



Reasonable or Unreasonable? That is the ADA Question

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The information in this presentation is for general informational purposes only and does not purport to be complete or to cover every situation. You should consult with your own legal advisors to determine how these laws will affect you.



Agenda

- ADA Accommodations – Reasonable or Unreasonable?
 - Overview of the Interactive Process
 - Case Study
 - Compliance Considerations
- Leave as an Accommodation
 - Employer Considerations
 - Intersection of FMLA and ADA
- Questions and Answers





ADA Accommodations – Reasonable or Unreasonable?

Hannah vs. United Parcel Service, Inc.



A delivery driver **with back and leg conditions** requested use of a different type of truck for his route or alternatively that he be assigned to an “inside job.”

- The employer determined that use of a different type of truck was unacceptable (among other reasons) as it would be a violation of the applicable collective bargaining agreement and no “inside jobs” were available at the time.
- Instead, the employer provided an indefinite unpaid leave of absence until the employee was healed and could return to work, although this was not the employee’s preference.



Polling Question #1

- **Question:** Was providing an unpaid leave of absence instead of the employee's requested accommodations reasonable or unreasonable?
- **Answer choices:**
 - Reasonable
 - Unreasonable

Hannah vs. United Parcel Service, Inc. (cont.)

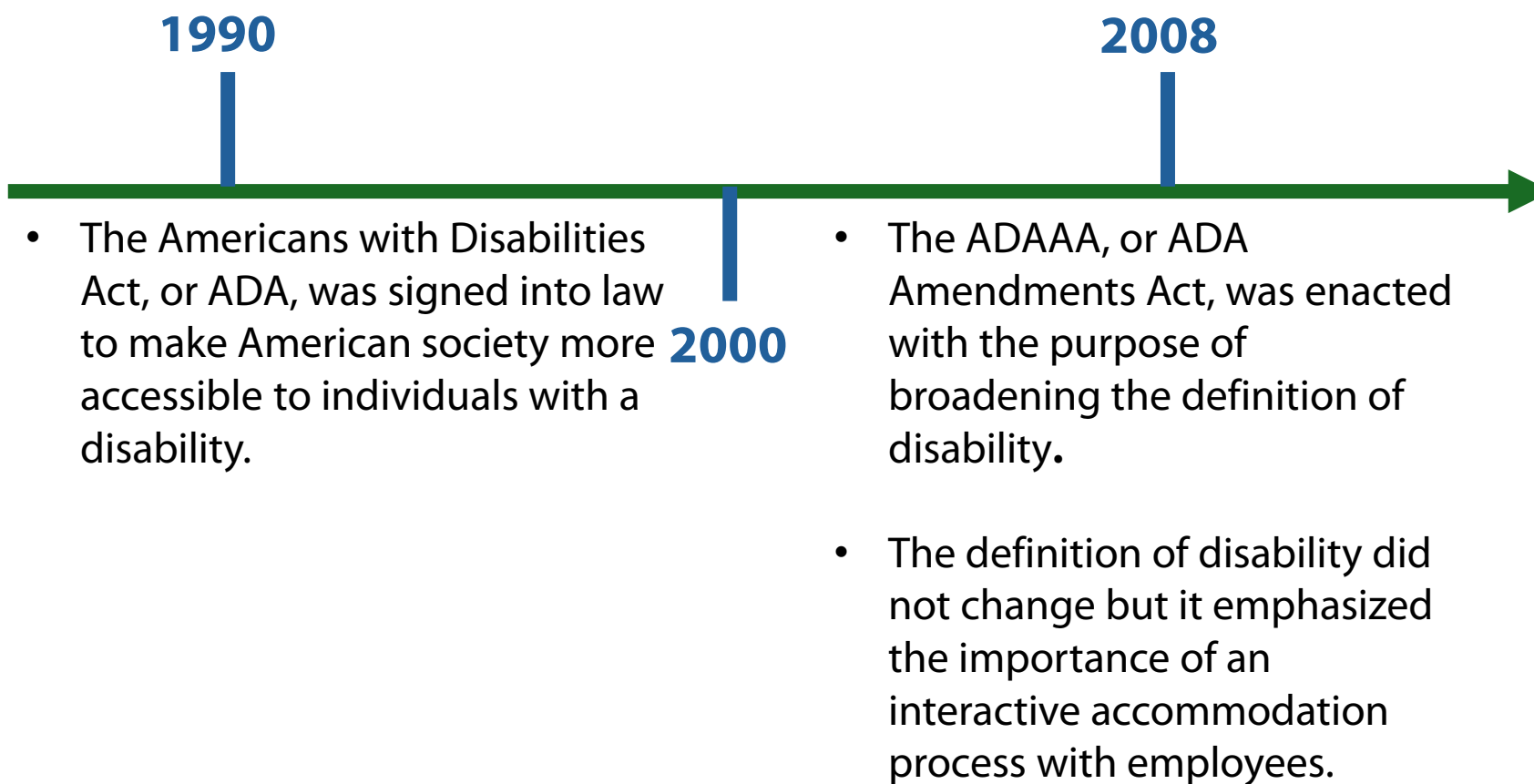


The Court first found that **Hannah did not demonstrate** that his proposed reasonable accommodations would allow him to perform the essential functions of the job.

- The Court also affirmed that the ADA specifically authorizes unpaid leave as a reasonable accommodation, and that employers have “ultimate discretion” to choose among reasonable accommodations.
- A period of unpaid leave may be reasonable where the disability is temporary, and leave will provide time for the employee to recover and return to work.



ADA Overview



Title I of the ADA requires employers to provide reasonable accommodations for applications and employees with disabilities and prohibits discrimination based on disability in all aspects of employment.



Formal Leave and Accommodations Programs Boost the Workplace Experience



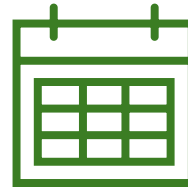
85%

Increased employee retention



52%

Increased employee productivity



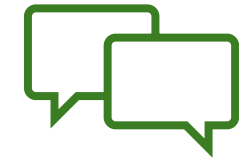
47%

Lower employee absenteeism



30%

Increased overall company safety



29%

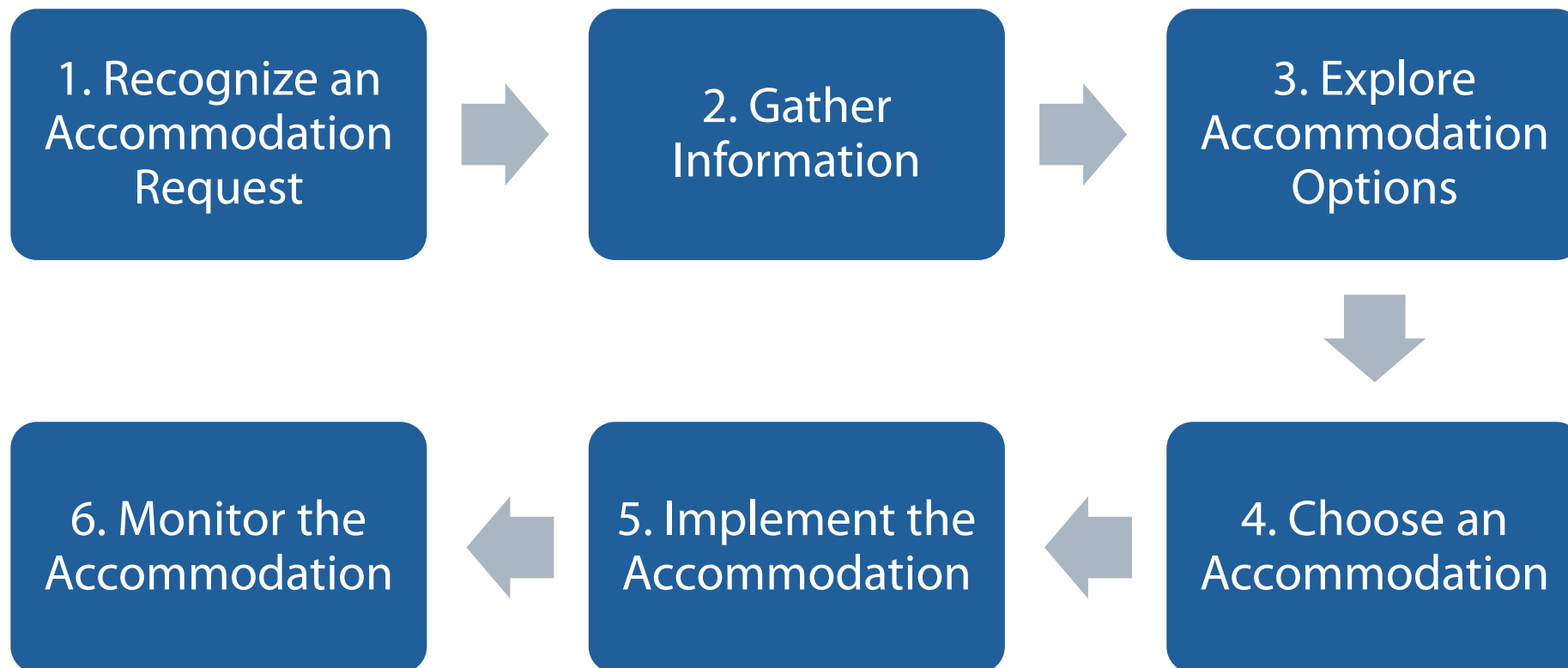
Increased overall company morale



Source: [Cost and Benefits of Accommodations: Low Cost, High Impact Report](#), Job Accommodation Network, 2025.

**DMEC COMPLIANCE
2026 CONFERENCE**

The Interactive Process



Source: *The Americans with Disability Act: A Brief Overview*, Job Accommodation Network.

Recognizing an Accommodation Request

An accommodation can be anything.

✗ You are **not required** to provide accommodations.

You are **required to provide reasonable** accommodations.



What makes an accommodation reasonable?

- ① It provides the employee/applicant with a **safe work environment**.
 - Safe refers to risk of harm to oneself or others.
- ② It allows the employee/applicant to perform the **full set of essential functions** of their position.



Reasonable Accommodations Include:

Any appropriate measure that would allow the applicant or employee with a disability to perform the essential functions of the job, such as:

- Facility modifications
- Schedule changes
- Equipment purchases
- Modifying examinations
- Changing policies



Case Study: Work from Home

Registered nurse working in an office setting whose essential job functions include direct patient care.

- **Request:** modified work duties, light duty, hybrid work schedule and telehealth
- **Duration:** unknown
- **Limitations and restrictions** noted as:
 - lower back pain
 - unable to lift more than 15 pounds
 - sit or stand for no more than 30 minutes at a time
- Employee is being referred to a specialist for specialized treatment and an MRI is ordered.



Polling Question #2

- **Question:** Do you need a defined duration to determine whether the accommodation is reasonable?
- **Answer choices:**
 - Yes
 - No

Polling Question #3

- **Question:** Since duration is undefined what would be a reasonable next step?
- **Answer choices:**
 - Ask for more medical information.
 - Provide the accommodation as requested.
 - Provide a temporary accommodation, which may include all or parts of the employee request.

Employers Are Not Required to:

Accept indefinite absences or unreliable, unpredictable attendance

Change supervisors

Create a new job for a disabled individual

Eliminate essential functions

Excuse misconduct

Lower quality or production standards

Grant preferred accommodations

Provide personal use items



Empowering Managers: The Dos and Don'ts

The Don'ts

- Wait to act
- Make assumptions
- Play doctor
- Share medical details or deny requests unilaterally
- Share with co-workers that an employee has an accommodation
- Use poor performance as a reason to deny an accommodation



The Do's

- Recognize when a request would fall under ADA
- Initiate the interactive process
- Involve HR immediately
- Maintain confidentiality
- Focus on the essential functions
- Implement and monitor



Considerations When Determining Undue Hardship

A determination should be based on several factors, including the:

- nature and cost of the accommodation needed
- overall financial resources of the facility making the reasonable accommodation
- type of operation of the employer
- impact of the accommodation on the operation of the facility



Consult with legal.



Considerations When Requesting Accommodations Recertifications

Recertification requests may be considered unreasonable.

- According to the EEOC, employers cannot:
 - “ask for additional medical documentation when an employee has already provided sufficient documentation to verify the disability and need for the accommodation, unless there is a valid reason to do”.

There will rarely be a valid reason to request that the employee recertify the existence of that disability unless, for example, the initial documentation indicated the disability was temporary.



ADA Accommodations: General Tips and Reminders



Focus on analyzing the essential functions of the job.

Understand the specific limitations and restrictions the condition is causing.

Collaborate.

Think small – a partial accommodation is better than nothing.

What is requested does not mean that's the only option.

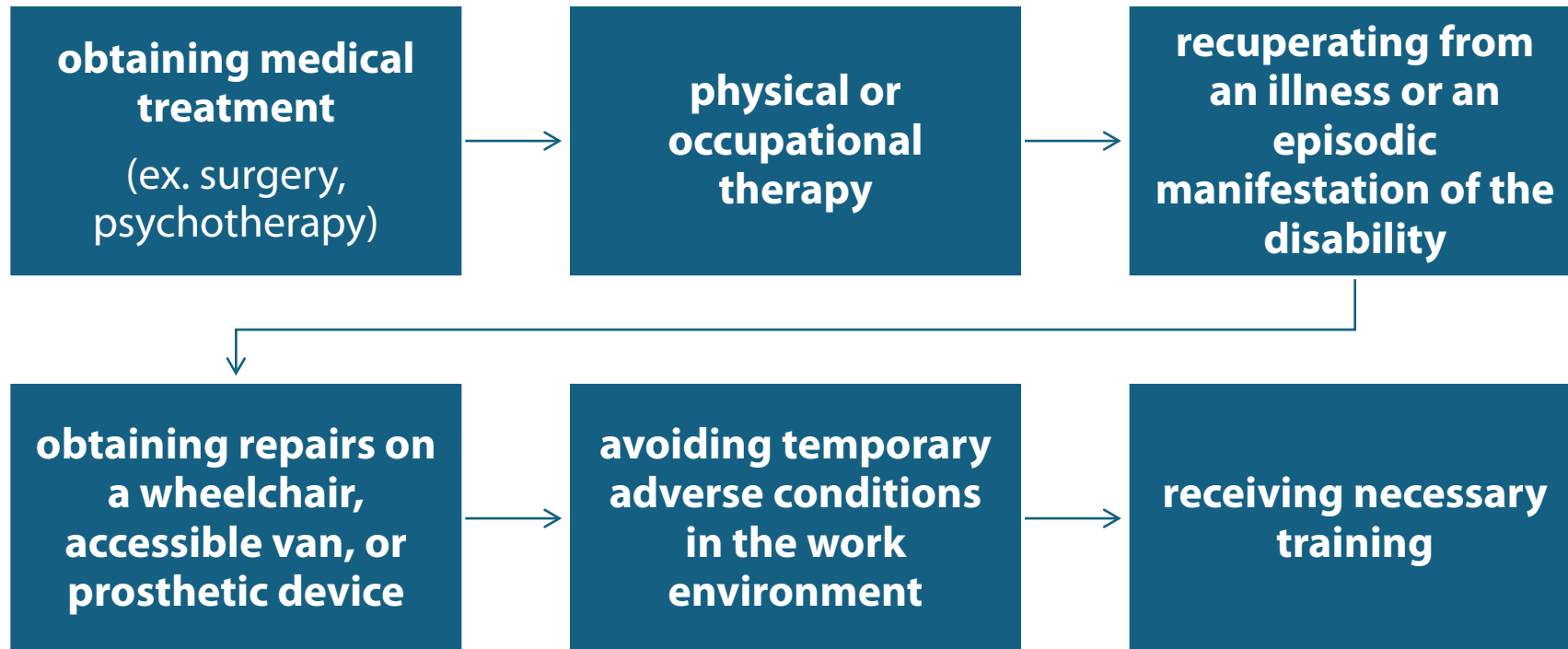




Leave as an Accommodation

What is Leave as a Reasonable Accommodation?

Ultimately designed to provide an employee additional time to return to work, employees may need leave for reasons related to a disability, including:



When Should Leave as an Accommodation Be Offered?

When all other reasonable accommodation options have been evaluated.

- Employers should allow the use of accrued paid leave first, and then unpaid leave.
- Other considerations:
 - leave is not offered by the employer as an employee benefit
 - the employee is not eligible for leave under the employer's policies
 - the employee has exhausted all leave, including FMLA and state and local leave laws



When Can Leave Be Considered an Undue Hardship?

Review the facts and circumstances of each leave request individually, and thoroughly document.

- Factors could include:
 - Amount and frequency of requested leave
 - Predictable vs. unpredictable schedule
 - Impact on coworkers – changing or modifying work schedules
 - Significantly increased overtime costs
 - Impact on overall operations – lost productivity, effect on customers or clients



Consult with your legal team.



Polling Question #4

- **Question:** If an employee requests leave as a reasonable accommodation, can an employer provide a different accommodation that requires the employee to remain working?
- **Answer choices:**
 - Yes
 - No



Can a Different Accommodation Other Than Leave Be Provided (cont.)?

Yes.

- If that other reasonable accommodation would be effective and eliminate (or reduce) the need for leave.
- Employers can provide a reasonable accommodation that requires the employee to remain on the job, as long as, this does not interfere with their ability to address medical needs.

Example: An employee requests ten weeks of leave as a reasonable accommodation recovery. But the employee could return to work after seven weeks, if other accommodations are made such as part-time work or other modifications.



How Much Leave is Considered Reasonable?

It depends.

- Leave for an undefined period is generally not reasonable.*
- Review the facts and circumstances of each leave individually and always use the interactive process.

****Note: It's important to consider:***

- Is there a limit on the number of times leave as an accommodation can be granted?
- What about intermittent leave?



*Courts have offered differing opinions on this.

What Types of Information Should Be Requested From the Employee Requesting Leave?

1

The specific reasons the employee needs leave (surgery, recovery, physician visits, etc.)

2

Whether the leave will be continuous or intermittent.

3

When the leave will end.

4

Whether other reasonable accommodations may be effective.



Leave as an Accommodation and Employer Policies



A “no-fault” leave policy is one where employees are automatically terminated after being on leave for a certain period of time, e.g., 3 or 6 months.

- **What happens if an employee with a disability needs leave beyond this set period?**

Employers must modify their “no-fault” leave policy and provide additional leave, unless:

- another effective accommodation is available
- granting additional leave would cause an undue hardship

Employers may have to grant leave beyond the maximum amount outlined in their leave policies.



Polling Question #5

- **Question:** Can employees be penalized for missing work when on leave?
- **Answer choices:**
 - Yes
 - No

Can Employees Be Penalized for Missing Work When on Leave?

No.

- This could be considered retaliation for the employee's use of reasonable accommodation or could be viewed ineffective.

Example: A salesperson used three months of leave as a reasonable accommodation, but as a result failed to meet annual performance targets and goals. It would be impermissible for an employer to terminate the employee due to not meeting sales performance requirements, as the employee was on leave.

The employer must take the leave period into account when assessing performance, including prorating metrics during the period when he/she was working.



Do Employers Need to Hold Open the Employee's Job When on Leave?



Yes.

- Employees who are granted leave are entitled to return to their same position, unless the employer demonstrates that holding the position open is an undue hardship.
- Employers may also have to consider whether there is a vacant, equivalent position for which the employee is qualified and to which the employee can be reassigned to continue leave for additional time and then returned to this new position.



Communicating with Employees About Leave

Employers may need to modify their communications to ensure that employees are aware of leave as an accommodation.

- Ensure that internal leave administrators are aware of this requirement.
- Ensure that third party administrators of STD and LTD programs are appropriately referring employees to their employer, or ADA administrator.
- Employers should stay in communication with employees about possible return to work plans, or whether additional leave may be necessary.



FMLA Overview

Purpose of the law: Provide eligible employees with unpaid, job-protected leave for multiple reasons, including:

Employee's own serious health condition:

- An illness, injury, impairment, or a physical or mental condition that involves inpatient care or continuing treatment by a healthcare provider.

Amount of leave:

- 12 workweeks of leave in a defined 12-month period for most leave reasons.
 - Note: A 12-month period can be one of the following: calendar year, fixed 12-month period, rolling forward, rolling backward.



FMLA Employer and Employee Eligibility



Covered Employers

50 or more employees for 20 or more calendar workweeks during the preceding calendar year.

Eligible Employees



- Employed for at least 12 months by a covered employer.
- Worked for at least 1,250 hours during the previous 12-month period before leave.
- Employed at a worksite with 50 or more employees, within 75 miles.



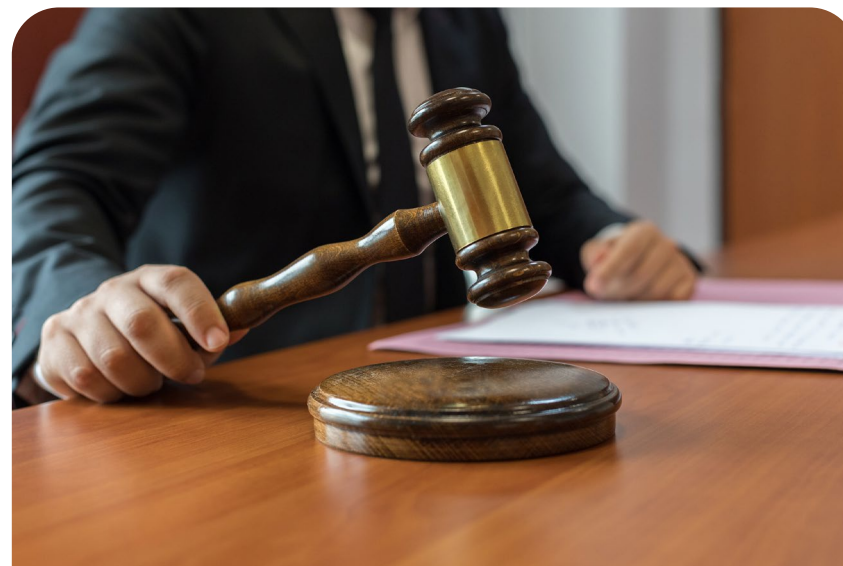
Polling Question #6

- **Question:** When FMLA entitlement for an employee's own serious health condition is being exhausted, employers should be having interactive process conversations with the employee. Is additional leave needed?
- **Answer choices:**
 - Yes
 - No

Intersection of FMLA and ADA

Yes.

- The definition of “serious health condition” under the FMLA and disability under the ADA **are different.**
 - An employee may regain time under the FMLA (or state leave laws) after exhaustion, and while on ADA leave as an accommodation.



Polling Question #7

- **Question:** Are employers required to notify employees as they approach the end of the maximum FMLA entitlement period?
- **Answer choices:**
 - Yes
 - No
 - Maybe

Intersection of FMLA and ADA (cont.)

It depends.

- Employers should determine their responsibilities under both the ADA and the FMLA.

Example: An employee with an ADA disability requests 13 weeks of leave. Assuming eligibility, the employee could take the maximum of 12 weeks of FMLA leave, but the 13th week of leave should be treated as an ADA leave accommodation, unless there's a showing of undue hardship.

- It's not just the ADA and FMLA – be sure to review your responsibilities under PFML, state leave laws and Short and Long Term Disability.



Freeman v. City of Cheyenne



The employee was on an approved FMLA leave for six weeks because of a serious health condition, which was extended for an additional six weeks. The day before reaching the maximum 12 week of FMLA, she indicated that she was unable to return to work and requested additional leave.

- Two days later the employer declined the requested for additional leave and terminated the employee.
- **Were the actions by the employer reasonable or unreasonable?**



Freeman v. City of Cheyenne (cont.)



The Court **did find** that the employee's request for additional leave was sufficient to start the interactive process. But, it also indicated that the employee had to show that the reasonable accommodation was possible.

- The Court found that a request for indefinite leave is not reasonable, and that employees are required to inform employers of the expected duration of impairment, which did not occur in this case.
- Note: Employers in other circuits may have to comply with different rules and guidelines under the ADA.



Questions



Thank You



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Resources

- [EEOC: Enforcement Guidance on Reasonable Accommodation and Undue Hardship under the ADA](#)
- [EEOC: Employer-Provided Leave and the Americans with Disabilities Act](#)
- [The Job Accommodation Network: A to Z Leave](#)
- [ADA National Network: Work-Leave, the ADA and the FMLA](#)
- [U.S. Department of Labor: Employers and the ADA: Myths and Facts](#)

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