

# THE AMERICANS WITH DISABILITIES ACT

## Knowing Your Rights and Responsibilities

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# PARTICIPANT INTRODUCTIONS

Name

Position

Department

# HANDOUTS

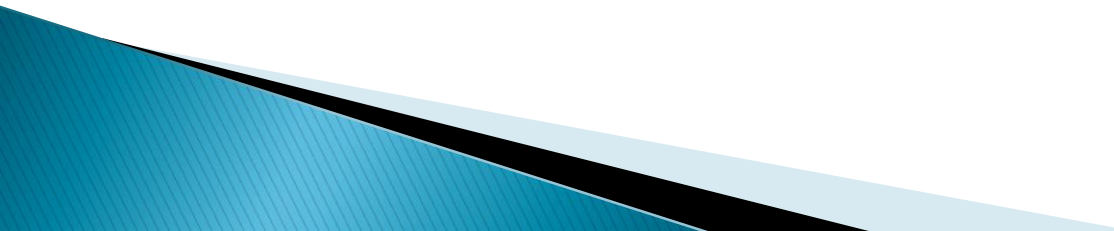
# OBJECTIVES

- Define disability
- Define reasonable accommodation
- Explain how to comply with the ADA during the employment process
- Identify ways the ADA will impact you

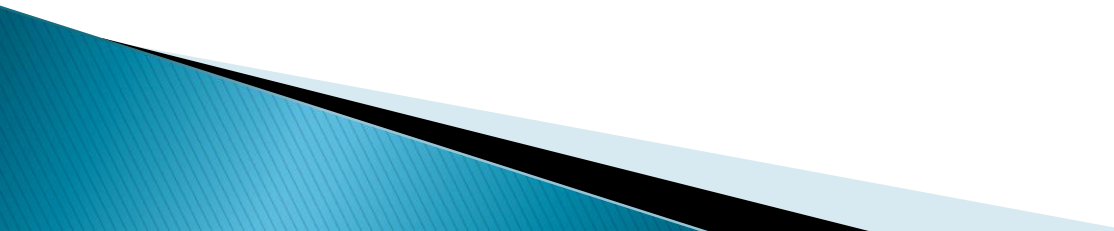
# Title I

- ▶ Designed to remove barriers
- ▶ Ensures access to equal employment opportunities

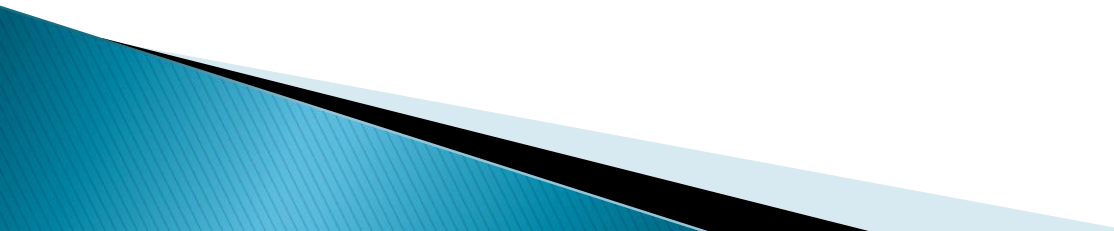
# Title I *Does Not:*

1. Guarantee equal results
  2. Establish quotas
  3. Require preferences
  4. Relieve a disabled person from performing the essential functions of the job
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# Title I Is Intended to Protect

- ▶ One who meets the job related requirements, and
  - ▶ Who with or without reasonable accommodation,
  - ▶ Can perform the *essential functions* of the job
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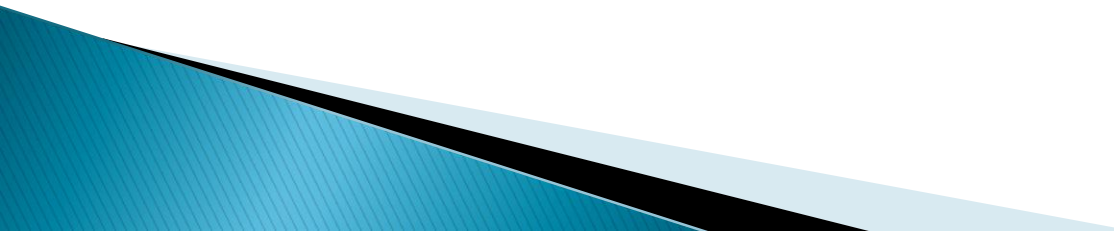
# What are essential functions of a job?

1. Essential Functions – *core functions fundamental to the job;*
  2. Marginal Functions – *incidental job functions*
- 



# Who is Protected by The Americans With Disabilities Act?

An individual with

1. a *physical or mental impairment* which *substantially limits* one or more of that person's *major life activities*, or
- 

2. Has a *record of* such an impairment, or
3. Is *regarded* by the covered entity as having such an impairment;

# What does the ADA mean by a Physical or Mental Impairment?

1. Physiological Disorder
2. Mental or Psychological Disorders

# Substantially Limits

1. Need not significantly or severely restrict;
2. Should not require extensive analysis;
3. Unable to perform a major life activity compared to the average person;

**\*\* Remember its a Case by Case Analysis \*\***



# Substantially Limits

1. Do not consider mitigating measures like medication or prosthetics etc.;
2. It may however factor into the analysis when determining the reasonableness of the accommodation

# Mitigating Measures

- ▶ Impairments that are episodic or in remission is a disability if it would substantially limit a major life activity when active.

# A Major Life Activity Includes:

- ▶ Things most people in the general population can perform with little or no difficulty.
- ▶ See Handout

# Record of An Impairment

1. Does the employee have a history of a disability;
2. Has the employee been misclassified as having a disability;



# Regarded As Having An Impairment


1. “*regarded as*” – subjected to an action based on an actual or perceived impairment
2. whether or not the impairment limits or is perceived to limit a major life activity

- ▶ Some disabilities that will consistently meet the definition of disability includes but are not limited to:

Autism  
Cancer  
Cerebral  
Palsy  
Diabetes

Epilepsy  
HIV or AIDS  
Multiple  
Sclerosis  
Major  
Depression

# A Lawful Disability Is Not:

1. Persons currently engaging in the illegal use of drugs
  2. Transvestism or Transsexualism
  3. Pedophilia, Exhibitionism or Voyeurism
  4. Compulsive Gambling, Kleptomania, or Pyromania
  5. Pregnancy
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# Reasonable Accommodation

- ▶ Absent undue hardship, – accommodation is required;
- ▶ Under the “regarded as” prong – accommodation is not required;

# So What is a Reasonable Accommodation?

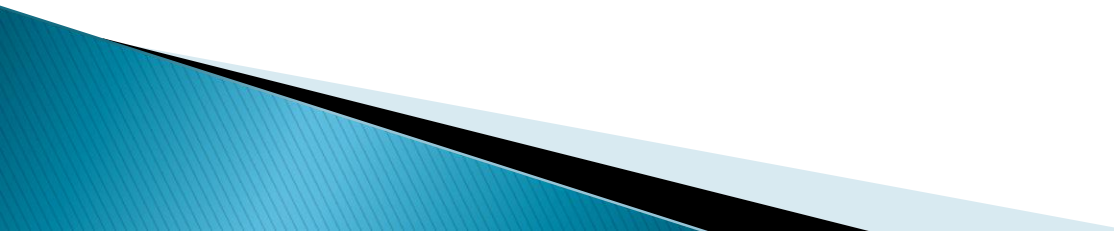
- ▶ Any change in the work environment or in the way things are customarily done

# Accommodation Requests

It is unlawful to:

- a) limit,
- b) segregate, or
- c) classify a job applicant or employee

## 3 categories of "reasonable accommodations"

1. Modify the job application process
  2. Modify the work environment
  3. Modify the benefits and/or privileges
- 

# How do you know if the accommodation is reasonable?

- ▶ It's reasonable on its face;
- ▶ no undue hardship;
- ▶ It meets the need
- ▶ it enables the individual to perform the essential functions of the position;



**An employer does not have to  
provide personal use items**

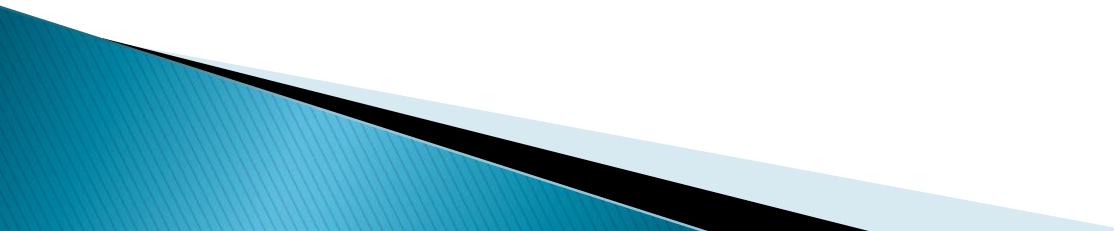
# Direct Threats

- ▶ Disabled employee poses a safety issue?
- ▶ Not eliminated or reduced by reasonable accommodation

# *Remember*

- ▶ Providing reasonable accommodation is *a statutory requirement*
  - regardless of whether they work full-time, part-time, or are considered “probationary”
- ▶ The individual with a disability must inform the employer that an accommodation is needed
- ▶ A reasonable accommodation should *remove a workplace barrier*

## *Finally, a Word About GINA*

- GINA prohibits discrimination on the basis of genetic information
  - Restricts the collection of genetic information (including family medical history) by employers
  - Can create double coverage under GINA and ADA “regarded as” prong
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VIDEO

# UNDERSTANDING THE NEW ADA



# *ADA Film*

- ▶ UNDERSTANDING THE ADA