

Better Hiring Through The ADA

ADA requirements present an opportunity to enact better hiring practices, allowing you to hire employees with more potential for success.

by Warren Bobrow, Ph.D.

THE AMERICANS WITH Disabilities Act (ADA) will no doubt increase the number of disabled individuals seeking employment. Designed to provide equal employment opportunities for the disabled, it could present problems for employers not prepared to deal with hiring them. However, the ADA also presents great benefits to employers willing to follow the spirit of the law.

Despite some claims to the contrary, the ADA does *not* say that employers must hire anyone with a disability. It states that a person cannot be denied a job because of a disability unless that disability prevents performance of *essential job functions*. Functions can be considered essential for the following reasons: Performance of a particular function is the purpose of the position; the number of qualified employees available to perform the function is limited; or only a specialist can perform the function.

The challenge for employers is how to prove that a job function is essential. This can be accomplished through:

- Expert judgment;
- Written job descriptions prepared before jobs are advertised and applicants are interviewed;
- Assessment of the time current employees spend performing a particular job function; or
- Evaluation of the consequences when that function is not performed.

Another important ADA concept is *reasonable accommodation*, which is any change an employer makes in the job or

work environment to allow an otherwise qualified, disabled individual to perform the job without causing the employer *undue hardship*. A reasonable accommodation could be:

- Making existing facilities accessible and usable by disabled individuals;
- Changing job duties so that an able-bodied individual can perform a job task which the disabled individual cannot perform, in return for which the disabled individual can pick up one of the able-bodied individual's tasks;
- Training-, or
- Modifications to work equipment.

What the ADA does not specify is what dollar amounts are reasonable and which accommodations would cause undue hardship. In California, which already has a law similar to the ADA, most accommodations have been relatively simple and have cost less than \$100.

As an example of a reasonable accommodation, let's say that quality control clerks are responsible for walking to a specific area to receive

their goods and that they generally check the goods while standing at a table. A reasonable accommodation for an individual in a wheelchair would be to: have an able-bodied individual receive the disabled employee's goods in exchange for the disabled person performing some of the able-bodied person's tasks, and construct a lower table.

The law states that it is up to the disabled person to suggest an accommodation. This is important because many individuals perceived as unable to perform a task are often quite proficient. A case in point is that of Jim Abbot, a very successful pitcher for the New York Yankees. He fields his position well despite the fact that he was born without a right hand. Abbot learned to field his position as many kids do — by playing baseball. He has simply adapted the way he plays.

Developing Hiring Procedures Under the ADA

To formulate a legally valid system when developing pre-employment hiring procedures, employers must identify the essential job functions. The ADA reinforces the need to analyze jobs *before* establishing hiring criteria.

In the past, most pre-employment practices included an interview and perhaps some paper-and-pencil tests. The ADA will shift the emphasis *from* these types of measures to actual work sample tests.

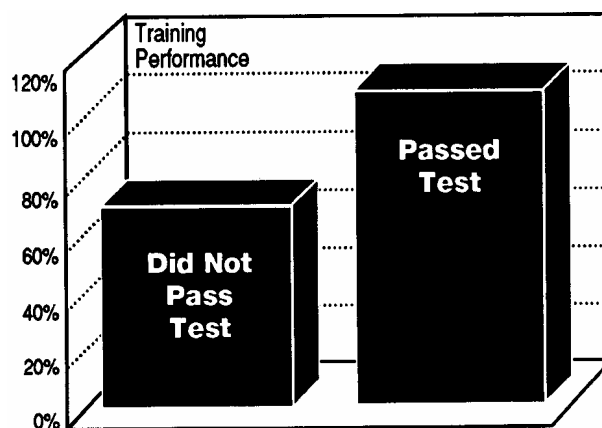
When work sample tests are given, applicants are asked to perform some

of the essential physical functions of a job. If only experienced people are needed, a good work sample may be one where the person performs some of the functions on an actual piece of equipment. For employers willing to hire people without experience, a good work sample would require applicants to perform an essential physical function, but not use an actual piece of machinery.

A short case study, which was a test validation study for quality control personnel, can serve as an example of a work sam-

FIGURE 1

Predicting Operator Training Performance



ple test. In this case, the essential job functions were determined to be: adequately checking quality and making color discriminations.

Checking quality was considered an essential job function because it is both an important and frequently performed task. To measure a person's ability to inspect for quality, a paper-and-pencil test was used. This particular test asked applicants to examine a group of similar items and point out which ones were different from the others. The advantage of using written tests is that they are standardized, which helps to ensure fair, reliable scores.

Color discrimination also was considered an essential job function. Because of the way in which the work teams were organized, it would *not* be a reasonable accommodation to assign one person in the group to match the material by color for everyone else. Additionally, because color discrimination is not performed often, it would be an undue hardship to hire another person for that specific task.

To test color-matching ability, it was decided that a work sample test would be the most appropriate method. Since this particular company generally hires people without experience, a test unrelated to experience was designed.

The test for matching colors was fairly straightforward. Applicants were given 40 pieces of material and asked to match like-colored pieces into 20 pairs. When the test was given to current employees, it was found to be an excellent measure of job performance. Those who scored above average on the test were 30 percent more productive than those who scored below average.

What's important about this example is that a valid work sample test based on an essential job function was developed. The only disabled people against whom the test would unfairly discriminate would be the blind. However, there would be no way to reasonably accommodate a blind individual for this job.

Of even greater importance is the fact that regardless of whether or not the applicant for the job was able-bodied, a test to select the most qualified and productive persons for the job was developed.

Training the Disabled

As noted, training is a reasonable accommodation for a disability. In a sense, employers have always considered training an accommodation for people who do not know how to do certain job functions correctly. This is where testing can help employers hire within the ADA, while making training programs as effective as possible.

Let's say, for example, that a person applying for a sewing machine operator job is missing several fingers. Normally, such an applicant would be rejected because society has been conditioned to believe that he or she could not handle one or more of the essential job functions, such as fabric handling. Now, in accordance with the ADA, the question should be, "Does this person have the basic skills to perform the job, regardless of this disability?"

For example, one of the essential job functions of the sewing machine operator is the ability to bring two pieces of fabric together. But notice that nothing is stated about the need to use two hands and 10 fingers, or about finger dexterity or types of movement such as those associated with a pegboard test. In short, even though an applicant might be missing several fingers, that doesn't necessarily mean he or she can't handle fabric.

Let's examine another case study at a sewn products manufacturing company, where several tests to predict sewing machine operator training performance were developed. The purpose was to use a work sample test to predict something about the person's ability to perform the essential job functions not related to experience. In this case, applicants took fabric matching, reasoning and math tests.

What was notable in this instance was the relationship between test scores and training performance (see Figure 1). Those who passed the test produced at 104 percent after six weeks of training; those who did not pass produced at

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64 percent after six weeks of training. Moreover, according to the manufacturer's management, for the 80 operators trained since study began three years ago, this represents savings of \$9,000 in training costs. (This figure is based on the increased training proficiency of those who passed test. Specifically, it is derived by taking the

standard deviation of training, times [x] the average passing score of the test, times [x] the validity of the test, minus [-] the cost of testing.)

During the past three years, the manufacturer also has tracked the ongoing performance of people who took the test. On a scale of 1 to 100, those who scored 90 or higher produce at an average of 134 percent; those who scored better 70 and 80 produce at an average of 100 percent. Only people who scored above 50 were hired, but the trend of the data suggests that those who scored 30 would perform at about 40 percent and those who scored 10 would perform at about 15 percent.

A Long-Term View

Should employers be frightened of the ADA? Not really. The law merely provides disabled people with fair chance to get a job they are fully qualified to perform.

Should employers change the way they think about hiring people? Absolutely. The ADA provides an opportunity to legally select the most qualified applicants, disabled or not, who have the greatest potential to be successful employees. And by selecting successful employees companies can't help but improve their performances.

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