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EMPLOYMENT RIGHTS & RESPONSIBILITIES FOR THE ADA GENERATION

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>> ERIC CLINE: This is Eric Cline. I want to thank you for being on this webinar today. And thank both of our presenters for giving some of their time to share some of their thoughts, their insights. And I am going to give you a quick rundown on the webinar platform we are using. The large window on the right side of the screen is the slide show that you will be using. And so you can see information there. If you want to download this powerpoint, it is in the pod that is called Files 2. One says ADA Employment Resources. That's a Word document handout that you can download and then below is the powerpoint. Those two documents you can download now.

Once we start the slide show I am going to hide that window. If you don't get a chance to download those files now you can do so at the end of the recording that will be available after the webinar. On the left side of the webinar screen you are seeing there is a Q and A pod. That's where you can type in questions you want answered, whether a technical question or a content-related question or a comment or idea. You can put it in the Q and A. And we will field those questions in some cases right it away or in some cases we may wait for a Q and A period further down the line. Right below that is the chat pod. You can talk directly to me, to the whole room, if you want to share some ideas or thoughts that don't necessarily fit in the Q and

A pod. And in the bottom left you can see we have the caption screen pod and we have live captioning services provided. This is available in the live webinar and in the recorded version. I am going to pass it over to Jennifer Thomas. Jennifer, take it away.

>> JENNIFER THOMAS: Hi. Thank you all for joining the Employment Rights and Responsibilities for the ADA Generation webinar. My name is Jennifer Thomas and I will be your moderator for today. We are so glad to have you with us. I wanted to go over a few objectives. The first one for today's explain aspects is Title I of the Americans with Disabilities Act and next is to discuss youth's rights and responsibilities as it relates to employment. We are also going to describe examples of reasonable accommodations that youth with disabilities can request in the workplace. We are going to identify expectations and steps to take when disclosing a disability and also going to observe work relating experiences of youth with disabilities.

Very quickly I want to share a little information with you all about the National Collaborative on Workforce and Disability for Youth, also known as NCWD/Youth. We are housed at the Institute for Educational Leadership, also known as IEL in the Center for Workforce Development. We are funded by the Office of Disability Employment Policy, the U.S. Department of Labor where the National Technical Assistance Center is and we assist states and local workforce development systems in integrating youth with disabilities in to their service strategy. Like I said we are a partner with IEL. We are also a partner with the Institute on Community Integration, the University of Minnesota, Boston University and Pacer.

Our presenters for today are Teriana Cox. Teriana is a youth participant in our Youth Action Council on Transition, also known as YouthACT here in the National Collaborative on Workforce and Disability for Youth. She is part of the DC team and that team is really active in the DC area working on education issues and other issues related to youth and training.

Our other presenter today is Marissa Johnson. She is the former director of training for the MidAtlantic ADA center. Thank you again to our presenters for being on today.

Before we get in to the webinar I want to just remind you all of ways that you can join IEL in celebrating the 25th anniversary of the Americans with Disabilities Act. This webinar is actually one of the ways that we are celebrating the 25th anniversary of the ADA. We thank you for joining us. We have a call out for stories where we are asking folks to submit a story about how the Americans with Disabilities Act has impacted your life. More information about how to submit a story can be found at this link or URL that's listed here. So if you downloaded the presentation, you will be able to copy and paste that URL directly from the presentation. If you have any questions, you can contact Dana Seat by e-mail. We'd like to let you all know that the submissions are due by July 2015.

So now I am going to go ahead and hand things over to our first presenter, Marissa Johnson who will go over -- Marissa Sanders who will go over the ADA and employment. Marissa.

>> MARISSA SANDERS: Hi, everyone. Thank you, Jennifer, for the introduction. I am glad to be here with everyone today. We will be talking about employment under the Americans with Disabilities Act today and what the ADA says about employment rights and responsibilities. Before we get in to employment -- hold on a second. I'm having trouble with my -- I can't seem to get the slides to advance. There we go.

Before we get in to employment I wanted to review the ADA is broken in to five titles. The first one is employment. So that's what we will talk about today. Title II is public services which covers state and local government. Title III is public accommodations which relates to how we interact with private businesses and Title IV is telecommunications. And Title V is miscellaneous. Under all titles of the ADA disability is defined very clearly as a physical or mental impairment which substantially limits one or more major life activities or a person of a record of impairment or one who is regarded as or viewed as having such an impairment.

So what are major life activities? They are the basic activities that the average person in the general population can perform with little or no difficulties. There is really a long list of what they are, but just to give a few examples for the sake of time self-care, manual tasks, breathing, standing, learning, interacting with others. Also major bodily functions were added under the ADA Amendments Act which included immune system, endocrine system, et cetera. Anyone with an impairment in one of those areas that substantially limits -- an impairment that substantially limits one of those major life activities or some others would have a disability.

Title I is sort of a graphic which gives you a brief quick overview. It is called employment. The enforcement agency is the Equal Employment Opportunity Commission. It covers all private employers with 15 or more employees and all state and local government regardless of size. It covers interview, hiring promotions, how the job is done and also the benefits of employment and workplace accommodations.

So the key of all parts of the ADA but especially employment is nondiscrimination. Under the general rule for Title I it says no covered entity shall discriminate against a qualified individual on the basis of disability to hiring advancement, discharge of employee, employee compensation and training and other terms and conditions and privileges of employment. All those things I just mentioned are written in to this general rule to ensure that people with disabilities do not face or suffer from discrimination in the workplace.

Title I ensures that qualified individuals with disabilities have comparable access to the employment process, are afforded interactive process to determine reasonable accommodation. And we will talk about what that is

and are provided access to all the benefits of employment which could include things if an employer operates a gym or transportation or a lunchroom where everyone eats, those types of benefits. Who is covered? As we said it is any organization or private business with 15 or more employees. So if there is a -- if you apply for a job at a restaurant or a small shop in your town that only has five employees, they are not covered under the ADA. They are -- they may be under Title III but in terms of employment provisions they are not covered. And also any state or local government regardless of their size. And there are some small towns that have less than 15 employees but they are still required to follow the employment provisions of the ADA.

So what is a qualified individual with disability? That's one who satisfies the required skill, experience, education and other job related requirements of the position and who can perform the essential functions of the position with or without a reasonable accommodation. We are going to break all that down as we go through here today. The ADA is not an affirmative action law. It does not require employers to hire people with disabilities. It says very clearly they can hire the most qualified person for the job but it is designed to make sure that if that person has a disability they are not discriminated against or turned down just because they have a disability. As long as you meet all the requirements of the job and you can perform the essential functions then you are a qualified individual with a disability.

What are essential functions? These are the things that are essential and important to that position. And there is three things they look at when determining whether a function is essential. One if the position exists to perform that function. So, for example, a FedEx package handler, that position exists for the purpose of moving boxes from one place to another. If your disability makes it so that you can't do it unless you have a reasonable accommodation then, they need to provide you with an accommodation. If there are limited number of employees of whom the job can be distributed. It is a smaller business and there is only one receptionist and one other person who can take on her duties. So that makes answering the phones for those two people an essential function. Or the function is highly specialized. If you are an engineer in a highly specialized field and you are the only person or this position is the only one that can handle that path.

A reasonable accommodation is any change in the work environment or the way things are done that enables a person with a disability to enjoy equal employment opportunities and it must be provided to qualified individuals unless it poses an undue hardship. And again we are going to go through examples and explain what all that means. Undue hardship is defined as a significant difficulty or expense. An employer must explore other options that would not be an undue hardship. So if you request an accommodation that if you are working for a small -- like I said a small

business that has only 15 employees or 20 employees and the accommodation needed is to major structural remodeling in order to make the building physically accessible, that may be an undue hardship for that business or purchasing a really expensive piece of equipment, may be an undue hardship.

Another example is if it would cause a disruption to operations, say you need to work a night shift and everyone else works a day shift and they don't want to keep the business open just to allow you to work a night shift. That would be a disruption to their operations and that would be considered a significant difficulty. But if an accommodation that's requested does pose an undue hardship an employer must explore other options that would not be an undue hardship and see if there is something else they can do. And if cost is the issue then the employer should give the individual with a disability the option of paying for whatever portion would make it an undue hardship. That may or may not be an option for that person but the possibility should at least be put out there.

Reasonable accommodation is a modification to the job application process. So it could be requesting electronic applications so that you can access the information. Or the ability to take the application home so you can fill it out. Modifications to the work environment or the way that the work is customarily performed that could be anything related to your actual job duties. And then modification that enables an employee with a disability to enjoy equal benefits and privileges. And we talked a little bit about that. It could be access to the lunchroom. It could be access to training that other employees are given or gym or work related travel. Any time you request a reasonable accommodation there is an interactive process that is triggered as soon as an accommodation request is made. And the first step is to review the job and take a look at what the purpose and essential functions of that job are. To really kind of get down in to the nitty gritty of what does this job exist to do versus other things we made which are called marginal functions. So perhaps you fill in for the receptionist during her lunch break but that's not your main duty. Next step is for the employer to consult with the individual with a disability to determine what their limitations are. Take a look at what you need an accommodation for and then identify potential accommodations and then the employer should consider the preference of the individual if alternatives are discovered in the process. If the employer requests a really expensive piece of equipment and the employee requests it but the employer determines that a less expensive piece of equipment would be equally effective then they could go with that instead. As long as it is equally effective.

Accommodations are dependent on the specific requirements of the job as we have said. You have to take a look at really what is this job designed to do. Also the particular needs of the employee or the applicant and the extent to which those modifications or aids are available without causing

undue hardship. When you -- when do reasonable accommodations get requested? That depends. They may need to be made at the beginning of the process in order to enable the person to participate in the application or interview process. If you need a sign language interpreter for the interview then you are going to have to request that accommodation prior to the interview or the interview is held in an accessible location then you would need to request that. They may be made after the job is officially offered to the applicant. Maybe you didn't need any accommodations during the application or interview process, but you know that once you get there you are going to need an accessible office or you will need an ergonomic chair or a specific kind of lighting or something along those lines. Then you may make it after it has been offered before you start. They may request the accommodations. Or it may be that you start the job and everything seems to be going okay and then either the job changes or your disability changes or, you know, you learn more about the job and realize that you are going to need an accommodation. So then you make it -- at that point you make a request at that point.

This is our first poll. What is the most commonly requested accommodation? Is it office furniture or equipment? Structural modifications for accessibility? Assistive technology? Modified or flexible work schedule? Or personal assistant? That's interesting. Everyone is saying -- okay. Now there we go. Structural modifications and assistive technology and modified schedule seem to be the most popular. Those who said modified or flexible schedule you are right. That's the most commonly requested accommodation. And that is because that could be a whole lot of things, partly it could be flexibility with breaks. It could be a different shift or coming in a different -- at a different time. There is a lot of different activities. Working from home. So all of those would fall under that.

And there is a lot of different disabilities that would benefit from that type of accommodations. Examples, making existing facilities accessible. Job restructuring which would be looking at what are those essential functions and never considered a reasonable accommodation to remove an essential function. An employer may decide to do that but they don't have to. If there are marginal functions, if you are -- the receptionist front desk and your job is to answer the phone. But every once a month somebody delivers a heavy package, that would be a marginal function and could probably find somebody else to do that once a month. But saying you don't want to answer the phone or not able to answer the phone that would be an essential function and they wouldn't have to remove that from your job duty.

Part time or modified work schedules as we talked about. Now they don't have to say let you wait for full time as they let you work part time or give you three hours of extra break time while everyone else gets one hour of break time unless they reduce your pay or you maybe work an extended day

so you are getting the full time in. They don't have lower production standards. Reassignment to vacant positions, this is considered a last resort. Adjustment or modifications of examinations, training materials or policies. So that could be accessible formats of materials or providing interpreters and then providing interpreters on the job. And a note about that, personal assistants at work, it could be someone to help with more physical tasks can get a little complicated. An employer may provide a task related assistant, a sign language interpreter, a reader, someone to turn pages if you are reading. They typically aren't going to provide that person all day every day. If you are blind and you use a reader they will typically come in for a couple of hours a week or a -- maybe an hour a day or something to help you go through print materials. But now with scanners those are getting less and less. A sign language interpreter unless you are out at meetings all day is not going to be with you all day. There are a lot of other ways for a person who is deaf to communicate in the office. You can use Instant Messaging and you can call people and use video relay systems to have a -- have your conversation interpreted via over the phone and not in person. You know, using basic gestures for very simple tasks. So typically you would -- an employer would provide an interpreter maybe for a training or a staff meeting or an important performance review with your supervisor or something along those lines. Assistance for personal needs, for toileting, dressing, those types of needs are typically provided by the individual. And if they are needed during the day, then they would be provided by the individual. They may be a family member or they may be paid for through Medicaid or Medicare, other programs like that. The exception to the employer providing personal needs is if you are going on work related travel and would need to have personal assistance for more hours than you typically do at home because you are in a different setting or you are away from home and your routine you need more assistance then the employer may have to pay for the extra hours.

More examples of accommodations, light duty, which can be a temporary assignment. Shift changes, which is part of that schedule adjustment. Unpaid leave can be an accommodation if you need additional leave for recovery from a surgery or illness. Providing instructions in writing rather than your boss just saying hey, I want you to do this. Send an e-mail or an IM with the instructions. Allowing an employee to contact a support system for someone who has a psychiatric disability or other support needs. Maybe giving them the ability to pick up the phone and call somebody when they need to during the day. As long as it is not reducing their productivity. Office space with minimal noise or distractions. Somebody with ADHD may need to be in a corner office so they are not hearing all the noise. Acquiring or modifying equipment, this could be technology or equipment. And then assistive technology is typically provided by the employer as a reasonable accommodation unless it poses an undue hardship or is a personal device

used both on and off the jobs. Examples of things that an employer might provide speech-to-text or text-to-speech software. A phone with a volume control or video phone for a person using sign language. Using a track ball, many people find the track ball easier to manipulate or a mouse if everyone else has a track ball. A scanner, closed captioned TV. I'm sorry. Closed circuit TV. Braille notes or Braille printer. Zoom text. Sticky keys which are built in to most computers or having a standing or adjustment desk for someone who has trouble standing or sitting for a long time. Most of those would be provided by an employer unless they provide an undue hardship or they posed an undue hardship. Most of those examples are relatively affordable and most places would not have too much difficulty providing them. However an employer is not required to provide a personal device that you use both at work and at home. So an example of that would be a hearing aid, a prosthetic limb, in many cases a scooter or power wheelchair. If it is something that you are going to use in all environments, then it is usually the employee's responsibility to take care of that.

There is a great organization called the Job Accommodation Network and they have a wonderful website that has a ton of information on accommodations. And you can actually call them and say this is my job. This is my disability. I am trying to figure out what accommodations might help. And they will help walk through that process and I went on their website which is ask JAN.org and they have great examples of different types of disabilities. And you can look at sample accommodations that they have recommended to people through the system. So a few of those that I pulled out are data entry clerk who had a back impairment and was having trouble with the data entry part of the job because she was having a hard time sitting for that long. So the employer provided her with a sit/stand work station and an ergonomic chair and a copy holder to hold the paper.

Research expressive writing disorder. Part of his job was to write reports. So his employer provided him with inspiration software which is specialized software to help develop those reports and then also a hard copy of a dictionary and a thesaurus for him to improve his writing. Receptionist with arthritis who was struggling with entering data in to the computer was given a left hand keyboard, track ball and speech recognition software and rearranged her work station to better accommodate her arthritis which could be getting a desk with drawers on a different side or different types of drawers. It could be facing away from a window or toward the window. Any kind of work station rearrangement. And an assembly line worker who has bursitis in his knee was having trouble standing on the assembly line. So his employer provided a stool, antifatigue matting where he stood on the floor and vibration and shoe inserts to help with that pain.

And an engineer with lupus was having trouble completing her work because of fatigue because of lupus. And so the employer gave her more frequent rest breaks and a flexible schedule and ability to work from home

part time. An attorney with MS was having trouble carrying documents to meetings. So the employer provided a portable cart that was easy to get in and out of his car. Those are real life accommodations from the Job Accommodation Network. And that's a great resource if you are not sure what accommodation might be helpful to. You requested accommodation and who decides what kind of accommodation you get and whether you get it. The bottom line is reasonable accommodation must be effective. It must resolve the issue that you are having. So if sitting too long is a problem then using a more comfortable chair may not resolve that issue. The employer may provide an alternate accommodation to the one that you are requesting as long as what they provide is effective. It must still resolve that issue and allow you to perform the essential functions. For example, instead of -- an employer may decide to give you a flex time schedule. If your paratransit ride gets you here an hour late, then you can stay an hour late at the end of the day or make it up at the end of the week or something like that rather than letting you work from home.

Here is our second poll. Conduct and performance standards. True or false, a person with disabilities may be held to the conduct and performance standards as other employees even if the behavior they are exhibiting is caused by their disability. See what everyone else thinks here.

Everyone said false. Anybody else want to weigh in on that? Okay. It is actually true. It is true that people can't -- people with disabilities are held to the same conduct and performance standards as well everyone. At the same time the employer must consider if there are accommodations that will help that employee meet that standard. Just because you have a disability doesn't mean that you can come in and yell at your boss or, you know, just because you are frustrated that day or you had a bad day or an example that you can be late every day. If there is an accommodation such as a flexible schedule or adjusting your schedule then maybe that would be the accommodation to help you be on time, but maybe you set your being on time is getting here at 10 instead of 9.

But if everyone is expected to be on time then the employer has a right to expect you to be on time as well. During the interview process it is essential and really on the job as well it is essential that your disability remain confidential unless you choose to disclose that disability. And so the ADA lays out what interviewers are allowed to ask and not allowed to ask during the interview. They may ask about an applicant's ability to perform duties and previous job experience and educational background, whether they have the skills that are required to perform the job, they may not ask anything having to do with a disability essentially. They can't -- even if you have an obvious disability they can't say ask you questions about the nature and extent of that disability. They can't ask whether anyone in an applicant's family has a disability. They can't ask about your health. They can't say oh, how many sick days did you take on your last job or do you tend to be in

good health. Do you have regular attendance. They can't ask those kinds of questions. They can't ask if you have a history of emotional illness or ever had an injury or disease. They can't ask whether an applicant has seen a psychiatrist or had a drug or drinking problem. None of those questions are allowed to be asked during an interview.

If someone asks one there is a variety of ways of handling that but often it is best to kind of deflect it and focus more on the skills and to say something like I would really like to talk about the skills that I have that I bring to this position but there are other options. You can tell them that they are not allowed to ask that but that may impact your ability to get the job. Whether you disclose or not it is entirely up to the employee. Employer must accommodate known disabilities. They are not to accommodate a disability that has not been made known to them. So you don't need to accommodate or to disclose a disability unless you are requesting an accommodation. They have to disclose the disability at that time if they requested an accommodation. Any information shared must be kept confidential. And it is always best to disclose a disability long before you start to impact your job performance. If you feel like you are starting to flip and you think that maybe an accommodation will help that's the time to ask. And not when your employer starts to notice and then, in fact, on that note if there is disciplinary action taken against an employee with a disability removal of that disciplinary action is not a reasonable accommodation. So, for example, if I am having trouble getting to work on time and I get written up by my employer and then I decide well, I'm really having trouble getting here late because I have this disability and it would be a reasonable accommodation if they would let me come in later, even if I request the accommodation at that time they don't have to go back and take away the write-up that they gave me. So it is always best to disclose and request your accommodation long before you get to that point.

When and what to disclose? Disclose when it becomes apparent that an accommodation is needed. You only have to share what the disability is and how it affects the job performance. No need to go in to a lengthy detail or share every surgery you have ever had and ever challenge you ever face. What they need to know in order to know that you have a disability and how it is impacting your job. The employer does have a right to require reasonable documentation to prove the existence of a disability and how it affects your job.

Now if an employee who uses a wheelchair requests a physically accessible office, the employer probably would not want to require documentation to that. That could be considered harassment because it is pretty obvious that you are not going to go up a flight of stairs in the wheelchair. However, if a person using a wheelchair requests a flexible schedule then they could say well, we are going to need some documentation about why you need that flexible schedule. If someone with

an autoimmune disorder who needs a longer -- more frequent breaks because of fatigue, requests that then they have the right to request some kind of documentation proving that you have that disability and that you use that accommodation. The documentation you provide would be from an appropriate professional. So it could be a doctor, a physical therapist, a psychiatrist, a rehab counselor, depending on what the employer deems appropriate. And it shows the individual's disability and their functional limitations and verify the existence of the disability and need for the accommodation. Any information, documentation or verbal information that is shared with an employer about a disability must be kept confidential including any medical information, history of disability, any of that information and by confidential that means they have to keep it in a separate locked file. It cannot go in the personnel file. So that when you are -- when a supervisor is reviewing your performance and your personnel file for say a raise or a promotion, they are not also seeing your disability information and medical history. That includes anything that is voluntarily shared with the employer and also includes things like sick leave requests. Those are to be kept in a separate file. So when they are looking to see if they should promote you they can't say this person was sick a whole lot and we are not going to promote them.

So to review and recap a little bit, the employer has a right of rights and responsibilities as does the employee. The employer has a right to determine job related qualifications and they do have to be job related. They can't make up qualifications that have the effect of excluding people with disabilities. UPS driver qualification that they have a valid driver's license and a safe driving record. For a receptionist or an attorney it probably doesn't make sense to require them to have a driver's license and I see that as a job requirement often. But in that case even if it requires a lot of travel, say a lawyer needs to get back and forth to the courthouse quickly it could be that person is able to hire someone to drive them back and forth. So having a -- requiring a driver's license would not have the effect of screening out people with disabilities. They also have a right to hire the most qualified applicant to request documentation when a reasonable accommodation is requested. The right to provide other accommodations if they use something else to be effective and right to set performance. Their responsibilities are to engage in the interactive process when the reasonable accommodation is requested, to provide reasonable accommodation and to maintain confidentiality.

The employee or the applicant has a right to nondiscrimination. Again as we said that is the key to this -- for this title of the ADA is not to be terminated against employment. They have a right to interactive process. They have a right to receive reasonable accommodation, a right to confidentiality, and also the right to file a complaint if their rights have been violated. And we will talk about that in a second. And the ADA says that

your employer cannot retaliate against you if you file a complaint, but employees and applicants also have responsibilities and to be able to do the essential functions even if you need accommodation to do them.

Responsibility to request an accommodation. You can't assume that your employer will figure it out and that means that you end up having to -- having a responsibility to disclose your disability and provide necessary documentation, then a responsibility to meet those performance and conduct expectations set by the employer.

So what do you do if your rights have been violated? ADA -- Title I of the ADA is enforced by the Equal Employment Opportunity Commission. You can file a complaint with them or local or state human relations commissions or you can look at an alternative resolution as an option. If you do decide to file with the EEOC they will review your case and they will -- if they deem appropriate they may give you a right to sue letter which will allow you to sue your employer directly. This slide has the EEOC's contact information, their phone number and website. And I think that's also on the handouts. Their disability website is on the handout as are some documents that they have developed. If you are looking for information you want to know if something has been a violation of your rights or whether you actually have a disability in this area and are entitled to an accommodation the ADA National Network is a system of ten regional ADA centers that provide confidential and impartial technical assistance. You can call them at this -- go to their website or their phone number which is on here. It is 800-949-4232. And the Job Accommodation Network is a wonderful resource if you are trying to figure out how to disclose, how to request the accommodation on the handout. I included a few handouts that had some disclosure tips and some -- there are even templates for writing a letter to request accommodation. And they can help you figure out what kinds of accommodations might help you in your job. And that was my last slide. Here is my contact here in case anyone has questions after the webinar. Do we have any questions now?

I guess I will turn it over to Jennifer.

>> JENNIFER THOMAS: Thank you, Marissa, for the overview of the Title I of the Americans with Disabilities Act. Really quickly I just want to hold the line for a few more minutes if anyone has questions. We can take them now. It says what about a situation that affects all employees such as mold in the office.

>> MARISSA SANDERS: What do you mean what about -- I'm not sure -- it may affect everyone but it wouldn't -- removal of the mold, for example, or moving all the employees would not be considered a reasonable accommodation under the ADA unless that is a request of an individual with a disability. So if everyone in the office is affected but they don't have disabilities they could still request it as a safety issue under the occupational safety and health administration or something along those lines. But it wouldn't be considered a reasonable accommodation for them. Does that

help?

>> JENNIFER THOMAS: So this is Jennifer. Donna just posted as well but reported by an employee with a disability. So I think you may have answered that question, Marissa. And Donna, if not please let us know and then we will address it. Any other questions?

>> MARISSA SANDERS: To say a little bit more and give people more time if an employee with a disability were to point out the mold it could be that other employees are not bothered or have chosen not to say anything or not bothering them enough. But if it's exacerbating a disability it may not be a reasonable accommodation. The accommodation could be to move that employee to a different office or -- which has air cleaning technology. It may not be to move everyone to a new office or to address the mold issue per se. That would be the smartest thing for them to do but not the end result. As long as those accommodations are effective for the employee with a disability.

>> JENNIFER THOMAS: Thank you. We are going to continue with the second portion of the webinar which will consist of a panel discussion. As I told you all in the beginning we have Teriana Cox along with Marissa Sanders. So Teriana, if you could unmute your line at this time and just say hello, I want to make sure you are still there.

>> TERIANA COX: Hello.

>> JENNIFER THOMAS: Great. So I wanted to ask the first question to both of you. And this first question is -- we will start you with you, Teriana. How old were you when you started your very first job and what is it? That question is going to be for Teriana as well as Marissa.

>> TERIANA COX: Yes. I was 14 years old. I started working in school for the summer youth employment program. And -- I was a teacher's instructor and every morning I used to -- I had to be to work at 8 o'clock. So I would report to work at 8 and then my supervisor would tell me what she needs me to do. How can I help her. How can I assist her and she -- she would tell me to do that, I would do it for her.

>> JENNIFER THOMAS: Thank you for sharing your first job with us and how old you were and some of your duties that you were responsible for. What about you, Marissa, what was your first job and how old were you?

>> MARISSA SANDERS: I was 14 and I was -- it was a state program. I am forgetting what it is called now. But I was a swimming camp counselor for the YWCA. And I remember I was terrified. I did not disclose my disability and my disability was epilepsy. And I was afraid I would have a seizure in the water. And I was more afraid that if I told them about my epilepsy they wouldn't hire me. And that was after the ADA. So I did not disclose my disability. And thankfully never had a seizure in the water. It could have been dangerous. But that was my struggle with my first job or challenge.

>> JENNIFER THOMAS: Thank you for sharing that with us. And you brought up a very good point that a lot of times people are afraid to disclose their disabilities. Ladies, have either of you had a moment where you have been afraid to disclose your disability in the employment setting? And Marissa, you could give another example if you like. But Teriana, I guess this question is more for you. Has there ever been a point or job that you worked where you have felt uncomfortable disclosing or sharing with your employer that you have a disability or asking for certain accommodations?

>> TERIANA COX: I wouldn't say it was -- it was like she was discriminating against me. So I had to go talk to my lawyers and I had to get a paper to lawyer and showed to my lawyers. And now I have to (inaudible) this. Showed them also.

>> JENNIFER THOMAS: In other words, you are telling us that you have had a moment where you have been discriminated against and you have gone through -- with an employer and you have gone through a process of actually filing a complaint and taking action? Okay. Cool.

>> TERIANA COX: Yes.

>> JENNIFER THOMAS: Marissa, have you ever had a situation like that?

>> MARISSA SANDERS: I have not ever filed a complaint, but on the original question I have had other jobs where -- I also have depression. And there were times when I knew that an accommodation might help me, for example, a flexible work schedule and I did not disclose even though I worked in a disability rights organization because I felt the stigma of having a psychiatric disability and requesting something different would be frowned upon. And I didn't want to have to deal with that stigma. So I didn't say anything.

>> JENNIFER THOMAS: You brought up mental illness and mental health. Can you share what advice you might give to a young person who is in a similar situation who may be considering disclosing his or her disability? You know, like what steps might he or she take or how they might be able to address disclosing a disability or asking for an accommodation with employers?

>> MARISSA SANDERS: Right. For me I decided that the fear about the stigma outweighed the need for the accommodation. For some people with psychiatric disabilities you can't perform the essential functions without the satisfactory standards without the accommodation. It leaves little choice to disclose. If someone was going to disclose I would recommend choosing wisely who you disclose to. Some companies it might be an HR person or supervisor and if you have an option think who is the best person to disclose to. I would choose carefully how you disclose when. Don't pick a day when your supervisor is running around doing ten million things and stressed out if you can help it. Also how -- what you share about that disability. And it probably -- I would say it would make the most sense to talk a little bit

about the ADA, to share that, you know, you do have a disability under the ADA and you are requesting an accommodation and, you know, even bring in documentation if you think that's going to be necessary. That can help the employer feel more comfortable and make it clear that you are not looking for special treatment. You are not just complaining because you don't want to get up early in the morning or something like that but that you have a legitimate need for the accommodation.

>> JENNIFER THOMAS: Thank you, Marissa. Teriana, do you -- after having different job experiences, I know we haven't talked about all the job experiences that you had, but I know that you have had a few different experiences. Can you tell us what it has been like for you as you have asked for accommodations and if you have -- if you have in the past other than the situation where you, you know, ended up having to file a complaint were there any other situations with employers where you have had to request the accommodations?

>> TERIANA COX: No. It hasn't because I did have this one situation but I got that straightened out, I got that straight with my supervisor. So I talked to my supervisor and he went and talked to the lady explaining to her what my disability was. And also I -- it was like if you work with me I can work with you.

>> JENNIFER THOMAS: So is this lady, Teriana, is somebody you had to work with or was it someone in the community that was receiving services where you were?

>> TERIANA COX: No. It was someone I had to work with.

>> JENNIFER THOMAS: Okay. So in other words -- in this particular situation your supervisor was pretty supportive it sounds like then.

>> TERIANA COX: Yes.

>> JENNIFER THOMAS: That's cool. So Teriana, can you tell us a little bit about some accommodations that help you in the work setting? I know that your -- a lot of your work settings have been kind of office-based type settings. So can you talk a little bit about some of the accommodations that you have had?

>> TERIANA COX: Like I had -- I was provided with a computer and also have a nurse to help me. That's one of my biggest accommodations.

>> JENNIFER THOMAS: Okay. Thank you for sharing that with us. I see that we have another question that has come in. And I think this question may be for you, Marissa. So I wanted to just go ahead and share it with you all. It says what do you do when you have been on the job for a month and the HR department tells you that you cannot have your service dog with you pending medical paperwork from your provider. The paperwork was never requested. The HR department does not participate in the interactive process. What's the next step?

>> MARISSA SANDERS: Well, I'm trying to see the question so I can process it for a second and I can't see it. I would say that if the paperwork

had not been requested then you have a right to keep your accommodation until you provide that documentation. If the -- if you have been through the interactive process with your supervisor, you say that HR doesn't participate in the interactive process, I am not sure that nobody did the interactive process or somebody else did and not HR. But if you have already been through the interactive process with the supervisor, then I would let your supervisor know what HR is saying. And hopefully they would go to HR and straighten that out. If no one has done the interactive process, I would take the ADA to them and say here is the interactive process or have them call the Job Accommodation Network on the ADA center and explain that they should let you keep the accommodation until the documentation is required or is provided within a reasonable time frame. They don't have to wait years. If they had not requested the documentation then they have to give you time to do that. If none of those work, it is worth considering whether you want to file a complaint either with -- you could always go over the supervisor HR's head if that's an option or look at your human rights commission or the EEOC. Just know that sometimes that can create a challenging work environment and it can be a very long process.

>> JENNIFER THOMAS: Thank you, Marissa, for answering that question. Would you mind explaining what the -- what you mean by interactive? What is meant by interactive process?

>> MARISSA SANDERS: There is a slide in here somewhere. Is where you start by reviewing the job and the essential functions and figuring out what that job is there to do. Then the employer -- someone in the employer, doesn't have to be HR. It could be your supervisor or supervisor's supervisor. Whoever is responsible for that would consult with the individual to determine disability and specific abilities among the employees. And then you identify the potential accommodations in consultation with each other and then the employer decides which accommodations to provide but that meets everyone's needs.

>> JENNIFER THOMAS: Thank you.

>> MARISSA SANDERS: Does that answer your question?

>> JENNIFER THOMAS: Thank you, Marissa. So I don't see yet a response from Cheryl as to whether or not that answers her question, but if we receive one we will definitely share that with you. So really quickly I just want to ask Teriana and Marissa one last question regarding the Americans with Disabilities Act. So the two of you, why do you feel that the ADA is important for young people who are preparing to enter the workforce as well as any other caring adults who might be working with them? Why do you think the ADA is important for young people who are preparing to enter the workforce or begin working per the caring adults who may be involved in their lives? And either one of you can go first.

>> MARISSA SANDERS: I would say that it is important because it guarantees people with disabilities the right to equal employment

opportunities. And prior to the ADA many, many people were not hired or even not allowed to apply simply because they had a disability. And the employer had the ability to say I don't want a person in a wheelchair working in my office and they didn't have to have any other reason or do anything else about it. I think the ADA is so important because it gives all equal access to the process, even get our foot in the door, but then it also makes it possible for us to stay employed and to do our jobs. And really so much of providing accommodations is creating the kind of work environment that everyone would like to work in. So really in the end it helps everyone because lawyers become more flexible and more able to work with employees and really the good quality talent that people with disabilities bring to the workforce.

>> JENNIFER THOMAS: Thank you. What about you, Teriana, why do you feel that the ADA is important for young people entering the workforce and other caring adults who are in their lives?

>> TERIANA COX: It gives -- it gives people with -- it gives people with special needs confidence. And it also gives people a chance to show the employees what we can do, what we can do whether in a wheelchair or walker or crutches or anything.

>> JENNIFER THOMAS: Thank you, Teriana. So we again thank you all, ladies and gentlemen, for being on and participating in the webinar with us today. Thank you again Teriana and Marissa for presenting. We just want to remind you that the IEL is celebrating the 25th anniversary of the Americans with Disabilities Act. There is a slide within this presentation with information about how you can submit a story, share your personal experience about how the ADA has impacted your life. So definitely feel free to take part in that. Stories are due by July 1st. If you have registered for the webinar you should receive a link via e-mail with the recorded session in case you want to go back and hear this later. Thank you all very much for being on and this concludes our webinar for today. Thank you.

(Session concluded at 4:02 p.m. CST)

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