JAN

The Top Ten Veteran‑Related Accommodation Questions and Answers

Monday, November 23, 2020

3:15 p.m. Eastern Time

Remote CART Captioning

>> Hello, everyone, and welcome to the Job Accommodation Network's monthly webcast series. I'm Linda Batiste and I'll be your moderator today. In recognition of veterans, our webcast topic is The Top Ten Veteran‑Related Accommodation Questions and Answers. Our featured speakers are Melanie Whetzel and James Potts. James is a senior consultant on the same team and he is also an Army veteran who served in Operation Iraqi Freedom. James specializes in accommodating veterans with any type of disability. Before I hand the program over to Melanie and James, I need to go over just a few housekeeping items. First, if any of you experience technical difficulty during the webcast, please use the pod at the bottom of your screen to send a chat message or you can send an e‑mail to question@askjan.org. Second, you may submit a question at any time using the question and answer pod at the bottom of your screen. To use the pod, just type in your question and submit to the question queue. You can also submit questions to question@askjan.org. Time permitting, your questions will be answered at the end of the presentation.

On the bottom of your screen, you'll notice a file share pod. If you have difficulty viewing the slides or you just want to download them, you can click on the button that says, "Download file." And finally, at the end of the webcast, an evaluation form will automatically pop up on your screen in another window if you don't have your popups blocked. We really do appreciate your feedback and hope you'll stay logged on long enough to fill out that form. And with that, I'm going to turn it over to Melanie to start the program.

Melanie, I think you're muted there.

>> MELANIE WHETZEL: Okay. Thank you, Linda.

>> LINDA BATISTE: There you are.

>> MELANIE WHETZEL: If we could go to the next slide there, please. All right. I'm sure most of you know all about JAN, but we're just going to do just a real quick overview for people that may not really know who JAN is. So, we're a small group, really small group. We have less than 30 employees. We work out of a small office on the campus of the University of West Virginia Morgantown in West Virginia. We help come up with accommodations for people with disabilities. We do that on a one on one basis. We serve primarily three audiences: Employers, individuals with disabilities and their family members, and service providers, such as rehabilitation and medical professionals. We believe hearing from people on all sides of workplace accommodation issues helps us see a bigger picture. We currently serve an average of 40,000 customers annually.

In addition to providing assistance and resources for workplace accommodations, we also provide information on self‑employment and small businesses for people with disabilities. You'll be hearing more about that in just a few minutes.

Okay, next slide, please. Okay. So, our first issue here is about how to request an accommodation. And our situation is veterans that are contacting JAN want to know how to request an accommodation, what information must be included in the request, and is the employer required to provide that request. I'm going to turn it over to James.

Next slide, please.

>> JAMES POTTS: Okay, thanks Melanie. So, first, how can I request an accommodation? Lots of veterans have been asking me lately. Really, by the book, or according to the guidance, whatever you want to call it, you don't have to use any magic words saying "reasonable accommodation" or anything like that. You don't have to invoke the ADA or anything like that whenever you make a workplace accommodation request.

Really, the individual must let their employer know that they need changes at work related to their disability or medical condition. And this is part of disclosure. It's where one provides personal information about their disability. When you do this, you're basically starting what we call the interactive process. And then the employer should hopefully tell everybody what needs to happen next. And that kind of piggybacks into our second question. What can my employer require when asking or requesting accommodations? Or what information do you have to include? And, you know, this is all about sufficient medical documentation. So, once you disclose, let's say you tell your employer have a mental health impairment and need a schedule modification. Well, employers are within their rights to seek sufficient medical documentation from an appropriate provider when the disability and the need for accommodation are not obvious. So, the employee must provide enough information to prove the existence of an ADA‑covered disability and enough information to substantiate why that request is needed or how it will help the individual do their job.

And then that last question: Does the employer have to provide what is being requested. The obligation is to provide an effective accommodation that does not create undue hardship on the business. What that means is technically an employer can choose among effective solutions. While an individual's preference should be given consideration, the ultimate responsibility really falls on is it effective and does it allow the employee an equal employment opportunity?

Just to kind of wrap that up, I already said that an individual doesn't have to use an special language. But if possible, you know, complete all requests for accommodations in writing and be as specific as possible. And really, that's just leave no room for misunderstanding. The goal is to get a solution put in place as quickly as possible. So, why do anything that could result in delays?

>> MELANIE WHETZEL: And this is Melanie. I'm sorry. Go ahead.

>> JAMES POTTS: That's okay, Melanie. Feel free to add in there.

>> MELANIE WHETZEL: I was just going to say we do get a lot of questions about how can I be more specific. Well, it's really a good idea to tell the employer how that accommodation is going to help the person do the job. I think when they relate that disability and that accommodation need together and how it's really going to help on the job, it's going to help the employer understand it a little bit better of why that accommodation is needed.

>> JAMES POTTS: Absolutely. And when an employer offers an alternative, it's a situation where it if doesn't meet your needs, you need to let them know that. The goal is to have positive solutions for everyone and communication is part of that and open communication is going to be the best for both parties.

>> MELANIE WHETZEL: Okay. Our next issue here is an inability to wear face masks because of PTSD. So, our situation is an employer is requiring all employees to wear masks at work. A veteran contacted JAN about his inability to wear masks resulting from a situation that resulted in PTSD. I'm going to turn that over to James. Next slide, please.

>> JAMES POTTS: Thanks. Just to start, lots of mask requests and just discussions this time of the year. And just straightforward, EEOC guidance states employers are within their rights to require employees to wear PPE during this time. Which includes masks, handwashing, all that good stuff. The thing is that employees with disabilities still have the right to request accommodations that will enable them to work. Now, if not wearing PPE could be part of that undue hardship situation here, but really again, we're working towards solutions. So, what are we thinking here when masks are the difficulty or issue? What are the alternative ideas? Maybe a face shield as an alternative? Can the individual wear the mask some of the time? So, we're trying to think of common areas. Does the employee work alone? Can they work somewhere where a mask is not required such as working from home? A private office? Modified schedule. Even reassignment to a different position that can accommodate. And I remember here specifically, this veteran, the main issue was extended periods of wearing a face mask. So, what he did is he requested that his breaks be modified. He just took all of his allotted breaks at once and took off his mask as needed, go outside and practice stress management techniques. Unfortunately, there are situations where some individuals may not be able to wear a mask at all and the only solution is alternative work duties or locations where they can keep working. Everyone is trying to find ways to keep employees working, so, it's trying to find middle ground in this situation. Anything to add Melanie?

>> MELANIE WHETZEL: I was just going to add Plexiglas panels, something like a shower curtain, could something like that be used to block a person off? Could they be put in a separate location like the back of the building where they could come and go on their own without having to wear that mask at all. And I know I was going to mention, too, leave. It's not as effective as an accommodation that could keep them working, but that's an accommodation that could be put in place if the employee absolutely has to wear a mask and can't do that if no other accommodation can be found that wouldn't cause a hardship.

>> JAMES POTTS: You're absolutely right, Melanie. Anything to reduce that spread and keep that individual working. That's what our solutions are going to be centered around. Yep, absolutely.

>> MELANIE WHETZEL: Okay. Our next issue is a veteran with a service animal not being able to work because of inability to perform all of their essential functions. The situation is a veteran was denied his service animal at work because the employer determined that allowing the animal would prevent the employee from performing certain essential functions of his position. Next slide, please. I'm going to turn it over to James again.

>> JAMES POTTS: You know there's no definition of service animal within Title I of the ADA. Really requesting to bring that animal into the workplace can be processed like any other accommodation request. Is that request needed to meet the individual's limitations. And this particular situation, the employee was arguing that there were job duties that he and his dog could perform. It was still part of his job description and it was still considered essential. However, his employer was stating the animal did prevent the employee from performing certain essential job duties they were hired to do. Going by the book again, you have to be able to perform the essential functions for which you were hired. That's what the position exists for and that's what you're there to do. And the employer is not necessarily required to provide an accommodation that prevents the employee from performing those essential functions. What can be done in this situation? It was more informal workarounds here. Since the employer probably did not have to remove an essential function, the employer requested that they do a trial period. There seems to be plenty of individuals that performed the jobs that could complete all the essential functions.

It was lucky in this situation, to be honest, because the employer did do a trial period, and they were going to try to give preferential placement for the animal and the veteran, but it couldn't be guaranteed. So, they also had to come up with back‑up plans, like where the animal would be if that didn't all work out. So, they did try to work towards a solution here, but it wasn't necessarily something that was a firm obligation.

>> MELANIE WHETZEL: Okay. And one point I'd like to make there is about the employer and the employee having a full conversation. I remember way back maybe when I first started in an EEOC webcast with one of the attorneys stating the employer should never overlook a full conversation with the employee. And I feel like sometimes that really is important. Before you get a service animal in there on the job, have that full conversation. Talk about everything. How is that dog going to affect the job? What is the employee's response to that? I think a lot of types the employers may not get enough information from the employees. Because then when employees call here and we talk to them, they seem to have a lot of solutions, a lot of workarounds as James is talking about and whether or not they've really talked to the employer about that, I'm not really sure. But I think it's really important to have that full conversation, that the employee knows their disability, they know how the dog helps, and they know how that dog is going to interfere or not. And it could really, that full conversation can really help. And I want to stress at this point, too, that we recommend temporary or trial accommodations a lot. It's really a good solution. A lot of employers seem to think that, you know, if we give somebody an accommodation then we're locked into that. And that's not true. You know, no accommodation is permanent if it's not effective. And so using that trial or temporary accommodation can really work for both parties to see, you know, is it going to work or not? Is it going to work for one? Is it going to work for both? Then they can put that in place in a more long‑term basis.

>> JAMES POTTS: All good points, Melanie. And, you know, the full conversation is so important because if I remember correctly, and this has happened multiple times throughout the year, it was even discussed before the animal was brought into the workplace, but there was never a firm plan. It was just more along the lines of I'm thinking about getting a service animal and then you just brought it into work one day. So, it still has to be processed like an accommodation. The employer still has to approve it. So, it's not something that you want to assume in this situation.

>> MELANIE WHETZEL: Right. Right. I think that's really important to have that plan. All right. Our next issue here is the inability to perform an essential function of the position. And our situation is a veteran is requesting to not complete phone work at a call center because it worsens PTSD symptoms. Next slide there.

James?

>> JAMES POTTS: Yeah. Absolutely. So, you know, the last question. This is another one about essential functions, but what happens if there's no informal workarounds? I remember this one. They had been there for about three months.

Completed training. The requirements of constant phone work just made things so much more difficult. Just to start off, what was the first question I asked? Is the phone work essential to the position you were hired? You work at a call center. My hunch is probably yes. If it is yes, we need to think about accommodations that's going to enable this veteran to perform the phone duties. We can never know what an unruly customer is going to do, but how can you handle those situations after the fact? Modifying breaks so you can go practice self‑management techniques after a difficult customer. Having role‑playing with a supervisor. An appropriate handoff, or sayings on how to professionally get off the phone without overstepping your bounds or letting emotions come into check. Then it goes into well, what if for some reason the phone work is not essential? Then we can talk about job restructuring. So, focusing on alternative tasks that the job requires. Chats and e‑mails. What if there are no accommodations possible in the position? Then we have to talk about reassignment. That's maybe being placed in a different position where phone work is minimized or eliminated. The goal of accommodations is typically accommodating in that current role. We always start with those ideas like the modified break schedules or the role play. However, this veteran was very, very adamant that phone work was negatively impacting their condition and the continuous phone work wasn't possible moving forward. Here reassignment seemed like the only option. The veteran reached out to HR and explained their situation and here there were alternative situations. There were no positions that absolutely did away with phone use, but it was minimized to a certain extent. That in addition to a modified break schedule allowed him to maintain his employment. That is really the goal. Melanie, anything to add to that one?

>> MELANIE WHETZEL: Well, just you mentioned mentoring, coaching. You know, even when the phone usage was brought down to a minimum, I think it's still a good idea to have those skills, to have that training on how to handle, if that was the problem, on how to handle angry customers. Because I think a lot of times the calls we get from people in call centers, people with mental health impairments, it causes them a lot of stress to talk to people who are upset. And I understand that. It happens to us, too, sometimes. So, the more training you have, the more comfortable you'll be making those calls. That's something that can still be requested even in a reassignment with a reduced number of phone calls, still have a conversation on how to handle angry customers and hand those off to someone else. I think those are great ideas.

>> JAMES POTTS: Thanks, Melanie.

>> MELANIE WHETZEL: Mm‑hmm.

>> JAMES POTTS: It's tricky, because we do get a lot of calls where an essential function is what is negatively impacting their disability. And it is sometimes a hard conversation to have. That's the reason why you were hired. If you can't perform that role or that specific task with or without an accommodation, we're starting to get into a potential you're not being qualified for the job anymore. The goal was always to accommodate in that current role if possible. Here we're lucky reassignment was an alternative.

>> MELANIE WHETZEL: Absolutely. Our next issue here is returning to the physical office during the pandemic. The situation is veterans being required to return to the office after months of successfully working from home. Next slide, please.

>> JAMES POTTS: After months of being required to work from home, the veteran was asked to return to the office. What happened? This news caused an increase of symptoms in their condition and the veteran wanted to reach out to us and ask what sort of accommodations can he ask for moving forward? Here, he requested to work from home. Work from home has already been put in place. He thought it was successful, it was meeting his needs, so he just requested work from home as an accommodation. And the employer must process that request and determine just like we talked about earlier, does the veteran have a valid disability, does he have a need? And can work from home continue? Is it possible to provide? Recently, there's EEOC guidance and it stated exacerbation of mental health reasons may be a reason why employees are requesting accommodations more now even before they weren't needed. It makes sense. Maybe before the employee was able to have better control over their feelings, but now with the rise and exacerbation of their symptoms, work from home just seems like a potential solution.

So, if necessary, the employer is still entitled to sufficient documentation if the disability and need for accommodation are not obvious.

So, the veteran did have to submit sufficient to prove his need. You know, in this situation, the veteran was very concerned. Like what can I do if my employer says no. And the plan was, you know, how could you explain to your employer that this was a possible solution that's going to work for all parties. And he did just that. He explained that he had been working from home for three months, he had completed all of his essential functions and rehad received multiple positive updates on how he was performing, and his documentation supported his request.

The employer didn't have a good rebuttal, so, telework was approved for him moving forward.

>> MELANIE WHETZEL: And I can think of an example. I've talked back and forth with this particular person several times.

She did not work from home until COVID and once she was home realized how much time she had spent managing her symptoms in the workplace. And how much working from home eliminated her having to manage those different symptoms. She was more productive, got more work done, and then the employer after a while called them back. And that's what she was saying. It was so much more productive for me. I was able to do all of my tasks.

And her supervisor was all for it. I think sometimes people don't realize until they are working from the home or until they've had a change or an accommodation how much stress or how much difficulty they may have had in a situation. So, I think once people are working from home they're finding it's way more effective. And it's an effective way to get that job done and like I said, she was more productive and statistics show that most people are up to like 27% more effective in doing their work from home. So, that's a really good solution.

>> JAMES POTTS: And then we've had those situations, too. Taking this example, for the last three months they've been allowed to telework, everybody has been allowed to telework, and now everybody is being requested to go back in the office. There are specific business reasons. These past three months we've been flexible, and you haven't been able to perform all the essential functions of your job. Nobody has. But now we need to have those essential functions met. In that situation, the employer may say you have a valid request and you need it for your disability needs, but if you're not able to perform your essential functions, which we need right now, then that may not be an accommodation that can be provided in that specific situation. Then we go back to okay, what accommodations can be made in the office that would hopefully enable that person to keep working?

It's kind of always the multiple sides or multiple angles to it.

>> MELANIE WHETZEL: Exactly. Our next issue here is difficulty learning new tasks. Our situation is workplace changes and learning new tasks are difficult for a veteran who remained in the office during the COVID pandemic. Completing the additional office tasks of coworkers who were teleworking has been extremely demanding. All right, James.

Next slide, please.

>> JAMES POTTS: Okay. So, the previous question related to veterans who wanted to continue to work from home, but how about those veterans who wanted to remain in the office? I've had lots of individuals call. They either had reasons that work from home was not possible, they felt they couldn't be successful, too many distractions, whatever the case may be. But they, you know, petitioned or had the opportunity to remain in the office during shutdown or during more work‑from‑home opportunities.

You know, for many veterans, like a lot of other individuals with disabilities, just learning new tasks, so for here, we got to get back to the business needs a little bit. So, you're in the office and there's many people out. There's going to be some duties that need to get accomplished that may not be in your job description. So, we know that employees must perform their essential functions, but there's also marginal functions and business needs that can still be met, as well. And really the employer is the one who decides what work needs to be completed. Here in this situation, we had to think of well, what could help this veteran complete these new tasks, since they're probably going to have to be required to some extent. And here it was negotiating. So, when possible, like let's say there were multiple other employees there, it was agreed that the veteran wouldn't take calls. So, only if no one else was available would he pick up the phone. And if necessary, even, just take a quick message for someone else to return. But in exchange, you know, he did other duties that didn't impact his disability. He picked up office trash more frequently than others and passed out mail. And then he also negotiated further that if there were going to be new tasks assigned that he could be provided a to‑do list and maybe check‑ins with a supervisor just to ensure that everybody was on the same page and that he was okay, you know, nothing was getting to him at that point. You know, what could be done to make it as smooth as possible?

>> MELANIE WHETZEL: Right.

And sometimes we were hearing that the added tasks were so many and so much that they couldn't get everything done. Working really hard. I'm doing as best I can. I can't get it all done. I would talk about making, having your supervisor help prioritize tasks. If it is true and now I'm doing my job and now I'm doing part of someone else's job and that's more than what I can handle right now, let's look at what are the most important things. What are some things that can maybe be left undone until tomorrow or Friday maybe. But what is most essential? What are the priorities today? And then have the supervisor help make that list and that can reduce someone's stress a lot. And, you know, once stress is reduced and someone feels a lot calmer and competent in what they're doing, they're going to be able to be more productive. That's something to think about, too.

>> JAMES POTTS: I agree. Prioritization is such a big thing. As a veteran, if you're doing exactly what you're told, you can't get in trouble. (Chuckling) The goal is if you're prepared and you know what's expected of you and you do what they're telling you, hopefully that will take away some of that stress and anxiety, you're just doing what you need to do and it's all agreed on beforehand.

>> MELANIE WHETZEL: That's great. The next is family rights to request accommodations related to deployment. A service member is deploying and her spouse reached out to JAN to see if reassignment or leave is an option for family members in this situation. Next slide, please. Handing that off to James, again.

>> JAMES POTTS: Okay. So, just one of those straight‑forward answers again that only the individual with the disability is entitled to workplace accommodations under the ADA. So, here the family member is not entitled to a reasonable accommodation. However, you know, this person obviously had a valid reason in concern for her family and life‑family balance. So, just in discussing with individuals like this, my idea is go talk to your employer. You know, is there any existing employer policies that help individuals in these situations? I remember this one specifically. They had done all their homework beforehand, they found multiple vacancies in the hometown where the family was. And once she actually spoke to their employer and explained that the service member was deploying, lots of family help would be beneficial during these times, that the employer weren't obligated to reassign, which is an accommodation, but they did help put a transfer in place. It wasn't an obligation, they don't have to do it, it doesn't fall under the ADA, but just open communication sometimes can go a long ways. It was helpful in this situations that there were those vacancies close to home. Not necessarily something JAN can give a lot of information on because it doesn't fall under an accommodation, but still somewhere where there could be a positive solution.

>> MELANIE WHETZEL: Right. And we talk to employees a lot about finding out what your employer policies are. Because sometimes for instance a person, you know, we get calls for people who have children with disabilities or taking care of a family member or someone. And if the employer has policies where they allow other people to have leave or have flexible schedules, those types of things, then the employee that's contacting us, this employee, for instance, can tap into those same employer policies. And then that communication piece, again, is very important. Talk to your employer. Ask those questions.

Okay. Our next issue is exploring new employment opportunities. Due to worsening disability limitation, veterans are seeking assistance in job seeking and job placement. Next slide. James, do you want to take that?

>> JAMES POTTS: Sure. Some of our contacts we have individuals who are unemployed and underemployed, and also those who are employed but looking for alternative job opportunities within their organization. Sorry about that. Can you hear me again?

>> MELANIE WHETZEL: Yeah, that's better.

>> Now we can.

>> JAMES POTTS: Sorry about that. I was saying that some of our contacts are unemployed or underemployed. But we also have those individuals that are currently employed and looking for alternative job opportunities. Specifically, have many veterans who are currently successful, but because of those worsening symptoms are looking for a different position. Unfortunately, for those individuals who are unemployed, JAN is not the appropriate resource. We do not provide job seeking or job‑placement services. We would have to refer you. Either maybe state vocational rehabilitation. As a veteran, I may be able to point you towards some of your VA resources, but I don't know any locals. It would be like hey, you need to try to find this office.

But for those who are employed and looking for a different position, you know, we're thinking reassignment again. Reassignment is to a vacant position that you are qualified for and can accommodate or provide the accommodations or modifications that you need in that situation. It's supposed to be an equivalent‑level position in terms of pay and benefits, but could also be to a lower‑paying position if no equivalent positions exist. I know for a lot of individuals if they're looking for a less stressful position or less physically intense position, sometimes the qualification is to a lower‑paying job.

But the goal, always, is something equivalent. You know, most of the people I talk to, the goal is just to be employed. You know, making money, paying bills. We all have to eat. That kind of stuff. So, if possible, I always say if you have current employment, what can be done to make that work? So, either reassignment to an alternative position or what JAN is really here about, let's brainstorm some accommodation ideas and hopefully make the current position work.

>> MELANIE WHETZEL: Yeah, that's exactly right. I often recommend if the only position open is a lower position, consider it. If you really can't do the position you're in, you might be out of a position. If you take a lower position, you're still working, you still have benefits, you're still getting paid.

And you may be able to take a higher level position at a later time.

Okay. Next slide, please. Okay. Here our issue is inappropriate behavior and communication when engaging with coworkers. Our situation is a veteran has difficulty interacting with colleagues when they talk about non‑related topics. Next slide, please.

>> JAMES POTTS: Okay. Interacting with coworkers can be a struggle for anyone, let alone a stress disorder. I have a lot of veterans who just want to be left alone and do their work and not have any trouble, but they have difficulty in appropriately communicating that with others, either their peers or supervisors and that can lead to some issues. Specifically, I remember Jesse. He was place into a small group or a new project. And he was known for being a hard worker and the team had no issues whatsoever with his performance. However, it was during group meetings that he became impatient and bossy when conversations go off topic. He called us and wanted to know what can I do to do my job, not upset my teammates because I don't want to get in trouble.

He understood that all employees are held to universally applied conduct policies. He knew that he had to act professional. He just wanted ideas to help meet those standards. And again, for this one, the idea was how about sitting down and talking to these teammates. Explain your preferences. How do you work best. Everybody knows you're a good worker. They don't have an issue with that. Sometimes just getting everybody on the same page can reduce these misunderstandings. Now when it comes to accommodations, maybe asking to walk away when it comes to difficult interactions. And for this situation, the team decided to schedule specific blocks of time to talk about non‑related work topics.

And then they said they allowed the veteran to participate whenever he wanted to, but if he didn't, that was totally fine.

>> MELANIE WHETZEL: I would suggest you said the veteran sitting down talking with the coworkers. I was going to suggest disability awareness training that the employee would be kind of in charge of. But to do exactly that same thing. To help people understand. I think a lot of the miscommunication, misunderstanding comes from misunderstanding. I know what I feel and what my expectations are. Maybe the group has done it one way and everybody has been okay with that. But they don't think about what is best. So, that communication piece is so important. So, maybe looking at how do we have a disability awareness training for everyone so they can become better informed about how maybe different people communicate and how different people interact with others. And become more open minded about that. Here is the issue. Requesting a service animal after years of employment with no previous accommodations in place. Our situation is due to exacerbation of her symptoms, a veteran asks to bring in her service animal to help reduce symptom intensity and allow her to meet attendance policies.

Okay. James?

>> JAMES POTTS: Okay. So, the employer, again, we're going back to that there is no definition of service animal. So, the employer does not have to automatically allow in that situation, but they do have to process the request. Thinking back to the documentation and the interactive process that we discussed, they are entitled to that sufficient documentation. So, the part here that is kind of potentially a hangup is why does it matter that the employee did not need the dog previously? And the employer cannot deny based on that solely. Especially here because the veteran had a specific reason and could support it, that situation has gotten worse. Anxiety about leaving the house has worsened now that the COVID situation is out there. He didn't need the service animal before, he does now, and that's why he is requesting it this time. And again, what Melanie was hitting on earlier, the idea of a trial period. I can't stress enough how that makes the most sense. If the employee brings the animal and it's perfect and it does exactly what it needs to do and it's not an issue, then why deny? If the animal is there for one day and is causing issues, seeking affection from coworkers, having accidents, then that would be a reason to say it's not appropriate at this time. It's just proof out there for everybody through a trial period. And also, you can call JAN as a free resource. Just to talk about accommodations, service animals in the workplace.

>> MELANIE WHETZEL: Right. And the point I'll make here about not needing an accommodation, we talked to a lot of people who don't need an accommodation. Disability changes over the years and something happens how they're able to cope with things and they need an accommodation.

And we'll hear sometimes employers will say you should have told us that from the beginning or you should have asked from the beginning. No, an employee really doesn't have to do that. And you think about things that happen in our lives that increase our stress certainly during this time with COVID, of course. I think anyone and everyone has some things that are very stressing during this time. But for someone with a disability, a mental health impairment, those stressors are going to exacerbate things. So, what they might have been able to manage in the past they can't manage right now. Maybe it's a family situation. We don't know. But the point is when you need an accommodation, you can ask for one and it doesn't have to be when you first started or when you started a new position or anything like that. It can be when that actual need shows up.

>> JAMES POTTS: Yeah, you request an accommodation at any one time. I've had employees say my employer says I can't ask for it now because I didn't need it previously. You ask for it when you need the help. Whether it's when you interview for an accommodation or six years into the job. You ask for the accommodation when it's needed.

>> MELANIE WHETZEL: Absolutely. All right. So, here we're going to go over just a little bit from the self‑employment team, just an overview of some important points. They do a detailed intake process. They do individualized consulting and provide resource materials. They provide state, local, and national resources. There's an ongoing electronic and telephone access and support. Not case management. But that support. They provide information on JAN entrepreneurship website access. And then there's for‑profit, non‑profit, customized self‑employment, home‑based business, microenterprise, and independent contracting.

Next slide, please. These are probably the most requested pieces of information that that self‑employment team provides.

And that is self‑employment and small business development programs for people with disabilities. That's very personalized and very localized. They can provide information for you and your very specific local areas. Idea development and feasibility. Business planning, low‑cost marketing strategies, business legal structures, Social Security benefits planning, WIPA information, financing options, health and business insurance, mentorship and coaching, and accommodations in self‑employment. They work with the consultants on the teams a lot to talk about okay what are some accommodations that the person might need in self‑employment. Now, let me just stress again that they provide information on these things. They don't provide Social Security benefits planning and they don't provide marketing strategies or business planning. But they provide the information in your area where you can get help with that. Okay, next slide, please. There's our JAN contact information. And if you've contacted JAN here lately, you've realized it's not quite as easy to get somebody by the phone. We're all working from home. You can call the JAN number and leave a message and someone will get back in touch with you. Probably the quickest way to get an answer is through our online chat or by e‑mail.

All right. Next slide, please. I think it's time for questions!

>> LINDA BATISTE: All right.

Thank you. Thank you, Melanie and James. That was a great presentation. We do have lots of questions. I would like to ask one of you first before I toss out some of these questions if you could mention how to find our page for veterans with all the information we have for veterans. I think it's a great resource. So, if one of you could explain how to get there from the home page?

>> JAMES POTTS: Sure. If everybody is at askJAN.org, the first thing you would do is look at the top header of the web page and see A‑Z. So, JAN, Job Accommodation Network, coronavirus 2019, but then the next page is going to be the A‑Z page. Once you click on that link you'll have five tabs. These tabs are by disability, by limitation, by work‑related function, by topic, by accommodation. By topic.

And then you have veterans and service members. Or of course the easier one is to type in veterans in the search bar at the very top of the page.

>> LINDA BATISTE: That is a shorter way. But with your good description, everybody got to find out what is in our A‑Z. That's my favorite part of our website.

>> JAMES POTTS: I use it every day! Every day, the A‑Z.

>> LINDA BATISTE: All right. I'll start tossing out some of these questions. The first one is some employees believe their service‑connected disability rating entitles them to a reasonable accommodation. How can the person who is considering the reasonable accommodation request, I guess that would be the employer explain to the employee that the rating does not necessarily guarantee eligibility for an accommodation as defined in the ADA Amendments Act. It's kind of asking if the rating from the military or service‑connected disability, is going to entitle them to an accommodation. How do you explain that to an employee?

>> JAMES POTTS: What do you think, Melanie? Sure, I would still take it from the perspective of you still have to meet the definition of disability under the ADA to be entitled for reasonable accommodations. How do you break that down to them? Some individuals, you could show them that specific definition to get them to understand. I think you could broker hey, we want to work towards positive solutions or accommodations, but we are also entitled to have proof that this is needed, whatever you want to say for proof. But we're entitled to sufficient documentation and the sooner we can get enough information we can start working towards that solution. So, sometimes kind of p so iting it in that we're looking out for you, but we still have our rights can be helpful.

>> MELANIE WHETZEL: Right.

And we often get e‑mails that will have veteran information and it will say a percentage rating and I don't know what that means. I'm not a veteran. I wasn't trained in veterans, things like that. An employer probably doesn't know what that means either. With brain injuries, when someone says I have a brain injury and I need an accommodation, that could mean anything. It's really important to list the limitations. I have problems with focus. You know, when there's a lot of distractions going on, I find it hard to maintain my concentration and my focus and I need a private space. That type of information is going to be way more effective for the employer looking at accommodations than hey, just I have a brain injury. So, I think with that service rating, it's important to look at the disability and the limitations and how that affects you in the job. And that is going to make sense to the employer.

>> LINDA BATISTE: Great. We've got several questions related to service animals. The first one is what if an employer grants an employee permission to bring in a service dog, but then finds out that coworkers are allergic or afraid of the dog?

>> MELANIE WHETZEL: Those other employees could potentially be within their rights to request an accommodation. Being afraid of a dog generally may not rise to the level of a disability. But phobias can and allergies could if it significantly impairs your ability to breathe or function. But the goal is not necessarily to take away one employee's accommodation, it's to provide accommodations that would meet all parties' needs if possible. If there were allergies or fears, it could be putting the individuals on different entrances or exists and different schedules that way to minimize the interaction if at all possible. Or if going through a common area, what could be a plan of action on giving the individuals a heads up to minimize that interaction.

>> MELANIE WHETZEL: Exactly. Meetings. Would the person necessarily have to have the dog accompany them to a meeting? If so, could that person attend the meeting by phone conferencing or by Zoom or whatever so they're not in that same small space with other people who may be allergic or afraid.

>> JAMES POTTS: And if the point of that meeting is to discuss information, then they're all equally participating. It's just in a different way and that's really what accommodations are all about. So, the individual would still have their service animal and still be participating in a meeting while not interfering with other people's potential disabilities.

>> MELANIE WHETZEL: Exactly.

>> LINDA BATISTE: Excellent. This is kind of along the same lines but a little bit different. What if the service animal growls at coworkers?

>> MELANIE WHETZEL: Let me answer that one. We've had several examples of that complaint. And I'm going to mention one example in particular where the dog was actually trained to growl. The person had been attacked from behind and the dog was trained to growl when someone came up behind her as a warning to her. Coworker heard that, thought the dog was out of control and aggressive, reported that. They had to have this meeting and talk about it. That's different. If the dog is actual growling and barking, that's probably not a trained animal for that work space. An animal can be trained at home and be fine, can go in one work space and be fine, another work space, may not be fine. The training is very important as workplaces vary. A service animal going into a school where there are small children would need a specialized maybe kind of training that if you're taking your dog into a warehouse maybe is not necessary. A lot of people train their own animals. And so I think they need to understand what that means by being properly trained for the environment and that work space. You know, the dog shouldn't be growling, shouldn't be barking, shouldn't be sniffing at people, running up to people. It's kind of like it's not really a dog. It's a working animal and it's staying by the side. It's lying by their feet, that type of thing. So, if it is growling and there's not a purpose to that growling, like to warn someone, then that's probably not properly trained. James, what would you add to that?

>> JAMES POTTS: I think that's a good point and there's even going to be situations where if you were a greeter at a store or something and your dog growled at everyone coming in the store, it could be properly trained, but it's not trained for that setting. Communication is key there and a demonstration that this behavior is not aggression. It's a specific trained behavior and it's trained to do atask to get everybody on the same page. But there needs to be a valid reason why that dog is growling. I think people are going to probably question that.

>> MELANIE WHETZEL: Mm‑hmm.

>> LINDA BATISTE: Can you address the request for a service animal in the manufacturing of food products? What about service animals in places where food is being manufactured?

>> JAMES POTTS: I think a lot of that depends on the other laws. If there is a federal law like food handling where the animal is not allowed, then the ADA isn't going to trump that law. Other than that, it can be processed like anything else? Is it going to have a significant impact on the operations? Is the hair actually going to get into some of the manufacturing? Is that a possibility? If not, then really what's the reason to deny? If so, is that a valid concern that may prevent that animal from being appropriate there?

>> MELANIE WHETZEL: Right.

And I think something to think about, too, does the person spend all of their time in that area? Maybe they don't. Maybe they come and go out of areas where the dog is not allowed. Is that going to be effective to have a dog that is crated somewhere while the person is doing that? And is that going to be effective for the employee to have the dog with them at most times or some of the time, but not at those times when they're in an area where the dog is not allowed. That would be something to consider, too.

>> LINDA BATISTE: Somebody had a follow‑up question. One of you mentioned that the service animal would need additional training and would it be on the employer to pay for that?

>> JAMES POTTS: I think that was what you mentioned with the children, Melanie?

>> MELANIE WHETZEL: Yeah, I would say the employer would not be responsible for that. They would be responsible for allowing the person to take leave for that. Maybe allowing a trainer to come into the school and work with the dog and the kids. But I don't think they would be responsible for paying for that as an accommodation. But that doesn't mean they couldn't.

>> JAMES POTTS: Yep. That's where I would have went with it, Melanie, as well.

>> MELANIE WHETZEL: (Chuckling) Okay.

>> LINDA BATISTE: This question just came in. I think it's a good question so I'm going to throw it in here before I get to some of the other ones. This person said I worked with some veterans that had experienced a TBI and had some social awarenesses issues. What are some ways to assist with this?

>> JAMES POTTS: Depends on the environment, but I think coaching is a big one. Coaching and reminders. Being able to go through and model other socially acceptable behavior, if possible.

>> MELANIE WHETZEL: Yeah, having someone like after the coach is gone maybe, having a mentor or a coworker that can kind of act as a mentor to help remind, you know, somebody. And I think, too, being good role models, I think an employer wants to make sure that most of the people, maybe all of the people are doing the proper thing and have proper behavior. I've heard of situations where we get calls about the employees know how to do, they know when the supervisor comes in, how to behave. But when the supervisor is not in there, they lean back, put their feet up on the desk, tell jokes and all this. Well, the other employee can't really differentiate between that. And so if the co‑workers could help that employee. The supervisor is coming in. Let's get up and, you know, just kind of help remind that person. I think that can work, too.

>> LINDA BATISTE: Okay, great. This question is related to a request to telework. The person wants to know if an individual that the job can be done from home and asks to telework, wants to know what if the employer disagrees that all of the essential job functions have been sufficiently performed while working from home? What do you do in that situation?

>> JAMES POTTS: Ultimately the employer does make that decision. I think from the employee's perspective is to kind of go back and like, all right, well make your case. If you feel like you're performing all your essential functions, clearly spell out how you're doing that. And then ask for clarification. If you're saying I can't do an essential function, what is that? And is there a way I can improve on that from home if the request is truly needed if your limitations.

>> MELANIE WHETZEL: Right. I would say if the employer said no you weren't able to do that, get clarification on what those tasks were and how you weren't able to do them, so you can maybe work on being able to do those.

And maybe accommodations are needed in order to do those from home.

>> JAMES POTTS: And then negotiate towards the middle maybe. Maybe there is one or two tasks that can only be done many the office, but they're only needed one day a week or a couple hours of the week. So, if you can go to the office and get that particular task done and work from home the rest of the time, you could still be meeting every party's needs.

>> MELANIE WHETZEL: Exactly.

>> LINDA BATISTE: The next question is the wife of one of our employees called and said her husband is having mental health problems and he is a veteran. She also said he has been abusing alcohol. We're not sure what we're allowed to do or should do. Anything to handle something like that from the employer's perspective?

>> JAMES POTTS: What do you think, Melanie?

>> MELANIE WHETZEL: Well, I would say how is that affecting them at work, first of all? Let's look at based on work. Is the person, what are they able to do at work? And what are they not able to do at work? How is that affecting them? Are they coming to work intoxicated? That would be the first thing. Or is that just a weekend thing? And talk about performance. You know, employers are free to talk about once they though an employee has a disability, they can talk about anything related to that. They can ask questions. You know. And if they don't, if they're not aware of that, if somebody doesn't know that the man is a veteran and doesn't know that he has a disability, they can certainly talk about those issues with performance or conduct. They may not say hey do you need an accommodation, but they can say hey what do we do to help you? Here is what we've noticed. We need to be up to par on this and we're seeing that you're not. You're not getting your reports done on time, those kind of specific things. And look at how that's working on the job. And then I think that if they have an employee assistance program they can refer the employee, the wife, to the employee assistance program and see about assistance that way.

>> LINDA BATISTE: All right. Great. And let me check one thing here. I think we have time for maybe another question here. What if an employee says they can only work during daylight hours since it gets light later and dark earlier, what would you recommend for something like that?

>> JAMES POTTS: If there was a schedule modification possible, that would be great. That individual would probably have to support that request. Is there a disability reason you cannot work in evening hours or whenever it's dark outside? Is that more of a preference? And then it goes down to essential functions. Is your job possible to do only during daylight hours? Were you hired to do an overnight shift and there's no daylight hours available for you? There's a lot of considerations there. But if you need it for your disability, you're still within your rights to ask for it. I think the first request would be either a modified schedule or a shift change.

>> MELANIE WHETZEL: Right and depending on the job, could it be done from home? Is it a question of transportation? Getting to work and driving in the dark. There is no public transportation, I don't drive, so a bus ride is not possible. I don't have a way to get there after dark. Or I have anxieties traveling at night. Yeah, I think talking about all of those different issues would be very helpful. The employer would need to understand, you know, why that is needed.

>> JAMES POTTS: And again, if it's working towards a solution, could it be a split schedule? If you're supposed to work until 8, can you leave at 4 and finish the rest of your shift at home? If we're working towards solutions, the employee is how do I get the work done you want, employer? And the employer should be thinking well how can I meet your disability needs?

>> MELANIE WHETZEL: Mm‑hmm, exactly.

>> LINDA BATISTE: All right, guys. Thank you so much. Unfortunately, we're out of time. I love the question and answer section of these webcasts. I could do this all day. But we are out of time. For everybody whose questions we didn't get to, please feel free to contact us. If you get on our website askJAN.org and go to the contact page, there's lots of different ways you can contact us. As Melanie mentioned earlier, right now telephone is not the best way to get us. You can certainly call and leave a message and we'll get back to you quickly. But if you want to talk right now, get on our live chat. Or if you want to e‑mail us, there's ways to do that, as well.

I want to thank everybody for attending. And Melanie and James, a special thanks to you for a great presentation. Really appreciate the information that you provided. I also want to thank Alternative Communication Services for providing the net captioning. If you need additional information about anything that we talked about today or if you want to discuss any other issues with us, please contact us any time.

We hope the program was useful. As mentioned earlier, an evaluation form will automatically pop up on your screen in another window. We appreciate that feedback. We hope you'll take a minute to complete the form. Thanks a lot for attending. Everybody take care.