



EEOC Issues Guidance on Rights of Employees with Mental Health Conditions

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The U.S. Equal Employment Opportunity Commission (“EEOC”) recently issued a resource document titled “[Depression, PTSD, and Other Mental Health Conditions in the Workplace: Your Legal Rights](#)” intended to provide guidance on workplace rights for individuals with mental health conditions under the Americans with Disabilities Act of 1990 (“ADA”).

The EEOC, the government agency responsible for enforcing federal laws prohibiting employment discrimination, periodically publishes materials meant to offer both employees and employers guidance on various areas of employment law, and, more specifically, employment discrimination law. The agency’s most recent publication is meant to serve as a resource for job applicants and employees with mental health conditions, to inform them of their rights under the ADA. The ADA, America’s first comprehensive civil rights law to address the needs of individuals with disabilities, prohibits discrimination in employment, public services, and public accommodations on the basis of disability.

The EEOC recently reported that the agency resolved approximately 5,000 charges of discrimination based on mental health conditions in 2016 and cites a rise in such cases. The EEOC contends that, in these cases, individuals were unlawfully denied employment and reasonable accommodations in connection with their mental health conditions. Responding to the recent prevalence of such lawsuits, the EEOC published the above-mentioned guidance to help raise awareness of the rights and protections afforded to individuals with mental health conditions such as depression and post-traumatic stress disorder (“PTSD”). The resource is specifically addressed to employees who suffer from such mental health conditions; however, it contains important information essential for employers to understand as well.

The publication begins by stating “[i]f you have depression, [PTSD], or another mental health condition, you are protected against discrimination and harassment at work because of your condition, you have workplace privacy rights, and you may have a legal right to get reasonable accommodations that can help you perform and keep your job.” The resource continues by presenting a series of questions and answers to common issues that may arise for a job applicant or employee with a mental health condition.

Key points of the publication are as follows:

1. It is illegal for an employer to discriminate against an individual simply because he or she has a mental health condition – this includes termination, rejection for a job or promotion, or forcing an employee to take leave;

2. An employee is generally entitled to keep his or her health condition private unless one of the well-outlined situations applies; and
3. An employee may have the legal right to a reasonable accommodation that would help him or her perform a job – a reasonable accommodation is “some type of change in the way things are normally done at work.”

Further, the resource explains that an employee can ask for a reasonable accommodation if he or she has “any mental health condition that would, if left untreated, ‘substantially limit’ [his or her] ability to concentrate, interact with others, communicate, eat, sleep, care for [him or herself], regulate [his or her] thoughts or emotions, or do any other ‘major life activity.’”

The EEOC’s guidance on this issue is accessible, easy to read, and detailed in its explanation of the workplace rights of those affected with mental health conditions. While it addresses employees directly, it would certainly behoove employers to review the guidance as well, to ensure compliance with the ADA and to bolster employers’ understanding of discrimination on the basis of mental health disorders. The full publication can be found on the EEOC’s website here: https://www.eeoc.gov/eeoc/publications/mental_health.cfm.

If you have any questions or concerns regarding employment related issues, please contact Thomas B. Wassel at twassel@cullenanddykman.com or at 516-357-3868.

Thank you to Bridget Hart, a summer associate at Cullen and Dykman, for her help with this post.

Please note that this is a general description of law and does not constitute legal advice.