>> Kevin McCloskey: All right, welcome everybody to our latest edition and webinar for NDEAM 2024. My name is Kevin McCloskey. I am the Senior Director of Leadership and Workforce Development here at Disability Belongs™. I am a white male in his 40s with black hair with a little bit of salt in there and a little bit of scruff, wearing a purple, orange, black, and green striped checkered shirt. I'm excited today for our conversation today about key communication strategies for engaging in the interactive process, a wonderful conversation about accommodations today with our friends at the Job Accommodation Network. So without further ado, I'll kick it off to Tracie. Tracie, thank you for coming, appreciate it.

>> Tracie DeFreitas: Kevin, thank you so much. Thanks for the opportunity to be here today. My name is Tracie DeFreitas. I am a program leader for the Job Accommodation Network, as well as the Director of Training and Outreach for this organization. And I'll tell you a little bit about us in just a second. I am a 52-year-old white female with long brown hair, wearing black rimmed glasses, a black blouse with red and white flowers on it, and I'm in my home office. So let's get started. We have a lot to talk about today, I'm excited to be with you, but first, happy NDEAM everyone! National Disability Employment Awareness Month or NDEAM, celebrated in October, is an annual opportunity to educate everyone about the value and talent that people with disabilities add to the workforce. NDEAM's purpose is to reaffirm our commitment to ensuring disabled workers have access to good jobs every month of the year. That's the spirit behind this year's official theme, which is "Access to good Jobs for All." Each year the Office of Disability Employment Policy, or ODEP, through the US Department of Labor, which is JAN's funding agency -- they work closely with their partners in organizations, including those representing employers, people with disabilities and their families, and government agencies, to develop the NDEAM theme. And this includes developing and distributing an annual poster. The 2024 poster features a collage of photos of diverse people with a range of disabilities working in various inclusive workplaces. The photos appear in colored circles against a blue sky background. Underneath the -- photos, there's a white background with a graphic image of a black winding road leading up to these circles. The side of -- the side of the poster also includes the theme, "Access to good jobs for all," and NDEAM. For more information, you can go to dol.gov/ndeam. There you can actually download this poster, customize it, use it however you'd like. So we look forward to that every year. So happy NDEAM everyone. I know this training is provided in celebration of NDEAM.

This training is -- just to give you a quick overview, it's about the interactive process. So we know that successful employment outcomes achieved through the interactive accommodation process hinge on effective communication among all the parties involved. This Job Accommodation Network training emphasizes the significance of constructive dialogue and collaborative exploration to find reasonable workplace accommodation solutions that meet the diverse needs of workers with disabilities. So we're here to talk about some key strategies for facilitating accommodation discussions, learn about JAN services, and I'll be sharing a lot of resources that we have available to support the interactive process. Now, on some of the slides, you will notice an icon next to the slide number. One icon represents employers, and is sort of three people around a table or a desk. The other represents an individual, and is a single head of a person. Slides with these icons have either an employer or an individual focus, but all of the slides are relevant to both parties, because it's important to understand both perspectives and different sides of the accommodation process. But I wanted to kind of point those out a little bit, in case you're an individual with a disability who is attending, or you're an employer, employer representative, a people leader who is attending. So the information is relevant to all parties though. So just kind of watch for those, I'll point them out as we -- as they do show up on the slides. Now quickly, for those who are unaware of the Job Accommodation Network service or JAN, JAN is a national free consulting service that was established in 1983. And we're the leading source of expert and confidential guidance on workplace accommodations. Serving customers across the United States, JAN provides workplace accommodation solutions, trusted accommodation process strategies, and practical guidance on the Title I employment provisions of the Americans with Disabilities Act, or the ADA. JAN is a service of the U.S. Department of Labor's Office of Disability Employment Policy, or ODEP, and our central office is located in Morgantown, West Virginia at West Virginia University. But remember, we do serve the entire country.

So let's talk about workplace accommodations. Why are workplace accommodations so important to provide? For some disabled workers, accommodations play a vital role in supporting positive employment outcomes and enabling equal employment opportunities. The changes that are made in the workplace or the work environment or the way things are customarily done -- they enable people with disabilities to enjoy equal employment opportunities. And they're truly essential for fostering inclusion and elevating the productivity of all employees. Also, reasonable accommodations can help employers attract good employees in times of labor shortages, hire employees who are adaptable, flexible, and capable, retain an experienced workforce. As we age and we start to develop health conditions, we want to continue working, and employers can help keep us in the workforce. And also, meet legal obligations under the ADA and similar laws when they do apply. So there are lots of good reasons to provide reasonable accommodations. JAN has found that accommodations are often easy to implement and are typically low in cost, and positively impact the workplace in many ways. This is based on the results of an ongoing survey conducted by JAN that explores employers' motivations for making accommodations, as well as their effectiveness and the resulting benefits too. In the vast majority of cases, employers report the benefits of providing employees meaningful access to all aspects of the job outweigh the costs, because hiring talented people with disabilities benefits the employee, it benefits the employer, and it benefits the whole workforce. The report derived from the survey is known as the Low Cost, High Impact Report, and it offers some key findings, including that most employers report no cost or low cost for accommodating employees with disabilities. We find, actually, that more than half of the employers participating in the survey -- 56% -- who do provide cost related information report that the accommodations they made cost absolutely nothing to implement. So that's a pretty significant fact there that we are hearing about from employers. When there is some sort of cost involved, a one-time expenditure, for example, about 37% reported that it -- there would be a one-time cost, and that that median one-time expenditure is around $300. So still, you know, a pretty low cost for making accommodations in the workplace.

When we think about accommodations, you'll hear the term "reasonable." What is a reasonable accommodation? Well, a reasonable accommodation is a modification or an adjustment to a job, the work environment, or the way things are usually done that enables a qualified individual with a disability to enjoy an equal employment opportunity. The ADA requires reasonable accommodation for people with disabilities who need them during the hiring process, to perform the essential functions of the job, and also to access equal benefits and privileges of employment. Things like access to training that might be available, or social activities that are available, also come in here. Now "reasonable" -- that reasonable term means feasible or plausible. Think of it as possible to provide without it creating an undue hardship for the employer. Undue hardship is any action requiring significant difficulty or expense to provide. This is an extremely high threshold. We rarely see claims of undue hardship that are valid. Also, an accommodation must be effective for the purpose, meaning that it enables the applicant or the employee to complete -- the applicant -- to compete for the job, or an individual to perform the essential job duties. For more information, I do suggest that you read the Equal Employment Opportunity Commission's enforcement guidance on reasonable accommodation and undue hardship under the ADA. This is one of the best enforcement guidances, it really covers all the bases. So I would encourage you to do that if you want to understand reasonable accommodation as it relates to the ADA.

Now, how do employers know when to provide accommodations? Well, when they're aware that a person with a disability needs one. This means that when an individual indicates that they're having difficulty in the hiring process, or having difficulty performing the duties of the job due to a health condition, a disability, the employer should consider whether that person is requesting reasonable accommodation. Now generally, the individual with a disability must inform the employer that an accommodation is needed. That onus falls on the individual to make the request, to let the employer know. Employers are not expected to guess, so it's important to kind of be as clear as possible. And we're going to outline that here in just a little bit. Plain language may be used, and terms like the ADA or reasonable accommodation need not even actually be mentioned when requesting accommodation, and that is -- as far as the EEOC and under the ADA is concerned. Not necessarily a best practice, but technically the law doesn't require it. So that's kind of an interesting fact there too.

Now of course, the interactive process starts with an accommodation request. So it's important for employers to be able to recognize a request. So anytime an employee indicates that they need a work-related adjustment due to a health condition, a medical reason, the employer should consider -- whether the employee is making a request for accommodation. Often there's not a clear sign indicating that the ADA is triggered. But when there is a nexus between the health condition, the disability, the limitations, and a work rated issue, it's typically time to engage in the interactive process. So here are some examples on this slide. The examples state, "I am neurodiverse and need interview questions in advance." "I am having difficulty concentrating because of the side effects of medication." "My wheelchair won't fit under my desk." Or a healthcare provider's note requests 3 months of leave for medical treatment. Or "I need to good counseling appointments and want to flex my schedule." What you'll see with all of these different statements is that we have a connection between a disability related issue, a health condition, some limitations, and a work-related issue, a work-related barrier. So we have those elements in play, that's where we want to treat it, or at least begin, the interactive process and determine if it's an accommodation request.

Now JAN offers a resource on recognizing an accommodation request that may be helpful for employers who would like to learn a little bit more about when might it be an accommodation request. Now, when an accommodation request is recognized, the employer and the individual with a disability should engage in an informal interactive process to clarify what the individual needs, and identify the appropriate reasonable accommodation. The employer may ask relevant questions to help make an informed decision about the request, and this includes asking what type of accommodation is needed. Of course the exact nature of that dialogue will vary in every situation, but, when it's not clear that an individual is requesting accommodation, there are some key strategies for -- that employers may want to keep in mind. So here's one of those first slides with that icon for employers in this case. So what you want to do is facilitate a collaborative dialogue with the employee. Of course, employers that are not sure whether an employee has requested an accommodation -- they can ask the employee with the disability what's being requested and why. This puts the onus on the individual to explain why they've mentioned a disability or asked for a change at work. So you can facilitate this conversation by asking, "how can I help?" "What do you need to be successful?" Or, "I want to clarify what you're asking for and why it's needed, so I can find out what we can do to help." All of these sorts of questions can be a way of creating a safe space for disability disclosure, and a conversation about accommodations. These questions don't make employers vulnerable to appearing as if they are making assumptions about disability, but rather, this can be a smart practice for seeking clarification and conveying support as well. So this is a good way to kind of facilitate that dialogue.

Now the next key strategies I'd like to share are for individuals who are considering requesting an accommodation. So note, there is that icon there to the right of your screen at the top that indicates individual. It's for an individual. JAN often gets questions from employees who need an accommodation, but they're really not sure how to approach their employer about it. So on this slide are suggestions for requesting an accommodation. First off, you want to decide how you're going to make that request. This can be done in a face-to-face meeting. It can be done via email, in a formal letter to the employer. There's no sort of official or required way to do it. However -- and there's no sort of forms either, so the ADA doesn't have any required forms, but some employers do develop their own forms to complete. So they might ask an individual to do that. Even if the employer doesn't ask for a request in writing, some employees find it useful to have a written record, and that is what JAN would recommend. So we do offer a sample accommodation request letter that can help -- and you're welcome to use that to help formulate your own request for accommodation. Other things to consider -- you want to decide who you're going to ask. You can initially let anyone in management know that you need an accommodation. If there's a specific person in your workplace who's in charge of accommodations, your request may be forwarded to that person, maybe someone in human resources, for example. Or you can start with HR. So it really -- it kind of depends, and things may be handled a specific way within your workplace, but you can start with management or human resources, somebody who can act on that request. You -- will want to explain why you need an accommodation and give your accommodation ideas. So let your employer know that you need an accommodation because of a health condition or disability. Otherwise they may not know, and they may not recognize the request. And if you have ideas, start with those. Certainly, be prepared to offer solutions, and even consider alternatives if that is something that's necessary. Now if a response is not received in a reasonable amount of time -- so let's say you don't get any feedback from the employer, it's a good idea to follow up with the employer and find out what this -- what the delay is, what's the status of your accommodation request. So do follow up, make the request but do follow up. And if the request is denied, you do want to try to find out why. So try to get some more information about why it was denied to see if there's anything you can do to change the direction of that accommodation. And when requested by the employer, do provide any necessary medical information in a timely manner, if it's requested. Sometimes employers do request information, and I'll talk more about that in a minute. Now JAN offers many resources aside from that sample accommodation request letter that I mentioned, including requesting and negotiating a reasonable accommodation, and sample language for accommodation request letters.

On the next slide is an example of information that comes from that sample accommodation request letter resource. Here we have a sample accommodation request related to a mental health condition. This comes from that language that I mentioned, that resource that I mentioned. In this particular example, here we find that it's brief, but it makes clear that the employee is requesting accommodations due to medical issues affecting their mood, their sleep schedule, concentration, and focus. And they go on to mention that workplace distractions are interfering with concentration and focus, and that they'd like to try noise cancelling headphones, and having a to-do list to keep track of their work. So you're seeing that this request includes a lot of the essential elements needed in order for it to be a clear request for accommodation. So this is just an example, of course, but you can check out that sample language for accommodation request letters for a couple of others for different types of health conditions. And you're welcome to use the language within there to help formulate your own request. Now, for employers who do not receive a documented request, or who like to document requests on a standard form, JAN offers some sample forms that may help. Here we have sample reasonable accommodation request form for the hiring process, and then a sample reasonable accommodation request form for employers, which would typically be used with employees. And this would be used the most. And that example is shown here. These forms should be customized, but basically, they enable employers to capture the essential information necessary to proceed with the interactive process. So for example, on this form it asks what specific accommodation you're requesting, it ask is -- what, if any, job functions are you having difficulty performing? What limitation is interfering with your ability to perform your job? So it's sort of getting to the heart of the information about the accommodation need.

Now, before I talk about the interactive process, I'd like to offer some accommodation process considerations for employers. First, employers should create an inclusive and welcoming workplace where people feel comfortable seeking -- or people feel comfortable asking for what they need in order to do their best work. So we really want to ensure that disabled workers are included in all aspects of the workplace, and they know they can ask for accommodations. And there are many ways that this can be done, of course. One strategy is to establish clear and accessible accommodation policies that outline the company's commitment to accommodating employees with disabilities. Formal policies and procedures can help ensure that employees are informed, and it can promote consistency in processing accommodation requests. Also, we want to train our people leaders on inclusion, workplace personalization, and effective ways to meet requests. This will ultimately result in elevated feelings of inclusion and productivity and job satisfaction as well. For more ideas, you can see five practical tips for providing and maintaining effective job accommodations, another JAN resource.

Now we're ready to learn about the interactive process next. So that process is really -- it's simply an ongoing collaborative dialogue between the employer and employee. It's an informal process to clarify what the individual needs, and to identify the appropriate reasonable accommodations. When an accommodation is not obvious, an appropriate accommodation is best determined through a flexible, interactive process. And that typically involves analyzing the job to determine its purpose and its essential functions -- we have to understand what the job is, consulting with the individual to ascertain the job-related limitations imposed by the disability and how those limitations can be accommodated, and then collaboratively identifying potential accommodations and assessing their effectiveness, and ultimately selecting and implementing the accommodation that's most appropriate for both parties, while considering the individual's preference first where we're able to do that.

Now, JAN is sometimes asked whether a formal interactive process is required. And the answer is no. A formal process is not required, and may be unnecessary depending on the circumstances. So for example, when the disability and the need for accommodation are obvious, it may be relatively easy to provide an accommodation without going through a full formal process of any kind. It may just be a dialogue with the individual to understand what's going on, what their needs are, and then moving forward. So when possible, we do want to begin with an informal process to clarify what the individual needs, and identify the appropriate reasonable accommodation. And keeping in mind that some employers have their own formal policies and procedures, and that's okay -- and an employer might expect that an individual sort of walk through what would be an ordinary process within that place of employment, so you want to keep that in mind too.

Now, JAN offers a six step interactive process that's sort of a sample framework, but it's not the only way to engage in the interactive process, of course. Employers are free to develop and Implement their own policies and procedures that suit their organization. But every accommodation process is unique. Some follow these steps that are outlined here, like, acting when an accommodation request is recognized, gathering information to better understand the accommodation need, and collaboratively exploring, choosing, and implementing accommodations, and monitoring those accommodations for effectiveness. These are just sort of the most common steps that we engage in through that interactive process. There's of course no process that is -- fits every situation, and as well as no accommodation that fits every situation, so it's always going to be something we do case by case. Now to build a collaborative dialogue and find solutions together, we, of course, must actively listen to each other and seek common ground and show mutual respect. The process does involve openly discussing specific aspects of the job that may be difficult, and focusing on the job functions, rather than the health conditions. So let's kind of focus on what the difficulty is in doing the job.

Now the individual will often identify specific accommodations that might be needed, but both parties can and should suggest possible solutions. So remember, it's a collaborative process. The employer should consider giving the employee an opportunity to share any relevant information without disclosing detailed medical information about their health condition. Let's try to start there without getting too in the weeds regarding the specific medical issue or disability or -- that kind of thing. We don't have to get into those details right away. Now we know it is -- it's not uncommon to request medical documentation as a prerequisite for providing accommodations. So here are some strategies to keep in mind when gathering information.

First we want to determine whether the request is covered under current policy, because we don't want to require an individual with a disability to go through unnecessary steps to receive a change at work that everyone receives. So don't require an accommodation process when it's unnecessary. Also, assess what is already known and documented about the health condition and the need for accommodation before requesting medical information. Employers are not supposed to ask for proof of disability when the disability is obvious or has already been documented in some way. So you want to be really careful with that. When choosing to request documentation, specify what type of information is necessary regarding the disability, but consider focusing on information about the functional limitations and the need for reasonable accommodation. And finally, as an alternative to requesting medical documentation, consider just discussing with the employee the nature of their disability and their functional limitations. It is possible to accept the individual's assessment of their own health condition and limitations and defer to their accommodation preferences when it's reasonable and not an undue hardship for the employer. So consider basically whether an effective accommodation can be provided without obtaining medical documentation where it's possible to do that. The employer can guide the interactive process conversation. Oftentimes they're kind of going to be the lead in that. Make sure to approach the conversation with empathy and an open mind, ensuring that the employee feels supported. As information is gathered, we can ask some questions to help gain a general understanding of the situation.

So for example, on this slide we have some questions that could be asked as part of the interactive process. So, "can you tell me about the challenges you're facing in your current role?" This opens up the conversation about what specific aspects of the job may be difficult. Or maybe, "how does your condition affect your ability to perform certain job tasks?" This focuses on job -- on the job functions rather than the medical condition. And then, "is there anything you'd like to share about your condition that would help us better understand your accommodation needs?" This gives the employee an opportunity to share relevant information, but reminds them maybe -- it's maybe important to remind them not to share specific medical details when that information isn't needed. So if it's determined you don't need to go there, you can remind the individual of that. Now in response, as an employee, you'll want to engage with the employer in the process to provide clarity on your accommodation needs. You want to connect your requests to job performance, and of course, share any previous experience you may have with accommodations. That's helpful, because this can help inform accommodation decision-making, because the individual might know based on their past experience what will work and what will not. So this will help to provide information about what could potentially be effective. Now as the parties collaboratively explore accommodation solutions, employer, please value the employee's input! This is so important. A common complaint among employees who are asked about their experience with the interactive process is that their employer didn't value their input. So really, demonstrate a willingness to find a solution that works for both parties, and invite the employee to share their accommodation ideas, and pay attention to it. Also recognize the potential positive effect of workplace personalization. This is really about tailoring the workplace environment to individual preferences and needs. So with workplace flexibility, we found of course that employees have become more aware of their work preferences and their styles, and as a result are more willing to advocate for their own workplace personalization, which can enhance people's efficiency and their productivity. So, I think it's important to kind of pay attention to that concept. And finally, consult with internal and external resources, such as ergonomic and information technology specialists. It could be vocational rehabilitation services, rehab engineers, assistive technology projects, and other organizations that might have input regarding accommodations, and the Job Accommodation Network, of course. So definitely use JAN as a resource.

Now employers might consider the following questions when exploring accommodation options too. So this kind of guides that -- accommodation conversation. So "what specific accommodations are you requesting?" Obviously this helps to provide some clarity. "How do you think the requested accommodation will help you perform your job duties?" This of course connects the request to job performance, so we get a better understanding of the job duties and what the person might benefit from. Another, "have you tried any accommodations in the past that were helpful, or not helpful?" This encourages the employee to share any previous experience with accommodations, and again, it helps the employer learn from the individual's previous experience to kind of tailor the accommodation effectively. So that can be helpful information. All right. Some other things that we might need to know -- "what tools, changes, or supports do you believe will help you perform the job more effectively?" This is where we might -- it might help to enable the conversation to sort of draw out any details of what specifically may be needed by the individual. Or, "are you aware of any external resources or specialists who might help us understand how to best accommodate your needs?" This of course invites collaboration with external professionals. And an individual, for example, might have a past relationship with an organization that was helpful. So for example, maybe they have had good success with a particular interpreting agency, so they might be able to refer to an interpreting agency that could help. So that can be helpful as you're sort of exploring things. Some adjustments can make it less likely an employer will need accommodations. So for example, changes that anyone could request, like workplace flexibility, or changes to the work environment, which might be things like adjusting temperature or lighting -- these things might help to make things more comfortable in the work environment. So we might consider asking whether there are any workplace changes that would be helpful in minimizing the impact of the individual's condition. This question really broadens the conversation to environmental changes or adjustments that could be helpful. Now as we explore accommodations, if there's more than one option, the employer should consider the preference of the employee when it's reasonable to do so. However the employer does get to choose among effective options, and can choose, for example, the lowest cost accommodation if they want to. Sometimes employees are open to considering alternative accommodations, so it's okay to ask whether the employee would be open to discussing alternative accommodations, if the one they requested is not feasible. So I think it's okay to put that out there. It demonstrates a willingness to find a solution that works for both the employee and the employer in that instance, and sometimes it's necessary.

While exploring accommodations, we want to be open to new ideas and ways of doing things. There are a number of possible reasonable accommodations. There is, of course, no exhaustive list. Some common accommodations include things like modifying facilities, job restructuring, where we change when or how certain functions are performed, obviously workplace flexibility around scheduling and telework, modifying policies like attendance policies or dress codes, allowing animals in the workplace when needed due to a disability. It could also be reassignments and leave as accommodations. So these are some of the most common accommodations. If you need help exploring accommodations though, obviously, you can ask JAN. We can help. You can contact us or use JAN's A-Z of disabilities and accommodations as a starting point in the interactive process. There you'll find key accommodation solutions and ADA information as well. So you can check out the A-Z to search on information. And also, I'm excited to share that we have a new feature at askJAN.org -- this is our situations and solutions finder, and it provides free access to more than 700 accommodation scenarios shared by JAN users that employers and individuals with disabilities can explore. So you can check this out for scenarios that come from a wide range of organizations. The feature allows you to search by disability, limitation, or occupation, and you can even copy and share the results. It's not a comprehensive resource for accommodation information, but it'll give you some idea about what's possible. So you can check out the situations and solutions finder at askJAN.org. Now, as we have explored accommodations and now we've moved to choosing accommodations, we want to consider workplace personalization, flexibility, and some high impact changes too. I mentioned earlier that workplace personalization -- this is really where we're just sort of tailoring the accommodation to the individual's needs. Obviously not everybody's situation is the same, and so we want to make sure that we're customizing the accommodation to meet the individual's needs. Also where possible, allow employees to work remotely or have flexible work hours. This is particularly beneficial for individuals with disabilities in terms of commuting barriers or traditional work hours that can be challenging. And so -- that's something to think about. And lastly, making small, high impact changes -- these are things like providing ergonomic equipment, chairs, standing desks, or adjusting lighting. These are low-cost solutions that can significantly impact employee comfort and productivity. So easy changes to make. Now of course, when we're choosing accommodations, we want to consider the employee's preference. Although not required by the ADA, when possible, employers should choose the accommodation of preference to the individual. A reason for this is the employee may have some success with it, and so it's important to -- pay attention to that. When it's not clear whether an accommodation will work, it might be possible to try out the accommodation. There's no set time frame for providing a trial accommodation, but the employer may decide on a reasonable period for testing the accommodation. That might be six weeks, it may be three months, it'll probably depend on the type of accommodation you're implementing. Also, temporary accommodations can enable employees with time limited conditions to continue working while managing the limitations of their condition or return to work sooner. So temporary accommodations can be a good practice for keeping people working. JAN does offer a resource on providing temporary and trial accommodations, so I'd encourage you to take a look at that.

Now when an accommodation is chosen, it's important to communicate the approval of the accommodation, so that everybody's on the same page. Similarly, denials should be communicated as well. There's not a rule or requirement to document approvals or denials, but it is a good practice. It is also helpful to draft a written accommodation agreement that both parties can have access to, and everyone's on the same page that way, and you know -- what's going to happen moving forward. Of course under the ADA, employers are not required to document their effort to provide accommodations, but documentation is recommended, and it can really be a vital way to demonstrate engagement in the interactive process. And of course, JAN offers customizable forms that are linked here that can help employers document communications during the accommodation process. So if you're an employer, that's something that may be helpful to you.

Now, employers don't always have to provide specific accommodations requested by an employee. As I mentioned, they can provide alternative accommodations as long as they are effective. To be effective, an accommodation must overcome the employees disability-related limitations, so the person can perform the essential job duties or access benefits and privileges of employment. So make sure it works. One of the questions JAN frequently receives from employees with disabilities is what to do if an employer offers an alternative accommodation that the employee thinks is ineffective -- or maybe that, I'm sorry, that the employer thinks it's effective, but the individual thinks is not effective. And JAN offers a resource that can help employees handle this type of situation, and it includes sample language that can be used to write a letter to the employer. So you can check out how to inform an employer that an accommodation is not effective if you're an individual and have need for that. Now once accommodations are chosen, they must be implemented. During this phase of the interactive process, employers may inform essential personnel about the accommodation when it's necessary. So for example, a manager may need to know that a flexible schedule was approved in order to ensure the person is getting that accommodation, and they're not being penalized or disciplined for working at a different time than they're supposed to. At all times, personal health and accommodation information must be kept confidential and only shared with those who are on a need to know basis. And of course, ensure that all necessary steps are taken to implement the accommodation. So for example, this may include installing equipment, it could be providing training on its use, and scheduling a service, if that needs to be done. So -- there are steps once we've chosen the accommodation to ensure that the accommodation is implemented. It can also be helpful to establish a point of contact responsible for monitoring the accommodation. And so this would be somebody who is sort of the go-to if there are any issues with the accommodation. And so, it's a good idea to have somebody who's responsible for doing that. Now working with the employee -- we, of course, want to make it clear that the accommodation may be reviewed and adjusted if needed. So it might be important to kind of ask, you know, "how can we support you in evaluating the effectiveness of the accommodation once it's in place?" Or something like, you know, "would you like regular check-ins to ensure the accommodation continues to meet your needs?" This is important as part of the monitoring process, because honestly, this is one of those steps that we often forget about. We might provide the accommodation and then just kind of never come back to it. But establishing that there's going to be sort of a check-in and a monitoring process can let that person know that we're going to check in, we're going to make sure things are working. It creates an open line for future communication and adjustments. So I think it's an important part of that interactive process.

So in summary, successful employment outcomes achieved through that interactive process -- they really hinge on effective communication. A constructive dialogue, a collaborative exploration, can really lead to reasonable and effective accommodation solutions, and that's our goal, right? So a key takeaway from this training is the significance of effective communication. So while navigating the process to provide accommodations, we offer some tips that might be helpful for effective communication. So first is to collaborate to solve problems and find solutions that benefit everyone. We don't want to approach the accommodation process as adversarial, but we do want to assume that all parties want an effective solution. So work toward that together. Be open and honest about decisions, policies, and other information relevant to the accommodation process. Transparency really is crucial for effective communication. So we want to be open and honest and working together to share information that's relevant to the process. Communicate clearly so that everyone is on the same page. Even unintentional misunderstandings can lead to conflict, so don't really assume that others know what you mean or what you need or what you're doing. Both parties really should be willing to answer questions and provide clarification when it's needed. So don't be afraid to ask questions, and don't be afraid to answer questions as part of the process. And stay open-minded and be adaptable and creative. Because accommodations are never one-size fits all, sometimes our own perspectives limit our understanding of a situation. So remember to listen actively, seek that common ground I mentioned earlier, and always show mutual respect of course. And finally, consider temporary and trial accommodations as part of the negotiation. It shows a willingness to be flexible and a commitment to finding a solution too. And when an employee experiences the accommodation process as responsive and empowering and supportive, the employee's performance in the entire workplace is likely to benefit. So we really want to kind of be working toward achieving that through the interactive process of course.

So what I'll do now -- at the end of this PowerPoint which you all will have access to, you'll find some scenarios that are sort of examples of going through the -- sort of an informal interactive process. And I provided those there for your use. There are three different scenarios that lay out different types of accommodation situations. I'm not going to go through all of those today, unless we have time, but I wanted to leave some time for questions. I'm just going to cover the first one real quickly, just so you can kind of get sort of an idea -- of what sort of an informal accommodation conversation might be like between a manager and an employee. This first scenario is related to a flexible work schedule-related accommodation situation. And it lays out sort of how the manager might greet the individual and start that conversation. So remember: we're facilitating that collaborative dialogue. So here in this example, the manager greets the individual, thanks them for being there, and says that they understand that this person has requested a flexible work schedule, and asks -- "can you help me understand what specific challenges you're facing that a flexible schedule will help?" So we're getting right to the heart of, you know, how is it that this particular accommodation is going to assist you on the job? Here the employee explains that they're dealing with anxiety and some mornings are really tough for them. It makes it hard for them to get to work on time, and that increases the person's stress. And having flexibility in when they start their day would be helpful to manage their disability. So individual explains the sort of health condition going on, what sort of limitations the person is experiencing, and why having that flexibility would be helpful. So right out the gate, we are, you know, making it very clear -- what this person's asking for and why, and how it will be helpful to them. The manager continues by saying that they appreciate the person's openness, showing the empathy, and they ask, you know, "do you think starting later or having a more flexible range of start and end times would help you perform your job better?" So they're engaging in that conversation to get an understanding of how this accommodation will help, and offering ways to implement that accommodation so that they can have a conversation about it. The employee provides information, explains that yes, they do believe that would be helpful, and explains why they think it would be helpful -- that it would give them time to manage their anxiety in the morning without worrying about being late. The conversation continues and the manager says this sounds reasonable, and then they want to get a better feel for, you know, what this might look like. So "would you need any additional adjustments?" Maybe there are other accommodations that could also be helpful. So the manager's throwing those other opportunities out there for other types of accommodations, and they mention remote work in this case, which the employee does feel would also be helpful on some occasions -- maybe not all the time, where they're feeling especially overwhelmed. The manager, of course in this case says, "okay. We can work on setting up a later start date and allowing the flexibility to work remotely on days when needed." And then asks "how often do you think you might need this?" So we need to get kind of a better feel for how frequently is this particular accommodation going to be needed. Now keep in mind, an employee might -- not know specifically, but in this case, the person did offer maybe once or twice a week depending on how things are going. And I think that's that's something that, as part of that interactive process, we might get an idea of it first off, but over time we might find as the accommodation is implemented there could be a change in that. So that could be part of continuing conversation through that interactive process, because it is an ongoing process. And finally, the manager says okay, we'll give it a try, we'll see how it works for you, and we can also plan to check in periodically to make sure it's helping, and adjust as needed. The employee is happy with that, they're comfortable with that, and they show their appreciation to the employer by saying thank you and thank you for understanding. So they then also -- closing that interactive process -- set a date in two weeks to review how it's going. So we know there's going to be check-in, we know there's going to be monitoring going on to make sure it's working. So this is just sort of a quick example of how simple it truly can be. I think we sometimes we make it more difficult than it needs to be, but it's really a simple way of just engaging in that conversation, asking the right questions, and really sort of digging down to what's going to work. So with that I will -- I'm going to skip through the other two scenarios, you can read those on your own. I will open the floor up for questions, and Kevin, I'll kick it back to you to see if we have any questions.

>> Kevin McCloskey: Yeah, Tracie, thank you for the information -- do appreciate that. There is a a bunch of good questions here. One that typically comes up for me as well, as someone who interviews people, asking for interview questions ahead of time before the interview -- what's your thoughts on that?

>> Tracie DeFreitas: Yeah, that's a really common accommodation request, actually. So we do hear that a lot. I think it is something that can be very helpful to individuals who may have difficulty sort of bringing their best self to that on the spot interview. And so it can help somebody prepare. Oftentimes we might hear from employers who are uncomfortable with that. And what I suggest to employers is, you don't necessarily have to give the individual the exact questions that you're going to ask them. But I suggest giving a set of questions. And helping that individual be prepared for any one of those questions will ultimately enable them to -- to be successful in that interview, hopefully. But it doesn't necessarily give them an unfair advantage. I mean honestly, it's something that would be helpful to all applicants, right? It would certainly help us get the best out of those applicants. But that could be a way to kind of address any concerns about that.

>> Kevin McCloskey: Awesome, thank you for that. And another question was really about -- the turnaround time for -- requesting accommodation -- sometimes you don't hear back for a while, sometimes it just kind of gets lost sometimes. So -- what's kind of -- again, there's a lot of best practices talk, which I want to get into in a second -- but what's, what's kind of the typical turnaround time?

>> Tracie DeFreitas: That's a great question, also one we hear a lot -- sometimes employers are not very quick to respond. We know that, speaking from a compliance standpoint, so under the ADA, there's no required timeframe for an employer to respond to a request for accommodation, or even get it implemented. However, the EEOC is very clear that it should happen without delay. The term they use is "expeditiously." So that means that it should happen pretty quickly. Let's not drag our feet -- let's try to do what we can as quickly as possible. What does that look like? I think it depends. It may depend on the type of accommodation that is needed. One thing you can absolutely do is respond immediately with "I've received your accommodation request. We appreciate it. We're going to -- we're going to move this forward and I'll get back to you." If you've done nothing else, at least do that right away. And then from there as an employer -- move the process forward, gather the information you need so that you can provide it as quickly as possible. Some employers have their own policies and procedures that actually provide a timeframe. So for example, federal agencies are required to have a policy that includes a timeframe for responding. Some private employers will do the same. So -- there's no sort of quick -- no sort of black and white answer to that, like it should be five, ten days, whatever. But as quickly as possible.

>> Kevin McCloskey: Yeah and I think kind of like giving that timeline too is very helpful, if someone's requesting it, and saying, you know, we'll be back to you in 48 hours, even if it's just to touch in saying hey we haven't -- we haven't had a chance to meet, we haven't had a chance to look at this or something like that. Just keep -- as you said -- as you mentioned a few times, keep that communication open as much as possible.

>> Tracie DeFreitas: Absolutely and I go back to -- I mentioned earlier as an individual, if you've made the request and you haven't heard anything in a week, check in, you know, follow up on that request just to make sure. And I would probably suggest doing it in writing. So -- send an email, "hey, I submitted the request on X date, haven't heard anything, just checking in."

>> Kevin McCloskey: Yeah. And you mentioned how documentation isn't required but highly recommended for the employer, but I'd also highly recommend that on the either job seeker or employee side as well. You know, documenting what you've done, especially if you do things via email rather than in person. Alright, great. Next question is, you know, we talked about reasonable accommodations. But what are some examples of unreasonable accommodations and, you know, it is kind of a gray area unfortunately, so what's your recommendation there?

>> Tracie DeFreitas: Well so -- from an technically unreasonable standpoint, there are some accommodations that -- for example, the EEOC says employers are not required to provide, and they're considered not to be reasonable from the perspective of the ADA. So that may be things like removing essential job duties. It could be changing or modifying performance or production standards. It could be bumping someone out of a job to reassign someone. These are accommodations that are not required. Now having said that, employers can certainly go beyond and provide those types of accommodations if they feel as though they want to. So employers are not precluded from doing more than what would be required from a compliance standpoint. At JAN, we try to think beyond compliance. So if there are modifications that would be helpful, sometimes employers are just willing to do what it takes. But I think every situation, of course, is going to be different.

>> Kevin McCloskey: Awesome. And then one that's kind of comes up a lot -- this is really a tough one. You know, during the presentation, a lot of great information, but a lot of like -- a lot of grey area, right? So it's not required but best practices and scenarios. So has there been any talk of like really kind of putting a standardization around this, or some timelines, some guidance for employers, rather than, you know, some of this kind of grey area or recommendations, you know?

>> Tracie DeFreitas: Well, yeah, I don't know. I mean, you know, I can say JAN tries to provide as much information as possible from a practical standpoint, so that we -- like I said, we kind of go beyond compliance. If we're talking from a compliance standpoint, that's going to boil down to, you know, changes in the law, or changes in the enforcement guidance that's provided by the EEOC. So that really would be up to them to decide whether those changes could be implemented. You know, I'm sure there are reasons why we don't have very specific requirements within the law, because you're looking at a law that applies to many, many employers across the country so -- and those businesses all look a little bit different, so -- I don't know that we'll see changes in that direction and -- but the information that JAN provides, we really just try to keep it real practical.

>> Kevin McCloskey: Gotcha, okay, thank you. And then I have one here -- what about third party company -- or like, employers are using a lot of third parties these days that tend to ask some invasive medical questions and medical information, that kind of makes it hesitant for the employee to share sometimes. Any thoughts around that one?

>> Tracie DeFreitas: Yeah, it's a good question. Obviously a lot of employers use third-party vendors to manage their accommodation process. There is a lot to think about around that -- there's good and bad, you know, in some ways they -- by outsourcing that, the employer oftentimes doesn't have very specific information about the person's medical condition, which I think can be helpful just from a bias standpoint. But that third party is gathering that information and keeping it, and they're able to do that. So technically -- you know, we try to promote the idea of maybe we don't need a lot of medical documentation. But at the same time -- the law does allow it. So it is possible for that third party vendor to ask for detailed information about the person's health condition, their limitations. They may do that. It's maybe not the best practice. You know, like I said, we try to encourage requesting less information if at all possible. But they're not necessarily prevented or prohibited from doing that as far as the ADA is concerned. There are some state laws that do prohibit asking for very specific detailed information. For example, California has their own law which restricts that. So there's a lot to think about around that topic, I would say. Those vendors, you know, oftentimes their role is to get that information, keep it, not necessarily share it with the employer, and then make accommodation decisions using some of that information. But it's -- it can be tricky.

>> Kevin McCloskey: Great. And then any suggestions around mental health? There's a lot of stigma around mental health disabilities, so sometimes -- it's harder to request an accommodation for some things based on bias and whatnot. Any suggestions around mental health?

>> Tracie DeFreitas: Yeah, you know, it's really important as an employer to ensure that you're creating a mental health-friendly workplace. And we know that can be challenging, but there are a lot of resources out there to help employers who want to take that step. By creating an environment where people feel comfortable coming to you and asking for what they need, that's really -- that's a huge step that you can take in order to make it so that people will request the accommodations they need and know that it's okay to do that. So I -- you know, definitely as an employer, please try to do that. Use the resources available. JAN has many, ODEP has many, we have sister projects that also offer many. So go to our site, look up mental health under our A-Z to find resources related to that. As an individual, you know, I know how intimidating it might feel, or uncomfortable it might feel to to make that kind of request. So you could sort of approach it in a way that provides vague information at first, if that's what you're comfortable doing. Just explain what you're having difficulty doing. You don't necessarily need to put your mental health diagnosis out there, if that's not something you're comfortable doing. So start off vaguely with a request explaining what you're having difficulty doing, and asking for some help with that, and see -- sometimes employers won't even ask for the information. So maybe start there.

>> Kevin McCloskey: All right. Tracie, we are at time, so I appreciate your time. Thanks for all the great information, thanks for the questions too. We'll try to -- I'll try to answer them individually, because we do -- we did note them. So again, Tracie, thanks for your time, thanks everyone for joining today, and we'll see you on Thursday. Thank you.

>> Tracie DeFreitas: Thank you.