

How to Handle Psychiatric Disabilities in the Workplace: Balancing Issues of Behavior, Direct Threat, and Reasonable Accommodation

Kendra Duckworth, Human Factors Consultant for the Job Accommodation Network, discussed employer responsibility in providing reasonable accommodation, and addressed disciplining an employee who has violated conduct standards. Kendra is a popular speaker and her EXCEL workshops are always well attended. Kendra emphasized that it's essential to separate the employee's behavior from the employee's disability, and she stressed the importance of clearly communicating employee expectations. The employer must also establish a method for monitoring the performance. For more information on reasonable accommodation, go to JAN's website, www.jan.wvu.edu.

Dwight Lewis, Supervisory Administrative Judge for the Dallas District Office of EEOC, engaged the audience in a discussion of cases. The selected cases demonstrated the necessity of using objective information in making individualized assessments for reasonable accommodation. In situations in which there are conflicting statements between doctors it is the responsibility of the agency to resolve the conflict.

Retaliation after Burlington

In 2007, federal employees filed 6,960 complaints of retaliation, an increase from 6,535 complaints filed in 2006. Peggy Mastroianni, Associate Legal Counsel of the EEOC, did an excellent job in navigating participants through the elements of a retaliation claim and later through select retaliation case law. Mastroianni clarified the significance of the Burlington decision by stating that an adverse action does not have to be employment related, such as filing of false criminal charges against the complaint. The action has to be materially adverse, such as the employer's action could well have dissuaded a reasonable worker from making a complaint of discrimination. In one example she cited, a schedule change for one employee may not be adverse, however, a schedule change for a mother with children may be detrimental. Included in participants' materials was a compiling of retaliation case law.

Why Are You So Angry? 21st Century Workplace Issues and Concerns

Dr. Victoria Coleman, Counseling Psychologist and Adjunct Professor of Social Sciences at the College of Southern Nevada in Las Vegas, identifies the fall of the Berlin Wall in November 1989 as a major event that initiated the changes that we are experiencing today. According to Dr. Coleman, that single event represented a change in government and political systems world-wide. It opened doors, allowing people to relocate, and she believes the fall of the Wall made it possible to hold the 2008 Olympics in China. As a result of these changes, we are faced with challenges, issues and concerns that can lead to anger. These challenges include: technology, relationships, changes in how work is performed and understood, terrorism, and immigration.

Strategic Listening

This workshop had the attendees on their feet. Erika Bridgeford, Training Director for Community Mediation Maryland, used scenarios to demonstrate the approaches to conflict. Do

you collaborate, compete, avoid, compromise, or accommodate the other person? One scenario went like this: You are having your family over for a special event and worked all day to make an exceptional feast. You spent the entire day working on the preparation of the meal. Grandma takes a spoonful of your mashed potatoes and spits them out in front of the other family members. What do you do? How do you react? Erika's role play of grandma and other family members had the audience in stitches. Next, Erika tested the audience's listening skills by role playing another scenario, asking them to identify the feelings, values and topics we heard. Erika is a dynamic presenter who definitely achieved her goal of keeping the audience listening.

“But I Have Real Work to Do! A Manager’s Critical Role in the EEO Process.”

If you stared into the eyes of a perfect stranger for three minutes would you be able to tell what his or her hobby, car, and favorite type of music were? The audience was amused and entertained as Chrystal Young and Oliver Allen used that exercise to demonstrate that people should not act on rash stereotypes or by making assumptions about others. We have to get to know each other instead. Similarly, EEO counselors need to need to understand their employees.

Chrystal and Oliver recognized that sometimes EEO counselors encounter managers who respond to their requests with a dismissive attitude of “I don’t have time for this. I have ‘real’ work to do.” However, EEO counselors must face this challenge by educating managers to realize that a manager’s ‘real work’ is about their people. So EEO counselors should educate managers to help them better understand the process.

They also suggested that agencies adopt a “triage” approach so that appropriate officials (such as those from EEO, HR, counsel’s office, and possibly union officials or agency managers) meet on a regular basis to identify cases that have the most likelihood of a successful resolution. If agency leadership agrees to such an approach it reduces the complaint process drastically by facilitating the resolution of appropriate cases.

Advanced Mediation Track

Stanley Braverman and Julie Todd conducted the advanced mediation track. The advanced Mediation track completes another highly successful program on Thursday. The track has focused on providing participants with enhanced skills needed for complex employment mediations. The course emphasized ethical considerations, cultural diversity of mediation stakeholders, issue identification and nontraditional settlement approaches. The faculty for this track was drawn from academia, practicing attorneys, mediators, EEOC staff and corporate consultants.