



10 Steps to Mental Health Wellness for Your Employees

Insights

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The seemingly never-ending pandemic has affected all aspects of the workplace, with employee mental health and well-being becoming one of the top employee-related issues you need to deal with on a daily basis. The EEOC recently reported that approximately 30% of Americans with Disabilities Act-related charges it received in 2021 involved employees alleging discrimination based on mental disabilities. This statistic should not shock anyone given the statistics we previously recounted concerning employees' reports on the impact the pandemic has had on their mental health and what they expect employers to be doing to support their mental health. So what can you do to address the mental health crisis sweeping the nation – not only to minimize the chances of getting sued but to positively impact the lives of your workforce? This Insight will offer a 10-step plan you can put into place to help you with this most important of topics.

What are We Dealing With?

Workplaces are seeing an increase in employees reporting new mental health concerns and pre-existing mental health concerns exacerbated by the pandemic, remote work, and now a return to the workplace. The increase in mental health discrimination charges are founded largely on employee anxiety and post-traumatic stress disorder. Some employees with mental health conditions who have been working from home for almost two years are overwhelmed with anxiety at the prospect of returning to the office. You are most likely seeing an increase in the number of employees asking to work from home on a permanent basis as an accommodation of their mental health conditions.

The EEOC acknowledged in its pandemic guidance that employees with certain pre-existing mental health conditions (such as anxiety disorders, obsessive-compulsive disorders, and PTSD) may have a harder time managing the disruption COVID-19 caused. The difficulties such employees may have had, coupled with the fact that symptoms of these conditions can be vague and highly individualized, can make it difficult for employers to navigate the accommodation and interactive process required by the ADA.

What Can You Do?

To reduce the risk of ADA claims and potentially liability, you should equip yourself with the tools necessary to navigate employees' requests for accommodation related to mental health conditions. They can also help address situations where employees are struggling to perform their jobs because of mental health conditions. In addition to avoiding liability, you should be aware that their

workplace culture and investing in employee well-being is a key tool to retain and recruit good employees.

There is a distinct difference in how you should approach promoting employee mental health and wellness and addressing mental health conditions in the workplace that require an accommodation. You should be careful that your efforts to support employee mental health do not pry into an employee's personal medical information in violation of the ADA. To this end, we have outlined a 10-step approach for managing employee mental health in the workplace.

A 10-Step Plan for Addressing Employee Mental Health

1. **End the Stigma:** The biggest challenge you may face is removing the stigma associated with mental issues. People are often afraid to speak up about mental health problems for fear of being seen as incapable of performing their job or generally having something wrong with them. The most effective way to overcome this stigma is for leadership to start the conversation on mental health. It may be a cliché, but leading by example works. Starting and continuing the conversation can be tricky, however. It has to be done with care, so that the conversation does not feel invasive, artificial, or run afoul of the ADA.
2. **Gather Input:** Understand how your work environment impacts employees' mental health. This can be accomplished by asking employees about workload, flexibility, leadership, and culture.
3. **Determine the Landscape:** Evaluate your workplace culture to determine if it supports employee mental health. This can be accomplished with a workplace mental health checklist – which can be created in collaboration with your workplace law attorney.
4. **Smooth the Path:** Consider ways you can make employees more comfortable seeking accommodations. This includes emphasizing that employees need not disclose their diagnosis as part of the accommodation or FMLA process.
5. **Take Stock.** Now is a perfect time to audit your company resources for employees with mental health issues or when they are experiencing work- or family-related stress. These should include a review of your EAPs, hotlines, wellness programs, and. It is just as important to analyze whether employees are using these resources, and if not, what reasons might exist.
6. **Promote Resources:** Ensure that employees are aware of the mental health resources that your organization offers. These should include benefits related to mental illness and substance use treatment.
7. **Train on Accommodations:** Provide training to your supervisors and managers to recognize when an employee may be raising or requesting an accommodation based on a mental health issue – which may not be easy to identify. Employees with mental health conditions may request accommodations such as time off, emotional support animals, reduced work schedules, task lists, weekly meetings with their supervisor, and similar relief.
8. **Know the ABCs of WFH:** Understand that just because someone worked from home during the pandemic does not mean remote work is a reasonable accommodation. However, you need to

pandemic does not mean remote work is a reasonable accommodation. However, you need to also understand that simply because you want employees in the office does not mean remote work is not a reasonable accommodation. Examine each situation on a case-by-case basis.

9. **Stay in Your Lane:** Respect an employee's privacy and understand that managers should not ask for specifics regarding any mental health issues (such as diagnosis). It is not their role to determine whether the employee has a qualified disability. Rather, they should direct the employee to Human Resources.
10. **Be There.** Finally, your organization should be equipped to offer support of a general nature without running afoul of the ADA. Although disability discrimination law does not allow an employer to ask questions regarding a medical condition, you and your company leaders can still offer empathy and support. For example, if a supervisor notices that an employee has been late more times in the last month than in the preceding three years of employment, they may be able to ask the employee "I noticed you have been struggling to get to work on time, is everything okay?" or "Is there something we can do to help?"

Conclusion

If you have questions about best practices to support employee mental health or would like assistance in preparing a workplace mental health checklist suitable for your company, contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in our [Employee Leaves and Accommodations Practice Group](#). We will continue to monitor further developments and provide updates on this and other workplace law issues, so make sure you are subscribed to [Fisher Phillips' Insight System](#) to gather the most up-to-date information.

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