

COMPLIANCE AND BEYOND: BUILDING A CULTURE OF CIVILITY

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How can employers create environments where the goal is always to find a yes to accommodation requests? Reframe your approach!

Title I of the Americans with Disabilities Act (ADA) requires employers to provide reasonable accommodations to qualified individuals with disabilities so they can perform their jobs fully and safely. The ADA also mandates that employers engage in a timely, good faith interactive process with applicants or employees to achieve this goal.

A good faith effort is the will to do the work, gather data, determine whether a person has a covered disability, and, if so, seek reasonable accommodations, or find a “yes” to the accommodations request.

When absence and disability management professionals use this lens to try and find a yes to accommodation requests, they support a culture that goes beyond compliance and promotes acceptance and civility. It’s about shifting from a focus on compliance to one that creates a workplace where diversity (in all forms, including disability) is the goal, which is what the law intended.

To create this type of environment, start by reframing your approach to the work:

- Ensure spaces are available to those who can do the work with reasonable accommodations.
- Help employees with covered disabilities navigate a complex, interactive process.
- Improve the efficiency of the process by guiding and educating all parties along the way.

Then use the interactive process to help gather data needed to find reasonable accommodations and educate all participants in the process. By going through the process together, all parties understand why an accommodation does or doesn’t exist. To demonstrate good faith and help find a yes for accommodation requests, adopt the following four key elements:

1. Remember your end goal. You are not an employee or employer advocate. You are an advocate of the ADA with the laudable goal of ensuring the intent of the law is met. Focus on data that can temper emotions during the interactive processes, and remember this process may be new to everyone but you.
2. Listen and educate. Try paraphrasing what an employee says to acknowledge you are listening. Reiterate what you are requesting from the employee or the employee’s healthcare provider, and why this data is important to the process. Take notes and be aware that body language, such as eye contact and the position that your body faces, matters. Explain the ADA to help employees understand it is not what you think is reasonable or required, it’s the law and what is legally considered reasonable.
3. Demonstrate patience, kindness, and competence. This work often takes all three. It is likely you are working with employees who are going through difficult

times. It’s common for people to be angry or fearful after an injury or when facing illness. You need to gather data to know if a reasonable accommodation is possible, regardless of a person’s personality or how you are treated. This can be hard. Good faith is you providing a consistent and fair process to everyone. That reminder will help you weather emotions levied at you, and it will build your reputation within the organization, which will make future interactive processes easier.

4. Be prepared. You have to know your stuff and stay up-to-date with the law. Always draft bullet points before conversations or meetings, try to anticipate the tenor of the meeting, and be ready to adjust course if new information is introduced.

A successful absence and disability practitioner is not afraid to push back when discussions are not helpful or aligned with the matter at hand. Use this process to gather data that helps you find a yes when it exists each and every time.

