**Transcript**

APRIL 2021.

COVID realities and implications for

persons with disabilities.

12:00-1:00 MT.

» Scott: Okay, everybody, we're

about 1 min to and we'll get started in

a little over a minute now.

Okay. Well, my clock is showing

the top of the hour, so we'll go ahead

and get started.

Welcome to everyone. My name is

Scott Burlingame. I am an APRIL board

member and facilitator for this talk

today. Thank you for coming to this

workshop. I want to mention a few

housekeeping items before we get

started today.

First, when you scroll over to the

screen, a menu bar pops up. Depending

on what device you are on, you can find

the menu bar on the top or the bottom

of the screen. That is where you will

find the closed captioning bar for

today's session. You can view the

captioning bar by selecting the CC tab

on the menu bar. For sign language

interpreting, you will find the

interpreter on the screen. If you

would like to change the size of your

screen, you can select the line in the

middle to make the slides larger or

smaller.

If you have technical issues,

please use the chat feature. You can

find the word bubble on the same menu

bar. If you would like to turn the

chat feature off, you are using a

screen reader, you can do so by

pressing ALT H.

For Q and A times, please note the

Q and A box is in the menu bar. Please

submit only one -- only submit

questions there as it may get lost in

the chat. To answer questions or make

a comment, you can also select the hand

option on the menu bar and that allows

us to know that you have a question.

For those of you on the phone today or

using key strokes, we ask that you

press pound 9 or ALT Y on your key pad

to raise your hand. We will then let

you know when to unmute. You can

select the unmute option or ALT plus A

using key strokes. Remember, if you

join the conversation, please keep all

background noise muted down as much as

possible to allow us to hear you

clearly.

With that, I would like to turn it

over to today's first presenter, Robin

Jones

» Robin: Thank you and thank

you, everyone, and welcome to today's

session. I hope everyone is having a

great Monday and is ready to learn a

little bit more information about COVID

and the realities for individuals with

disabilities.

This session is being brought to

you today as part of our sponsorship of

the ADA National Network with the APRIL

conference and we welcome the

opportunity to be working with you

today.

I'm just going to take a moment

before I turn it over to our main

speakers to make sure that everyone is

familiar and aware of the ADA National

Network. It is funded by the national

institute on disability, independent

living, rehabilitation and research

which is part of ACL. It is made up of

ten regional centers that are dispersed

across the country and our core mission

is to provide guidance, training and

technical assistance and materials on

the Americans with DisAbilities Act.

We are not a legal entity and do not

provide legal advice.

We have a national 800 number

which can be reached across the

country, the same number will connect

you with the center in the geographic

area you are located in, which is

800-949-4232. We have a website which

has a wealth of information. We have

an exhibit in the APRIL conference if

you want to go and visit it. It shares

a lot of our resources and things with

you on that exhibit page, as well. But

our website is WWW.ADATA.ORG. At this

time, I would like to introduce our

presenters and move forward with the

topic today. We look forward to having

your questions, as well.

At this time, I'm going to

turnover the microphone to one of our

presenters who is the director of the

mid Atlantic center. Anne and Nancy,

take it away

» Anne: Thank you, so much. We

are happy to be here. I am the

director of the mid Atlantic ADA

center. My pronouns are she and her.

I have shoulder length brown hair and

I'm middle-aged with glasses.

» Nancy: My name is Nancy

Horton, I also work for mid Atlantic A

ADA center. I am an older woman with

what I like to call salt and pepper

hair pulled back in what I like to call

my COVID ponytail

» Anne: A word about our format

today, Nancy and I are going to have a

conversation. So in addition to the

slides, we are going to be going back

and forth talking about these COVID

issues to, hopefully, to make it

interesting. We absolutely will take

questions and we can put any questions

we have in the Q and A box and we will

have time at the end of the

presentation for questions. So Nancy,

let's dive right in here and get down

to one of the biggest questions that we

have seen since the pandemic started

is, you know, does COVID-19 or long

COVID meet the definition of disability

under the ADA? Just as a reminder for

all of you in the audience because I

think we have a broad audience with

different levels of knowledge of the

Americans with Disabilities Act, the

definition is a physical or mental

impairment that substantially limits

one or more major life activities.

Having a record of such an impairment

or being regarded as having such an

impairment. So ADA is purposely a

thremp hold that you meet a formula for

determining whether you have a

disability under the ADA. So how does

COVID and long COVID figure into this,

Nancy?

» Nancy: Well, this is a really

great, great question that people have

and it's something that has evolved

over time, as many of you know. In the

early days of the pandemic, we didn't

really have what we're now calling long

COVID and the question was does

COVID-19 meet the definition of

disability and, in many cases, it did

not. Many people get COVID-19 and they

recover in a couple of weeks and they

have no residual effects. As time

went on, we were finding that a lot of

people that were surviving COVID were

having some very serious and very long

term after effects and, as some of you

may know, the Department of justice and

the Department of health and Human

Services has recently put out a

technical assistance document where

they talk about long COVID,

specifically, as a disability and make

it very clear that their position, in

terms of the ADA and other laws like

the affordable care act certainly can

meet the definition of disability of

people having these really serious long

term effects. But as it always has

been under the ADA, determining someone

meets this definition really does

require an individualized assessment.

» Anne: Yes, it does and I think

that's going to be one of our themes

today, individualized assessment.

Slide four, please, Robin.

So having addressed the issue of

disability, let's move onto the next

slide. Let's talk about employment.

Slide five, please. Under the

employment provisions of the ADA, we

know that employers are required to

make reasonable accommodations to

qualified employees and applicants with

disabilities. So Nancy, talk a little

bit about how COVID and Long COVID

figures into the reasonable

accommodation process.

» Nancy: Well, this is -- it's

sort of one of the heart pieces of the

ADA is this reasonable accommodation

piece in employment. Very recently,

after the guidance document I just

mentioned that came out from the

Department of justice and Department of

health and Human Services and Long

COVID, the EEOC, the equal employment

opportunity commission, hosted a notice

on their website that they agree with

what was put forth in that document

that Long COVID certainly can meet the

definition of disability. Now, they

are not really saying that COVID by

itself -- just really kind of a

separate thing from what we're calling

Long COVID -- COVID doesn't -- anybody

who has COVID isn't necessarily going

to meet the definition of disability,

but people with Long COVID, certainly

more likely to meet that definition.

So we have these sort of two categories

of people that we tend to see when we

start talking about reasonable

accommodation in employment. One is

individuals who have or have had COVID

or have Long COVID and are currently

dealing with that. When that meets

that definition, they need

accommodations for themselves to, in

many cases, deal with getting treatment

or dealing with the effects of their

conditions. They need accommodations

in the workplace, they might need time

off to go to appointments, things of

that nature.

The other category that we

sometimes see and we've seen this since

the early days of the pandemic is

individuals who have disabilities that

make them more vulnerable to

contracting COVID or experiencing

really severe effects of COVID and they

are often asking for accommodations

that are more geared toward reducing

their exposure to COVID. So they are

sometimes asking for accommodations

like things in the workplace to help

protect themselves from exposure while

working at home to reduce exposure and

things of that nature. So we're

definitely seeing both of these sorts

of issues in the workplace. And we did

just want to kind of take this

opportunity to remind folks that, under

the ADA, that three-part definition of

disability that Anne spoke about in the

beginning, the ADA protects people who

are regarded as having disabilities and

that's designed to protect people who

are discriminated against based on an

assumption or a rumor or something of

that nature that they have a disability

when, in fact, they really don't. They

might have an impairment, they might

have a minor impairment, they might

have nothing, but they are

discriminated against based on this perception.

Another category of folks that we

want to talk about just a little bit is

what we sometimes call associates,

people who are associated with people

with disabilities. They have some

relationship with a person or a group

of people with disabilities and they

are sometimes discriminated against in

employment, as well for a variety of

reasons. These folks in this category

are protected from discrimination, they

are entitled to equal treatment in the

workplace, but they are not entitled to

reasonable accommodations. So that's

important to remember because another

thing that we have had a lot of

questions about in our center and, I

think, across the country during the

pandemic are people who have family

member or maybe someone in their

household or something who has a

disability that makes them vulnerable

to COVID and folks are asking for

accommodations like working from home

or things to reduce the chance of

bringing that exposure to that person

at home and that is not something that

the ADA actually requires employers to

do, although many employers have been

pretty generous with policies during

the pandemic, but we just wanted to

sort of make sure that folks understood

that distinction.

» Anne: Yes, I think that's a

very important distinction because

COVID is affecting everyone. It's

touching everyone. People with

disabilities and people without

disabilities, too. So what we're doing

here, you can see, is essentially,

we're taking the requirements of the

ADA, which have been the requirements

since the law was passed and certainly

clarified with the 2008 amendments act.

We're just applying the issues and

talking about the issues that we see

recently with the pandemic. The law

hasn't changed at all. The EEOC and

the Department of justice are trying to

provide guidance, but as with

everything with the pandemic, I think

we're all learning together as we go.

So we're really -- you'll see the

theme, as we go through this

presentation, the essential components

and concepts of the ADA like reasonable

accommodation and we're just plugging

in the certain situations with somebody

with COVID or Long COVID or somebody

who has a relative of COVID or Long

COVID. Slide number 6, please.

So looking at the limitations of

reasonable accommodation -- so

employers have an obligation to provide

ap plicants or employers -- an undue

hardship which is significantly

difficulty or expense, which is a

pretty high standard, or unless

providing the accommodation would pose

a direct threat, which just a reminder,

significant risk of substantial harm to

the health or safety of one's several

or others, which cannot be eliminated

or reduced with reasonable

accommodation. Again, you see that,

here again, based on individualized

assessment. So Nancy, talk a little

bit about how direct threat plays into

COVID and COVID-19 and Long COVID

» Nancy: Well, this is an area

where it certainly has presented some

challenges with the pandemic. Direct

threat has always been there in the ADA

and it can be a challenge for workers

and employers. You know, again, it

really needs to be a significant risk

of substantial harm based on an

individualized assessment. We don't

want to see speculation here and

assumptions and those kinds of things,

but the EEOC in particular and other

federal agencies, from the early days

of the pandemic, really have been in

agreement that, you know, the -- the

risk of spreading COVID can certainly

rise to the level of direct threat.

You know, it's a serious disease. It's

highly contagious. It's a dangerous,

dangerous disease. So this -- this

certainly can come into play when

individuals are asking for reasonable

accommodations that might mean they

would be creating a threat of spreading

COVID in a workplace.

» Anne: So a question here. So

can an employer potentially consider a

person with a disability who does not

have the vaccine because of their

disability a direct threat in the

workplace?

» Nancy: They certainly might.

It's -- you know, again, depending on

the nature of the workplace and the job

and, you know, again, when we look at

direct threat, we always want to

remember that before we say, well, this

person is a direct threat, we have to

put it in the context of the specific

person and the job in the workplace and

we need to make sure that we considered

any reasonable accommodation that might

mitigate that threat. So in some

situations, somebody who is, for

example, unvaccinated that might be

able to do -- provide some other

reasonable accommodations that would

reduce that threat or eliminate it

entirely, maybe some additional

protective measures in the workplace

or, again, one of our ever popular --

especially in recent times --

accommodations of working from home.

Not all jobs, of course, can be done

from home, but sometimes there are

accommodations in the workplace that

can help address the threat I

» Anne: I think that's a really

important point, Nancy. So an employer

can say, um, you are a direct threat,

that's it. End of discussion. They

have to consider if there's an

accommodation that can be implemented

to reduce or enable the person to do

their job

» Nancy: Yes, absolutely. It's

an interactive process and it's the

process that we often need to have when

accommodations are requested to really

figure out what can we do in this

situation.

» Anne: Right. Right.

Individualized assessment. Okay, slide

number 7, please.

So we're -- we were talking around

it and now we'll talk about it, but

specifically, slide 7 talks about

workplace policies. It, you know,

requirements such as using -- because

-- because a lot of employers now have

new workplace policies given the

pandemic. So they might have

requirements such as use a face mask or

other personal protective equipment,

social distancing and separation

protocols, cleaning procedures, hand

sanitizing, vaccination requirements

which we're starting to see, and -- so

what you are telling us, Nancy, is

these can -- may be considered valid

requirements and they are subject to

the obligation to provide reasonable

accommodation to workers with

disabilities. Is that --

» Nancy: Exactly. That's kind

of it in a nutshell. This is one of

the most common questions that we've

had in our center through the pandemic

and, especially, more lately, you know,

vaccination has become available. You

know, as you said, many employers are

now requiring their workers to be

vaccinated. And the EEOC has said for

some time that these are generally

going to be very -- you know, very

valid workplace requirements. But just

like any other workplace policy, it is

going to be subject to the obligation

to consider reasonable accommodation

for workers with disabilities. So if a

worker, because of the disability that

they have, is not able to be

vaccinated, then the employer is,

again, going to have to consider that

that worker is -- you know, how can we

accommodate that worker so that they

can continue their work, continuing

their job, is that possible without

being vaccinated? So again, let's look

at workplace -- other workplace

protections that we could use and all

of that sort of thing. So again, we

have to sort of go through that

process, but can be even the EEOC has

said this is generally -- it's a

qualification standard. It's a

legitimate requirement.

» Anne: Okay, slide number 8,

please. Now we're going to transition

out of the employment world and

transition right into public programs

and private businesses. And talk a

little bit about how these -- the ADA

concepts and COVID-19 and Long COVID

interrelate to public programs, state

and local governments and private

businesses. Slide number 9, please.

So as we said, the core

obligations of the ADA, nothing has

changed at all. We're just taking

these core obligations and concepts and

applying what we're seeing with

COVID-19 and the pandemic. So covered

entities, again, must ensure access to

programs, goods and activities. That

includes non-discrimination in the

provision of services for which

individuals are eligible, such as

medical care, vaccination, testing, et cetera.

Covered entities must make

reasonable accommodations in policy,

practices and procedures when necessary

to allow a person with a disability to

take advantage of the program or

service. Then good old effective

communication, there's an obligation to

communicate effectively with

individuals who have a hearing, vision

or speech disability. So again, the

core obligations can right here and

just the nice, basic review again. So

what does all this mean when it comes

to COVID, Nancy?

» Nancy: Well, one thing that I

think I would stress here is that this

sort of overarching obligation to

ensure access to programs and services

and so forth when it comes to COVID --

and we saw a lot of debate around some

of that he has issues in the early days

of the pandemic when we started seeing

policies and talk about rationing and

so forth of medical care, of scarce

medical equipment and so forth and so I

just -- you know, I want to remind

folks that, you know, to sort of make

decisions about the allocation of care

or resources needs to be not just based

on disability, that people with

disabilities are just not going to be

automatically excluded or sent to the

back of the line, so to speak, for

these sorts of opportunities.

» Anne: Right. The ADA still

exists in a pandemic world. And so

that's -- that's kind of the main

highlight of that.

Okay, moving onto slide number 10.

Now, clearly, just as in the

employment provisions, there are

limitations to the obligations to

provide program access, ensure

effective communication and modify

policies, practices and procedures. On

slide 10, we have the limitation on

obligations. Covered entities are not

required to take any action that would

cause a fundamental alteration or an

undue burden. Fundamental operation

means changing the essential nature of

goods and services and activities.

Undue burden means significantly

difficulty or expense. When

fundamental alterations or undue

burdens arise, entities must consider

alternatives. Can you give us some

examples of when this might come into

play, Nancy?

» Nancy: Sure, I think there

could be a number of examples, but --

one -- one example that we got a lot of

questions about in our center were

people who wanted to go into public

places without masks before there were

vaccinations or any of that. People

who, because of their disabilities,

wearing masks was difficult for them,

so they wanted to be just allowed to go

places where masks were required. And

we know from the early days of the

pandemic, federal agencies and all the

medical folks in the CDC are telling us

that, you know, having a policy that

requires masks is a -- is a valid

policy. So people were asking to

either be excused from wearing the mask

and still allowed to come in or they

were saying I want you to clear the

place out and let me come in by myself.

In some cases, you know, asking the

grocery store or a shop or something

that is not a place that you go by

appointments to just close the place

down or something so somebody can come

in by themselves is not going to be a

reasonable thing for them to do.

That's really just changing kind of the

fundamental way they operate. You

know, they have hours and you don't

need an appointment and so forth, but

-- one of the important points that we

want to make about that is that they

still need to consider if there are

other ways, if there are alternatives

where this service or the goods can be

provided. We've seen a lot of

businesses and organizations and

government agencies being very creative

about this and doing things like really

ramping up their curb side -- so you

order online and you call and bring it

out and we will put it in your car and

do all of these kinds of things, so

that's sort of our -- we really want to

underscore that it's, again, when we

feel like we hit a dead end, let's make

sure that we have really explored all

the alternatives. That's what we see

on this slide, this -- you know, this

common question which is very similar

to some of the questions that we see in

employment, but in other settings. You

know, in state and local government

programs, in private businesses where

there are requirements like you have to

wear a face mask or you have to follow

certain protocols about social

distancing and one way circulation

routes and all these things, or even in

some settings, like for example,

schools, you have to be vaccinated to

be there to go there. Again, what

we're seeing is that these are

generally the federal agencies and even

a few courts, at this point -- we

haven't seen a lot of legal activity,

obviously. We don't tend to see things

bubbling up through the courts really

quickly (chuckling) but we have seen a

few courts already saying that these

kinds of requirements are valid

requirements. There are good reasons

behind them and, therefore, the

requirements can stand. It's just,

again, are there reasonable

modifications that we can provide so

that people can get the goods and

services or are there auxiliary aids

and services that we can employ so that

we can communicate effectively with

people in that situation. You know,

sometimes we've seen a lot of questions

around mask policies related to

communication. You know, masks can

make it a little difficult, for

example, for someone who is hard of

hearing to communicate with other

people. Other people, their voices are

muffled, their faces are mostly hidden

by the mask and -- and so that's going

to make it hard for them to

communicate. So there might be some

auxiliary aids or services that could

be used. Anything from using white

boards or text messaging or something

for simple exchanges, all the way to

sophisticated methods like listening

devices or captioning services for more

complex interactions. So we want to

underscore to really explore the

possibilities

» Anne: Right and it seems as

though, um, COVID just adds an

additional layer here. So something to

consider. So as long as the

conversation continues to look at

alternatives, I think that is an

important point to make. There's, you

know, you don't want to just say no and

be done with it. It's a -- have you

considered, um, how you can modify a

policy or, you know, how it can be

done. Sometimes you need to be

creative in order for that to happen.

Okay, moving onto slide number 11.

I think we -- we were on 10 and now we

want to go to 11, which is health and

safety.

» Nancy: I think we want to --

oh, here we go.

» Anne: Yeah, okay, here we go.

Okay. Well and we've touched on this

so do -- we've kind of gotten ahead

here. But -- you said covered entities

may establish legitimate necessary I

safety requirements based on actual

risk. Again, underscoring the actual

risk. Has to be actual data. Covered

entities don't have to allow an

individual with a disability to pose a

direct threat to the health and safety

of others. Again, we have the

individualized assessment. I'm not

sure, did you want to say anything

further here?

» Nancy: I don't think so. I

think we got ahead of ourselves, but

again, this is a very similar concept

to what we see in employment

» Anne: Great. Yeah, it is. It

is. It's the same, just different

words here. Okay. So slide number 12,

please.

» Nancy: I think that's the one

that we should have jumped ahead and we

really talked about that

» Anne: That's great. We jumped

ahead. Okay, now we will go to slide

number 13. Thank you. Where we talk

about testing and vaccines and

treatment. So now, we're really going

to zero in and get down to brass tax

here. Slide 14, please. And talk a

little bit about specifics related to

sites and facilities, specific related

to state and local government and then

look at private businesses. So again,

state and local governments have the

obligation to ensure program access.

So not all testing vaccination or

treatment sites need to be accessible,

but if not all are accessible, a

reasonable number of comparable sites

must be accessible and information

about which sites are accessible should

be readily available to the public.

Nancy, do you want to talk about

this a little bit more?

» Nancy: Well, I think I would

just say that, you know, one of the

common problems that we see and this is

really not only with the pandemic, but

certainly the pandemic is made

everything more challenging, right, for

all of us, is this last point about

getting information to the public.

We've really responded to a lot of

calls and questions about people, you

know, from people with disabilities,

particularly having a lot of trouble

finding information about pandemic

related programs and services, you

know. Where do I go to get a vaccine?

Is it accessible? Are they going to be

able to accommodate me at this site?

Do I have to go someplace farther from

home, all these kinds of things. It's

been a real challenge for some people

to get information. So we really want

to stress that point. If you are kind

of putting all information out on a

website, then the information about

accessibility and all of that needs to

be there, too. And if there's a phone

number for people to call, then people

who answer that phone line should have

this kind of information so that they

can get this information to people who

need it.

» Anne: Yeah, it's -- it's

important to remember, whenever putting

out any new information at all, whether

it's about COVID or not, so okay.

Let's -- let's move onto slide 15,

please.

Okay. Let's look at private

businesses now, businesses that serve

the public. They have just as they do

in the ADA, buildings are subject to

requirements to remove barriers when

it's readily achievable. And so as a

result, all existing buildings may not

be accessible. Can you talk a little

bit more about this, Nancy?

» Nancy: Well, this is just a

place where we do see a little bit of

distinction as kind of a real

distinction between the requirements

that apply to state and local

governments and the requirements that

apply to private businesses like

drugstore, for example, like we have

this image on this slide of this --

this people's drugstore. I think this

is 1920s, you know (chuckling) and this

drugstore could still be standing there

and operating. A lot of older

buildings are -- you know, still in

operation. And so, you know, when it's

private businesses, they have this

obligation to re move barrier, but it's

not always going to be readily

achievable or doable at all. So as I

am sure most folks know, you know,

there's a lot of variety out there in

the world. There's a lot of places

that are not accessible and maybe they

-- they aren't going to be. So again,

getting information is going to be

really important for people to, you

know, to be able to get that

information. As we know, a lot of

private businesses, including

drugstores, it's a great example, they

are giving vaccinations, right? So

which up one or which drugstore in my

community is accessible is something

that people need to be able to find

out.

» Nancy: Great, without having

to dig too much, hopefully. One of my

favorite topics, temporary facilities.

This has been an issue in COVID.

Services provided in temporary or

mobile facilities are absolutely

covered by the ADA. So talk a little

bit about what we've seen at the center

and the calls and the questions from

these

» Nancy: This is not an issue

that's limited to COVID, but it's

always been in the ADA and the ADA

standards specifically cover temp rare

facilities. But of course with COVID,

we have seen a lot of that. We have

seen testing facilities in parking lots

and sax nation sites in temporary

places like this image on this slide

that looks like -- it's a building.

It's not a tent, but we've seen that,

too. It looks like maybe it typically

serves as a warehouse or something of

that nature and may take in some tape

and some cones and you tape up lanes on

the floor and they've done all this

sort of stuff to create a sort of

vaccination site and the ADA is going

to reach this. If this is the being

done by a state or local government or

a private business that's offering

these services to the -- to the general

public, then this is going to be

reached by the ADA. Mobile facilities,

as well, you know, like your -- your

blood mobile and your book mobile and

all that. This is just another example

if there's a vaccination mobile going

around in your community, how are

people with disabilities going to be

able to access that -- that service.

So this can present a challenge. Some

places have done a really good job of

making sure the temporary facilities

are accessible, but sometimes there can

be -- there can be oversights

» Anne: Especially when they are

doing it in a hurry and they are

rushing and they want to get it set up

and start serving people quickly, they

sometimes forget about fundamental

issues, so we know we've seen that

before. Slide number 17, please. So

going back to effective communication

which we talked about a little bit

early and auxiliary aids and services

maybe for effective communication for

individuals with hearing or speech

disabilities. Again, this is going to

be an individualized assessment based

on the case and what the nature of the

communication and telephone systems

used to get information and make

apointments must be effective for

individuals using telecommunications

relay service. Tell me a little bit

more about the effective communication

requirements applied to COVID

» Nancy: Well, we did touch a

bit on auxiliary aids and services a

bit earlier. Again, put it in context,

individualize it to the nature of the

individual's needs and the situation

and the type of communication that's

going on. You know, we have simple

exchanges, we have complex -- you know,

medical exchanges, we have all these

kinds of things and we need to really

put that in context and we kind of

really wanted to include this item

about telephone systems being effective

for people who use relay services,

people who are deaf and hard of hearing

who have speech disabilities and these

relay services because this is very

often a matter of training for the

people who are operating these

telephone systems so that they have the

awareness about what is a relay call,

what is that when you get an operator

-- you know, like communications

assistant, an interpreter on the phone

saying, I've got this relay call from

this person and so that the folks that

are answering those calls really

understand what that is and don't hang

up and don't say I can't take a call or

say I can't take that and all of those

sorts of responses. So it's another

example of how important it is in any

ADA program to really give some basic

training to that front line staff that

are going to be interacting directly

with the public.

» Anne: Absolutely. I think we

see this a lot, customers training --

customer service training is so

important because it's frequently the

front line personnel that are the point

where communication breaks down and

that might cause problems and provide

barriers for people with disabilities.

Okay, slide number 18, please. It

wouldn't be an ADA presentation unless

we talked about digital access

(chuckling) especially in today's day

and age. So again, applying the

concepts that Nancy has been talking

about, access to web suits and mobile

apps, to find appointments, et a, you

have to make sure that there is commune

case and you have to look at

compatibility for people with

accessibility that affect mobility or

dexterity. Can you talk a little bit

about digital access issues?

» Nancy: Well, like you said, in

this day and age, it seems like we have

to go on a website or an app to do

anything, right. While this is great,

it opens up a lot of opportunities, if

or some of us, in some cases, it makes

us more accessible, more available,

more convenient, but if these things

aren't really built to be accessible

and be compatible with assistive

technologies, it can just create

another type of barrier for people with

disabilities trying to get information,

make those appointments, figure things out.

» Anne: Right. Right.

» Nancy: So these are just a

couple of quick examples, just a couple

of highlights, just kind of want to

make sure that this is on people's

radar and, you know, as advocates are

going out in the community, working

with, say, state and local government

programs which are really, ultimately,

responsible for implementation of a lot

of the things that we're talking about,

Perls ly when it comes to health care

and all of these different things that

these apps and websites, some of them

are being thrown up, you know, very

quickly, just like the temporary

physical sites and we want to see them

to be accessible. We don't want a lot

of dancing bears and flashing lights

and things jumping around. We want

simple designs, plain language,

compatibility with assistive technology

so that people with disabilities can

try to get that same level of

convenient access where they do have

access to those things.

» Anne: Right and with

everything with universal design, it

makes so much sense and it makes it

easier for a lot of people without

disabilities, as well. So it's in

everybody's best interest.

Okay, we're getting to our last

two slides here before we transition to

some Q and A and I'm not sure -- I

haven't been looking, but I know Robin

is going to see if we have any

questions here. So slide -- if we can

go to slide 19, please, and look at

reasonable modifications again just as

we looked at effective communication.

So here are some more examples of

common modifications to policies,

practices and procedures that

businesses and state and local

governments may be doing to accommodate

individuals with disabilities and, you

know, service animals is always

(chuckling) an issue, too, but

certainly adjusting communication

methods to accommodate individuals with

intellectual, cognitive disabilities --

this is separate from the disabilities

we just talked about. Modifying

limited visitation policy in a medical

facile to allow an individual with a

disability to have a needed support

person present. Really important in

the hospitals. Admitting service

animals and providing seating to

accommodate individuals who have

difficulty standing in a long period of

time, maybe standing in line at a

facility for a vaccine or a test.

Anything you would like to add to this

one, Nancy?

» Nancy: Um, not much, really, I

mean, again, these are just some of the

common things that we've seen or had a

lot of questions about and, you know,

just wanted to remind folks that,

again, be creative and try to

accommodate, you know, folks. These

are just a few examples. There could

be all kinds of other things that folks

might ask for, so we just encourage

folk, before you say no we've never

heard of such a thing or we've never

heard anything like that, just -- just

take a little breath there and think

about it a minute and think about do

you need to maybe get a supervisor or

(chuckling) think about it a minute

» Anne: And I was thinking, too,

if you are going to advocate, come with

some suggestions and ideas and use our

wonderful friends at The job

accommodation network, JAN and

askjan.org if you are looking for

accommodations or call your local ADA

center, as well, and we can brainstorm

some possibilities, too, of problem

solving.

So let's transition to slide

number 20, please. So how -- Nancy,

how can we -- how would we recommend

that centers for independent living,

you know, help in their community?

» Nancy: Well, these were just a

couple of ideas that we thought might

be helpful to, you know, as folks leave

our session here today to think about

how can we all go back to our

communities and maybe try to, you know,

make a positive different with all the

terrible things that are going -- that

have been going on in the world for the

last year and a half around some of

these issues that have proven to be

challenging to people with disabilities

during this pandemic. So we've talked

a lot about how difficult it's been

with people with disabilities sometimes

to get information. Just to get the

information, let alone to get the test

for the vaccine or the treatment --

just to get the information about it.

So really encourage -- you know, we

really encourage organizations,

businesses, use multiple methods, use

different languages to put information

out there. Don't just put everything

all on the website and nowhere else.

Think about, you know, different ways

of getting information out to the

public -- public service announcements,

posting signs, old fashion ways, be

creative. Think about collaborations,

you know, how are people going to be

able to get to testing sites and

vaccine sites and treatment sites and

so forth? Can we work together? Are

there collaborations that we can rev up

or volunteer programs that we can plug

in? And again, trying to encourage

sites to really think about

accommodating individuals. In many

cases, as part of the planning process

and not necessarily just waiting for

somebody to make that request or ask

that question. How do we make our site

or our program accommodating by -- by

design? You know, maybe we don't want

to take out all of our chairs because

we don't want everybody sitting so

close, but maybe we want to leave a few

for folks who have difficulty with the

standing in the line or what about

people who maybe can't wear a face

mask. Are we going to be able to do

something with different location or a

different schedule or an appointment or

something? So we just want folks to

really remember that kind of -- our

core principle of be creative, let's be

problem solvers about this, and we can

probably make a real positive

difference with some of these issues

» Anne: It's such a good time to

educate people because, I mean, again,

this is a rare opportunity of -- nobody

has been through a pandemic before and

so everybody is learning and so it's a

-- it's a great opportunity to educate

everybody about getting creative and

ensuring that everybody is

participating and has access to

services and getting what they need to

work and to be effective.

Okay. Slide 21, please. We have

come to kind of our presentation -- I'm

not sure if there are any questions out

there, but I just want to pause for a

minute to see if anybody has any

questions that they would like us to

address

» Yes, thank you, both Anne and

Nancy for the information that you've

been able to provide to us today. We

do have a couple of questions that we

can start to deal with in the time that

we have remaining for the session. One

question is what to do if an employee

of a workplace can't get vaccinated due

to some type of an underlying

condition, what kind of accommodations

can be given to that person if the

employer has a mandatory vaccination

requirement?

» Nancy: That's a great question

and it's a pretty common one

» Anne: Yep

» Nancy: Yeah and -- you know,

again, obviously, it really depends on

the nature of the job and the

workplace. You know, one of the most

common requests for accommodation that

we've been talking to people about in

the last year and a half is working

from home.

» Anne: Yeah

» Nancy: You know, but of course

-- and that could be a possibility for

a lot of people in a lot of jobs, but

it's certainly not going to be a

possibility for everyone. If you work

at a job where you really have to go to

a job site to do it, it's a hands on

kind of a job, then working at home is

not an option for you. But you know,

again, maybe there would be some

additional protection kind of protocols

that can be put in place for that

person so that they can have more of a

physical separation from coworkers or

the public. You know, masking,

cleaning procedures, some employers

have put very regular testing protocols

in place for people who can't be

vaccinated. Although, some people that

that's not really very effective

because, you know, by the time you get

tested and get the test results back,

you could have already been, you know,

exposed people to it. It's highly

contagious and everything, but there

are certainly things that we can do as

most of us have learned from the early

days of this to limit exposure.

» Anne: And I have a feeling

that there are going to be a lot of

resources coming out of different

organizations that talk about

accommodations with COVID

» Nancy: That's a possibility

» Robin: I have another

interesting question that runs along

the same line but a little bit of a

different twist on it. This is a

question about let's say you have an

employee who works in a CIL who is

immuno compromised. So if they have

consumers that are part of their job

and the service delivery system that

they are part of working for that CIL,

but they are not vaccinated and of

course now you have an employee who is

immune no compromised, is it against

the ADA and their philosophies of

independent living to decline and to

provide somebody with an in-person

service if they are not vaccinated for

fear of the health risk to others?

» Nancy: That's a bit of a twist

on that question. In things like that,

you have to look at the nature of that

service, which is traditionally or

typically provided in person and does

it really need to be provided in

person? Is it some sort of hands on

kind of service where you really need

to be in the same space or maybe it

could be done in an alternative way, a

virtual meeting or something else so

that that up close, face-to-face

interactions is maybe not necessary.

If it is necessary, then are there

other alternatives? Is there someone

else that can do the in-person or not?

I mean, these are the kind of questions

that are difficult to answer in the

hypothetical or detached way. You kind

of have to know a lot more details

about the situation to figure out if

there are alternatives. I mean, it's

-- you know, there's a reason that we

have the term reasonable accommodation

and why we have limitations like undue

hardship and direct threat and all

these things so that we -- we

understand that we don't have to do

things that are going to put anyone at

a significant risk.

» Robin: This is Robin, I just

want to add -- it was the person's

comment that is it against the ADA and

it's not that you have a situation that

would be discriminatory if the person

wouldn't be served at all and it would

be against the IL philosophy if the

independent living center refused to

serve somebody that was not vaccinated,

et cetera, but it's a case-by-case

assessment I think that you were

referring to earlier in regards to what

would work best in the situation for

both consumer that needs to be served

as well as the employ the year who may

need protection. So it's on both sides

there and it's really not about

discrimination but more about how do we

still provide delivery and deliver

services in a meaningful way with the

constraints that we have for us because

of COVID

» Anne: Thanks. We are at the

top of the hour. I think we have one

more slide, Robin

» Nancy: I did want to mention

the national COVID related website

which is at ADA COVID-19 dot Org. It's

got a lot of resources there.

» Anne: Thank you, everybody,

for joining us for this session.

Robin, thank you for moderating and

here is our contact information if you

would like to reach out to us. We

really encourage you to contact the ADA

center that serves your state and we

always love to partner with CILs

» Robin: We are going to plug in

that the ADA national network has an

audio conference series tomorrow on

Long COVID and ADA employment. If you

are interested and it's still

available, you can register at

WWW.ADA-audio.org: That session is

free and starts at 2:00 p.m. eastern