JULY MENTAL HEALTH AND DE&I UPDATE

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The Supreme Court Limits The Use Of Race In College Admissions: Potential Impact On Workplace Diversity Programs

Earlier today, the Supreme Court released its much-anticipated decisions in Students for Fair Admissions v. Harvard and Students for Fair Admissions v. University of North Carolina. By a 6–3 vote, the Supreme Court held that Harvard's and the University of North Carolina's use of race in their admissions processes violated the Equal Protection Clause and Title VI of the Civil Rights Act. Chief Justice Roberts wrote the majority opinion.

Although the majority opinion does not explicitly modify existing law governing employers' consideration of the race of their employees (or job applicants), the decisions nevertheless have important strategic and atmospheric ramifications for employers. In particular, the Court's broad rulings in favor of race neutrality and harsh criticism of affirmative action in the college setting could accelerate the trend of reverse-discrimination claims.

As a formal matter, the Supreme Court's decision does not change existing law governing employers' use of race in employment decisions. But existing law already circumscribes employers' ability to use race-based decision-making, even in pursuit of diversity goals.

I. Background
Students for Fair Admissions ("SFFA"), an organization dedicated to ending the use of race in college admissions, brought two lawsuits that were considered together at the Supreme Court. One lawsuit challenged Harvard's use of race in admissions on the ground that it violates Title VI, which prohibits race discrimination in programs or activities receiving federal assistance (including private colleges that accept federal funds). SFFA v. Harvard, No. 20-1199. The second lawsuit challenged the University of North Carolina's use of race in the admissions process on the ground that it violates the Equal Protection Clause, which applies only to state actors (e.g., public universities). SFFA v. University of North Carolina, No. 21-707. The plaintiffs argued, and the defendants did not meaningfully contest, that the law governing the use of race in college admissions under Title VI and the Equal Protection Clause is the same.

Prior to today's decisions, the law governing colleges' use of race in admissions was set forth in two Supreme Court cases decided on the same day in 2003: Grutter v. Bollinger, 539 U.S. 306 (2003), and Gratz v. Bollinger, 539 U.S. 244 (2003). In Grutter, the Supreme Court upheld a law school's consideration of applicants' race as a "'plus' factor . . . in the context of its individualized inquiry into the possible diversity contributions of all applicants." 539 U.S. at 341. In Gratz, the Supreme Court struck down a university's consideration of race pursuant to a mechanical formula that "automatically distribute[d] 20 points . . . to every single 'underrepresented minority' applicant solely because of race." 539 U.S. at 271.

SFFA asked the Court to overrule Grutter and adopt a categorical rule that colleges cannot consider applicants' race in making admissions decisions. It also argued that Harvard's and North Carolina's use of race is unlawful even under Grutter because both colleges allegedly engage in racial balancing, discriminate against Asian-American applicants, and reject race-neutral alternatives that would achieve the colleges' diversity goals.

II. Analysis

A. The Supreme Court's Opinion

The Supreme Court held that both Harvard and UNC's affirmative-action programs violated the Fourteenth Amendment's Equal Protection Clause. In a footnote, the Court explained that the Equal Protection Clause analysis applies to Harvard by way of Title VI, 42 U.S.C. § 2000d, which prohibits "any educational program or activity receiving Federal financial assistance" from discriminating on the basis of race. Because "discrimination that violates the Equal Protection Clause of the Fourteenth Amendment committed by an institution that accepts federal funds also constitutes a violation of Title VI," the Court "evaluate[d] Harvard's admissions programs under the standards of the Equal Protection Clause."

Applying strict scrutiny, the Court asked whether universities could "make admissions decisions that turn on an applicant's race." The Court emphasized that Grutter, which was decided in 2003, predicted that "25 years from now, the use of racial preferences will no longer be necessary to further the interest approved today." The Court explained that college affirmative-action programs "must comply with strict scrutiny, they may never use race as a stereotype or negative, and—at some point—they must end."

The Court then determined that Harvard and UNC's admissions programs are unconstitutional for several reasons. First, the Court concluded that universities' asserted interests in "training future leaders," "better educating [their] students through diversity," and "enhancing … cross-racial understanding and breaking down stereotypes" were "not sufficiently coherent for purposes of strict scrutiny." Second, the Court found no "meaningful connection between the means [the universities] employ and the goals they pursue." The Court concluded that racial categories were "plainly overbroad" by, for instance, "grouping together all Asian students" or by employing "arbitrary or undefined" terms such as "Hispanic." Third, the Court held that the universities impermissibly used race as a "negative" and a "stereotype." Because college

admissions “are zero-sum,” the Court held, a racial preference “provided to some applicants but not to others necessarily advantages the former group at the expense of the latter.” Finally, the Court observed that the universities’ use of race lacked a “logical end point.”

The Court’s opinion employs broad language against racial preferences, reasoning that “[e]liminating racial discrimination means eliminating all of it.” As such, universities and colleges can no longer consider race in admissions decisions (subject to a narrow exception for remediating past discrimination). But the Court clarified that “nothing in this opinion should be construed as prohibiting universities from considering an applicant’s discussion of how race affected his or her life, be it through discrimination, inspiration, or otherwise,” as long as the student is “treated based on his or her experiences as an individual—not on the basis of race.” The Court also made clear, however, that “universities may not simply establish through application essays or other means the regime we hold unlawful today.”

The Chief Justice’s opinion for the Court was joined by Justices Thomas, Alito, Gorsuch, Kavanaugh, and Barrett. Justices Kagan, Sotomayor, and Jackson dissented. Justices Thomas, Gorsuch, and Kavanaugh wrote separate opinions concurring in the Court’s decision. Justices Sotomayor and Justice Jackson wrote dissenting opinions.

B. Existing law governing reverse-discrimination claims against employers

Even prior to the SFFA decisions, an employer’s consideration of the race of its employees, contractors, or applicants was already subject to close scrutiny under Title VII and Section 1981. “Without some other justification, . . . race-based decision-making violates Title VII’s command that employers cannot take adverse employment actions because of an individual’s race.” Ricci v. DeStefano, 557 U.S. 557, 579 (2009).

Supreme Court precedent allows a defendant to defeat a reverse-discrimination claim under Section 1981 or Title VII by demonstrating that the defendant acted pursuant to a valid affirmative-action plan. See, e.g., Johnson v. Transportation Agency, Santa Clara County, California, 480 U.S. 616, 626–27 (1987); see also, e.g., Doe v. Kamehameha Sch./Bernice Pauahi Bishop Estate, 470 F.3d 827, 836–40 (9th Cir. 2006) (en banc) (applying Johnson in Section 1981 case). If a defendant invokes the affirmative-action defense (under Title VII or Section 1981), then the plaintiff bears the burden of proving that the “justification is pretextual and the plan is invalid.” Johnson, 480 U.S. at 626–27.

“[A] valid affirmative action plan should satisfy two general conditions.” Shea v. Kerry, 796 F.3d 42, 57 (D.C. Cir. 2015). First, the plan must be remedial and rest “on an adequate factual predicate justifying its adoption, such as a ‘manifest imbalance’ in a ‘traditionally segregated job category.’” Id. (quoting Johnson, 480 U.S. at 631) (alteration omitted). “Second, a valid plan refrains from ‘unnecessarily trammeling the rights of white employees.’” Shea, 796 F.3d at 57 (quoting Johnson, 480 U.S. at 637–38 (alterations omitted)). A valid affirmative-action plan “seeks to achieve full representation for the particular purpose of remedying past discrimination,” but cannot seek “proportional diversity for its own sake” or seek to “maintain racial balance.” Id. at 61.

In addition, plaintiffs alleging discrimination under Title VII or Section 1981 must show that they were harmed in some way. For example, Title VII generally requires a plaintiff to show that discrimination affected "his compensation, terms, conditions, or privileges of employment." 42 U.S.C. § 2000e-2(a)(1). Courts often interpret this to mean a plaintiff must show a concrete and objective "adverse employment action," e.g., Davis v. Legal Services Alabama, Inc., 19 F.4th 1261, 1265 (11th Cir. 2021) (quotation marks omitted), although other courts have indicated that in some circumstances less tangible harms might be sufficient, see, e.g., Chambers v. District of Columbia, 35 F.4th 870, 874–79 (D.C. Cir. 2022) (en banc). Under these standards, many employers lawfully seek to promote diversity, equity, inclusion, and equal opportunity through certain types of training, outreach, recruitment, pipeline development, and other means.

A. Implications for employers' diversity programs

The Supreme Court's decisions in the SFFA case were made in the unique context of college admissions and were based on the Equal Protection Clause, not Title VII or Section 1981, with the assumption, uncontested by the parties, that the analysis would be the same under both the Equal Protection Clause and Title VI. As such, they do not explicitly change existing law governing reverse-discrimination claims in the context of private employment or private employers' diversity programs for those private employers not subject to Title VI (i.e., those who do not receive qualifying federal funds). Still, courts often interpret Title VI (at issue in the case against Harvard) to be consistent with Title VII and Section 1981, so there is some risk that lower courts will apply the Court's decision in the employment context. Justice Gorsuch's concurrence highlights this risk, observing that Title VI and Title VII use "the same terms" and have "the same meaning."

EEOC Chair Charlotte A. Burrows released an official statement stating that today's decisions do "not address employer efforts to foster diverse and inclusive workforces." EEOC Commissioner Andrea Lucas published an article reiterating a view she has previously expressed, which is that race-based decision-making is already presumptively illegal for employers, and stating that the Court's opinion "brings the rules governing higher education into closer parallel with the more restrictive standards of federal employment law." She recommended that "employers review their compliance with existing limitations on race- and sex-conscious diversity initiatives" and ensure they are not relying on "now outdated" precedent.

Against that backdrop, the Court's decision could have important strategic and atmospheric consequences for employers' diversity efforts. The Court's holdings likely will encourage additional litigation. Plaintiffs' firms and conservative public-interest groups likely will bring reverse race-discrimination claims against some employers with well-publicized diversity programs. Government authorities such as state attorneys general might also increase enforcement efforts.
https://www.gibsondunn.com/supreme-court-limits-the-use-of-race-in-college-admissions-potential-impact-on-workplace-diversity-programs/

Affirmative Action Ruling Sets Up Clash Over Workplace Diversity
Challenges to DEI efforts now expected

Employers seeking to achieve a diverse workforce will have to rethink their diversity, equity, and inclusion programs—as well as racial affinity groups—to avoid potential legal consequences after the US Supreme Court curtailed the use of race as a factor in college admissions processes.

The court's decision Thursday specifically concerns race-conscious admissions policies at Harvard University and the University of North Carolina, which the conservative majority said are discriminatory against White and Asian applicants and not necessary to ensure campus diversity.

While the ruling along 6-3 along ideological lines is specific to higher education, both worker- and management-side attorneys told Bloomberg Law that it will have a downstream effect on employers by disrupting their hiring practices and initiatives designed to improve workforce diversity.

Workplace DEI and affirmative action programs are governed by Title VII of the 1964 Civil Rights Act and other federal and state employment anti-discrimination laws. Using protected classes, such as race, to make employment decisions is generally illegal under these laws.

The high court's decision has set the stage for future challenges to the rationale behind workplace diversity initiatives and increased judicial scrutiny of those programs, attorneys said. "There will be very direct implications from the decision" for private employers, said Krissy Katzenstein, a partner at Baker & McKenzie LLP. It "will lead to a further uptick in trends we are already seeing in terms of both reverse discrimination cases and, more broadly, challenges to DEI initiatives that many companies have undertaken."

David Gans, director of the human rights, civil rights, and citizenship program at the Constitutional Accountability Center, said "the decision will open up new avenues for litigation" over workplace DEI initiatives.

Racial Affinity Groups Get Attention
The basis on which the majority curbed the use of race in admissions appears to calls into question the legality of employee resource groups, which provide spaces for workers who share the same racial identity to gather, attorneys said.
The concern stems from Chief Justice John Roberts' mention in the majority opinion that Harvard's admissions policy "rests on the pernicious stereotype that 'a black student can usually bring something that a white person cannot offer.'"

That language "caught our attention to ensure our clients aren't using any kind of language in their DEI materials that the court could interpret as a version of stereotype," said Carol R. Ashley of Jackson Lewis PC, who advises corporations, nonprofits, and education institutions on compliance with various civil rights statutes.

Employee resource groups should be open to all employees, "but maybe how you describe the affinity group might be a stereotype, according to the Supreme Court," Ashley said.

Talent Pipeline Fears

Challengers in the case argued that the schools' affirmative action programs penalize Asian-American and White students in violation of Title VI of the 1964 Civil Rights Act—which bans discrimination in federally funded programs—and asked the court to reconsider earlier rulings allowing race-based criteria for higher education.

Industry groups and dozens of major employers—including Alphabet Inc.'s Google, Meta Platforms Inc., and Apple Inc.—urged the high court in amicus briefs to uphold the schools' policies. Corporate DEI efforts rely on college admissions programs that produce a diverse pipeline of qualified future workers and business leaders, they said.

With the court pulling back the use of race-conscious admissions policies, schools could see a decline in the enrollment of students of color across many fields of study, attorneys said.
That would exacerbate existing racial inequities in the workplace, said Gans, the lead drafter of a brief the CAC filed in the affirmative action cases.

"Ensuring we have a workforce that reflects the society begins with how admissions decisions are made in higher education," he said. "A college and a graduate education is often key to advancement to the highest quality jobs. That's one reason why the ramifications of the court's ruling will be felt throughout American life and not merely in the education setting."

The 1979 landmark case United Steelworkers of America v. Weber was the first dispute over employment affirmative action policies to reach the Supreme Court.

The majority upheld an aluminum producer's voluntary affirmative action plan designed to eliminate racial imbalances in the company's workforce, ruling that Title VII—which prohibits racial discrimination by private employers—doesn't deem all voluntary, race-conscious affirmative action plans illegal.

Weber didn't grant private employers carte blanche to implement these programs, but limited their use "to very specific circumstances," Katzenstein said.

These plans must be narrowly tailored to eliminate conspicuous racial imbalance in a workforce as long as they don't impede the interests of non-diverse workers, and can only be used as a temporary measure.

Contractor 'Constitutional Attacks'
The ruling also has ramifications for companies with federal contracts, which are subject to specific affirmative action requirements by the government, said Tony Torain II, a shareholder at Polsinelli PC.

These requirements are codified through executive orders and regulations that are aimed at recruiting and advancing qualified minorities, women, and others from underrepresented groups. They strictly prohibit quotas and make clear that contractors cannot use protected categories such as race and gender as factors in making employment decisions.

But because of the limited case law on the legality of these requirements, the Supreme Court's ruling provides an argument for opponents to launch "constitutional attacks" against them, Torain said.

"This current administration is going to double down based its authority under executive orders," he said. "But I'm telling you if they face a lawsuit in a more conservative jurisdiction like the Fifth Circuit, there may be an injunction against having affirmative action plans. It will definitely be under attack based on this ruling."

Contractors' policies are policed by the US Labor Department's Office of Federal Contract Compliance Programs, and the agency's regulatory scheme is aligned with high court precedent related to employment law.

An agency spokesperson didn't immediately reply to inquiries on whether the ruling would implicate federal contractors and if the agency will provide any guidance on this issue.
In the meantime, Katzenstein and other employment attorneys are urging all businesses to quickly assess and consider potential changes to their DEI policies to ensure they are compliant with the law.

https://news.bloomberglaw.com/daily-labor-report/affirmative-action-ruling-sets-up-clash-over-workplace-diversity

A new federal pregnancy law is now in effect; what HR needs to know

The Pregnant Workers Fairness Act went into effect on June 27, requiring that employers provide "reasonable accommodations" to pregnant workers from pregnancy through the postpartum period, including time off to recover—unless such accommodations would lead to an "undue hardship" on the part of the employer.
According to Leslie Silva, a partner in the Albany, N.Y., office of Tully Rinckey who practices family/matrimonial and education law, the biggest change is that the new law undoes a previous requirement that employees must prove they should be accommodated. Instead, the onus now is on employers to work in good faith with workers to provide those accommodations.

Silva offers insights on how employers are affected by the PWFA, along with some basic ways HR leaders can help their organizations meet the law's requirements:

HRE: Under the new law, what can be considered an undue hardship? In other words, what has changed from previous law in this regard?

Silva: This law provides a new cause of action separate and apart from existing actions under Title VII of The Civil Rights Act of 1964 and the Americans with Disabilities Act. Each of those existing laws have different purposes and protections. Title VII protects from discrimination, and the ADA only protects workers who have a medical complication from pregnancy, but does not classify pregnancy as a disability—thereby limiting its ability to provide relief to employees. The new law expands protections and is designed to provide reasonable accommodations to individuals with known limitations related to pregnancy, childbirth or related medical conditions.

HRE: What other pregnancy-protection laws are already in effect?

Silva: Some federal laws—Title VII of the Civil Rights Act of 1964 and the ADA—protect pregnant employees. Also, the Family and Medical Leave Act of 1993 provided some employees with unpaid, job-protected leave for certain family and medical reasons. Earlier this year, the Providing Urgent Maternal Protections for Nursing Mothers (PUMP) Act went into effect. This law requires certain employers to provide nursing mothers with accommodations, such as break times and private spaces, for a period of up to one year following the birth of their child.

HRE: How can employers fundamentally ensure they are in compliance with the PWFA?

Silva: Employers should carefully weigh the reasonableness of accommodations before denying an employee their request for same. In previously issued federal case law, pregnancy accommodations were reviewed under a different legal standard. Also, the standard was whether or not the denial of accommodations presented an undue burden on the employee. The PWFA shifts the standard so that the denial of an accommodation must present an undue hardship for the employer, seemingly requiring employers to prove those burdens in litigation. Remember to discuss accommodations with employees prior to instituting them. You should always document a discussion with a confirming correspondence or memorandum. Next, consider all possible accommodations prior to an employee taking leave in order to avoid potential litigation in the future. The financial resources of an employer could come under scrutiny—in what is expected to be a case-by-case analysis—in determining reasonableness under the PWFA. This is something employers should consider at the onset of an accommodation request.

Also, the advisory for the PWFA only applies to accommodations, and does not replace federal, state or local laws that are more protective of workers affected by pregnancy, childbirth or

related medical conditions. In fact, this is an expansion of the federal law only and applies to certain employers that may not be subject to state or local laws.

HRE: How does the national picture shape up for state-level pregnancy protections?

PWFA is a federal law, enacted by the US Congress. As of April 2023, 31 states had some type of pregnancy protection legislation in place. Some of the laws provide greater protections than this new federal law. For example, New York enacted a similar law in 2016.

https://hrexecutive.com/a-new-federal-pregnancy-law-is-now-in-effect-what-hr-needs-to-know/

EEOC Starts Accepting Charges Under New Pregnant Workers Fairness Act

WASHINGTON – Today, the Pregnant Workers Fairness Act (PWFA) will take effect, expanding long-overdue protections to ensure that workers experiencing pregnancy, childbirth, or related medical conditions have the right to reasonable accommodations in the workplace. The law was signed by President Joe Biden last year, and as it goes into effect today, the U.S. Equal Employment Opportunity Commission (EEOC) will begin accepting charges of discrimination under this new statute for incidents that occurred on or after June 27, 2023.

The PWFA requires covered employers to provide reasonable accommodations to a worker's known limitations related to pregnancy, childbirth, or related medical conditions, unless the accommodation will cause the employer an undue hardship. This law builds upon existing protections against pregnancy discrimination under Title VII of the Civil Rights Act.

"I am honored to lead the EEOC as we enforce a new civil rights law. For workers and job applicants, the PWFA will help ensure economic security at a critical time in their lives," said EEOC Chair Charlotte A. Burrows. "The EEOC stands ready to support employers as they carry out the PWFA's directives and to support workers in receiving the accommodations they are entitled to under the PWFA."

In addition to accepting charges, the agency released new additional educational resources, including tips for workers to request accommodations, a "Know Your Rights" video series, and a revised "Know Your Rights" poster required to be posted in most workplaces. Previously released resources include a Q&A on "What You Should Know about the Pregnant Workers Fairness Act," an infographic for employers, and an informational poster about the PWFA.

https://www.eeoc.gov/newsroom/eeoc-starts-accepting-charges-under-new-pregnant-workers-fairness-act

Web designer given okay to discriminate against same-sex couples

U.S. Supreme Court supports first-amendment claim

The U.S. Supreme Court today sided with Lorie Smith, a Colorado-based web designer, who claimed that the First Amendment protected her right to refuse work for same-sex wedding announcements.

This decision comes as a victory for religious conservatives who continue to rail against the court's 2015 ruling on marriage equality for gay and lesbian couples.

Lorie Smith, an evangelical Christian, filed a lawsuit in 2016 seeking a federal court order declaring her business exempt from state anti-discrimination laws if a same-sex couple sought her services.

Justice Neil Gorsuch, writing for the court's majority opinion, emphasized that Smith's first-amendment right to free speech — specifically the right to abstain from expressing support for same-sex marriage — takes precedence over a Colorado law that prohibits discrimination based on sexual orientation.

"Ms. Smith seeks to engage in protected First Amendment speech; Colorado seeks to compel speech she does not wish to provide. As the Tenth Circuit observed, if Ms. Smith offers wedding websites celebrating marriages she endorses, the State intends to compel her to create custom websites celebrating other marriages she does not. That is an impermissible abridgement of the First Amendment's right to speak freely."

However, the court's three liberal justices dissented, arguing that Smith's actions, rather than her speech, were the central concern.

Justice Sonia Sotomayor wrote — and she was joined by Justices Elena Kagan and Ketanji Brown Jackson — that this ruling sets a dangerous precedent.

"Today, the Court, for the first time in its history, grants a business open to the public a constitutional right to refuse to serve members of a protected class," wrote Sotomayor.
Smith, who is the owner of 303 Creative, a web design company in Littleton, Colo., was represented by the Alliance Defending Freedom, a conservative Christian advocacy group that previously opposed same-sex marriage in the landmark 2015 Obergefell v. Hodges decision.
Smith argued that her work as a hired web designer constitutes an artistic expression of her personal beliefs and complying with the anti-discrimination law would be equivalent to the state compelling her to endorse same-sex marriage.

Since the Obergefell decision, several cases have used this ruling as evidence to the court. However, in each instance, the justices have either rejected appeals seeking exemptions from non-discrimination laws or issued narrower decisions favoring the objectors to same-sex marriage without providing a broader determination regarding whose rights should prevail.

During oral arguments in December, the court's liberal and conservative factions interpreted previous court precedents to support significantly different outcomes.

Justice Ketanji Brown Jackson noted that the court did not heed religious objections raised by segregationists in the 1960s against laws and court orders prohibiting discrimination. Despite opposition based on religious grounds, the court in the 1967 Loving v. Virginia case declared such prohibitions as "directly subversive of the principle of equality at the heart of the 14th Amendment."

In 1968, the Court dismissed a South Carolina restaurant owner's argument that allowing Black persons to dine on the premises "contravenes the will of God," deeming it "patently frivolous." Justice Alito said opposition to same-sex marriage should not be equated with racial prejudice. He pointed out that in the court's 2015 ruling on same-sex marriage, the majority opinion respected those who held traditional moral beliefs opposing such unions.

https://www.hcamag.com/us/specialization/employment-law/web-designer-given-okay-to-discriminate-against-same-sex-couples/451264

Supreme Court Makes It More Difficult for Employers to Deny Religious Accommodations: Your 6-Step Action Plan

Employers now have a higher hurdle to clear when determining whether an employee's religious accommodation request would cause an undue burden on their business. A mail carrier argued that it was too easy for his employer to reject his request for Sundays off under a decades-old legal test that gave employers considerable leeway. As we predicted earlier this month, SCOTUS just clarified a higher standard under federal law than the lower courts applied.

In a unanimous decision today, the Court said federal anti-discrimination law requires an employer to show that "the burden of granting an accommodation would result in substantial increased costs in relation to the conduct of its particular business." Here's what you need to know about the ruling and your 6-step action plan to ensure compliance with the clarified standard.

How Did We Get Here?

Under Title VII of the Civil Rights Act, covered employers with at least 15 employees must provide reasonable accommodation to employees when they have sincerely held religious beliefs, practices, or observances that conflict with work requirements – unless the accommodation would create an undue hardship. But what exactly is an undue hardship?

Groff v. DeJoy focuses on the interpretation of SCOTUS precedent from 1977 finding that an "undue hardship" occurs when an accommodation requires an employer to "bear more than a de minimis cost."

Gerald Groff, a rural mail carrier for USPS, observes the Sabbath every Sunday. Although he initially avoided working Sundays, his employer increasingly scheduled him for Sunday shifts as demand increased. When he refused to work on Sundays, USPS disciplined him. Ultimately, Groff quit and filed a lawsuit claiming that his employer violated Title VII by failing to provide him religious accommodation.

USPS argued that permitting Groff Sundays off created morale and scheduling problems and "resentment towards management." Additionally, USPS said one employee who was forced to cover Sunday shifts filed a union grievance claiming that the Sundays-off arrangement with Groff violated a memorandum of understanding addressing Sunday and holiday delivery work.

The 3rd U.S. Circuit Court of Appeals sided with USPS and observed that the hardship in this case "far surpasses a de minimis burden." Groff, however, challenged the Supreme Court's decades-old precedent. He argued that "undue hardship" suggests that "an employer must incur significant costs or difficulty before it is excused from offering an accommodation," which is more in line with the undue hardship test used for accommodating disabilities in cases arising under the Americans with Disabilities Act. He also claimed that the de minimis test "effectively nullifies the statute's promise of a workplace free from religious discrimination."

How Did SCOTUS Rule?
While the Justices did not go so far as to scrap the Court's precedent and fully adopt Groff's position, they did clarify a higher standard than the "de minimis" test that lower courts generally apply.

SCOTUS held that showing "more than a de minimis cost" does not suffice to establish "undue hardship" under Title VII. Indeed, the Court said that its 1977 precedent cannot be reduced to that one phrase. The unanimous Court noted that the opinion referred repeatedly to "substantial" burdens, which to the Justices better explains the earlier decision.

"We think it is enough to say that an employer must show that the burden of granting an accommodation would result in substantial increased costs in relation to the conduct of its particular business," Justice Alito wrote for the Court.

Alito added that "courts must apply the test in a manner that takes into account all relevant factors in the case at hand, including the particular accommodations at issue and their practical impact in light of the nature, size, and operating cost of an employer."

SCOTUS vacated and remanded the case back to the lower courts to apply the clarified standard to the specific facts of the case. This means it's still possible for USPS to prevail, but the lower

courts will need to evaluate whether the burden of granting the accommodation would result in substantial increased costs.

What Impact Will the Ruling Have on EEOC Guidance?
The Court said today's ruling should result in few, if any, changes to the U.S. Equal Employment Opportunity Commission's (EEOC's) guidance explaining why no undue hardship is imposed by temporary costs, voluntary shift swapping, occasional shift swapping, or administrative costs. "We have no reservations in saying that a good deal of the EEOC's guidance in this area is sensible and will, in all likelihood, be unaffected by our clarifying decision today," Alito wrote. "After all, as a public advocate for employee rights, much of the EEOC's guidance has focused on what should be accommodated."

What 6 Compliance Steps Should You Consider Taking Now?
In light of the clarified, heighten standard, you should consider adopting this six-step action plan to ensure compliance:

Train your managers to be attuned to an expected increase in religious accommodation requests you'll see in the immediate aftermath of this decision – and train your HR staff to adjust their policies in responding to these requests. Specifically, we expect to see employers face increased requests for scheduling changes, time off, prayer breaks, job reassignments, modifications to dress codes and grooming policies, and designations of private locations in the workplace for religious observances.

Adjust any policies, practices, and written materials you have in place that lay out your approach to religious accommodation requests to adapt to the clarified standard. Some key elements to build best practices include:

Engage in a cooperative and interactive dialogue with employees when they present a request for a religious accommodation. Some employers use a written form to gather information from the employee in these circumstances.

Once you grant an accommodation request, your work isn't over. Follow up with the employee at regular intervals to ensure the accommodation is working out for them – and their supervisor to determine if adjustments need to be made.

If you deny a request, provide written reasoning for the decision so your position is clear. Some courts or agency investigators may not look favorably on cursory rejections that don't provide context or reasoning.
Now, more than ever, documentation will be key. Reinforce with your managerial and HR staff the importance of closely documenting all communications and decisions made related to religious accommodation requests every step of the way.

Coordinate with your legal counsel to get a sense for the type of evidence of significant cost or difficulty you'll need to observe in your particular organization in order to deny a religious

accommodation request under the new federal standard. Factors that would most likely be taken under consideration include:

your financial resources;
the nature and cost of the requested accommodation;
the number of workers at your organization;
the impact of the requested accommodation on your employees;
the potential safety implications; and
the nature of your operations.

Identify any recent religious accommodations you have granted – or rejected – and determine (with the help of legal counsel) whether you need to adjust any decisions you have made given the new standard now in place.

Have a proactive plan for addressing any workplace resentment and disruption that could arise from granting religious accommodations to some employees – while being careful to protect those employees receiving accommodations from retaliation. This includes fostering a culture of respect and inclusivity as part of your DEI initiatives to minimize conflicts and provide support for those of all religious faiths in your organization.

Be sure you take state and local laws into account that create even greater obligations for employers in the field of religious accommodations. This decision only impacts federal law and doesn't lower the bar for any local laws that offer your employees even stronger protections.

https://www.fisherphillips.com/news-insights/supreme-court-employers-religious-accommodations.html

EEOC Issues New Guidance on the use of Software, Algorithms, and Artificial Intelligence on Employment Selection Procedures

By now, most people have probably heard of Open AI's ChatGPT system, which is capable of answering questions, summarizing research papers, and even writing stories and code. It is perhaps also notorious for generating misleading or false information at times. In fact, the United States District Court for the Southern District of New York issued an Cause to one attorney as to why he should not be sanctioned when he submitted to the Court "bogus judicial decisions with bogus quotes and bogus internal citations" generated by ChatGPT. When the attorney asked the chatbot whether one of the cases was "real", it simply lied and said "Yes . . . [it] is a real case."

As the above example demonstrates, AI systems are not infallible and may result in consequences if not used responsibly. As employers begin to increasingly rely on the use of automated systems, including those with AI, to assist with recruitment, performance

monitoring, promotions, and other employment decisions, questions invariably arise concerning whether such systems may adversely and disparately impact individuals in certain protected classes and, thus, violate existing civil rights laws, such as Title VII.

To assist employers, the EEOC published a new technical assistance document on May 18, 2023, which is focused on preventing discrimination against job applicants and employees when using automated systems to assist with employment decisions. The guidance is specifically focused on avoiding "disparate impact" through the use of automated systems, or a disproportionately large negative effect on a basis that is prohibited by Title VII.

The guidance is presented in a question-and-answer format and answers questions employers might have concerning the use of algorithmic decision-making tools. Below is a sampling of questions and answers included in the technical assistance document:

Is an employer responsible under Title VII for its use of algorithmic decision-making tools even if the tools are designed or administered by another entity, such as a software vendor? In many cases, yes. For example, if an employer administers a selection procedure, it may be responsible under Title VII if the procedure discriminates on a basis prohibited by Title VII, even if the test was developed by an outside vendor. In addition, employers may be held responsible for the actions of their agents, which may include entities such as software vendors, if the employer has given them authority to act on the employer's behalf. This may include situations where an employer relies on the results of a selection procedure that an agent administers on its behalf.

What is a "selection rate"?
"Selection rate" refers to the proportion of applicants or candidates who are hired, promoted, or otherwise selected. The selection rate for a group of applicants or candidates is calculated by dividing the number of persons hired, promoted, or otherwise selected from the group by the total number of candidates in that group.

For example, suppose that 80 White individuals and 40 Black individuals take a personality test that is scored using an algorithm as part of a job application, and 48 of the White applicants and 12 of the Black applicants advance to the next round of the selection process. Based on these results, the selection rate for Whites is 48/80 (equivalent to 60%), and the selection rate for Blacks is 12/40 (equivalent to 30%).

What is the "four-fifths rule"?
The four-fifths rule, referenced in the Guidelines, is a general rule of thumb for determining whether the selection rate for one group is "substantially" different than the selection rate of another group. The rule states that one rate is substantially different than another if their ratio is less than four-fifths (or 80%).

In the example above involving a personality test scored by an algorithm, the selection rate for Black applicants was 30% and the selection rate for White applicants was 60%. The ratio of the two rates is thus 30/60 (or 50%). Because 30/60 (or 50%) is lower than 4/5 (or 80%), the four-

fifths rule says that the selection rate for Black applicants is substantially different than the selection rate for White applicants in this example, which could be evidence of discrimination against Black applicants.

https://www.jdsupra.com/legalnews/eeoc-issues-new-guidance-on-the-use-of-4849856/

Job Seekers of Color Are Being 'Ghosted' at Alarmingly High Rates

Despite a tight labor market in the U.S., a new report shows that some employers are not using best practices in hiring applicants of color.

A recent survey of about 1,200 employees by Greenhouse, a New York City-based software company, revealed that 67 percent of job seekers have been "ghosted" after an interview—never hearing from the employer again.

The data showed that a significantly higher percentage of candidates from historically underrepresented groups (78 percent) than white candidates (62 percent) reported having been ghosted. "Historically underrepresented" was defined as having an Arab, Asian, Black, Hispanic, Latino or multiracial background.

"The finding that historically underrepresented candidates face a higher chance of being ghosted in the interview process is damning and points to the negative experiences of racism that [these groups] face," said Donald Knight, chief people officer at Greenhouse.

Octavia Goredema, a career coach and founder of consulting firm Twenty Ten Agency in Covina, Calif., said the survey findings mirror the feedback she's heard during coaching sessions with professionals from underrepresented groups who are job seeking right now.

"More times than I can count, I've heard stories of [these] candidates moving through the recruitment process, having multiple interviews, and never hearing from the hiring manager ever again," she said. "No closure. No feedback. No follow-up."

Why Ghosting Is a Bad Business Practice
Goredema explained that few workers of color are in the corporate pipeline. They often have to psych themselves up just to apply for a role that might already feel like it's out of reach.

"I always remind the professionals I coach to be confident, because if you've been called to interview, you can do the job," she said. "That means that employers should be treating candidates who are called to interview with respect."

Goredema denounced ghosting as an unacceptable practice that reveals a lot about that company's culture.

"It's a basic professional courtesy to let someone know the status of their application," she said. "In the long run, it's best to avoid organizations that think ghosting is acceptable."

Employers Risk Damage to Brand

Ghosting can also be bad for business. A 2021 survey by scheduling platform Cronofy found that 77 percent of senior-level applicants said a bad recruitment experience influences their perception of a prospective employer, and 64 percent said they would be less likely to recommend the company to others.

"Ultimately, how an employer treats candidates in the hiring process will leave a lasting impression on their branding," Knight said.

In the Greenhouse survey, more than 60 percent of respondents indicated that receiving feedback during the interview process—even if they did not receive a job offer—would make them more inclined to apply for other jobs at that company.

"Candidates talk," Goredema said. "And building a reputation for unprofessionalism won't do your recruitment cycle any favors in the long run."

The Need to Become a 'People-First' Company

Previous Greenhouse research has shown that people of color routinely face discrimination in the interview process:

Nearly 43 percent of candidates have had their names mispronounced in a job interview—an issue foreign-born individuals routinely experience.

Nearly one-third of candidates have faced discriminatory questions in the interview process. Black interviewees were 25 percent more likely than white interviewees to receive discriminatory questions.

"Leaders must address racial equity in the workplace head-on, and that starts in the hiring process," Knight said. "Companies need to be more structured, thoughtful and deliberate about hiring to reduce bias and discrimination."

He explained that employers should strive to become "people-first" companies, which look at ways to be allies and "create oxygen in the room for all people."

People-first businesses work to:

Drive meaningful connections.
Inject a human aspect into policies.
Eliminate bias.
Increase transparency.

Ghosting is the antithesis of a people-first company, Knight said, while noting that the prevalence of ghosting against people of color indicates that unconscious bias is pervasive and that employers should take action to stop it.

"It also shows that, even in an era where companies have begun to focus on diversifying their top-of-funnel pipeline, they still aren't considering the influence that the interview process and overall candidate experience has on whether prospective employees from underrepresented groups want to spend their future days in that environment," Knight said. "We have to be intentional in our actions and find ways to create a hiring process that eliminates discriminatory practices systematically."

https://www.shrm.org/resourcesandtools/hr-topics/behavioral-competencies/global-and-cultural-effectiveness/pages/employees-of-color-are-being-‘ghosted’-at-alarmingly-high-rates.aspx

Almost half of women would lie to employers to cover up menopause symptoms to avoid discrimination in the workplace

Research by law firm, Shakespeare Martineau, has found that female employees are hiding symptoms and discomfort of menopause from their employers. Almost half (48%) of women surveyed said they have lied about reasons for taking a sick day to cover up menopause symptoms, whilst only 49% said they would feel comfortable taking time off from work due to menopause-related symptoms.

The survey, conducted by Shakespeare Martineau, revealed that despite the recent push from the Government to support over 50s back into work, more needs to be done surrounding menopausal support and awareness in the workplace.

With less than a third (29%) of women reporting that they would feel comfortable asking decision makers for reasonable adjustments in the workplace to support symptoms, employment law experts from the firm are keen to encourage employers to join the conversation. If employers were to place more of a focus on encouraging open and honest communication about the symptoms of menopause and how this may affect their female employees, it could encourage more employees to seek support.

With 39% of women still feeling embarrassed to talk about the symptoms of menopause in the workplace, employers need to gain a deeper understanding of the symptom and the potential disruption to everyday life. Misunderstandings could lead to future action as it has been found that almost half (49%) of women surveyed would feel able to raise a formal complaint should they feel they are being discriminated against as a result of experiencing menopause.

Cecily Donoghue, senior associate and employment expert at Shakespeare Martineau, said: "The fact that so many women indicated that they would lie about why they needed a sick day, purely to cover up their menopause symptoms, is really sad, particularly in 2023. With our research also showing that menopause would prevent over a third (37%) of women from re-entering the workplace, it's clear that more needs to be put in place to support both businesses and those employees affected. The real need for workplace initiatives around how best to support colleagues experiencing menopause symptoms also came through strongly in the research results."

Whilst menopause in itself is not a protected characteristic under the Equality Act 2010, there are still legal protections in place should women feel their sex, age or disability has been discriminated against. For employers, this means ensuring all employees undergo training to understand menopause and its effect on women in the workplace, encouraging healthy conversations within the team and creating a safe space for women, should they need to report cases of discrimination.

https://hrnews.co.uk/almost-half-of-women-would-lie-to-employers-to-cover-up-menopause-symptoms-to-avoid-discrimination-in-the-workplace/

Is employer mental health support waning?

2 in 5 workers don't feel as supported by their employer compared to early into the pandemic, finds report.

It seems employers are easing up on the gas pedal when it comes to supporting their workers' mental health, according to a recent report.

Overall, nearly two in five workers say that they are either not feeling as supported (20%) or have never felt supported (18%) by their employer in terms of mental health and wellbeing compared to early in the pandemic, reports TELUS Health.

Employer support is crucial in workers' mental state: those who do not feel supported have a mental health index score of 54.7 for the month of May 2023 while those who have never felt supported have a score of 56.2.

In comparison, workers who are feeling as supported by their employer as they did early in the pandemic (63%) have a mental health score of 70.2 – more than five points higher than the national average (64.6).

Two-thirds (68%) of HR professionals view their CEO as empathetic, a 16-point decline from 2022 and the lowest levels ever reported, according to a previous report from Businessolver, which creates benefits solutions to serve HR teams.

Changes to mental health support
And while 77% of workers say that the level of their employer-provided mental health support has remained the same through the same period, 15% say that it has increased while 8% claim it has decreased, according to TELUS Health's survey of 3,000 people in Canada.
Managers are twice as likely as non-managers to indicate their employer has improved the level of mental health and wellbeing support.

This is the case even though employee mental health concerns (34%) are the top challenge that managers encounter in the workplace. Other challenges that they face include:

- Team conflict (26%)
- Change management challenges (25%)
- Concern about possible substance use (13%)
- Harassment/bullying (12%)
- Challenges with an employee's return to work from disability leave (12%)
- Nearly three in five (58%) managers have sought advice or support for workplace challenges within their team, but 42% have not.

A previous report found that while 94% of employers say they're available to help staff who are struggling with mental health concerns, just 12% of employees have confided in their bosses. And one in seven of those who did speak to their boss said nothing was done.

https://www.hcamag.com/ca/news/general/web-designer-given-okay-to-discriminate-against-same-sex-couples/451266

Myths About Workplace Mental Health

Trauma-dumping at work is both unnecessary and unhelpful.

Anxiety can be functional and necessary.

Team leaders do not need to be therapists.

In a world where workplace mental health information is sourced from TikTok, Instagram, and Twitter, it can be helpful to pause and sort fact from fiction (though to be fair, social media often provides more accurate information than other sources). Here are my top five workplace mental health myths—and what you can do about them.

Myth 1: Be vulnerable and bring all your feelings to work
Like many things in the zeitgeist, the mental health pendulum seems to have overcorrected. "Leave your feelings at the door" used to be the law of the land when it came to work. The idea that people could (and should) simply shrug off their humanity and grind robotically for 60 hours a week was largely an unquestioned expectation. Now, instead of "leave all of your feelings at the door," the new ethos in the workplace seems to be "bring all your feelings to work." While it is a beautiful ideal to imagine a workspace where everyone is skillful at both sharing and receiving difficult information, the trend of "trauma-dumping" at work is contraindicated.

Providing specific details of difficult circumstances can create a state of overwhelm for both the sharer and the receiver. In fact, sharing a story in chronological order can reinforce the physiological state that the sharer is hoping to alleviate by disclosing their story. Some trauma-informed modalities such as somatic experiencing avoid telling stories in chronological order for this reason. "SE avoids asking clients to relive their traumatic experiences, rather it approaches the sensations associated with trauma only after establishing bodily sensations associated with safety and comfort." And while not everyone identifies as "traumatized" or a "trauma survivor," exposure to traumatic events "is not rare, as has been consistently found in epidemiological studies."

What you can do: If you are a manager of people, you can encourage your team to share on a scale of 1-10 how their lives are going. This allows everyone to communicate without getting into the details of traumatic narratives. You do not need to be a therapist to your team—a best practice is to be a broker of services, and make sure your team knows what resources are available. If you are experiencing a high-level trauma in your own life, remind yourself that sharing details of difficult events is usually best done with someone fluent in the language of trauma.

Myth 2: You should always start with "why"
When it comes to business development, "start with why" makes sense. If you are feeling stuck with making calls, getting motivated, halting the procrastination cycle, or dealing with difficult feelings, you never want to start with "why." Broadly speaking, you don't need to know why a building is on fire to get the people out. You don't need to know why someone is bleeding to get them to a hospital. When it comes to getting yourself out of survival mode into a choice-based and action-oriented mode, do not start with why.

What you can do: Instead of asking yourself "Why do I feel this way?" or why you can't do what you want to do, ask yourself this: What are three micro-yesses available to me (micro-yesses are steps that are so ridiculously small you'll have no trouble doing them) and of those three micro-yesses, which one will I do first?

Myth 3: If you're anxious at work, there's something wrong with you
Anxiety is awful, uncomfortable, terrifying… and often necessary. Anxiety is the check-engine light of the mind's dashboard. Anxiety is the smoke alarm of the internal system. If you didn't

have things like check-engine lights and smoke detectors, you'd never know if you were in danger. We often get so caught up in the discomfort of anxiety that we forget that anxiety is a messenger—not a disorder. As Thomas Szasz put it, "Insanity is the only sane reaction to an insane society." Once we know how to decode its messages, anxiety points toward untended injuries from the past, destructive relationships, or circumstances in the present, and helps us to avoid unwanted things in the future. Anxiety is a "psychological, physiological, and behavioral state induced in animals and humans by a threat to well-being or survival, either actual or potential."

What you can do: Validate, validate, validate. Stay away from thoughts like, "What's wrong with me," "I'm overreacting," and "It's stupid to feel this way." Remind yourself that your brain is on your side, and your feelings of anxiety are a sign that your brain feels scared. If you manage a team of people, remind them that anxiety is unpleasant but it is functional. The absolute worst thing to do when you feel anxious is to torment yourself with "why" questions. You don't need to know why you feel stuck to get yourself unstuck. See Myth #2.

Myth 4: You have an addictive personality
We often focus so intensely on the behaviors that we want to change that we forget that all behavior is functional. In other words, there's a reason it seems like everything from sugar to sex to whiskey creates a compulsive spiral for you. Is it really that you have an addictive personality, or is it possible that you have emotional injuries, unaddressed traumas, or turbulent relationships that create comfort-seeking behaviors? When you say "I have an addictive personality," it places the problem as an internal one, rather than recognizing the complex interplay of internal and environmental stressors.

What you can do: Instead of thinking, "I have an addictive personality. This is who I am," ask yourself, "Is there anything about myself or my life that I am afraid to address?"
As addiction expert Gabor Mate put it, "… the first question is not why the addiction; it's why the pain?"

Then, ask yourself what supportive resources are in your life that can help make it less overwhelming so you can have support when you confront the monsters under your bed.

Myth 5: Productivity at work is about mindset—all you need to do is think positively
The biggest myth about motivation and productivity is that they are purely mental processes. If you've ever tried to think your way out of anxiety, talk yourself out of an addiction, or "affirmation" your way out of depression, you know that none of those things work very well. Is the problem you? Or is it possible that the problem is not in your mind but in your body? If you broke your leg, you wouldn't be able to positive-think your way back into walking. A physical problem needs a physical solution. Often, what we call "mental" health issues are the result of our central nervous system doing what it's designed to do—alert us when there's a problem. Mental health is not a mental process—it's a physiological process.

What you can do:

Learning to speak the language of the nervous system goes beyond the scope of this post, but you can remind yourself that “mind work” doesn’t usually work as a first-line intervention because the problem is physiological. When you know just a little bit about your brain, the capacity for choice is restored (to whatever degree you have safety and access to resources) and you can return to the driver’s seat of your life. If you’re asking Dr. Google for help with your mental health, try a search for “somatic tools for mental health” or how to help regulate the nervous system. "In the hybrid categorical–dimensional model, event but the subjective experience of stress, that is, stress response. This experience is generated via afferent interoceptive pathways by sensing what happens in the body in response to external and internal disturbances or stressors."

When it comes to mental health in the workplace, remind yourself if you are a manager that the most helpful intervention is to point your team towards resources. If you are feeling burned out as a leader, it is helpful to know you do not need empathy to validate your employees or to be a broker of resources. In a perfect world where everyone's cup is full, empathy is a wonderful gift to share. In the fast-paced, tenuous world that we currently occupy, it can be a huge relief to know that the greatest tools to promote workplace mental health—brokering of resources, validating, and boundaries—are tools that require zero empathy and zero professional mental health training.

https://www.psychologytoday.com/gb/blog/the-science-of-stuck/202306/myths-about-workplace-mental-health

Tips for HR Professionals to Protect Their Mental Health

Helping Employees with Mental Health Problems

Employees globally reported feeling more stressed in 2021 than they were in 2020, according to a report by U.S. Surgeon General Vivek H. Murthy. The report referred to a survey of 1,500 U.S. adult workers showing that 76 percent of respondents had at least one symptom of a mental health condition—an increase of 17 percentage points in two years.

Workplace signs and symptoms of mental health problems include:

- Consistently late arrivals or frequent absences.
- General lack of cooperation.
- Decreased productivity.
- Complaints of fatigue.
- Making excuses for missing deadlines.
- Working excessive overtime.

"It's an invisible illness," Schulte added. "And not a lot of people get the support they need, because they deal with a lot of shame, guilt and embarrassment."

She referenced a resource by Mental Health First Aid that detailed how HR professionals can help employees experiencing mental health issues:

- Assess for risk of harm.
- Listen nonjudgmentally.
- Give reassurance and information.
- Encourage appropriate professional help.
- Refer them to self-help and other support strategies.

Schulte emphasized the importance of exhibiting empathy, which increases trust among workers. She explained that trust plays a significant role in reducing stress, creating a safe space for all employees and forging a healthy company culture.

"Get comfortable in the discomfort," Schulte said. "[Discussing mental health] is a hard conversation. But poor mental health is not going anywhere anytime soon."

Mental Health **HR Pros: Take Care of Yourself, Too**

Five Key Behaviors that influence the mental health of HR professionals and explained why each can be detrimental to a person's health:

- Perfectionism. "If things are not perfect, do we feel stress? Recognize that perfectionism serves a purpose, but it prevents innovation and creativity. It's okay to not be perfect all the time."

- People-pleasing. "As HR professionals, you're good at people pleasing. We want to get that approval. But we need to give ourselves validation and to know that we're good enough."

- Paralleling. "We often compare ourselves to others, but we're comparing our behind-the-scenes to everybody else's highlight reels. Comparisons can be dangerous."

- Proving. "Proving and pretending that you have it 'all together' can be exhausting. Just be you. Show up as yourself, because that is more than enough."

- Procrastinating. "We're often waiting for our ducks to be in a row or for that perfect moment. But understand that procrastinating can hold us back."

She said these behaviors can lead to burnout, which is common among HR professionals. She provided several quick self-care exercises that can help HR professionals deal with their own mental health issues:

One-minute activities:	Five-minute activities:	30-minute activities:

- Have a glass of water.
- Say an affirmation.
- Do quick exercises, such as toe lifts or calf raises.
- Take deep breaths.
- Try some shoulder rolls.
- Take a dance break.
- Meditate.
- Eat a treat.
- Watch a funny clip on your phone.
- Perform lunges around your desk.
- Take a bubble bath.
- Go for a walk.
- Call a friend.
- Cook, clean or garden.
- Read or color.

Schulte asked the crowd if anybody has ever worked on a Sunday, missed their child's sporting event or checked their e-mail late at night. Nearly every hand went up. She implored the audience members to "set boundaries" to protect their own mental health.

"Be brave enough to bring all of who you are to all of what you do," she said. "And remember, it's okay to not be okay. Just know that you don't have to stay there."

https://www.shrm.org/resourcesandtools/hr-topics/behavioral-competencies/global-and-cultural-effectiveness/pages/tips-for-hr-professionals-to-protect-their-mental-health.aspx

DOL Releases Guidance on Mental Health Accommodations for Mental Health Awareness Month

Mental health issues, such as depression, anxiety and post-traumatic stress disorder are covered under both the Americans with Disabilities Act (ADA) and the Family Medical Leave Act (FMLA). However, unlike physical disabilities, such mental conditions are often not readily apparent or can be misconstrued and offer unique challenges to employers as to how to reasonably accommodate workers. It can be difficult to determine what constitutes a disability under the ADA or what qualifies as a “serious health condition” under the FMLA.

In conjunction with Mental Health Awareness Month, the U.S. Department of Labor (DOL) has a new Mental Health at Work website, that offers information and resources to employers on how to comply with the law and properly address mental health issues in the workplace. This includes guidance on what questions employers can legally ask employees about their mental health and what accommodations might allow the employee to perform the essential functions of their job.

Advice to management and supervisors on accommodation include the following:
Communication of assignments and instructions in the employee's preferred learning style (written, verbal, e-mail, demonstration); creation and implementation of written tools such as daily "to-do" lists, step-by-step checklists, written (in addition to verbal) instructions and typed minutes of meetings.

Regularly scheduled meetings (weekly or monthly) with employees to discuss workplace issues and productivity, including annual discussions as part of performance appraisals to assess abilities and discuss promotional opportunities.

Development of strategies to deal with problems before they arise.

The guidance also includes ways that readily available technology can be used as a reasonable accommodation, depending on the employee's particular mental health condition, such as:
Tape recorders for recording/reviewing meetings and training sessions.

"White noise" or environmental sound machines.

Handheld electronic organizers, software calendars and organizer programs.
Remote job coaching, laptop computers, personal digital assistants and office computer access via remote locations.

Software that minimizes computerized distractions such as pop-up screens.

The DOL website also includes information on the Mental Health Parity and Addiction Equity Act of 2008, which is a federal law that generally prevents group health plans and health insurance issuers that provide mental health or substance use disorder (MH/SUD) benefits from imposing less favorable benefit limitations on those benefits than on medical/surgical benefits.

https://www.lexology.com/library/detail.aspx?g=db6f3d90-1932-49d0-ba02-bf9c364d6cf4

Adjusting jobs to protect workers' mental health is both easier and harder than you might think

Employers have a choice. They can take steps to prevent mental health damage before it occurs, or they can deal with its aftermath. Both are important, but according to the body of research we've reviewed, the latter is far more common.

People with chronic mental illnesses can thrive at work in the right conditions. And most U.S. employers today do provide access to mental health benefits, partly due to the Affordable Care Act. The ACA, which Congress passed in 2010, requires insurance companies to treat mental health care the same way they treat physical health care when offering coverage.

About 78% of U.S. employers provide mental health benefits, including employee assistance programs, and work benefits that provide individual mental health, financial and legal support. Such measures are useful, but only after the harm has taken place. These benefits generally do nothing about psychological hazards tied to work and preventing work-related harm.

Here are four steps employers can take to address the causes of poor mental health:

- Revise job descriptions. Employers should eliminate ambiguity, wherever that's possible, about core duties and responsibilities. They should communicate with employees to ensure they understand why their jobs might require flexibility and adaptation. In times when workloads get unavoidably large, such as what happens at accounting firms in the weeks before Tax Day, employers should strive to balance long shifts with opportunities for employees to rest and recharge.

- Proactively train staff on the positive behaviors expected of them. Just as employers strategically plan which job-related skills are important, they can also strategically identify what interpersonal skills are important and value these like technical capabilities with hiring and promotions. If employees engage in bullying behavior, employers can retrain, reassign or fire them accordingly.

- Help employees build resilience. Research on police officers suggests that when they get resilience-building training before experiencing trauma on the job, it can reduce the risk of developing post-traumatic stress disorder. Similar types of resilience training could also help in less inherently traumatic lines of work.

- Don't assume that employees will speak up. Only 65% of employees with mental health challenges say that they would tell a co-worker, manager or human resources representative about those problems. They may conceal the severity of these issues even if they do talk about them, due to the stigma associated with mental health problems. Proactively addressing the causes of poor mental health for everyone is key, because there's no way for employers to know the extent of these problems.

https://news.yahoo.com/adjusting-jobs-protect-workers-mental-123353399.html

What practical steps do we need to take to support our employees?

There are a few notable trends seen across industries. Most employees are coping with some level of stress in their personal lives. A 2022 survey found that employees are stressed about their finances, which affects their productivity and personal health. Almost three-quarters of employees (registration required) have some kind of caretaking responsibilities, either for children, aging parents or disabled family members, while 26% of American adults suffer from a diagnosable anxiety disorder. These are significant burdens often suffered in silence and should be addressed by workplace benefits.

Within the workplace, shifting norms for how, when and where work is done can cause stress. Many major companies are requiring employees to return to the office, with mixed responses from employees who have gotten accustomed to creative work arrangements.

As more and more companies continue to manage both remote and in-person teams, finding meaningful ways to connect is essential. Forming digital communities for support and peer-to-peer connections encourages team building and sharing success—both personal and professional. And engaged employees are 69% less likely to look for a new job and five times more likely to recommend their company as a place to work.

What Meaningful Mental Health Benefits Look Like (Hint: Not Pizza Parties)
Prior to the pandemic, mental health benefits were often limited to financial support toward a capped number of psychiatric or therapy visits. The requirement to disclose the need for psychiatric visits to human resources can be a barrier to employees using these services.
Cue Covid-19 and the combination of quarantine, working while homeschooling kids, essential workers facing health risks and long hours, and employers coping with an ever-changing landscape of disease burdens and public health policies, and you have a society under stress.

There are endless memes about corporate America responding to workers being overtaxed and underpaid with pizza parties. As with all social commentary, there is some humor and some truth to this. In a time of low profit margins due to the enormous systematic and financial stress during a global crisis, food is a minimum-viable mental health solution that doesn't heavily hit the bottom line.

Now that the U.S. has ended the Covid-19 state of emergency, we as employers can do better to support employee mental health. Everyone deserves access to the care that they need. Prioritize part of your benefits budget to include no-questions-asked paid mental health days and encourage people to use them. Take a look at your insurance benefits to ensure they include therapy visits with a licensed practitioner of therapy or another reputable form of therapy. Consider subscribing to evidence-based asynchronous mental health technology to allow employees to practice mindfulness, chat with mental health practitioners or join peer communities.

We also can't forget that there is a child and teen mental health crisis in the U.S., too, so including services for families would go a long way for employees who are parents.

https://www.forbes.com/sites/forbeshumanresourcescouncil/2023/06/15/addressing-the-employee-mental-health-crisis/?sh=7a856fb816da

Keeping Mental Health Top of Mind Beyond May While Ensuring ADA Compliance

Key Takeaways:

As society's understanding of mental health conditions continues to evolve and individual diagnoses of mental health conditions are on the rise, employees' EEOC disability discrimination charges related to mental health conditions are quickly increasing.

Supervisors and managers should be trained to ensure their decision-making is not based on outdated biases against and misunderstandings about mental health conditions and, relatedly, how to identify and respond to requests for accommodations.

Under the ADA, employers' duties to engage in the interactive process and provide reasonable accommodations are the same for disabilities arising from physical and mental health conditions.

Before we shift our focus away from Mental Health Awareness Month, we want to offer some guidance to employers seeking not only to avoid liability under the Americans with Disabilities Act (ADA) but also to create a more inclusive environment for employees with mental health conditions.

It is estimated that 18.5 percent of Americans, nearly 1 in 5, have reported a mental health condition within the past year. The Equal Employment Opportunity Commission (EEOC) has publicized statistics showing claims based on anxiety disorders alone nearly doubled between 2013 and 2021. In fact, accusations of unlawful discrimination based on an employee's mental health condition accounted for about 30 percent of all ADA-related EEOC charges filed in 2021.

Without a doubt, ensuring a workplace free from discrimination against—and simultaneously remaining inclusive of—employees with mental health conditions demands employer attention.

Mental health conditions remain misunderstood by many. As medical science evolves, our society continues to learn more about the prevalence of mental health conditions, their physiological sources, and how these conditions may influence an employee's experience in the workplace. Medical science's understanding of mental health conditions is, however, generally outpacing managers' and supervisors' understanding of these conditions.

For one month, listen carefully to the informal conversations in your workplace. How many times does someone refer to a coworker's conduct as "crazy"? How often does someone characterize what they perceive to be another's erratic decision-making as "bipolar"? Although standing alone, neither of these comments would substantiate a claim for disability discrimination under the ADA, each could be viewed as one piece of the disability discrimination puzzle. For example, remarks like these can take on greater significance when combined with a manager's failure to understand their obligations under the ADA.

As a refresher, the ADA's definition of "disability" remains the same, regardless of whether the disability is related to a physical or a mental impairment. The ADA defines "disability" as including impairments that substantially limit one or more major life activities. When a qualified individual, including both job applicants and employees – though for brevity, we will focus on

employees here – has a mental health condition that substantially limits one or more major life activities, the ADA guarantees them the right to privacy and, if they so choose, the right to request an accommodation.

Of course, there is no requirement that an employee use magic words, such as "disability" or "reasonable accommodation." Additionally, someone other than the employee, such as a family member, friend, health professional or other representative, may request the accommodation on their behalf. The request need not be in writing, may be made orally and need not state a specific diagnosis.

The request must, however, include enough information to make clear the employee would benefit from an adjustment, change or other assistance at work and the need is related to a medical condition. For example, an employee's simply sharing they have a bipolar diagnosis – without asking for an accommodation to help them perform their job duties or identifying how the condition is affecting their ability to perform their job – is not sufficient to jump-start the interactive process. In this instance, the employer must instead remain focused on ensuring that decision-makers are not basing employment decisions on stereotypes or other subjective beliefs.

On the other hand, if it appears an employee may need an accommodation, the employer must engage in the interactive process to identify the precise limitations caused by the disability, identify potential accommodations, and determine which, if any, might effectively allow the employee to perform the essential functions of their job. This discussion is best handled by those who are experienced in the process, often with the guidance of counsel, and it should be well documented.

The interactive process highlights the importance of ensuring all job descriptions are current and accurately identify the essential job functions with an eye toward not just physical tasks (crawling, typing, sitting, standing) but also mental tasks (prioritizing tasks effectively, managing multiple deadlines at once, switching between tasks throughout the day). Post-COVID, it is also critical to include whether a position's essential job functions may be completed remotely.

When evaluating the employee's request, the employer must determine its duty to accommodate under the same framework applied to those with physical disabilities. After all, employers do not need to provide an accommodation that is unreasonable or would create an undue burden for the employer. Management may consider the nature and the cost of the requested accommodation relative to the employer's size and budget, the impact the accommodation may have on the workplace and other employees, and its obligations under any applicable collective bargaining agreements.

Examples of potential accommodations may include those designed to assist with concentration or distraction, such as more frequent or different reminders of tasks and due dates, a quieter workspace, the use of a white noise machine or earphones, more frequent breaks, or remote work. Employers may also accommodate employees by providing a flexible schedule to allow for

treatment appointments and management of medication, medication side effects, and regular symptoms associated with the employee's specific health condition. Reasonable accommodations may also include paid or unpaid leave, reassignment to a different role or work group or reassignment of non-essential job duties. In short, the interactive process is based on the individual facts and circumstances of each situation.

To assist with determining whether an accommodation is necessary and whether the accommodation an employee is requesting is reasonable, employers may ask for a certification from a healthcare provider. The employer may provide a job description or a list of job duties, the employee's work schedule, the accommodation being requested by the employee and alternatives the employer believes are reasonable. The healthcare provider can answer questions about how the employee's ability to perform their job duties is limited, whether the limitations are temporary or permanent, and, whether there are other accommodations that might assist the employee with performing the essential functions of their job. The EEOC's guidance suggests "minor" accommodation requests be provided without seeking this additional documentation.

Keep in mind that the interactive process requires an incredibly fact-specific analysis. This is true regardless of whether an employee's medical condition creates a mental or a physical impairment. Compliance requires employers to ensure that they've set aside any vestiges of outdated stereotypes, managers and supervisors have been trained to identify a request for an accommodation, and decisions are based on the facts after careful analysis.

For employers who want to ensure an inclusive environment for employees with mental health conditions while protecting against liability, additional training about the ways bias against mental health conditions can present in the workplace would be valuable.

https://www.jdsupra.com/legalnews/keeping-mental-health-top-of-mind-2435263/

Employee Mental Health a Key Factor in Enterprise Decisions on Hybrid Work, ISG Study Finds

STAMFORD, Conn., June 27, 2023--(BUSINESS WIRE)--Global enterprise leaders are prioritizing employee mental health as they make decisions on extending or expanding hybrid work models, according to new survey research from Information Services Group (ISG) (Nasdaq: III), a leading global technology research and advisory firm.

The ISG survey of more than 200 global IT and enterprise executives found 81 percent rate mental health as a top employee concern and a key factor in their organization's decisions around remote and flexible working.

Talent acquisition, employee retention, customer experience, employee productivity, internal collaboration and effective management were also mentioned by respondents as among the most important factors in enterprise work policies. Most respondents also said remote work has positively impacted the work-life balance their enterprise offers as well as their ability to attract talent.

"Employers are making decisions on whether and how to continue their flexible work arrangements based on the real or perceived impact on employee well-being," said Iain Fisher, global Future of Work lead for ISG. "Hybrid schedules and employees who are empowered to choose where to work are now entrenched in workplace culture. The next challenge will be deploying enterprise technology capabilities that can keep pace by providing a seamless work experience from any location."

The 2023 ISG Buyer Behavior Research – Future Workplace Study finds executives are confident their organization's current approach to the digital and physical workplace experience will meet the needs of the organization over the next two years. Twenty-six percent of survey respondents said they are "extremely confident" their physical workplace is delivering a safe and collaborative work environment, and 24 percent are extremely confident their digital workplace is delivering the tools and technologies to enable hybrid and remote working. Executives are less confident, however, in their ability to enhance overall employee experience.

"The digital workplace is expected to deliver exponential improvements in employee experience, productivity and capabilities," said Alex Bakker, director, ISG Research and author of the study. "Three-quarters – 76 percent – of our survey respondents said a remote or flexible work policy has already delivered a return on investment in terms of productivity, cost savings and employee and client satisfaction. But only 15 percent are extremely confident their current approach to employee experience will be adequate for the near future. Workplace services solutions will be needed to resolve that discrepancy."

When it comes to employee experience, business leaders are under increasing pressure to foster a workplace culture that is attractive to new talent and current employees, especially Gen-Z employees, ISG says. According to the 2022 ISG Provider Lens™ Future of Work - Services and Solutions - Archetype Report, enterprises must "frame policies that consider socio-human factors" including what the organization stands for, its impact on larger society, and concerns about diversity, equity and inclusion and environmental impact.

"Our research underscores the degree to which workplace technology plays a key role in ensuring improved employee experience," Bakker said. "While any technology that keeps employees productive supports the experience, multiple other factors such as employee well-being, empathy and employee association with their organization are also an integral part of experience."

During the peak of the pandemic, about 70 percent of employees worked from home, the survey found, resulting in a "large, reactionary spend" in workplace technology, ISG said. Since

then, about 50 percent of the enterprises surveyed by ISG have introduced a hybrid work policy, with nearly the same number (47 percent) reporting investing in increased cybersecurity to cover offsite workers. Forty-three percent of respondents invested in smart office infrastructure, 38 percent in applications and services that facilitate remote work and 38 percent in online training and development.

"Enterprises have the opportunity to renew and adapt their workplace services," Bakker said. "To do that, organizations are prioritizing knowledge management tools, self-service portals and mobile devices to enhance the hybrid realm and support a distributed workforce."

Over two-thirds of respondents consider mobile devices (69 percent), knowledge management tools (67 percent) and self-service portals (66 percent) as critical or very important to the workplace experience. Unified communications platforms such as Teams, Slack or RingCentral were cited as critical or very important by 64 percent of respondents, followed by collaboration and social platforms such as Yammer, at 57 percent.

https://finance.yahoo.com/news/employee-mental-health-key-factor-161500651.html

Employee Disengagement - Loud Quitting Has Arrived

Gallup recently sounded the alarm on the employee engagement crisis. A survey revealed that nearly 60% of 120,000 of the world's workers are quiet quitting or not engaging, and 18% are actively disengaged, which Gallup labeled as loud quitting.

This is a surprise to the public, but Human Resources professionals saw this coming. In the State of HR survey, they listed employee engagement as their number one priority and burnout as the biggest challenge. In 2022, employees had returned to pre-pandemic levels of engagement before media attention turned to quiet quitting. This was a phrase used to describe people setting boundaries with their employees, sticking to a fixed schedule, and meeting requirements of their job without going above and beyond.

What Is Loud Quitting?
In the early days of quiet quitting, many in HR rolled their eyes because this was nothing new and workers have a right to set boundaries. Not everyone has to be ambitious. Sometimes, it's just about fulfilling basic duties to earn that paycheck.

Loud quitting is distinctly different. It's akin to burning bridges, which HR Exchange Network does not recommend in any instance. Workers simply don't know if their paths will ever cross with these employers, HR professionals, or colleagues again. It breeds a lack of trust and can mar one's reputation. Gallup uses this definition to describe loud quitting:

"These employees take actions that directly harm the organization, undercutting its goals and opposing its leaders. At some point along the way, the trust between employee and employer was severely broken. Or the employee has been woefully mismatched to a role, causing constant crises."

This is a serious charge. At a time when the world is grappling with an uncertain economy, and the World Bank warned that businesses may be facing a decade of decline without economic growth, this news is even more disturbing. After all, Gallup estimates that low engagement costs the global economy $8.8 trillion and accounts for 9% of global GDP. Imagine how that plays out in one company.

How Should HR Respond?
Human Resources must pay close attention to employee engagement and experience. This is a challenging time for everyone. People are experiencing anxiety that lingers from the pandemic and is exacerbated by financial concerns. In addition, many companies, especially in the tech sector, are conducting layoffs, hiring freezes, budget cuts, and restructuring. This means those who are still employed are taking on more work, which can lead to feeling overwhelmed at best and burnout at worst.

Admit You Have a Problem
Human Resources must be attentive to what's happening with employees. Using feedback surveys allows HR to hear from workers and recognize if there are problems. However, even without feedback surveys, HR professionals can use their eyes and ears to recognize if people are being overworked, having issues with managers and colleagues, or simply checking out.

Maintain Focus on Mental Health and Wellness
In the Gallup survey, 44% of workers said they experienced a lot of stress the previous day. The circumstances of work today by themselves are causing anxiety. Therefore, mental health and wellness benefits must remain a priority. Employees have come to expect companies to show their care and concern by providing them with the means to tend to their physical and mental health. When employers are asking people to do more with less, they should be prepared to help them deal with the consequences.

Keep an Eye on DEI Efforts
In the last year, diversity and inclusion programs have taken a hit. Employers laid off DEI leaders or cut resources. But DEI is vital to employee engagement. Providing people with that sense of belonging and making them feel heard and valued, which are all part of any decent DEI program, are essential to keeping people engaged.

Help Managers Be Better
Many in HR have said, "People quit managers, not jobs!" This mantra is often said because it is true. In fact, Gallup suggests that HR address this engagement crisis by focusing on top talent and giving them better managers. The fact is that HR has been asking much of managers these days.

In addition to ensure tasks get done, projects are completed, and results improve, they also must show empathy, help people with their wellness and well-being, and encourage a culture of inclusiveness. These are not easy tasks, and many never get training or help meeting these goals. Training managers on both hard and soft skills prepares them for the new expectations of employees and positions them to garner more engagement.

https://www.hrexchangenetwork.com/employee-engagement/articles/employee-disengagement-loud-quitting-has-arrived

SHRM Research Highlights Loneliness in the Workplace and the Power of Casual Collisions

New SHRM research released today at the SHRM Annual Conference & Expo2023 suggests the post-pandemic workplace has become somewhat less collaborative and engaged than before, posing risks to employees' well-being.

The most obvious current risk is burnout, which is
more widespread among onsite employees compared to those working in
remote or hybrid structures. In addition, only 1 in 10 HR professionals and 1 in 4 workers report a decrease in loneliness over the past three years.

Given these potential implications for the workplace, SHRM Research sought to explore the prevalence of employee loneliness and the importance of social interactions from the perspectives of both HR professionals and U.S. workers. Data was collected between November 2022 and January 2023.

Many CEOs believe that spontaneous social interactions among co-workers, particularly those from different workgroups, are important for building collaboration and creativity. Some large corporations have even designed their buildings to promote instances of employees unexpectedly encountering and talking with each other. SHRM Research describes these types of interactions as "casual collisions."

"This new research shows that Generation Z and Millennial workers tend
to experience more frequent loneliness and also to value casual collisions more than working adults in general," said Annemarie Schaefer, vice president of SHRM Research. "While no work structure is immune to worker loneliness, the data does suggest that unplanned, in-person interactions positively influence employees' mental health. Remote workforces
are also vulnerable because they are physically isolated and less likely to identify their co-workers as friends."

Compared to onsite workforces (24 percent), remote workforces (35 percent) are significantly more likely to report that their isolation from co-workers has increased. However, they are not more likely to believe they are disconnected from work colleagues or are left out of important work conversations. In fact, they are significantly less likely to feel left out of their workgroup. Yet, they also are twice as likely as onsite workers to say they rarely participate in casual collisions (20 percent to 43 percent) and a third more likely to say they do not consider their co-workers to be friends (21 percent to 13 percent). Not having friends at work may have important consequences for workplace cohesion.

Remote workforces (25 percent) are about twice as likely as onsite (12 percent) or hybrid (14percent) workforces to report that their environment is less collaborative now than it was pre-pandemic. Although 65 percent of HR professionals state that collaboration is critical for success in their workplace, only 42 percent say managers promote teamwork and only 23percent say workstations are designed for collaborative work.

Additional key findings include:
When asked whether their work/life balance has improved over the past three years, 70 percent of workers agree this is at least somewhat true.

More than one-third of employees report feeling greater burnout from their work today compared to three years ago. Additionally, SHRM data suggests that burnout rates are fairly consistent across generations, with 35 percent of all workers versus 36 percent of Millennial and Generation Z workers reporting burnout.

Exactly 1 in 3 HR professionals agree that their workforce overall is somewhat or much less engaged now than before the pandemic. This finding aligns with the idea that 35 percent of employees are burned out.

Yet, when SHRM asked workers about their feelings, 86 percent reported feeling at least as engaged as they were in 2019. Asking the question, the other way around—that is, how disengagement has changed—yielded similar results. Nearly 8 in 10 workers feel disengagement has either stayed the same or improved.

80 percent of HR professionals said they believe the workforce is as productive or more productive today compared to before the pandemic.

When HR professionals were asked how common loneliness is among their workforce, slightly more than one-third (35 percent) feel it is more common now than it was before the pandemic.

Workers were asked specifically whether they felt more or less lonely at work.
Almost 8 in 10 say they feel no lonelier at work now compared to three years ago. Importantly, there are no significant differences in reports of loneliness between onsite versus remote workforces.

About one-quarter of HR professionals believe that high levels of collaboration have become more characteristic of their workplaces over the course of the pandemic.
The same percentage of workers (24 percent) report a higher level of collaboration now, while the majority of workers (62 percent) believe collaboration levels have remained unchanged. Among the 24 percent of workers who report that their mental well-being has improved, almost half also report experiencing casual collisions more often now.

On the flip side, among the 20 percent of workers who report that their mental well-being has declined, nearly half state they participate in fewer casual collisions now.

View the full report here: https://www.shrm.org/hr-today/trends-and-forecasting/research-and-surveys/Pages/Loneliness-Report.aspx

Workplace Collaboration Linked to Positive Employee Mental Health

What You Should Know:
TELUS Health today released its monthly Mental Health Index which revealed that workers who collaborate with others in the workplace have a better mental health score than those who work exclusively independently.

The Index also showed that the mental health scores of workers who do not feel supported in their mental health and wellbeing by their employers scored 10 points below the national average.

Collaboration aligns with better mental health
Nearly two in five (37 percent) workers report needing to collaborate with coworkers all the time; this group has the highest mental health score (72.9), five points higher than workers who do not need to collaborate for their roles (67.8) and nearly two points higher than the national average (70.9).

Nearly two in five (38 percent) of those surveyed reported that they would prefer to work alone most of the time; the mental health score of this group is more than four points below the national average.

The mental health sub-score of isolation is the lowest among employees who prefer to work alone most of the time, nearly 12 points lower than employees who don't prefer to work alone.

Employer mental health and wellbeing support
The mental health score for workers who do not feel supported by their employer for their mental health and wellbeing needs is 10 points below the national average. Employees who feel

less supported now versus early in the pandemic have an even lower mental health score (57.3) than those who never felt supported in the first place (60.6).

Fifteen percent of workers surveyed indicated that their employer has improved the level of mental health support; this group has a mental health score of 71.5.

Laborers are 40 percent more likely than service industry workers, and 30 percent more likely than office workers, to report their employer has improved the level of support.

https://hitconsultant.net/2023/06/22/workplace-collaboration-positive-employee-mental-health/

Shop workers' mental health damaged by cost-of-living crisis

A new report by industry charity the Retail Trust which surveyed more than 1,500 people working in the industry, revealed a rise in incidents of staff theft, suicidal employees and abusive customers.

The study found that of the nine in 10 who say they are affected by the cost-of-living crisis, 21% are struggling to meet their monthly outgoings while more than a third (36%) say financial pressures are worsening their already poor mental health and 80% reported experiencing deteriorating mental health overall.

According to the survey, half of retail managers said there had also been a rise in staff absences in the last year due to mental health issues, with one HR leader saying she had dealt with more suicidal staff in the past 12 months than at any other point in her entire career: "It's related to the financial landscape, loneliness, domestic abuse, housing and volatile relationships. There are more severely impacted people in the last couple of years."

The rising cost of living has also sparked an increase in support being offered by retailers. The research found that one-third (33%) have issued pay rises that match or exceed rising inflation; half (50%) provide other forms of financial assistance, such as help to pay bills or providing advances on their salary and interest free loans and three-quarters (75%) offer financial education or money management advice.

The research found that retail workers' mental health was also being affected by a rise in abuse from the public. Recent research by the Association of Convenience Stores found that 87% of colleagues working in convenience stores have experienced verbal abuse over the last year.

Commenting on the study's findings, Chris Brook-Carter, chief executive of the Retail Trust, said: "The retail industry is the UK's biggest employer outside of the public sector and one with a workforce whose wages are skewed to the lower end of the scale, making the cost-of-living crisis more acutely felt. Many retailers are taking steps to address this, such as by increasing

wages, but there is a limit to what can be done given the tight margins of the industry and the rate at which inflation has been rising.

“Combined with other factors like an increase in abusive customers, this is all having a serious impact on the mental health of staff, with thousands continuing to face ongoing uncertainty, stress and risk of burnout without the support they need.

“We must work together to change this by raising awareness of where to get help, training managers to support their teams and giving people the tools to support themselves. Above all, we must listen. Employers who are prepared to ask the big questions and understand how people are really feeling in their organisation, and then act on this data, will be the ones who succeed in having an engaged, happy workforce.”

https://www.conveniencestore.co.uk/your-business/shop-workers-mental-health-damaged-by-cost-of-living-crisis/680621.article