

STAY HEALTHY AT HOME WEBINAR SERIES WILL BEGIN AT 2 PM



NEW JERSEY SELF-ADVOCACY PROJECT



STAY HEALTHY AT HOME:

LET'S MAKE THIS WORK:
EMPLOYMENT &
ACCOMMODATIONS
UNDER THE ADA

STAY HEALTHY AT HOME WEBINAR SERIES
WEEK 15: JULY 14TH, 2020 FROM 2 - 3 PM

INTRODUCTION



- ▶ My name is Kelly Mulvaney and I am a Training and Technical Assistance Coordinator of the [New Jersey Self-Advocacy Project \(NJSAP\)](#)
- ▶ NJSAP has been a Division-funded program of The Arc of New Jersey since 1983
- ▶ NJSAP supports the state's largest network of individual self-advocates and self-advocacy groups
- ▶ NJSAP provides comprehensive training and resources to self-advocates, Direct Support Professionals, and agency personnel

Healthy Lifestyles Project

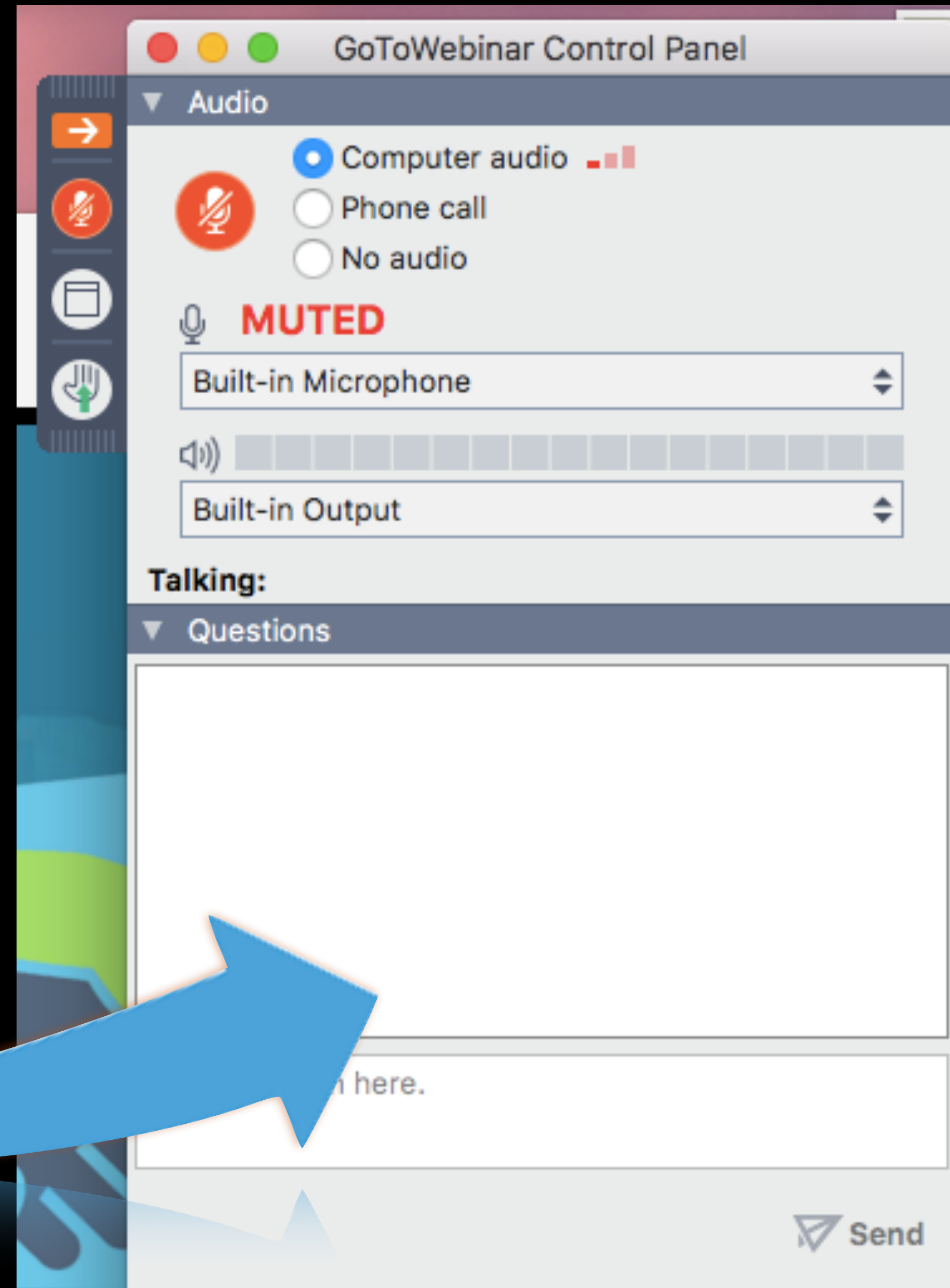
improving health, improving lives

The New Jersey Self-Advocacy Project has partnered with The Horizon Foundation for New Jersey to help you learn more about health, wellness, and being the best you! We are happy to tailor our presentation(s) to suit the needs of your group. The New Jersey Self-Advocacy Project Team will visit your location and provide free workshops on the following topics:



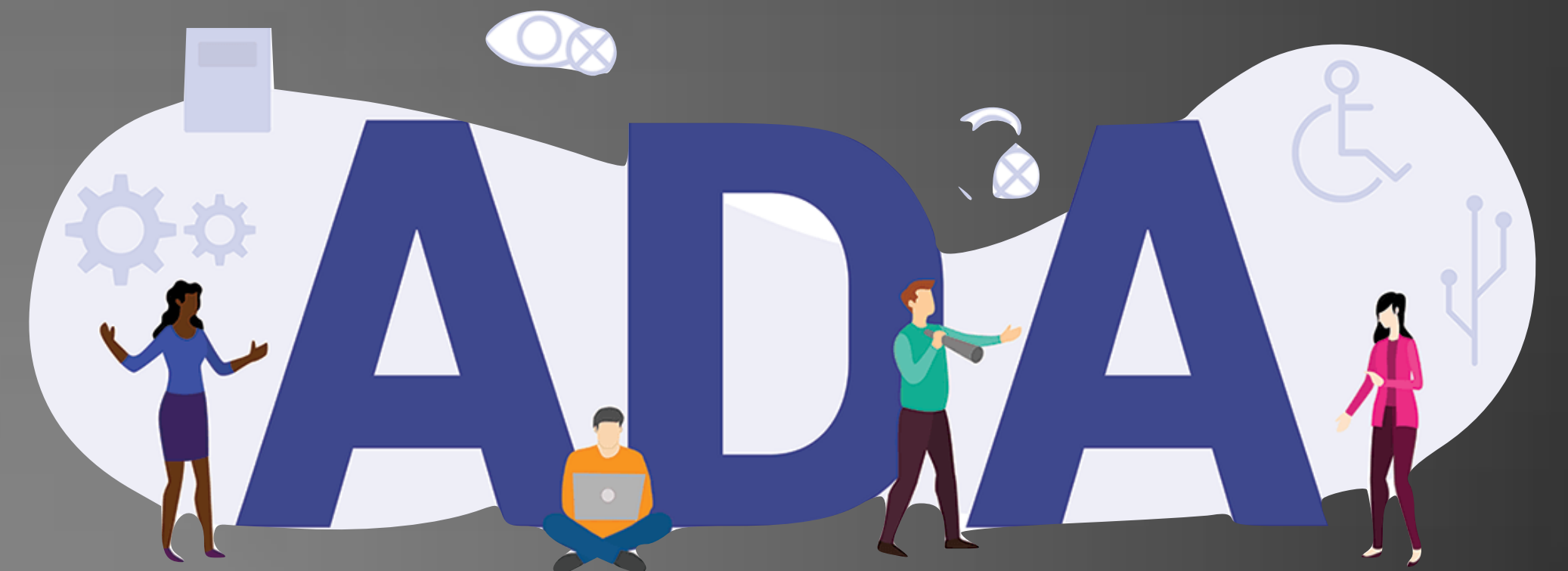
www.HealthyLifestylesProject.org for more information and resources

TYPE YOUR
QUESTIONS,
COMMENTS,
FEEDBACK
IN THE
**QUESTIONS
BOX**



TODAY WE WILL DISCUSS

- Title 1 of the ADA
- How to request an accommodation at work
- How to file a charge of discrimination
- Enforcement actions



INTRODUCTION TO THE ADA

- The Americans with Disabilities Act (ADA) was signed into law on July 26, 1990, by President George H.W. Bush.
- The ADA prohibits discrimination and guarantees that people with disabilities have the same opportunities as everyone else to participate in the mainstream of American life
 - to enjoy employment opportunities
 - to purchase goods and services
 - to participate in State and local government programs and services.

WHO IS PROTECTED BY THE ADA?

- One must have a disability, which is defined by the ADA as a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment.

TITLE 1 - EMPLOYMENT

- Title I of the Americans with Disabilities Act of 1990 prohibits private employers, State and local governments, employment agencies and labor unions from discriminating against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions, and privileges of employment.
- The ADA covers employers with 15 or more employees, including State and local governments. It also applies to employment agencies and to labor organizations.

WHO'S IN CHARGE?

- The U.S. Equal Employment Opportunity Commission (EEOC) and the Department of Justice (DOJ) share responsibility for enforcing Title I of the ADA. Complaints alleging employment discrimination should be filed directly with the EEOC.
- The EEOC may bring suits against private employers, and the DOJ may bring suits against state and local government employers.
- The Department of Justice is committed to enforcing Title I against state or local government employers.

THE JOB ACCOMMODATION NETWORK

- The Job Accommodation Network (JAN) is a free service of the U.S. Department of Labor's Office of Disability Employment Policy.
- JAN consultants have been providing job accommodation information since 1983 when JAN was founded. In addition, JAN consultants have been providing information about the Americans with Disabilities Act (ADA) since 1992 when the ADA went into effect.
- The Employees' Practical Guide to Requesting and Negotiating Reasonable Accommodations under the Americans with Disabilities Act is a summary of some of the most frequent issues that employees have regarding accommodations and the ADA and JAN's practical ideas for resolving them.

HOW DO I KNOW IF I AM ENTITLED TO THE ACCOMMODATION I WANT?

- To be entitled to an accommodation under the ADA:
 - you must work for an employer with 15 or more employees (or a state or local government)
 - you must be a person with a disability as defined in the ADA
 - you must need the accommodation because of your disability.
- If there are other accommodations that will meet your needs, besides the one you want, your employer is free to choose among effective accommodation options.
- Your employer can deny your accommodation if providing it would cause the employer an undue hardship.



UNDUE HARDSHIP IS BASED ON:

- The nature and cost of the accommodation needed
- the overall financial resources of the facility making the reasonable accommodation; the number of persons employed at this facility; the effect on expenses and resources of the facility
- the overall financial resources, size, number of employees, and type and location of facilities of the employer
- the type of operation of the employer, including the structure and functions of the workforce, the geographic separateness, and the administrative or fiscal relationship of the facility involved in making the accommodation to the employer
- the impact of the accommodation on the operation of the facility

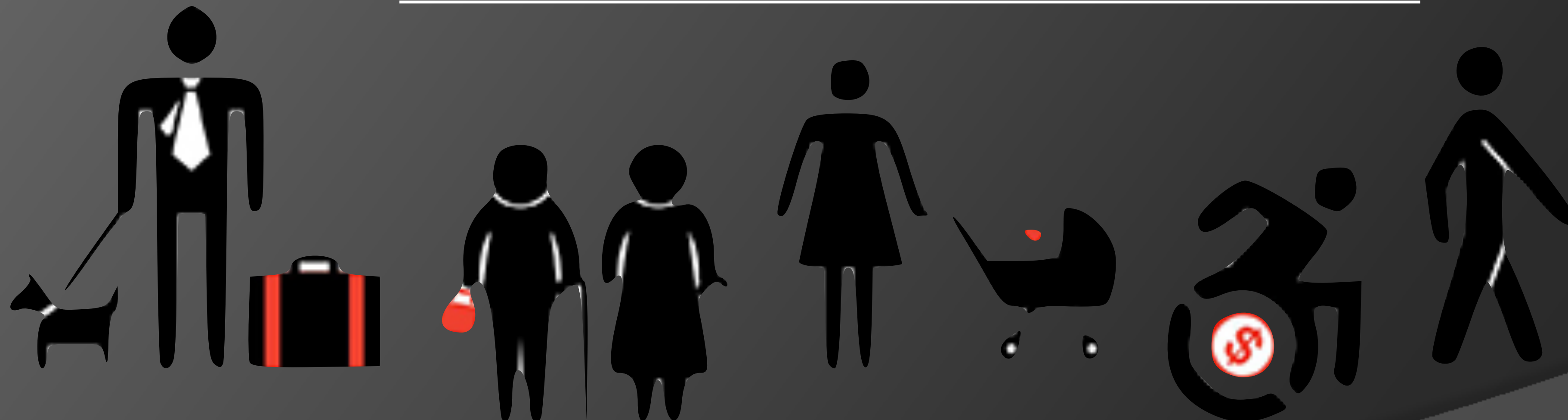
HOW DO I KNOW WHEN TO REQUEST AN ACCOMMODATION?

- You should request an accommodation when you know that there is a workplace barrier that is preventing you, due to a disability, from competing for a job, performing a job, or gaining equal access to a benefit of employment.
- It is better to request an accommodation before your job performance suffers or conduct problems

HOW DO I KNOW WHAT ACCOMMODATION I NEED?

Even if you are not sure what accommodation you need, you can let your employer know that you need an adjustment or change at work because of a medical condition. Then, you and your employer can explore accommodation options together.

- [A to Z Disabilities and Accommodations](#)



HOW DO I REQUEST AN ACCOMMODATION?

- According to the EEOC, you only have to let your employer know that you need an adjustment or change at work for a reason related to a medical condition. You do not have to mention the ADA or use the phrase "reasonable accommodation."
- Requests for reasonable accommodation do not have to be in writing and can be requested in a face-to-face conversation or using any other method of communication.
- However, the employee may want to put the request in writing because sometimes it is useful to have a paper trail in case there is a dispute about whether or when the accommodation was requested.

DO I HAVE TO TELL MY EMPLOYER I HAVE A DISABILITY?

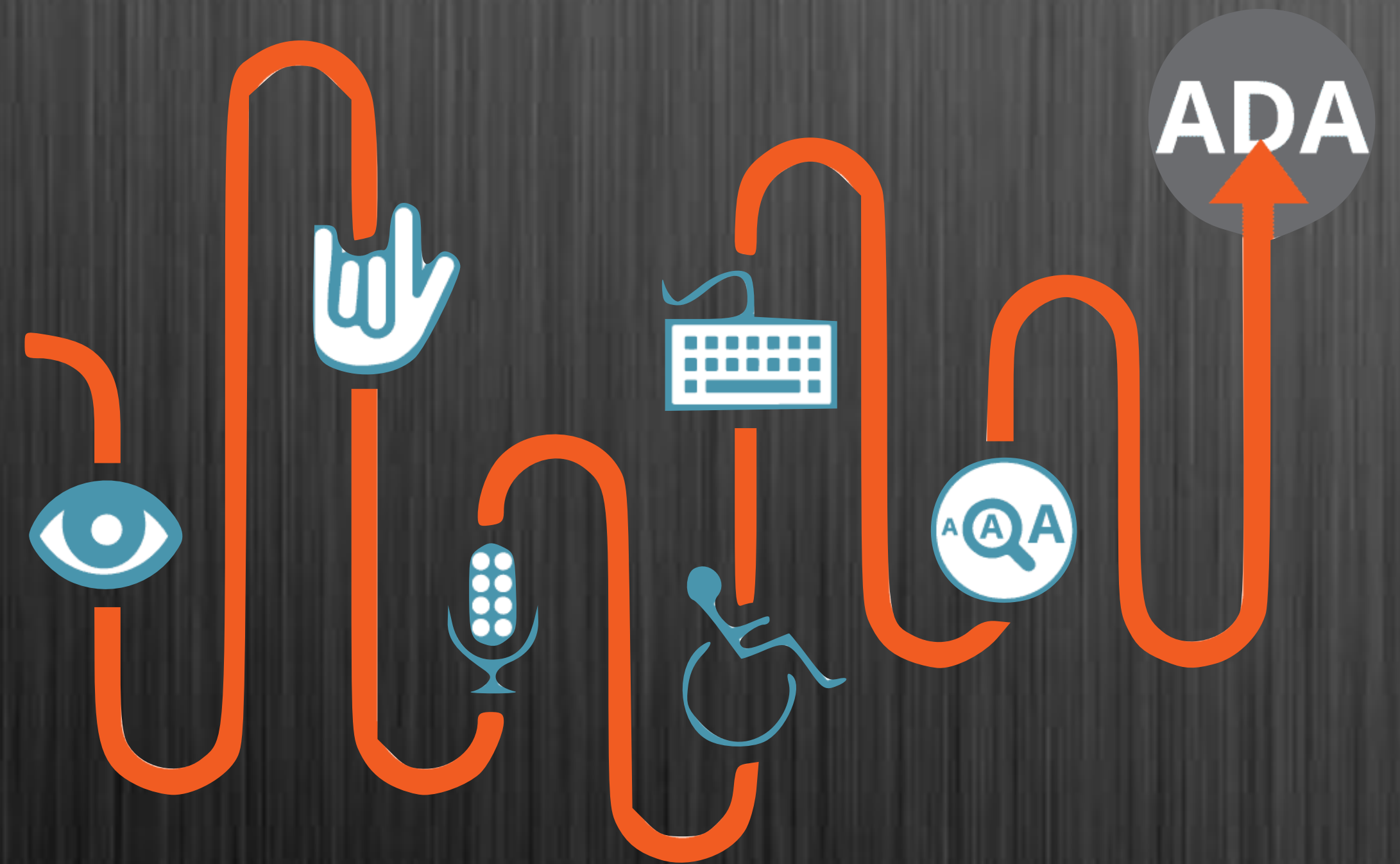
- Under the ADA, employers are only required to provide accommodations for employees who are experiencing workplace problems because of a disability.
- Unless you let your employer know that you have a disability, the employer is not obligated to consider accommodations under the ADA.

HOW MUCH MEDICAL INFORMATION DO I HAVE TO PROVIDE?

- When an employee requests an accommodation and the disability or need for accommodation is not obvious, an employer may require that the employee provide medical documentation to establish that the employee has an ADA disability and needs the requested accommodation.

WHAT ACCOMMODATIONS CAN I REQUEST?

- An accommodation is any change in the work environment or in the way things are customarily done that enables an individual with a disability to enjoy equal employment opportunities.
- Under the ADA, employers are required to provide “reasonable” accommodations for employees with disabilities. Therefore, you can request any accommodation that is considered “reasonable.”



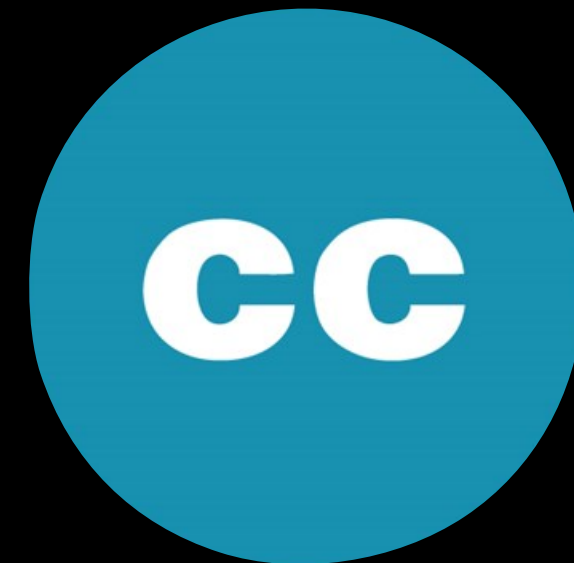
A REASONABLE ACCOMMODATION FROM THE EEOC

1. Making existing facilities accessible
2. Job restructuring
3. Part-time or modified work schedules
4. Providing or modifying equipment
5. Changing tests, training materials, or policies
6. Providing qualified readers or interpreters
7. Reassignment to a vacant position
8. Provide reserved parking
9. Medical leave
10. Work from home

REQUESTS NOT CONSIDERED REASONABLE BY EEOC

1. Removing or eliminating an essential function from a job
2. Lowering production standards
3. Providing personal use items such as a prosthetic limb, a wheelchair, eyeglasses, hearing aids, or similar devices if they are also needed off the job

EXAMPLES



HOW LONG DOES MY EMPLOYER HAVE TO ACCOMMODATE MY REQUEST?

- According to the EEOC, there is no specific amount of time that employers have to respond to an accommodation request, but they should respond as quickly as possible. Unnecessary delays in responding or implementing an accommodation can result in a violation of the ADA.

WHAT IF MY EMPLOYER DENIES MY REQUEST?

- Try to find out why so you know what to do next. For example, if your employer denied your request because your medical information did not show that you have a disability, you can provide additional information. Or, if your employer decided that the accommodation you requested would pose an undue hardship, you may want to suggest other options.
- If you do not think your employer had a valid reason to deny your request, or the employer will not tell you why the request was denied, you can appeal the decision by going up the chain of command and filing a complaint with the EEOC

HOW TO FILE A CHARGE OF DISCRIMINATION

- If you think you might have been discriminated against in employment on the basis of disability, please contact the [U.S. Equal Employment Opportunity Commission](#).
- A charge of discrimination generally must be filed within 180 days of the alleged discrimination. You may have up to 300 days to file a charge if there is a State or local law that provides relief for discrimination on the basis of disability. However, to protect your rights, it is best to contact EEOC promptly if discrimination is suspected.

ENFORCEMENT ACTION

- City of DeKalb, Illinois Settlement Agreement (2/3/15)
- United States v. County of Ventura, CA Consent Decree (7/16/10)
- United States of America v. City of Philadelphia, PA Consent Decree (2/17/17)
- For a full list of current Title I enforcement actions go to [ADA.gov's Enforcement Page](#).

TECHNICAL ASSISTANCE

- [A Guide for People with Disabilities Seeking Employment](#)
- [ADA: Know Your Rights -- Returning Service Members with Disabilities](#)
- [A Guide to Disability Rights Laws](#)
- [Questions and Answers: The Americans with Disabilities Act and Persons with HIV/AIDS](#)
- ["Ten Employment Myths"](#)






RESOURCES

- [ADA.gov](https://www.ada.gov)
- [Ask JAN](#) (Job Accommodation Network)
- [The ADA National Network](#)
- [US Equal Employment Opportunity Commission](#)
- [A to Z Disabilities and Accommodations](#)
- [ADA Enforcement](#)
- [Technical Assistance](#)



Americans with Disabilities Act

QUESTIONS?

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NewJerseySAP/](https://www.facebook.com/NewJerseySAP/)
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- ▶ NJSAP Website: [http://
www.njselfadvocacyproject.org](http://www.njselfadvocacyproject.org)