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Mental Disabilities in the Workplace:
The Laws That Helped Aid in Discrimination, Obstacles Employees Have to Endure, and What Employers Could Do

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This paper will examine a crucial topic in today’s work environment, mental disabilities. “Mental disabilities are any mental disorder, learning or development disorder, in spite of the reason of the disorder” (Binui & Kleiner, 2000, 62). In the past, employees who possessed a mental disability had to endure discrimination and unfair stereotyping due to the fact that they were not fully protected by the law. In 1990, the Americans with Disabilities Act (ADA) was created to help aid individuals with a disability; however, the definition of disability wasn’t so clear. However, in 2008, the ADA Amendments Act of 2008 (ADAAA) was passed and this made numerous changes to the definition of disability. Because of this law, many individuals are now able to seek out protection and work toward their best potential as an individual and employee. With this introduction, this paper will address mental disabilities among today’s workforce, mental disabilities, and how the laws created assist these individuals, the difficulties these employees are still facing, and what employers could do to help accommodate these employees.
Mental Disabilities in the Workplace:

The Laws That Helped Aid in Discrimination, Obstacles Employees Have to Endure, and What Employers Could Do

In the past, employees who had some kind of mental disability were forced to work in an environment with hardly any legal protection and were discriminated against due to the fact that mental disabilities was not clearly defined. Before the Americans with Disability Act of 1990, the only law in place to assist employees was the Rehabilitation Act of 1973; yet under the Rehabilitation Act of 1973, the only employees who were covered by this law were the Federal Government employees of federally supported programs (Brooks & Kleiner, 2003). In 2009, the ADA Amendments Act of 2008 (ADAAA) became effective. This law made numerous changes to the definition of disability. The ADA Amendments Act of 2008 identifies a disability as a person: "(1) with a physical or mental impairment that substantially limits one or more major life activities; (2) who has a record of a physical or mental impairment that substantially limited a major life activity; and (3) who is considered as having such impairment" (Cortiella & Kaloi, 2009, 3). Substantially limits means that an individual cannot achieve a "major life activity" compared to an average person (Keaty, Srivastava, & Stewart, 2005, 45). In addition, a "major life activity can be defined as being able to perform daily activities, such as walking, seeing, talking, learning, breathing, eating, etc" (Keaty, Srivastava, & Stewart, 2005, 45). This law now makes it easier for an individual who has some sort of mental impairment to become qualified as a person with a disability.
"According to the National Institute of Mental Health (NIMH), roughly around one in five adults may be distressed with a mental disorder in any given year" (Weber, Davis, & Sebastian, 2002, p. 45). In addition, those employees who possess mental disabilities often face considerable obstacles in the employment environment. When one thinks about disability, the most common thing that comes to mind is a physical disability. Most individuals do not really think about mental disabilities, such as depression, anxiety, intellectually impairment, personality disorder, and mental or emotional disease; however, this is a growing issue among the workforce today (Binui & Kleiner, 2000).

**Obstacles Employees with Mental Disabilities Have to Endure**

Another concern that needs to be brought to attention when it comes to individuals who have a mental disability or disabilities is the growing rate of poverty. Individuals with disabilities may not have an equal opportunity when it comes to being employed. Even though laws are set in place, there is still discrimination taking place before even being hired and after being hired as well. "In 2007, in the United States, the Equal Employment Opportunity Commission received 17,734 charges of disability discrimination" (Markel & Barclay, 2009, p. 208). This can be discouraging and disheartening for current individuals who may have a mental disorder. They may feel as if though they had no shot to begin with; therefore, they may not even try to find a place of employment.

In addition, people with disabilities often face stereotyping as well. Employers' or employees' may assume individuals who have a mental disability or disabilities may not be able to perform their job correctly; however, this is not the case. It has been shown that people with disabilities generally perform at the same level as non-disabled individuals (Markel & Barclay, 2009). This
can discourage employees' who have mental disabilities. This illustrates how crucial it is for any organization to implement fairness in the workplace and stop discrimination. Furthermore, many organizations do not hire disabled individuals due to the fact that they are concerned that the individuals may create unintentional hazards for themselves and the other employees (Kaletta, Binks, & Robinson, 2012). "According to the Labor Statistics 2012 data for March 2011, only 21% of people over the age of 16 are in the labor force", and this compares to the "69.7% of people without a disability" (Kaletta, Binks, & Robinson, 2012, 62). All of the issues mentioned previously have caused and continue to cause a negative effect among individuals with some sort of mental disability. Even though laws, such as the ADA Amendments Act of 2008, have been set in place to help aid such individuals, there is still discrimination taking place in the workforce.

How Employers Can Assist Employees

It is crucial for organizations to research and put into practice various methods to help accommodate individuals with some sort of mental illness. Reasonable accommodation can be defined as a "modification or an adjustment to a job or the work environment that will enable a qualified applicant or employee with a disability to participate in the application process or to perform essential job functions" (Kreisman & Palmer, 2002, 26). Essential job functions include the fundamental job duties of the employment position the individual with a disability holds or desires (Keaty, Srivastava, & Stewart, 2005). Furthermore, the essential functions can be established by numerous aspects consisting of the "manager's opinions, written job descriptions utilized for advertising or interviewing candidates for the job, terms of a collective bargaining agreement, and the amount of time spent on the function in the job" (Keaty, Srivastava, & Stewart, 2005, 47).
There are assortments of ways for an employer to provide special accommodations for employees who possess mental disorders. For example, an organization could provide an employee who has been diagnosed with a mental impairment with a more flexible working atmosphere. This could be done by providing a more flexible working schedule, allowing the employee to take more breaks if needed, and also allow him or her to work at home on certain days of the week. In addition, an employer could accommodate an employee by assigning smaller workloads that are still attainable, and provide an environment that is soothing and free of distractions (Loy, 2011). Furthermore, an employer could also allow the presence of a support animal or service animal for an employee who needs it for emotional reasons; however, as long as the animal is well-trained, does not interrupt the workplace, and does not cause undue hardship for the company (Batiste & Fullmer, 2011). It would be crucial however, to speak with the employee about rules whenever the pet is brought to work. Also, the employee would need to bring proper documentation, such as a doctor’s note, that explains why it would be important for him or her to bring the support animal to work.

Along with the examples of how an organization could provide accommodations for employees with mental disabilities, employers could also provide employees with praise, reinforcement, guidance and feedback. Furthermore, the manager should provide clear, specific expectations along with consequences as well (Loy, 2011). This way the employee would know exactly what is expected of them and if he or she didn’t perform up to those expectations, the employee would also know the consequences.
However, there are circumstances in which an employer may not be required to provide special accommodations. One reason may be if it causes undue hardship. This happens when an accommodation for a disabled employee would cause extensive costs and essentially change the function of a business (Crampton & Hodge, 2003). In addition, the issues that are measured when establishing whether an accommodation is an undue hardship consist of the "cost of the accommodation, the employer's size, financial resources, and the nature and structure of operations" (Crampton & Hodge, 2003, p. 44). Once a certain accommodation is considered an undue hardship, then it is the responsibility of the employer to figure out another method that would not cause a hardship.

Summary

In conclusion, the ADA Amendments Act of 2008 (ADAAA) modified the Americans with Disabilities Act of 1990. The purpose of the changes was to broaden the definition of "disability" and to illuminate who exactly is covered by this act. Mental disabilities have been an important issue in the past, present and will most likely still be in the future; however, with laws such as the ADA Amendments Act of 2008 in place, individuals will now be able to find some liberation from unfairness or discrimination. There are many ways an employer can provide some kind of accommodations for employees with a mental disorder. This can be done by researching and finding out what could be the best solutions to continually improve performance and productivity among employees. In order to stay clear of discrimination, employers' and employees' must be well-taught in laws and regulations and behave properly and accordingly.
REFERENCES


