

People with Disabilities and Employment during COVID

Bonnie Bomer, Advocacy Specialist

October 10, 2020



INDIANA

DISABILITY RIGHTS

What We Will Cover Today

- **A brief introduction to Indiana Disability Rights' Employment Team**
- ***What happened to Employees During COVID***
- ***What, Who, Where, When and Why of Reasonable Accommodations Under the ADA***
- ***Questions & Answers***



IDR Mission

To protect and promote the rights of individuals with disabilities through empowerment and advocacy.

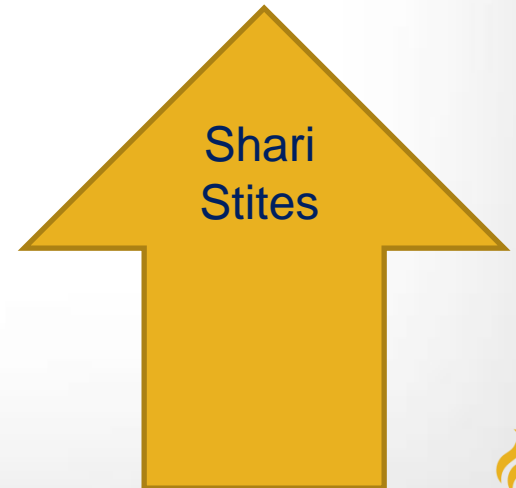
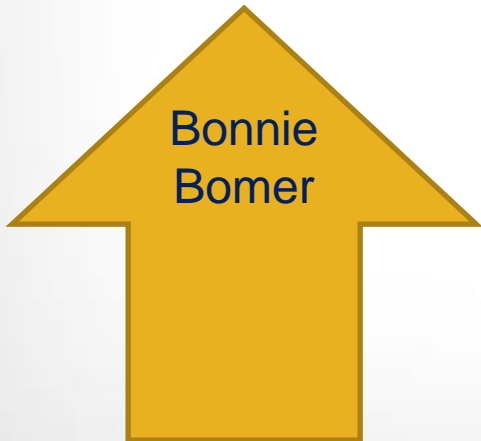
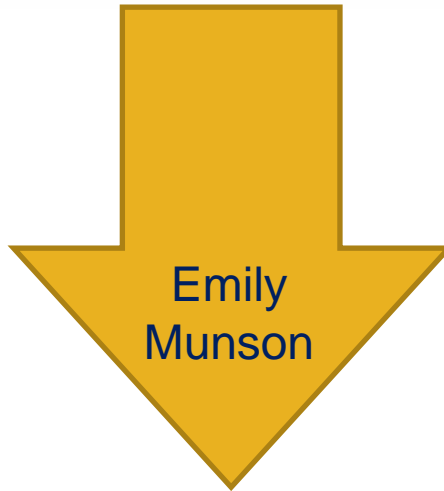


IDR Teams

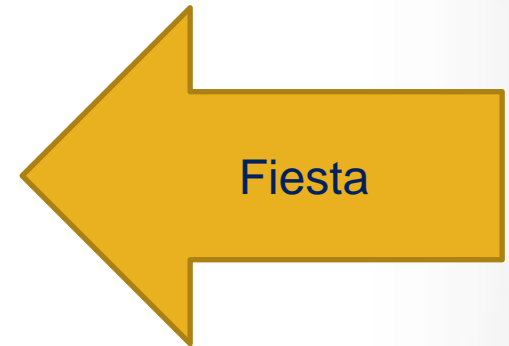
- Abuse & Neglect
- Community Integration
- Education
- **Employment**
 - Title I of the Americans with Disabilities Act
 - Rehabilitation Act, including Vocational Rehabilitation Services
- Justice



Employment Team Members



Backup Squad



Employment Stats & COVID

- Employment for people without disabilities: 77%
- Employment for people with disabilities: 33%
- During the Pandemic, almost 1 million people with disabilities lost their jobs



What is a reasonable accommodation (RA)?

Generally, a RA is any change in:

- The work environment or
- The way things are customarily handled.

To enable a person with a disability to enjoy equal employment opportunities.

See 29 C.F.R. § 1630.2(o).



Examples of RAs

- Making changes to infrastructure
- Job restructuring
- Modifying a work schedule
- Acquiring an assistive technology device
- Changing workplace policies
- Providing qualified readers or interpreters
- Reassignment to a vacant position

See 42 U.S.C. § 12111(9); *see also* 29 C.F.R. § 1630.2(o)(2).



Reasonableness

Factors to consider whether a request for an accommodation is “reasonable”:

- Is it feasible?
- Would it eliminate an essential function of the job?
- Is it effective?
- Will it grant the person with a disability equal opportunity to enjoying the benefits of employment or achieve the position?
- Is it something the applicant or employee also needs when off the job?
- Would granting it cause the employer an undue hardship?



Who can obtain RAs?

Qualified applicants or employees with disabilities may obtain RAs. These are people who:

- With or without RAs can perform the essential functions of the job AND
- Either
 - Have a physical or mental impairment that substantially limits 1+ major life activity;
 - Have a record of such an impairment; OR
 - Are regarded as having such an impairment.

See 42 U.S.C. § 12111(8); see also 29 C.F.R. § 1630.2.



Where does one submit a request for an RA?

RA requests must be submitted to the employer.

Usually, submitting the request to a direct supervisor is appropriate. Also review the Employee Handbook and the company's ADA or RA policies to determine if (an)other individual(s), such as Human Resources or the ADA Coordinator, should be included.



When can RAs be sought?

- At any time during the application process
- When the applicant or employee knows a workplace barrier prevents:
 - Effective competition for a position;
 - Effective job performance; or
 - Equal access to a benefit of employment on the basis of disability



How does one request RAs?

We recommend requesting RAs in writing, typically via email, to create a paper trail. Employers *may* require individuals to complete a designated form to request accommodations, but an email should prompt the employer to provide the employee with materials the employer will use to consider the request.



...But Remember...

- A written request is not required; requests can be verbal
- An employee can use “plain English” when making a request; an employee does not have to use the words “reasonable accommodation” to trigger employer action



Following Up on a RA Request

- Upon receiving a RA request, an employer should engage in the interactive process with the employee
- If the employee's disability is not obvious, the employer may request medical documentation regarding the employee's disability and functional limitations
- The employee must do his or her best to cooperate with the employer



RA Resources

- For interpretations of the law, visit the EEOC's *Enforcement Guidance* page, available at: www.eeoc.gov/policy/docs/accommodation.htm
- For ideas about RAs to meet the needs of individuals with various disabilities, visit the Job Accommodation Network, available at: askjan.org
- For ideas about employment, visit WorktoINclude.org



General Contact Information

Phone – (317) 722-5555

Toll-free - (800) 622-4845

TTY – (317) 722-5563

Toll-free TTY – (800) 838-1131

Email – Info@IndianaDisabilityRights.org

Website – www.IndianaDisabilityRights.org



Bonnie Bommer, Advocate
BBommer@indianadisabilityrights.org



— I N D I A N A —
DISABILITY RIGHTS

IndianaDisabilityRights.org