



THE NON-COMPLIANCE OF EMPLOYMENT RELATED ADA

EXECUTIVE SUMMARY

The gap between the employment rates of persons with disabilities (PWD) and persons without disabilities is substantial. One would assume that the passing of anti-discrimination laws, such as the Americans with Disabilities Act of 1990 (ADA) and the Unruh Civil Rights Act, would heighten the employment rate of PWD within the United States over time. However, employers still hold many biases and incorrect beliefs concerning the hiring and retention of PWD. ***The barriers employers find in hiring PWD include lack of awareness surrounding disability and accommodation issues, concern over costs, and fear of legal liability.*** The concerns over accommodation costs are a central issue for employers. In our research, we aim to analyze the trends in ADA non-compliance cases and the monetary benefits awarded and hope to emphasize the advantages of hiring PWD through our analysis.

Primary data was collected through a series of surveys that were distributed to four target groups: non-governmental organizations (NGOs), individuals with disabilities, job recruiters, and lawyers. Secondary data consisted mainly of a literature review and quantitative lawsuit trend analysis. The literature review spanned across law reviews, economic analyses, and journals focused on disability studies. Our ADA lawsuit data largely came from the provided statistics from EEOC ADA Charges in the years 1997 to 2020, press releases on the official EEOC website, and data from the federal judiciary for ADA filings from the United States Court's website.

The Americans with Disabilities Act of 1990 (ADA) is a statute that aims to eradicate disabilities from being acceptable to discriminate against in the workforce. With the ADA, employers were now required to provide “reasonable accommodations” to PWDs that would allow them to perform their job in the same capacity as their colleagues without disabilities. However, the ADA does not prevent state governments from passing additional legislation concerning disability discrimination. Enforcement of the ADA is also likely to vary between states. ***Our secondary data analysis has shown us that nearly a third of all ADA filings in the year 2017 were filed by California alone.*** The political histories surrounding disability justice vary with each state, with California implementing comprehensive anti-discrimination laws, like Fair Employment and Housing Act, since the 1950s. These statewide differences clearly have an effect on how disability discrimination is handled per state, with California showing a remarkable amount of filings likely due to its history of anti-discrimination.

Employers are worried about accommodation costs when deciding against hiring a PWD, though their monetary fears are fully unfounded. ***A survey of employers by the Job Accommodation Network has found that more than half of accommodations can be implemented at absolutely no cost.*** Financial incentives—such as small business tax credit, work opportunity tax credit, and architectural tax deductions—offset accommodation costs for PWD. Alongside this, we were able to determine a 350% growth rate within the EEOC ADA yearly monetary benefit amount since 1997. Undoubtedly, ***the costs of ADA non-compliance in terms of settlement amounts far outweigh the costs of accommodations in the workplace.***



Barriers to employment for PWD cannot continue. Accommodations provide many benefits that employers must recognize. Our literature analysis has shown that accommodations allow a valuable employee to remain within their job, increase the employee's productivity and attendance, and remove costs associated with training new employees. There is no justifiable reason for employers to not hire or provide accommodations to PWD. Our findings highlight the importance of eliminating the barriers working PWD face to fully utilize our workforce through new innovation.

We recommend that employers aim to include a certain heightened percentage of disabled individuals in their workforce by a near point in time. Additionally, companies can aim to hire recruiters that specialize in the hiring of PWD. Lastly, we believe that minor changes within the culture of the workplace can impact the retention of workers with disabilities. Employers can emphasize in job advertisements the company's commitment to making reasonable accommodations for every disabled employee.



ABOUT THE AUTHORS

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WHY THIS MATTERS TO VOSAP

VOSAP believes in the innovation that persons with disabilities (PWDs) bring to the workforce. This research project aims to discover the benefits of hiring and accommodating persons with disabilities (PWDs) while also exposing the barriers in employment. Within the employment barriers PWDs experience, we hoped to expose the incorrect biases of employers in regards to the incorrect beliefs of PWDs lack of productivity and high accommodation cost. We also aim to expose the true costs of ADA non-compliance and the discrimination of PWDs. We hope our research will help employers increase the hiring and retention of PWDs in order to close the employment gap between those with disabilities and those without disabilities.

ABOUT VOICE OF SPECIALLY ABLED PEOPLE INC

Voice of Specially Abled People (VOSAP) is a global advocacy organization built on the principles of Empowerment of Specially Abled People. In Special Consultative Status with UN ECOSOC, VOSAP is working to create an Inclusive and Accessible world by accelerating implementation of UN Sustainable Development Goals (SDGs) and goals of UN CRPD (Convention on the Rights of Persons with Disabilities) treaty. In addition to enabling individuals with assistive devices, surgical interventions, scholarships etc, VOSAP has created innovative digital transformation tools to promote inclusion of Person with disabilities such as (a) Virtual Art Gallery on Disability to educate masses on disability and promote inclusion, (b) create crowdsource demand for accessibility of public places and create mass movement of virtually connected $\approx 10,000+$ volunteers/change-makers using VOSAP App.

