1) Go to BlackBoard (http://blackboard.ge.edu)

3) My Courses HUMAN RESOURCE MNGT (FA12)

4) Go to left side in Course Management and scroll down to
   Click on Grade Center
   Full Grade Center

5) For each student (slide bar about 7/8 to the right)
   a. SafeAssignment Term Paper Draft Column
      i. Go to each cell and left click on drop down menu
      ii. Left click on Attempt
      iii. Matching %
   b. SafeAssignment Term Paper Column (THIS IS THE FINAL COPY)
      i. Go to each cell and left click on drop down menu
      ii. Left click on Attempt
      iii. Matching %
      iv. Left click on File
      v. Left click on Open
      vi. Check number of words in lower left of bar and place # here
      vii. Print copy of term paper
      viii. Staple term paper along with STUDENT SUMMARY PAGE
         ix. Verify References in Reference List and Body of Text
            1. List number of references
            2. Number of references not in text or vice versa
   c. Term Paper References
      i. Go to each cell and left click on drop down menu
      ii. Left click on Attempt
      iii. References in Reference List of paper attached here; Number missing
      iv. Number of references with references or footnotes or court cases:

6) Grade actual term paper
Comprehension and Management: ADA and Mental Disability

Comprehension and Management in the Workplace: Compliance with the ADA and Mental Disability

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Comprehension and Management: ADA and Mental Disability

Abstract

This research provides an overview of the complexities that exist within the language of the federal act that is called the Americans with Disabilities Act (ADA) and will place special emphasis on mental disabilities. The first objective will be an introduction into the history of the American with Disabilities Act. The second objective will specifically focus on providing a simple, basic narrative of key points that exist within the Title I Implementation Plan of the ADA and the Equal Enforcement Opportunity Commission’s enforcement guidelines. The narrative will proffer information to ensure sufficient compliance with the ADA. The third objective will provide an outline of controversial ideas surrounding the two entities to educate management about the potential threats perceived in managing compliance with the ADA. The fourth objective will focus on the psychological correlation that exists between employees with mental disabilities and employment. Empathic reasoning, education, and training are useful tools in understanding how employment is beneficial to employees with mental disabilities. Proactive employers and supporters are valuable resources in combating fear and stigma that surrounds mental disability.
As a new executive or manager entering the workforce, it is possible to be overwhelmed by the political jargon attributed to different federal acts regarding employment and the behavior displayed by some employees. One would think a law degree was needed in order for an employer to be fully immersed in the complexities that exist in government issued guidelines and, it is especially true of the definition for mental disabilities covered under the Americans with Disabilities Act. In order to understand the behavior, a psychology degree would be advised. Alas, who has the time to pursue all of this in depth knowledge? All levels of management should have a basic understanding of the Americans with Disabilities Act in order to protect and accommodate employees; and, ensure that the employer or self will not be subjected to litigation or financial damages as a result of a discrimination claim. After covering the fine points of mental disability, I will focus attention on the psychological connection between mental disability and the workplace.

In order to gain a complete understanding of mental disability as covered under the Americans with Disabilities Act, one should first look at the origin of this civil rights act. As stated by Jacobs and Lauber (2011), the Americans with Disabilities Act was designed to protect individuals with physical and mental disabilities from discrimination in different societal institutions. Congress found that 43 million people had faced discrimination in a variety of societal areas, so each institution was classified as Title I (employment), Title II (public service), Title III (public accommodations), and Title IV (telecommunications). This federal act was signed by President George H.W. Bush on July 26, 1990. The ADA was modeled after some areas of the Rehabilitation Act of 1973, but it also served as an influence when the Rehabilitation Act was amended in 1992. The 2008 Amendments Act to the ADA was signed on September 25, 2008 by President George W. Bush and became effective January 1, 2009 (Jacobs & Lauber,
For the purposes of employing people with mental disabilities in the workplace, I will concentrate on terms specified by the American with Disabilities Act (Title I) and the enforcement guidelines issued by the U.S. Equal Employment Opportunity Commission (EEOC) throughout the paper.

Under the ADA, explanation of the term “psychiatric disability” means any physical or mental impairment that limits one or more major life activities, which would also qualify as a confirmed disability. Some examples of major life activities include learning, concentrating, self care, social interaction, and performing manual tasks. With the exception of drug abuse, gender identity disorders, and some others, most of the psychological disorders described in the DSM-IV would qualify as impairments. Impairments are not all categorized as disabilities unless they limit one or more major life activities. Management should be wary that although conditions such as stress, irritability, and poor judgment are not considered impairments, they could be possible signs of mental impairments (Schott, 1999). Another stipulation to coverage by the ADA is that in addition to being protected as a disability, the individual must be able to perform essential functions of the job “with or without accommodation” (Schwartz, Post, & Simonetti, 2000). Title I applies to all covered entities, which are defined as employers, employment agencies, labor organizations, and joint labor management committees. The US government, subdivisions/corporations wholly owned by the government, Indian tribes, and bona fide private membership clubs are not considered employers under the ADA (Jacobs & Lauber, 2011). In explaining the Title I plan of ADA, Scheid (1998) states the following:

Employers with 15 or more employees are required to make reasonable accommodations to individuals with a mental disability unless they can show the specific accommodation would cause undue hardship, would be financially costly,
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or would fundamentally alter the type of operations of business. Employers are expected to complete a job analysis to determine the essential features of the job and to rework job descriptions so that the position can be filled by a qualified individual with a disability (p. 314).

In order to elaborate more on Scheid’s statement, the use of job analysis to configure job descriptions would be an example of reasonable accommodation. Other requests for reasonable accommodation could include revisions to workplace policies and procedures; or, physical changes to the workplace that include special equipment, flexible work schedules, the use of job coaches, reassignments to other positions, and modification of work rules. Some of other guidelines that are helpful for management to stay in compliance with the ADA are as follows:

• Avoid asking questions related to mental illness during the application and interview process.
• After job offer, do not request medical examinations unless required for all prospective employees.
• Information related to employee’s disability should be stored separately from regular personnel files and kept confidential (Schott, 1999).

The ADA does include provisions for permissible termination of employees who have serious misconduct issues, indefinite or unpredictable absences, violate usual performance standards, the lack of accommodations as a result of undue hardship, or employees who pose a direct threat to themselves or others (Dhaliwal, 2006). In cases of terminations resulting from mental disabilities, it is advisable that employers consult with HR and legal professionals prior to discussions with employee. The enforcement guidelines relating to psychiatric disabilities under the ADA were issued by the U.S. Equal Employment Opportunity Commission (EEOC) in March 1997 as the EEOC Enforcement Guidance. Between 1992 and 1996, EEOC charges of
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discrimination based on emotional or psychiatric impairments accounted for 13 percent of all claims (Mechanic, 1998). The Guidance is a useful tool for management to reference a legal analysis of covered physical and mental impairments; and, receive clarity of definitions within ADA guidelines (Schwartz, Post, & Simonetti, 2000). Both the ADA and enforcement guidelines have been accused of vagueness as well as controversy.

Some personnel experts argued that mental disabilities were difficult to separate from inability to complete a job. Some believed that performance deficiencies could be covered up by mental health practitioners who diagnosed patients on self reported symptoms. Another issue is the employer’s invitation for a negligent hiring claim if their employee’s actions injured a coworker or client. The court system expanded further by stating an “employer needed to take reasonable care for safety of the public when hiring or retaining employees” and the employer could be held liable for “actions of employees taken outside the scope of their work” (Schott, 1999, p. 175). There may be some truth to employee cover ups for subpar performance, but progressive leaders know that they should explore other possibilities to manage mental disability in the workplace. The good news for employers is that recent court decisions have favored employers over bogus claims of covered disabilities. Therefore, it would be legally prudent for employers to investigate reasons for inappropriate behavior. Management should consult HR or legal professionals to plan out its investigation in compliance with the ADA (Schwartz, Post, & Simonetti, 2000).

Understanding the psychological connection of mental disability and the workplace will help management not only maintain compliance with the ADA, but also develop those employees with mental disabilities. Fear from stereotypes can develop around a mentally disabled employee’s potential behavior which can affect the performance of the individual and
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others in the workplace. Since psychiatric disabilities are usually “invisible”, this might make a person less likely to request an accommodation to avoid any negative stigma (Barclay & Markel, 2009). Schied (1998) observed that employers actively placed mentally disabled individuals in areas of low job skills which were low pay, low status, entry level, and menial labor. These jobs did not develop new skills and inadvertently contributed to negative self-esteem, psychological stress, and unemployment of these employees. Schwartz, Post, & Simonetti (2000) concluded that a lack of training was at fault in recognizing mentally disabled employees. According the 1999 SHRM survey of HR professionals, only 47 percent of respondents were trained to accommodate mentally disabled employees. Scheid (1998) conducted research which stated that companies with more proactive hiring of employees with mental disabilities were more supportive and had a better work environment. It was reported by employers that accommodations requested were easy to make and not as costly as previously thought. Some companies are utilizing Employee Assistance Programs (EAPs) that reduce the elimination of employees with mental disabilities by identifying and treating through job based evaluations and referrals, substance abuse treatment, and job retention. The assistance programs help maintain employee productivity by allowing access to mental health professionals, such as psychiatrists and social workers (Dhaliwal, 2006). The government continues to do its part in the removal of stigma by introducing more federal acts designed to protect employees with disabilities. The Work Incentives Improvement Act of 1999 “gives states permission to allow people with disabilities to buy health insurance coverage through Medicaid, even if their income or medical condition improves” (Schwartz et al, 2000, p.52). A theory that management should support is that “work in American society is a source of meaning and respect, and exclusion from work and productivity undermines self-worth and reinforces devaluation and social stigma” (Mechanic,
Education and training are the best tools management can utilize to structure an organizational culture that both accommodates and protects its employees. The above narrative into the American Disabilities Act (ADA) with regard for mental disabilities reinforces the fact that the law is complex. This complexity should not discourage management from accepting employees with mental disabilities for fear of litigation or stigma. The best countermeasure for discrimination and prejudice is that Management should take care to be proactive in educating all staff in regards to the ADA and other federal acts of employment. Employers should heed Mechanic's (1998) statement that "the ADA's real potential is less in the cases that are litigated and more in the establishment of an accepted community standard for fairness" (p. 20).


