

A simple explanation of two complex laws.



Family Medical Leave Act

Americans with Disabilities Act



GROUP BENEFIT
SOLUTIONS

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You

Your business

Your employees

FMLA

Family Medical
Leave Act

ADA

Americans with
Disabilities Act



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FMLA

Family Medical
Leave Act



- Federal law in 1993
- 50 or more employees

What is the FMLA?

- Unpaid time off
 - Balance work and family
 - Protect employee's job
- reinstatement position
- Maintain group health insurance
- same terms

Who is eligible?

3 criteria

- 1 **Minimum of 12 months service**
- 2 **1,250 hours in previous 12 months**
- 3 **50 employees in a 75-mile radius**

Qualifying reasons.



1



2



3

How much time?

- 12 workweeks of unpaid leave
- 26 workweeks for military family member
- Based on work schedule

Example

$$40 \times 12 = 480$$

HOURS WEEKS HOURS

USE OVER
12-MONTH
PERIOD

Continuous



Intermittent



Reduced





Regulation



Employer's policy

Not required:

- Intermittent
- Reduced



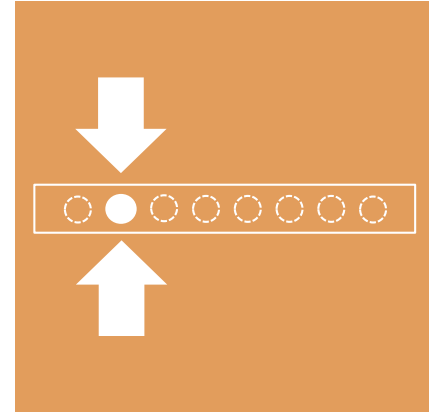
Regulation



**Employee
request**



**Certified by
health care
provider**



**How often
and how long**



Greg

3X Frequency
MONTH

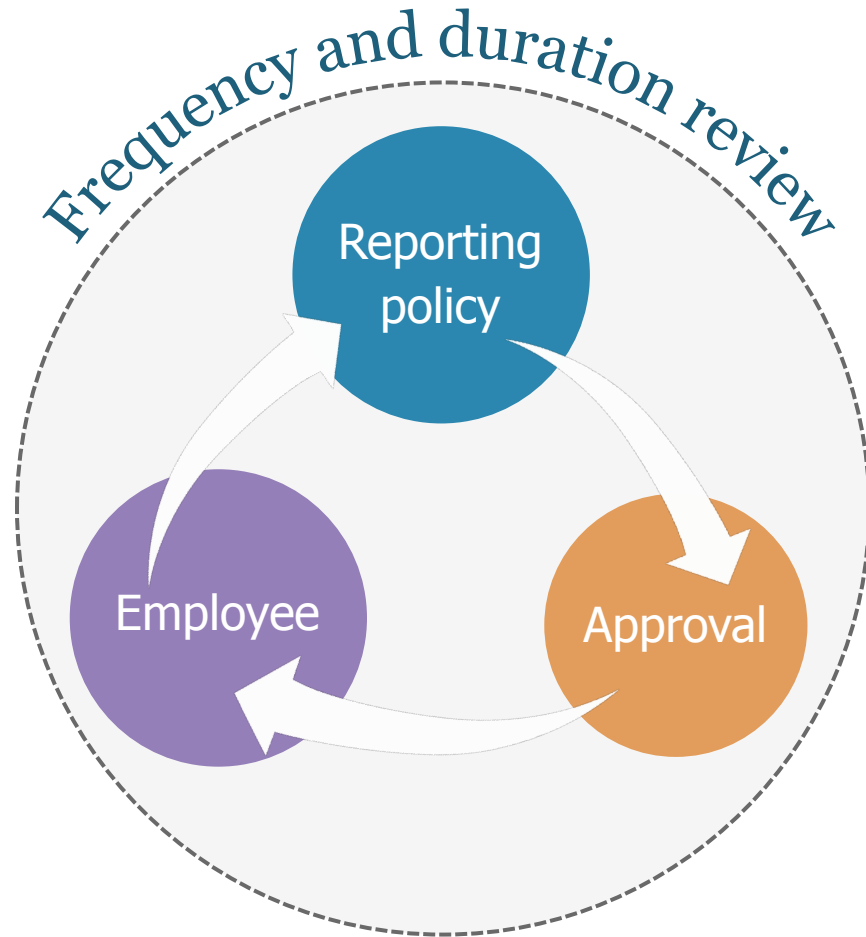
4 Duration
HOURS

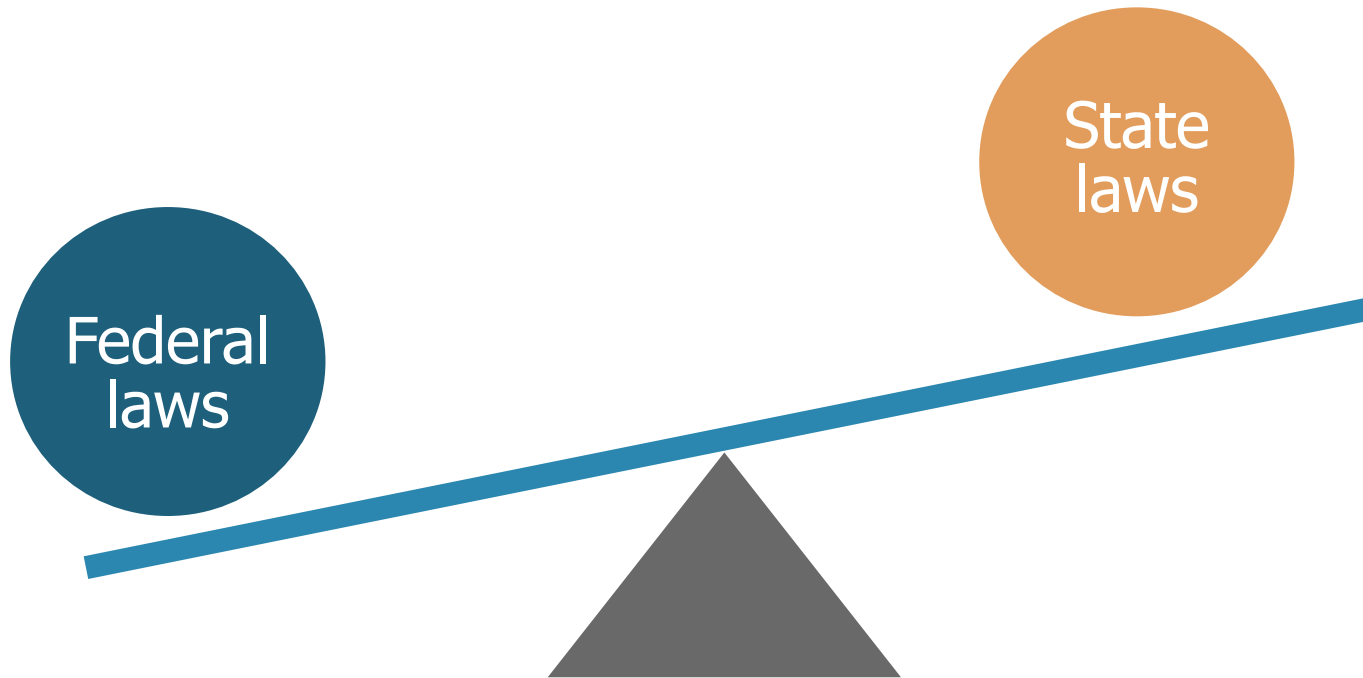


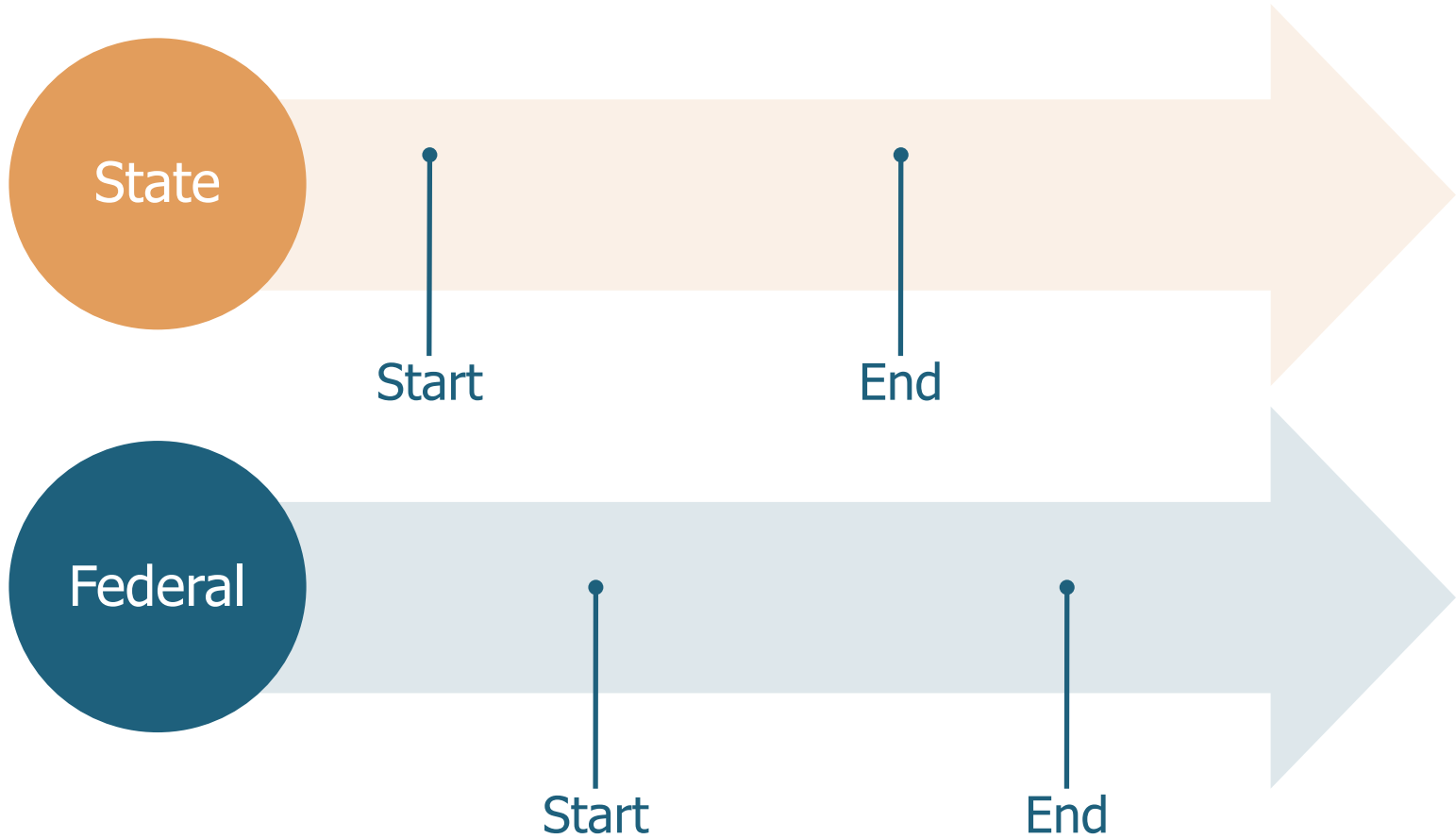
Janet

1 Frequency
WEEK

8 Duration
HOURS







Connecticut



up to
16
weeks

over
24
months

worked
1,000
hours

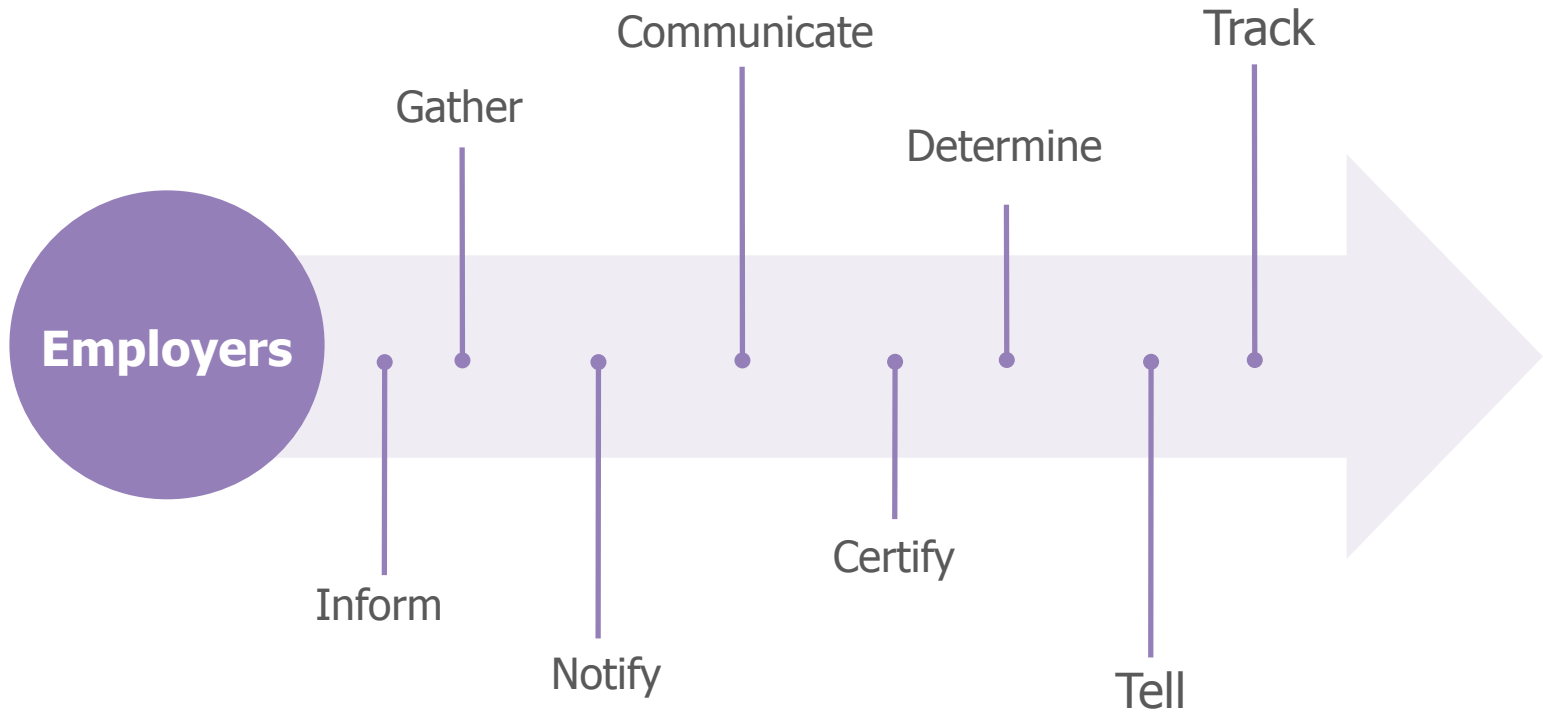
Federal

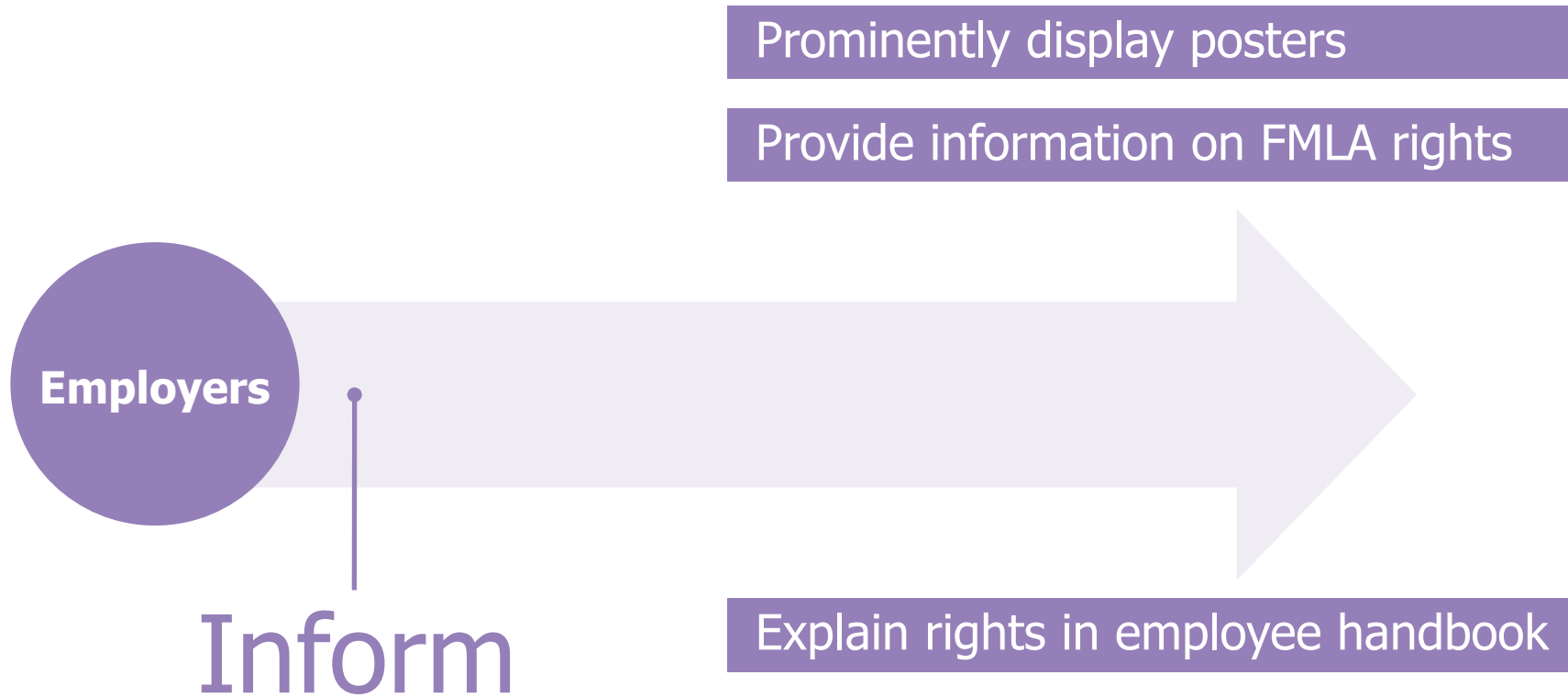


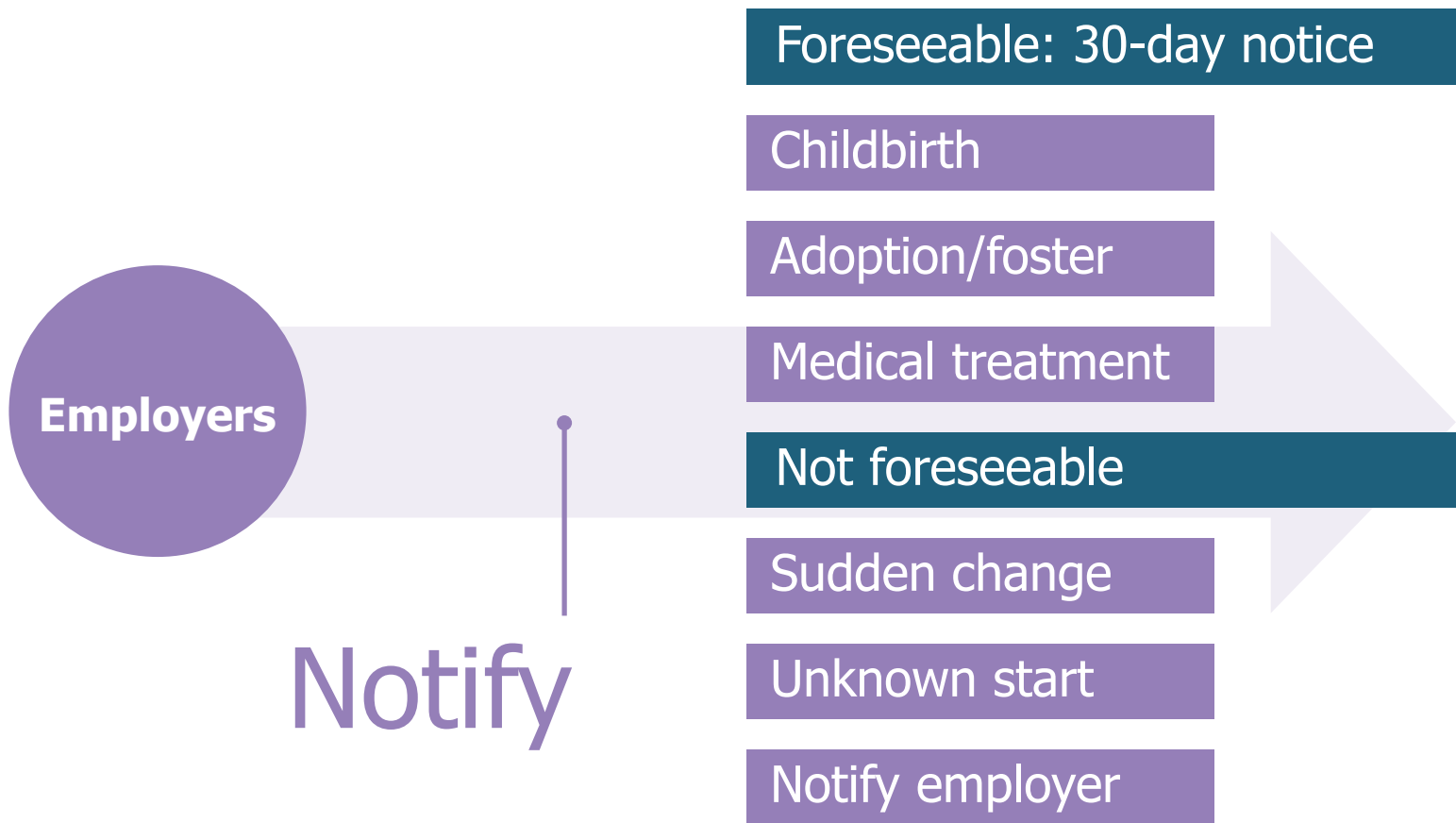
up to
12
weeks

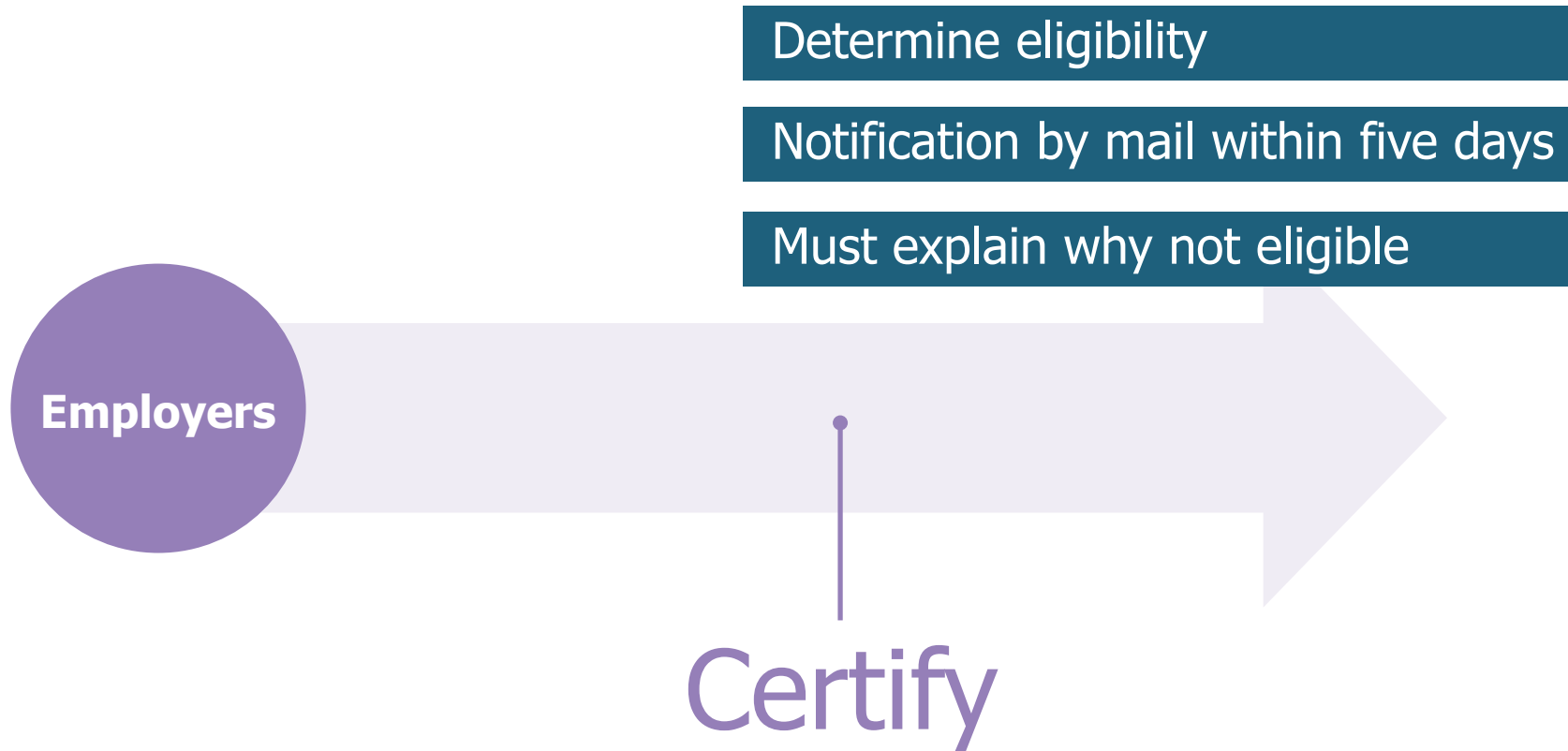
over
12
months

worked
1,250
hours









Determine

Employers

Intermittent: Frequency/duration

Continuous: Number of hours

Denied: Explanation why

Review medical certification

Determine if a job-protected leave

Tell employee of missing info

Employee has seven days to complete

Give determination notice in five days

Intermittent leave



Employee

- Provide medical certification with frequency and duration



Employer

- Must tell employee if incomplete

Intermittent leave



Employee

- Submit request for leave
- Update new certification form



Employer

- Review against certified frequency, duration, time used
- Send notice if request exceeds certification
- Approve or deny time

ADA

Americans with
Disabilities Act

Prohibits disability discrimination

Federal law in 1992

Amended in 2008

- Broadened definition of “disability”
- Physical or mental impairment that limits major life activity



What is a reasonable accommodation?

A change in work environment to help individual perform their job

Employer is **not** obligated to create a new job

Employer is obligated to provide change

Employer is **not** required to make a change if it causes undue hardship

Employer responsible for making changes only if they are made aware of it

Employer is **not** obligated to make changes for unqualified individuals

Employee or representative is responsible for requesting accommodation

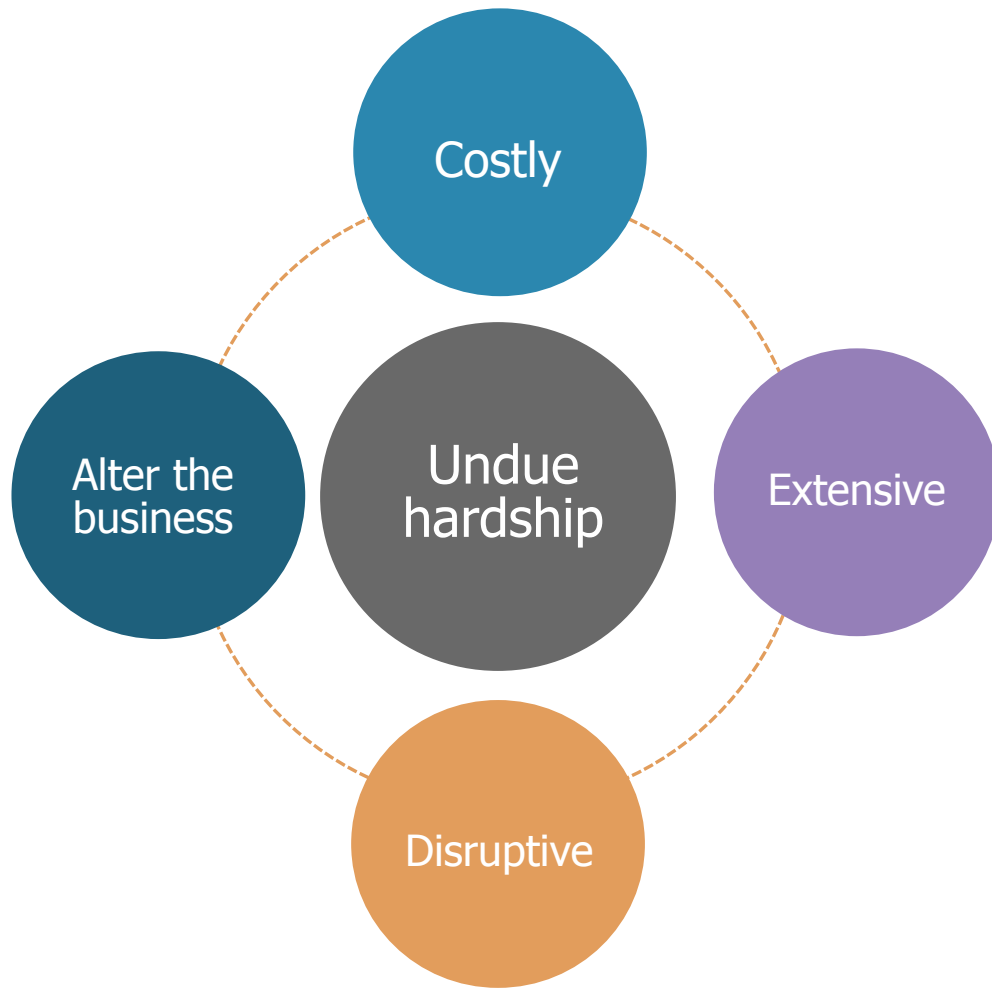
Reasonable accommodation

May take many forms

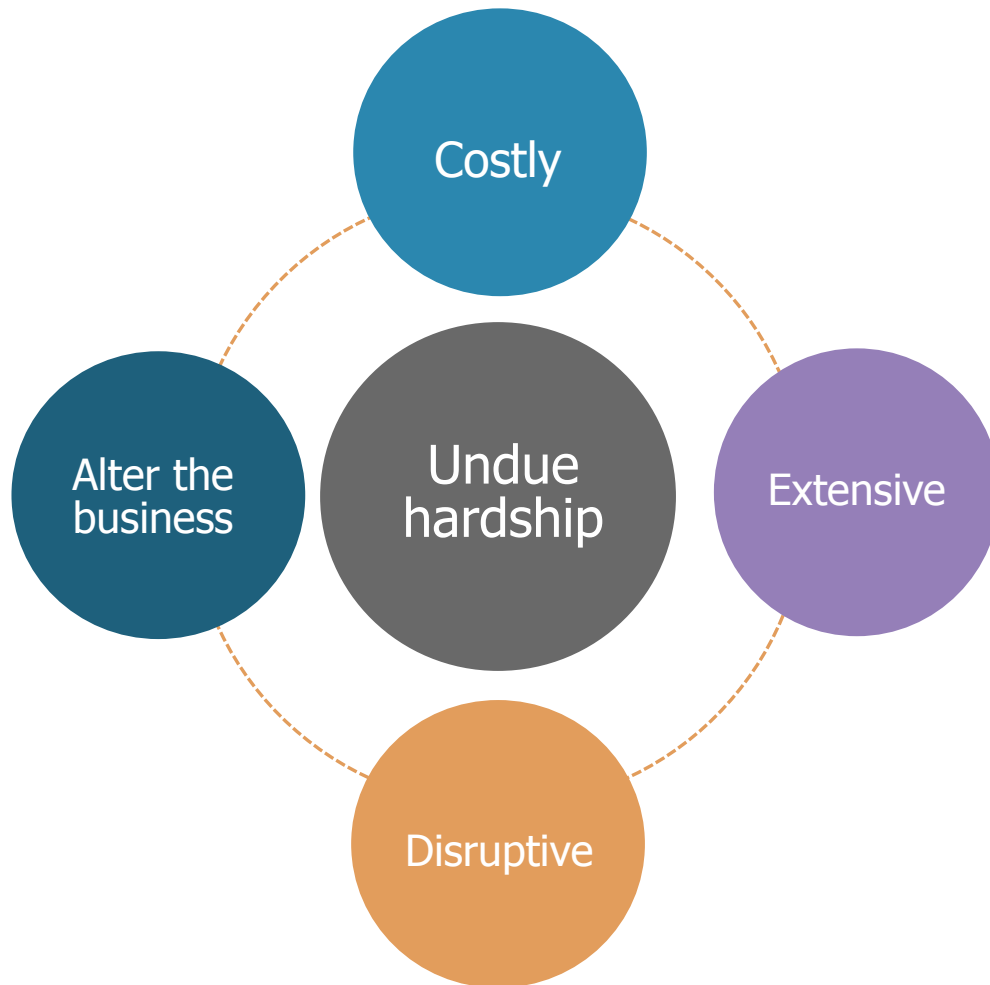
- Changes to existing facility
- New or modified equipment
- Qualified readers or interpreters
- Reassigning employee to another position
- Leave of absence

What the law states

- Has to be reasonable
- Does not have to be the same as what was requested
- Does not have to be the best option
- Does not have to be the most expensive option
- Employer may request documentation



- Show how it is a hardship
- Document how it will adversely affect business
- Find different accommodation
- Choose from options



Reasonable accommodation



- Workstation enhancements
- Stand-lean stool
- Anti-fatigue mat
- Allowed to take breaks



- Improved performance
- Stay at work
- Avoid potential disability

What is an ADA disability?

1

2

3

What is an ADA disability?

1

An actual disability

- Physical or mental impairment limiting major life activity
- Limited use of major bodily function
- Examples: cancer, hearing impairment

What is an ADA disability?



A record of disability

- A history of physical or mental impairment limiting life activity
- Example: cancer in remission

What is an ADA disability?

3

Regarded as having disability

- Establish discrimination
- Example: skin graft scars
- Accommodations not required

Impact of ADA on benefits and laws

**Benefits
under
disability**



**Definition
of
disability**

Evaluate cases individually



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Leave of absence



Reasonable accommodation

- Exhausted time under FMLA or state law
- Doesn't qualify for FMLA
- "Open-ended" is not reasonable

Violations

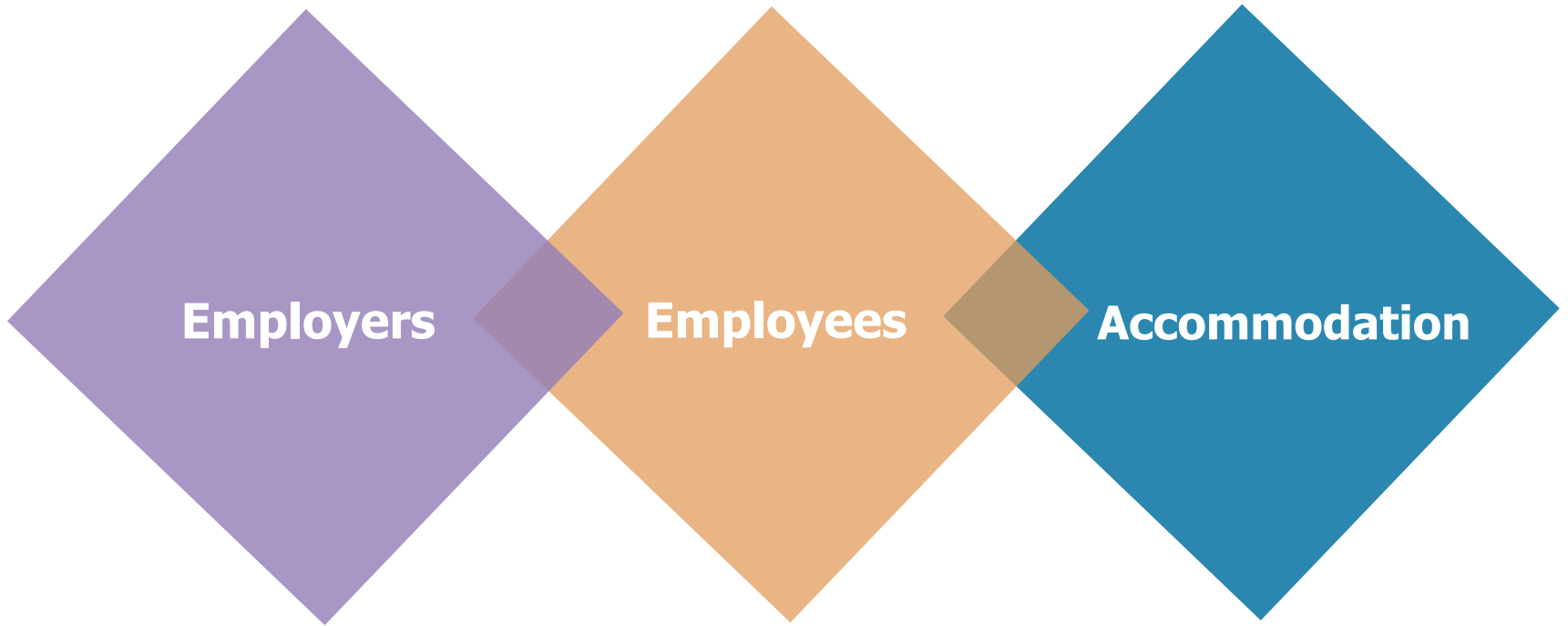


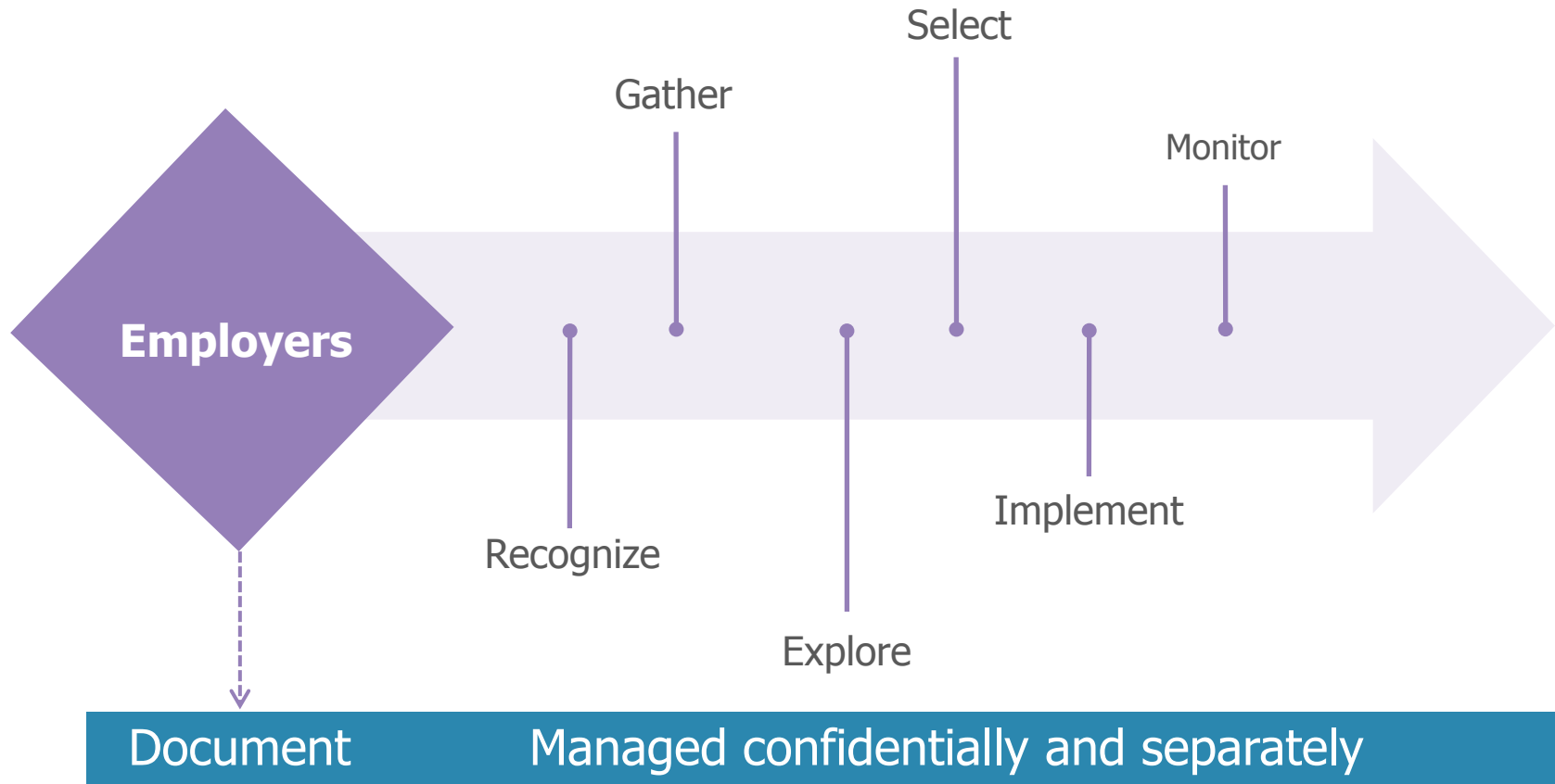
- Automatic termination
- Return to work with no restrictions

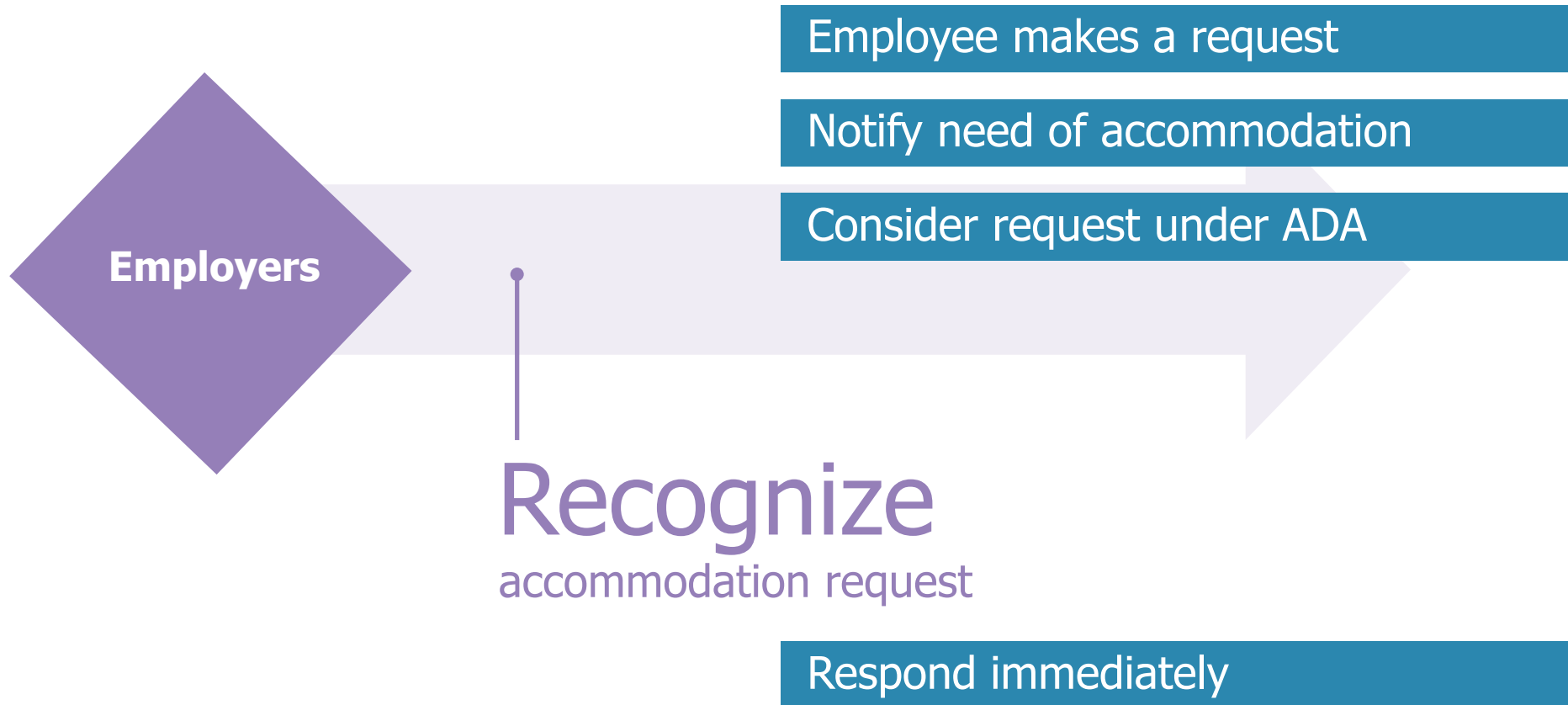
Example



- Protected under ADA
- Requires only light duties







Gather information



Employers



Documentation to qualify disability

Job related and business necessity

Know tasks being impacted

Evidence for the accommodation

Or not required to provide it



Meet with the employee

Explore accommodation options

Vocational coaches

Explore
accommodation options



Decide on what to implement

Consider what employee prefers

Your choice based on documentation

No options that pose undue hardship

Select
accommodation



Install and train on new equipment

Notify managers of change

Outside service provided quickly

Time for employee to acclimate

Implement
accommodation

Retaliation prohibited



Monitor accommodation

Periodically check on effectiveness

Communicate with your employee

Ineffectiveness

- Change in limitations
- Equipment changes
- Job changes
- Workplace changes
- Undue hardship

Complex nuances

Follow policies

Understand your roles



FMLA

Family Medical
Leave Act

dol.gov

ADA

Americans with
Disabilities Act

eoc.gov



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Conclusion

Contact your manager
or HR representative

Expertise for compliance

In-house clinical solutions

Flexible solutions

Meet legal obligations

Unique partnership

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