



# WHAT YOU SHOULD KNOW ABOUT DISCRIMINATION & REASONABLE ACCOMMODATIONS IN A COVID-19 ERA

Denise Rubio, Senior HR Specialist, Middle Market

Ammara Abedi, Project Manager – Marketing & Business Development

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# LET'S POLL

**How many are familiar with the ADA?**

- Yes
- Somewhat
- Need more info

**How many of you have made ADA accommodations within your business?**

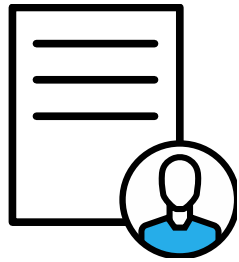
- Yes
- No

# Agenda

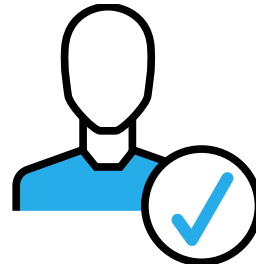
- What is the ADA?
- What Organizational Leaders need to know
- ADA Interactive Process
- Reasonable Accommodations
- ADA Coverage and COVID-19
- Pandemic Related Discrimination
- Stigmas
- Disparate Treatment/Disparate Impact
- Employer Do's & Don'ts - Key considerations

# What is ADA? What do leaders need to know?

Prohibits discrimination against qualified individuals with disabilities in:



**Application  
process**



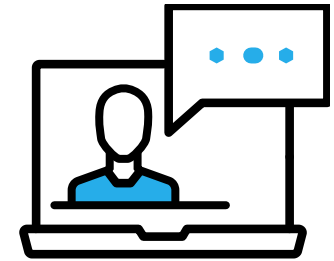
**Hiring**



**Firing**



**Advancement**



**Online  
Training**



**Other  
Employment  
Terms**

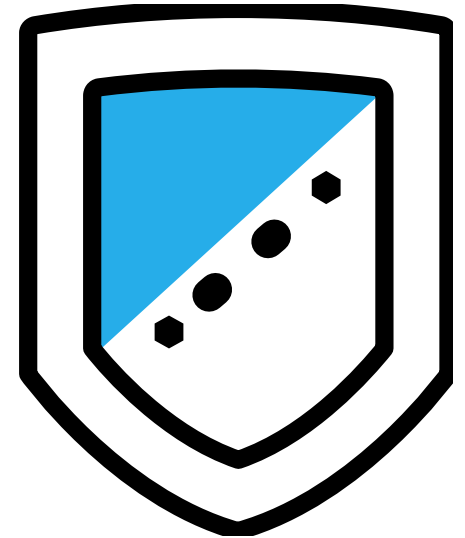


**Compensation**

# Who is protected?

## ADA:

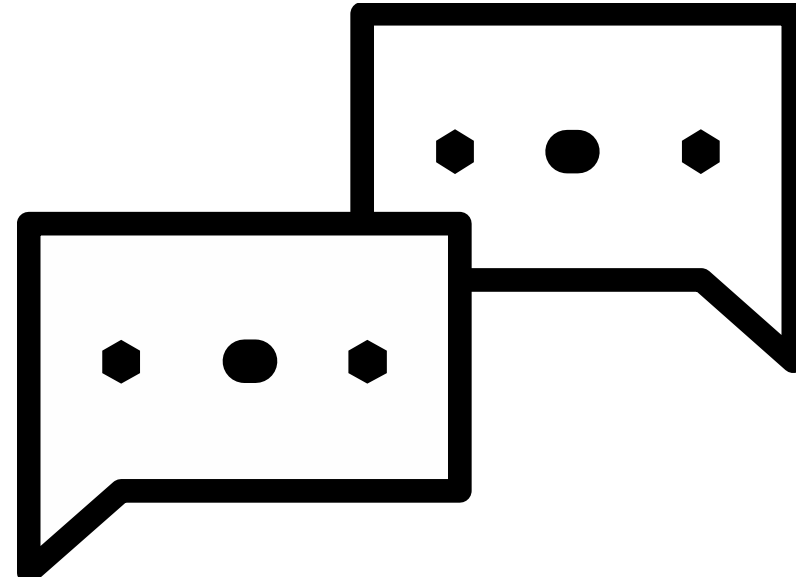
- Protects qualified individuals with disabilities from employment discrimination
- Defines 'disability' if a person has a physical or mental impairment that substantially limits a major activity



# ADA Interactive Process

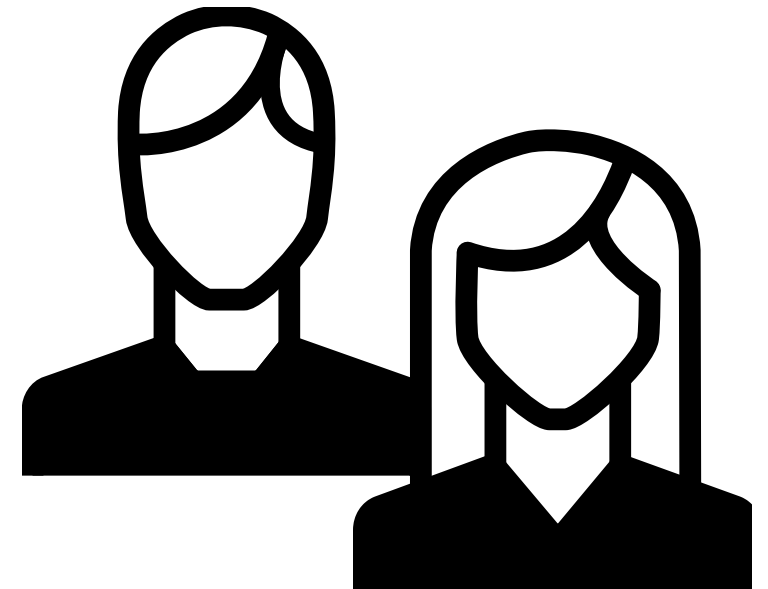
- Identify what triggers the interactive process
- Conduct a discussion or series of discussions

**Failure to engage in the interactive process violates the ADA**



# Reasonable Accommodations

- What is a "**REASONABLE ACCOMMODATION**" ?
- Employers should engage in the interactive process to determine:
  - Is a reasonable accommodation necessary?
  - What kind of accommodation is being requested?
  - Does this request pose an undue hardship?



# LET'S POLL

**What is a reasonable accommodation? (check as many as apply)**

- Restructuring jobs
- Offering leave of absence
- Working remotely
- Changing the workspace or equipment
- Moving the work location



# Reasonable Accommodation

## Examples

- Restructuring jobs
- Offering leave of absence
- Working remotely
- Modifying policies & schedules
- Providing protective gear
- Installing barriers
- Changing the workspace or equipment
- Moving the work location

# ADA Coverage and COVID 19

## Higher Risk Groups

- 65+ years old
- Nursing homes and/or long-term care facility
- All ages with underlying medical conditions including:
  - Chronic lung disease or Asthma
  - Serious heart conditions
  - Compromised Immune Systems
  - Severe Obesity (body mass index [BMI] 40>)
  - Diabetes
  - Chronic kidney disease
  - Liver disease



# Pandemic Related Discrimination

- Stigmas
- Disparate Treatment
- Disparate Impact



# Pandemic Related Discrimination

## Stigmas

### **COVID-19 and the people who may experience stigmas.**

- Certain racial and ethnic minority groups
- People who have tested positive for COVID-19
- People with underlying health conditions

### **Stigma related discrimination in the workplace**

- Avoidance and/or rejection
- Getting denied employment, promotion and,
- Verbal abuse



# Pandemic Related Discrimination



## Disparate Treatment/Disparate Impact

### Both are discriminatory practices:

- Disparate Treatment— Intentional Discrimination
- Disparate Impact— Unintentional Discrimination



# Employer Do's & Don'ts - Key Takeaways

 DO'S	 DON'T'S
<p><b>Engage in the interactive process with an employee to determine if accommodation is needed and what you can do to support them.</b></p>	<p>DO NOT immediately tell an employee you cannot accommodate before engaging in the interactive process and considering their request.</p>
<p><b>Enforce company policies that are designed to prevent workplace discrimination</b></p>	<p>Do not make statements or engage in activity related to COVID19 that would single out individual or groups of people.</p>
<p><b>Establish business reason or selection criteria to determine who to layoff, furlough, return-to-work or rehire</b></p>	<p>DO NOT use furloughs and layoffs as a means for getting rid of problem employees without a bonafide business reason.</p>
<p><b>Seek the advice of legal counsel in the matters of hiring and firing due to a COVID-19 related issue.</b></p>	<p>DO NOT deny employment, promotion or bonus without the advice of an employment attorney.</p>

# FINAL POLL

**Let us know what was most helpful today – you can select more than one:**

- ADA basics
- What a Leader needs to know
- What's a Reasonable Accommodations
- ADA Coverage and COVID-19
- Employer Do's & Don'ts - Key considerations

# Q & A



# Resources

## EEOC and ADA

- <https://www.eeoc.gov/laws/guidance/fact-sheet-disability-discrimination>
- <https://www.eeoc.gov/laws/guidance/ada-your-responsibilities-employer>
- <https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>
- <https://askjan.org/>

## Insperity COVID-19 Resource Center:

- <https://www.insperity.com/covid-19/>
- <https://www.insperity.com/covid-19/transitioning-back-to-the-workplace/>
- Insperity COVID-19 webinars & blogs
- Legislative summaries: Families First Act and CARES Act
- Business continuity planning & Crisis management



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[Alliance@insperity.com](mailto:Alliance@insperity.com)