



The Time for Change is Here: *Meeting the needs of all your employees by focusing on ability*

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Understanding Ability – 5 Thoughts for 2025

- It all starts with good communication.
- Things are changing, and it is really complicated.
- The employer's role is very important in the process, with a need for comprehensive understanding of employees' return-to-work (RTW) needs.
- Being creative and breaking down long standing barriers leads to success.
- Compliance Matters.



Employers Must Consider Various Accommodation Laws

Such as ADA and PWFA, as well as state and local accommodation laws



Who is covered under the Americans with Disability Act (ADA)

Qualified individuals with a disability who are able to perform the essential functions of their job with or without an accommodation, Must be the individual not a family member.



Examples of scenarios that **do not** fall under the ADA

An individual who:

- Is the caretaker for mom with dementia.
- Is caring for a child with an autoimmune disease.



Pregnant Workers Fairness Act (PWFA)

Borrows from concepts under the ADA and requires accommodations for pregnancy-related conditions, with some key distinctions, such as the worker need not be “disabled” under the ADA, but rather, have a known limitation.



Regulatory Enforcement

The Equal Employment Opportunity Commission (EEOC) has authority to investigate charges of discrimination against employers who are covered under the ADA and PWFA.

The EEOC provides oversight on compliance.

Be sure to check state and local accommodation laws and ordinances



EMPLOYERS' ROLE

How can we assist you to stay at work or bring you back to work as safely, healthily, and quickly as possible?

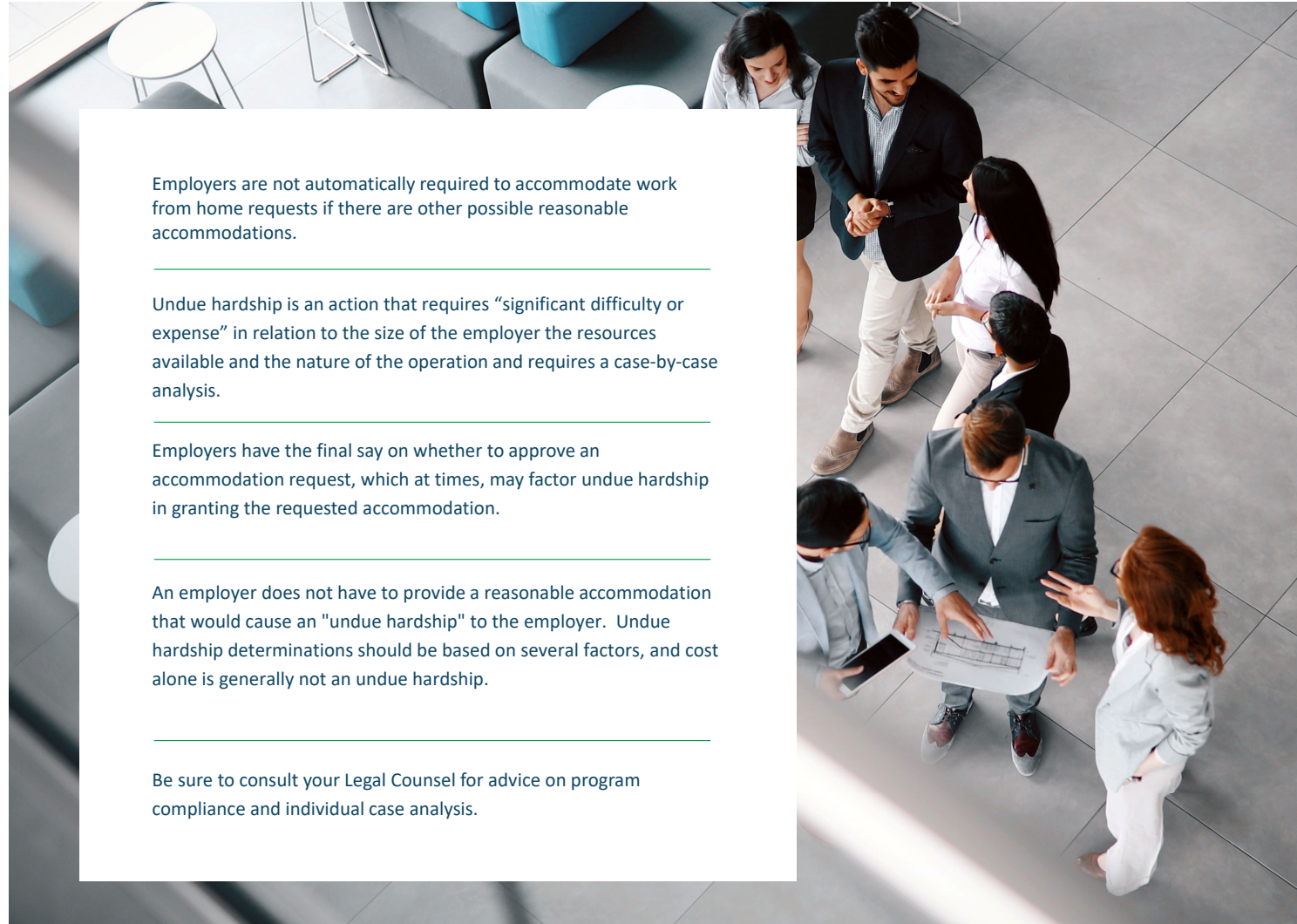
Employers are not automatically required to accommodate work from home requests if there are other possible reasonable accommodations.

Undue hardship is an action that requires "significant difficulty or expense" in relation to the size of the employer the resources available and the nature of the operation and requires a case-by-case analysis.

Employers have the final say on whether to approve an accommodation request, which at times, may factor undue hardship in granting the requested accommodation.

An employer does not have to provide a reasonable accommodation that would cause an "undue hardship" to the employer. Undue hardship determinations should be based on several factors, and cost alone is generally not an undue hardship.

Be sure to consult your Legal Counsel for advice on program compliance and individual case analysis.



Overcoming Nervousness

Being confident in asking how can we assist, not what can you do?

How does a people manager emphasize ability?



COMPLIANCE IS CRITICAL

EEOC Enforcement Activity

ADA Impairment Basis	Monetary Benefit	% of Total
Regarded as disabled	\$14.7m	12%
Non-paralytic orthopedic impairment	7.7m	5%
Anxiety Disorder	13.6m	10%
Impairments of the Back	6.7m	5%
Cancer	6.7m	5%
Record of Disability	9.4m	7%
Depression	8.8m	6%
Post Traumatic Stress Disorder	6.4m	5%
Heart Cardiovascular Impairments	5.4m	4%
Diabetes	3.4m	2%
37 other categories	110m	79%
Total FY 2022	\$140m	

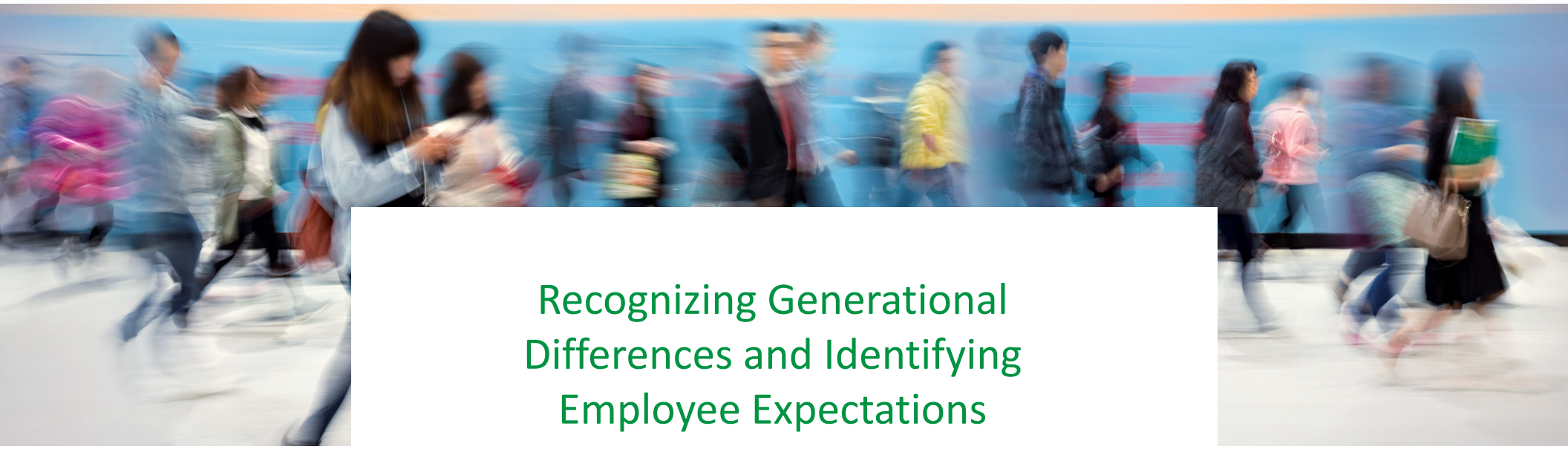
44.3%

Increase in monetary benefits awarded to employees who filed EEOC ADA discrimination charges against employers since 2010.



U.S. Equal Employment Opportunity Commission, "ADA Charge Data – Monetary Benefits (Charges filed with EEOC) FY 1997 - FY 2022"

Let's Dig in on the Changing Workforce



Recognizing Generational Differences and Identifying Employee Expectations



The Generations



Traditionalists
1928 – 1945



Baby Boomers
1946 – 1964



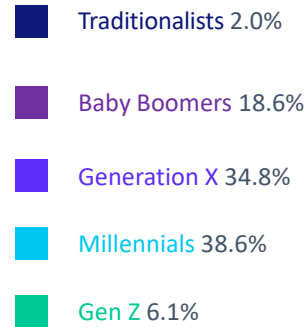
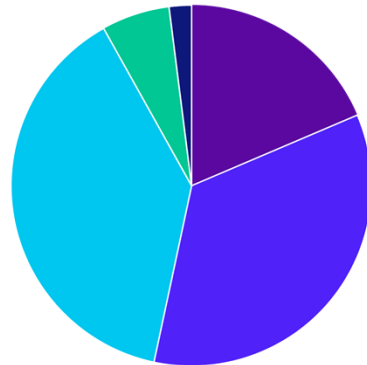
Generation X
MTV Generation
1965 – 1980



Millennials
Generation Y
1981 – 1996



Zoomers
Generation Z
1997 – 2012



Bridging the Gaps Between Employee Needs and Employer Opportunities

Employee Needs

- Choice and Control
- Recognition and Appreciation
- Security and Value
- A Bright future
- Full work and life

Employer Opportunities

- Unified Vision
- Cross Generational Collaboration
- Training and Development
- Clear and Compelling Workplaces-
Office and remote

The power of communication

How do we adapt our companies to meet real world applicants and workers who better represent our communities?



Interactive Process Example

Typically, an informal face-to-face meeting to identify limitations and potential reasonable accommodations

- 1 Recognize an accommodation request
- 2 Gather information
- 3 Confer with the employee about the requested accommodation
- 4 Explore options – keep an open mind
- 5 Engage employee's health care providers for information and accommodation recommendations
- 6 Identify an accommodation that works for employers and employees
- 7 Implement the accommodation
- 8 Monitor the progress

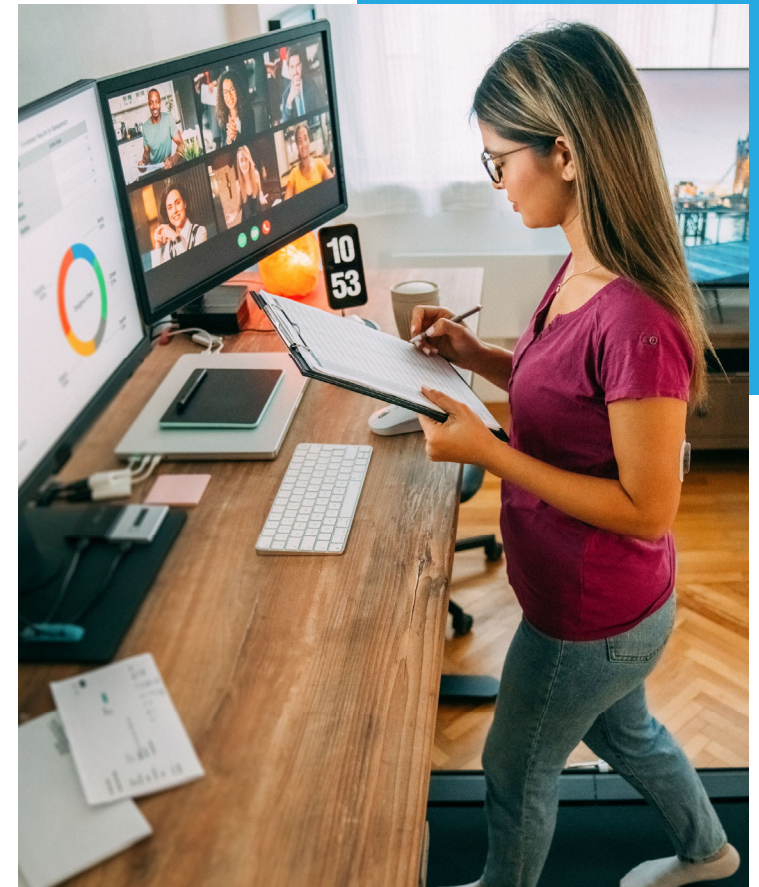


COVID Permanently Changed the Landscape of the Working World

The paradigm of traditional workspaces has undergone a shift

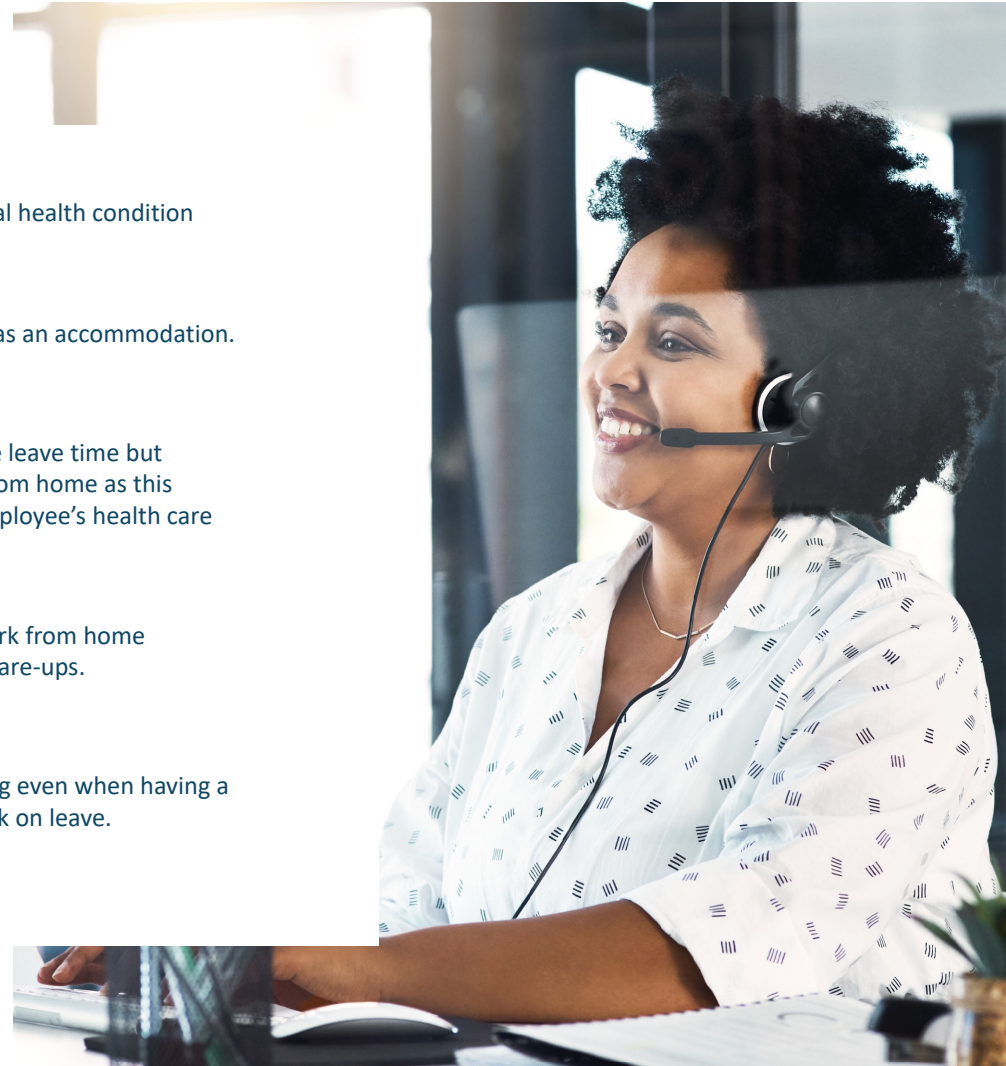
Most government agencies and private industry employers went to a remote work force at the start of the pandemic with amazing speed

Proving in many situations that work at home is a viable option



Interactive Process Example

- 1 Call center employee with mental health condition and migraines.
- 2 Employee was requesting leave as an accommodation.
- 3 Employer was unable to approve leave time but offered the employee to work from home as this option was supported by the employee's health care provider.
- 4 Employee was provided with work from home accommodations when having flare-ups.
- 5 She was able to continue working even when having a flare up, versus going out of work on leave.



What is Leave Time as an Accommodation?

Is the employer required to grant leave as a reasonable accommodation?

- Job-protected leave is generally recognized as a reasonable accommodation by the courts and EEOC but there are exceptions
- Leave policies automatically requiring termination of employment after a specified period of leave violate the ADA and most state disability discrimination laws

Is the employer required to grant an indefinite leave of absence?

- Courts and the EEOC have ruled that indefinite leave is not required
- Some jurisdictions insist that there cannot be an automatic “termination” rule or inflexible leave policies
- EEOC advocates that “leave as an accommodation” should be considered if it does not pose an “undue hardship”

Employee Stories

Born deaf in a world of sound and wanting to work in a role where communication is key.

A man with Paraplegia working behind a desk he couldn't see over and how he made amazing strides in the world of customer service.



ON THE FRONT LINE

Providing ADA and PWFA Training is Key for Success



Offer guidance

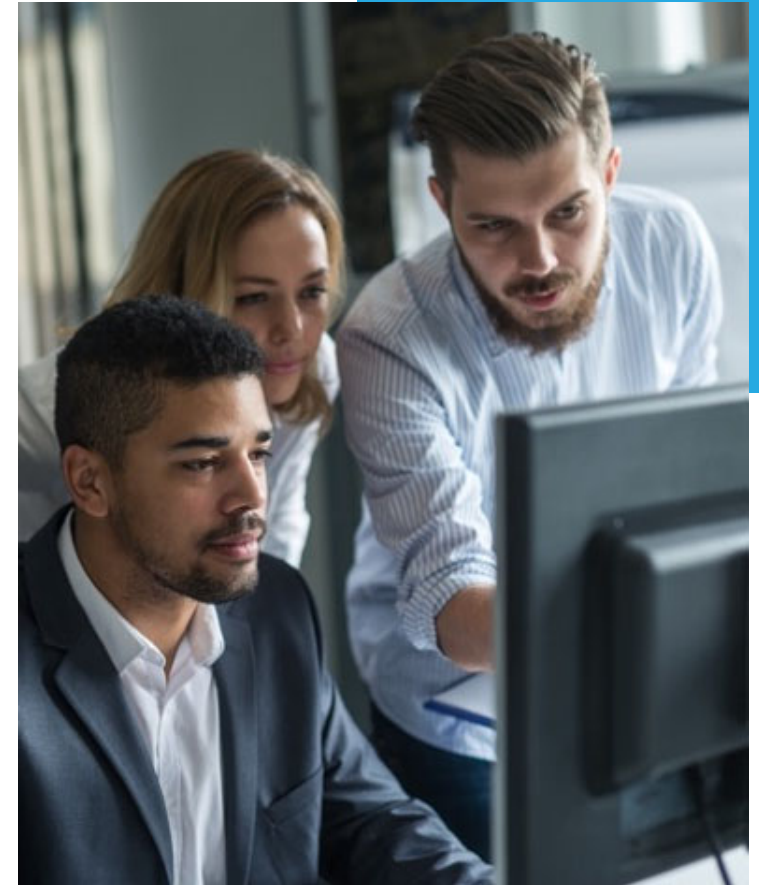
Ensure consistency

Institute empathy

Respect privacy

Co-sourcing as a Resource

- Remove administrative burden from internal resources
- Stay compliant with continually evolving legislation
- Ensure employees are treated consistently, fairly and equitably
- Streamline tracking and reporting
- Reduce the potential for abuse
- Enhance productivity and reduce absence related costs



Additional Resources

TOPIC	WEBSITE	OWNER
Family and Medical Leave Act (FMLA)	www.dol.gov	U.S. Department of Labor
ADA and PWFA	www.eeoc.gov	Equal Opportunity Employment Commission
Return to work	www.askjan.org	Ask Jan
Industry information	www.dmec.org	Disability Management Employer Coalition
Industry Data	www.ibinet.org	Integrated Benefit Institute
Paid Family and Medical Leave	https://www.thehartford.com/paid-family-medical-leave	The Hartford



Employer Best Practices

How can we help you stay at work or return to work quickly and safely

- ✓ Be creative & supportive
- ✓ Provide fair & consistent practices
- ✓ Provide ADA and PWFA training
- ✓ Change your mindset, this isn't a burden
- ✓ Handle each accommodation request on a case-by-case basis
- ✓ Be sure to use the interactive process in each case evaluation



Thank You

