


ADA, FMLA, WC: A RISK MANAGEMENT PARTNERSHIP WITH HUMAN RESOURCES

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MEDICAL INFORMATION FOR:
PERFORMANCE MATTERS
VS.
PERSONNEL MATTERS

Parameters:

ADA – It's the Law

FMLA – It's the Law

WC – It's the Law

for school districts add in:




Assault Leave - intermittent

Temporary Disability Leave –
not intermittent

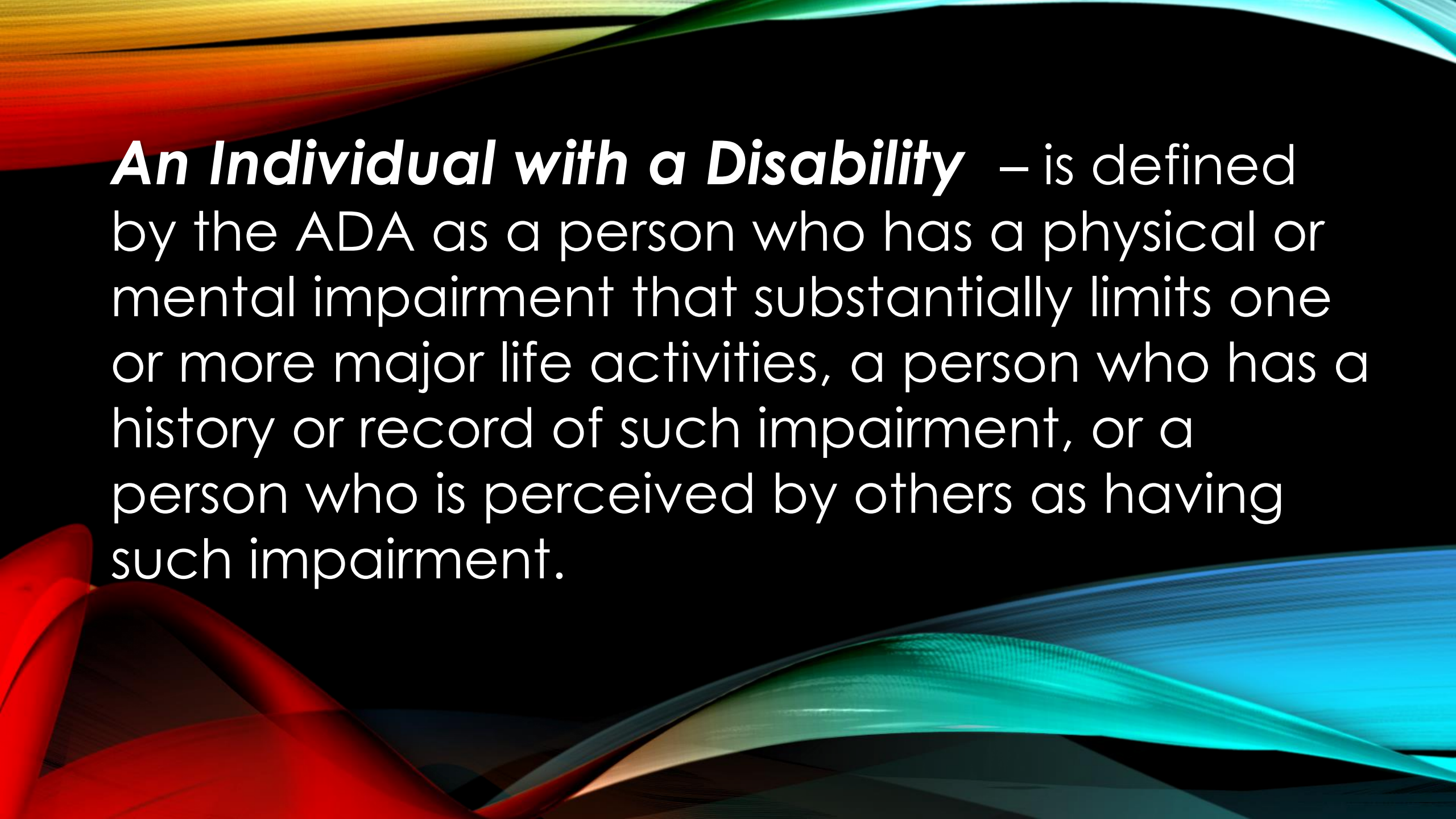
ADA – Reasonable Accommodations
to do the job---not to get out of
doing the job

FMLA – Must qualify – job protection
not “employment” protection

WC – a BENEFIT – not an entitlement
for a 100% income benefit—(Texas)



Americans with Disabilities Act – A federal law that grants civil rights protections to individuals with disabilities. It guarantees equal opportunity for individuals with disabilities in public accommodations, employment, transportation, state and local government services, and telecommunications.




An Individual with a Disability – is defined by the ADA as a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such impairment, or a person who is perceived by others as having such impairment.



Major Life Activities – include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

FMLA (Family and Medical Leave Act) – A federal law that entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons up to 12 work weeks or xxx days and also requires that employers maintain their group health benefits for the duration of the FMLA leave.



Workers' Compensation – A state statute governed system whereby an employer must pay, or provide insurance to pay, the lost wages and medical expenses of an employee who is injured or struck ill in the course and scope of their job.

Components to the process:

- Forms to complete
- Information Pieces (languages)
- Consequences communicated (deadlines)
- Duration and follow-through
- Logs to maintain

Coordination Process Scenario:

1. Off Work – Workers' Comp
 - A. 70%/30% offset
 - B. 30% dock from paid leave accruals?
 - C. Concurrent with FMLA
 - D. Educator Contract – TDL
 - E. Maximum Medical Improvement (ADA)?
2. WC restrictions can't be accommodated?

Coordination Process Scenario:

3. Medical Off the Job – Returns w/ Restrictions
 - A. Qualifies under ADA?
 - B. NO – LOA or accommodate
 - C. YES – reasonable to accommodate or more leave time available/reasonable?
 - D. Educator Contract vs. Other
 - E. Generic additional 45 days LOA?



ADA Guidance:

1. Temporary Disability – upon hiring
2. Permanent Disability – upon hiring



Consistency is one of your best legal defenses!

1. What's the Law?

2. What's your governance Policy?

3. What's your process?

4. What's your training?

5. What's your historical outcome?



“Roundtable Discussion”:

What are your concerns
and questions?



Thank you for your time and participation!
Enjoy the rest of your Conference!