



EN ESSENTIALS CALL TRANSCRIPT

JULY 10, 2024

Requesting and Negotiating ADA Accommodations

Derek Shields: Welcome to today's EN Essentials session entitled, "Requesting and Negotiating ADA Accommodations." My name is Derek Shields, and I'm pleased to serve as today's moderator. If this is your first EN Essentials, welcome. These sessions cover content for individuals seeking to enhance their Employment Network's performance and compliance with program policies.

The learning events build upon the initial EN Foundations training and feature new resources, best practice strategies, and other helpful information, like today's topic. Today, we focus on the Americans with Disabilities Act and reasonable accommodations in connection with July being the 34th anniversary of the ADA. And we have many organizations also celebrating disability pride across United States and around the world.

As we think about this topic, let's now review our agenda. Under the Americans with Disabilities Act, covered employers, which include many Employment Networks, must provide reasonable accommodations to qualified individuals with disabilities upon recognizing the need for an accommodation and when there is no undue hardship.

While the reasonable accommodation process can seem complex, this training aims to simplify it by providing real insights into the disability disclosure process and effective methods for requesting and negotiating reasonable accommodations.

Today, we'll start by covering some helpful logistics, and then I'll introduce our presenter for the main topic under the title of Requesting and Negotiating ADA Accommodations. Our presenter will provide details about the Job Accommodation Network, then review some ADA basics, followed by the core content focused on the accommodation process. And I believe this is going to help you all in working with Ticketholders and employers alike.

Our presenter will also share some helpful resources from JAN and will have a Q&A session to get your questions answered. Now that we have our agenda covered, let's move to the next slide to cover those logistics.

First, the Ticket Program Manager is recording and capturing the transcript from today's meeting. And we'll make it available on The Your Ticket to Work website in the EN Essentials Learning Events section. We do look forward to your questions during the session, and you can of course put those into the MS Teams chat section.



If you have additional questions or prefer, you can use our email address as well at enoperations@yourtickettowork.ssa.gov. For closed captioning, Glynis has posted a link in chat and you can access that. You can also leverage the MS Teams application. To turn on closed captions in MS Teams, go to the three ellipses at the top of the MS Teams window, click on more, scroll down the list to identify language and speech, then click on *turn on live captions*. When using the link option that's in chat, that's going to be pasted into a browser of your choice and open up a separate window to view those closed captions. And a final note, please know that per your Ticket Program Agreement, Part 3, Section 11, Subsection I, EN staff are not permitted to record this meeting nor capture the transcript. Next slide, please.

As I mentioned, my name's Derek Shields and I'm the Senior EN Development and Training Manager at TPM. I will be the moderator today, and I look forward to being back with you in a little while for our question and answer period. I do encourage you to ask the questions with a subject matter, like our presenter available today, that you've always wanted to ask about reasonable accommodations.

Today, we have a consultant from the Job Accommodation Network with us, Lore Lee. Lore is a dedicated professional who has worked with the Job Accommodation Network for eight years, with a master's degree in social work from West Virginia University. They specialize in Title I of the Americans with Disabilities Act, focusing on practical solutions and an emphasis on the importance of communication between employers and employees.

Lore's articles for JAN and presentations help individuals and organizations navigate ADA compliance and create inclusive work environments. Today, as I mentioned, Lore will share insights on effective communication and accommodation strategies and other best practices for fostering a supportive workplace and open communication during the reasonable accommodation interactive process. Now, if we could advance two slides, please. I'll turn the session over to Lore.

Lore Lee: All right. Thank you very much, Derek, and thank you everyone for joining me for our training, Requesting and Negotiating ADA Accommodations. Let's go ahead and begin. Next slide, please.

In this presentation, I'm going to discuss our organization and what we do. We'll then move on to what the ADA is and what rights and responsibilities it confers, as well as briefly discussing disclosure basics. Lastly, the bulk of this talk will be about receiving and processing a request for accommodation, what accommodations can be considered, and what an employer may ask when an accommodation is requested. Next slide.

The Job Accommodation Network, JAN, is a national consulting service that was established in 1983. We provide practical guidance and technical assistance on job accommodation situations and Title I of the Americans with Disabilities Act, ADA as well as related legislation; so Rehabilitation Act, Pregnant Workers Fairness Act. All of JAN's services are completely



confidential and free to use. JAN is a service of the U.S. Department of Labor's Office of Disability Employment Policy, ODEP. And our office is located on the campus of West Virginia University. We are a small, federally-funded, nonprofit organization with a staff of about 25 people, 15 of whom provide consultation services. Next slide.

We provide practical guidance and technical assistance for any stakeholder in the accommodation process. So employers, applicants, or employees with disabilities, medical providers, legal representatives, and family members. We can discuss the accommodation process and how to effectively engage in the interactive dialogue. We can help brainstorm accommodation ideas for any number of disability-related difficulties.

We can discuss what the ADA says and what the Equal Employment Opportunity Commission, the EEOC, has said about it. And we offer guidance to individuals with disabilities who own their own business or want to start one. Next slide. We meet you where you are in the accommodation process. So JAN consultants are highly qualified, experienced, and serve as a member of a specialty team. So we've got the ADA, the cognitive neurological team, the motor team, sensory, and the self-employment team.

In addition to providing expert consultation, some consulting staff design and deliver customized training like this one. We speak nationally on ADA and job accommodation issues and create JAN resources. Collectively, the JAN consulting staff has more than 175 years of experience providing customized ADA technical assistance, JAN accommodation solutions, referrals, and training. Next slide, please.

What does JAN do for employers? We speak to employers of all sizes, whether the employer has thousands of employees or 10. We provide free confidential one-on-one consultation on Title I of the ADA, workplace accommodations, and the accommodation process. We can discuss strategies to address difficulties that have arisen and how to effectively document an individual's disability or request. It's important to point out though, we cannot provide legal guidance or advocacy services.

JAN is not an enforcement agency, and so we can provide guidance, but we cannot say if an employer must provide this accommodation or if a particular accommodation is in fact an undue hardship. Next slide.

What does JAN do for individuals? So the JAN staff is unsurpassed in its dedication to improving employment opportunities for individuals with disabilities by providing timely, accurate, and thorough information to its customers. Our guidance for individuals include similar information that we provide to employers, but we approach it from an applicant or an employee's point of view. We discuss the practical steps an employee will take to request and negotiate accommodations. And we go over how an employee can communicate with their employer if a request has been denied. Next slide.



JAN offers several ways to obtain confidential personalized assistance anytime, anywhere. You can get a lot of great information on our website, ask.jan.org, which I'll go over in just a minute. You can also give us a call or start a chat with a consultant. You can reach us by phone at 800-526-7234 or 877-781-9403 TTY, and you can connect to our chat system directly through our website. If you have questions, you can send them to our email jan@askjan.org, and one of our consultants will respond, usually within 24 hours. Lastly, we are available on multiple social media sites, including YouTube, which is where we post all of our webcasts. Next slide, please.

So when you contact us, whether through call, chat, or email, you will first be directed to a program assistant who will get some initial information from you. This may include the disability, or health condition involved, or the specific limitations that are causing the problem. They may ask what the ADA or accommodation question is, or what type of information you're looking for. This information is gathered so you can be connected to the most appropriate JAN team member. It's also possible to remain anonymous if you prefer. As I mentioned before, our consultants are spread among several specialty teams. The cognitive neurological team handles questions related to mental health, brain injuries, learning disabilities, and other neurological conditions.

The motor team handles issues related to movement limitations, bladder and bowel conditions, chronic pain, and other physical impairments. The sensory team handles issues related to seeing, hearing, breathing, allergic reactions, and more. The ADA team handles issues where conditions or limitations overlap teams or when there may not be a specific condition involved. And the self-employment team speaks to individuals with any disability to provide information on entrepreneurship options and resources. Once connected with the JAN consultant, they will provide personalized consultation. This involves asking a lot of questions, offering accommodation process strategies and solutions and addressing ADA concerns.

Follow-up often includes providing direct links to relevant JAN resources, EEOC publications, and ADA guidance. It's a relatively simple but effective process for meeting the needs of our customers. Next slide.

I'm going to give you a brief tour of our homepage so you have an idea of where you can go, depending on what information you're looking for. Looking at the top of this page, you'll see we have specific pages for employers and individuals, with each one providing resources depending on your role. Our page for employers contains many articles and links that are most relevant for those who are receiving requests, overseeing the interactive process, approving accommodations, and monitoring them for effectiveness. Our page for individuals includes links for topics on when and how to disclose a disability, sample letters on how to make that accommodation request, what information to include in your medical documentation, and effective ways to engage with the employer to negotiate solutions that work for everyone.



Our A to Z index is a great place to find information about disabilities and limitations as well as accommodation ideas. This is actually my favorite part of the JAN website. Here you can search by disability, limitations, work-related function, topic, and accommodation. Each of these is listed alphabetically, and you can click on the specific condition or limitation you have questions about to find information on how may impact the workplace. Accommodation ideas that could be effective about a topic or a condition, and then it will guide me to where I need to go next.

ADA-related guidance and pages can be found in our ADA library. This includes instruction from the EEOC on Title I of the ADA, but also publications from the Department of Justice on select topics related on Title II and III, and some resources on Title IV and V. We have a large library of resources related to Title I and COVID-19, from guidance on leave, self-employment, general safety in the workplace, to the most recent guidance published by the EEOC on the topic. The My JAN tool is a great source that compiles all of your most used JAN resources into one place so that you can find what you need quickly.

Our publications page includes all of our articles, guidance, blog posts, consultant corners, and compliance series that JAN has written. You'll find something on almost any topic you can think of when it comes to Title I of the ADA. Lastly, our Training page offers videos, e-learning, and other materials that you can use to increase your own knowledge or your organization's. Next slide, please.

I'm now going to go over what the ADA is and what rights it grants and what responsibilities it requires. Next slide.

The Americans with Disabilities Act, ADA, is a federal law designed to ensure equal employment opportunities for individuals with disabilities who are qualified for a job. One of the key principles of the ADA is the prohibition of discrimination based on disability. This means that employers cannot make decisions about hiring, firing, promotions, or any other employment-related action based solely on an individual's disability or need for accommodations. The ADA also mandates that employers provide reasonable accommodations to qualified individuals with disabilities. These accommodations are modifications or adjustments to the pre-employment process, the actual work environment, or the job duties. However, employers are not required to provide accommodations if doing so would create an undue hardship, meaning it would result in significant difficulty or expense.

Now, in 2008, the ADA underwent amendments with the passage of the ADA Amendments Act, so the ADAAA. These amendments clarified and broadened the definition of disability, making it easier for individuals to establish that they have a disability that qualifies under the ADA. In addition to the ADA, the Rehabilitation Act, specifically Section 501 applies to federal employers. This section imposes similar non-discrimination and reasonable accommodation requirements on federal agencies as the ADA, ensuring that individuals with disabilities have equal opportunities for employment within the federal government. Now, both the ADA and



the Rehabilitation Act are enforced by the U.S. Equal Employment Opportunity Commission, the EEOC, which investigates complaints of disability discrimination in the workplace, and ensures compliance of these laws. Now, throughout this presentation, I'm just going to say ADA, but do know that this applies equally to the Rehabilitation Act. Next slide.

Under Title I of the ADA, job discrimination against individuals with disabilities is prohibited if practiced by a covered entity. Let's explore what a covered entity is. Private employers with 15 or more employees are considered covered entities under Title I of the ADA. This means that they are subject to the law's requirements regarding non-discrimination and reasonable accommodation for individuals with disabilities in the workplace. Similarly, state and local government employers are also considered covered entities under the ADA. These entities must comply with the ADA's provisions to ensure equal employment opportunities as well. In addition to employers, other entities such as employment agencies, labor organizations, and labor management committees are also covered under Title I of the ADA. These organizations play a significant role in the employment process and must adhere to anti-discrimination laws. As I mentioned before, for executive agencies of the U.S. Federal Government, the Rehabilitation Act Section 501 imposes similar non-discrimination and accommodation requirements as the ADA. Next slide.

Under the ADA Amendments Act, a covered individual is defined as someone with an actual disability, a record of a disability, or one who is regarded as having a disability. An actual disability refers to a physical or mental impairment that substantially limits one or more major life activities. A record of a disability means they have a past history of a physical or mental impairment. And regarded as means an individual who is perceived as having a disability and has been treated unfavorably because of an actual or perceived impairment.

It's important to note that the ADA's definition of disability is construed broadly, meaning it should not require extensive analysis to determine if someone is covered under the law. This ensures that individuals with disabilities are protected from discrimination in the workplace without extensive investigation. Next slide.

A person with a disability must be qualified for the job. To be considered qualified for a job under the ADA, an applicant or employee with a disability must meet the job-related requirements such as possessing the necessary education, training, and skills. This could include having a specific certification or a certain number of years of experience. Additionally, the individual must be able to perform the essential functions, even if they need an accommodation to do so that still counts as being able to perform the essential functions.

Essential functions are the fundamental duties of the job that cannot be removed or reassigned. Even if an employee must use an accommodation to modify how they perform their duties, they are still expected to be able to meet performance standards. Next slide.



Reasonable accommodation refers to changes made to the application and interview process or to the job duties and work environment that enable an individual with a disability to participate in the hiring process, perform the essential job functions, or enjoy equal benefits and privileges of employment. So in this context, the term reasonable implies that the accommodation is feasible or plausible, meaning it can be provided without imposing undue hardship on the employer. Undue hardship refers to an action that would impose significant difficulty or expense for the employer. This is a high threshold and is determined on a case-by-case basis. Furthermore, the accommodation must be effective in enabling the applicant to compete in the hiring process or in assisting the employee in performing the essential job functions. Next slide.

There are various common accommodations that employers can implement to support individuals with disabilities. So for example, making existing facilities accessible and usable can include adding an automatic door opener to an office entrance or modifying the lighting. Job restructuring, like moving a task to the end of the day instead of the morning. Or reallocating certain responsibilities to accommodate an employee's strengths. Flexible or modified work schedules, including working fewer hours, providing additional breaks, or allowing a person to modify what day their interview is so they can attend treatment.

Modifying policies can be wide-ranging, but can include things like dress code, a fragrance policy, or qualification requirements. Acquiring or modifying equipment could be something like speech-to-text software, noise canceling panels, or an ergonomic desk and keyboard. Telework options enable employees to work remotely, which can be particularly beneficial for those who can't make it into the workplace or have a condition that is exacerbated by the workplace. This could also involve allowing a person to interview over the phone, or through Zoom, or Teams. Providing assistance from qualified readers, interpreters, or job coaches can facilitate effective communication and task completion.

Accommodating service or emotional support animals can offer comfort and assistance to individuals with a wide range of conditions. Reassignment to a vacant position might involve transferring an employee to a role that better aligns with their abilities and limitations. And lastly, leave allows employees to take time off for medical appointments or to manage health-related issues without fear of repercussions. This can include intermittent leave, which is unplanned, unscheduled leave that is sometime needed for flare-ups. Next slide.

When must reasonable accommodations be considered? Simply put, reasonable accommodations must be considered by a covered employer when they become aware that an applicant or employee with a disability requires one to apply for a job, fulfill their job responsibilities, or access the same benefit and privileges as other employees. This obligation is triggered when an employee or applicant formally requests an accommodation, initiating the interactive accommodation process. It is typically the responsibility of the individual with the disability to inform the employer of their need for accommodation rather than the employer having to assume.



The request for accommodation can be communicated verbally or in writing, using clear and straightforward language without needing to mention specific legal terms like ADA or reasonable accommodation. Next slide.

Now, I will go over receiving a request for accommodation, the interactive process, and what an employer may ask when an accommodation is received. Next slide.

If an individual makes it clear they're having difficulty with some aspects of the job for a reason related to a health or medical condition, that is an ADA request for reasonable accommodation. Examples the EEOC gives of accommodation requests include, "I am neurodiverse and need interview questions in advance." "I'm having difficulty concentrating because of the side effects of medication." "My wheelchair won't fit under my desk." "I need to go to counseling appointments once a week and want to flex my schedule on those days." Or the employee provides a healthcare provider's note stating the employee needs three months of leave for medical treatment recovery. These are very simple disclosures and do not provide extensive detail. However, they include enough information to connect that to a needed modification to a health condition of some kind. The employer will likely be able to ask follow-up questions, but these statements should be enough to start the interactive process. Next slide.

An ADA accommodation request can originate from various sources. It may be initiated by the applicant, or employee themselves, or on their behalf by a family member, healthcare professional, or another representative. The key is that the request aligns with the individual's needs and circumstances. Accommodation requests can be conveyed verbally or in writing, providing flexibility in how individuals communicate their needs. There are no specific words or terms required to make a valid request. What matters most is the request clearly articulates the need for accommodation.

Likewise, even though the ADA doesn't require the use of any specific wording, I still suggest to individuals that they make it clear that they are disclosing that they have a disability and would like to request reasonable accommodations, excuse me, under the ADA, just so there's no confusion.

While there is more of a time crunch for pre-employment accommodations, there are no strict time constraints for making an ADA accommodation request for the job itself. It can be initiated at different stages, including after hiring or even after performance issues have surfaced.

However, it's essential to recognize that delays in requesting accommodations may impact the resolution timeline and any associated consequences. Meaning, if an employee waits to request accommodations until after a performance issue, an employer can still take action on the poor performance before moving on to the request. Next slide.

Once an individual makes the request, it's time to engage in the accommodation process. Follow your employer's internal accommodation policy and procedures. The organization may



have internal accommodation policies and procedures already established. These guidelines provide a structured framework for managing accommodation requests and ensuring consistency in the process.

Having a collaborative dialogue is important. Engage in an open and collaborative conversation about accommodation needs and job responsibilities. This dialogue allows both the employer and individual to gain insights into the specific requirements and explore potential accommodation solutions that are reasonable and effective.

Prepare to request supporting documentation. In cases where the health condition and need for accommodation are not visible or obvious, an employer can ask for sufficient information or documentation to substantiate why the request is being made. This information helps clarify the nature of the health condition, why the accommodation is necessary, and how it relates to the individual's job duties. Now, when it comes to pre-employment accommodations, my general guidance is to limit the amount of medical documentation an employer requests, in order to streamline the process as there can be a time constraint. For pre-employment accommodations, an employer may want to keep the focus on the accommodation rather than the medical condition. Next slide.

This process is called the interactive process under the ADA. Unfortunately, the ADA does not spell out what an interactive process will look like for every employer. However, it is suggested that one is used because of the benefit it provides both employers and employees. So in response, we here at JAN developed a sample interactive process that is available for free to use. Employers are free to tailor it to fit their needs or use it as is.

We suggest a six-step process. The steps are, one, recognizing accommodation request, gathering information. Three, exploring accommodation options. Four, choosing an accommodation. Five, implementing the accommodation. And six, monitoring the accommodation. We'll now discuss some of those steps in more detail. Next slide.

So the second step of our sample interactive process is to gather sufficient information. In this step, employers engage in open communication with the individual, focusing on understanding the nature of the health condition and its limitations. This collaborative approach ensures that necessary details are exchanged while respecting employee privacy and confidentiality. We generally suggest that the employer begin with the individual as their firsthand knowledge of the symptoms and experiences can provide valuable insight into potential accommodation solutions that may be effective in addressing their needs.

However, if the condition is not visible or obvious, the employer may request specific medical documentation related to the individual's health condition to better understand how it impacts their ability to perform job-related tasks or engage in the pre-employment process.



This information can help employers determine the most appropriate accommodation options. An employer can also require that this medical documentation explain how a requested accommodation would enable the employee to perform their job duties or engage in the pre-employment process more effectively. Understanding the link between the accommodation and improved performance can help employers make informed decisions about accommodation approval and implementation.

While employers may request specific medical information relevant to the accommodation request, they are prohibited from seeking information that is not relevant, such as the employee's entire medical record or information about unrelated health conditions. This safeguard ensures the protection of employee privacy and confidentiality while still allowing employers to gather necessary information to facilitate the process. Next slide.

These resources go into more detail about requests for medical documentation during the interactive process. These first two are written by the EEOC. The first provides guidelines and regulations regarding when and how employers can make disability-related inquiries or require medical examinations of employees under the ADA.

The second outlines the obligations of employers to provide reasonable accommodations to qualified individuals with disabilities, and explains the concept of undue hardship, helping employers understand their responsibilities and limitations under the ADA. The other four resources on this page came from JAN.

Medical Exams and Inquiries is a comprehensive resource offering information and guidance on navigating medical exams and inquiries in the workplace, addressing common questions and concerns related to ADA compliance and accommodation processes.

The next one provides practical advice for employers to use when requesting medical information in response to an accommodation request. The sample medical documentation form is exactly what it sounds like. It's a sample form that employers or individuals can modify to fit their needs when requesting or providing medical documentation.

And the last resource here offer strategies and tips for employers to minimize delays and effectively manage the accommodation process after requesting medical information, helping to streamline the process and support timely resolution for both parties. Next slide.

After an individual has provided medical documentation, the next step in the interactive process is often exploring accommodation solutions. Collaboration between the employer and the individual requesting accommodations is essential. By working together, they can identify and implement effective accommodation solutions that meet the needs of the individual while considering the operational requirements of the job. It's important for the employer to also actively search for accommodation solutions, even if the individual requesting accommodations has not proposed a specific solution. This proactive approach demonstrates a commitment to



finding the best possible accommodation to address the individual's needs. Now, if an employer determines that they cannot provide the exact accommodation requested by the individual, the search for alternative accommodations should continue. Employers should explore alternative solutions that can effectively address the individual's needs without causing that undue hardship. Utilizing resources, such as the Job Accommodation Network, can be invaluable in exploring accommodation solutions. We offer a wealth of information, guidance, resources to assist employers and individuals in identifying and implementing effective accommodations. By leveraging JAN's expertise, you can access valuable support in navigating the accommodation process and finding solutions that work for everyone. Next slide.

Accommodations in the workplace are not a one-size-fits-all solution. Each individual's needs and abilities are unique, and what works for one person may not work for another. Understanding this diversity is crucial for employers when navigating accommodation requests under the ADA. It's important to recognize that each individual's impairments, limitations, and accommodation needs are unique. What was successful for one person may not be possible for their coworker. Employers should approach each accommodation request with an open mind and be prepared to tailor solutions to the specific needs of the individual. And an individual should be prepared to explain how they specifically are affected and what their specific needs are. Engaging in a comprehensive accommodation conversation is essential to understanding the individual's needs and identifying appropriate solutions. This conversation should involve open communication between the employer and the individual, allowing both parties to share information, ask questions, and explore potential accommodations together.

By having a thorough dialogue, employers can gain valuable insights into the individual's needs and preferences. It's important to avoid making assumptions about an individual's abilities or accommodation needs. Instead, employers should rely on information provided by the individual to inform their decision-making process. Making assumptions can lead to misunderstandings and ineffective accommodations. So it's crucial to approach each situation with an open mind and a willingness to listen and learn. Next slide.

Earlier in this presentation, I mentioned the A to Z index. When trying to find accommodation ideas to explore, our A to Z index is invaluable. In our A to Z index, you can search by disability, limitations, work-related function, topic, and accommodation. What we see here is the page for disability. This list certainly is not comprehensive, but it contains most of the conditions that people contact JAN about. They're listed alphabetically, and you can click on the specific condition you have questions about to find information on that condition, how it impacts the workplace, accommodation ideas that could be effective, articles about the condition, and organizations that may be able to offer more information.

The tab for limitations offers a similar format but is ordered by specific restrictions rather than by disability — so trouble walking, concentrating, tolerating stress, speaking, remembering, so on. The disability and limitation tabs are the part of the website that I use the most often and



are a great place to start when you have questions about a specific condition, accommodation, or issue. Next slide please.

The Topics tab of our A to Z index is the next most frequented part of the site by me, as you can often find your way to what you are looking for from this page. Whether you have questions about assistive technology, emergency procedures for people with disabilities, job coaches, meeting performance standards, or travel on the job, our Topics page has numerous links that will allow you to begin your deep dive. I mentioned before, this is often the first place I go when I can't remember a detail about a topic, and it will guide me to where I need to go next. Next slide.

After accommodation options have been explored, the next steps are to choose an effective one and implement it. Employers pay — excuse me, just for a moment. So employers play a pivotal role in ensuring that individuals with disabilities can perform their job duties effectively.

This involves considering the preferences of the individual while also maintaining practicality and effectiveness within the workplace. The responsibility of choosing and implementing reasonable accommodation rests with the employer who must assess the specific needs of the individual and the feasibility of various accommodations. While employers are the ones who make the final decision on accommodations, they should prioritize the preferences expressed by the individual with a disability so long as those preferences are reasonable and align with the job requirements.

We often encourage employers to consider trial and short-term accommodation solutions, allowing both parties to assess effectiveness and make adjustments as needed. These temporary measures can expedite the process of finding suitable accommodations and facilitate a quicker return to work for the employee. Trial accommodations can provide concrete evidence for whether an accommodation is feasible or not. Next slide.

When negotiating a job accommodation, it's essential for employers to navigate the process effectively to ensure their needs are met and their employee's rights are upheld. A denial is not necessarily the end of the process as it's important to remember that employees have the right to request and negotiate effective reasonable accommodations. Employers want to help employees understand why an accommodation has been denied so the process works for everyone.

If an accommodation request is denied, you may want to engage with the individual to discuss next steps. Providing information about why an accommodation was denied can provide clarity and help identify potential areas for resolution. So for example, if the employer denies the request because the medical documentation is not sufficient, they may want to explain what is missing so that the employee can provide it. If the employer denies it because it would be an undue hardship, they may want to explain what the hardship is so that a discussion can begin to



find an alternative. If the employer provides an alternative accommodation, they may want to explain why they're providing a different accommodation than the one specifically requested. In cases where internal appeals or complaint options are available within the organization, individuals should engage with these processes to seek resolution.

I usually suggest responding via email so that you can get everything down and organized, and there's a record of it. Contacting state equal employment agencies and advocacy organizations like Protection and Advocacy can provide individuals with additional support and guidance throughout the negotiation process.

Now, if an individual feels like they have exhausted their options trying to go up the chain of command, an individual always has the right to file a grievance with their union or file a complaint with the EEOC or their state fair employment practice agency. Next slide.

We have some resources on our website for some possible scenarios and how to approach them. The Employee Accommodation Inquiry Letter provides guidance on how to follow up with an employer if they haven't responded to an accommodation request; how to inform an employer that an accommodation is not effective, offers advice on how to communicate with an employer if the provided accommodation isn't meeting your needs. I already mentioned the resource for dealing with improper requests for medical documentation from an employer.

And lastly, with Leave as an Ineffective Accommodation, individuals can refer to this resource for guidance on addressing situations where an employer insists on placing them on leave instead of providing reasonable accommodation, providing insights into advocacy and potential next steps to protect their rights. Next slide.

The next two slides will include several resources from the Job Accommodation website and the EEOC. Some of them are publications I've mentioned already, and some I haven't talked about but are very good to be aware of. I'm not going to go over them in detail because we are getting short on time and I want to go into question and answer. But they should be available, I believe, after the presentation so if we want to go forward three slides to the Q&A. So that concludes my presentation. I'd like to go ahead and turn it back over to Derek.

Derek Shields: Lore, thank you very much for going through a lot of content with a cadence that really kept us with you. Fascinating to have the interactive process described along with the supporting resources for each section provided too. So we really appreciate that.

And now we are 15 minutes away from concluding, we're going to open this up to Q&A. So let's go to the next slide, if we could, just to remind folks about a couple tips about how to engage in the Q&A. Thanks for those of you that have been placing questions into the Teams chat. We'll get to those in a moment. We do ask you to either use Teams chat, or you may ask a question using your hand raise feature on MS Teams, or ask your question over the telephone if you



called in. To do that via phone, please raise your hand on Teams by dialing star 5. Then we will call upon you and you'll be unmuted by the facilitator. Then you need to hit star 6.

So it's a two-step process. If you use the Teams app again and you prefer just use the Raise Your Hand feature, please do that. We'll ask you to identify yourself by your name and your EN name, please. If you prefer, you can use our email address for questions at enoperations@yourtickettowork.ssa.gov. And with that, let's start out by going to Brittany to see — we've had some questions placed in chat. A couple came in a while back. Brittany, question for Lore, please.

Brittany: Yes, I have one question from Ray. He's asking what other languages are available at the agency?

Lore Lee: So we have a Spanish interpret — Spanish language interpreter who can take live calls and chats and responds to emails. I don't — that is the only — we also — we do have a sign language tweet. As far as I know, I believe Spanish right now is the only other language that we have for calls and chats and emails. There's a possibility that there are other languages, but Spanish is the only one that I know officially.

Derek Shields: Thanks for that, Lore. And somebody could call through a video relay interpreter if they prefer.

Lore Lee: Yes.

Derek Shields: And engage with your staff that way as well. Okay. Yeah, and I highly encourage you. I use the human factors consultants all the time at JAN. And if you haven't done so, you're in for a treat. So I encourage you to do that, whether it's in English or Spanish. Brittany, another question, please.

Brittany: Yes. Does reasonable accommodations include purchasing equipment or other needs by the employer for the employee?

Lore Lee: So in general, yes. There are some exceptions. So personal use items are generally not included in that. There's some gray area when it comes to telework equipment. But even there, there could be. But in general, especially if we're just talking traditional work environment and the accommodation requires the — some type of equipment, the expectation is that the employer will cover that cost. If the cost truly is an undue hardship for the employer they have a couple options. They can look for funding. We have some — on that A to Z Topics page, we have a page on funding. So they can look for funding. They can also cover the cost up to the amount that would be an undue hardship, and then give the employee an opportunity to cover the remaining cost. But the short answer is yes, the employer would be expected to cover that cost.



Derek Shields: Thanks, Lore. This is Derek. A couple follow-ups there, going back to the beginning of your answer. You mentioned personal items. That wasn't the term you used exactly.

Lore Lee: Personal use.

Derek Shields: Personal use items. Can you give a couple examples of that so folks would be very clear on it?

Lore Lee: So in general, if it's something that you need inside and outside of work, if it is not — so seeing glasses are often a common one. Hearing aids are generally in that category. However, if you don't normally — there can even be exceptions there. So I'll get into that in just a moment. But personal use items are generally going to be things that you need regardless of work. You need them inside of work, you need them outside of work, and work is not creating any specific barrier that makes you now need this.

Where you could get into a gray area is if you don't normally need, say, a hearing aid outside of work, you are normally — or a mobility device outside of work, but the requirements of the job are now creating a specific barrier that now means that you need a hearing aid, or a mobility device, or something that could potentially be considered a personal use item, that is an instance where it might cross that line from personal use item into accommodation. The main difference is when the work, the work environment, is the one creating the barrier, the specific barrier.

Derek Shields: This is Derek. Thanks for that. I think those are helpful examples and a little bit more detail kind of will help with the differentiation.

There was another question that came in that was attached to your answer when it comes to, you know, undue hardship. So you were suggesting that the employer could pay for it up to a point. And then if undue hardship comes into play, then there could be a share, I suppose. There's a question that's asking, who determines if it's an undue hardship? Is that the company or is it somebody else?

Lore Lee: That's a very good question. So initially, yeah, it's going to be the employer. The employer looks at — the EEOC lists a couple criteria. They look at the size of the employer, the number of employees they have, the amount of resources they have, the amount of facilities that they have. But ultimately, to begin with, it is the employer. They look at all of that and they determine whether or not they feel it would be an undue hardship. If the employee disagrees, there can be some back and forth. That's where that interactive dialogue will happen. Maybe they've brought something up that the employer didn't think of. If it ultimately went to the EEOC, strictly speaking, it would be the EEOC that makes that final determination. But until that point, it is the employer who makes that determination.



Derek Shields: Thanks, Lore. This is Derek again. You know, one thing that I've frequently heard is that it's not just the resources of like a team or a business unit, but it's the overall —

Lore Lee: Yeah, exactly.

Derek Shields: enterprise's resources. So if it is a larger employer, undue hardship is frequently hard to prove. So something to keep in mind there as well. Let's bring Brittany back in. I know there's some other questions out there. Brittany, another question for Lore, please.

Brittany: Yes, I have two questions that are scenario-based. One question is that there was a beneficiary that had a respiratory condition and needed to go to the doctor two to three times a week. They informed the manager of the condition and let them know everything about the doctor's appointments, told them about the appointments in advance. They gave her a verbal warning for time off and then let her go. And they were wondering if terminating her was legal. And then how many time off requests for medical reasons are too many?

Lore Lee: So I can't answer the first question. I can't say if it was legal or not. I would say that it definitely warrants closer look, because treatment, whether it's scheduled — normally, treatment is going to be scheduled. So it's not going to be unplanned, unscheduled time off. But if time off is requested and an employer ignores that request and they don't process it, and then the employee takes it, I would say that they're — an employee may be able to file a complaint there because the employer is ignoring their request.

That being said, if an employer does not approve a request, assuming they are acting in good faith, and the employee uses that accommodation anyway, then an employer likely can take the same action that they would normally take in any other circumstance where an individual uses that accommodation without approval. That could potentially be termination. But again, if you've got an employee who is coming to you and saying, hey, I've got treatment two to three times a week; it's related to a disability. I need to — that should be addressed as an accommodation. And if it can't be, you know, potentially modifying a schedule rather than doing it as leave, an employer really should engage in that process.

The second part of the question, I think, was how many times? What was the second part?

Brittany: How many time off requests would be considered too many?

Lore Lee: That's going to be on a case-to-case basis. So one example I always give is if you work in a call center, there could be 200 employees that are working at any given time. And any single person who needs time off, it may not be substantially disruptive because you've got 199 other people who can take calls. And so in that particular case, a person may be able to request several days off, and they may be able to withstand many days of intermittent leave. But you also — another scenario, you could be the only person who does what you do in a very small office, in which case, the employer is not going to be able to handle as much leave. So it sounds like a cop out to say it really depends, but it really does. It is determined on a case-by-case

basis. It depends on what that employee does. How many other employees are there who can do those tasks? How big is the company? How much time are they asking? How much time are they giving you warning? Things like that.

Derek Shields: Thank you, Lore. And impressive you remembered the second part of the question. These scenarios are a little tough to do through this platform. But let's try to get one or two more questions in before we wrap up. Another one, Brittany, for Lore.

Brittany: Yes. If an applicant states that they have an ADA request in their application, are you allowed to ask during the interview what the request is or after an official job offer is made?

Lore Lee: So I assume from the question that that means that the applicant is saying that they need a request for the actual job. Is that correct? Not for the —

Derek Shields: We don't have that information. But if the person who posted the question could add that in chat, we'll know for sure. But let's go with that assumption.

Lore Lee: Yeah, that's what it sounds.

Derek Shields: Yes, that is correct. Go ahead.

Lore Lee: I would say, you likely don't want to focus on that. That is — you know, after the — if it truly is something that you're like, look, in no way, shape, or form, is this something we could provide if we were to give you an offer, maybe then there could be discussion. But at that point, during that pre-employment stage, the conversation is focusing on qualifications, whether they are qualified for the job, whether they can do the job even if that is with accommodations. And so the focus of like processing that request, getting details about that request, that is likely going to be something that you consider after you make a job offer, because it just isn't as relevant during that pre-employment stage. Again, unless what they're asking for is just something that you just truly cannot understand how it would even be possible or that's — and that's literally the only way they can do the job. For the most part, yeah, you're not going to focus on that.

Derek Shields: Lore, follow up there. If it is a case of disclosure, may the employer ask the question of, well, can you tell me how you will do the essential job function with or without reasonable accommodation?

Lore Lee: Yeah, yeah. So and that's something that an employer can ask, I think, in general, even without a disclosure there. But yeah, one of the pre-employment questions that an employer can ask is what — can you demonstrate or can you explain how you would perform the job with or without accommodations?

Derek Shields: Thanks for that. And a follow-up note before, you know, when these issues rise up, Lore mentioned protection and advocacy organizations are available. And of course, as part



of Social Security's employment team, you have access to — well, Ticketholders have access to Protection and Advocacy for Beneficiaries of Social Security entities or PABSS, which will be more familiar with the beneficiary scenarios. So let's now move to the next slide.

We have one minute until the hour. And of course, we've gone through our time very quickly. There are questions that have gone unanswered that are in chat. I would encourage you to reach out to the Job Accommodation Network on this screen. We have the website, that's jan.org. It's also in chat. I would also encourage you to call. The human factors consultants at JAN are experts in this. And the engagement that you can have with them at no cost is available through 1-800-526-7234 or via live chat as well from their website. And to the next slide, please.

Our Ticket Program Manager team and our colleagues at Social Security would like to thank Lore for joining us today and providing this EN Essentials training on Requesting and Negotiating Accommodations. Lore, we really appreciate your time.

Lore Lee: Thank you very much. It's been a pleasure.

Derek Shields: Excellent. Thank you. And now to our final slide, please.

We wanted to remind you of some upcoming events. We, of course, appreciate your time here, but on July 24, in a couple weeks, we have a WISE webinar. This is Ticket to Work and Reasonable Accommodations. This session will be provided by the director of the Northeast ADA Center, and she will be presenting the content really focused on addressing Ticketholders and their knowledge and engagement around reasonable accommodation request.

On August 6, we have our All EN Payments Call. And then on August 28, we have our next WISE webinar, "Working from Home with Ticket to Work." I'd also like to make note that we have been holding EN Essentials monthly since the series began one year ago this July. While we find that these have been very successful, we will be taking August and September off to be focused on some other activities. We'll return to our EN Essential series on October 9 and host an October and November session to close out the calendar year. If you want to access the calendar, go to the Your Ticket to Work website, go to our Training page and access the calendar of events link, which is also available through the slide. We also would appreciate any feedback you have. You can send an email to us at EN Development and Training. Our email address is enoperations@yourtickettowork.ssa.gov.

We'd love to hear feedback about our series. We'd love to have your recommendations or ideas for future content. We provide those to our clients at Social Security to make decisions about what will be next.

And with that, once again, thank you to Lore from the Job Accommodation Network for your time and expertise today. This ends the EN Essentials session.