

# January Mental Health & INCLUSION & BELONGING UPDATE

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## **How to Better Support Mental Wellness at Work**

In the new year, companies can take these steps to provide more comprehensive mental health support for employees.

Strong workforce [well-being](#) requires more than just window dressing--so [heading into 2024](#), company leaders may want to strengthen their [mental health support](#).

Psychological well-being is a [top priority](#) for workers, according to the American Psychological Association's 2023 Work in America Survey. This year, more than three-quarters of workers said they were very or somewhat satisfied with the mental health and well-being support they received from their employer. But that support may be starting to falter.

In 2021, 54 percent of employees said their company prioritized mental health compared with other issues, while just 38 percent said so this year, according to the [2023 Mental Health at Work Report](#) from Mind Share Partners, a nonprofit focused on workplace mental health. Meanwhile, the report found that overall employee mental health declined from 2021 to 2023.

Thus, mental wellness initiatives could become even more crucial in the new year--and could pay dividends in employee retention: Two-thirds of employees said they would take a pay cut for a job that better supported their mental wellness, according to a [survey](#) conducted by the Workforce Institute at UKG earlier this year.

"There's enormous pressure on leaders to do something, and they're largely throwing spaghetti at the wall and hoping it sticks," says Kathy Pike, president and CEO of One Mind at Work, a coalition of leaders aimed at improving workforce mental health. Instead of looking for quick fixes, leaders should focus on "building a strategy that has comprehensive, sustainable impact," she adds.

#### *Here's how: Prioritize proactivity*

Unexpected events--from personal hardships to distressing world events, like the [Israel-Hamas war](#)--can jeopardize the mental health and well-being of workers. But organizations and individuals that are prepared with the right resources will fare far better, Pike says: "We need to move away from ad hoc, reactive efforts related to mental health to integrated, strategic, evidence-based, comprehensive efforts."

This is what Christi Venable, CEO of Smile Therapy Services, calls "preventive" mental health and wellness solutions, which her agency strives to provide to the corporations and organizations it works with. "How about if we actually gave [employees] tools and coping strategies before they got to the breaking point?" she says.

That means going beyond recognizing Mental Health Awareness Month in May or World Mental Health Day in October, says Jen Porter, managing director at Mind Share Partners. "When companies helicopter in with something in May and then don't talk about it through the rest of the year, you actually risk making it worse," she says. "You risk decreasing the trust."

Instead, companies might consider facilitating ongoing discussions through employee resource groups and other peer-based solutions, Porter says. Companies can also host wellness workshops on a monthly or quarterly basis to better educate employees on a variety of wellness issues throughout the year, Venable adds.

Solutions like these don't have to be expensive: For instance, an easy change might be encouraging company leaders to talk more vulnerably about hard days in meetings to make mental health conversations more normalized in the workplace. "That costs zero dollars," Porter says. "And that, done over time ... will make a huge difference."

#### *Reconsider the way you work*

To determine how the workplace might be improved, start with a survey, Venable says, and gather anonymous feedback to determine how to best use company resources to meet employee needs. But outside of feedback on extra programming and support, remember to gather feedback on the way the workplace actually functions.

"Employees are asking for a better day-to-day work experience, not more shiny apps and benefits," Porter says. She points to a [Deloitte report](#) that found that organization-wide, preventive mental health initiatives resulted in a greater return on investment than more individualized support--though that remains an important offering, as well.

So, employers should consider how broader organizational factors impact employee well-being, says Ron Goetzl, senior scientist at Johns Hopkins Bloomberg School of Public Health: "What are the job demands? What about their sense of autonomy? ... What about the policies that I have, including paying people for time off for medical issues?"

Even the way that meetings are scheduled and structured can have an impact on employee mental health, Pike adds. This was top of mind for the Exos team when it rolled out its "Readiness Culture Code" in May. The Phoenix-based corporate wellness provider and coaching company--an [Inc. Power Partner](#)--developed the code for its clients but also implemented it internally.

The code includes guidelines around "meeting recharge breaks," for instance, outlining that meetings should last for 25 or 50 minutes instead of a half hour or hour, respectively, to allow for micro-breaks. Additionally, meetings must meet a three-point productivity checklist to ensure that they are as purposeful as possible. This might not sound like a big change, but it took some getting used to, says Exos CEO Sarah Robb O'Hagan.

"Once we got comfortable in it, you definitely heard a lot of people going, 'I just feel more energized,'" O'Hagan says.

#### *Train your managers*

As with many [current workplace issues](#), managers are on the frontlines when it comes to workplace well-being, Pike says: "Managers need appropriate training and need to be supported with appropriate larger organizational resources so that they can most effectively support their team members." This training can be folded into already existing training sessions at companies, like leadership and development programming, Porter adds.

But that doesn't mean that managers need to act as pseudo-therapists or diagnose team members in any way, Porter says--in fact, they shouldn't. "What we do need is training that teaches managers to be both compliant and compassionate," she explains.

While managers can't single-handedly change the broader workplace culture, they can greatly impact employee experiences on their team, Porter says. They can work on building a supportive team culture and host regular one-on-one conversations with team members to refer them to more mental health resources if needed.

But, again, this requires yearlong attention from company leaders. "It's not just how you train managers once, but how you continually support managers in that role that they now have, which is being proactive about supporting mental health on their team," Porter says.

<https://www.inc.com/sarah-lynch-/how-to-better-support-mental-wellness-at-work.html>

## **'Wellness chatbots' join employee benefit plans**

Workplaces increasingly are offering employees access to digital mental health tools, including AI chatbots meant to mimic therapists and wellness apps that diagnose mental health conditions, the report said. Over the summer, a survey of 457 U.S. companies conducted by professional services company WTW found that about one-third offer a "digital therapeutic" for mental health support. Another 15% were considering adding one by 2025.

The capabilities and goals of these services vary. Amazon gives employees free access to the app Twill, which uses AI to track users' moods and create "personalized mental-health plan(s)." A construction workers' union in Ohio will begin offering access to [Wysa](#), a self-described "emotionally intelligent" AI chatbot that encourages users to "vent or just talk through negative thoughts and emotions" and "let it help you cope with pandemic anxiety and lockdowns."

"We just didn't know what to say or do," Michael Bertolone, who manages the union, told the Journal. "We need to be able to help [the employees]."

Finding human help can be a difficult task. The demand for counselors is surging, but the supply is dwindling. One benefit of AI chatbots and wellness apps is they can be used anytime, anywhere, eliminating the need to drive to an appointment or coordinate schedules.

However, there are concerns about digital mental health offerings. The online counseling service BetterHelp settled for \$8 million this year after the FTC accused it of sharing users' personal information with Facebook, Pinterest and others for advertising purposes; and the National Eating Disorders Association took down an AI chatbot this year after it began giving dieting tips to users with eating disorders.

There are still unknowns about the safety and security of these technologies in addition to their effectiveness, according to researchers.

"The companies are well known to be overextending claims about what they can do," John Torous, MD, director of the digital psychiatry division at Beth Israel Deaconess Medical Center in Boston, told the Journal. "Employers offering it, in some ways it is tokenism, saying we're offering something for mental health support."

<https://www.beckershospitalreview.com/hr/wellness-chatbots-join-employee-benefit-plans.html>

## **UK: How to Help Stop Workplaces Making People Ill**

Sickness absence has reached a 10-year high in the U.K.: employees took an average of 7.8 days of sick leave in the last year. That's an increase of two whole days over pre-pandemic levels. What's happening? The research authors (the CIPD with Simplyhealth, which looked at data from 6.5 million employees at 918 U.K. organizations), say there's still a hangover from COVID-19, and maybe also a related change in attitudes to the need for taking sick leave.

Most of all, there's a problem with workplace stress. Seventy-six percent of employees suggested it was the main factor: stress, they said, that had been caused primarily by "heavy workloads" and "management style."

### *The Impact of Stress*

The research authors argue that organizations need to put well-being strategies in place, not just discrete interventions that target people only at an individual level. Things like [employee assistance programs](#) and occupational sick pay schemes, are already common. Judging by the figures, they don't appear to be having enough of an effect, especially when it comes to the more difficult issues around long-term sickness absence—63 percent of employees are on long-term sick leave because of poor mental health, for example.

The picture on sickness suggests a larger problem, one of basic workplace culture. In a workplace environment where people feel overwhelmed, mistrustful of management and have little sense of engagement, then stress eventually leads to ill health and absence.

### *The Importance of a Well-Being Strategy*

The CIPD's Rachel Suff, senior policy adviser employment relations in London, hit the nail on the head. Having a well-being strategy has to be a good thing, but you don't want to miss the more essential point about culture. "It's important that organizations create an open, supportive culture where employees feel they can come forward," she said. People need to feel safe, like they're really listened to and understood, not just walking performance targets.

The report is right to conclude that there needs to be a shift in terms of responsibility among organizations for their employee well-being—more of an acknowledgement of the impact of modern work pressures and routines on health, and that there's a shared responsibility. At the same time, that includes a commitment to creating a healthy workplace when it comes to relationships and how people treat each other. That means having a '[Clear Air Culture](#)'.

The kind of workplace where people feel comfortable in speaking up about their challenges (which is not as common as anyone might think), can have open conversations with line managers about workloads, levels of pressure and relationships inside teams, and simply be themselves. Get things out in the open in a constructive way and defuse the stress. Help stop the slide into illness.

In practice, that involves employers and HR paying more attention to the conversation skills needed, the ability of managers and employees generally to deal with difficult conversations and challenge by drawing on those all-important qualities: empathy, curiosity, self-awareness, reflective listening and situational awareness. It also means looking into levels of psychological safety among teams and how they can be restored and developed.

<https://www.shrm.org/topics-tools/news/benefits-compensation/UK-how-to-help-stop-workplaces-making-people-ill>

## **What Is Imposter Syndrome at work? How to identify and combat it**

Work is a part of life. Like our hunter-gatherer ancestors, survival today depends on going out and getting food if we want to eat. Survival these days doesn't depend as much on running fast and dragging game back home (unless you count bringing in all the groceries in one trip), but it still requires effort.

Communities are where cooperation and specialization allow each person to do their own thing and share their skills for everyone's benefit. For example, electricians can enjoy a glass of milk without raising their own cows. Auto mechanics can enjoy classical music without having to conduct an orchestra. Everyone gives something and gets something in return, at least in a perfect world.

But what about people who don't contribute? Is it fair that they benefit from others' work without doing any themselves?

If you felt awkward about that last question, you may have some understanding of what imposter syndrome feels like. People who experience imposter syndrome worry that they're not bringing anything valuable to the workplace, regardless of whether or not they actually do. They feel frustrated and stressed out, and their insecurities may lead them to quit their job altogether.

In this blog, we're talking about why people experience imposter syndrome and how to get over it.

### *Businesses are as different as people*

People are what keep businesses running. While some people manage more responsibility than others, every employee plays a role in a company's success by executing their duties effectively.

Companies are tasked with [delegating](#) job duties so every employee has something to do, but how the employee will do it varies from person to person. Experience and best practices can

have a big impact on effectiveness, but employers are ultimately the ones responsible for finding the right person for the job.

With imposter syndrome, people feel that their work just isn't cutting it. They worry that they're letting the team down through incompetence, inadequacy, or because their personality is a bad fit. For some, the negative self-talk of imposter syndrome leads to workaholic behaviors, such as working outside normal business hours or never taking a vacation.

The thing to remember about imposter syndrome is that it's not based in reality. There are tons of terrible employees who never feel guilty for [poor performance](#), even when they have a noticeably bad impact on their team.

The business world doesn't exactly discourage imposter syndrome, either. Companies like Tesla and Microsoft rank their employees to see who's the most productive, throwing the concept of a work-life balance completely out the window.

*What causes imposter syndrome?*

Late basketball extraordinaire Kobe Bryant was reportedly so caught up in imposter syndrome that he invented an alter ego to deal with the stress. How could such a high achiever feel like an underperformer?

This is the nature of mental distortions. These negative thoughts and feelings of self-doubt can turn normal challenges into insurmountable, humiliating obstacles. Everyone is watching you, imposter syndrome says, and we're all very disappointed.

The low self-esteem of imposter syndrome originates from a variety of different fears, depending on a person's history. Some people develop compulsions from hostile childhoods while others simply overwork themselves from lacking healthy boundaries.

*Here are some possible causes of imposter feelings:*

Perfectionism. Setting unrealistic standards and worrying that anything less will be seen as unacceptable by others

Overachievement. Even when people surpass expectations, they are hesitant to give themselves credit for their success and end up attributing it to luck or other external factors

Comparison. Constantly looking to others as a standard of performance leads to feelings of inadequacy and a sense of being an imposter

Cultural expectations. Fears that your best efforts aren't meeting the expectations of others can contribute to impostor feelings

Lack of positive feedback. When managers don't let their employees know they're doing a good enough job, these employees take it to mean they are underperforming

Childhood experiences. Overly critical parents or highly competitive family environments can create lifelong feelings of having to give 110 percent at every moment, with no time for rest or regular amounts of effort

Underrepresentation. Being in a minority group or facing discrimination in a particular field can contribute to feelings of not belonging and being an imposter, despite any success that person achieves

Most people who suffer from imposter syndrome have multiple, interconnected reasons for feeling this lack of self-confidence. Addressing them takes self-reflection, support from others, and hard work to reframe those thought patterns.

Employees who feel they don't measure up are more likely to suffer burnout and mental breakdowns, making it in the best interests of managers to periodically check in on their well-being. Yes, it takes a little extra effort and may require some tough conversations—just consider it part of your company's retention strategy.

So how can managers spot the signs of imposter syndrome in their employees?

*Here are a few things to look for:*

- Setting super high standards of performance, even on their first try at a new job.
- Being dissatisfied with anything less than perfection.
- Writing success off as due to luck, timing, or somebody else's help.
- Intense fear of mistakes or failed expectations, even when the risk of failure is low.
- Avoiding recognition and downplaying their contributions to the team, worrying that others are judging their phoniness.
- Frequent comparisons to colleagues and openly feeling inferior to others' accomplishments.
- Feeling uncomfortable or deflecting praise.
- Frequent self-doubt about abilities, qualifications, or the legitimacy of their role as a contributor to the company.
- Working more hours or on more tasks than necessary to compensate for inadequacies.
- Avoiding new opportunities and challenges out of fear of failure.
- Anxiety about [performance evaluations](#).
- Procrastinating tasks or projects.
- Difficulty saying "no" to responsibilities, even when overwhelmed.
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It's normal to feel challenged and frustrated at work sometimes. We've all been there, but imposter syndrome has a way of never letting up, even when a job is finished and we're perceived as successful people.



This is why it's a good idea for managers to check in on employees every now and then. Find out how they feel about their job and ask lightly probing questions about what they need to be successful.

### *Dealing with imposter syndrome*

Establishing realistic expectations. People dealing with imposter syndrome benefit from having reasonable people around them. Managers and coworkers can help ease stress by laying out clear expectations for what quality work looks like, and when work is done, a little pat on the back can also offer encouragement.

Symptoms of imposter syndrome have a hard time existing in company cultures that value people's contributions. Where effort is recognized and rewarded, it's easier to feel like an equal member of a team rather than a failed perfectionist. HR departments should take stock of the ways their companies recognize work and bring attention to it.

Meeting regularly. Another tool for managers of these employees is regular in-person meetings. There should be a chance for struggling team members to feel heard and express how they're feeling about their job in settings other than [performance evaluations](#).

Just talk. Confirmation can help people feel so much better, and it only takes a few minutes to drive home the point that their work is good enough.

It's also a good idea to bring teams together as a whole to let everyone share their feelings and build community. After all, these are the people whose work depends on the productivity of each other—why not give them as many chances to connect as possible?

Regular stand-ups can also provide chances to build community, but however you choose to do it, make sure it happens on a predictable basis so as not to surprise anyone.

Encouraging mental health in the workplace. It wasn't so long ago that mental health was considered a luxury for the emotionally weak. How times have changed. Today, mental health initiatives are (thankfully) a no-brainer, and workplaces that encourage stressed people to take time off work are the norm.

Employees need to know that taking a day off won't leave the rest of the team hanging when they can't think straight. So far, these policies have proven to be a success and are rarely abused, if ever.

Wellness programs also help people with imposter syndrome by letting them blow off some steam here and there. Perks like gym memberships, for example, can provide a constructive outlet and even help build healthy habits outside of work.

### Employee Assistance Programs (EAPs)

Sometimes, you just need a place to talk about your problems. Therapy is that place, and many wellness programs offer a few free sessions with a licensed professional to clear up some head space.

Investing in the mental health of employees is an investment that pays long-term dividends. Not only are people able to get more work done, but they're also able to spread a little more cheer around the office.

On the other hand, workers who feel their employers aren't concerned with their well-being may become more sensitive to feelings that they need to overachieve in order to keep their job. Therapy helps to treat imposter syndrome by having an unbiased third party explain how no one is as concerned with someone's work quality as much as they are. Sometimes, this is all it takes to turn a frustrated worker into a more comfortable employee.

Emphasizing the mental health of your employees will also create a modernized company culture that people will want to join.

### Rewarding good work

There's truly nothing like validation and positive reinforcement to bring someone out of a slump. That's why recognizing employees should be a regular part of every company's calendar. By finding ways to celebrate and reward the efforts of all your employees, you'll help to create an environment where people feel comfortable being themselves.

Some companies fear that building too much rapport and casual friendship at work can lead to more distractions, but there's simply no evidence to support this claim. The fact is people who feel valued by their employer are more interested in giving back, while employees who are taken for granted have less incentive to care.

Consider a monthly meeting for departments to bring teams together and give a shout-out to those who could use a little appreciation.

### Everyone is different

Perhaps the biggest driver of the imposter phenomenon is the belief that there's some standard all employees can uphold. This isn't true.

It's up to companies to maximize the skills and abilities of the people they hire. They're also responsible for developing the competencies they rely on. While it's true that some people are bad at their jobs, they are the exception—not the rule.

There is a palpable conflict between employers and employees in today's job market. As inflation goes up, retention goes down, leading to lots of worry about being the perfect employee and keeping one's job.

Employers should see this as an opportunity to set themselves apart. As other companies crack down on their workforces and lay people off, better employers are doubling down on their commitment to their teams. That means valuing the unique skills of the individuals they hire and developing more competencies along the way.

At their best, companies maximize the available skills of the employees they already have, rather than put pressure on people to be something they're not. This is the best way to combat imposter syndrome.

<https://www.businessmanagementdaily.com/71543/what-is-imposter-syndrome-at-work-how-to-identify-and-combat-it/>

### **Most workplace discrimination goes unreported. Here's what to expect when filing a complaint in Wisconsin.**

The [Equal Employment Opportunity Commission](#), a federal agency that investigates workplace discrimination, receives an average of 83,250 complaints per year — including [959 per year in Wisconsin](#).

As an anti-violence advocate for Milwaukee-based LGBTQ+ organization [Diverse and Resilient](#), Andrew McKee said they've seen an increase in workplace discrimination locally due to today's [increasingly polarized political climate](#).

McKee provides moral support and advice for queer people on how to navigate harassment or discrimination in the workplace by connecting them with the right resources, but they want all marginalized people to feel empowered to report workplace discrimination.

McKee said workers should remember it's an employer's duty to make sure everyone feels safe at work. Human resources departments and complaint processes within companies exist for a reason, they said.

"The moment that you begin to experience workplace-related harassment or harm... it is (the employer's) responsibility to rectify that," McKee said.

If management or human resources isn't receptive, those who have been discriminated against at work can file a discrimination complaint with the EEOC or the Wisconsin Department of Workforce Development's Equal Rights Division.

*Here's what to expect.*

If you're experiencing workplace harassment, keep track of everything in writing. McKee said those experiencing workplace discrimination or harassment should document everything in writing.

"As soon as you are harassed in the workspace, you shouldn't only go and talk directly to a manager," they said. "You should also email your manager, and you let them know, 'Hey, this is what happened. I brought this up to you in person and would like to follow up via email to document steps moving forward.'"

Often, management's response to allegations is different in an email than behind closed doors, McKee said.

"Recognize the leverage that you have as an employee," McKee said, "and use it wisely." After thoroughly documenting your experiences, they said, "elevate the issue" by reporting it to higher-ups.

*How do you file a workplace discrimination complaint?*

In Wisconsin, [an individual has 300 days](#) from the date of alleged harm to file a charge against an employer.

People who work for companies with more than 15 employees can file complaints with either the [EEOC](#) or the Wisconsin Department of Workforce Development's [Equal Rights Division](#). The DWD also accepts complaints from workplaces with 15 employees or fewer.

Either way, both agencies "cross-file," said DWD spokesperson Shamane Mills.

"In other words, a discrimination complaint filed with the state is shared with the federal government and vice-versa," Mills said.

Both agencies protect employees from discrimination based on race, color, religion, gender, sexual orientation, age, disability and national origin.

The law forbids discrimination in "every aspect of employment," [the EEOC website says](#), including hiring, promotions, pay and more.

*What to expect after filing a workplace discrimination complaint*

After an individual files an EEOC complaint, the commission reaches out to schedule an interview, which is conducted either virtually or over the phone.

If an EEOC complaint is found to be valid, both parties are issued a letter of determination stating that there is reason to believe that discrimination occurred, [the EEOC's site explains](#). Parties are then invited to resolve the charge through an informal process called "conciliation." As explained by the [Derek Smith Law Group](#), which specializes in sexual harassment and discrimination cases, the EEOC represents the person who filed the complaint during the

conciliation process and tries to help them reach a settlement with the employer. Settlements can be financial or result in changed policies and procedures.

The EEOC resolved 44% of conciliations last year, its [2022 report found](#).

If a conciliation does not resolve the charge, the EEOC can file a lawsuit in federal court.

Last year, for example, a Waukesha construction firm [agreed to pay \\$140,000](#) and hire an equal employment opportunity officer to settle an EEOC lawsuit over racist treatment of Black employees.

If the EEOC decides not to file a lawsuit, the person who filed the complaint will receive a notice of their right to sue and may file a lawsuit in federal court within 90 days, according to the EEOC.

If the Wisconsin Department of Workforce Development pursues an individual's complaint, the agency offers free mediation with a judge, which is a more formal process than conciliation, Mills said.

70% of cases filed with the division are resolved through mediation, she said.

*Most workplace discrimination goes unreported, research shows*

An EEOC task force in 2016 cited studies that suggested that 87% to 94% of individuals who experienced harassment in the workplace [did not file a complaint](#).

McKee said the fear of retaliation from filing a complaint can prevent people from reporting, even though retaliation is illegal under federal law.

"There are so many stories that go undocumented and unrecorded because people recognize, 'Do I choose to fight for my livelihood in this workspace when I can find an alternative one, or do I choose my safety?'" McKee said.

Retaliation-based charges are the most common type of complaint filed with the EEOC, [according to data from the agency](#). The EEOC's 2022 report said the agency resolved 26 lawsuits containing retaliation claims for about \$26 million in relief for 762 individuals.

<https://www.jsonline.com/story/news/investigations/public-investigator/2023/12/07/what-to-expect-when-reporting-workplace-discrimination-in-wisconsin/71095737007/>

## **5 ways to reduce employee stress at work**

A recent State of the Global Workforce report found that stress levels at work are higher than ever before.

The survey revealed that 44% of respondents experienced elevated levels of stress before filling in the report. In addition, a UK work-related report revealed that in Britain, 76% of employees reported medium-to-high levels of stress.

This translates to a wide range of issues for workforces, from increased incidence of mental health issues – including anxiety, depression and burnout – to employees being signed off on long-term sick leave, reducing productivity. In fact, 13.7 million working days are lost annually in the UK due to work-related stress.

If you are a HR manager, you are no doubt aware, and may have even experienced it within your own workforce, that work-related stress can have a debilitating effect in a number of different ways.

Symptoms can show themselves via a range of symptoms, from increased irritability and short tempers to physical effects such as a tight chest, raised heart rate and insomnia.

Ensuring your employees are not working under undue levels of stress should be a priority for every company, so here are four ways to help staff who may be showing signs of burnout.

### **1. Ensure employees don't work outside of contracted hours**

Staff workloads should be manageable, and should not take more than the allotted working hours each week as this can increase stress, anxiety and the feeling of not being able to switch off. You could also assign someone specifically to help with the employee's workload so that pressure is relieved.

### **2. Encourage staff to take all leave and full lunch breaks**

Management should also encourage employees to use up their entire annual leave entitlement as well as taking the full lunch break daily. Some employees might feel they don't have time to take lunch, for example, and work through instead, but this only serves to increase their stress levels and reduce productivity.

Regular breaks should be encouraged, and flexible working is another option that helps reduce pressure on staff, especially around childcare.

### **3. Talk openly to your employees**

Creating a two-way relationship with your employees is the ideal way to allow them to open-up to HR about any issues they might be experiencing in terms of a build-up of workload or stress. You can then help manage this problem before it reaches a point where the employee becomes unwell.

#### 4. Offer remote working

Remote or hybrid working has become commonplace since the pandemic, and for staff experiencing raised stress levels, the opportunity to work in the quiet and familiarity of their own surroundings can help reduce stress. Ensure you check in regularly so they don't become isolated.

#### 5. Increase fitness and activity levels

Exercise is a key factor in helping reduce stress. Multiple studies have shown how regular exercise can reduce stress hormones, including cortisol and adrenaline, while increasing the production of endorphins, which help improve mood.

<https://employeebenefits.co.uk/5-ways-to-reduce-employee-stress-at-work/>

### **EEOC Takes Action to Address Mental Health Discrimination in the Workplace**

Employers must take notice that the United State Equal Opportunity Commission (EEOC) is cracking down on companies that discriminate against workers because they have a mental health condition. Mental health conditions, such as major depressive disorder, bipolar disorder, and schizophrenia, substantially limit brain function. The EEOC determined these disorders constitute disabilities under the American with Disabilities Act (ADA).

The EEOC has significantly increased charges against employers for alleged ADA violations premised upon mental health issues.

In September, the EEOC released its [Strategic Enforcement Plan \(SEP\)](#). A review of the SEP reveals that the EEOC will focus on harassment, retaliation, job segregation, labor trafficking, discriminatory pay, disparate working conditions, and other policies and practices that impact particularly vulnerable workers and persons from underserved communities, including workers with mental health related disabilities.

Hence, employers must be extremely careful when dealing with employees or prospective employees who suffer from mental health conditions.

Under the ADA and other nondiscrimination laws, employers must provide "reasonable accommodations" to qualified employees with disabilities. These accommodations are adjustments to the workplace that allow these employees to perform their job duties. These accommodations are usually not costly and can be beneficial in allowing employees to return to work, avoiding productivity losses, and promoting the recruitment and retention of qualified employees.

However, not all employees with mental health conditions require accommodations to perform their job duties. For those who do, accommodations should be individualized and developed with the input of the employee. Below is a list of examples of accommodations that have helped employees with mental health conditions to better perform their job duties.

*These are not all possible accommodations but provide a starting point to help employers promote an inclusive and supportive work environment.*

These include:

- Flexible workplace arrangements
- Scheduling adjustments
- Sick leave or flexible use of vacation time
- Individualized breaks
- Modification of non-essential job duties
- Additional training or support
- Positive reinforcement and flexible supervision
- Accommodations to the work environment, equipment, and technology
- Regular meetings between employees and supervisors to discuss workplace issues.

It is important for all employees to be aware of their rights and provide relevant training to co-workers and supervisors. Effective implementation of these accommodations will help create a more inclusive work environment and benefit both employees and employers.

<https://www.natlawreview.com/article/eeoc-takes-action-address-mental-health-discrimination-workplace>

## **There's a better way to measure employee well-being—and it's right in front of us**

The headlines are prominent: “Organizations continue to struggle with employee burnout.” It’s true; 77% of employees [report feeling burned out](#) at their current job, and up to 50% of turnover is due to burnout. Rapidly shifting workplace norms over the past few years have exacerbated these challenges, with costly impacts on employers and adverse implications for employee well-being.

Organizations have long recognized the value of supporting employees in their well-being and mental health, and according to [research from Deloitte](#), prudent investment in these areas has demonstrated ROI. However, attaining business value can be costly, and moving the needle requires visibility into trends and an understanding of what levers will have an impact.



Do organizations actually understand how to measure well-being properly, especially at moments of disruption, to target and prioritize their efforts effectively? Organizations should not make decisions without using all the information available to them, and they generally do not do so when it comes to other areas of the business, so why is well-being any different?

Many employers monitor well-being using surveys and assessments. While these provide valuable holistic insight into worker sentiment, it is not practical to administer well-being surveys more than once or twice per year. Therefore, surveys don't expose short-term trends, limiting timely insights for a dynamically changing workforce. For that purpose, there is a great benefit to a measurement system that also takes advantage of alternative data sources.

Organizations have billions of data points at their fingertips, many of which contain information related to well-being and have the advantage of enabling frequent updates or even continuous measurement. This data is a by-product of already in place company systems and can be classified as passive data.

This passive data can be used to provide a continuous, 360-degree view of employee well-being. When combined with active listening mechanisms such as surveys, passive data can provide a timely and actionable view of workforce well-being.

These passive data sources may already be used by an organization's HR or People Analytics function for a variety of other analyses.

A few examples of such data may include:

Travel, commute, and time in the office.

Working hours (PTO, sick days, overtime, etc.).

Learning and development completed.

Performance metrics.

Compensation, benefits, and use of recognition programs.

Email, messaging, and calendar metadata.

Employee demographics.

Passive data like this can provide early detection of well-being trends and their drivers, including segmented insights (by department, role, job level, etc.) to uncover challenges facing specific employee cohorts. Data-driven discovery of these trends also allows the business to better understand successes, where programs or policies have improved well-being, and efficiently respond to emerging problems with targeted solutions, communications, and training before they escalate. Supplementing passive measurement with active workforce listening via surveys provides the best of both worlds: the ability to respond quickly to trends as they occur and the understanding of related employee experiences and perceptions.

Detailed and timely insights allow an organization to identify levers that can be used to improve well-being and statistically measure their impact on business outcomes, such as attrition, absenteeism, productivity, and employee health costs. This could not only maximize the ROI of

well-being spending but can also create an environment where employee needs are recognized and people feel heard. Additionally, such focus on well-being can position an organization as a market leader by demonstrating a commitment to people and cultural values, which can enhance brand perception and help attract top talent.

<https://www.fastcompany.com/90988819/theres-a-better-way-to-measure-employee-well-being-and-its-right-in-front-of-us>

## **What is 'wellbeing washing,' and is your org guilty of it?**

Kate Pritchard, head of consulting at People Insight and a qualified leadership coach, is an employee experience expert and leadership coach with over 20 years' experience in the field of employee research. Kate is passionate about helping organizations create workplaces where employees and performance can thrive.

If you run in HR circles, you'll be no stranger to the endless conveyor belt of buzzwords. From [quiet quitting](#) to loud quitting, loud laborers and even grumpy stayers, there's always a new concept or phrase to come to terms with. Silly as they might sound, they very often describe pressing topical issues that impact the workplace in a very real way—requiring swift and effective measures to keep them in check. Over recent months, one concept that has been getting a lot of justified attention is “wellbeing washing.”

More than ever, companies are paying attention to employee morale, mental health and overall wellbeing. This could, in part, be due to the many studies we've seen regarding the [importance of good employee wellbeing](#), along with the [negative impacts that may arise](#) when employees aren't treated well.

We have seen a lot of articles and insights detailing the value of a good wellbeing program, how to communicate with employees in an empathetic, compassionate way, and how to create a company culture that fosters high levels of employee wellbeing. But how much are our companies changing as a result? Are we actively doing better? Or are we just saying the right words but failing to deliver where it really counts?

*What is wellbeing washing?*

Wellbeing washing is a new term used when employees are presented with a false sense of support. Similar to greenwashing (an employer's stated commitment to being eco-friendly that doesn't actually hold true), wellbeing washing happens when a company appears to care about [employee wellbeing](#) on the surface, but when you dig a little deeper, you notice they are doing very little. They're full of promises but deliver little to nothing.

One study published by the [Institution of Occupational Safety and Health](#) found that 51% of employees believed their employer was guilty of wellbeing washing. They mentioned initiatives such as free fruit in the office, mental health first aiders and wellbeing walks—which sound lovely in theory, but not when serious issues such as unrealistic workloads, workplace bullying or stress-inducing deadlines aren't being addressed.

Some employees even believe certain mental health initiatives to be fake promises. For example, some companies may offer quiet rooms designed for employees to take a breather—but managers within that same office may look unfavorably upon anyone actually using those designed spaces.

We've all been witness to wellbeing washing at one point or another. Take, for example, a company whose policies officially decry working over hours, but in practice, they publicly praise the employee who is continually first in and last out—ignoring the fact that they are visibly exhausted.

Employees are starting to wise up. [One study showed](#) that, while 71% of employers celebrate events such as mental health awareness days, only 36% provide mental health support that their employees would rate as good or outstanding.

There is clearly an imbalance that exists—companies are getting away with saying the right words without putting their words into action. But how is this impacting your employees? Let's look at the impact of wellbeing washing on mental health.

#### *Increased stress and burnout*

Unsurprisingly, a very real consequence of wellbeing washing is the inevitable stress and burnout. When nothing is done to address poor mental health in the workplace, the core issue still exists and generally gets worse over time. Employees might even feel pressured to maintain a façade of wellbeing despite how much they are struggling.

This is emotionally and mentally draining and generally results in an employee burning out and taking long-term time off—or simply leaving for another position. It isn't enough for managers to know the signs and symptoms of high levels of [stress at work](#); they need to offer practical solutions.

#### *A lack of adequate support*

Glossy social media campaigns and superficial perks are no substitute for substantive support at work. In fact, for employees who are truly struggling, such superficial efforts can feel like rubbing salt into the wound. Employees who are struggling need someone to turn to or processes they can lean on to lessen their load and clear their heads.

### *Feelings of isolation*

People struggling with poor mental health often feel a sense of isolation. When a company claims to prioritize wellbeing but makes little to no effort to help affected employees, this sense of isolation can worsen.

What's more, it can have an impact on an employee's personal life. A company that offers no flexibility while also making great demands in terms of workload isn't conducive to a healthy work/life balance. This, in turn, keeps employees from winding down and spending time with family and friends as they desperately try to keep up.

### *An exacerbation of existing symptoms and conditions*

When mental health concerns aren't addressed, more often than not, they get worse. When employees work for companies that make no real effort in terms of wellbeing, they're less likely to seek help or open up about their struggles. After all, why would they if they believe that their employer is not genuinely interested in their mental health?

In situations like this, mental health issues worsen, and they can also take a toll on physical health. The link between physical health and mental health is well-established and might include weight gain, sleep issues and chronic health conditions.

### *A growing sense of apathy*

Employees become more engaged when companies show they care. When an employee feels like a cog in a machine, when they believe their wellbeing isn't being supported, they will likely grow disillusioned, disengaged and indifferent to their organization on the whole. This can lead to apathy and low motivation, ultimately impacting their performance.

### *Negative interactions and relationships*

In an environment of wellbeing washing, employees may not form trusting, meaningful relationships with co-workers or line managers. If they feel they can't open up or discuss their wellbeing, they might just shut down, meaning relationships deteriorate. Not only can this impact everyone's wellbeing, but it would also have a very noticeable impact on collaboration, communication and productivity within the company.

### *An inability to cope with workplace pressures and demands*

We all have days where our workload and workplace pressures feel like they are getting on top of us. For employees with wellbeing concerns, this can happen quicker, and the effects can feel more profound. In a workplace that does not genuinely address wellbeing, employees may lack the tools to deal with stress and adversity.

As we move into 2024, we in HR need to keep companies accountable. While we all have an individual responsibility to look after our own mental health and wellbeing, there is no denying that organizations also have a responsibility toward their employees. Toxic workplace practices and unrealistic expectations, coupled with a general unwillingness to create genuine wellbeing programs, result in disillusioned, frustrated and disengaged employees.

Businesses guilty of wellbeing washing will notice an increase in staff turnover as promising employees leave for forward-thinking organizations that do the right thing by their employees. Companies need to move beyond superficial gestures and commit to meaningful, evidence-based initiatives while building a culture of trust, support and open communication to allow employees to thrive at work.

<https://hrexecutive.com/what-is-wellbeing-washing-and-is-your-org-guilty-of-it/>

### **What can HR do when an employee is self-harming?**

*This article discusses self-harm and suicide. If you are thinking about committing suicide or engaging in self-harm, dial 988 to reach the National Suicide and Crisis Lifeline.*

*This article also discusses domestic violence. If you or someone you know is a victim of domestic abuse, please call the National Domestic Violence hotline at 1-800-799-SAFE.*

Navigating sensitivities around an employee at risk for self-harm comes with challenges for both tact and compliance.

While [loneliness has been in the spotlight](#) as a health crisis and neurodiversity now has a seat at the DEI table, self-harm is still one area of conversation that remains largely untouched by the HR community.

Previously, HR experts have weighed in on the do's and don'ts of addressing [employees contemplating suicide](#) or participating in self-harm. But how does that stack up in a hybrid work setting?

Dr. Heidi L. Kar, a licensed clinical psychologist and Education Development Center's principal advisor on mental health, trauma, and violence initiatives, corresponded with HR Dive over email about what self-harm is and how business leaders can behave accordingly.

HEIDI KAR: Self-harm is the [deliberate act of causing physical harm to oneself](#). Usually, when people self-harm, they do not intend to kill themselves. Instead, they engage in the behavior(s) either due to an attempt to ease the overwhelming emotional pain they are experiencing by replacing it with physical pain, or due to some types of intellectual and/or developmental disabilities.

Some examples of self-harm include: Cutting or piercing the skin with sharp objects, hitting/punching oneself or other things, and/or burning oneself. Though it is not associated with suicide, in severe cases, self-harming behaviors can be life-threatening.

*What are some signs that someone is self-harming?*

Signs include things like scars, fresh cuts/bruises/bite marks or burns on a person's body, behavior that includes keeping sharp objects close at hand or multiple reports of experiencing injuries from accidents. However, scars can be caused by a whole host of things including violence from others, medical treatment or illness.

Bites or cuts can be caused by pets and indeed, accidents can and do happen and some people have more than their fair share. As such, it is very important to not pathologize or jump to conclusions about any of these warning signs, in isolation.

More helpful and relevant is to try and understand if a person is struggling with high emotional distress, as that is generally the cause for self-harming behavior.

Is there any way to can tell a co-worker is self-harming over Zoom or in a remote work setting?

Unless someone is directly injuring themselves in front of other staff, assumptions — about scars, long-sleeve wearing, cuts or bruises — should not be made. If a staff member is concerned about the well-being of a co-worker, of course, showing concern directly to the person and/or seeking guidance from a supervisor and/or HR is warranted.

But, unless the staff member discloses that they were the ones who inflicted those hurts, burns, or scars on themselves and that they were nonsuicidal in nature, it isn't possible to diagnose. Staff may be victims of domestic violence and try to hide evidence of that in all of the same ways as staff who self-harm do.

What should you do if you think someone is self-harming? More specifically: What should HR do if one of their employees is self-harming?

As with any concerning behavior that could be harmful to an employee, it is important to offer help and appropriate support to a staff member. Self-harming behavior may be the symptom of a protected disability under the Americans with Disabilities Act.

As such, employers are permitted to ask a worker questions about the concerning issue if they believe a direct threat to the employee is present.

HR should also provide the employee a referral to their EAP program, of course. One of the complex aspects of self-harming behavior is the fact that signs of self-harm may be indicative of benign or at least completely different issues, but the same is true in the other direction.

Suicidal self-injury can involve many of the same behaviors — especially cutting — and a mental health professional is always in the best position to evaluate the context and motives of these

types of violent behaviors to best understand what the behaviors are indicative of and what the level of risk to the individual is.

As such, HR may wish to partner with a mental health professional for consultation about approach and obviously for referral support. Of course, HR cannot force anyone to avail [themselves] of mental health support.

<https://www.hrdiver.com/news/what-can-hr-do-when-an-employee-is-self-harming/701593/>

### **Key ways to minimize legal risk in the wake of anti-DEI action**

Recent actions coming from the nation's highest court may leave many corporations wondering whether their efforts at improving diversity, equity & inclusion (DEI) in their workplace will be undone

Last summer, the U.S. Supreme Court effectively [prevented college and universities from using race](#) as a factor during the admissions process, finding that it violates the Equal Protection Clause of the U.S. Constitution and Title VI of the Civil Rights Act of 1964. The decision does not impact workplace diversity, equity & inclusion (DEI) efforts directly, however, because employment discrimination issues are governed by a separate law — Title VII of the Civil Rights Act of 1964.

Nonetheless, the decision suggests that the Court has adopted a “color blind” approach to race discrimination issues, according to [David Glasgow](#), Executive Director of the Meltzer Center for Diversity, Inclusion, and Belonging at NYU’s School of Law. With the Court’s decision, there is a “legitimate fear that in a future case the U.S. Supreme Court will extend the same logic over to employment discrimination and prevent companies from taking into account race, sex, national origin, or other protected characteristics when making employment decisions, even when trying to correct for a large imbalance in their workforce,” Glasgow explains.

Further, legal action likely will continue to be used as a mechanism to thwart and disincentivize company’s DEI programs. As a result, Glasgow recommends that organizations do the following:

Shift from cohorts to concerns — Rather than limiting programs to members of a particular cohort or identity, programs should be made available to anyone who is concerned about that particular topic, Glasgow says. For example, under a law firm diversity fellowship program, a white man with a demonstrated commitment to DEI issues could also can apply for the program.

Conduct a self-audit in partnership with legal counsel — Organizations should analyze the level of risk in every DEI activity by using a traffic light High-risk programs would be labelled with red and less risky programs labelled with green, to identify explicitly those initiatives which give

preference to members of a protected group under the law. For instance, a company using a diverse identity of a candidate as a tiebreaker in promotion decisions would land that company in the red category.

De-bias talent systems — One example of de-biasing a hiring system is to use structured interviewing, which ensures that all candidates meet the required qualifications, that common questions in the same order are being asked of all candidates, and that the scoring system for candidates is based on merit.

Continue executing inclusion and belonging programs — Glasgow advocates for the continuation of cultural initiatives that benefit every single person. “Some DEI programs benefit everyone in the workplace — even those who belong to historically dominant or majority groups at work — such as an allyship program or a program centered on authenticity or psychology safety.” Glasgow says. “There is nothing illegal about them because they are not offering a preference to any particular group.”

#### *How to handle DEI initiatives with some risk*

Under the law, plaintiffs need to show they suffered an “adverse employment action” in order for discrimination to occur; and according to Glasgow, a lot of DEI work does not meet that threshold because it does not affect specific people in their employment. Rather, it’s aimed at creating a more diverse and inclusive culture throughout the organization.

Still, getting sued for a regular discrimination claim from someone who belongs to an underrepresented identity in the workplace is still more common than a reverse discrimination claim from a white person. Glasgow warns against abandoning DEI initiatives that help to make those from underrepresented backgrounds feel more welcome or offer more opportunities to succeed in the workplace, because doing so could create an environment that is more hostile and unwelcoming to people who belong to these marginalized groups.

Also, doing so could open the company to legal risks. For example, eliminating mentorship or sponsorship initiatives that were helping more women advance through your organization might lead to a more homogeneous leadership team, which could lead to a risk of being sued under disparate impact theory, says Glasgow.

#### *Guidance for navigating political risks*

Navigating the political risks of maintaining DEI investments is not going away any time soon. This is why companies should continue to communicate why DEI is important to their core values, especially if a company views DEI initiatives as critical for its long-term business strategy. Amid an tight labor market, a company’s ability to reach out to the next generation of talent in order to meet the company’s future strategy and to align the values of future leaders with the company’s are key points to emphasize with all stakeholders.

In determining whether or not a company should take a position on an external issue, corporate governance expert [Leo Strine](#) — currently Of Counsel in the Corporate Department at Wachtell,



Lipton, Rosen & Katz, and formerly Chief Justice of the Delaware Supreme Court — [advocates for companies](#) to ensure there is a “deliberative process of the board of directors based on the direct relevance of the policy question to the company.”

Indeed, the full board “should have to weigh and bear responsibility for any corporate position,” Strine writes, adding that it “should also be clear that no employee or customer is expected to share that belief and that all people of good faith are welcome to work for and patronize the company.”

<https://www.thomsonreuters.com/en-us/posts/legal/minimizing-legal-risk-anti-dei-action/>

### **EEOC plan demands renewed focus on preventing discrimination**

Since its establishment on July 2, 1965, the [Equal Employment Opportunity Commission](#) (EEOC) has been committed to its mission of eradicating workplace discrimination, both on an individual and systemic level.

However, the EEOC’s [recently unveiled](#) 2022-2026 strategic plan highlights a significant shift in focus. Under the new EEOC plan, systemic claims will now be given added emphasis, highlighting the need for a proactive approach to comprehensively address workplace discrimination.

#### *EEOC plan looks for patterns*

According to the [EEOC](#), systemic cases are defined as “a pattern or practice, policy, and/or class cases where the discrimination has a broad impact on an industry, profession, company, or geographic location.”

These claims have the potential to create broader impacts on the workplace than individual claims and can result in substantial financial, reputational, and operational costs.

If hiring or promotion policies, for example, are carried out and not justified by a business necessity or distinction and lead to members of one group getting preferential or better career and workplace outcomes, organizations may be subject to enhanced scrutiny.

It’s not just about addressing isolated incidents but about challenging biases and practices that affect entire communities within the workforce. It’s a call to action for organizations to scrutinize their practices and ensure they align with the law, promoting fairness and equity for all employees while avoiding legal risk.

#### *Need for proactive plan*

Like most [forms of risk exposure](#), a proactive plan of action that establishes standards and expectations is far more effective than reacting to individual incidents where potential liability

has already been established and resources will be spent mitigating the impact while root causes go unchecked.

Leaders across organizations must recognize the evolving landscape of workplace discrimination and commit to fostering systemic change through daily actions. For example, organizations must make enduring commitments, treating the issue of discrimination as seriously as they do matters like safety, innovation, and operational processes.

#### *Alter daily practices*

Effective change begins with altering daily practices and behaviors and fostering an environment where employees feel empowered to voice their concerns and trust that they'll be supported. Leadership must ensure that their actions align with the core behaviors required to create a diverse and inclusive workplace.

Most organizations already have values that include principles like "respect," "fairness," and "teamwork." However, these values hold no weight if they are not communicated, understood, and applied continuously and explicitly across the organization.

#### *Encourage collaboration*

A healthy culture encourages collaboration and innovation, and this requires all employees to feel valued and empowered. Systemic discrimination not only increases risk; it also hurts the people and processes upon which the organization's operational and financial success depends. If leaders don't practice what they preach, the culture and organization will suffer. Building a culture that discourages discrimination, fosters inclusivity, and attracts the best talent requires more than just policies and training. It necessitates commitment, communication, consequences for discriminatory behavior, and continuity in employment initiatives.

Inclusion thrives in an environment where people feel comfortable discussing differences, opportunities, and ideas openly. This also reduces the likelihood of behavior trends that rise to the 'systemic' level being scrutinized per [the EEOC's 2022-2026 strategic plans](#).

#### *C-suite take ownership*

To bridge the gap between policies and action, leaders must take ownership of the issue and manage diversity and inclusion like any other organizational process. Senior leaders should regularly incorporate discussions about diversity and inclusion into meetings, hold employees accountable for their actions, and make a culture of inclusion an integral part of the organization's DNA.

The EEOC's renewed focus on systemic discrimination is a call to action for organizations and their leaders. It underscores the importance of addressing deeply rooted biases and practices that affect entire communities within the workforce. By embracing diversity and inclusion as a top business priority, organizations can not only minimize legal risks but also create workplaces that attract and retain the best talent, foster innovation, and drive positive results.

It's a journey toward inclusive excellence that requires continuous commitment, communication, and a collective effort from leaders across all levels of the organization.

<https://www.hrmorning.com/articles/eeoc-plan/>

## **U.S. Workers With Depression Lose 51 Days in Productivity Each Year**

[TELUS Health](#) has released its monthly [TELUS Mental Health Index](#), revealing that U.S. workers with diagnosed depression lose 51 working days in productivity per year. The Index also found that 27% of workers say better support for their well-being is more important than a 10% increase in salary.

“The impact of depression and anxiety on the workforce is significant, with more than half of all workers in the U.S. affected or suspecting they are,” says Juggy Sihota, chief growth officer at TELUS Health. “This not only leads to a loss of productive work time but also affects the overall well-being of employees. Recognizing the crucial connection between employee well-being and business success, it is essential for employers to prioritize investments in tools, processes, and comprehensive benefits plans that foster mental well-being. By doing so, they can cultivate a highly engaged and productive workforce that drives positive business outcomes.”

Mental health and work-related stressors are linked to productivity loss at work.

*Key findings from TELUS Health are below.*

- Approximately 19% of workers with a mental health score of 50 or lower experience a significantly higher productivity loss than workers with a mental health score of 90 or more.
- The isolation score of workers improved nearly one point yet remains the second lowest mental health sub-score for the 18th consecutive month.
- Workers reporting workplace conflict lose 42 working days in productivity per year.
- Workers find value in support for well-being. Additional key findings from TELUS Health include the following.
  - When asked about their most valued elements of health benefits, most workers in the U.S. prioritize medical coverage (72%), followed by medication (36%), and dental benefits (35%).
  - More than 11% of workers value psychological services the most.

- Workers under 40 are nearly three times more likely than workers over 50 to value psychological services most.

“As mental health scores continue to be at a suboptimal level, workers are increasingly aware that financial and mental well-being are deeply interconnected, and that overall well-being involves far more than just a salary,” says Paula Allen, global leader of research and client insights at TELUS Health. “In today’s uncertain economic environment, it is very telling that workers are placing equal, if not greater, importance on well-being support compared to their salary. This highlights a significant opportunity for employers to meet employees’ needs by providing resources and real-time support that go beyond financial considerations to maintain morale and ultimately retain top talent.”

The mental health score of workers in the U.S. is 70.7, a full point improvement over September 2023.

<https://www.hrotoday.com/news/u-s-workers-with-depression-lose-51-days-in-productivity-each-year/>

### **Research finds women 'turn inward' when they experience ambiguous workplace incidents**

That gender discrimination is wrong is beyond argument. But identifying which incidents are cases of it is not always so clear cut. That's why researchers are recommending that organizations develop processes that encourage workers to share their concerns when they suspect but aren't sure that they have experienced discriminatory treatment based on their gender.

While employees may want to keep suspicions to themselves for fear of reprisal if they're mistaken, the consequences of doing so carry risks to workplace culture and performance, the researchers say.

"Not every ambiguous incident is discriminatory—some are simply misunderstandings," says researcher Laura Doering, an associate professor of strategic management at the University of Toronto's Rotman School of Management.

"In order to adjudicate between discrimination and misunderstandings, we suggest that organizations look for patterns. Are people repeatedly sharing concerns about the same person or situation? If so, it's worth investigating as possible cases of discrimination."

More than 2,000 [women](#) working in professional roles participated in the research through personal interviews, a survey, and a study where respondents were asked what they would do when faced with scenarios involving different levels of certainty. Prof. Doering and two co-researchers found that women were likelier to speak up when they experienced what felt like overt discrimination, such as a supervisor assigning male workers a more challenging project while giving their female peer a less valued administrative task.

But when women weren't so sure—for example, when a supervisor might have overlooked a woman's contribution because a phone rang while she spoke and he couldn't hear her idea—the researchers found that they "turned inward," doubling down on their own work habits and keeping the incident to themselves.

The study appears in [Sociological Science](#).

"They plan to change things about themselves like speaking louder, working harder, and calling more attention to their efforts at work," says Prof. Doering. Ambiguous incidents happened more frequently than overt ones, the researchers found, becoming a ruminating distraction for the women and even interfering with their confidence to advance through their organization.

Organizations can reduce uncertainty, the researchers suggest, by making internal processes more transparent such as widely advertising job opportunities and spelling out their criteria, and clearly explaining the process and rationale for particular hiring and promotion decisions. Cultivating an environment where employees feel comfortable to share their concerns informally, such as through an equity and diversity officer or ombudsman's office, and where colleagues and leaders can serve as supportive allies if they witness potential [gender discrimination](#) can also help, says Prof. Doering. Employees unsure whether they've experienced gender discrimination might also seek out a trusted colleague as a sounding board if they don't have other places to go.

When women stay silent about ambiguous incidents, it limits not only their careers but the potential for change that benefits everyone. "If organizations don't know about experiences that are discriminatory—and, if these things are happening to multiple women suffering in isolation—then there's no capacity for leaders to take action to address these problems," says Prof. Doering.

<https://phys.org/news/2023-12-women-ambiguous-workplace-incidents.html>

## **WORKPLACE DISCRIMINATION LAWSUITS ARE UP 50% ACCORDING TO EEOC DATA**

*The Age Discrimination in Employment Act of 1967 forbids any company with 20 or more employees from discriminating against those who are 40 or older.*

In the fiscal year 2023, the U.S. Equal Employment Opportunity Commission (EEOC) has had to significantly increase its litigation filings to challenge workplace discrimination and ageism. According to data, the agency has filed [143 new employment discrimination lawsuits](#), representing an annual increase of more than 50%. Among the filings were 25 systemic lawsuits, nearly twice the number of filings filed in each of the past three fiscal years. The EEOC has also seen 32 non-systemic class suits “seeking relief for multiple harmed parties” and 86 suits seeking relief for individuals. The cases filed by the EEOC challenge workplace discrimination under all of the statutes, including ageism.

The Age Discrimination in Employment Act of 1967 forbids any company with 20 or more employees from [discriminating against those 40 or older](#) during any aspect of employment, including recruitment and hiring.

Reports show that Black employees are not exempt from this form of marginalization. For example, former Director of Information Technology Carla Smith alleged she was “[systemically forced out](#)” due to her age, BLACK ENTERPRISE previously reported. The EEOC defines systemic cases as “pattern or practice, policy and/or class cases where the [discrimination has a broad impact](#) on an industry, profession, company or geographic location,” as stated in a report. Smith, then 53, claimed that a younger supervisor fired her after she raised concerns about ageism in the workplace, which violates the law. The supervisor later resigned.

“When I took a vacation and I came back, I was told I was being terminated. It was traumatic, to say the least. I feel as if, like I said, I’m just one of millions of middle-aged professionals [who] really just want to do our jobs. I know that the treatment, I feel, was unfair. I also think that treatment was illegal,” Smith told WSB-TV.

Tesla was also under close watch after EEOC Chair Charlotte A. Burrows filed a commissioner’s charge claiming it violated Title VII of the [Civil Rights Act](#) of 1964. “The electric car company was accused of subjecting Black employees to an unlawful hostile work environment and retaliation for those who complained against it,” BE reported. According to the EEOC’s suit, from at least 2015 to the present day, Black employees at Tesla’s Fremont, California, manufacturing facilities were victims to “racial abuse and pervasive stereotyping” as well as epithets such as variations of the N-word, “monkey,” “boy,” and “black b\*tch.”

“Combating systemic harassment in workplaces is a key strategic enforcement priority for the EEOC. Unfortunately, as the lawsuits EEOC has filed this fiscal year show, racial harassment remains a persistent problem in employment. Every employee deserves to have their civil rights

respected, and no worker should endure the kind of shameful racial bigotry our investigation revealed,” said Burrows in a written statement.

In order to free up resources, the EEOC announced its launch of [E-File for Attorneys](#), an application which allows attorneys to submit charges of discrimination electronically on behalf of their clients. Attorneys will now be able to immediately upload charges signed by their clients or create a charge for their clients to sign and submit through the EEOC Public Portal.

“We listened to requests from attorneys that we provide them with a streamlined process to submit charges of discrimination on behalf of their clients and found a solution that would also enable the EEOC to better serve the public,” Burrows said.

<https://www.blackenterprise.com/eec-workplace-discrimination-cases-increase/>

## **Confronting Anxiety About AI: Workplace Strategies For Employee Mental Health**

While the full integration of AI into the workplace remains on the horizon, its mental health impact on employees is already being felt. Even as businesses consider how they might best harness new AI tools, they must also consider how to proactively address the anxiety, stress, and uncertainty caused by growing fears of AI automation.

Just consider a [recent survey](#) by the American Psychological Association, which finds that almost two-in-five workers worry that AI might make their job obsolete. Further, these respondents were significantly more likely to report that their work has a negative impact on their mental health – 51 percent compared to just 29 percent for those who do not worry about AI.

This association reaches across a range of negative feelings and impacts related to work. These workers were also more likely to report poor mental health, feelings of stress and emotional exhaustion, low motivation and productivity, and the belief that they do not matter to their employer. It's no surprise, then, that almost half of those worried about AI also intend to look for a new job in the next year. These impacts were also more common among more vulnerable workers, including people of color and people with a high school education or less.

Given these alarming figures, employers can't afford to “wait and see” on AI. In fact, even if an organization does not have plans to adopt AI, the mere prospect and public conversation on this topic is likely affecting employees already.

Organizations must get ahead of speculation with proactive communication and strategy on what AI means for their workplace. After all, like any technology, the impacts of new AI tools

depend on their application – with the potential to make jobs more engaging, creative, and enjoyable. Additionally, there are direct mental health applications of AI, like for [mental health screening](#) and in neuroscience research to penetrate and find patterns in the vast amount of data required in brain science.

*Here's what employers can do to help ease the anxiety about AI:*

Proactively communicate about plans for AI. According to a [new survey by UKG](#), over half (54%) of employees have no idea how their companies are using AI, while 78% of C-suite leaders say their company is using AI today. Keep in mind that AI is not a monolith; there are many applications that can have little impact on employees (like AI in spam filters) or a positive impact (like AI built into the tools they already use). When organizations share these applications, it makes AI less anxiety-provoking and more normal. An estimated 75% of employees said they would be more excited about AI with more company transparency.

Train employees to use AI tools and engage them in planning. Many AI tools will likely augment, not replace, aspects of a worker's responsibilities. However, they may need training on how best to use these tools.

A recent [OECD](#) report about AI that surveyed both employers and workers found that training and worker consultation are associated with better outcomes for employees.

Explore AI mental health tools and education. AI can provide [important benefits in workplace mental well-being](#). AI-powered assistants can communicate with employees, detect signs of mental health distress, and suggest potential resources, with confidentiality. AI-powered platforms can also help employees access resources on mental health, including education on the importance of managing mental health or Cognitive Behavioral Therapy (CBT) techniques.

It's critical to account for mental health when planning for new AI tools, especially to maintain trust, well-being, and retention among employees. With a strategy that communicates, trains, and prioritizes mental health, AI can better augment the workforce and the future of work. We will all also benefit by the acceleration of science to lead to better and more evidenced based treatments and diagnostic tools for mental health illnesses.

<https://www.forbes.com/sites/onemind/2023/12/18/confronting-anxiety-about-ai-workplace-strategies-for-employee-mental-health/?sh=410b16401f24>



## Why We Need the Workplace Psychological Safety Act

There is an urgent need to counteract psychological abuse being tolerated or committed by employers.

In October, the Massachusetts state legislature heard testimony from hundreds of activists in support of the Workplace Psychological Safety Act (WPSA), an anti-bullying bill that could set a new national precedent. The measure—which was first put forward in Rhode Island earlier in 2023—would hold employers accountable for psychological abuse committed on the job. Advocates for the bill [define](#) psychological abuse as “bullying and mobbing that violate an employee’s basic human right to dignity.”

With bullying affecting [nearly 80 million](#) U.S. workers (roughly one in two overall), according to a 2021 survey by the Workplace Bullying Institute, there is an urgent need to counteract psychological abuse being tolerated or committed by employers, many of whom rely on loopholes in current laws to avoid facing penalties. The WPSA [lays out](#) a more stringent system for workers to seek recourse from, among other things, “common behaviors that a reasonable person would deem to be toxic.”

While there are plenty of laws designed to protect employees from racism and discrimination in the workplace, these laws are far from perfect—and many do not account for abuses that are less blatant. As a professional credentialed teacher, I’ve seen colleagues being yelled at, intimidated, and talked to condescendingly, none of which would, at present, be legally considered workplace abuse.

Teachers are among the workers who need this act’s safeguards the most. There is no cookie-cutter approach to teaching. Every day is unique, challenging and exhausting. And expectations—especially for new teachers—are extremely high. Some students have different learning ability levels, language barriers, social-emotional and various other challenges. On top of these pressures, teachers face the threat of [displacement](#).

Put simply, [displacement](#) is a bureaucratic method to get rid of teachers. A school can justify displacement for reasons such as low enrollment, or [favoring](#) teachers in certain subjects over others. But sometimes, administrators simply displace teachers because they don’t get along with them personally or professionally. One could say that displacement is a form of bureaucratic psychological abuse.

Conditions that displaced teachers face can cause psychological issues like anxiety, depression, hypervigilance, and post-traumatic stress. Newer teachers are [often the ones](#) displaced, and they are mainly placed in schools that they have not selected.

It is time for unions and civil rights organizations to stand up and declare displacements unacceptable. Regardless of years of experience, all teachers must be treated with dignity and

respect. Students will only benefit from having an effective, long-term teacher who is not being micro-managed or harassed.

We must get the WPSA signed into law in all fifty U.S. states. We must stand up for the rights of all workers to be treated fairly and with respect. The WPSA can serve as a legal protection for new teachers who, at times, may feel that their labor union may not advocate or represent them in relation to the issue of displacement.

Teachers throughout the United States have an opportunity to organize, advocate for, and demand that their school board members support and adopt the Workplace Psychological Safety Act.

By implementing the principles of the Workplace Psychological Safety Act, school board members can set the example that bullying and psychological harassment of teachers is unacceptable and no longer tolerated.

<https://progressive.org/op-eds/why-we-need-workplace-psychological-safety-act-ertll-20231218/>

## **United States: The Future Of DEI And Reverse Discrimination Suits**

As we reviewed in earlier posts, the Supreme Court's June 2023 decision in *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College (SFFA)* promised to be a game changer not just in education but in the employment context as well.

While the SFFA decision did not directly apply to private employers, its strong language criticizing affirmative action has had the effect many argued the Court wanted it to have: it caused universities and employers to reevaluate their DEI programs. The decision further prompted potential plaintiffs and members of the plaintiff's bar to challenge employment decisions allegedly made on the basis of a lack of membership in a group viewed as diverse and inclusive.

Now, nearly six months after the Court's decision, we are finally starting to see the ramifications of this holding in the private sector and are better able to predict how the burgeoning legal landscape may continue to take shape.

By way of review, the SFFA decision struck down the race-conscious admissions programs of Harvard University and the University of North Carolina at Chapel Hill. The Court found that the universities violated both the Equal Protection Clause and Title VI of the Civil Rights Act by utilizing race as a stand-alone "plus" factor in admissions evaluations. Ultimately, the majority

opinion concluded that the programs "lack sufficiently focused and measurable objections warranting the use of race, unavoidably employ race in a negative manner, involve racial stereotyping, and lack meaningful end points."

While a significant development in the field, the decision remains—at least technically — restricted to the field of higher education. However, in the months since the decision, aggressive organizations and plaintiffs have been actively attacking diversity programs beyond the realm of higher education.

### *DEI Under Attack*

In the aftermath of the SFFA decision, DEI programs have been under attack, both in the court of public opinion and actual court system.

Federal courts are beginning to see a small uptick in claims that seek to challenge DEI initiatives. Critically, there appear to be two different cohorts of potential plaintiffs emerging in these litigation efforts: (1) organized, well-funded, and committed activist/political advocacy groups pursuing injunctions and non-monetary resolutions; and (2) traditional single- or multi-plaintiff efforts seeking to recover more traditional damages.

At this point in time, the first group is more actively litigious. Indeed, within just months of the SFFA decision, the American Alliance for Equal Rights—the same organization that brought suit against Harvard and the University of North Carolina in the SFFA decision—began to aggressively challenge diversity initiatives at private employers, which they argued are illegal and discriminatory. Unsurprisingly, large firms and companies with public-facing and prominently displayed DEI initiatives proved to be primarily targeted by these initial efforts.

Worth noting is that these groups tend to first engage with the employer prior to filing suit, although these efforts are often accompanied by publicly-released media statements.

Interestingly, the American Alliance first targeted the legal industry and law schools, both writing to and then suing several multinational law firms. They also challenged DEI programs at large companies. The group filed lawsuits that resulted in those institutions having their scholarship and recruitment efforts publicly scrutinized via the filing of three prominent complaints. The group's efforts seek to challenge companies that fund award programs, diversity scholarships, and grants to minority-led employees, applicants, or businesses.

The American Alliance may argue that these efforts have been largely successful. In response to the charges and lawsuits, several defendants have already opted—publicly or privately—to revise their internal policies in an effort to avoid active or threatened litigation. Many of these programs have been revised to no longer outwardly identify race as a factor in the selection of applicants for DEI fellowships and other internal programs. Indeed, in recent public comments the American Alliance has declared a brief pause in the group's planned activities, citing the belief that many organizations revised policies that the group viewed as objectionable. For example, a recent stipulation of dismissal in one of the lawsuits identified the removal of the

phrase "membership in a disadvantaged and/or historically underrepresented group in the legal profession" from the targeted DEI program.

The effect of the SFFA decision is also still being felt in the realm of higher education. In October, SFFA filed suit against both the U.S. Naval Academy in Annapolis and West Point Academy, arguing that affirmative action in its admissions processes violates the Fifth Amendment. No. 1:23-cv-02699-ABA (D. Md. Oct. 5, 2023); No. 7:23-cv-08262 (S.D.N.Y. Sept. 19, 2023). Beyond the question of admission, other institutions have been sued by aggrieved students for allegedly using race, sex, or gender preferences in selecting members for particularly prestigious organizations within the University. *Doe v. New York University*, No. 1:23-cv-09187 (S.D.N.Y. 2023).

In addition to the above, individual employees are pursuing legal challenges to adverse decisions that the employee believes were motivated by the employer's desire to advance internal diversity and inclusion targets. *Meyersburg v. Morgan Stanley & Co. LLC*, No. 1:23-cv-07638 (S.D.N.Y. Aug. 29, 2023). Such claims are likely continuing to work their way through enforcement agencies such as the EEOC before appearing on public dockets.

#### *What is the Future of DEI Initiatives?*

First, DEI programs are still lawful. As it stands, employers are more likely to receive pressure from advocacy groups to revise and remove DEI programs such groups perceive as unfair. The best way to circumvent similar challenges is for employers to proactively review existing DEI initiatives and programs to make sure they are compliant with the law. It is critical that the review is conducted through a litigation lens, but important to recognize that such challenges are unlike traditional plaintiffs seeking to bring causes of action for violations of Title VII, hostile work environment, or retaliation. There are comparatively minimal efforts needed to create and maintain policies that will not draw the ire of the first class of plaintiffs; and

Second, more traditional "reverse discrimination" claims—i.e., an individual plaintiff seeking to recover monetary damages—are incredibly fact specific and at this time more uncommon. In fact, proper preemptive measures may well prevent the second group of plaintiffs from establishing a "legal foothold" at all. Absent additional developments to the case law on a federal level, there may not be an opening of the proverbial floodgates via a one-size-fits-all formula for plaintiffs seeking to recover monetary damages.

While a true "explosion" of DEI-centric litigation has not yet occurred, the current trend unmistakably indicates that companies need to be aware of their litigation risks going forward.

Firms that wish to continue adopting a best-practices approach should review internal and public-facing DEI communications and avoid statements that explicitly mention protected characteristics as "plus" factors for employment decisions. In line with these recommendations, executives and other high-ranking officers should exercise care in making statements that indicate any sort of racial or ethnic preference. This is not to say that diversity programs must be abandoned—indeed, the opposite remains true—however, it is important for businesses to

remain educated about the realities imposed by the current DEI climate and properly protect themselves.

In the interim, employers will continue to grapple with the potential exposure that DEI programs may create and the public relations implications that accompany litigation. Through what is likely a combination of tightening economic conditions and the specter of potential litigation, there has been a growing dearth in DEI practitioners at the management level. When DEI programs are not directly targeted for budgetary concerns, certain industries—particularly information and technology—have experienced significant turnover in DEI team leaders and other officer roles. In addition, job postings for DEI positions fell 19% in 2022, a trend that appears to have continued into 2023. In fact, since 2018, the average tenure of a DEI role within an S&P 500 company has been less than two years.

#### *What Should Employers be Doing?*

Ultimately, if and until the Supreme Court weighs in on the legality of DEI programs within the private sector, the controlling advice has not changed—employers who value diversity need not immediately abandon their initiatives. However, employers should be prepared and even expect that their programs may come under public scrutiny or even be challenged in court.

At the very least, employers must ensure that any programs and initiatives they wish to maintain are compliant with the law and do not facially promote favorable treatment of one group over another.

There should never be a mandate or directive that "favors" or "targets" certain groups for hiring or promotion within an organization.

Employers should avoid or eliminate all direct numerical targets or incentives, as such initiatives are likely to come under the most scrutiny going forward.

Look closely at any program or opportunity that provides a direct "prize" or "reward", like scholarship or training programs. Those should be open to all, or membership should be chosen from applicants of all backgrounds.

While employers may still set goals for diversity, they should avoid any link between meeting those goals and financial compensation.

While such statistics are disconcerting, the SFFA decision should not ultimately be a cause for panic for private sector employers. Simple, easily replicable steps will likely allow for the majority of entities to avoid potential litigation.

<https://www.mondaq.com/unitedstates/employee-rights-labour-relations/1402316/the-future-of-dei-and-reverse-discrimination-suits>

## **DEI under siege: Why more businesses are being accused of 'reverse discrimination'**

He has accused [Macy's](#) of discriminating against white men. [McDonald's](#) and [IBM](#), too. Even NASCAR – a mostly white sport that banned [Confederate flags](#) in 2020 – is in his sights. About two dozen complaints have been leveled by [Stephen Miller](#), a senior [White House adviser](#) in the Trump administration.

Emboldened by a Supreme Court ruling last summer [striking down affirmative action](#) in education, Miller and his conservative advocacy organization America First Legal have taken the position that all DEI programs are illegal, embracing ["reverse discrimination,"](#) a concept that first emerged in the 1970s as a backlash to 1960s-era civil rights laws to address racial disparities in the workplace.

*What is 'reverse discrimination'?*

Miller claims white Americans today are being denied opportunities so corporations can hire and promote more people of color and achieve their diversity goals. Miller did not respond to requests for comment.

"If a major corporation said in proxy statements to shareholders or in the HR section of their website 'We are going to increase the white composition of our workforce by 15% this year,' I think most folks would say, 'Well, that's kind of racist and that seems wrong,'" Gene Hamilton, vice president and general counsel of America First Legal, told USA TODAY in September.

*Anti-affirmative action activist takes on corporate DEI*

Miller may be the face of attacks on corporate diversity programs, but he's not the only one. Fresh off his landmark affirmative action victory in higher education, conservative activist Edward Blum is making similar claims.

His organization, the American Alliance for Equal Rights, has taken [legal action or threatened top law firms](#) and [other organizations](#), accusing them of excluding white and Asian students from fellowship programs based on race.

"There is no such thing in the law as reverse discrimination," Blum told USA TODAY. "It is simply racial discrimination."

*Conservative throw down legal challenges to DEI programs*

Federal law prohibits private employers from considering race and other protected characteristics in employment decisions, but they have the discretion to take steps to remedy racial imbalances in their workforces.

In legal challenges, conservative activists are testing that prerogative by saying white workers are being unfairly disadvantaged by diversity, equity and inclusion (DEI) programs that benefit only minorities and by policies that tie executive compensation to diversity targets.

Last week, billionaire entrepreneur Elon Musk aired similar sentiments. "[DEI must DIE](#)," he posted on his social media platform X, formerly Twitter. "The point was to end discrimination, not replace it with different discrimination."

#### *Bracing for wave of 'reverse discrimination' lawsuits*

Corporations are bracing for a wave of "reverse discrimination" lawsuits against DEI programs. They are closely watching a [Supreme Court case](#) that could make it easier for workers to pursue employment discrimination claims over job transfers by eliminating the requirement to show material harm. A broad ruling in the case could cause a surge in "reverse discrimination" suits, legal experts say.

Historically, "reverse discrimination" claims are relatively rare.

Though white workers account for about two-thirds of the U.S. workforce, their discrimination claims make up only about 10% of race-based claims, according to data USA TODAY obtained from the Equal Employment Opportunity Commission.

#### *White workers alleging discrimination test the legal waters*

But attorneys say the federal courts are beginning to see a [small increase in claims](#) challenging DEI initiatives.

The claims are being brought not just by political advocacy groups like Miller's or Blum's. Individual employees and groups of employees also are filing legal challenges.

USA TODAY parent company Gannett faces a proposed class-action lawsuit that accuses the newspaper publisher of discriminating against white employees in an effort to diversify its newsrooms. Gannett says the lawsuit is "meritless" and has asked a judge to dismiss it.

Morgan Stanley is being sued by a white former managing director who claims he was fired to make way for a less qualified and less experienced Black woman so the investment bank could meet diversity objectives. Morgan Stanley declined to comment.

AT&T is being sued by a former assistant vice president in its tax research department who says he was laid off less than two months after being told he could not advance because he was "a 58-year-old white guy." AT&T denied the allegations and is contesting DiBenedetto's lawsuit.

### *Some wins for 'reverse discrimination' claims*

Some "reverse discrimination" complaints have been successful.

In June, a jury in New Jersey ruled in favor of Starbucks regional director Shannon Philips, who claimed she was fired for being white. The court ordered Starbucks to pay an additional \$2.7 million in damages.

In 2021, David Duvall, an executive of the hospital operator Novant Health who claimed he was fired despite strong performance reviews and replaced by two women, one Black and one white, received a \$10 million jury award. The award was later reduced to about \$4 million. This month, a U.S. appeals court reviewing the case indicated it would uphold the award. Novant Health says a lack of leadership skills prompted Duvall's termination.

### *DEI backlash followed George Floyd's killing*

The rise in legal challenges to DEI programs proliferated after corporations stepped up efforts to increase racial and gender diversity after the killing of George Floyd in Minneapolis in 2020. Despite those efforts, [little progress has been made](#).

The top ranks of America's largest corporations are still predominantly white and male, while women and people of color are concentrated at the lowest levels with less pay, fewer perks and rare opportunities for advancement, a USA TODAY analysis found.

This week the Congressional Black Caucus [called on corporate leaders](#) to "reaffirm their commitments to a "more racially inclusive economy."

"The economic state of Black America continues to suffer with underrepresentation in fast-growing high-wage industries, low probabilities of advancement, and a lack of representation in executive roles," it said.

### *Anti-DEI efforts to expand in 2024: Trump, Project 2025*

The first volley in the conservative backlash against corporate DEI came from former President Donald [Trump](#), who issued an [executive order](#) in 2020 banning the federal government and its contractors from offering [DEI training on systemic racism](#). President Joe Biden [rescinded](#) the order.

What followed were attacks on everything from [environment, social and governance principles](#) to [critical race theory](#) as GOP presidential hopeful and Florida Gov. Ron DeSantis and other Republican leaders accused corporations of running diversity programs that paint all white people as racist and of abandoning colorblind systems based on merit to hire and promote people of color.

A coalition of conservative groups including America First Legal are preparing for a Republican administration with a manifesto known as ["Project 2025."](#) Project 2025 calls for the Justice



Department and the Equal Employment Opportunity Commission to take action against corporate DEI initiatives.

### *Conservatives embrace 'colorblindness' in the workplace*

Justin Gomer, associate professor of American Studies at California State University, Long Beach, says conservatives are pushing concepts like “racial neutrality” and “colorblindness” in the workplace to maintain white power and dominance.

“White supremacy is so deeply rooted in our country and in our history that this is just the latest version of that, and it has proven very politically expedient to play into that,” Gomer said. “It is framing discrimination as strictly personal and individual, and it is denying that discrimination is structural and institutional.”

### *DEI in retreat as corporations come under fire*

The intensifying attacks on corporate DEI has prompted some corporations to retreat from public targets for racial diversity in their executive ranks and from leadership training programs geared to underrepresented groups. Others are removing “diversity” from job titles.

New data from McKinsey & Co. show that [fewer Black professionals are being promoted](#) into management as companies back off ambitious goals and revert to nearly the same promotion rates for Black staffers as in 2019.

At least six major companies, including JPMorgan Chase, modified policies meant to increase racial and ethnic representation after conservative groups threatened to sue, according to a [Reuters review](#) of corporate statements.

The past year "has undeniably shifted the DEI landscape for years to come," according to a report from DEI consulting firm Paradigm.

"External forces are no longer pushing companies to invest in DEI; instead, in some cases, external forces are pushing back on companies' investment in DEI," the [report said](#).

### *Republican and Democratic voters split on DEI*

Republicans and Democrats are split on DEI and affirmative action in the workplace.

Despite those differences, voters on the political right and left believe companies have the right to pursue DEI policies as they see fit, according to [new research from Penn State's Smeal College of Business and Rokk Solutions](#) provided exclusively to USA TODAY.

However, skepticism about the sincerity and effectiveness of corporate DEI programs is prevalent among Republicans and Democrats alike, with Democrats demonstrating more skepticism on both, the research found.

Republican voters in the study did not see a business case for DEI, but about half believe that DEI programs benefit society.

<https://www.usatoday.com/story/money/careers/2023/12/20/dei-reverse-discrimination-lawsuits-increase-woke/71923487007/>

## **It's time to benchmark mental health at work**

When we look around at the state of mental health in the United States, what we see staring back at us is challenging — 15% of working age people have a mental health condition, according to the World Health Organization, and an APA found there is an annual \$1 trillion cost to the global economy associated with [untreated mental health conditions](#). Every indication is that the numbers have not improved since those studies were done.

The COVID-19 pandemic ushered to the forefront an important conversation about the need for improving workplace mental health. Many employees are [burnt out and struggling](#) to find work-life balance. Our healthcare workers can't care for others without first caring for themselves. As employers, we have both a responsibility and an opportunity to design our workplaces with the unique mental health needs of our staff in mind. And to make it more complicated, there has been no defined measurement to demonstrate a "good" workforce mental health program.

From a personal perspective, addressing mental health issues head-on by reducing stigma and offering a path to wellness is important to me because I, like most people, have had first-hand experience of the lasting damage families and communities can experience in the wake of mental health challenges and [substance abuse](#). When leaders see a problem, they should seek a solution.

So, how can we do better?

It is a simple question. Yet asking that question can be scary — it uncovers where shortcomings and failures are, but also reveals opportunities and can challenge our assumptions. URAC has been accrediting healthcare organizations for over 30 years and we believe "mental health" is "health," so addressing this issue has been natural for us. In addition, our first core value as an organization is "We value people" and that means we value our co-workers, our clients, and the communities they serve. We love having people join our team who believe that meaningful work matters and know that their lives are more than just the work they do. So, we had to ask ourselves how we can do better when it comes to caring for our own employees.

Wanting to understand how we can support our employees led us to measure our mental health strategy with the [Mental Health at Work Index](#). Answering the questions in the Index allowed us to benchmark the maturity of our workplace mental health services against other

organizations using the leading research on what matters. We also learned where we excel and it opened our eyes to a few blind spots, which helped us chart a path for improvement.

What we found was:

1. We did a good job in our benefit design, where our staff are supported with appropriate insurance coverage, time off and an Employee Assistance Program.
2. URAC discovered significant room for growth with staff training specific to mental health, especially for people managers and our remote workforce. Our best path is ensuring staff have training and tools for success.

Our findings weren't unique. Broadly speaking, the Index so far has found that despite the increased need and attention, strategic efforts to support workforce mental health are still relatively underdeveloped. Employers tend to invest in areas where there are both legal and regulatory requirements and market-based workforce expectations. But progress is slower when it comes to engaging workers, work design and organizational culture.

With the aim of empowering others to go through a similar process, we've recently launched a [Mental Health at Work Accreditation](#) Program, built from the Mental Health at Work Index, to measure how well organizations are safeguarding employees' mental wellness. The accreditation scores how effectively organizations are creating psychological safety, providing access to mental health treatment, and focusing on a positive atmosphere that cultivates and celebrates employee strengths. Additionally, it helps solidify an organization's plans to bolster their mental health strategy. Ultimately, the accreditation provides a "gold star" to organizations that are dedicated to employee well-being.

Many of us are checking the box to say, "we're doing it," but fewer of us are doing it well. I am committed to using URAC's findings from our engagement with the Mental Health at Work Index to develop an organization-wide strategy that includes the protection of mental health, promotion of psychological well-being and provision of information, resources, and services. We'll start with a three-year strategy that has specific goals to provably and demonstrably improve the lives of our employees. We will also continue to examine our progress and adjust as we learn more from the experiences of other organizations. We know this is more than a motivational poster or a pizza party, and that meaningful change takes time.

As leaders, we should be driving organization-level changes that protect worker's psychological well-being and prevent problems from occurring in the first place. After receiving our priority action roadmap, we are working to implement the critical recommendations that will result in the largest improvement in our mental health strategy.

We also need to put more effort into measuring, monitoring and reporting efforts related to workforce mental health. Programs like our new accreditation can help meet this need. Without data, we can't make informed, strategic decisions about how to enhance workforce mental health most effectively. We are on this vital journey and hope that more organizations join in for the sake of their people, their families and communities. This work can't wait.

<https://www.benefitnews.com/opinion/its-time-to-benchmark-mental-health-at-work>

### **EEOC Issues Article on Workplace Accessibility**

WASHINGTON – Today the U.S. Equal Employment Opportunity Commission (EEOC) issued an article titled “[Providing an Accessible Workplace](#).” The article provides an overview of the laws that federal agencies must comply with to provide individuals with disabilities access to accommodations to ensure they are able to participate fully in the workplace. It focuses on accommodations that improve access to job facilities, physical spaces, and information technology. Also, it provides information about where agencies can find additional resources to help them comply with anti-discrimination and accessibility laws.

Federal agencies have a legal obligation under Section 501 of the Rehabilitation Act to provide reasonable accommodations, if requested, for their qualified employees and job applicants with disabilities (unless the agency can show that reasonable accommodation would cause an undue hardship). A reasonable accommodation, such as a change in the work environment or the way in which the work is performed, helps ensure that such federal employees will be able to perform the essential functions of their positions and enjoy all the benefits and privileges of employment enjoyed by non-disabled employees.

Additionally, on June 25, 2021, President Biden signed Executive Order 14035, which commenced a coordinated, governmentwide effort to ensure that the federal workforce—as the nation’s largest employer—serves as a model for diversity, equity, inclusion, and accessibility.

Federal agencies are prohibited from discriminating on the basis of disability in regard to the hiring, compensation, training, advancement, or discharge of employees. The standards used to determine whether a federal agency discriminated against an individual with a disability are the same standards applied under the American with Disabilities Act.

<https://www.eeoc.gov/newsroom/eeoc-issues-article-workplace-accessibility>

## **Psychedelics and VRET: New Methods Emerge to Treat PTSD in Workers' Comp** **VR and psychedelics could prove a game changer in workers' compensation** **PTSD treatments — but acceptance of these modalities must come first.**

An estimated one in five adults in the U.S. suffer from a mental health illness or disorder in any given year, according to the [National Alliance on Mental Illness](#). Post-traumatic stress disorder (PTSD) is far less prevalent, about 5% of adults across the country experience PTSD symptoms in a given year, according to the [Veterans Administration](#).

However, the intensity of PTSD symptoms in severe cases are debilitating, and PTSD diagnoses are on the rise.

For workers' compensation professionals, new treatment modalities like virtual reality and psychedelic-assisted therapy can offer hope for patients where standard treatment has failed. PTSD in Workers' Comp

PTSD and other mental health disorders can be rife with issues for both the adjuster and claimant, most notably, stubborn assumptions about malingering — a relic of the pre-holistic method in workers' comp when adjusters were instructed to avoid “taking on the psych” for a claim for fear that doing so would increase the length of time the claimant stayed on the roles. Most of the industry has now acknowledged that treating the whole person achieves better results.

A natural extension of this is novel treatment for PTSD symptoms when such characteristics are accepted as compensable on a claim. Two promising modalities are virtual reality and psychedelic treatments.

Virtual Reality Exposure Therapy (VRET) has been shown in [randomized controlled clinical trials](#) to reduce trauma, depression and interrelated symptoms like anger, sleep and appetite dysregulation.

“In the case of treating PTSD, it’s critically important to ensure that patients are not inadvertently retraumatized, and that any virtual interventions are employed with the utmost clinical discretion, closely monitored by trauma-trained therapist,” said David Vittoria, chief behavioral health officer at Carisk.

Tyler Wilson, sheriff’s deputy and PTSD survivor who was treated under Harvard MedTech’s protocol, using a VR headset at home with a clinical guide, explained that his experience made him a believer in the utility of virtual reality in PTSD treatment.

“It is both viable and far less invasive and dangerous than prescription or experimental pharmaceutical intervention,” he said, noting that VR doesn’t hold the same risk of addiction like other pharmaceutical treatments.

“Limiting factors would be combating the strangle hold held by the huge pharmaceutical companies.”

While VR is accepted by numerous payers in the workers’ comp system, novel drug therapies like psilocybin, MDMA and ketamine are far less common, however, increasingly acceptance of the drugs in the clinical community, and their presence in the post-pandemic zeitgeist, makes these treatments a new frontier for the treatment of PTSD.

“I’ve seen — and the mental health community and research data supports — that psychedelics have shown promise as a therapeutic option for some PTSD patients, usually in combination with traditional psychotherapy,” said Vittoria.

Indeed, [large scale reviews](#) of the current treatment landscape indicate that psychedelics can be extremely effective and warrant further study, especially those with a sustained effect, like ketamine and MDMA.

The administration of these drugs occurs in a monitored and controlled setting with a licensed clinician.

“While we don’t fully understand how or why, it seems like the drugs induce a state of plasticity, basically making it easier for people to autonomically rewire their brains and allow for certain treatments to become more effective,” Vittoria said.

“What we don’t yet know are the long-term effects of these, still novel, treatments; they just haven’t been studied long enough. These psychoactive substances make patients exceptionally vulnerable, and that’s very risky.”

Vittoria estimated that it will take three to five years before the FDA recognizes the interventions as safe and effective.

Despite its status with the FDA, some companies are moving forward with the new drug therapies, citing the need to meet employees’ increasing mental health burden.

### *Psychedelics in Action*

Mental health services company Enthea and soapmaker Dr. Bronner’s began offering ketamine-assisted therapy (KAT) as an ancillary benefit in January 2022.

Enthea’s services allowed Dr. Bronner’s to become the first company to add KAT to its existing employer-sponsored health insurance plan.

“The decision for Dr. Bronner’s to partner with us came at a critical time, as the mental health crisis in America was exacerbated by the pandemic, leaving lasting paralyzing effects on the struggling workforce,” said Sherry Rais, CEO & cofounder of Enthea.

“Dr. Bronner’s added ketamine-assisted therapy as an employee benefit for employees who wanted an alternative way to treat depression, post-traumatic stress syndrome and generalized anxiety disorder.”

Rais added all treatments under the Dr. Bronner’s-sponsored benefit were provided by San Diego based Flow Integrative, Enthea’s flagship Credentialed Provider, which partnered with Enthea to pilot this model.

According to Rais, the utilization rate for the Dr. Bronner’s program was 7%.

Program participants with a PTSD diagnosis reported an average of 86% symptom reduction, participants with a major depressive disorder (MDD) diagnosis reported an average of 67% symptom reduction, and those with a generalized anxiety disorder diagnosis reported an average of 65% symptom reduction.

Rais noted that though the results themselves are impressive, she believes there are many barriers to treatment that must be overcome.

“I am both a personal and professional advocate for the approval of MDMA and psilocybin-assisted therapies. I’m very hopeful that the FDA will approve these safe, effective and life-changing forms of treatment for mental health conditions in the near future, specifically in the next two to three years, especially since the FDA has granted both MDMA and Psilocybin Breakthrough Therapy Status.”

The approval of CPT codes for psychedelic-assisted therapy, which will go into effective January 1, 2024, was a major milestone for both the health care and psychedelics industry as a whole. “I’m also aware that miseducation on use cases and adverse effects in recreational settings could be a barrier to streamlined approval from legislators,” Rais said.

“Either way, Enthea’s mission will remain the same as we aim to bring innovative treatments to all employees across the U.S. and beyond.”

#### *What the Future Holds*

As the need grows to treat PTSD and its attendant comorbidities, the body of research will dictate the FDA’s next move on psychedelics, but more is certainly on the horizon.

VR will likely become a bigger component of many workers’ comp programs as its economies of scale and safety make it an attractive option for payers.

Regardless of what comes next, the workers' comp industry should prepare now for a sea change in PTSD treatment within its compensable population.

<https://riskandinsurance.com/psychedelics-and-vret-new-methods-emerge-to-treat-ptsd-in-workers-comp/>

### **Whole Foods' ban on Black Lives Matter gear did not violate workers' rights, NLRB judge says**

Defying a dress code due to perceived racism does not fall under protected concerted activity, the administrative law judge held.

Whole Foods Market did not violate its workers' rights by banning Black Lives Matter apparel, a National Labor Relations Board judge [ruled Wednesday](#). BLM gear was not protected by the National Labor Relations Act because it was unrelated to the jobs in question, the administrative law judge determined.

Plaintiffs who wore BLM-related face masks and other garments said they did so to make their co-workers feel safe and expressed their belief that doing so upheld Whole Foods' values of providing a safe work environment.

The NLRB General Counsel argued that workers perceived Whole Foods' enforcement of its dress code to be racist and thus discriminatory – rendering their defiance protected activity.

Workers from a Whole Foods store speak during a picket and rally event outside in Seattle, WA, as part of the nationwide Strike For Black Lives on July 20, 2020. Organized by racial justice groups in partnership with labor unions, the nationwide events included at least two rallies in the Seattle area.

The NLRB judge said that acting in concert with one another does not give employees “carte blanche” to disobey an otherwise valid rule, nor makes such a rule unenforceable. For example, when a collective bargaining agreement includes a grievance procedure, “the general rule” is to “comply (with the rule) then grieve, lest the employee(s) be found to be insubordinate,” the judge, Ariel Sotolongo, wrote.

Additionally, the judge said, there was no objective evidence supporting the allegation that Whole Foods had racially discriminatory motives for its stance — nor was there objective evidence that the employees' goal in wearing BLM gear was to counter racial discrimination.



Attorneys at the Spitz Law Firm noted [in a blog post](#) that in times of sociopolitical crisis, many companies turn to “[prohibiting] employees from wearing any such racial equity paraphernalia in the workplace.” The question for employers then becomes the longevity of the solution, according to attorneys at the employee-side labor law firm; the firm wrote, “While alleviating the instant problem, this show of ‘neutrality’ in the workplace raises a question—where does keeping the peace end and racial discrimination begin?”

<https://www.hrdiver.com/news/whole-foods-black-lives-matter-apparel-ban-racist/703297/>

### **Allegation of Race Discrimination Does Not Negate Firing for Harassment**

Takeaway: Although a race discrimination claim may be made under Title VII of the Civil Rights Act of 1964 and under 42 U.S.C. Section 1981, the standards of proof differ. In a Title VII claim, race may be part of a mixed motive to show evidence of discriminatory intent. A Section 1981 claim requires proof that race was a but-for cause of an adverse employment action—that the action would not have been taken but for an employee’s race.

Including racial information in an HR document requesting approval to terminate an employee is not sufficient to show that the employer’s stated reason for firing the employee—multiple incidents of sexual harassment—was pretext, the 11th Circuit Court of Appeals ruled.

The employer was a meteorologist for a local news station. He had started with the station in 2012 as a temporary weekend weather forecaster and eventually been promoted to chief meteorologist in 2017, until his termination in 2019. During his time with the station, several female co-workers filed complaints that the employee had engaged in inappropriate conduct and sexual harassment.

First, in 2017, just a few months before he was promoted to chief meteorologist, a female co-worker reported that the employee had used a sexually vulgar term to describe her behavior and had also told her that he had a dream about them having sex. She said he also had shared sexually inappropriate comments with her in conversations. The employee received a written warning for “poor judgment” and was told that further incidents could result in additional discipline, including possible termination.

Then, just a few months after his promotion, another female colleague complained he had sent “highly inappropriate” comments to her on Facebook. The messages included telling her that he fantasized about her and wanted to have sex with her and asking her to send him nude photos. When confronted with the complaint, the employee claimed he was trying to establish an off-duty relationship with the co-worker and apologized for making her uncomfortable. A final written warning was issued for violating the company’s sexual harassment policy.

Finally, in 2019, the employee approached another female co-worker to tell her that he always looked at her and that she was very pretty and attractive to him. After initially thanking him, the employee felt uncomfortable and reported the incident to her husband and HR. This time, the station suspended the employee pending a decision by the general manager (GM) on how to proceed.

After a discussion of the incidents, the GM and supervisor agreed that the employee should be fired, and HR sent a report of the incidents and a recommendation for termination to the vice president of HR for approval. Included was a form called an equal employment opportunity (EEO) analysis, which was used with any discharge, job elimination, restructuring or reorganization. The analysis included information on the employee's race, the race of the other members of the weather team, and the impact the termination would have on the demographics of the team.

The vice president (VP) of HR authorized the termination, and the employee was fired four days after being suspended. He was replaced three weeks later by a Hispanic meteorologist who had more seniority at the station.

The employee, who is white, filed a lawsuit claiming he was terminated because of his race so that the station could increase its diversity. Rather than file a mixed-motive claim under Title VII, he filed a Section 1981 claim citing the EEO analysis as direct evidence of racial discrimination. Section 1981 prohibits intentional race discrimination in the making and enforcement of public and private contracts, including employment contracts. However, the district court ruled that the EEO form did not show the direct evidence needed to support his claim, and it dismissed the case.

The employee appealed to the 11th Circuit, arguing again that the racial information in the EEO analysis showed direct evidence of discriminatory intent. Even if it did not, the station had not shown a valid, nondiscriminatory reason for firing him, and he had shown their reasons to be pretext, he claimed.

The court explained that direct evidence was a high standard requiring an employer to issue blatant statements showing a firing was for an unlawful, discriminatory reason such as race. "The EEO analysis does not meet—or even approach—this standard," the court wrote.

However, the dissent argued that the form and the station HR director's testimony created a reasonable, logical inference that the VP of HR considered race when deciding whether to terminate the employee, specifically the impact on racial group balance. The majority countered, saying that inferences can be based only on evidence, not on speculation.

"No reasonable jury could conclude from the bare fact that this document includes data on the race of all weather employees at the station that [the employee] was fired because of his race,"

the majority wrote, noting that “it is just as likely (which is to say entirely speculative)” that the data on race was used in favor of the employee. “We have no evidence either way.”

The court also quickly dismissed the employee’s remaining arguments, ruling that violating the company’s sexual harassment policy was a valid, nondiscriminatory reason for termination and the employee had not shown any evidence of pretext.

<https://www.shrm.org/topics-tools/employment-law-compliance/allegation-race-discrimination-firing-harassment>