Human Resources and Hiring Managers Toolkit

Steps For Success:

Hiring, On-Boarding, And Retaining People Who Are Blind Or Have Low Vision

Application, Assessment, and Interviewing

AFB American Foundation® for the Blind

Technology and Accommodations in the Workplace: Insights & Recommendations for Human Resources and Hiring Managers

Introduction

Research has demonstrated that many hiring managers and Human Resources (HR) professionals are not well-prepared to recruit, hire, and retain employees who are blind or have low vision. The recruiting, interviewing, and hiring of blind persons may appear as a daunting undertaking to human resources and other hiring managers. Many hiring managers simply do not know how blind and low-vision employees use computers or office equipment, for example [1]. Workplace technology can also present barriers to inclusion during the recruitment, application, interviewing, onboarding, accommodation, and retention stages of employment.

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AFB conducted the Workplace Technology Study (WTS) to better understand and document the technology-related experiences of American workers who are blind or have low vision. In 2021, AFB conducted a survey of 323 blind and low-vision individuals who were employed in a variety of sectors. This report combines the original research findings with policy guidance and recommendations from technical assistance resources on inclusive employment practices. For each stage of the employment cycle, we present a summary of requirements and best practices, findings from the report, and recommendations specifically geared for HR staff and hiring managers to ensure full inclusion of blind and low-vision employees.

Key Definitions

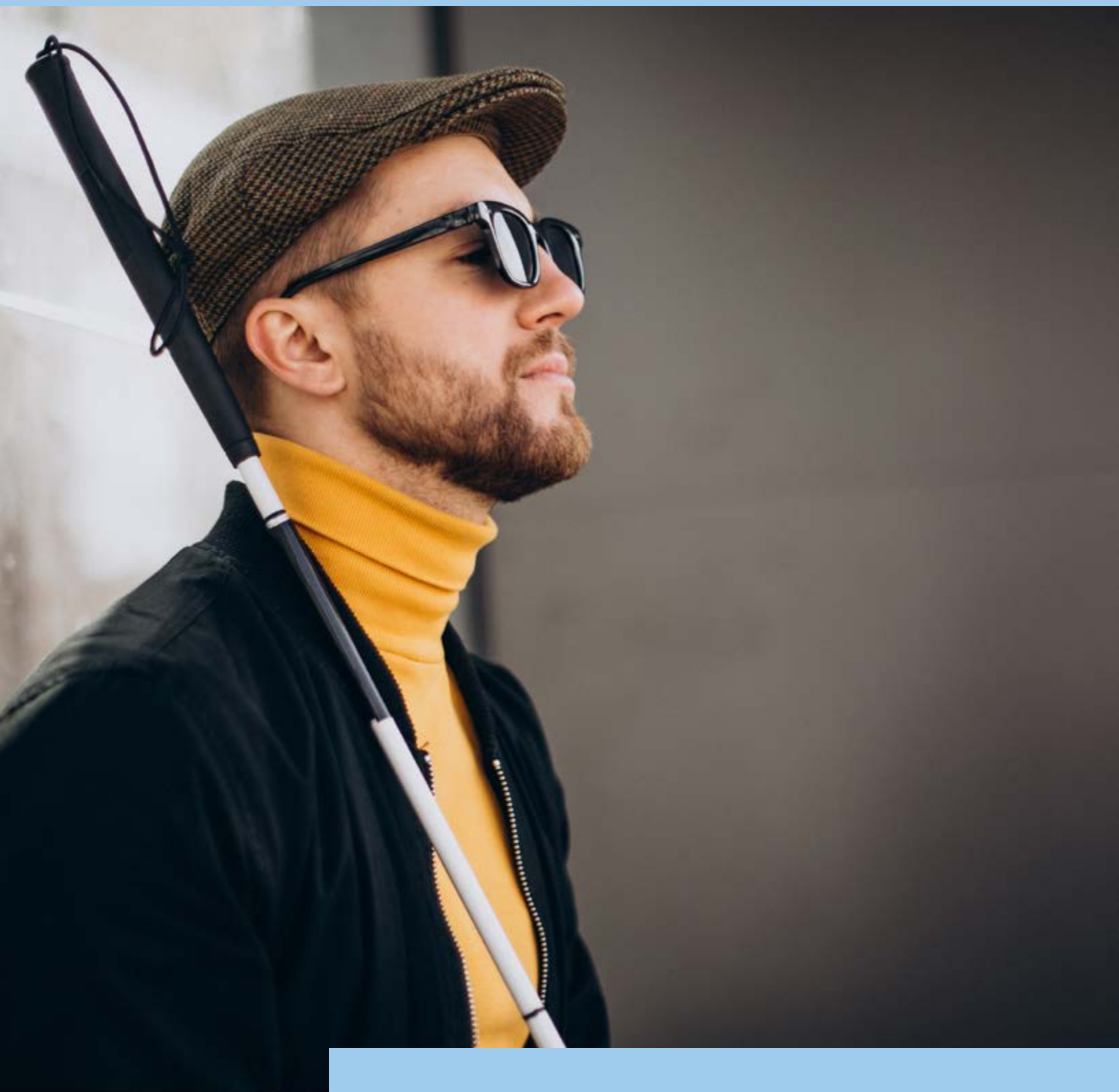
- **Reasonable Accommodations:** Under Title I of the Americans with Disabilities Act of 1990 (ADA), reasonable accommodations are changes to the place where work is performed or the way in which the work is performed that allow people with disabilities equal opportunities in employment while also not causing "undue hardship" on the employer [2]. Three categories of reasonable accommodations are outlined in the ADA: modifications or adjustments to the job application process, modifications or adjustments to the environment, manner, or circumstances that enable the employee with a disability to perform the essential functions of the job, and modifications or adjustments that allow for equal benefits and privileges of employment [3].

- **Undue Hardship:** Undue hardship as outlined in the ADA is an accommodation that would be overly financially burdensome or difficult for an organization to execute. Undue hardship can be determined by a number of factors including cost, financial resources of the organization, and size, number of employees, and type of operation of the organization [3]. This is rarely awarded to employers, as the threshold is set quite high. [4] In US Airways, Inc. v. Barnett, 535 U.S., 122 S. Ct. 1516 (2002), the Supreme Court found that an employee only needs to show that an accommodation seems reasonable, after which the burden of proof shifts to the employer to be specific about why the accommodation would create undue hardship [3]. With the burden of proof weighing so heavily on the employer, undue hardship is rarely granted.

- **Disability:** The ADA defines disability in legal terms rather than medical. Someone is considered to have a disability if they are a "person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment." [5]

- **Artificial Intelligence:** Congress defines artificial intelligence as "machine-based system that can, for a given set of human-defined objectives, make predictions, recommendations or decisions influencing real or virtual environments" [6]. In HR, this can take the form of systems that leverage big data to predict the applicants' success during the recruitment and screening phases of employment.

Application, Assessment, and Interviewing



Application, Assessment, and Interviewing

Having a recruitment strategy that promotes diverse hiring is not only good for society, but a strong business case can be made for ensuring your teams are inclusive. As you look to grow your teams and recruit new talent, it's important that you use every resource available, and reach out to every individual or group, including those with visible or invisible disabilities. You're not only legally mandated to make sure your hiring practices are ADA compliant, but if your website, interview practices, and office itself aren't accessible and friendly to disabled applicants, you're doing your company a disservice by essentially eliminating an entire pool of potentially immensely talented candidates – just like that.

Significance of Our Research

Our research in the WTS demonstrated that best practices for access and accommodations during the hiring process are not consistently implemented. About one-third of WTS participants reported difficulties accessing job applications and screening assessments. Our research also sheds light on the complexities of disclosing disability in the workplace; WTS participants disclosed at differing points during the hiring process, while some participants did not disclose their disability at all. These findings support the need to respect candidates' choices regarding disability disclosure.

Actions You Can Take

Web content accessibility guidelines can help you determine what needs to be done, however top recommendations include:

- **Ensure** that all job application forms and required assessments are fully accessible to people using assistive technology. Candidates who are blind or have low vision must be able to access both your job postings on your website, and any job boards you're posting on – and be able to fill out the application itself.
- **Ensure** that AI tools used in applicant screening do not systematically exclude applicants with disabilities.
- **State a commitment** to providing reasonable accommodations to promote an inclusive culture where candidates feel safe requesting accommodations.
- **Refrain from asking** about a candidate's disability or accommodation needs until they are offered a position.
- **Presume competence,** assuming job candidates who are otherwise qualified can perform job tasks with or without reasonable accommodations.

Application and Interviewing Promising Practices

1. **Rights and Responsibilities: Accommodations:** Employers are generally obligated to provide effective reasonable accommodations if they are requested by the applicant. [3, 5, 8] Furthermore, Employers are not allowed to ask questions about a disability or accommodation prior to making an offer of employment.

Until a job offer has been extended, the ADA and the Rehabilitation Act of 1973 do not allow employers to ask an applicant about the nature or condition of their disability. Employers may invite applicants to self-disclose disability status for affirmative action purposes that aid the applicant. That information about disability must be kept separate from other application information and may only be used to benefit the applicant. Employers may ask whether the individual will require an accommodation and what type if they voluntarily disclose. After the job offer has been made, the employer may ask additional questions of future employees with disabilities for the purpose of providing accommodations and determining whether the disability poses a direct threat to health or safety. In general, employers may not discriminate if the employee can safely perform essential job tasks with or without a reasonable accommodation. For more information on employers' responsibilities, see "Blindness and Vision Impairments in the Workplace and the ADA" published by the Equal Employment Opportunity Commission.

Not all people disclose their blindness or low vision when seeking employment. In the WTS, 81% of the participants disclosed their disability to their current or most recent employer, most commonly during the interview or in their resume or cover letter.

2. **Rights and Responsibilities: Screening Out:** The ADA notes that "screening out" a person with a disability (losing the job opportunity as a result of a lowered performance on certain selection criteria) is unlawful if it screens out an otherwise qualified individual with a disability who is able to perform the essential functions of the job with or without accommodations. Because AI can screen out applicants with disabilities, the EEOC recommends that employers test screening tools and question developers to find out if disability was considered in the making of the tool. Employers can also offer a variety of accessible formats to collect information about candidates. In addition, employers should be transparent about what traits the tool is measuring and how, so that employees can request reasonable accommodations if they feel it is necessary for them [6].

Example: A prospective employee who is blind is required to perform a gamified test that uses video and pictures to assess traits such as problem solving and speed of response. No audio description is provided for the visual depictions, therefore causing the applicant to miss out on crucial information. The potential employee is "screened out" by the software. The applicant is qualified for the essential job duties. This is unlawful according to the ADA as reasonable accommodations were not provided that could have allowed the applicant to be considered for a job opportunity they were qualified for.

Having intersecting identities may affect a person's decision whether or not to disclose. In WTS, while 85% of the White participants disclosed their disability to their employer, only 75% of the non-White participants did. These findings show there is still work to be done in ensuring people who are blind or have low vision, from minority backgrounds, know that their disability status will not affect employment opportunities. Participants who had become blind or lost vision more recently were also less likely to disclose their disability than the participants who had been blind or had low vision from a young age.

3. **Artificial Intelligence Considerations:** Recruitment and hiring processes should be accessible and equitable. Artificial Intelligence (AI) may act to reduce the opportunities for people with disabilities to be equitably considered for jobs they are qualified for. AI algorithms can reflect bias against people with |disabilities and against the purposes of diversity in general, especially when the data on which they are trained is biased or unvalidated for diversity [9]. Using data like "personality traits," "cultural fit," "outcome data," and "aptitude tests" can be misleading and automatically cut out a number of candidates who are qualified and represent diverse populations. Even algorithms that consider certain educational measures and devalue candidates with employment gaps can discriminate against people with disabilities; for example, people with newly acquired disabilities may leave the workforce temporarily to learn adaptive skills and master assistive technology. Such individuals may return to the workforce prepared for employment but could be unwittingly excluded by AI algorithms due to the gap in their resume.

Employers should be aware that AI takes shortcuts whenever possible, seeking easy correlations among data; therefore, AI can become more biased in its analysis. Since most AI processes are kept as proprietary trade secrets, knowing their biases can be impossible.

Regarding disability disclosure, one participant wrote:
"It's uncomfortable [to ask for accommodations] because I don't think they're knowledgeable about the needs of blind and visually impaired people." ***—Hispanic/Latinx female in her 50s who became visually impaired in childhood***

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