

LEON, DO WE HAPPEN TO HAVE ANY QUESTIONS FROM OUR AUDIENCE?

>> LEON: WELL, GRACE, BEFORE WE GO TO THE AUDIENCE, I HAVE A QUESTION. WHAT HAPPENS WHEN THERE IS NO ACCOMMODATION THAT WILL WORK?

>> SHARON: WELL, THE FIRST THING -- I WILL ANSWER THAT, LEON, IF YOU DON'T MIND. IF THERE IS NO ACCOMMODATION THAT WILL WORK THAT IS GOING TO HAPPEN ONLY AFTER ALL OTHER ROADS HAVE BEEN TRAVELED AND ALL OTHER POSSIBILITIES HAVE BEEN LOOKED AT. I SAID EARLIER THAT AN ACCOMMODATION OF THE LAST RESORT HAS BEEN REASSIGNMENT, AND SO WHEN ALL OTHER ACCOMMODATION POSSIBILITIES FAIL, THAT IS GOING TO BE THE NEXT THING WE LOOK AT IS THE REASSIGNMENT. AND EVEN SHOULD THAT FAIL, THERE ARE OTHER OPTIONS SUCH AS MEDICAL OR DISABILITY RETIREMENT, FOR INSTANCE. I DO WANT TO SAY ONE THING ABOUT THE REASSIGNMENT PIECE OF IT, WHICH IS THAT WHEN THE H.R. DEPARTMENT COMES IN AND ASSISTS WITH THAT REASSIGNMENT PIECE, THEY ARE LOOKING FOR AN AVAILABLE, VACANT POSITION FOR WHICH THE EMPLOYEE IS QUALIFIED, BUT THEY ARE GOING TO LOOK -- AND THEY ARE ENCUMBERED ONLY TO LOOK NARROWLY AT WHAT MEETS THE NEEDS OF THAT PARTICULAR SITUATION. THEY REALLY DON'T LOOK AT PREFERENCES AND THEY ARE NOT REQUIRED TO. AND SO IT WOULD BEHOVE THE EMPLOYEE AT THE SAME TIME TO ALSO DO AN INDEPENDENT JOB SEARCH, BECAUSE THEY MAY FIND SOMETHING THAT NOT ONLY MEETS THEIR NEEDS BUT MEETS THEIR PREFERENCES, TOO. AND OFTENTIMES THESE REASSIGNMENTS END UP IN JOBS THAT ARE A LOWER PAYING GRADE BECAUSE THAT IS THE CLOSEST THING THAT CAN BE FOUND IN THE TIME LIMITS THEY ARE WORKING WITH AT THE TIME. AND SO I WOULD ENCOURAGE EMPLOYEES NOT TO HESITATE TO DO THEIR OWN JOB SEARCH FOR SOMETHING THAT WILL REALLY MAKE THEM HAPPY EVEN WHILE H.R. IS FACILITATING THAT FOR THEM, TOO.

>> LEON: ALL RIGHT, NOW IT'S TIME FOR YOUR QUESTIONS. AS MENTIONED EARLIER, IF YOU HAVE ANY OR JUST NEED CLARIFICATION ON A POLICY ISSUE, USE THE PHONE AND FAX NUMBER AND EMAIL ADDRESS BEING SHOWN ON THE SCREEN. SOME QUESTIONS WERE SUBMITTED BEFORE THE BROADCAST SO WE'LL GET TO THOSE, TOO. IF THERE ARE ANY OTHER QUESTIONS WE DON'T HAVE TIME TO ADDRESS WE'LL RESPOND TO THOSE AS SOON AS POSSIBLE AFTER THE TELECAST. WE HAVE A QUESTION HERE. ARE THERE ANY ACCOMMODATIONS AN EMPLOYER WOULD NOT HAVE TO PROVIDE?

>> GRACE: YES, THERE ARE ACCOMMODATIONS THAT AN EMPLOYER WOULD NOT HAVE TO PROVIDE. IF IT DOESN'T MEET THE MISSION OR IF IT DOESN'T FALL WITHIN THE CATEGORIES OF THE CENTRAL FUNCTIONS OF THE JOB. FOR INSTANCE, I CAN THINK OF A QUICK EXAMPLE. SAY, FOR INSTANCE, YOU ARE HIRED TO BE THE SCHOOL BUS DRIVER, AND THE PERSON HAS A DISABILITY AND THE BUS DRIVER COMES BACK AND SAYS, LISTEN, I HAVE A DISABILITY AND I NEED AN ACCOMMODATION TO WORK AFTER 6:00 P.M. IN THE EVENING. WELL, YOU KNOW, THE EMPLOYER IS NOT OBLIGATED TO MEET THAT REQUEST FOR ACCOMMODATION BECAUSE THAT POSITION CALLS FOR THE BUS DRIVER TO BE THE SCHOOL BUS DRIVER AND UNLESS WE ARE TALKING ABOUT NIGHT SCHOOL, THAT BUS DRIVER NEEDS TO BE AVAILABLE DURING THE HOURS AND BE ABLE TO DO THE ESSENTIAL FUNCTION OF THE HOURS OF TRANSPORTING CHILDREN TO AND FROM DURING SCHOOL HOURS. AND SO 6:00 P.M. WOULD NOT BE A REASONABLE REQUEST FOR THAT JOB. SO THERE ARE SOME AREAS WHERE REASONABLE ACCOMMODATION IS NOT -- THE EMPLOYER IS NOT OBLIGED TO DO THAT BECAUSE THEY DON'T FALL WITHIN THE ESSENTIAL FUNCTIONS OF THE JOB OR THEY DON'T MEET THE MISSION. LEON: THANKS, GRACE. WE HAVE A CALLER. WE HAVE LORI FROM CALIFORNIA. DO YOU HAVE A QUESTION?

LORI FROM CALIFORNIA?

ALL RIGHT, WE HAD ANOTHER FAXED-IN QUESTION WHILE WE ARE TRYING TO GET LORI QUEUED UP.

>> GRACE: OKAY.

>> LEON: DO I HAVE TO CREATE AN ACCOMMODATION FOR THE EMPLOYEE OR DO THEY HAVE TO REQUEST IT?

>> SHARON: NO, ACCOMMODATIONS REALLY ARE NOT CREATED. EMPLOYEES REQUEST THE ACCOMMODATION. FOR A MANAGER -- SOMETIMES A MANAGER'S HEART MIGHT GO OUT TO AN EMPLOYEE AND THEY WANT TO SPONTANEOUSLY PROVIDE A REASONABLE ACCOMMODATION FOR PERSON THEY BELIEVES HAS A DISABILITY. THAT ACTUALLY MEETS THE DEFINITION FOR WHAT I WAS TALKING ABOUT EARLIER. THE MANAGER MAY HAVE EVERY GOOD INTENTION BUT THEY ARE IN ESSENCE REGARDING THAT PERSON AS HAVING DISABILITY THAT MAY NOT HAVE ONE, AND THAT IS NOT FAIR TO THE EMPLOYEE OR THE AGENCY. SO IT IS UP TO THE EMPLOYEE TO MAKE THE REQUEST.

>> GRACE: AND THERE'S NO OBLIGATION TO CREATE AN ACCOMMODATION THAT'S NOT BEEN REQUESTED, AND WE WANT TO TRY TO AVOID THOSE INSTANCES WHERE OUR HEART GOES OUT TO PEOPLE. BUT UNLESS THEY MAKE THE REQUEST, WE DON'T WANT TO PUT OUR ORGANIZATION IN THE POSITION OF HAVING REGARDED THEM AS DISABLED WHEN THEY WERE NOT.

>> LEON: THANKS, GRACE. WE'RE GOING TO TRY OUR CALLER AGAIN. LORI FROM CALIFORNIA, ARE YOU ON?

>> YES, HI.

>> LEON: HI, LORI.

>> CAN YOU HEAR ME?

>> LEON: WE CAN.

>> OKAY, GREAT. SO MY QUESTION IS A LITTLE BIT COMPLICATED IN THE SENSE THAT WE HAVE AN EMPLOYEE WHO IS MAKING A REQUEST FOR REASONABLE ACCOMMODATION. THEY HAVE PROVIDED MEDICAL DOCUMENTATION BUT THROUGH THE AVENUE OF WORKERS COMPENSATION. PART OF WHAT IS UNCLEAR FROM THE DOCUMENTATION WE HAVE IS THAT IT OBVIOUSLY IS REALLY ADDRESSING A WORKER'S COMP ISSUE, NOT THE REASONABLE ACCOMMODATION. AND SO WE HAVE GONE BACK TO THE EMPLOYEE TO REQUEST MEDICAL DOCUMENTATION REGARDING BASICALLY HOW THEY ARE A QUALIFIED PERSON WITH A DISABILITY. AND MAYBE WHAT KIND OF ACCOMMODATION HE NEEDS. I GUESS MY QUESTION IS: WHAT KIND OF ADVICE YOU WOULD PROVIDE REGARDING THE COMPLEX CIRCUMSTANCES OF HOW IT'S INTERTWINED IN OTHER AREAS?

>> LEON: WHICH ONE OF YOU WOULD LIKE TO ANSWER THAT?

>> SHARON: I'LL START. CERTAINLY WORKERS COMPENSATION DEALS WITH DISABILITY AS DOES THE ADA AND THE REASONABLE ACCOMMODATION PROCESS BUT THEY ARE NOT THE SAME THING. WORKERS COMPENSATION DEALS WITH ACCIDENTS, INJURIES AND CONDITIONS CAUSED BY FACTORS OF WORK. AND NOT KNOWING THE SITUATION AND REALLY NOT ELABORATING ON IT HERE, JUST THE PRINCIPAL TO SEPARATE THE CONFUSION THAT CAN TOO OFTEN RESULT, THESE ARE TWO SEPARATE THINGS. WORKERS COMPENSATION AND INJURIES AND CONDITIONS IS ONE THING AND REASONABLE ACCOMMODATION IS ANOTHER. THEY CANNOT TRAVEL BOTH ROADS AT THE SAME TIME.

>> GRACE: AND ONE IS YOU'RE LOOKING AT WHETHER OR NOT THE PERSON IS ASKING FOR REASONABLE ACCOMMODATION IN ORDER TO PERFORM THE ESSENTIAL FUNCTIONS OF THEIR JOB, SO IF WE'RE TALKING ABOUT AN INJURY THAT WAS -- THAT

OCCURRED ON THE JOB, THAT IS ONE THING, BUT ARE THOSE INJURIES TO THE POINT WHERE THEY'RE NOT ABLE TO PERFORM THE ESSENTIAL FUNCTIONS OF THE JOB WITH OR WITHOUT ACCOMMODATION?

>> LEON: LORI, DID WE ANSWER YOUR QUESTION?

>> YES, THANK YOU VERY MUCH, I APPRECIATE IT.

>> LEON: THANK YOU FOR CALLING IN, LORI. DO WE HAVE ANY MORE QUESTIONS OUT THERE?

OKAY. ANOTHER QUESTION: HOW DO I KNOW WHEN I'M PROVIDING ACCOMMODATIONS OR WHEN I'M OVERACCOMMODATING OR GOING TOO FAR?

>> SHARON: WELL, THAT'S REALLY ANOTHER SORT OF ISSUE THAT GOES INTO THE REGARDED-AS ISSUE. MANAGERS HAVE TO LOOK WHERE THEY ASK AN EMPLOYEE OR AN EMPLOYEE REPRESENTATIVE, YOU KNOW, WHY ARE THEY PROVIDING THE ACCOMMODATION?

IS IT SOMETHING THAT IS SPONTANEOUS ON THE PART OF THE MANAGER? BEWARE, BECAUSE IT MAY BE REGARDING THAT PERSON. OR IS IT RESPONDING TO WHAT A REQUEST IS?

AND THEN, OF COURSE, THERE IS THE ISSUE OF WHAT IS REASONABLE. THOSE ARE FACTORS THAT IF THE EMPLOYEE HAS CONCERNS OR ISSUES ABOUT THAT OR CONFUSIONS ABOUT THAT THEY CAN ALSO GO TO THEIR LOCAL DISABILITY PROGRAM MANAGER AND TALK THINGS OVER. THIS IS A GOOD RESOURCE FOR THE MANAGER.

>> LEON: THANK, SHARON. WE HAVE ANOTHER QUESTION HERE. HOW DO I SET LIMITS OR TELL AN EMPLOYEE THEY ARE PERFORMING POORLY WITHOUT UPSETTING THE PERSON OR VIOLATING THE LAW?

>> GRACE: WELL, I'LL ANSWER THAT ONE. A DISABLED PERSON IS TO BE TREATED LIKE ANY OTHER EMPLOYEE IN A SUPERVISOR'S CONTROL OR UNDER THEIR PURVIEW. YOU MAKE SURE THAT THE EMPLOYEE HAS SPECIFIC GUIDANCE ON WHAT YOUR EXPECTATIONS ARE, WHAT THEIR ROLE IS IN PERFORMING OR ACHIEVING THOSE EXPECTATIONS, WITH OR WITHOUT ACCOMMODATION, AND IF THAT EMPLOYEE OR DISABLED PERSON IS NOT ABLE TO PERFORM AT THE LEVEL THAT YOU'RE EXPECTING THEM TO PERFORM AT, YOU NEED TO COUNSEL THEM. YOU NEED TO TALK TO THEM. YOU NEED TO HAVE CONVERSATIONS ABOUT WHAT IS EXPECTED AND HOW YOU CAN HELP THEM REACH THAT PEAK PERFORMANCE. NOW, THE ONE THING AS A SUPERVISOR OR MANAGER THAT YOU WANT TO MAKE SURE THAT YOU DON'T DO. YOU DON'T WANT TO USE THE DISABILITY AS A WAY OF SAYING THEY ARE NOT PERFORMING. IF IN FACT THEY ARE PERFORMING, BUT THE PERFORMANCE IS NOT AT THE LEVEL WHERE YOU EXPECT THEM, YOU MUST HAVE A CONVERSATION WITH THEM TO ASK THEM: WHAT CAN I DO TO HELP YOU REACH THIS LEVEL OF PERFORMANCE WHERE WE NEED TO HAVE YOU AT IN ORDER TO BE SUCCESSFUL.

>> SHARON: AND THIS IS OFTEN THE FIRST POINT WHERE SUPERVISORS LEARN THAT A PERSON HAS A DISABILITY IS DURING THAT PERFORMANCE DISCUSSION --

>> GRACE: THAT'S TRUE. IT HAPPENS AT TIMES FOR IF IT HAPPENS ON THE ROAD -- TAKE THAT ONE STEP FURTHER AND ASK THE QUESTION: WHAT CAN I DO TO HELP YOU BE SUCCESSFUL IN YOUR JOB? SO YOU DON'T WANT TO TREAT THEM DIFFERENTLY BECAUSE THEY HAVE A DISABILITY BUT YOU WANT TO HOLD THEM TO THE SAME STANDARD THAT YOU HOLD EVERYBODY ELSE IN TERMS OF THEIR PERFORMANCE.

>> LEON: THANK YOU. WE HAVE PLENTY OF TIME AND SO PLEASE CALL IN WITH YOUR QUESTIONS, FAX US OR TEXT MESSAGE THE QUESTIONS TO US. WE HAVE PLENTY OF TIME TO ANSWER QUESTIONS. ANOTHER QUESTION FOR YOU SHARON AND GRACE. AND

THIS IS KIND OF LENGTHY SO I'M GOING TO READ IT TO YOU HERE. SHOULD A MANAGER OR SUPERVISOR HAVE AN H.R. REPRESENTATIVE PRESENT WHEN MEETING WITH EMPLOYEES ON ACCOMMODATION ISSUES, PARTICULARLY IF THE DISCUSSION WILL INVOLVE THE MORE PERSONALLY SENSITIVE MATTERS THAT ARE EXCLUDED FROM ACCOMMODATION OR WHEN DENYING A REQUEST FOR ACCOMMODATION?

>> GRACE: CAN YOU READ THAT AGAIN BECAUSE I WANT TO SEE WHAT THE REAL ISSUES ARE. . WELL, LET ME JUST SAY THIS. THE DISABILITY PROGRAM MANAGER SHOULD BE PRESENT IF THERE IS A PROBLEM OR IF THE MANAGER FEELS THAT THERE NEEDS TO BE SOME DISCUSSION. NOW, IN SOME AREAS -- THE H.R. OR THE EMPLOYEE RELATIONS PERSON MAY BE ASKED TO BE PRESENT FOR THE CONVERSATION, BUT THAT DOESN'T MEAN THAT THEY HAVE TO BE THERE FOR THAT CONVERSATION. IT'S WHAT'S COMFORTABLE FOR THE EMPLOYEE. IT'S WHAT'S COMFORTABLE FOR THE MANAGER AND IF THEY FEEL MORE COMFORTABLE HAVING THAT DISCUSSION WITHOUT THE DISABILITY PROGRAM MANAGER THEN THAT'S FINE, BUT I WOULD ASK THEM TO CONSULT WITH THE DISABILITY PROGRAM MANAGER EITHER BEFORE THAT CONVERSATION OR AFTER THE CONVERSATION.

>> LEON: OKAY, WE HAVE SANDY FROM UTAH ON THE PHONE?  
SANDY FROM UTAH?

>> HELLO?

>> HI , SANDY.