

Employing and Accommodating Workers with Psychiatric Disabilities

This brochure is one of a series on human resources practices and workplace accommodations for persons with disabilities edited by Susanne M. Bruyère, Ph.D., CRC, SPHR, Director, Program on Employment and Disability, School of Industrial and Labor Relations – Extension Division, Cornell University. This brochure was originally written in 1994, and updated in 2000, by Laura L. Mancuso, M.S., C.R.C., Goleta, California, (805) 967-1716.

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The full text of this brochure, and others in this series, can be found at: www.ilr.cornell.edu/ped/ada. Research reports relating to employment practices and policies on disability civil rights legislation, are available at: www.ilr.cornell.edu/ped/surveys.

For further information, contact the Program on Employment and Disability, Cornell University, 102 ILR Extension, Ithaca, New York 14853-3901; 607/255-2906 (Voice), 607/255-2891 (TTY), or 607/255-2763 (Fax).

More information is also available from the ADA Technical Assistance Program and Regional Disability and Business Technical Assistance Centers, (800) 949-4232 (voice/TTY), www.adata.org

The Americans with Disabilities Act (ADA) and Individuals with Psychiatric Disabilities

Some people are surprised to learn that the ADA covers individuals with psychiatric, as well as physical, disabilities. This is consistent with Sections 503 and 504 of the Rehabilitation Act of 1973, the federal nondiscrimination statute which preceded the ADA. In fact, 13% of those filing employment discrimination claims under the ADA describe themselves as having emotional or psychiatric impairments, making it the second most common type of disability cited in all claims to date -- and exceeded only by charges from people with back impairments, who comprise 18% of total claims.

ADA coverage is limited to individuals with "physical or mental impairments" that "substantially limit one or more major life activities when using a mitigating measure."¹ When a mitigating measure applies, the law also considers any remaining limitation and medication side effects. The ADA also protects from discrimination individuals with a record of a disability and individuals regarded as having a disability. Thus individuals who do not currently have a physical or mental impairment that substantially limits one or more major life activities would still fall within the scope of ADA coverage if a covered entity discriminates against them based on a record of a disability or if they are regarded as being disabled.

Individuals with psychiatric diagnoses such as major depression, bipolar disorder (formerly called manic-depressive illness), and schizophrenia may be covered, depending on how the condition affects their functioning. Individuals with other psychiatric conditions (such as anxiety, personality, dissociative, or post-traumatic stress disorders) may also be included in the ADA definition.

The ADA does not usually cover impairments that only last for a brief period of time or do not significantly restrict an individual's ability to perform a major life activity. For example, individuals with mild or short-term mental health problems usually will not meet the ADA's definition of disability.²

There is much debate about preferred terminology for referring to individuals with psychiatric disabilities. Some other commonly used terms are "person with a mental health disability," "mental health consumer," "person with a mental illness," "mental health client," or "psychiatric survivor."

¹ Sutton v. United Airlines, 119 S. Ct. 2139, 9 AD Cas. (BNA) 673 (1999).

² For a more detailed analysis of how the ADA's employment provisions apply to individuals with psychiatric disabilities, see the Equal Employment Opportunity Commission (EEOC) "Enforcement Guidance on the Americans with Disabilities Act and Psychiatric Disabilities" published on March 25, 1997 and available from the EEOC Publications Distribution Center at (800) 669-3362 (voice) or (800) 800-3302 (TTY).

Popular Misconceptions About People with Psychiatric Disabilities

There are many prevalent myths about individuals with psychiatric disabilities that reinforce negative, inaccurate stereotypes.

Myth #1: Mental illness is uncommon. Estimates by the federal government indicate that 2.6 percent of American adults -- that is, 5.3 million people -- have a severe and persistent mental illness³. Many more -- as much as 20 percent of the U.S. adult population -- are affected by mental health disorders in any given year.⁴

Myth #2: Mental illness is the same as mental retardation. The two are distinct disorders. A diagnosis of mental retardation is chiefly characterized by limitations in intellectual functioning, as well as difficulties with certain skills of daily life. By definition, mental retardation begins before the age of 18.

In contrast, the intellectual functioning of persons with psychiatric disabilities varies as it does across the general population. The symptoms of mental illness may include emotional disturbances, disordered thinking, or perceptual difficulties. Mental illness may develop at any age, from childhood through later life. Bipolar disorder and schizophrenia have a high rate of onset during early adulthood. Therefore, many individuals with psychiatric disabilities enter or complete college before first experiencing symptoms.

Myth #3: People with psychiatric disabilities are likely to be violent. Upon learning that an applicant has a history of psychiatric treatment, some employers may expect that the individual is likely to become violent. This myth is reinforced by portrayals of people with mental illnesses in movies, television, and the news media as frequently and randomly violent.

According to the National Mental Health Association, "Violent acts committed by persons with mental illness represent a small fraction of the violence perpetrated in our country, yet these acts are frequently highly sensationalized by the media and lead to the continued stigmatization of persons with mental illness."⁵

³ Kessler, R. C., et al. (1996). The 12-month prevalence and correlates of serious mental illness, In Manderscheid, R. W., & Sonnenschein, M. A. (Eds.), *Mental Health, United States, 1996* (U.S. Dept. of Health & Human Services Publication No. (SEA) 96- 3098, pp. 59–70). Washington, DC: U.S. Government Printing Office.

⁴ *Mental Health: A Report of the Surgeon General - Executive Summary*. Rockville, MD: U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Mental Health Services, 1999, page xii.

⁵ Position Statement adopted by the Board of Directors of the

Myth #4: Recovery from mental illness is not possible. For many decades, people with mental illnesses were separated from the rest of society through institutionalization in mental hospitals. Mental illness was thought to be permanent and untreatable.

Public policies began shifting in the late 1950's and early 1960's as we realized that hundreds of thousands of American citizens were being confined unnecessarily. Medications were discovered that helped to alleviate the symptoms of mental illness, and there was a gradual evolution toward the provision of treatment and rehabilitation services in the community. Long-term studies have shown that the majority of people with mental illnesses show genuine improvement over time and lead stable, productive lives.

The success of prominent figures with mental illnesses has helped to inform the public that healing and recovery are indeed possible. Psychologist & Professor Kay Redfield Jamison has written several popular books about her own experience with bipolar disorder. A book by Kathy Conkrite entitled, "On the Edge of Darkness" features personal accounts by Mike Wallace, Joan Rivers, William Styron, Kitty Dukakis, and others about their struggle with and success in overcoming depression.

Myth #5: People with psychiatric disabilities can't tolerate stress on the job. This myth over-simplifies the rather complex human response to stress. People with a variety of medical conditions - including cardiovascular disease, multiple sclerosis, and psychiatric disorders - may find their symptoms exacerbated by high levels of stress. But the sources of personal and job-related stress vary substantially from individual to individual. Some people find an unstructured schedule to be very stressful, while others struggle with a regimented work flow. Some people thrive on public visibility or high levels of social contact, while others need solitude to focus and be productive. Of course, workers with psychiatric disabilities vary, too, in their responses to stressors on the job.

All jobs are stressful in some regard. Productivity is maximized when there is a good match between the employee's needs and his or her working conditions - whether or not the individual has a psychiatric disability.

How will employers know if current workers or applicants have psychiatric disabilities?

Psychiatric disabilities are not necessarily apparent. Further, the ADA prohibits employers from asking applicants if they have psychiatric disabilities before making a job offer. Examples of pre-employment questions not allowed under the ADA include the following: Have you ever been hospitalized?

National Mental Health Association on June 13, 1999 regarding "Constitutional Rights and Mental Illness."

Have you had a major illness in the last five years? Have you ever been treated by a psychiatrist or psychologist? How many days were you absent from work because of illness last year? Are you taking any prescribed drugs?

In order to determine whether applicants are qualified, the screening process should identify the essential functions of the job, then seek evidence that the potential employee has the needed skills, work experience, education or other qualifications.

Given these guidelines, employers are unlikely to know if an applicant has a psychiatric disability unless he or she chooses to discuss it. For example, a worker might decide to disclose that he/she has a disability in order to request a workplace accommodation. But some workers with psychiatric disabilities don't require accommodations. Applicants and employees are often deterred from discussing their disabilities with employers by the very severe stigma associated with psychiatric disorders in our society. Disclosure is a personal decision on the part of the worker that involves many factors including trust, comfort with others in the workplace, job security, and the perceived open-mindedness and support of the immediate supervisor.

How might psychiatric disabilities affect an individual's functioning in the work place?

It is impossible to generalize about the characteristics of all people with psychiatric disabilities. When asked how their mental illness affects their functioning on the job, some workers with psychiatric disabilities cite difficulty maintaining concentration. Workers who take medications to control their psychiatric symptoms may experience side effects such as hand tremors, excessive thirst, or blurred vision. Some individuals report difficulty in focusing on multiple tasks simultaneously, particularly amid noise and distractions.

Of course, the strengths and weaknesses of each applicant or employee must be assessed individually, regardless of the presence of a disability. The worker's ability to perform a job will depend on his or her work experience, training, and skills, not merely the presence or absence of a psychiatric diagnosis.

What types of accommodations might be helpful for workers with psychiatric disabilities?

This is a frequently-asked question. The Cornell University School of Industrial and Labor Relations has surveyed both federal government and private employers regarding their policies and practices on the ADA and accommodations. In both studies, respondents identified further information about accommodations for persons with psychiatric disabilities as a significant ongoing need (69 percent of Federal respondents and 65 percent of non-federal respondents).⁶

Good management practices will produce many of the workplace accommodations needed by people with psychiatric disabilities. Like all employees, workers with psychiatric disabilities may benefit from supervisors who:

- approach each employee with an open mind about his/her strengths and abilities,
- clearly delineate expectations for performance,
- deliver positive feedback along with criticisms of performance in a timely and constructive fashion,
- are available regularly during the workday for consultation with employees,
- demonstrate flexibility and fairness in administering policies and work assignments.

In addition to high quality supervision, some workers with psychiatric disabilities may benefit from one or more of the following accommodations:

- schedules which incorporate flex-time, part-time positions or job sharing, time off for scheduled medical appointments or support groups,
- the use of break time according to individual needs rather than a fixed schedule,
- physical arrangements (such as room partitions or an enclosed office space) to reduce noise or visual distractions,
- extending additional leave to allow a worker to keep his or her job after a hospitalization,
- allowing workers to phone supportive friends, family members, or professionals during the work day,
- joint meetings between the employee, supervisor, and job coach or other employment service provider.

These are only a few examples of the many accommodations that have been successfully implemented for workers with psychiatric disabilities. Effective accommodations for workers with disabilities are always determined on a case-by-case basis. The Job Accommodation Network at (800) ADA-WORK provides free consultation to employers and individuals with disabilities about workplace accommodations. In addition, reference materials about accommodating workers with psychiatric disabilities are available from the organizations listed below.

Conclusion

One of the ADA's primary goals is to promote equal employment opportunity for people with disabilities. Achieving this goal requires employers to move beyond stereotypes and to assess the qualifications and performance of workers with psychiatric disabilities on an individual basis. Employees with psychiatric disabilities can bring unique skills and sensitivities that significantly add to the quality and diversity of the workplace.

University, School of Industrial and Labor Relations Extension Division, Program on Employment and Disability.

⁶ Bruyère, S. (2000). *Disability employment policies and practices in private and federal sector organizations*. Ithaca, NY: Cornell

Where can I obtain additional information?

There are a number of organizations that can provide information on accommodations and other considerations in working with individuals with psychiatric disabilities. Some of these are (in alphabetical order):

ADA Technical Assistance Program and Regional Disability and Business Technical Assistance Centers
(800) 949-4232 (voice/TTY), <www.adata.org>

Bazelon Center for Mental Health Law
(202) 467-5730 (voice), (202) 467-4232 (TTY),
<www.bazelon.org>

Center for Psychiatric Rehabilitation, Boston University
(617) 353-3549 (voice), (617) 353-7701 (TTY),
<www.bu.edu/sarpsych>

Employee Assistance Professionals Association, Inc.
(703)387-1000 (voice), (703)522-4585 (fax), <<http://www.eap-association.com/>>

International Association of Psychosocial Rehabilitation Agencies
(410) 730-7190 (voice), (410) 730-1723 (TTY), <www.iapsrs.org>

Job Accommodation Network
(800) ADA-WORK (voice/TTY),
<www50.pcepdpd.gov/pcepdp/projects/job.htm>

Matrix Research Institute/Univ. of Pennsylvania Research & Training Center on Vocational Rehabilitation and Mental Illness
(215) 569-2240 (voice), (215) 569-8098 (TTY),
<www.matrixresearch.org>

National Alliance for the Mentally Ill
(703) 524-7600 (voice), (703) 516-7227 (TTY), <www.nami.org>

National Depressive & Manic-Depressive Association
(800) 826-3632 (voice), <www.ndmda.org>

National Empowerment Center
(800) POWER-2-U (voice), (800) TTY-POWER (TTY),
<www.power2u.org>

National Mental Health Association
(800) 969-NMHA (voice), (800) 433-5959 (TTY),
<www.nmha.org>

National Mental Health Consumers' Self-Help Clearinghouse
(800) 553-4KEY (voice), (215) 751-9655 (TTY),
<www.mhselfhelp.org>

National Mental Health Services Knowledge Exchange Network

A Service of the Center for Mental Health Services, Substance Abuse and Mental Health Services Administration, U.S. Dept. of Health & Human Services. (800) 789-2647 (voice), (301) 443-9006 (TTY), <www.mentalhealth.org>

President's Committee on Employment of People with Disabilities
(202) 376-6200 (voice), (202) 376-6205 (TTY),
<www.pcepdpd.gov>

National Research & Training Center on Psychiatric Disability, University of Illinois at Chicago
(312) 422-8180 (voice), (312) 422-0706 (TTY),
<www.psych.uic.edu/~rtc/>

U.S. Equal Employment Opportunity Commission
(800) 669-4000 (Voice), (800) 669-6820 (TTY), <www.eeoc.gov>

Washington Business Group on Health
(202) 408-9320 (voice), (202) 408-9333 (TTY), <www.wbgh.com>

Disclaimer

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The Commission's interpretations of the ADA are reflected in its ADA regulations (29 CFR Part 1630), Technical Assistance Manual for Title I of the Act, and EEOC Enforcement Guidance. Cornell University is authorized by the National Institute on Disability and Rehabilitation Research (NIDRR) to provide information, materials, and technical assistance to individuals and entities that are covered by the Americans with Disabilities Act (ADA). However, you should be aware that NIDRR is not responsible for enforcement of the ADA. The information, materials, and/or technical assistance are intended solely as informal guidance, and are neither a determination of your legal rights or responsibilities under the Act, nor binding on any agency with enforcement responsibility under the ADA.

The Equal Employment Opportunity Commission has issued enforcement guidance which provides additional clarification of various elements of the Title I provisions under the ADA. Copies of the guidance documents are available for viewing and downloading from the EEOC web site at: <http://www.eeoc.gov>