



SUPERVISOR DEVELOPMENT PROGRAM 2021

WORKPLACE ACCOMMODATIONS

SHERRY SEVERSON

OCCUPATIONAL ACCOMMODATIONS SPECIALIST

HUMAN RESOURCES DEPARTMENT

Workplace Accommodations

A crow perishing with thirst saw a pitcher, and hoping to find water, flew to it with delight. When she reached it, she discovered to her grief that it contained so little water that she could not possibly get at it. She tried everything that she could think of to reach the water, but all her efforts were in vain. At last, she collected as many stones as she could carry and dropped them one by one with her beak into the pitcher, until she brought the water within her reach and thus saved her life.

**Moral: Necessity is
the mother of
invention.**

By the end of this session you will be able to...

Better understand how to navigate disability compliance obligations

Recognize what constitutes a request for a workplace accommodation

Identify who should be involved in an accommodation process and what your specific role might be

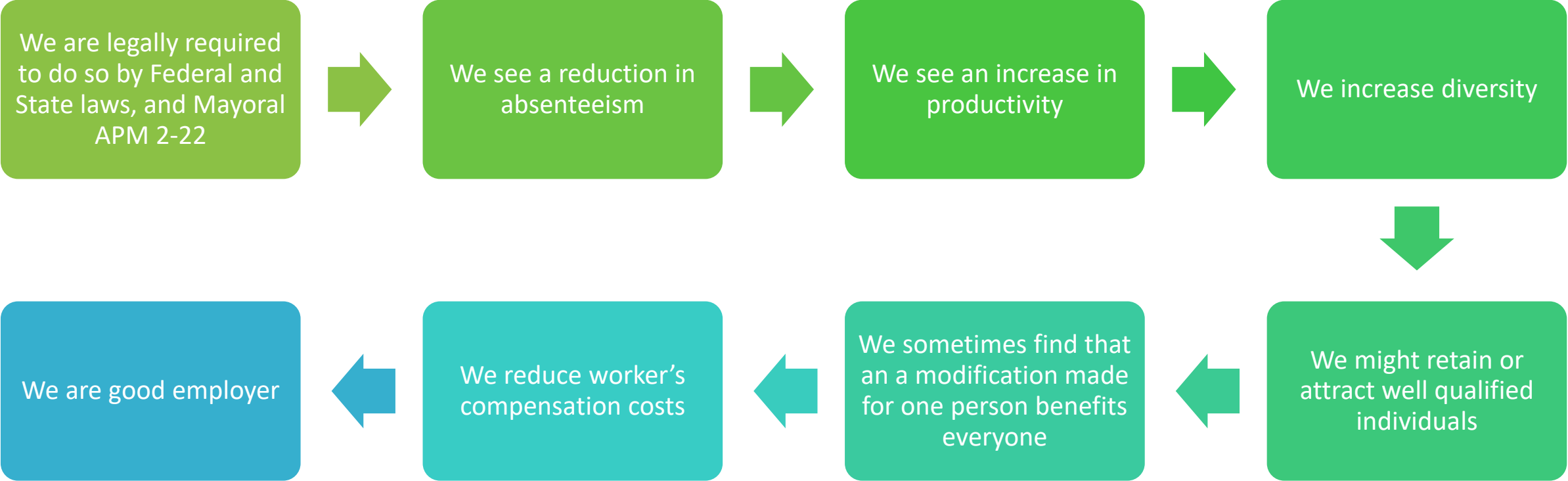
Understand the general process that is followed in determining a reasonable accommodation

Better understand the difference between essential v marginal functions

Understand the importance of confidentiality as it relates to medical information

Recognize that accommodations can be very complex and that you do not have to figure it out alone!

Benefits of Accommodations



Background of Workplace Accommodations

Americans with Disabilities Act

- ▶ Applies to Private Employers, State and Local Governments, Employment Agencies, and Labor Unions
- ▶ Provides Civil Rights protections for people with disabilities
- ▶ Requires that individuals be “qualified”
- ▶ Requires employers to provide reasonable accommodations as long as they do not constitute an undue hardship
- ▶ Does not allow individuals to ignore department/city rules and policies
- ▶ Cannot supersede longstanding policies or bargaining agreements

Other laws, such as the Wisconsin Fair Employment Law and the Family Medical Leave Act also determine our obligation to provide accommodations and at the same time often complicate our ability to respond appropriately to requests.

Workplace Accommodations

The City of Madison
Reasonable
Accommodation policy
is outlined in APM 2-22

- ▶ Going beyond the legal requirements, the City of Madison routinely provides reasonable workplace accommodations for employees where some sort of functional limitation impedes their ability to perform the essential functions of the position for which they were hired
- ▶ Each year, dozens of applicants for City of Madison positions are provided accommodations during the hiring process
- ▶ Approximately 12% of our current permanent workforce report a disabling condition
- ▶ Disclosing a disability is voluntary
- ▶ The City of Madison also employs about 20 permanent hourly employees in our supported employment program
- ▶ The current Covid -19 pandemic has increased the number of accommodation requests, and presented many challenges and opportunities

What Constitutes a Disability?

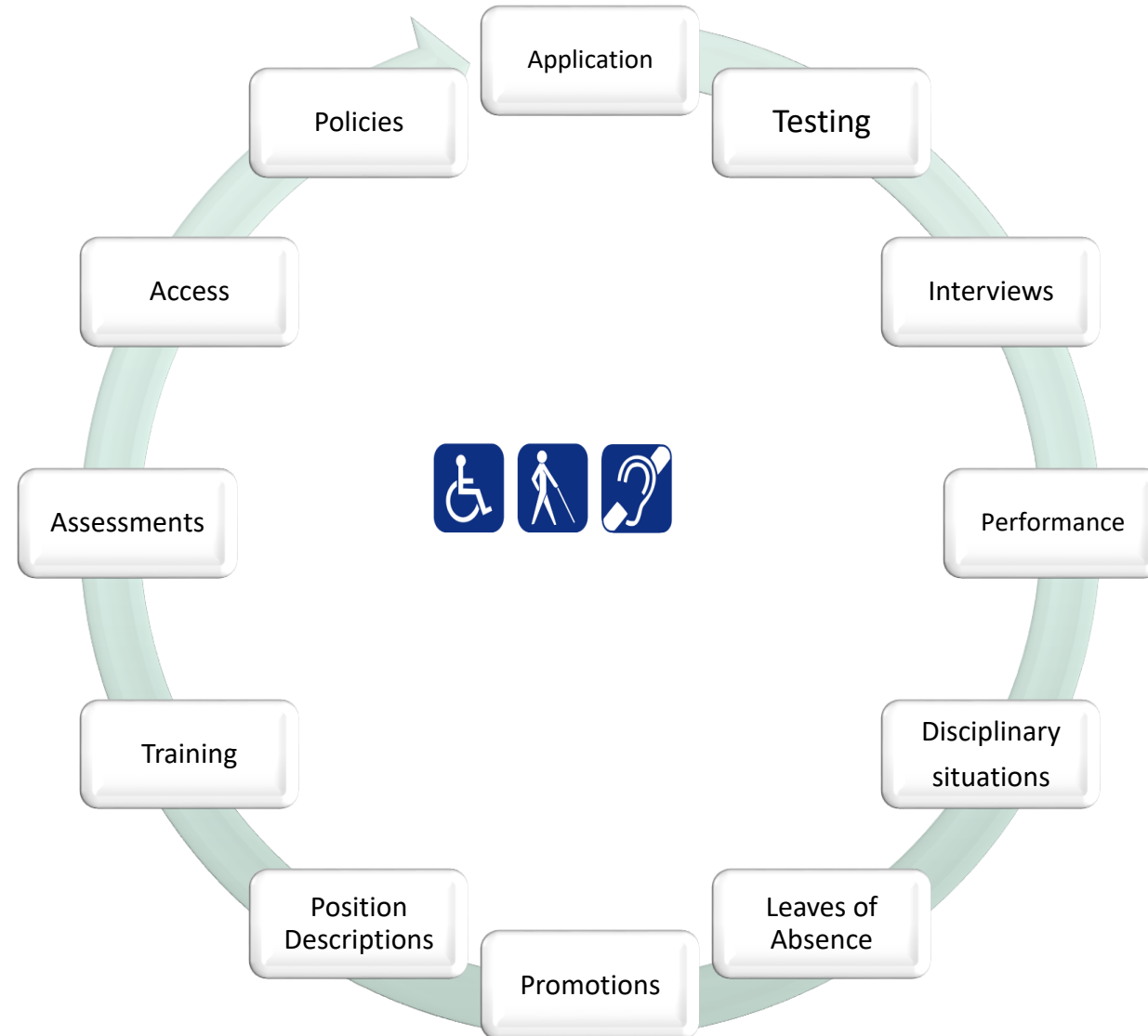
ADA defines disability as:

- a physical or mental impairment that substantially limits one or more major life activities (“actual disability”); or
- a record of a physical or mental impairment that substantially limited a major life activity (“record of”); or
- an actual or perceived impairment that is not both transitory and minor (“regarded as”)

A person is also considered to have a disability if he or she:

- has difficulty performing such functions as seeing, hearing, talking, walking, climbing stairs, lifting and carrying
- has difficulty performing activities of daily living
- has difficulty with certain social roles such as doing school work, working at a job or performing household activities

Accommodations – Where do they show up?



How is the Need for an Accommodation Made Known?

- Applicants can check the appropriate box on the City of Madison employment application and provide details of an accommodation requested.
- Employees can complete the ***Declaration of Disability Form*** to identify his or her disability and request to be contacted by the Occupational Accommodations Specialist, or contact the Accommodations Specialist directly.
- An employee can talk with his/her supervisor or can submit a ***Request for a Reasonable Accommodation Form*** to his or her immediate supervisor, Department Head or to the Occupational Accommodations Specialist.
- Information about an accommodation need is made known following a work related injury.
- Employees might disclose disability information and need for an accommodation during disciplinary proceedings
- Employees may have experienced a work-related injury or illness resulting in permanent restrictions and a referral is made
- An employee might be involved in a *Fitness For Duty* process because of serious concerns on management's part regarding the employee's safety, behavior or inability to perform job functions
- Employees might be referred by Employee Assistance or by Union/Association Reps

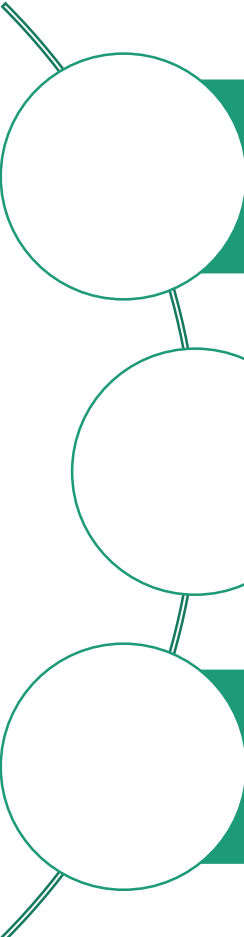
Requests

- Requesting accommodations is an interactive process. It is up to the employer and employee to engage in discussion to identify the most appropriate accommodation
- The interactive process is key and involves gathering additional medical information, assessing the job duties and responsibilities being impacted, reviewing position descriptions for accuracy, looking at the potential impact on the work unit, and researching various tools/equipment/software options
- Employers have the right to choose the easiest/most cost effective solution

Keep in mind:

- Most employees don't use a "formal" process to indicate a need for accommodation – they tend to discuss these issues with lead-workers and immediate supervisors using plain language (i.e. -“my arms hurt from doing data entry” or “I am feeling stressed over this workload”)
- Err on the side of caution: If it isn't clear that an individual has requested an accommodation, clarify what is being said and why.
- Act quickly: Once a request is identified you should respond immediately. Unnecessary delays in processing can actually constitute a violation of the ADA.

Who is involved in the Accommodation process?



Those who have a need to know (what they need to know is limited!) Typically, the employee, the Accommodation Specialist, Supervisors and Managers are involved

Physicians and Therapists or other experts are called upon to provide necessary information needed to determine appropriate accommodations

Sometimes a Union Representative, EAP, co-workers, maintenance staff, or others assist, BUT only with permission by the employee

Responsibilities: Accommodation Specialist

Assess employee/applicant disability and limitations relative to the job demands

Conduct job and task analysis

Review medical records and other documentation to establish abilities and potential accommodations

Work directly with injured or disabled employees to identify strategies for full integration into the workplace

Advise Supervisors and Managers on their role and responsibilities

Work with the medical community, vocational counselors, supervisors and union reps to facilitate accommodations

Make recommendations regarding adjustments and/or purchases needed for accommodations

Perform on-site job coaching

Work with Employment staff to identify vacant positions for placement

Modify employment exams based on the documentation provided by applicants

Responsibilities - Supervisors

Supervisor reviews request and consults with the Accommodations Specialist

Provide current position description information, and be able to identify what duties are considered essential functions

Work with Accommodations Specialist and employee to identify modifications that would allow the employee to accomplish the essential functions

Understand your responsibility during a hiring process when disability information is presented

Maintain confidentiality

Keep an open mind to possible changes!

Reasonable Accommodations - Examples

providing or modifying equipment or devices

job restructuring- limit repetitive motions

rearranging job duties to optimize on the EE's ability to concentrate

hiring a job coach or providing readers and interpreters

part-time or modified work schedules

adjusting or modifying examinations, training materials, or policies

making the workplace readily accessible to and usable by people with disabilities

allowing additional leave or telework

reassignment to a vacant position

providing clear instructions, expectations and consequences

providing distraction-free work area, allowing music/white noise

installing natural or full-spectrum lighting

fragrance-free workplaces

providing checklists, memory aides, prompts and feedback

allowing an employee to remove themselves when experiencing panic or frustration

CONFIDENTIALITY

Information received of a medical/confidential nature should never be disclosed to other colleagues or other parties unless it is legally required or essential to the operation of the City, and then it should be released on a strict need-to-know basis

Confidentiality in the workplace relates to both verbal and written information about an employee

Medical Documentation should be kept in secured files; only designated personnel can have access

**What can you say?
What information
is protected?**



What Records Are Confidential



- FMLA Application
- Work Excuse
- Return To Work Notices
- Fitness For Duty
- Worker's Compensation Records
- Accident Reports
- Disability Disclosure Forms
- Accommodation

Best Practices - Disclosure



Use signed release or authorization



Be prepared to say “No”



Do not communicate confidential information unless you know the person asking is approved to handle the information



Make sure you know identity of the person you are giving confidential information to



Do not share confidential information unless required by city policy, job responsibilities or other legal requirement

Key Takeaways

We may not all have “disabilities,” but the majority of us have challenges in life that we must address in creative ways.

Keep in mind that no one “chooses” to become disabled and processes and procedures, while intended to provide structure, can be difficult to maneuver.

It is often a very stressful time for the employee.

As Supervisors, you play a vital role in the success of your employees including those who may have a disabling condition.

Coworkers may also need attention of some kind.

Accommodations, while intended for an specific individual, often make sense for the rest of us to use.

We have many talented employees with disabilities in our workforce who are performing their jobs with or without accommodations.

It is ok to be unsure about how to handle a situation – they are often complicated. We are here to help!