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**JAN**

**MONTHLY WEBCAST SERIES - TRANSITION**

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>> Hello everyone and welcome to the Job Accommodation Network webcast series. I'm Elisabeth Simpson I'm here with Melanie Whetzel. We'll be presenting today's program called "Transition". Before we start the program, I want to go over a few housekeeping items

(Music is still playing).

>> ELISABETH SIMPSON: Please call us at 800-526-7234 for voice if you have issues during the webcast or for TTY call 877-781-9403. Second, toward the end of the presentation we'll have a question and answer period but you can send in your questions at any time during the webcast to our email account, question@askJANorg or you can use our question and answer pod located at the bottom of the screen to use the pod type your question and submit it to the question queue.

Also on the bottom of your screen you'll notice a file sharepod that you can use if you have difficulty viewing the slides or would like to download them. You can also download the resource handout we put together. And finally, I want to remind you that at the end of the webcast, an evaluation form will automatically pop up on your screen in another window. We really appreciate your feedback so please stay logged on and fill out the evaluation form.

Now let's get started with today's program.

So just to offer a little bit of an outline of what we'll be going over today, first I'll start us off by reviewing some general information about an individual's rights and responsibilities under the ADA and how other laws might come into play if we're looking at transitions and transition from high school to postsecondary education or the workplace.

We're also going to take some time to review disclosure, when to disclose, who to disclose and throughout the presentation we'll be offering some examples of accommodation situations and then we've got some more at the end of the presentation before our question portion of today's presentation.

So jumping right into the focus of our presentation today, I wanted to start by outlining the main differences that exist between laws that are in place for students, so those who are in preK-12th grade and laws that are in place for individuals who have graduated or aged out of secondary education settings. The Individuals with Disabilities Education Act or IDEA of 2004 governs how state and public agencies provide early intervention special education and related services to infants, toddlers, children and youth with disabilities. IDEA has three parts, Part A, B and C. And eligibility is based on whether or not the child meets the IDEA definition of disability.

If so the child is then entitled to a Free Appropriate Public Education that emphasizes special education and related services designed to meet their unique needs and prepare for further education, employment and independent living.

IDEA also ensures that the rights of children with disabilities and their parents are protected it assists Federal, state and locate agencies in the provision of education for children with disabilities and assesses the effectiveness of educational programs

I'll discuss in greater detail how one can be deemed eligible under Title I of the ADA based on definition later but for now it's important to understand that people with disabilities who are eligible under ADA are not entitled in the same way that a student may be under IDEA to receive accommodations in the workplace.

To expand upon this further, this next slide offers a side-by-side comparison of the IDEA and the ADA.

Again, IDEA has its own way of determining when a student is a child with a disability, and once this has been determined, a team of individuals will work together to develop individualized education programs or IEPs to ensure that the student is receiving appropriate education and services.

On the other side the ADA determines eligibility based on the definition of disability. Employers ultimately are the entity that decides whether or not the individual has a disability based on medical documentation typically that's provided as defined by the ADA and the employer decides what accommodations can be reasonably provided based on undue hardship. While still in school, a student may also have a 504 plan in place and back to our topic of discussion, at some point will be involved in transition planning

In the educational setting there's advocacy for or on behalf of the child. And this can come from parents, guardians, siblings, teachers, counselors, or administrators to name a few.

In employment settings not only is it possible that the individual is covered under the ADA, but state civil rights laws might apply, local laws are becoming more developed these days and the Federal leave law or Family Medical Leave Act or FMLA might apply. Self-advocacy is important in this arena and Melanie will talk about individuals transitioning to school or the workplace can develop self-advocacy skills to ensure steps are taken to receive accommodations under the ADA.

Let's take a look very quickly at the basic definition of disability under the ADA so an individual has a disability under the ADA if he or she has a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment or is recorded as having an impairment let's take a look as how we define some of the terms in the definition and how we look at a person's limitations. Now I can give an entire presentation on how the definition of disability is interpreted. But for today, I just wanted to review some key points in how we determine if an individual meets the definition of disability since disability determination under the ADA is viewed a little different than eligibility under laws that cover students with disabilities.

First, an individual must have a diagnosed impairment or record of impairment. And a major life activity is substantially limited by the impairment. Major life activities can include caring for one's self, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working as well as operations of major bodily functions.

Now, major bodily functions can include but certainly aren't limited to functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions so we've got quite a wide range there Now the ADA does not contain a set or list of medical conditions that constitute disabilities button purpose of the ADA Amendments Act was to make it easier for people to meet the definition of disability. So really the Amendments Act purpose was to fix the definition of disability so employees can be covered and employers shouldn't spend a lot of time on whether employees meet definition of disability more focus should be on whether or not a accommodation can be provided and JAN can't determine whether someone can be covered under the ADA we can give helpful resources to help determine that.

We had the signing of the Workforce Innovation and Opportunity Act, WIOA in 2014. The final rules went into effect in the fall of 2016 and we mention it today because of the implications it has on transitioning students, WIOA is designed to help jobseekers access employment education training an support services to succeed in the labor market. We definitely aren't experts on WIOA here at JAN but we understand the basics of this law and wanted to briefly touch on how we expect to be hearing more from individuals and service providers who are looking for support through the transition process.

Beginning there were five rules implemented as a result of the WIOA which essentially reformed other existing laws. The purpose of this was to improve coordination across agencies to better serve individuals in our communities who often come from vulnerable or marginalized populations while making sure that employers' needs are met. Of course making sure that programs are held accountable and improving is a key area of the reforms that will be shown through measurements and reports of performance.

Employer partnerships have also been highlighted as an area where services need to be improved. Title IV of WIOA amended Title I of the Rehabilitation Act of 1973 which is where we see changes that impact pre-employment transition services. Under this area, state vocational rehabilitation programs must reserve funds for transition services, including job exploration counselling, work based learning experiences, counselling on postsecondary education programs, workplace readiness training, and counselling students on how to be self-advocates. And all of this is with the goal of competitive, integrated employment in mind.

We've got a link on this slide that's additional information from the Department of Labor.

Now, the Office of Special Education and are a habilitative services published a transition guide to postsecondary education and employment for students and youths with disabilities which included the key points in this transition process that are included on this slide.

The transition guide addresses a number of topics that will help those service providers working to facilitate a seamless transition from school to post school activities. But for today's presentation we wanted to run through these points and touch on how JAN could assist in a couple of the latter stages. Of course the student working to transition will have an IEP and will be working with a team of individuals who can help to outline steps in the transition planning process and get the process started.

Referrals to vocational rehabilitation, as well as other agencies such as a local Center for Independent Living will be made and the student will have to be through a VR application process once the student has been determined eligible for VR services an individualized plan for employment or IPE will be developed within 90 days. VR services will then begin, which can include vocational counselling, training, postsecondary education, supported employment, career development, and job placement.

With the goal of achieving meaningful and gainful employment achieved, the VR case will be closed.

Now I can see JAN helping in a couple of ways during this process.

But it wouldn't be appropriate for a JAN consultant to say what job categories a student should be looking at based solely on their disability. Once the student and transition team have identified a couple of specific jobs, JAN can help on the accommodation side by offering suggestions for ways the job could be performed differently or for products or services that could be considered.

We can also help with the self-advocacy aspect of transition planning by providing the student with information about the rights under the ADA, how to request accommodations, and of course, how to go about disclosing.

Which brings us to the next part of the presentation today, and with that I'll turn it over to Melanie.

>> MELANIE WHETZEL: Okay. Thanks, Elisabeth.

Our next point here is just talking about self-advocacy. You will need to become your own advocate. Self-advocacy simply means that you know what you need and that you're able to speak up for yourself.

You have to know your strengths and weaknesses, how you learn, and what you will need to help you succeed.

You will need to be comfortable talking about yourself and possibly your disability to prospective employers or to educational professionals.

You also need to understand your rights and responsibilities under the ADA.

Disclosure is when you give out specific personal information about your disability. Deciding whether to disclose a disability can be a difficult decision. Individuals with disabilities sometimes struggle not only with wanting to be honest and open from the start of the job seeking process but also with knowing what might happen if they disclose too soon.

If and when you decide to disclose your disability, it will be important to provide the following information. The nature of your disability, the limitation or how the disability affects your capacity to learn and/or perform the job effectively and the accommodations you will need in order to do the job.

Let's look here at the advantages of disclosing your disability. Disclosure allows you to receive reasonable accommodation so that you can pursue work, school or community activities more effectively.

It allows you to receive benefits of employment. It can help explain an unusual circumstance. It provides legal protection against discrimination. And it develops self-advocacy skills and can improve your self-image

Disclosure reduces stress and increases your comfort level. You can get the assistance you need once your disability has been disclosed.

Protecting or keeping a secret can take a lot of energy

It also provides you with full freedom to examine and question health insurance and other benefits.

So here we're going to talk about the don'ts of disclosure.

Don't disclose too soon. Many people with hidden disabilities may feel that they are not being completely honest with an employer if they do not tell everything about their disability upfront at the time of the interview. Just remember that you're not obligated to do so.

When you disclose, just provide basic information about your condition, your limitations, and what accommodations you may need.

Don't disclose too late.

Don't wait to disclose until after you begin to experience work performance problems. It is better to disclose your disability and request accommodations before job performance suffers or conduct problems occur.

Employers do not have to rescind discipline before they knew about the disability nor do they have to lower performance standards as a reasonable accommodation.

Remember, the purpose of an accommodation is to enable a qualified person with a disability to perform the essential functions of the job. So, disclose when you first realize you're having difficulties.

Don't disclose to everyone. Remember that you have a right to keep information about your disability private. It is not necessary to inform co-workers and colleagues about your disability or your need for accommodations.

While they may be aware of the accommodations, especially if you're allowed to take extra breaks or if you have a flexible starting time, they are not entitled to know why. Your employer is required by the ADA to keep your disability and medical information confidential and to give it to managers and supervisors only on a need-to-know basis.

Now let's look at some things that you will want to consider as you determine whether you will disclose your disability or not.

You may not have ever disclosed independently. In school, your parents and your teachers have probably taken care of your disability needs. So you have little experience in doing so.

It may be extremely difficult and embarrassing to talk about yourself in this way.

Disclosing may bring up conflicting feelings about yourself and your self-image. And it may lead to reliving bad past experiences. Some individuals will keep from disclosing in situations where it is necessary due to experiences they have had in the past such as the loss of a job or a negative response from their peers.

Here we have the 411 on disability -- The 411 on Disability Disclosure: A Workbook for Youth with Disabilities" and it's designed for youth and adults working with them to learn about disability disclosure. This workbook helps young people make informed decisions about whether or not to disclose their disability and understand how that decision may impact their education, employment, and social lives.

By the on the premise that disclosure is a very personal decision, this workbook can help you think about and practice disclosing your disability. This workbook does not tell you what to do. Rather, it helps you make informed decisions about disclosing your disability and how those decisions may affect your social life, your education and your employment.

The following two resources from the uses Office for Civil Rights the first is "Transition of Students with Disabilities to Postsecondary Education" "A Guide for High School Educators", there's a link there. The second one is students with disabilities preparing for postsecondary education back to Elisabeth.

>> ELISABETH SIMPSON: Thanks deciding when to disclose can be tricky but it depends on the type of accommodation you need and when you need them if an applicant notion when an accommodation will be needed in order for them to complete an application, participate in an interview or take a pre-employment exam disclosing before getting into an interview can be a good idea.

That way the employer has plenty of time to process the request. Certain accommodations like hiring an interpreter, for example, logistically take time and require scheduling with other service providers.

Use of technology to complete an application or pre-employment exam can also take time to acquire if an employer doesn't already have it.

So you just want to be mindful of what it might take for the employer to get the accommodation set up and ready to go so that the interview process can be successful.

Disclosure can occur at any point during employment an individual generally doesn't have to disclose before an accommodation is needed. A person with a disability who doesn't need an accommodation for the application or interview process can wait to disclose until a job offer is made.

In some cases a person may not know that an accommodation is needed until they start working. And this is perfectly fine.

But if a new hire knows that an accommodation will be needed for the first day they start, it would be important to disclose sooner than later after the job offer is made so that the employer, again, has time to process the request, and get an accommodation determination made so there isn't a delay in the person's start date

An individual may need to disclose so that they can receive certain benefits and privileges of employment. Examples that come to mind might be an individual needing accommodations in order to access an employee break room. Or maybe an employee needing accommodations for an employer-sponsored event such as making caterers aware of food allergies before a food holiday party and finally an employee may need to disclose to explain an unusual circumstance for example an employee with diabetes may need to explain to a manager they exhibit certain behavioral changes when having a sudden drop or spike in blood pressure or an employee with a traumatic brain injury may need to disclose why they react to social cues in a non-typical manner.

Let's take a look at a couple of situational examples related to disclosure. In the first example, Jude, an applicant with a learning disability, is applying for a customer service position that requires a pre-employment test. We know that employers are required to provide with the ADA are required to provide accommodations for the pre-employment or pre-offer stage so Jude can disclose he needs an accommodation in order to take the pre-employment test but there are a couple of things Jude should be aware of before making the request. In general, employers cannot ask disability-related questions at the pre-offer stage. This means an employer cannot directly ask whether an applicant has a particular disability. It also means that employers cannot ask questions that are closely related to the disability.

But when an applicant like Jude asks for an accommodation for the application process or job interview, the employer can require a limited amount of medical documentation.

So what is allowed when someone asks for an accommodation? Basically an employer is allowed to get the information needed to verify that the person has a disability and needs the accommodation being requested. In this example Jude would want to be prepared to provide information to the employer about his need for accommodation and to support that he has a disability under the ADA in the event that the employer ops to ask for those type of informations.

In this next example we're looking at a situation where a current employee needs an accommodation. Estelle needs to disclose her disability and asks for an accommodation of a flexible schedule while she adjusts to new medication. She's having sleep difficulties and was late three days in a row. She is wary of disclosing her medical condition but doesn't want to get into disciplinary action.

In this situation it would be important for Estelle to disclose before the employer starts to take disciplinary action. Why? Well, again, as Melanie stated, when an employer -- an employer does not have to rescind disciplinary action that occurred prior to them knowing that an accommodation was needed. If Estelle waits to disclose gets written up for being tardy under attendance policy and in jeopardy of being terminated the employer wouldn't have to take all of the disciplinary action back because they weren't aware that the reason she was late was because of a medical condition. When Estelle discloses, the employer should process the request and would likely be considering a modification to her schedule and the attendance policy as accommodations.

Moving along to another example of a situation where a current employee needs to disclose. Here we have a nurse, Lexie, who because of her PTSD finds it difficult to report to large staff meetings. She may be able to wait or choose not to disclose. But the effects of continuing to going to staff meetings could be problematic Lexie needs to disclose in order to be proactive about her accommodation needs from a practical standpoint it makes sense for employers to provide accommodations to help maintain the health of the employee so the employer could consider alternative ways that Lexie could join the meeting or get the information at a later time. Attending through a conference call comes to mind as a pretty easy solution.

Here is an example of a situation where the employee may not have ever thought that she needed to disclose because she was able to perform her job without an accommodation

In this case, the work environment was being modified. Which brought about the need for her to disclose. Here we have an auditor for the State Government who was unable to climb stairs due to a heart condition She generally took the elevator to access her work area. But the elevator needed repaired. The scheduled elevator repairs in her building forced her to disclose and ask for an accommodation. In this situation the employer would need to consider alternative ways to accommodate the employee during the time the elevator would be out of service temporarily moving an employee's workstation or allowing telework come to mind as some of the common accommodation options for these types of situations.

The Interactive Process starts with an accommodation request from an employee with a disability so it's important for individuals and students to understand how to disclose and request accommodations.

So how do we go about disclosing? There are two main points to mention to an employer when disclosing. The individual should let the employer know that, one, an adjustment or change at work is needed And two, that the reason the change is needed is related to a medical condition

According to the Equal Employment Opportunity Commission or EEOC an individual may use plain English and doesn't have to mention the law or use the phrase reasonable accommodation when requesting an accommodation.

So any time an employee indicates that they are having a problem and the problem is related to a medical condition, the employer should consider whether the employee is making a request for accommodation.

We also get the question of who do I disclose to pretty frequently there isn't one specific person to go to necessarily but a good place to start is typically with whoever is in a higher up position possibly a supervisor or manager or HR representative or an EEO officer.

Some companies and organizations have dedicated staff who process accommodation requests. Employee handbooks can be a good place to look for accommodation related policies and contacts and once an accommodation request is identified, the employer should respond immediately since unnecessary delays in processing accommodation requests can violate the ADA.

So from the employer's perspective, it is really important to make sure that at least one person is assigned responsibility for ensuring that requests are processed appropriately so the request isn't lost on someone's desk.

>> MELANIE WHETZEL: All right. You may be required to provide medical documentation in order to prove that you do have a disability and document the need for the accommodation that the disability and the need for accommodations are not obvious, if they are not.

Can the employer or the school request medical documentation? Yes. Again, when the disability and the need for accommodation are not known or obvious. So what information is needed in order to process the accommodation request?

The Equal Employment Opportunity Commission or the EEOC states that the documentation should be sufficient.

But what does that mean? Documentation is generally sufficient if it specifies the impairment, the limitations associated with the impairment, and the work-related issues that are affecting job performance, the specific job duties affected and accommodation ideas.

So let's just reiterate here what sufficient medical information really means. First, the documentation should include information about the existence of an impairment and may include the nature, the severity and the duration of the impairment it should also include the activity or activities the impairment limits or restricts the impact that it has on job performance is important to include as well it's also a good idea to include information as to why reasonable accommodation is needed. See the following JAN resource, a publication that can help with this step of the process: Medical Inquiry Response to an Accommodation Request.

Questions about the employee's medical impairment may include what is the nature of the impairment. This could involve the diagnosis. What are the limitations or restrictions. More important to an employer and probably more descriptive than a diagnosis are the limitations an individual experiences. so be sure to include complete information let's look at two examples if you have a learning disability that causes you specific difficulty with writing then it would be vital to include information about how your writing ability is affected. Another example would be an individual with a brain injury who may have difficulty concentrating and remembering new information. The documentation about concentration and memory would be very helpful in determining accommodation. More broad information about a brain injury in general will not be as useful. How long is the impairment expected to last it is a temporary condition or one that's more long term. The information about how the impairment affects job performance helps the employer to make the connection between the disability and job performance and tasks.

What is the duration of restriction? Knowing how long accommodations might be needed can help the employer determine the reasonableness of the request.

See the following JAN resource. Here you find a sample form that you can also use to help with this step of the process, Sample Medical Inquiry Response to an Accommodation Request.

So who is an appropriate medical professional? Depending on the disability, there may be different medical professionals that would document the impairment. Medical doctors would be appropriate professionals for specific medical conditions such as diabetes, heart problems or a back or leg impairment to name just a few Specialists in the mental health field such as psychiatrists and psychologists would be appropriate if an individual has a mental health impairment. Nurses may also be the appropriate medical professional.

Physical or occupational therapists for physical and motor impairments. For speech, language and communication issues, a speech therapist may be the appropriate professional.

Vocational rehabilitation professionals are those who may do assessments and evaluations and could verify that you do have a disability.

Licensed mental health professionals, such as therapists or counselors who may spend time with you may also be able to recommend effective accommodations. Educational professionals may be the right source for documenting a learning disability or for other disabilities such as autism or intellectual disability.

Now let's look at the different types of accommodations that might be helpful to an individual with a disability. Assistive technology is any item, piece of equipment, software or product system that is used to increase, maintain or improve the functional capabilities of individuals with disabilities.

That can include products such as apps, speech-to-text software, or can be as simple as colored folders or paper clips.

Some examples of modifying a work schedule may include adjusting starting and ending times of the workday. Combining regularly scheduled breaks to create one extended break. Or dividing large breaks into smaller segments.

And also allowing work to be completed during hours when the employee is most mentally alert.

Acquiring a service could include a job coach, an interpreter, a reader, or scribe, as well as a personal assistant or an attendant.

Using leave or time off from work can be an effective accommodation for an individual who needs time off to attend medical appointments, to obtain medical treatment like chemotherapy, physical therapy, surgery, mental health counselling, inpatient substance abuse treatment or dialysis or to recuperate from an illness or surgery or an exacerbation of symptoms associated with an episodic or chronic medical impairment. Several examples of this would be flareups of symptoms associated with multiple sclerosis, intestinal disorders, epilepsy, back conditions, and major depressive disorders.

Receiving a reassignment is usually considered an accommodation of last resort that is provided when an individual can no longer do the essential functions of his current position and no accommodations have been found to be effective in that position. But really can be done any time the employer and the employee both agree that that would be a good solution.

Other accommodations include telework or working from home. In a position where that is possible, telework may be a very effective accommodation. Even if there is no formal telework policy an employer should consider providing that as an accommodation, even on a temporary or trial basis.

Under the ADA, the employer is not required to provide a new supervisor. However, they would be required to consider changing or adjusting a supervisory thought this could include providing written instruction and requiring less face-to-face interaction.

The use of a service animal may be considered as an accommodation as it is needed for a disability. The same as any other accommodation is considered by the employer.

Modifying a policy for someone with a disability could include allowing a flexible start time, modifying an attendance policy, or allowing an employee to bring a service animal when the employer has a no animal policy.

Changing a policy doesn't mean that the employer has to do so for all employees

>> ELISABETH SIMPSON: All right. So let's look at a couple of examples before we wrap up and get to the question and answer portion of today's presentation.

So in our first example an applicant for a retail customer service position asked to be accommodated for his Asperger's by a phone interview. Although the job entailed some telephone service to customers, the employee would spend most of his time working face-to-face with the public if hired for this position. And we know now that an applicant can ask for a reasonable accommodation so they can have an accommodation for the interview process for the application process in general. So this is certainly something that that individual could make a request from his potential employer.

And the employer did accommodate the applicant by conducting the first interview over the phone. Since the phone interview went well, the employer wanted to move on to a second interview in person. After a discussion with the applicant about how the in-person interview could best be done, the employer emailed the interview questions so the applicant would be a little more comfortable and reduced the number of management personnel involved in the interview from three to two.

And this next example an administrative aide with a mental health impairment had difficulty taking notes in meetings while trying to focus on what was being said at the same time. And I've been in a number of staff meetings myself and I can say it can be difficult when people are talking over each other and asking questions. So focusing can certainly be difficult and certainly an accommodation you could come up with someone who has difficulty with focusing during those times.

So in this situation, the individual was provided with a Smartpen that recorded the meeting as she took brief notes and these are pretty neat pieces of technology I would say we have a picture of one of these Smartpens on this slide with this special paper you use and essentially it records the conversations or the meeting. And then you take notes with either the special paper or different type of paper or if you have one of these Smartpens and you can sync them both together on your computer and look at it later this helped the individual focus on what was -- to focus on listening on what was being presented at the meeting while at the same time getting down the important information so later on presumably she could go back to her computer, upload the meeting transcript and her notes and have those to review later on.

Similar situation is presented in this next situation. A telecommunications technician needed to attend periodic updates and trainings where he had difficulty taking effective notes and remembering information from the training. So even though this is something that only happened every now and again certainly it's something that the individual could ask for accommodations for, as well.

In this situation, the technician was accommodated with an iPad and apps and software that would record the trainings. Also a different way of kind of doing the same thing that our last example presented. He was trained in how to use both the device and the apps. And I also like to stress that training on how to use certain types of assistive technologies is really important so that the AT is used properly. And effectively.

>> MELANIE WHETZEL: Okay here we have an example of a city employee with a sleep disorder who was unable to drive and was continuously tardy for work due to the unreliability of the schedule for public transportation.

For the accommodation the employer flexed the individual's schedule to accommodate for variations in public transportation schedules and we know that accommodations should be made on a case-by-case basis what may work with one position with flexibility may not work as well in another position.

In our next example we have an employee with a bipolar disorder who had issues with her medication and needed time off from work approximately half a day in order to care for her medical appointments. The employee had been on the job for seven months and had used all of her accrued leave time.

In this accommodation, the employee was accommodated with unpaid intermittent leave under the ADA so that she could take care of those medical appointments.

Our next example involves a job applicant for a dog warden position for City Government who had dyslexia and could not pass a required written test as an accommodation the employer provided a reader for the testing and let me just briefly explain how that works with a reader. A reader does exactly that reads the test and it doesn't have to be a certified person. It does need to be somebody who has a reading ability high enough to read well so that the applicant can understand and also if there's any technical or specialized vocabulary that the person would need to be aware of that and the reader doesn't interpret, doesn't give vocabulary, doesn't do anything like that. They just read for the benefit of somebody who has difficulty with reading.

>> ELISABETH SIMPSON: In this next example a Federal office worker had difficulty working an early schedule and also experienced fatigue, sleepiness and the inability to concentrate in the afternoon due to sleep problems associated with PTSD. His attendance was erratic so certainly we potentially have some performance problems here and some scheduling issues.

He was accommodated with a modified schedule and in this particular example the modified schedule combined the lunch and break times in order to have a chunk of time or an hour of time so the individual could take a rest. He used a folding chaise lounge that just fit into his cubical and was allowed to take an hour-long daily nap. There's a lot of flexibility that can come into play with modified schedules certainly based on the type of job the individual is working in. Sometimes it could be using the lunch break and possibly two 15-minute breaks all at once or it could be breaking those times up into smaller increments and using them throughout the day, depending on the person's needs.

In this example, a computer programmer asked to work from home due to social anxiety while she was going through medication changes. So this could potentially be something that's needed on a short-term basis but certainly the accommodation need is still there.

Even though the employer had no formal telework policy, they allowed the programmer to work from home on a trial basis to see how effective it would be.

So there's really two kind of main points to take away from this accommodation. One was that the employer even though they didn't have a telework program or policy in place they were still obligated to consider that as the accommodation. And the second one is the trial basis allowing something on a trial basis which I think can be really beneficial for both the employee to see if it's actually going to work and the employer to see if -- how effective it is and whether or not it actually would pose an undue hardship.

And in this next example a file clerk with anxiety disorder uses a service animal to help her deal with stress in the workplace. So one of our lovely service animal examples we hear a lot about service animals in the workplace. And in this situation, the employer modified it's no animal policy and allowed the service dog in the workplace.

And I think especially for students going through such transition process, it's important to know if you're using a service animal the differences that exist between Title I of the ADA and the other titles of the ADA. And even though they can get a little bit complicated, we're certainly here to help work through any of those situations and provide some information and guidance

>> MELANIE WHETZEL: Okay. In this example, we have a Help Desk employee whose main job functions were troubleshooting the problems of other staff members. He was highly competent in solving problems but at times he became impatient and rude to co-workers who contacted him for assistance.

So as an accommodation, a new policy was instituted, which allowed the employee to take requests for help by email instead of in person or by phone, reducing the employee's stress caused by the interactions with co-workers. This enabled him to keep his emotions and behavior in check, while getting the job done more efficiently. And the employer really favored this accommodation, as well. Because the written requests and responses then served as documentation of the work that was getting done.

Here we have a student employee with Autism Spectrum Disorder who used hearing aids. She needed to discuss project details with her team but face-to-face communication was difficult for her and she had difficulty hearing on the telephone.

So as an accommodation, the employer set up a secure IM client so that all team members could discuss projects via chat and worked with the employee to find appropriate telephone equipment.

In our next example here and I believe this is our last example, a job coach called JAN advocating for an applicant with Down syndrome. A job offer was made. But the schedule included unpredictable days and times. The applicant relied on public transportation to commute.

>> BETH LOY: And I guess that wraps up the presentation.

>> MELANIE WHETZEL: I need to give the solution. Jumping the gun there

A consultant at JAN suggested making a schedule modification, specifically one that was consistent. This accommodation enabled the new hire to utilize the bus system but also to get to work on time.

>> BETH LOY: Okay. There you go.

>> MELANIE WHETZEL: We're ready now.

>> BETH LOY: This is Beth and I'm going to help sort out the questions for Melanie and Elisabeth a lot of great information there. I always like the accommodations and situations. So I get excited when we do those, those are good.

We do have a couple of questions that have come in.

Remember, if you do have a question, you can use the question and answer pod located in the bottom middle of your screen. And to use this pod just put your cursor on the line next to the word question, type your question and then click on the arrow to submit to the question queue and that question will come into us.

So the first one that we have is, what if the employee discloses reasons for her absences and doctor visits but doesn't ask for accommodations per se? Should the employer I guess this means the employer representative contact Human Resources to discuss the accommodations? The employee is not meeting attendance policies. Who would like this one?

>> ELISABETH SIMPSON: I can take it.

>> BETH LOY: Elisabeth go ahead.

>> ELISABETH SIMPSON: I would say based on that information it would seem like the employee had made the accommodation request even though they didn't specifically ask for accommodations. If they are disclosing that they are needing to have some time off of work to visit doctors because of a medical condition they kind of have met the criteria for making that accommodation request so the employer representative I would say you know could do a couple of things, they could clarify with the individual. They could say are you asking for -- are you requesting accommodations under the ADA. Just to make sure that everybody is on the same page or if they are not familiar with the ADA, at the very least they should be going to Human Resources or whoever the appropriate person is to explain that the request came in, the employee said that their absences and doctors visits are related to a medical condition and that way HR is then notified of it and can get in contact with the employee ideally sooner than later and discuss how leave could be provided as the accommodation.

>> BETH LOY: Elisabeth we did have a request mentioned where we get most of our guidance related to the ADA and that comes from EEOC.

>> ELISABETH SIMPSON: It certainly does, yes.

>> BETH LOY: We have a lot of that information on the Web site in mutual presentations with the EEOC and we refer to their information.

>> ELISABETH SIMPSON: We do.

>> BETH LOY: We want to give them a plug at www.EEOC.gov.

And Melanie we had a question related to the example I tried to cut you short on.

(Chuckles).

>> BETH LOY: Did you have to sort out that the employee needed to take the public transportation because of the Down syndrome or does it matter he takes public transportation due to his medical condition.

>> MELANIE WHETZEL: That's a really good question because an employer doesn't have to make accommodations based on transportation normally. Unless an employer makes a way for everybody to get to work they don't have to really consider that but if a person with a disability has difficulty getting to work and that disability is a barrier to the commute, then absolutely, the employer needs to look at accommodations that would help that person get to work. And that could very well be modified schedule for someone who relies on public transportation in that way.

>> BETH LOY: Very well said. Do we have any other questions today? Here we go

Oh here they all come.

>> MELANIE WHETZEL: Okay.

>> BETH LOY: I knew they were there somewhere.

(Chuckles).

>> BETH LOY: Okay. I thought there might be a question on this one providing an interview question in advance in response to an accommodation request seems to violate fair consistent recruiting practices and how you would treat other -- all candidates because this was your scenario.

>> ELISABETH SIMPSON: It was my scenario.

>> BETH LOY: I'm not surprised there was a question on this.

>> ELISABETH SIMPSON: I think a point could be made there. I would say it depends on the interview questions in general for one I would say it depends on the type of job are we getting into interview questions where needing to be able to think quickly and I think of our job here at JAN where we get calls that come in we have no idea what the questions are so it's important for us to be able to provide answers and speak to certain situations on the fly essentially. So it depends on the type of job I would say where potentially providing an interview question in advance may give somebody a bit more of an advantage. However in some situations it may not it may just be general questions asking somebody to talk about past work history or a situational type interview where it's just to gather the information and not necessarily to get the information right on the spot. So I would say it depends on the type of job that the person is applying for and the purpose of the question.

>> BETH LOY: This was the first face-to-face interview.

>> ELISABETH SIMPSON: Exactly so it's probably I'm going to guess some of those general questions that everybody gets asked in the interview. You know, what's your educational background, what's your work history. Yeah just kind of getting to know somebody during the first stage of the interview and that may be why during the second interview they really wanted the face-to-face interview take place.

>> MELANIE WHETZEL: Let me jump in there, too. For individuals who have any type of social anxiety, that can really be a benefit so that you can really get the full idea of who the candidate is, the applicant is, rather than sort of someone who is frozen with anxiety when you're asking the question.

And I'll just mention a quick example here. Somebody -- an applicant had asked for that accommodation and due to the nature of the position, the questions were secure questions and they couldn't be sent out or mailed out. But what they allowed the applicant to do was come in like an hour early and give them those questions so they could sit there and look at them but for security reasons they couldn't send them out.

>> BETH LOY: Makes sense. Okay. It says making an accommodation for a hearing impaired employee the employee wants to wear a badge that labels her as hearing impaired. Is this appropriate outside of the already-agreed upon accommodation no other person with a disability with the employer is identified like this Who would like to grab onto that one. I have seen this used successfully when the employee requests it. Certainly as the employer or supervisor can't make an employee do that.

>> ELISABETH SIMPSON: I've heard of kind of similar situations popping up for individuals that are sensitive to certain fragrances or scents in the workplace. And wanting to put something up at their workstations asking the individuals to refrain from wearing perfumes or fragrances or contacting them in a different way. So I would agree with that. If an individual is wanting to do that themselves, there's not necessarily a way to stop that per se.

>> BETH LOY: For those who I know who are hearing impaired, sometimes they fear they will appear rude because they are not responding when somebody is talking to them but they are not going to respond because they are not hearing the person. So having a badge that identifies in insignia let's people know I'm hearing impaired that signals to the other person that maybe they need to communicate a little bit differently. Communicate with eye-to-eye communication rather than talking with your head turned or behind the person's back.

>> ELISABETH SIMPSON: Yeah.

>> BETH LOY: That can certainly work depending on the situation.

>> ELISABETH SIMPSON: Absolutely.

>> BETH LOY: Okay Melanie we have one for you.

If a candidate with autism asks to bring someone to an interview to reduce anxiety, would an employer be required to provide this type of accommodation?

>> MELANIE WHETZEL: Well, that's a really good question. I'm not sure they would be required to. But they would look at is it going to cause us any kind of a hardship and I think if an employer wants to make a really good face effort to accommodate someone with a disability that would certainly be something they can consider and that may not just be somebody with autism that could be somebody with a mental health impairment who has anxiety. Someone with a learning disability that may find it difficult to speak quickly and think on their feet. And that person would bring them security, reduce their anxiety, would provide support for them. We get a lot of calls from employees who say that an employer won't allow a support person. And to me, I don't understand that. And it's easy maybe for me to say that when I'm sitting behind this desk thinking of accommodations. But it always seems like a red flag to me

If everything is on the up and up and it's just an interview or even if it's a disciplinary meeting to allow somebody to have a support person with them could very well be an effective accommodation so that that person has that support, you know, that -- lessen the anxiety and the stress. I think that's a good accommodation.

>> BETH LOY: Sure.

So we had a comment. And I have had this comment in presentations before. I've been doing presentations for JAN over 20 years. And we had a person who made a comment related to people with disabilities not liking being referred to as impaired.

So I'm going to set the record straight on this webcast and let people know that the reason we use the word impaired is because that's what's in the law. If you want to change that word to something else, we would be happy to change the word. You know, so I would say write your Senator. And write your Congress representatives. And if they can get around to changing those words, we would be happy to use a word different than impaired. But until then we really have to use that word because we talk about Americans With Disabilities Act and the Rehabilitation Act and that law uses the word impairment. So we can't switch back and forth.

It gets to be too confusing for individuals. That's the word in the law. It needs to be changed if you want us to use a different word.

Okay. Let's take one more question on that.

On that note, can an employer establish thresholds for providing specific accommodations? For example an employee requested stand workstations and an employer only provides the individuals with specific medical conditions. Elisabeth you take a lot of sit-stand.

>> ELISABETH SIMPSON: I take a lot of sit-stand. Yes, I've written some articles on sit-stand workstations so yeah I've taken a lot of them.

Can an employer establish a threshold for providing accommodations? Well the threshold is already established essentially and that's based on disability and based on undue hardship. So in a round-about way I would say yes because the thresholds are there. But depending on what is meant by thresholds, can we say that only a certain number of individuals can receive that type of accommodation or any piece of equipment, no, we wouldn't want to establish kind of a set threshold for the number of people that receive a specific type of accommodation because each situation should be addressed on a case-by-case basis.

Now, I hear from employers all the time, if I provide a sit-stand workstation for an employee with a back condition I'm going to end up spending tens of thousands of dollars because everybody will provide a note saying I've got back pain and I need a sit-stand workstation so I can understand that there can be hesitancy. However, I always encourage employers to really focus primarily on whether or not these individuals that are making requests truly meet the definition of disability. And did you get -- do you have the medical documentation that support that.

If you're getting a vague doctors note, you can always ask for more. And if somebody has to wait a bit for the sit-stand workstation, that's okay, too

>> BETH LOY: Okay we'll squeeze in one more question here. It says I have a question about a social anxiety issue in the position the supervisor insists that the person has to greet every customer who comes within five feet of her which is excruciating to her because of her anxiety. Is this something that can be accommodated? Could that requirement be waived based on her condition? Melanie?

>> MELANIE WHETZEL: Well I'll address that. If she's in a customer service position where they want all customers to be greeted it's probably not something that's going to be able to be waived. What I would say is let's talk about what it is exactly that causes that anxiety.

Could they have some training? Could she go through some kind of practice activities on what to say and keep it to a minimum. But I think that the employer wants an employee who is in customer service to have a certain greeting and a certain, you know, process they go through to greet customers, I think that that's probably something that they could require.

>> BETH LOY: And what is the greeting? Maybe the greeting can be modified for something that's more natural to the person.

>> MELANIE WHETZEL: Right and then go through and talking about that and kind of practice that so she feels a little bit more comfortable with it.

>> BETH LOY: Sounds good. Some good tips today, thank you Melanie and Elisabeth. And that is all the time that we have. Thank you for attending today and thank you, also, to Alternative Communication Services for providing the net captioning. We hope the program was useful. If you do need additional information about anything we talked about today, please let us know. And if you want to discuss an accommodation, please feel free to contact us at JAN. As mentioned earlier an evaluation form will automatically pop up on your screen in another window if you don't have popups blocked as soon as we're finished. If you do have them blocked we will send it at a later date.

We do appreciate your feedback and we try to tailor ideas for Webcast Series for what you want and need so we hope you'll take a minute to complete the form, again, thanks for attending and this concludes today's webcast.

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