

EEOC Takes Action to Address Mental Health Discrimination in the Workplace

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Employers must take notice that the United State Equal Opportunity Commission (EEOC) is cracking down on companies that discriminate against workers because they have a mental health condition. Mental health conditions, such as major depressive disorder, bipolar disorder, and schizophrenia, substantially limit brain function. The EEOC determined these disorders constitute disabilities under the American with Disabilities Act (ADA).

The EEOC has significantly increased charges against employers for alleged ADA violations premised upon mental health issues.

In September, the EEOC released its **Strategic Enforcement Plan (SEP)**. A review of the SEP reveals that the EEOC will focus on harassment, retaliation, job segregation, labor trafficking, discriminatory pay, disparate working conditions, and other policies and practices that impact particularly

vulnerable workers and persons from underserved communities, including workers with mental health related disabilities.

Hence, employers must be extremely careful when dealing with employees or prospective employees who suffer from mental health conditions.

Under the ADA and other nondiscrimination laws, employers must provide “reasonable accommodations” to qualified employees with disabilities.

These accommodations are adjustments to the workplace that allow these employees to perform their job duties. These accommodations are usually not costly and can be beneficial in allowing employees to return to work, avoiding productivity losses, and promoting the recruitment and retention of qualified employees.

However, not all employees with mental health conditions require accommodations to perform their job duties. For those who do, accommodations should be individualized and developed with the input of the employee. Below is a list of examples of accommodations that have helped employees with mental health conditions to better perform their job duties. These are not all possible accommodations but provide a starting point to help employers promote an inclusive and supportive work environment. These include:

- Flexible workplace arrangements
- Scheduling adjustments

- Sick leave or flexible use of vacation time
- Individualized breaks
- Modification of non-essential job duties
- Additional training or support
- Positive reinforcement and flexible supervision
- Accommodations to the work environment, equipment, and technology
- Regular meetings between employees and supervisors to discuss workplace issues.

It is important for all employees to be aware of their rights and provide relevant training to co-workers and supervisors. Effective implementation of these accommodations will help create a more inclusive work environment and benefit both employees and employers.

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National Law Review, Volumess XIII, Number 338

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