**October 27, 2020: The ADA and the Hiring, Retaining and Advancing of Employees with Disabilities**.

 \*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*DISCLAIMER!!!\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*

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 \*\*\*\*\*\*\*\*\*\*\*DISCLAIMER!!!\*\*\*\*\*\*\*\*\*\*\*\*

>> Turner: Well, hello, everyone and good afternoon. My name is Randi Turner and I'm the accessibility and disability policy coordinator here at the Governor's Committee for People with Disabilities. Welcome to the Accessibility and Disability Policy Webinar series.

This month we celebrate the 75th anniversary of national disability employment awareness month with a selection of webinars putting Texas back to work.

Today's focus is the ADA and the hiring, retaining and advancing of employees with people with disabilities. We have with us Velissa Chapa from the Texas Workforce Commission.

Before we get started I have a couple of housekeeping items. And ‑‑ hang on one second. I can't move my screen around here.

Okay. Participant microphones will be off during the session. Please make note of the webinar tool bar where you will see the Q&A icon and this is where you can submit questions.

Questions will be answered at the end of the presentation, but feel free to go ahead and put your questions in the Q&A box at any time.

We will use the chat box to share information with the audience. The webinar will be recorded and posted to our YouTube channel and the training materials and realtime captioning transcript will be made available to participants after the session.

So in a moment I'm going to begin recording and you're going to hear me repeat a few things that I've just stated. If.

I can't find my tool bar!

[Laughter].

>> Chapa: Try moving the mouse to the top of your screen and a drop‑down menu should appear.

>> Turner: It's not appearing.

Okay. I'm going to press record and repeat a little bit of what we said. Until then I will stop ‑‑ did you take over the screen share, Velissa, yet?

>> Chapa: No, I have not.

>> Turner: There we go.

>> Turner: Something happened because it changed. Okay. It doesn't look like there's any screen sharing going on yet. So if you would go ahead and do that, Velissa, because ‑‑ well, wait a minute. That's not going to work. Hang on because we have to have the captioning up. One second.

I do have to share this screen so we can see the captioning. So give me a moment and I will stop sharing when I turn it over to Velissa to do her housekeeping ‑‑ okay. Hang tight. We'll get this rolling in a second.

>> Turner: Good afternoon, everyone, and welcome to the Accessibility and Disability Policy Webinar series. I'm Randi Turner with the Governor's Committee for People with Disabilities and the accessibility and disability policy coordinator.

Today we have with us Velissa Chapa from the Texas Workforce Commission providing a session that we are doing this week in celebration ‑‑ this month of the 75th anniversary of disability employment awareness month.

So Velissa, I am going to stop ‑‑ I'm going to share my screen until you do your little housekeeping and then I will turn it over to you and that way we do have captioning up.

>> Chapa: That sounds great.

Hello, everyone. My name is Velissa Chapa and I am one of the attorneys in the employer commissioner's office at the Texas Workforce Commission. Commissioner Aaron Demerson represents employers at TWC, and I am thrilled to be here today to share vital information to all of you here today in celebration of national disability employment awareness month.

So I will be talking about the Americans with Disabilities Act and hiring and retention with some frequently asked questions. And hopefully by the end of this session you will feel much more comfortable moving forward with encouraging the hiring and retention and advancement of individuals with disabilities.

So I am going to go ahead and share my screen, and what I do want for y'all to see before I do that, and hopefully I'm pointing the right way, this number here and this email address is what you might want to know.

I have one housekeeping item. So for those of you listening, if you have questions from an employer standpoint as far as unemployment claims, wage and hour issues, hiring, layoffs, COVID‑19 questions. We won't be addressing that today, but you are welcome to contact our office with those questions. We have an employer hotline and we are here to serve you.

So I'd like to give you that number now. It is 1‑800‑832‑9394 and also email us at employerinfo@tx.state.us. Please feel free to reach out to us if you have questions about those topics.

But today we're going to focus on people with disabilities and how we can look at the whole situation and encourage the hiring and retention. We're going to look at some frequently asked questions and other good pieces. So I'm going share my screen here in just a moment so that we can get started and cover all of the good information that I'd like to share with you today.

So I'd like to start with the first quote that I think is very valuable, and it's by Stephen Hawking. You know, we're all different, but we share the same human spirit. And perhaps it's that human nature that we adapt and survive.

And so me it's a very meaningful quote because it talks about humanity as a whole and how we can adapt to new situations. And that is definitely true now that we're dealing with COVID‑19. So many different ways that we as not only Texans or employees or employers, but as humans, very having to learn to pivot a lot these days, so now is as good a time as any to learn to pivot in the workplace as well and to see how we can encourage a different work environment that can be inclusive of all folks.

So these two ‑‑ there are two images on this screen. One is a suitcase and one is an iPhone meant to reflect Siri. And when you ask the question of what these two items have in common, it's not obvious when you just look at them, but the reality is as many of you probably know, before 1970 suitcases didn't have wheels. And I first noticed that with the movie airplane. One of my favorite films. And I realized people were carrying their suitcases.

Well, as an accommodation for folks with disabilities, wheels on suitcases were invented. The same with iPhones and Siri for folks who are blind or visually impaired, they use Siri and developed that technology for folks with those impairments.

So those are two fantastic examples of how growth and accommodation led to new invention, which was actually useful for everyone, not just those who it was intended for initially.

And that's kind of the attitude that I think we should all be bringing into the workplace and sort of recognizing the different skills and contributions that folks can really bring to the table.

So here are some basic facts and for those of you attending the prior webinars from vocational rehabilitation and such, you probably already know this, but it is worth repeating. One in four people will have a disability at some point in their lives and what's a little shocking is the unemployment rate for individuals who have disabilities is more than double than those who don't, according to the bureau of labor statistics.

So there are certainly lots of folks with disabilities who are either unemployed or under employed. And when you look at the State of Texas, with 2.6 million small businesses over half a million Texas employers, there should be plenty of room to bring these folks in. And another piece of it is of course most accommodations average $500 or less. So it's really not something ‑‑ the cost is not something that should discourage employers from bringing on folks with disabilities into the workplace.

So this is going to be the roadmap of today's presentation.

>> Turner: I'm sorry, Velissa, your cart is not progressing, it's frozen. Would you refresh the Internet browser window with the realtime captioning?

>> Chapa: Sure.

>> Turner: It's stuck way back when you were talking about the phone.

>> Chapa: There we go, that should do it.

>> Turner: I'm not seeing it. Maybe it's just my ‑‑ maybe it's just me. Can I have a participant please let me know are you seeing the CART transcript correctly?

>> Mine is stuck too, Randi.

>> Chapa: Okay. Let me try one more time.

>> Turner: Maybe close the window and reopen it.

The link is in the chatbox.

>> Chapa: Let me try it again.

>> Turner: Nothing is changing on the screen. I'm not seeing ‑‑

Seeing your slide progress either.

>> Chapa: So the slides are not progressing either?

>> No, we're still stuck on the suitcase and the iPhone.

>> Chapa: Interesting. Okay. It might be better then to switch gears and maybe I could stop sharing the screen or let me stop and start again.

>> Turner: Why don't you stop and start again and see if it works. And if it doesn't, I've got it up on mine.

Plan B, we were ready!

>> Chapa: All right. How about now? Did that fix anything?

>> Turner: It's just black.

Are you sharing the desktop?

>> Chapa: I am.

>> Turner: Melinda, do you see anything? I don't see anything?

>> No, ma'am, it's a black screen.

>> Chapa: Okay. I stopped sharing. So if you'd like to go ahead and share your screen ‑‑

>> Turner: I'll do that.

>> Chapa: Sure, that would be fine.

>> So Velissa, if you could just tell her when to advance the slides.

>> Chapa: Most definitely.

>> I think we'll be good to go.

>> Chapa: Okay. So I've gone over those facts. We'll go over the next slide here.

So here's the basic roadmap, what we're going to talk about today. I'm going to break down the Americans with Disabilities Act. There's a lot of frequently asked questions that employers ask us in my work, and I think that it's important for folks to understand these basic pieces and celebrating that law as well. So we're going to start with that and then we're going to talk about hiring, retention and advancement in different pieces and best practices and frequent questions.

And then I'm going to be opening the floor to live Q&A if anybody has some questions. And of course, if there are too many questions and you can't reach us, don't worry about it. You can contact us via the email and phone number I provided. We will help you as best as we can.

We respond to every inquiry that we get.

And I'm ready for the next slide.

So this year marks the 30th year anniversary of the Americans with Disabilities Act. And when you think about the history of the United States and the history of humanity, 30 years really isn't that long, but this law was passed back in 1990. So this is the year that we're celebrating 30 years with the ADA. And it's very important because that law protects individuals with disabilities in the workplace. So we're going to break this down a little bit so that you can get a better understanding of how this law actually functions.

Next slide.

So here are the basics. With the Americans with Disabilities Act, how does it work when you're working with applicants or employees with disabilities? This law applies from the moment you send out the job application. There is a misconception that the ADA doesn't apply until they're working for you. That's not true. According to this Federal law, you really need to accommodate folks with disabilities even during the application process.

Another misconception is that a lot of folks feel like the Americans with Disabilities Act doesn't apply if it's a job‑related injury or if it's not a job‑related injury. They get it confused with workers compensation.

The bottom line for the ADA is if you are an individual with a disability you are protected under Federal law and employers are required to reasonably accommodate. So it doesn't matter whether you were born with a disability or you encountered one throughout your life because of something that you did. It really doesn't matter. You are protected.

So the goal for employers is to accommodate employees without causing an undue hardship to the business. And so we're going to spend the next few slides sort of breaking down what that language means for employers so that they can truly comprehend how this whole law functions.

I'm ready for the next one.

So the ADA, the Americans with Disabilities Act, what is it? It's a Federal law and it prohibits employers from discriminating against qualified individuals with disabilities. And like I stated, this starts with the job application and it goes all the way to hiring, firing, advancement, you name it. It covers the whole gamut.

So there's a few pieces in this definition that we are going to break down so that everyone is on the same page with how this law works.

Next slide.

So the first question is who is a qualified individual? Because under the ADA if you're an individual with a disability and you're qualified, you are allowed reasonable accommodation for a job if you are qualified. So how does that even work?

Well, you really want to treat employees the same when it comes to whether or not someone is qualified. Look at it like this. Can they perform the job without any accommodation? And if you need to put in some accommodations that are reasonable, can you do those things and have them work for you?

And if the answer is yes, they are qualified. And again it applies to applicants and employees. So it can get very confusing and stressful for employers sometimes because from my experience a lot of employers feel like they have to go ‑‑ they have to consider an individual who is not qualified for the job simply because they have a disability, but requirement number one is they need to be qualified. And as an attorney, you know, in my example if I don't have a law degree, I can't practice law. So it's just that prerequisite that you need to be qualified.

So you really focus on what they can do, their skills, their abilities, and if there is an accommodation, employers are required to explore those possibilities throughout the entire process. And there's a big piece I really want to communicate when it comes to the ADA.

I've spoken to many employers who have told us without even interviewing the individual that they know they can't hire them because there is no reasonable accommodation they could make. Perhaps the only solution is too expensive for the company to afford and the applicant doesn't have that device already ready to go.

So a lot of employers will tell me they won't even interview that individual because they know they may not be able to accommodate. That's a problem. Think of it like the math teacher in school, the one who requires you to fill out the whole problem. You either get full credit or you get no credit.

And the ADA functions like that. Employers, you are required to see if this individual can do the job with accommodations. You never want to assume, you never want to assume that all folks with the same disability are the same. And you never want to assume that you can't accommodate.

There's a very real possibility that the employer hadn't considered a certain accommodation that can do the trick, and you do want to show your work so it's essential for the employer to speak to that individual, to go through the process and then if you're trying to figure out how they can do the job, to have that discussion to truly see if that employee can be reasonably accommodated to take that job.

Next slide.

So what constitutes a disability? Surprisingly that's a question that we get pretty often, and the key to this slide is to point out that a disability can be physical or mental. And it substantially limits one or more major life activities. The bottom two bullet points about having a record of impairment or being regarded, that's part of what constitutes having a disability under the definition for the ADA, but we're really going to focus on that first bullet point because that's what matters today. We're talking about physical and mental impairments. And that's a large part of it.

We have to think about hidden disabilities as well. So it's important for employers to acknowledge that both of those pieces fall under the definition of a disability, but then the next question is what are major life activities? You can have an impairment, but how do you know if it affects a life activity? What even is that office.

And if we go to the next slide we can see definitions of what major life activities are. And as you can see the definition are very expansive; folks. We have seeing, hearing, eating, sleeping, walking, standing, breathing, communicating. This is a very intentional broad definition because the idea is to include more folks under this so that everyone is cared for.

So as an employer what do you do? You just consider that person's skills and abilities with those who have similar training skills and abilities. You're trying to see if they can do the job. And you're asking the questions that are related to the job itself to see what they can do and what accommodations may be made.

Next slide.

So when is the Americans with Disabilities Act activated? I talked about this at the beginning, but the true answer is from the moment you send out your job application. Accessibility is hugely important, so we all have to stay aware of the fact that folks might need things communicated in different ways.

So job applications are important. You want to make sure that those are inclusive.

There's also some other pieces that employers have told me over the years. Some of them have said they didn't know the employee had a disability. It was a hidden disability, it wasn't physical. And they said that the employee didn't deserve accommodation in a sense because they never requested a specific accommodation in a document that the company had.

I'm here to tell you that there are no magic words to request an accommodation under this law, and there is no specific document that you have to fill out in order to make the request official and to be covered.

The general idea is if someone has a disability and they communicate it to the employer and suggest that some changes may be made to maybe their work environment or their schedule to accommodate that, that's enough.

And as a side note, family members can also request accommodations on behalf of their employees. That is also something that employers have said. Well, they didn't ask for it directly, it was a family member. It doesn't matter. Basically if you understand that someone may have a disability and they're requesting an accommodation, it is up to the employer to attempt to reasonably accommodate.

So let's go to the next slide and talk about what reasonable accommodation actually is. And really it's everything you could think of. It just depends on the type of job the person's performing, the type of disability that they have, but a lot of it really is just sort of obvious, modifying the job application or the process.

For example, if you have an individual in a wheelchair who needs to interview for a job and you are in an office building where maybe you're on the third or fourth floor and there is no elevator. Maybe the second floor and there's no elevator. How do you interview them?

Well, see if there's a first floor room to do that. See if you can do something virtually. See if you can meet them at a location to interview.

There are lots of easy ways to make those adjustments. And you also might need to modify the work environment too. That's a big one.

For example, you want to make sure that if someone is in a wheelchair that the spaces are big enough for them to navigate around. So they can go from one place to another, and that's really important as well.

And also you could modify other things as well, their schedule. There's lots of examples. And if we go to the next slide you can see here are some real examples for reasonable accommodation.

A lot of times it's job restructuring, modified schedules, modifying equipment. I am a very clumsy person and I tend to injure myself about every year, every other year, break bones, tear ligaments, you name it. If you know someone who is clumsy I can guarantee you I could give them a run for their money. I tend to walk into walls. So with all of my injuries I've had standing desks at work. And for us we didn't pay for a standing desk. I'm a government employer. I just stacked up a bunch of binders and put my monitor on top of there so I could stand and work.

And if I needed to sit down for a minute, my co‑worker would come and remove it and help me out and help me sit. It was not a big deal and I did it for months and it worked out great. So there's a lot of easy things.

And there's a point to make here too. Some employees will request an accommodation that's extremely expensive. The standing desk is a good example. Sometimes companies can't afford that so many employers will call me and let me know, we can't afford this so we're going to say no and let them go.

No, you don't want to do that. You don't have to take the most expensive accommodation, but you do have to consider other reasonable alternatives. So for me stacking those binders was free, it was easy, and it solved the problem. So it's really a time to be creative.

And the first bullet point, I want to touch on that for a moment for teleworking. That has become a lot more popular these days because of the pandemic, and that is a very common accommodation that existed before the pandemic occurred.

And I was listening to a very interesting webinar from some folks who work with these issues, and I forgot which company, but it's a major computer company and they were talking a lot about what their company is doing and they're focusing on neurodiversity, which is ‑‑ they were focusing on folks with autism, hiring them for their company.

And they used to do a lot of training at the facility for these individuals and when the pandemic hit they all started teleworking from home.

Well, as it happens, their production went up and their happiness went up because these folks ‑‑ by the way, autism is no longer really a spectrum. It's not that simple. It's so much more complex than that.

So when these folks are working from home, they're in their own environment, they're comfortable, they can control a lot more about what's happening around them and it really increased productivity and now the company is moving towards permanent teleworking for those folks.

So sometimes these accommodations can turn into something that will improve significantly the production of the workforce. So it really is not just about assisting the employee and encouraging them, but it really helps in all different ways to help keep a company moving forward for efficiency, which is one of the benefits of hiring folks with disabilities.

Next slide.

So here's a common question I wanted to tie in COVID‑19 a little bit to this discussion. A common question is if you have a preexisting mental illness or disorder and COVID‑19 has exacerbated it, then are you still covered under the ADA?

And the short answer is yes. And we're talking about here the hidden disabilities, PTSD, anxiety, depression, that can really turn into a new situation and it can get worse because of COVID‑19 and it is still up to the employer to accommodate those folks, but of course a discussion can happen where you're talking about what benefits it will have and everything like that.

And I will say that if you know an employee or an applicant has a disability, it's obvious to you there's no question. You cannot and should not be asking for documentation to confirm that because you already know that. But if an employee or an applicant is requesting an accommodation and you think that perhaps there may perhaps be an alternative or you're not quite sure that's the way that it is, you as an employer are entitled to ask about that a little bit more and to see about how that accommodation would fix the problem.

So you are allowed to have that discussion, but you just don't want to talk about what you already know. That's been established. You want to address the other pieces that you don't know to make sure that everything can be smooth and you're asking the right questions.

Next slide.

So the interactive process. That's a fancy way of saying we're talking. That is required under the ADA. It's mandatory. And that is what you're doing every time you have someone with a disability who is requesting an accommodation.

A lot of folks will ask for increased lunch breaks or, you know, standing and sitting, different things. So you're going to discuss that with the employee, look at all the options, figure out what's going to work. That's actually required by Federal law. That's called the interactive process. And it is so important you have to do it because it allows you to explore options and identify barriers. That's a huge one.

And when you identify barriers to job performance, that will not only serve that employee, it can serve everyone in the office and future folks, whether they're employees or clients coming into the business.

So it's an excellent way to help employers figure out what barriers are there instead of just guessing. And you can also explore options.

And it's also really important forethat final bullet point, determining if an undue hardship exists.

So the lawyer in me feels like I have to break this down. Under the ADA you are required to reasonably accommodate employees with disabilities, but if it's an undue hardship, the requirement ends. The employer is no longer obligated. So undue hardship tends to be misunderstood by many folks. So in the next slide we're going to talk about what undue hardship actually means.

So this is significant difficulty or expense. So here's how it works. Everything counts when you're thinking of undue hardship. You're thinking about the costs, you're thinking about whether or not they're disruptive, would it alter the nature of the business? What does it do with company morale?

Undue hardship includes all of those things, however, it's a very high bar to meet. And in my experience with the employers I've spoken to they've talked to me a lot about hardship, how it is costly for some of them just depending on what the employee is asking for, but then when we discuss it further, we realize there's actually a no cost solution to it that the employer hadn't considered.

So it's definitely a case‑by‑case basis. All companies are different. Some companies have 16 employees, others have 200. It also depends on the position the employee is in. And how ‑‑ are they in a management role or are they more in a different role where it could be easier to find someone to help them fill in or things like that.

So it includes everything, but it's a really high bar so the purpose of this slide is to just let employers know that you really need to look at every possibility before making a decision. Undue hardship should not be confused with standard hardship.

This is a really high bar to meet, so employers want to be very careful when looking at undue hardship as the reason for declining an accommodation.

Think of every possible alternative.

Next slide.

So here are a few myths with the ADA that I thought were important to talk about. The first myth, that if you're an employee with a disability, you lose protection under the ADA if you don't disclose your disability until after you've been hired.

Next slide, just for a picture, my sister was an example. For her latest position she was pregnant and she kept that a secret because she was afraid that she wouldn't be hired because people would assume that she wouldn't do as good of a job or have a disability.

And so on the other side of it, there are a lot of folks who don't reveal the disability because they are afraid. They've been burned before. They're afraid they're going to lose the job opportunity. And then an employer will call and say they didn't disclose it and now we've hired them and now they've told us. So we don't want them, they were dishonest.

No, you cannot do that. There's a good reason why people feel like they don't want to disclose these disabilities every time.

Sometimes they feel like it won't be an issue as it's not relevant at the moment. Other times they are really afraid they're not going to get the job because it happens all the time. So it's important for employers to really understand that and put themselves in the shoes of the applicant to understand why they kept those things hidden.

And from a legal standpoint the bottom line is the employee does not lose protection. They could keep it a secret and then tell you six months in and they are still protected under the law and you are required to accommodate. So please remember that when moving forward.

Next slide.

So now the second myth, that ADA protection only applies to physical disabilities. Not true. I touched on that a little bit earlier, but I want to touch on it again because we have to think about, for one, we have some disabilities like deafness and hearing impairments that may not be obvious at the beginning. You have blindness and visual impairments, but we need to think about those hidden disabilities. It's really important and they're also covered by the ADA.

If you go to next slide, we see a great example of this. We see Eyore from Winnie the Pooh. I knew that he was really sad and as I'm older I realize that he has depression. And it's very common for folks with hidden disabilities to feel ignored and it is something that I think we all need to work towards understanding and comprehending and working with it.

It is very tempting for someone who has a hidden disability to shy away and stop inviting that person out, stop treating that individual as they would other human beings. And I think that the story of Eyore is a very heartwarming story for me because if you go to the next slide you see how the team treats Eyore. You see the picture of Winnie the Pooh and Tigger and Piglet. Eyore is in the middle. He doesn't look the happiest, but he's there. This is something we can all gain something from. When someone has a hidden disability it's important not to shy away because we can help them by including them. So that's why we don't talk about just diversity or equity, we talk about inclusion too. They're including Eyore in this picnic. He's in the middle. He may not be happy, and that's another piece of it too. It's something I've heard throughout life where if you are going through depression or anxiety, you can hear someone tell you, well, just get over it. Well, just be happy. Well, just try harder.

And for those of you who have suffered through that, it's not easy. And the truth is that we need friends and family and people who will embrace us and include us in the picnic, knowing that we are who we are, that maybe we're still depressed, not expecting us to change, but making sure that we know that they're loved.

And in my opinion, from my experience, you know, I've had some temporary disabilities, but I have anxiety and I've had anxiety my whole life, but I didn't really know about it until recently. I always knew I had this anxious feeling, but I didn't know there was another way. And then when my mother May in law passed away about a year and a half ago, I started experiencing some physical pains in my rib cage, and it was scary. I didn't know what it was. And I got scans and they said nothing was wrong.

They asked if I had gone through some trauma, some mental trauma, and I had, and that's when I finally got on anxiety medication. I took the test. I was almost off the charts. And so I'm on medication now and so in a way I lived my whole life not knowing there was a another way to be. And for me anxiety felt like you're tipping in the back of your chair and rocking and then there's that one split moment where you're either going to fall flat on your back because you tipped too far or you're going to land safely.

And that brief moment of panic, that's how I feel all of the time. That's anxiety. It never goes away.

Now I'm ‑‑ I'm happy to share I'm on medication now, I feel a way that I never felt in my life because I didn't know it was possible. And now I feel like this is how other folks have been feeling their whole lives, but I had my co‑workers, my friends, my family, my husband, everyone supported me, everyone included me, nobody asked me to just get over it. They supported me through my journey.

And I think that's so important for us to be there for one another because at some point in life, maybe we'll all be Eyore and we're going to need those people to pull us in. So I hope that we can take those lessons as we move forward and really appreciate that this is something that we are all really in together.

Next slide.

So Smith number three is the classic accommodations are too costly. And if with he go to the next slide I want to share some information for you that should be helpful.

So first according to the job accommodation network, 58% of accommodations are actually free. The remainder cost $500 or less, with more of an average of 250.

So it's really not as costly as people think. Not only that, there are tax incentives and there's a link here to the IRS. There's also a link that ‑‑ there's a Word document that I prepared with all of the links on this PowerPoint and a few more, so that you can have access to that document if you'd like and have all of these links for you.

But I do want to mention this IRS link because they talk about various tax incentives that you can have as an employer, and I think that's one way to offset the costs.

Next slide.

So here are also some direct benefits of accommodations. I thought it was worth mentioning. This was some information that was taken from askjan, the job accommodation network, where they pulled a bunch of employers who were accommodating employees and guess what? There were direct benefits. They promoted about 10% so that's what we'll talk about in a moment. But if you look, we have some basics. Obviously increased diversity of the company. We know that's a good thing. Diversity means more ideas, more solutions, ways of thinking. It's a good thing for a think tank.

But there's other pieces too. It increased productivity and guess what? It eliminated training costs down by 59%.

So maybe if you spent some money on an accommodation, again, you're making that back through tax incentives as well as through the training costs, less turnover, so you save a lot of time and money on that.

And if we go to the next slide there's actually indirect benefits to accommodations. And so this is also fascinating. One of the main points, the last one, increasing your customer base. When you think about it, if you were accommodating employees and you were creating an inclusive environment, that will not only attract more employees, but customers in that market, untapped markets. So you increase your company ‑‑ your customer base and your profitability, but guess what? In that middle one, increased safety. 46% increased safety. That leads to less worker's comp claims, that leads to nor safety for everyone.

So the indirect benefits can also be substantial. Next slide.

Now, these are just two links and this is in the Word document I created for the job come nation network others known as askjan. They are fantastic. It's free. They have a free hotline where if you're an employer or an applicant and employee and you need to understand your rights under the Americans with Disabilities Act, bounce a scenario off of them, please look into the job accommodation network. They have folks who can help you, it's free and confidential. It's an excellent resource.

You can also look into the employer assistance and resource network on disability inclusion others known as EARN, also free. They have so many tools and materials for recruiting and hiring and retaining. Can't say enough great things about EARN, so I hope you look that up as well. They have a lot of great materials.

Next slide.

So hiring and retention and advancement. We're going to spend the last few minutes before Q&A just talking about the basics. So the first thing, what are some things that you can do to get started? If you're an employer and you're looking to hire individuals with disabilities, where do you begin? There's so much out there.

Well, here's the main bullet points. First, make sure that you're addressing DE and I in your company mission statement. I think that's huge. It shows thought and attention to the issue, it will attract a wider net of interested applicants and consumers. It is not a bad thing. There are no drawbacks to it.

You also want to implement policies. One of those is harassment and disrespect towards others. That's a big one and again, this is an example where your policy can go beyond just supporting individuals with disabilities. There's also sexual harassment, there's harassment on the basis of age, national origin, gender, etcetera.

So a harassment policy is a good idea. And luckily at TWC we have a sample policy ready for you.

There's also a grievance procedure. So we don't have a sample grievance procedure, but here's what I want to say about it. It's a good policy to have. Every company develops its own grievance procedure because companies are all structured differently. So sometimes you might want someone if they have a complaint, a grievance, to go to the manager. Other employers will say go to HR. If HR doesn't resolve it, go to the owner. It's dealer's choice for how they want the grievance procedure to happen.

I will say that with most policies, employers are used to disciplining employees if they violent it, like if they're tar ‑‑ violate it, like if they're tardy and don't call in on time. The grievance procedure is to let employees know that the employer has thought about the fact that they may have an issue and the employer is willing to address it. And they give an avenue for doing it.

So you never, ever want to discipline an employee for not following the procedure. That's not the point of it.

If it says to go to their manager and then HR and then with the owner, and they go straight to the owner, you never discipline an employee for doing that.

The purpose of the procedure is to let employees know that if they have a complaint there is an avenue for resolution because you want to help them.

Another thing you can do to get started, make sure your applications, your interviews and your recruitment materials are fully accessible. That's really important. And luckily you have some help.

The partnership on employment and accessible technology, otherwise known as PEAT, with the Department of Labor, they have excellent assistance to help employers make their applications accessibility.

So again, you're not alone. There is help.

Also consider and eliminating potential barriers. For example, building a ramp might be an important thing to do. And if you go back to the IRS slide in the future, there are incentives for companies who pay that money to get that money back. So there is help for that as well.

Finally, that last bullet point, there's a fantastic EEOC guide. It covers A to Z on recruiting, hiring, retaining and promoting folks with disabilities. That's also on the Word document. I can't say enough great things about it. It has so many useful pieces of information, I really encourage you to take a look.

Next slide.

So the first one was for hiring. Now we're talking about retention. Here are just some basic ideas that I think folks might really want to know about. First of all, designating an inclusion council I think is a really good idea.

So an inclusion council should include obviously some folks with disabilities, but also folks without. You want everyone included in it and the idea of an inclusion council truly is to think about strategies, implement those strategies, monitor the progress, evaluate, poll the employees, see what works, see what doesn't. That inclusion council can help keep the employer focused to move in the right direction. And it's also a great way to get community linkages. Folks can be in different outside community groups and you can find those links and bring them together and work in tandem with some of these groups.

So an inclusion council is definitely I think a best practice for retaining.

Also, this is so important, conducting DE and I training in askearn there's a training center, tons of materials, all free, and that's really important for training.

And I do want to say this: Everyone needs to be a part of the training, everyone, from the top down. The CEO to everyone needs to do it because you really have to go all in with this. It's not going to work if you go halfway and some and some not. All that work can be for nothing. Everyone really needs to go all in. And everyone within the company from the top down needs to understand and appreciate how important diversity, equity and inclusion is to the business. And it helps keep things in a better light, it keeps everyone on the same page, so that's really the key. There are a few employers out there who have told me that the owners have no interest in engaging in the training. Everyone needs to do it. I think it's important.

Next slide.

So this quote I don't know where it came from. It came out of me one day, but I'm sure I read it in a book or somewhere. But there's a lot of discussion about the difference between diversity and inclusion. So I wanted to point out, to me diversity is you have a seat at the table. But inclusion is feeling welcome at that table.

And I have been in situations where I've had a seat and I have not felt included, and it is ‑‑ it just breaks your spirit. So inclusion is an important piece of it. And when you look at the national organization on disability, and that is also in the Word document, they have a tracker where you can fill out some questions, do an analysis, and they will tell you how inclusive your office actually is.

So I encourage you to look into that if you're interested because inclusion is an important piece. And going back to the story of Eyore and Winnie the Pooh, inclusion really is what it's all about. And I know there are a lot of things that I'm talking today about practical things you can implement, but another piece of it is really thinking about how you can support people not just in the workplace, but in life, your biggest lesson I think is real world experience. The more you're around folks with different attitudes and ideas and disabilities, the more you can really understand how beautifully vibrant and different we can all be and what we can all contribute.

So it is a little bit scary. We're going to make mistakes. You might say the wrong thing. It may not be phrased in the way that you thought would be the best way. But we stumble so we can get back up and figure out how to be better.

So we have to be humble. We have to be willing to do these things.

Next slide.

So when we're talking about promotion and advancement, that's a big piece that I think is often ignored. There's a lot of diversity by numbers talk. We have X amount of folks with disabilities in this department. We're good.

That's not enough. We want to encourage advancement. There are ‑‑ and train our managers to focus on the skills of the individual. That's really, really important focus being on the skills, because just looking at the numbers is not going to be enough. It's a bit superficial if that's all you focus on. Really want to dig deeper on that.

And of course with advancement, there's going to be thinking about new types of technology, thinking about accessibility, physical spaces, so those individuals can advance.

I think that's going to be really beneficial as well if employers can consider how these individuals can advance further. So my goal today was to kind of touch on those basic pieces. Next slide.

So tapping into your existing resources, this is just a slide with some of the basic resources I have. Of course the Word document has more for you. I do want to talk about one more thing, the concept of cultural humility. I did go into that just a little bit ago, but I think it's important to again not just put yourself in their shoes, but also to practice cultural humility on a daily basis. And that really means being self‑aware of your own internal Bises. We all have them and some of them take a lot of time to break.

So self‑awareness, self evaluating your own personal and cultural Bises is a part of cultural humility, but you also have to be aware and sensitive to the issues of others.

And I think the more we're exposed to these situations in real world ways, it really allows us to move forward. And so that's the biggest step to just jump in, let's get started, let's support, let's see what we can do and then we'll learn as we go with ale of these things because we know nobody is perfect, but it is absolutely worth striving for.

Next slide.

So that's all for my presentation today, but I wanted folks to remember, please keep our hotline in mind, our email in mind. If you have questions about this in the future, you have ideas, you want to talk something out, please we welcome you to call us. We were here long before the pandemic and we will be here long after.

And now I am ready for some Q&A if there are any questions.

>> You know, Velissa, you have answered questions as they have come along and Randi and I have been able to answer a few things here and there so we don't have any pending questions unless we want to give it a minute for folks to post any questions in the Q&A box.

While we're waiting for that, Velissa, thank you so much for sharing all that you did. Great information that employers and any individual are welcome to know about.

So basically the employer services that you guys offer through TWC, we're talking about disability specific today, but employers call with all types of questions, right?

>> Chapa: They do. These days we have a lot of questions about the pandemic, COVID‑19, folks having symptoms, and a lot of folks requesting accommodations for teleworking or other issues.

There are some benefits that we've seen. For example, there are a lot of individuals with disabilities who were tardy to work because they were trying to take the bus. And the bus was late.

And now they were working remotely because of COVID‑19 and it just so happens they're no longer late and their productivity increased.

So we are getting a lot of questions about COVID‑19 and issues that may go into the next year, but we really do answer questions from ‑‑ gosh, when it comes to unemployment claims, accommodation. We've had stories of criminal activity happening at the workplace, what do you do?

Whatever situation you can think of, we've probably dealt with it. Someone wanting to bring in their pet pig as a support animal. You know, lots of very exciting questions. We've heard it all and we do like to play a game at our office called "Stump the attorney." So we take all questions and if we don't have the right answer we can get you to the right people who do.

>> You guys really do. We work in the vocational rehab program, which is part of TWC, and utilize your services with our employers. We want to be all inclusive for employers, not just answer the questions about disability that come to us, but we share your resource information, knowing that employers and our business people of today have questions beyond our knowledge and skills.

So we value what you guys offer. So thank you.

>> Chapa: Absolutely.

>> We have one other question.

Okay. So how do you get companies to have buy‑in on their need to go through training that help provide this type of information? Is it usually on a basic ‑‑ on the basis of them contacting you guys or are there larger outreach initiatives?

>> Chapa: Training for this type of information, well, I believe this is being recorded, and it should be available for free. So I'm sure that folks will be wanting a copy of this to share, but there's also plenty of things ‑‑ a lot of sources on that Word document have other webinars, other training sessions. So there's information everywhere.

I think the worry for a lot of folks is there's almost too many websites, too many links, too many that I don't know where to start. That's why I created that Word document because based on my experience those are the heavy hitter websites that provide everything from training and retention and advancement. They have all kinds of training videos and statistics. We've made it as easy as possible for employers to encourage bringing in more individuals with disabilities into the workplace.

>> Great. I'm going to throw out a plug for our vocational rehab staff, our business team as well. We certainly ‑‑ I put that in the chatful. VR Business Relations@tw c.state.tx.us. We're certainly available. I just got off a webinar with a bank doing some disability awareness training for them. We are doing those trainings virtually just as I know you guys are reaching out to employers virtually now as well. So we have staff trained around the state to help answer those questions around disability and provide the training, lunch and learns, those types of things for businesses.

Okay. So the next question, do you think unemployment for individuals living with disabilities is increasing or decreasing?

>> Chapa: Well, based on the statistics that I've read recently, there hasn't been too much of a dip. There's been ‑‑ I think there's been an influx of folks who are no longer searching for work. But in general individuals living with disabilities, there hasn't been a whole lot of shifting surprisingly from what I've been seeing of remote work has been a really good solution. But the problem is when we're looking at the statistics of folks with ‑‑ with disabilities on unemployment, I'm unaware of any system that's tracking that specifically. So I really don't know, but I will say it's probably going to be on par with just the general idea of I think most folks with disabilities, according to the statistics, are working in more physical positions, which would imply that teleworking isn't such an option.

So if I had to guess, there's probably more folks who have been unemployed and then we go into the whole issue of being underemployed within that population. So there's a lot of [indiscernible] about it.

But I think just based off of the simple fact that they're working in physical jobs and that is a problem now with social distancing and COVID‑19, if I had to guess, I would think that many of those folks were laid off and have been hopefully collecting unemployment so that they can have some support.

>> Yeah, yeah. I agree. I think [Echo on the line].

I think helping problem solve skills that people with disabilities have. You mentioned a couple of scenarios where the new world of working is actually beneficial to individuals with disabilities. So I think there's some of that, but there are some sides where it's more harmful because if people have any other conditions, that being out amongst with a weakened immune system might not be a good time for them.

>> Chapa: Absolutely. And that's where it comes to help like from vocational rehabilitation and the different resources. That's why I think it's huge because I guess the point is nobody has to navigate any of this alone. We're not alone.

>> That is so true. I like those words, Velissa. That's what we're trying to let folks know that, you know, I don't think there's any one answer for any one person. It's just a matter of getting out there and asking the questions to really see what fits your situation and your need best.

>> Chapa: Yes.

>> Next question is around teleworking. So it talks about if employees are currently teleworking and the employer is now wanting all employees to go back to the office, do the employees with a disability have any rights to continue teleworking for safety reasons?

>> Chapa: So it depends on the disability and it depends on their position and their working environment, truly.

It's kind of all the same. So whether it's you have an employee who is pregnant and I just spoke to an employer, she was pregnant and she's on bed rest. She can't work and remote work is not possible.

So it's ‑‑ the bottom line is all employers have to look at every complaint or issue on a case‑by‑case basis. I think the big mistake employers can do ‑‑ I understand why they do it is they require it across the board. And when you talk to employment law attorneys around the state there's a reason for that. Employers generally say you need to treat all of your employees the same. Every needs to be treated the same.

But when it comes to disabilities, we know that can't always be true. So you start off with this basic concept that everyone needs to come back. Realistically there will be some issues. Maybe someone doesn't have an actual disability but maybe they have an underlying health condition that could be exacerbated by the virus. That could be reason enough for the employee to stay home, but the bottom line is if the employee's disability prevents them from doing their job safely, yes, the employer is required to accommodate and in that case it might mean allowing the employee to work from home.

And if it turns out that their work has improved, why not make it more of a permanent thing?

As long as the employer has a good business reason for going that different direction with that employee, personally I don't see a problem with it. I think it's a good idea. I think it comes up with as everyone needs to do it, but then as people have concerns employers handle them one by one.

>> Yeah, a conversation right, having a conversation about what the situations are.

You mentioned work performance. We certain don't want work performance to go down. No business needs that.

>> Chapa: That's right. And that's the interactive process that's required by the Americans with Disabilities Act. You're just asking the questions, figuring out what the options are, keeping hell and safety up for most in mind.

>> So true. I think our next question we answered possibly a little bit. It just says do you believe that employment for individuals for people living with a disability has gotten better in the last three years? Personally I would say just from the employment that I see with employers and reaching out to us from vocational rehab, I think it's improving opportunities, but I think individuals themselves who have a disability understanding they can go to work and with the right training and support services leading them to the right type of vocation, it's certainly possible. Do you have any additional thoughts?

>> I was just thinking your answer was perfect.

>> Whew!

I got the lawyer on that ‑‑ I pulled my lawyer hat out for that one.

Let's see. Our last question so far, what would it be ‑‑ what would be the best method to convince an employer to hire people with disabilities?

Well, I personally ‑‑ I'm just going to speak, Velissa, so I don't like the word convince an employer. I think that helping an employer realize that hiring any qualified person, especially a person with a disability, is good for their business and good for the individual.

But we definitely want to have them look at qualified applicants when they're considering hiring someone. And if they see a qualified applicant and some of the benefits that we've talked about in hiring people with disabilities I think would be part of the persuasion conversation, but it's certainly taking a qualified applicant to them and showing them the abilities of people and not the inabilities of people. Do you have anything else to add?

>> Chapa: I would add that people are all different so some people respond to different things. So I think number one is you read the room. There are different arguments you make and as a lawyer that's what I do all day, argue with my clients.

So what can you do is first you want to identify the person that you're working with. So there are some owners out there who are numbers people. They just go off of statistics. And that's ‑‑ I would say statistically increases retention, workplace safety. You get your money back through the tax credits. Basically all of the financial benefits, new customer base. I would go with stats.

And then you have other folks who don't really care about the statistics, it's more about the [indiscernible]. And that's where we have to realize that when we pivot, it's not going to be overnight, sometimes pivoting is going to happen in steps. And so cultural humility becomes a part of that where sort of encouraging the individual to look beyond their concerns, see it it for what it is, give it a shot and kind of pulling from that section.

And some folks respond to both, the financial and the other piece.

So I think an overnight change of everything is just not going to happen. That's not how things work. But having some self‑awareness, self‑evaluation, and bringing these issues to light forces people to deal with them and to look at them and work with them t and I think a lot can be done in that as well.

So I would say don't expect an overnight change of everything, but I do celebrate those incremental changes. Do look into cultural humility and celebrate all of the movements forward because that gives people the ability to keep moving.

>> Great point. I like it. Very, very good.

For employees who are deaf, many employers won't provide interpreter for training or staff meetings.

What can be done to help these employers provide this accommodation?

>> Chapa: So I think one thing you should do is talk to the employee and ask the employee, hey, what would you like? Again, that's the interactive process. If they won't provide an interpreter, I would want to know why? Is it a cost issue? Is it an availability issue? Then if that's not a possibility for whatever reason, I would look into other alternatives. And asking the employee is a big part of it.

In my experience in talking to employers I'm really surprised at how many times the employer tells me they haven't asked the employee yet. And I'm thinking you're the expert. I think that's missed a lot and could probably solve a lot of problems. I know there's other technology and tools out there that folks can use as well.

>> Yeah, I think that's a really good point, asking the employee to know what do they use in other parts of their life for communication and so forth. I think that's a great way of putting it, talking to the personment.

Our last question it looks like you've mentioned pregnancy a few times, but does this qualify as a disability?

>> Chapa: Very good question. So pregnancy by itself is not a disability under the Americans with Disabilities Act. Here's the problem. Employers assume that a pregnant employee is disabled. And under the ADA if you assume someone has a disability and you're treating them as if they have a disability, guess what? They are protected under the ADA because you've concocted one in your head and you're treating them that way.

So that's one way the ADA can come into play. The other one is being pregnant is not in and of itself a disability, but sometimes you have a pregnant employee who can no longer bend, lift or stoop. Maybe they have gestational diabetes, maybe they need to go on bed rest, so disabilities can come about as a result of the pregnancy and and that's where the employer needs to remember to accommodate.

>> Great, great point.

Well, you have covered a lot of questions today and we thank you so much, Velissa, for being with us. Any last words?

>> Chapa: It was just a pleasure to be a part of this. Obviously this topic that's very near and dear to my heart so any opportunity I can have to share information, encourage folks and support, we are happy to do it. So please give us a call and that's all. Thank you so much for this opportunity.

>> You are so okay. And thank you, everyone, for joining us. We have our last webinar tomorrow at 10:00 a.m. in this webinar series celebrating National Disability Employment Awareness Month. That is the tool through Texas Workforce Commission, the Work In Texas tool, talking about how to utilize it, some of the accommodations within the system as well. We hope you can join us at 10:00 a.m. tomorrow. Thanks again Velissa and thanks again Randi and the Governor's Committee for People with Disabilities for assisting in this webinar series. Have a great day, everyone.