

# How to Support Workers' Mental Health

## A Look at the Do's and Don'ts



**Brian L. McDermott**

At the 2021 Tokyo Olympics, Simone Biles – the most decorated gymnast of all time – stunned the world by withdrawing mid-competition to prioritize her mental health. Her decision sparked debate, but for many younger workers, especially, it was validating. Talking openly about mental health at work is no longer taboo.

Between rising burnout, post-pandemic trauma among employees and resulting retention challenges, Indiana employers are grappling with how to best support workers without opening themselves up to legal risk.

Well-intentioned mental health programs can easily cross legal lines if not designed with care. How can employers address psychological well-being in a meaningful and compliant way?

This content offers a practical guide for Indiana employers seeking to improve employees' mental health outcomes while ensuring legal compliance.

### The legal framework: the ADA, FMLA and beyond

Mental health conditions – including, but not limited to, depression, anxiety disorders, PTSD and OCD – can qualify as disabilities under the Americans with Disabilities Act (ADA) if they substantially limit a major life activity such as concentration, sleep or work.<sup>1</sup> Substance use disorders, often linked to underlying mental health challenges, may also be protected.

Depending on the circumstances, employers could have a legal duty to provide reasonable accommodations unless doing so would cause undue hardship to the business.<sup>2</sup> Accommodations might include flexible scheduling, remote work options, additional training or even changes in supervision.<sup>3</sup>

The Family and Medical Leave Act (FMLA) may also come into play, particularly if an employee's condition requires intermittent or extended leave for treatment or recovery.<sup>4</sup>

Finally, Equal Employment Opportunity Commission guidance stresses that employers may be liable for harassment based on mental health conditions.<sup>5</sup>

### The do's: practical (and legal) ways to support mental health

#### Offer mental health protections and benefits

Employers may want to consider reviewing their anti-discrimination and anti-retaliation policies to ensure mental health is covered. A benefits package that includes access to counseling, therapy and employee assistance programs can also support employee recruitment and retention.



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### Train managers on the basics of the ADA, FMLA and workers' compensation

Front-line managers are often the first to notice signs of worker distress. Consider providing clear guidance on identifying and escalating potential accommodation requests, as well as avoiding prying questions.

### Normalize mental health conversations

Listen intently when employees speak openly about stress, burnout and balance. Consider whether there are ways to minimize any stress and burnout to support a psychologically safe work environment.

### Document the interactive process

If an employee requests an accommodation, begin the ADA-required "interactive process." Document all discussions, decisions and reasoning. This helps ensure ADA compliance and builds trust. Legal counsel can help develop proprietary forms that streamline the process and reduce errors.

### Monitor for workplace contributors to burnout

High workloads, unclear expectations or toxic leadership can contribute to workers' mental health. Consider surveying employees regularly and be ready to

1 Mashni v. Bd. of Educ., 2017 U.S. Dist.

2 42 U.S.C.S. § 12112(b)(5)(A).

3 Brown v. City of N. Chi., 2005 U.S. Dist.

4 Severson v. Heartland Woodcraft, Inc., 872 F.3d 476, 481 (7th Cir. 2017)

5 U.S. Equal Employment Opportunity Commission, Enforcement Guidance on Harassment in the Workplace (Apr. 29, 2024).

6 Russ Laraway, *When They Win, You Win: Being a Great Manager Is Simpler Than You Think* (2022).

act on the data.

Russ Laraway's *When They Win, You Win* offers evidence-based strategies for building accountability without burnout.<sup>6</sup>

### **The don'ts: even well-meaning**

#### **Pry for details too early**

If an employee requests time off or a change in duties, don't immediately ask for a diagnosis. Under the ADA, employers can request documentation showing the condition qualifies and explaining how it affects work only after a request for accommodation has been made.

#### **Minimize mental health**

An employee with anxiety or bipolar disorder is entitled to the same protections as one with cancer or diabetes.

#### **Retaliate for requests**

Even subtle retaliation, including reassigning, demoting or excluding an employee after the employee requests accommodation, can potentially trigger liability. Consider training supervisors to be mindful of tone and action.

#### **Generalize with one-size-fits-all solutions**

Mental health needs are inherently personal. Consider flexible policies and adaptable support.

### **Burnout prevention**

The legal requirements around mental health create a compliance baseline but proactive employers go further.

According to the American Psychological Association, nearly 60% of U.S. workers report negative impacts of work-related stress, including lack of motivation, emotional exhaustion and reduced productivity.

To reduce employee burnout, Indiana employers may want to consider the following:

- Clear workload expectations and autonomy
- Consistent schedules and time-off policies
- Regular manager check-ins that go beyond key performance indicators and focus on factors like morale, motivation, and bandwidth
- Anonymous feedback channels to surface concerns
- Training leadership to recognize burnout signals and to respond with flexibility

Workplace culture is one of the most powerful levers for protecting mental health. While accommodations are reactive, culture is preventive.

### **The bottom line**

Supporting mental health at work isn't just the right thing to do, it's also smart risk management. By understanding the legal landscape and creating a culture of care, Indiana employers can help to reduce legal risk and unlock the full potential of their people.

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