

Dealing with Employees with Psychiatric Disabilities

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- 1 in 5 Americans have a diagnosed or diagnosable psychiatric disorder
- Psychiatric disorders comprise 4 of the top 10 conditions resulting in work disability
- 20 percent of all ADA claims filed with the EEOC specify a psychiatric disorder

Issues for Workers with Psychiatric Disorders

- Stigma
- Stereotyping
- Co-worker fear
- Discrimination
- Shunning
- Harassment

Issues for Workers with Psychiatric Disorders

- Manager preferences
 - Physical disabilities
 - Sensory disabilities
 - Anything but psychiatric
 - Psychiatric disabilities

What the ADA Does Not Protect

- Workplace violence
- Unprofessional behavior
- Unexcused absences or tardiness
- Performance problems
- Rude or noncollegial conduct

Special Legal Issues for Employees

- Demonstrating that the disorder is an ADA “disability”
 - Mitigating measures
 - Substantially limited
 - Major life activity
 - Work
 - Interacting with others

Special Legal Issues for Employees

- Demonstrating that the individual is “qualified”
 - Can perform all essential functions
 - Can interact positively with supervisors and co-workers (and students)
 - Can maintain appropriate attendance and promptness
 - Is not a “direct threat”

Special Legal Issues for Employees

- Demonstrating that a reasonable accommodation is available and that it will work
 - Removing stressors from work environment
 - Transferring to a different supervisor (?)
 - Allowing to work at home or in some other quiet location
 - Reorganizing work to transfer functions that are difficult for the employee

Employer's Rights in Dealing with Employees with Psychiatric Disorders

- Performance standards
- Workplace behavior standards
- Attendance and promptness standards
- Scheduling issues
- Eligibility for leaves of absence

Dealing with Faculty with Disabilities

- Develop or reinforce performance expectations for faculty—in faculty handbook
- Ensure consistency in faculty workload policies—exceptions for nondisabled suggest you can make exceptions for disabled faculty as well
- Develop a policy on faculty tardiness or absence from class

Dealing with Faculty with Disabilities

- Respond promptly to instances where faculty miss class or are frequently late
- Document all instances of noncompliance with performance requirements for all faculty
- Adopt in full or in modified form the AAUP Statement on Professional Ethics

Dealing with Faculty with Disabilities

- Confront faculty whose behavior is disruptive, either in the classroom or in faculty meetings, etc.
- Document failures by individual faculty to meet research or service obligations
- Consider any requests for accommodations carefully, even if you conclude they are impracticable

Dealing with Faculty with Disabilities

- Notify your supervisor and university counsel if you believe the faculty member's behavior is dangerous, seriously disruptive, or problematic in other ways
- Learn about your institution's counseling services for faculty and keep the information handy

Dealing with Staff with Psychiatric Disabilities

- Ensure that job descriptions are accurate and up to date
- Add behavioral requirements to job descriptions (including courtesy, professional behavior), especially for positions requiring contact with students or other staff
- Make sure that supervisors are trained about dealing with workers with disabilities

Dealing with Staff with Psychiatric Disabilities

- Enforce attendance and tardiness policies consistently
- Address problematic behavior immediately, and document the behavior and your response
- Ensure that no one uses inappropriate language, in or out of the employee's presence, such as "crazy" or "lunatic"

Dealing with Staff with Psychiatric Disabilities

- Talk with the individual, expressing your concern for the behavior and its effect on the workplace
- Do not try to “diagnose” the reason for the problematic behavior
- Use your disciplinary tools for any problematic behavior, irrespective of the cause

Dealing with Staff with Psychiatric Disabilities

- Avoid the temptation to “help” the individual, as it may lead to a “regarded as disabled” claim
- If a staff member has sought treatment for a psychiatric disorder, be as supportive as you can while insisting that performance and conduct expectations are met by all employees.