



FREQUENTLY ASKED QUESTIONS

ABOUT EMPLOYEES WITH

PSYCHIATRIC DISABILITIES

▶ *Tips and Resources
on the ADA, Job
Accommodations,
and Supervision*

by

**Kim MacDonald-Wilson
Center for Psychiatric Rehabilitation
Boston University**

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Frequently Asked Questions about Employees with Psychiatric Disabilities

The Americans with Disabilities Act (ADA) prohibits discrimination on the basis of disability in employment, public services, public accommodations, transportation, and telecommunications. As employers, it is important to understand the critical issues involved in providing reasonable accommodations for people with psychiatric disabilities. Many employers have serious questions about people with psychiatric disabilities in the workplace since the Americans with Disabilities Act was passed in 1990. This booklet is an attempt to answer some of those questions and direct employers to relevant resources. Learn what researchers, service providers, and educators at the Center for Psychiatric Rehabilitation at Boston University have learned about providing reasonable accommodations for people with psychiatric disabilities in work settings.

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Q How will I know if an applicant or employee has a psychiatric disability?

▶ A. Because there is still a lot of stigma associated with mental illness, many people would not choose to acknowledge a mental illness unless they really needed to do so. Under the law, you can only inquire about disability once someone has disclosed or requested a reasonable accommodation. After that, if you are still unsure whether the person has a disability that is covered under the Americans with Disabilities Act, you have a right to ask for a letter documenting the disability.

This letter may include information about the nature of the disability, the functional limitations caused by the disability that might interfere with job performance, and accommodations that will address those limitations. This type of documentation can be provided by a medical doctor, clinical psychologist, or other licensed professional such as a licensed social worker, licensed mental health counselor, or certified rehabilitation counselor. You may not ask for information about therapy, history of the illness, or other types of personal information that are not relevant to the work situation.

Q What kinds of words can someone use to disclose a psychiatric disability? I have heard that a person can use “plain English” to tell me that they have a disability.

▶ A. The new *Enforcement Guidance on the ADA and Psychiatric Disabilities* by the Equal Employment Opportunity Commission (EEOC) states that an applicant or employee can use ‘plain English’ to notify an employer about a disabling condition in requesting reasonable accommodations. What this means is that there are no magic words that the person must use. Some of the examples given in the guidance suggest that someone may say that they are ‘depressed and stressed’ and need time off from work to deal with it. Other examples of what you might hear include:

- I have had emotional problems that I have been treated for, and may need time off for medical appointments.
- I have a medical condition that requires breaks every 2 hours.
- I have a chemical imbalance that periodically affects my

energy levels. Every year or so, my doctor has to adjust the chemicals in my system in the hospital for about 2 weeks.

Q What kind of information about psychiatric disability do I need and how can I get it?

▶ A. In general, you need to know what the effect of the disability will be on the employee's functioning in the job. Specifics regarding psychiatric history, diagnosis, and medications are not as relevant as the specific barriers that they present in the workplace. Most employers want to know such practical information such as:

- What behaviors will I see or can I expect as a result of the illness or treatment?
- How will these behaviors interfere with job functioning?
- What should I do if I see these behaviors (what strategies or accommodations will help)?

One of the best sources of information is the employee him or herself. The employee has experience with the illness and its effects on functioning. Other sources of information may be a professional working with the person, your Employee Assistance Program staff, or the **Job Accommodation Network** (800/526-7234) which provides free telephone consultation regarding employment and accommodations issues.

Q How does a psychiatric disability affect an employee's functioning on the job?

▶ A. Just knowing that someone has a psychiatric disability does not mean that they will have problems on the job. For many people, having a psychiatric disability has no effect on job performance. For others, the disability may only affect work temporarily.

People who experience problems at work may simply be having a bad day or may be working through a difficult time in their lives. A pattern that continues for a long period may indicate an underlying mental health problem. What employers and supervisors may notice are significant changes in their employee's work habits, behaviors, performance, and attendance, such as:

- consistent late arrivals or frequent absences,

- lack of cooperation or difficulty working with colleagues,
- decreased productivity,
- problems concentrating, making decisions, or remembering things,
- making excuses for missed deadlines, or poor work,
- decreased interest or involvement in one's work.

Source: Zuckerman, D., Debenham, K. & Moore, K. (1993). *The ADA and People with Mental Illness: A Resource Manual for Employers*. Available from the National Mental Health Association, 1021 Prince Street, Alexandria, VA 22314-2971.

One study recently conducted by the Center for Psychiatric Rehabilitation on *Reasonable Workplace Accommodations for People with Psychiatric Disabilities* found that the most common difficulties leading to accommodations for employees who were involved with a supported employment service included:

- **Interacting with others** – interviewing for the job, clarifying instructions, asking for help, starting conversations with coworkers
- **Learning the job** – remembering the routine, following instructions, learning new tasks
- **Maintaining work stamina/pace** – working without breaks, standing for long periods, completing tasks in allotted times, managing time
- **Managing symptoms/tolerating stress** – relaxing, recognizing stressful situations, managing distracting thoughts and feelings

Not all employees with psychiatric disabilities will experience these problems. It is best to take each situation individually and find out how it affects your particular employee. Here are a few examples of potential problems and their accommodation solutions:

- **Screening out environmental stimuli** – an inability to block out sounds, sights, or odors which interfere with focusing on tasks

Problem: An employee may not be able to work next to a noisy printer or in a high traffic area.

Solutions: Move printer away from work area, allow employee to wear headphones playing soft music, install high partitions around desk.

- **Handling time pressures and multiple tasks** – managing assignments and meeting deadlines, prioritizing tasks, working on several projects simultaneously
 - Problem:* An employee may not know how to decide which tasks should be done first, or how to plan to complete tasks by the due date.
 - Solutions:* Break larger projects down into manageable tasks, meet regularly to help the employee to prioritize tasks or estimate time to complete the project.
- **Responding to negative feedback** – understanding and interpreting criticism, knowing what to do to improve, initiating changes because of low self esteem
 - Problem:* An employee may not seem to understand the feedback given, or becomes upset when criticism is delivered.
 - Solutions:* Arrange a meeting with the employee and a support person of their choice to facilitate feedback, use a feedback loop (see How do I give feedback), give the employee the chance to read written feedback ahead of time and then discuss it with them.



What job accommodations are effective?



A. Since mental illnesses can affect how clearly someone thinks or communicates, the types of accommodations that work include changes in interpersonal communication, supervision and support, flexibility in schedules, and adjustments in how directions are given, tasks are organized, or time is managed. The web site developed by the **Center for Psychiatric Rehabilitation** (www.bu.edu/cpr/reasaccom.html) and the **Job Accommodation Network** (800/526-7234) have many examples of effective accommodations.



How do I figure out which accommodations will work?



A. Accommodations should be determined on a case-by-case basis, but there are procedures that can be used as a guide. Starting with a disclosure of disability or a request for an accommodation, open a dialogue with the person about their strengths and the limitations experienced and brainstorm possible accommo-

dations. Periodically reviewing and assessing the accommodations and performance is recommended. The following steps can be used as a guide:

1. Assess the required skills and competencies to do the job.
 - Technical skills, expertise
 - Rules of workplace behavior and performance standards
 - General work skills, unwritten rules and social expectations
2. Define essential (main) and marginal (secondary) functions of the job.
3. Evaluate both the *strengths* and the *functional limitations* of the employee (the things the employee has trouble doing on the job).
4. Generate ideas for *job accommodations*:
 - Ask the employee
 - Consult a job coach, employment specialist, state vocational rehabilitation counselor in your area
 - Ask the employee's counselor or doctor (with permission)
 - Contact the **Job Accommodation Network** (800/526-7234) for free technical assistance
 - Consider involving an ADA mediator who can help negotiate reasonable accommodations – contact the **Key Bridge Foundation Mediation Training and Information Center for the ADA** (703/528-1609) for referrals.
5. Select the accommodation that is both reasonable and effective (employers can choose the accommodation that works best for them, considering the preference of the employee).
6. Periodically review the effectiveness of the accommodation.



How do I give feedback without upsetting the employee?



A. Good supervisory practices that work for most people are also effective for those with psychiatric disabilities. It is difficult for anyone to get negative feedback. The following is a feedback loop that has been found helpful:

1. Ask the employee to give his/her perspective on performance. Try to encourage the employee to have a balanced perspective, identifying both strengths and weaknesses. In

first attempts, have the employee list more strengths than weaknesses.

- Overall evaluation of performance,
 - Strengths – ask the employee to mention at least two,
 - Weaknesses – ask the employee to mention at least one,
 - Specific ways to improve performance – things to do differently next time.
2. Summarize what you heard the employee saying to demonstrate understanding of his or her perspective.
 3. Identify and then share areas in which you agree with the employee's perspective, starting with strengths. Again, identify more strengths than weaknesses.
 - Overall evaluation of performance,
 - Strengths – mention at least two,
 - Weaknesses – mention at least one,
 - Specific ways to improve performance – suggest specific things to do differently next time.



What can I say to coworkers who ask about an employee's accommodations?



A. It is illegal to share confidential information about an employee's disability, medical condition, or accommodation without the permission of the employee. The exceptions are managers or supervisors providing or approving the accommodations, those in charge of safety and risk procedures, or government enforcement officials, such as those responsible for Equal Opportunity or Affirmative Action. All information about disability and accommodations must be kept separate from personnel files.

Coworkers who question why one employee gets to come in later or has cubicle walls installed are not entitled to know that these are accommodations or are due to a disabling condition. One complication is that many of the simple accommodations that work for someone with a mental illness are things that many employees may wish to have themselves. Employers can respond to such comments by stating that they are following employment laws or that they try to support all employees in doing their jobs, leaving the opportunity open to discuss that coworker's needs at a later time.

Q Can I discipline or fire an employee who is not doing the job?

▶ A. The ADA only protects *qualified* employees. Employees are qualified if they can perform the job, either by using an accommodation or not. While legally employers must provide reasonable accommodations to qualified employees, employers are not expected to change the standards of performance, or the essential functions of the job itself, with the exception of modifying or eliminating marginal functions of the job. Speak directly with employees about their performance and determine if accommodations might be useful. If you are unsure whether you should accommodate or discipline, you can contact the **Job Accommodation Network** (800/526-7234) for free technical assistance in sorting out these questions.

Q Where can I go for more information?

▶ A. The following are selected resources (in alphabetical order) which can provide more information on these and related topics.

ADA Disability and Business Technical Assistance Centers (DBTACS)

800/949-4232 (voice, TTY)

<http://www.adata.org>

Calling the 800 number automatically connects the caller with one of ten centers that serves the local region of the caller. The text of many of the governmental materials are available on the ADA Document Center web site (www.janweb.icdi.wvu.edu/kinder), including the brochure *Employing and Accommodating Workers with Psychiatric Disabilities*.

Center for Psychiatric Rehabilitation at Boston University

617/353-3549 (voice)

617/353-7701 (TDD)

<http://www.bu.edu/cpr> (Center's home page)

<http://www.bu.edu/cpr/jobschool> (handling your psychiatric condition at work and school)

<http://www.bu.edu/cpr/reasaccom.html> (reasonable accommodations information for employers and educators)

Conducts research and training, and provides information and technical assistance on issues related to vocational rehabilitation, supported education, and supported employment for people with psychiatric disabilities. Has web site specifically for employers and educators on the ADA and accommodations.

Equal Employment Opportunity Commission (EEOC)

202/663-4900

800/669-4000

800/669-3362 (publications)

800/800-3302 (TDD)

<http://www.eeoc.gov>

Enforces Title I, which prohibits discrimination in employment and provides technical assistance to employers and people with disabilities. Provides free ADA materials, including the *ADA Handbook*, *Title I Technical Assistance Manual* and the new *Enforcement Guidance on the ADA and Psychiatric Disabilities*.

Job Accommodation Network

800/526-7234 (voice/TDD) or 800/ADA-WORK

800/526-4698 (in WV)

800/526-2262 (in Canada)

<http://janweb.icdi.wvu.edu>

Offers information network, free telephone consulting service on the ADA and accommodations, and maintains a database of successful accommodations.

Judge David L. Bazelon Center for Mental Health Law

202/467-5730 (voice)

202/467-4232 (TDD)

<http://bazelon.org/bazelon/ada.html>

Provides information and resources for lawyers and advocates, on the ADA and other laws protecting people with mental disabilities. Summarizes court cases and findings on the ADA, mental health consumers, and employment litigation.

President's Committee on Employment of People with Disabilities

202/376-6200 (voice)

202/376-6205 (TDD)

<http://www.pcepd.gov>

Provides practical information, publications, and technical assistance on employment of people with disabilities.

Washington Business Group on Health

202/628-9320 (voice)

<http://www.wbgh.com>

Provides information and technical assistance to employers on a variety of employment issues. Has database and some publications on reasonable accommodations for people with psychiatric disabilities.

For more information on the ADA and people with psychiatric disabilities, visit our web site for employers and educators at:

www.bu.edu/cpr/reasaccom.html

Here's what you'll find:

- What accommodations work
- Real life scenarios and how to solve them
- Frequently Asked Questions
- Tips on handling disclosure, supervision techniques, and other issues
- Resources and readings on reasonable accommodations, the ADA and Section 504 of the Rehabilitation Act of 1973

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Center for Psychiatric Rehabilitation
940 Commonwealth Avenue West
Boston, MA 02215
617/353-3549
www.bu.edu/cpr