities").

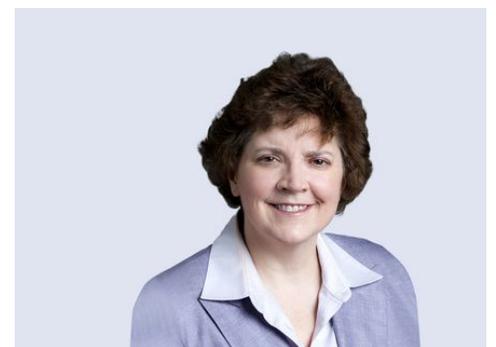
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- Nearly half of workers with invisible disabilities have not disclosed their condition to their employer, [according to SHRM research](#).
- Attention-deficit/hyperactivity disorder (ADD/ADHD), anxiety, dyslexia, and autism are the most common invisible disabilities that employees identified in SHRM's 2023 survey. [[You can read our Insight here on five ways to embrace neurodiversity in your workplace.](#)]

These statistics show that many workers may be facing employment barriers and yet their employers are unaware. This demonstrates the value of being proactive and having an inclusive approach to your accessibility strategy.

2. Establish the Purpose and Objectives of Your Program

As we'll discuss in more detail below, you should take the time to create legally compliant policies and procedures for providing reasonable accommodations to workers with disabilities. But the purpose of a DEIA program generally goes beyond legal compliance to create a safe, welcoming, and productive environment for all workers.

When it comes to accessibility, an inclusive environment provides physical, digital, and mental-health resources, as well as a supportive and flexible environment. Consider taking some time to develop a purpose, establish goals and objectives, and create a collaborative taskforce that includes your leadership team, as well as members from your human resources, legal, technology, and operations departments. If possible, ensure there is diversity in your task force so you can maximize your DEIA program and align your objectives with the needs of your entire employee population.

3. Design an Accessible Workplace

You'll want to look at all aspects of work, from the physical workspace, to the technology you use, to the social events you plan, and beyond. For example:

- Are your bathrooms, breakrooms, and emergency evacuation routes accessible?
- Do you provide adjustable workstations and ergonomic equipment?
- Is your digital content compatible with assistive technologies?



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- Can you adjust the noise level and lighting at the worksite?
- Do you send communications in multiple formats?
- Do your team-building activities enable all employees to participate? Will loud noises, flashing lights, physical activities, or other aspects exclude some employees?
- Has anyone checked your off-site venue to ensure the entrance and bathrooms are accessible to an employee in a wheelchair?

Designing an accessible workplace is an ongoing process that will require feedback and adjustments. Be sure to encourage open communication and allow for process improvements.

4. Ensure Compliance with Workplace Law

Don't forget to review your legal obligations and incorporate them into your program. The Americans with Disabilities Act (ADA) and similar state laws prohibit employers from discriminating against employees and job applicants based on a disability. Moreover, under the ADA, employers must provide reasonable accommodation to the known physical or mental limitations of qualified workers with disabilities, unless doing so would impose an undue hardship on the operation of your business that creates a significant difficulty or expense.

The Equal Employment Opportunity Commission (EEOC) – the federal agency that enforces the ADA – says a reasonable accommodation is “any change or adjustment to a job or work environment that permits a qualified applicant or employee with a disability to participate in the job application process, to perform the essential functions of a job, or to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities.”

Examples include:

- acquiring or modifying equipment or devices;
- job restructuring;
- part-time or modified work schedules;
- reassignment to an open position;

- adjusting or modifying exams, training materials, or policies;
- providing readers and interpreters; and
- making the workplace readily accessible.

According to the EEOC, you can ask job applicants about their ability to perform job-related functions and to describe or to demonstrate how they will perform the functions (either with or without reasonable accommodation). But you can't phrase the questions in terms of a disability.

Additionally, you should note that it is unlawful in the hiring process to:

- ask an applicant if they are disabled or about the nature or severity of a disability; or
- require an applicant to take a medical examination before making a job offer.

There are certain times when a medical examination can be required, such as after a job offer is made and prior to the start of employment, but there are specific legal considerations, so it's best to reach out to experienced counsel before requiring a new hire or current employee to undergo a medical exam.

5. Create a Clear Process for Employees to Request Accommodations

From the start, it's important to ensure your material and process for accommodation requests are accessible to all applicants and employees. Identify a human resources representative or other designated contact for applicants and employees to reach out to with questions. Ensure the process is consistent, easy to follow, and encourages open communication.

As a best practice, you'll want to ensure accommodation requests are quickly addressed, appropriately documented, and handled in accordance with privacy laws. You should recognize that every employee is unique, so even though consistency is key, you'll want to take a collaborative approach and consider the employee's individual circumstances when exploring possible accommodations.

6. Build Flexibility Into Your Policies

Consider developing policies that allow for flexibility in work hours, break times, remote opportunities, and worksite location. You may also want to incorporate opportunities for job sharing, compressed workweeks, and cross-training. Every workplace is different but being flexible in ways that make sense for your organization can help you improve your DEIA program.

7. Train Your Managers

Management training is essential for your accessibility efforts to be incorporated into your day-to-day operations. Training should aim to build an inclusive culture, highlight the strengths that people with disabilities bring to the workplace, and debunk any myths. It should also include tips on disability awareness, effective communication, examples of reasonable accommodations, and an overview of legal requirements. You should review your policies and processes with managers, provide them with resources to support workers with disabilities, and let them know who to contact with questions when situations arise.

8. Show Commitment from Your Leadership Team

We saved one of the most important points for last. The best way to build an inclusive culture is to show commitment from the top of the organization. Is a senior leader open to sharing a personal story about challenges and successes as a worker with a disability? Is your HR team committed to implementing best practices and regularly updating your DEIA policies? Do you support employee resource groups (voluntary employee-led associations) focused on disability inclusion? Do you ask the employee resource group for feedback? All of these activities can help your organization foster an accessible and inclusive environment for workers with disabilities and help them to thrive in the workplace.

Conclusion

The suggestions above are just a few of the ways you can support workers with disabilities and create an accessible environment. If you have questions about best practices to incorporate diversity, equity, inclusion, and accessibility initiatives in the workplace, contact your Fisher Phillips attorney, the author of this Insight, or any member of our [Employee Leaves and Accommodations](#) or [Corporate Compliance and Governance](#) Practice Groups. We will continue to monitor further developments in this area and

provide updates accordingly, so make sure you are subscribed to [Fisher Phillips' Insight System](#) to gather the most up-to-date information.