

# LAW, POLICY, AND BUSINESS: HOW CAN CORPORATE CULTURE INFLUENCE DISABILITY JUSTICE?

## ISSUE BRIEF

### INTRODUCTION

As conversations about diversity, equity, and inclusion become more widespread, we must consider how a company's culture influences the sustainability of these practices in the workplace. This workshop will explore how best to implement accessible and inclusive business practices for people with disabilities. As you read this brief, reflect on how corporate culture interacts with business policy and law to promote or impede the creation of a diverse workforce.

### WHAT ARE THE NUMBERS?

**1.3 billion** people are disabled worldwide [1].

~**40%** of neurodiverse people are unemployed [2].

**4%** of companies stress disability inclusivity [3].

**90%** of websites are inaccessible to people who use assistive technology [4].

**71%** of accommodations cost \$500 or less [5]

### INCLUSIVE WORKPLACES ARE:

**10 times** more likely to be highly effective [6].

**90%** higher retention rate in largest 4 U.S.

autism hiring programs compared to industry averages [7].

**86%** of employers rated employees with intellectual and developmental disabilities as good or very good in dependability, motivation, engagement and peer integration [8].

### KEY CONCEPTS & DEFINITIONS

#### Dimensions of Accessibility [9]

- Physical Accessibility
- Technological Accessibility
- Attitudinal Awareness

#### The Recruitment Timeline [10]

1. Identify Hiring Need (1 wk)
2. Create Job Description (1 wk)
3. Post the Position (2 wks)
4. Screen Applicants (1 wk)
5. Interview by Phone (2 wks)
6. Interview In-Person (2 wks)
7. Select Employee (1 wk)

#### Employer Assistance and Resource Network on Disability Inclusion:

A free, nationwide service that teaches employers about effective strategies for recruiting, hiring, and retaining employees with disabilities [11].

#### The Workforce Recruitment Program for College Students with Disabilities:

A free, national resource that connects private businesses and federal agencies with qualified job candidates for positions in various fields [12].

# FOSTERING AN INCLUSIVE CULTURE

**Employee Resource Groups:** Communities for employees who share an identity or interest, or are allies of that community [13].

**The role of an ERG is threefold [14]:**

1. **Foster Inclusion:** Create a space of belonging by connecting employees who share identities and enhancing the visibility of underrepresented populations.
2. **Improve Diversity:** Assist with recruitment efforts (i.e. create messaging materials, participate in career fairs and panel events, interview applicants).
3. **Advance External Impact:** Connect ERG members with other parts of the business. Work with corporate leaders to advance equity and improve resources.

**Strategies for Creating Effective ERGs [15]:**

1. Corporate DEI team and ERG leadership **SHARE** their respective strategies and goals to ensure they align. When the two visions align, employees are much more likely to feel included; when the goals diverge, they can feel less included.
2. ERGs **DEFINE** the ERG mission and goals in relation to the overall DEI strategy, **OUTLINE** their objective, **SELECT** leaders for particular initiatives, **IDENTIFY** the role of members, **ASSESS** their impact with metrics, and **SEEK** feedback.

## THE LAW: AMERICANS WITH DISABILITIES ACT (ADA) (1990)

The ADA defines a disability as a “a physical or mental impairment that substantially limits one or more major life activities of [an] individual” [16]. To be protected by the ADA, the disability must significantly affect major life activities, such as hearing, seeing, learning, and working [17].

Under Title I, employers of 15 or more employees may not “discriminate against a qualified individual on the basis of disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment” [18]. Employers must make reasonable accommodations for all known and visibly obvious mental and physical limitations of persons with disabilities who are qualified for the role [19]. If such accommodations place “undue hardship” on businesses, this stipulation is null [20]. This law also protects U.S. citizens employed by an American or American-controlled corporation abroad [24].

The ADA does not impose on the right to hire qualified applicants or create any affirmative action mandate, It must first be clear that a person satisfies the job requirements and that they can perform the essential functions of that position.

The U.S. Equal Employment Opportunity Commission (EEOC) handles all charges of employment discrimination. When a complaint is filed, the EEOC examines factors such as the essential functions of the job, the employee's work experience, and the implications of providing a person with a reasonable accommodation to not perform a function [21]. When essential functions can still not be performed with accommodations, the organization is not obligated to alter the essential functions of the position, create a new position, or create a vacancy for an applicant with disabilities [22]. However, when a current employee cannot perform their job with accommodations, the organization must consider reassignment [23].

# WORKSHOP OVERVIEW

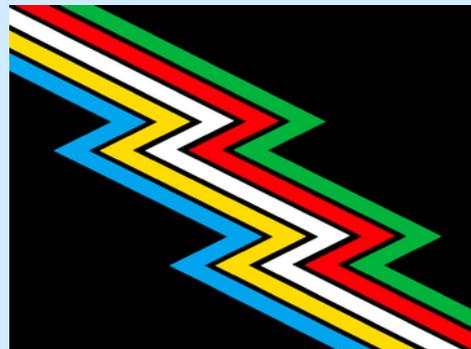
*In this workshop, participants will assume the roles of different stakeholders to explore the most effective, inclusive practices for people with disabilities. Below is the profile of the corporation that will be the focus of this case study.*



Pixel is a multinational corporation headquartered in the United States. Currently, the company does not have the organizational infrastructure to foster disability inclusion. Specifically, the company lacks policies to promote hiring people with disabilities and does not have a disability-specific representative on their recruitment team. In fact, there is overwhelmingly low hiring and retention rates of individuals with disabilities who can, with or without reasonable accommodations, meet the essential functions of jobs offered by Pixel. Pixel also has a history of providing accommodations that are unreasonable and do not align with the communicated needs of employees. Furthermore, Pixel underfunds its Employee Resource Groups and does not have a disability-specific DEI consultant.

An employee with disability recently started working at Pixel, and the corporation failed to include them in the decision-making process for their reasonable accommodations. This case has raised awareness of organizational gaps within Pixel in regards to the inclusion of employees with disabilities. Stakeholders have shared their expectations on the way forward for the corporation, and key players must now work together to decide on this path.

<b>CEO</b>	<ol style="list-style-type: none"> <li>1. Ensure highest productivity at Pixel</li> <li>2. Allocate funding to different parts of the company; minimize costs</li> </ol>
<b>DEI Team at the Corporate Leadership Level</b>	<ol style="list-style-type: none"> <li>1. Review workplace hiring and retention statistics to identify places of systemic barriers to employees with disabilities</li> <li>2. Set and oversee implementation of corporate DEI mission and goals</li> <li>3. Prepare employee and management trainings</li> </ol>
<b>In-House Counsel</b>	<ol style="list-style-type: none"> <li>1. Set and maintain corporate culture</li> <li>2. Prevent ADA and civil rights violations at all levels</li> <li>3. Protect corporate reputation</li> </ol>
<b>Recruitment Team</b>	<ol style="list-style-type: none"> <li>1. Hire most qualified candidates at most efficient pace</li> <li>2. Provide and implement lowest cost accommodations</li> </ol>
<b>ERG Leader</b>	<ol style="list-style-type: none"> <li>1. Provide platform of connection and boost visibility of employees with disabilities</li> <li>2. Participate in recruitment initiatives</li> <li>3. Collaborate with corporate leaders to advance disability justice</li> </ol>
<b>Staff Member EEOC</b>	<ol style="list-style-type: none"> <li>1. Review complaints for hiring or employment discrimination and ensure that accommodations that are given align with what is necessary and reasonable</li> <li>2. Will either arrive at a potential remedy by mediating or settling the dispute OR Send "Right-to-Sue" letter if discrimination has been proven under the ADA</li> </ol>
<b>Equal Employment Lawyer</b>	<ol style="list-style-type: none"> <li>1. If the filer obtains a "Right-to-Sue" letter, a lawsuit is filed and the company must both financially compensate the filer and improve inclusive corporate practices by the court</li> </ol>



# "NOTHING ABOUT US WITHOUT US"

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