

# COVID-19 Accommodations and Workplace Flexibility

Training for Deans, Department Chairs, and HR Officers

June 2020

# Returning to Campus

- **Guiding Principles**
  - The best Carolina experience is one that occurs here on campus where that is all possible.
  - The safety and well-being of our campus community is paramount to all other considerations.
  - University Leadership will communicate with our students and their families and our faculty and our staff on a regular basis as decisions are made.
- **Fall 2020 Return to the Workplace**
  - Phased approach starting with the Research enterprise on June 1, ramping up through July
  - Preparing to start the instructional year on August 10 by returning the faculty, staff, and graduate students who support the University's teaching mission and student support functions through June and July
  - Other staff to return on a phased basis

## Today's Training Goals

- Help you know how and when to engage faculty and staff in thinking about returning to campus
- Provide you tools for navigating conversations around return to campus and concerns faculty and staff have
- Make you aware of the University processes for providing accommodations or other workplace flexibility employees may need as we return to campus
- Share available resources

## Potential Requests

### AMERICANS WITH DISABILITIES ACT (ADA) ACCOMMODATIONS

- Handled by Equal Opportunity and Compliance Office (EOC)
- Includes requests based on **employee's own** health condition
  - Not a family member's health condition
- Includes CDC-identified high risk health conditions

### GENERAL WORKPLACE FLEXIBILITY

- Handled by Deans or Department Chairs
- Includes age, pregnancy, child or elder care, living with or caring for high risk individual(s), general concerns
- Disproportionate impact on communities of color

# ADA Accommodations

- ADA requires us to provide **reasonable accommodations** to individuals with a disability unless it would pose an undue hardship to the University
- Employees will be asked to certify that they can and will provide medical documentation supporting their request if asked
- Equal Employment Opportunity Commission:
  - “There may be reasonable accommodations that could offer protection to an individual whose disability puts him at greater risk from COVID-19 and who therefore requests such actions to eliminate possible exposure.”

# Seeking accommodations or workplace flexibility is always **voluntary**.

## Determining Who Needs Flexibility

### NOT PERMISSIBLE

- May **not** require employees to work remotely because of assumptions or knowledge about their high risk status
- May not single out a particular employee and ask whether they need accommodations or flexibility

### PERMISSIBLE

- May send a group communication asking those who anticipate needing accommodations or flexibility to seek them now in order to determine on-site staffing availability
- May designate employees to continue working remotely to promote social and spatial distancing as long as done based on neutral business needs

## Initiating the Conversation

- Email all faculty and Department staff with student support functions
  - Remind them that instructional operations will resume on August 10
  - Make them aware that the University is committed to providing accommodations under the Americans with Disabilities Act and workplace flexibility, where possible
  - Communicate that requesting accommodations or flexibility is **voluntary**
  - Ask those who would like to see accommodations or flexibility to contact the appropriate person
    - EOC if requesting ADA accommodations
    - Department Chair if requesting flexibility

# What information should I ask for?

- Ask them to communicate
  - If they need workplace flexibility due to COVID-19
  - What that workplace flexibility looks like for them
- The University will **not** require employees to provide documentation to support workplace flexibility requests.
  - Requesting flexibility is sufficient on its own
  - If you believe you need documentation, consult with EOC, APO, Departmental Human Resources Representative, and/or OHR
  - If you receive documentation referencing a medical condition, it must be kept confidential and not part of the employee's personnel file

# Guiding Principles

- **Decisions should be made without regard to any protected status.**
  - Age, color, disability, gender, gender expression, gender identity, genetic information, national origin, race, religious, sex, sexual orientation, veteran status
- **Strive for consistency in decision making process**
  - Process requests from similarly-situated employees the same way
  - Recognize that equity does not mean everyone gets the exact same thing
- **Avoid favoritism**
- **Process should not be used to address performance or conduct concerns**

# How do I make these decisions?

- **Key Questions:**
  - Is the employee making the request based on their **own** health condition?
    - If so, refer to the EOC
  - Does the employee want to discuss what leave options may be available to them?
    - If so, refer to your Departmental Human Resources Representative and/or OHR Benefits & Leave
  - If no to both of these, consider provided questions and know when to ask for help

# FACULTY REQUESTS

- Is the course required by the University to be taught in person?
  - If yes, is the faculty member requesting to teach remotely the only faculty member with the expertise to teach the course?
  - If no, have the other qualified faculty members also requested flexibility to teach remotely?
- Can a portion of the course be offered remotely?
- In what ways will failure to teach the class now impede student progress?
- What impacts, if any, do the social distancing and spatial distancing requirements, have on the student experience for this class?
- Can the instructor be assigned a section of the class that meets later in the day?
- Can the instructor be assigned fewer in-person courses total?
- Can students be required to contact the instructor over email or Zoom?
- How can traffic flow in the classroom be managed to minimize interactions?
- Should additional protective equipment be provided?

# STAFF REQUESTS

- Is it feasible for the employee's work to be done remotely?
  - Special equipment on-site only?
  - Physical presence necessary to meet student/customer needs
  - Impact on demand for in-person services
  - Other staff who could perform those duties
  - Impacts on quality or speed of service
- Where does the work need to be performed on-site?
- When does the work need to be performed on-site?
  - Consider impact of lengthened class day on demand times
- If an employee must work on-site, what measures can be put in place to protect them while on campus?
  - Partial telework
  - Schedule change
  - Location change
  - Additional protective equipment

## When should I seek help?

- EOC, the Office of Human Resources, your Departmental Human Resources Representative, and the Academic Personnel Office are **always** available to help navigate these decisions.
- Ask for help if:
  - You believe you need to deny a request
  - You have multiple requests for flexibility and would not have adequate staffing if you granted all of them
  - If the employee raises concerns about protected status, inconsistency, or favoritism
  - You aren't sure if you are allowed to provide what the employee is requesting
  - You need the help of another office to put the flexibility into action
  - Anything else you're unsure about

# Resources

- Academic Personnel Office
- Equal Opportunity and Compliance Office
- Departmental Human Resources Representative
- Office of Human Resources
  - Benefits & Leave Administration Support Team
  - Employment & Management Relations
- Email questions to [hr@unc.edu](mailto:hr@unc.edu), and it will be routed to the appropriate office(s).

# Granting Flexibility

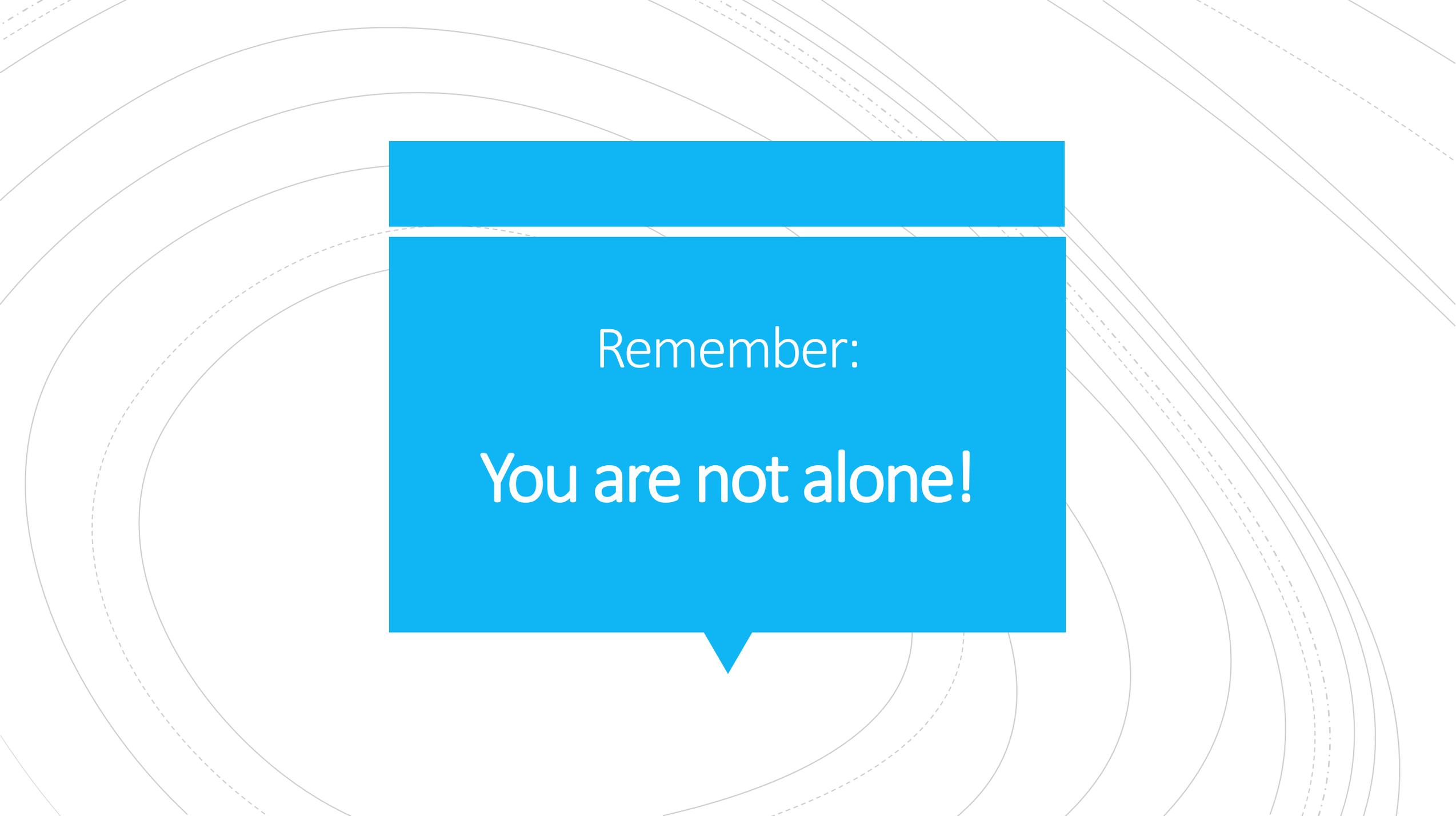
- **Communicate decisions in writing to employee**
  - Include Departmental HR representative
- **Include the flexibility plan and the duration**
  - Duration should not be “until there is a vaccine” and should be no longer than one semester
  - Determine a reasonable period of time based on the employee’s position and request
    - i.e., “Fall 2020 semester” or “two months”
  - Reevaluate whether flexibility can continue prior to the expiration of the set period
  - Cannot grant permanent remote work for any employee

# Denying a Request for Flexibility

- Before denying a request for flexibility, you **must**:
  - Consider all alternative options to meet the employee's need for flexibility
  - Consult with APO, EOC, and/or OHR by contacting [hr@unc.edu](mailto:hr@unc.edu)

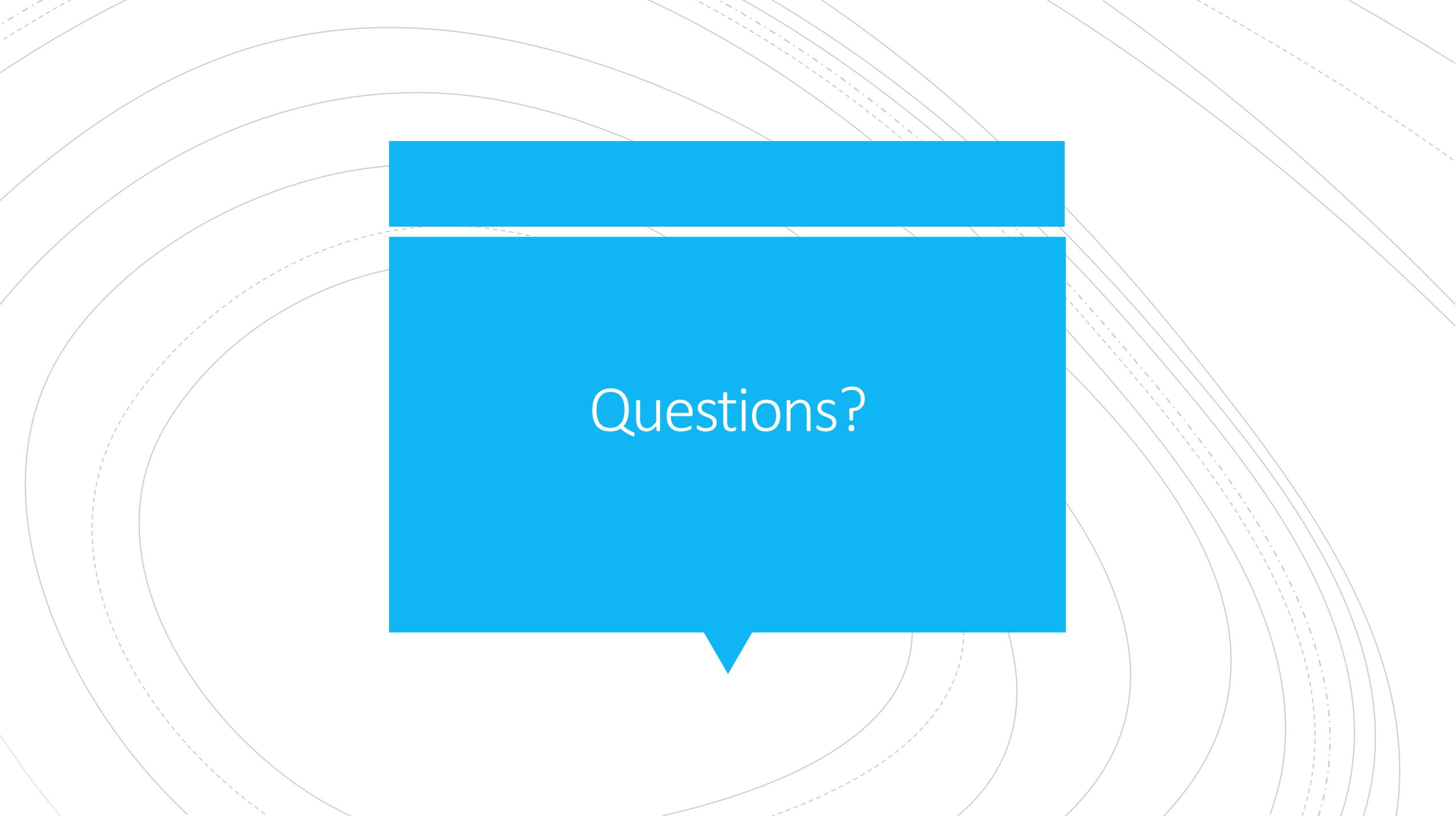
# Avoiding Retaliation

- Retaliation for seeking an ADA accommodation or workplace flexibility is **prohibited**.
- Retaliation: any adverse action or attempted action that would discourage a reasonable person from engaging in protected activity and includes –
  - Intimidation, threats, coercion
  - Adverse employment actions

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Remember:

**You are not alone!**

The image features a central blue speech bubble with a white question mark. The background is white with several concentric, light gray circles, some of which are dashed. The speech bubble has a solid blue top bar and a pointed bottom. The text 'Questions?' is centered within the bubble in a white, sans-serif font.

Questions?