JUNE MENTAL HEALTH AND DE&I UPDATE
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SHRM Research: Work Is Negatively Impacting Employees' Mental Health

A number of U.S. employees say their job is hurting their mental health—and they are increasingly looking to their employer to make matters better. If conditions don't improve, they might leave for other opportunities, according to new research by SHRM.

One in three U.S. employees say their job has had a negative impact on their mental health over the past six months, with 30 percent saying their job has made them feel overwhelmed and 29 percent saying it's made them feel anxious at least once a week, according to new data by SHRM Research released on May 1 to mark the start of Mental Health Awareness Month. The survey of 1,000 workers, which was administered March 15--28, 2023, also found that 27 percent of Generation Z workers say their job has made them feel depressed at least once a week in the past six months. That's not only putting them at risk for other health issues, but it's also causing many of them to look for a new job.

The research also highlights the important role employers play in helping to turn things around. Importantly, SHRM Research finds that nearly half of U.S. employees (45 percent) have higher expectations for the level of mental health support their organizations should provide, compared to last year.

"This finding suggests that employees are looking to their organizations to take an active role in supporting their mental health," said SHRM lead researcher Ragan Decker, Ph.D., SHRM-CP. "This reflects a growing awareness of the importance of mental health in the workplace and the need for employers to address it. Employers will need to recognize and adapt to these changing expectations."

Causes and Effects

SHRM's findings align with other studies highlighting significant mental health challenges in the U.S. Overall, mental health has taken a big hit since the onset of COVID-19, with rates of depression, anxiety, stress and burnout rising to new levels. That's only been exacerbated by ongoing inflation, which has impacted employees' financial health.

Research released by insurance company MetLife in March found a significant decline in overall holistic health—incorporating physical, financial, mental and social health—with financial and mental health in particular showing sharp declines. Meanwhile, health care firm Telus Health, which compiles a monthly mental health index to gauge how employees are feeling, found in April that inflation and financial pressures have put more than 65 percent of U.S. workers at high or moderate risk of mental health issues.

The SHRM Research survey found that not only are employees generally having a hard time, but work often contributes to stress and other mental health issues. Decker said there are multiple contributing factors, including workload (cited by 51 percent of survey respondents), pay/compensation (46 percent), understaffing (29 percent), poor leadership or management (28 percent), and lack of opportunities for career advancement (26 percent).

"Organizations can turn around the negative impact of work on employees' mental health by prioritizing workload management, fair pay and compensation, addressing understaffing, developing strong leadership and management, and providing opportunities for career advancement, as well as implementing mental health support programs and fostering a positive culture," she said.

On the flip side, work also can have positive impacts on employees' mental health. In the SHRM Research survey, nearly 1 in 3 U.S. workers (31 percent) say their job has had a positive impact on their mental health over the past six months, with older generations—Baby Boomers and Traditionalists—more likely to be positively affected.

"Employers and leaders need to understand that work can function as both a risk factor and a protective factor for mental health," Decker explained. "On the one hand, work can be important for fulfillment and happiness because it provides a sense of purpose and meaning, social connections and personal satisfaction. On the other hand, high job demands, long hours, a lack of control over one's environment and poor work/life balance can lead to work-related stress, anxiety and other issues."

How Employers Can Help

Employer help is crucial to solving the mental health crisis, experts said. While many employers have promoted employee assistance programs (EAPs) or added mental health apps and other resources in recent years, research showing virtually no improvements in employee mental health indicates much more needs to be done.

Among U.S. workers who work for an organization, 59 percent say their organization offers too few mental health resources, the SHRM data shows. And employees who work for organizations that are not successful at creating a workplace that supports mental health are less likely to describe their mental health as good or excellent (46 percent), compared to those who work for organizations that are successful at creating a workplace that supports mental health (74 percent).

So what are employees looking for? Among U.S. workers who work for an organization, 58 percent said paid mental health days (above and beyond regular sick leave) would best support their mental health, followed by 35 percent who say mental health coverage as part of employee health care plans would best support their mental health, and 35 percent who say free or subsidized virtual mental health services would best support their mental health.

SHRM Research found that employees are also interested in:
- Classes such as mindfulness or yoga (26 percent).
- EAPs (23 percent).
- Mental health apps (21 percent).
- Mental health support groups (16 percent).
- Mandatory mental health training for managers (16 percent).
- Mandatory mental health training for employees (16 percent).
- Workshops on mental health (15 percent).
- Educational resources on mental health (13 percent).
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Employees also desire more mental health accommodations, including paid or unpaid time off (48 percent of employees say this accommodation would best support their mental health); flexible scheduling, such as part-time hours, job sharing or adjustments to starting and ending work times (44 percent); and work breaks (32 percent).

Employer support is crucial not only for employees, but for organizations as well, the research indicates. Employees with mental health issues are less likely to be productive and healthy, and they also stand to pose a big problem for organizations: They are also more likely to leave their employer in search of other organizations that better support their mental health and prioritize support.

U.S. employees who say their job has had a negative impact on their mental health over the past six months are more likely to be actively searching for a job (49 percent), compared to ones who say their job has had no impact (23 percent) or a positive impact (14 percent), SHRM Research finds. And just over 4 in 10 U.S. employees (41 percent) say it's likely or very likely that they would leave their current job if offered a new job with significantly better mental health benefits. That sentiment is more prevalent among younger employees: 61 percent of Generation Z employees and 48 percent of Millennial employees say they are likely or very likely to leave their current job if offered a new job with significantly better mental health benefits.

These figures, Decker said, highlight both the "potential impact that poor mental health support can have on employee retention" and "the importance of employers providing adequate mental health support to attract and retain talent."

"Our results also suggest that younger generations are more likely to prioritize mental health benefits when considering job opportunities, so it will become increasingly important for organizations to adapt their policies, practices and offerings to meet the changing needs and expectations of U.S. workers," she said.

The bottom line? "There are significant risks for employers if they do not do more to support their employees' mental health," Decker said.

https://www.shrm.org/resourcesandtools/hr-topics/benefits/pages/shrm-research-finds-work-is-negatively-impacting-employee-mental-health.aspx

Survey: Mental Health Worsens for 34% of US Workers

NEW YORK, May 30, 2023 /PRNewswire/ -- More than one-third of US workers report that their mental health has taken a turn for the worse. What's the culprit? Survey respondents say, among other factors, long hours and excessive workloads. For example, the survey found that nearly half who reported decreased mental health worked more than 50 hours per week.

What could help address these mental health concerns? Flexibility and work-life balance are the top things workers believe would help. More than half say being able to take "no work" PTO days without guilt would be useful—the top response.

The latest workforce survey from The Conference Board polled more than 1,100 individuals—predominantly office workers. Respondents weighed in on their mental health, engagement levels, and job security. Mental health is defined as a state of mind characterized by emotional well-being, good behavioral adjustment, relative freedom from anxiety and disabling symptoms, and a capacity to establish constructive relationships and cope with the ordinary demands and stresses of life.

Key findings include:

Workers report their mental health is decreasing.
•   34 percent say their self-reported level of mental health is lower than six months ago.
•   37 percent say their sense of belonging is lower.
Despite decreasing engagement (the desire to go above and beyond), nearly 70 percent say they are working harder than is expected of them.

- 37 percent say their level of engagement is lower than six months ago. At the same time, 69 percent say they are applying more effort than is expected at their job occasionally or consistently compared to six months ago.

Engagement is decreasing more for Millennials than other generations.

- 43 percent of Millennials say their level of engagement has decreased in the last six months, compared to 38 percent of Gen X and 34 percent of Baby Boomers.
- This may be why 40 percent of Millennials report doing only what is expected of them or less (think "Bare Minimum Mondays"), compared to 30 percent of Gen X and 29 percent of Baby Boomers who report the same thing.

Does declining mental health make workers less engaged in their jobs—or vice versa?

- Nearly 70 percent of workers who report decreased mental health *also* report decreased levels of engagement.

Workload and work hours have some of the worst effects on employees' mental health.

- 48 percent of workers who report decreased mental health work 50+ hours a week.
- 49 percent of women say increased workload/hours hurt their mental health, compared to 39 percent of men.
- 50 percent of Millennials say their workload hurt their mental health, compared to 48 percent of Gen X and 40 percent of Baby Boomers.
- Also hurting workers' mental health are poor workplace communication (42 percent), lessened ability to balance the demands of work and personal life (41 percent), and time spent in meetings (40 percent).

Toxic work culture is also hurting mental health.

- More than 1 in 4 workers (26 percent) say toxic work culture is having an impact on their mental health.

Workers are less comfortable speaking about mental health challenges at work.

- 38 percent do not feel comfortable speaking to their manager about their mental health, more than double the number (18 percent) who were not comfortable a year ago.
- 50 percent needed time off to address mental health issues but did not request a mental health break explicitly.
- Instead, workers took unofficial mental health days (13 percent), used sick days (19 percent), or continued to work (18 percent).

Flexibility and work-life balance are the top things workers believe would help their mental health.

- Being able to take "no work" PTO days without guilt: 55 percent say this would help their mental health.
- Flexible/hybrid work schedule: 52 percent
- Work from home/anywhere: 48 percent
- Training managers to promote a healthy work-life balance: 47 percent

"This survey reveals that many workers are really struggling with their mental health. This could be due to a combination of factors both inside and outside of the workplace, but the fact remains that it can have an outsized impact on work performance," said Rebecca Ray, Executive Vice President, Human Capital, The Conference Board. "Workers need the ability to truly disconnect and reset, but many companies are now recognizing that this can be a major

challenge when their colleagues are still working. Some businesses have opted for 'no work' days or weeks when everyone is off. But letting your employees disconnect can simply mean ensuring everyone has an established backup and setting strict no contact policies for staff on vacation."

Programs to support mental health and well-being for workers may be decreasing.
•   Programs that support emotional well-being: 62 percent of workers say they are available compared to 88 percent one year ago.
•   Financial well-being initiatives: 52 percent say they are available, compared to 76 percent last year.
•   Programs for physical well-being: 54 percent say they are available, compared to 74 percent last year.

Of the programs that *are* offered, many are not being used.
•   Programs that support emotional well-being: Available for 62 percent, but only currently or previously used by 22 percent.
•   Financial well-being initiatives: Available for 52 percent, but only used by 22 percent.
•   Support for childcare/dependents: Available to 33 percent, but only used by six percent.

Workers would find certain programs useful, although not available at their current organizations.
•   32 percent of workers say they would find support for childcare/dependents useful; an outstanding number (48 percent) of Millennials agree.
•   37 percent of workers would find training to recognize signs of mental health concerns useful.
•   41 percent would find training to build resilience useful.

Policies that promote flexibility would have an impact on workers' intent to stay.
•   Of those who said their intent to stay at their company decreased in the last six months:
•   55 percent said being able to take "no work" PTO days without guilt would be helpful in supporting employee mental health.
•   45 percent said the option to work from home/anywhere would be helpful.
•   44 percent said training managers to promote a healthy work-life balance would be helpful.

Despite recent news of layoffs, 73 percent of workers are secure about keeping their jobs.
•   39 percent secure; 34 percent *very* secure.
•   35 percent are currently looking for a new job or planning to in the next six months.
•   83 percent of workers who do *not* feel secure about their job say they are less likely to stay.

https://www.prnewswire.com/news-releases/survey-mental-health-worsens-for-34-of-us-workers-301837631.html

These are the factors driving the decline in women workers' mental health

More than one-third of U.S. workers report that their mental health has taken a turn for the worse over the last six months and - for women in particular - long hours and increased workloads are the biggest culprits.

The latest workforce survey from The Conference Board polled more than 1,100 individuals, predominantly office workers. Respondents weighed in on mental health, engagement levels and job security. Mental health is defined as a state of mind characterized by emotional well-being, good behavioral adjustment, relative freedom from anxiety and disabling symptoms, and a capacity to establish constructive relationships and cope with the ordinary demands and stresses of life.

Across the board, 34 percent of workers reported their mental health is decreasing, the survey found.
Thirty-seven percent said their level of engagement is lower than six months ago, even while nearly 70 percent said they are applying more effort than is expected at their job compared to six months ago.
Among women, 49 percent said increased workload and hours hurt their mental health, compared to 39 percent of men. Nearly half of workers who reported decreased mental health work 50-plus hours a week, the survey found.

Younger workers are also more prone to mental health problems due to workload, with 50 percent of Millennials reporting issues with mental health, compared to 48 percent of Gen X and just 40 percent of Baby Boomers.

"This survey reveals that many workers are really struggling with their mental health," said Rebecca Ray, executive vice president of human capital for The Conference Board. "This could be due to a combination of factors both inside and outside of the workplace, but the fact remains that it can have an outsized impact on work performance."

Mental health was already a growing concern among U.S. workers, and the Covid-19 pandemic only further exacerbated the high burden of mental health issues, particularly among women. On top of the health anxieties and job insecurities felt by everyone, women took over most of the caregiving duties at home during the pandemic, leading to a much higher rate of burnout compared to men.

Deloitte's 2023 Women @ Work survey also found mental health to be a major issue for working women, and most don't feel like they get adequate mental health support from their employers. These issues are particularly prominent among women from underrepresented

groups, who are more likely to report feeling burned out and less likely to feel comfortable discussing their mental health in the workplace, that report found.

Respondents in The Conference Board's survey said flexibility and work-life balance are the top things that would help workers with their mental health. More than half say being able to take "no work" PTO days without guilt would be useful.

At the same time, 38 percent said they did not feel comfortable speaking to their manager about their mental health, more than double the number (18 percent) who were not comfortable a year ago. Fifty percent of respondents said they needed time off to address their mental health issues but did not request a mental health break explicitly. Instead, workers took unofficial mental health days (13 percent), used sick days (19 percent) or continued to work (18 percent).

"Workers need the ability to truly disconnect and reset but many companies are now recognizing that this can be a major challenge when their colleagues are still working," Ray said. "Some businesses have opted for 'no work' days or weeks when everyone is off. But letting your employees disconnect can simply mean ensuring everyone has an established backup and setting strict 'no contact' policies for staff on vacation."

https://www.bizjournals.com/bizwomen/news/latest-news/2023/06/these-are-the-factors-driving-the-decline-in-women.html?page=all

ENHANCING EMPLOYEE MENTAL HEALTH: KEY STEPS FOR COMPANIES TO CONSIDER

As a business leader, creating a mentally healthy workplace is key.

Fostering a supportive environment is certainly an ethical imperative, helping to serve the duty of care you have for all those working in your organization. It's also crucial from a business standpoint, as your efforts can increase employee engagement, reduce turnover, and enhance organizational performance.

Yet, it's not always easy to identify which support methods can have the best impact on your organization's workforce and culture. Mental health can feel like a complex and nuanced issue, influenced by various individual, cultural, and environmental factors. While there certainly needs to be a commitment to creating programs tailored to your specific employees' needs, there are also some common supportive elements you can build from.

Reduce Workplace Stress

Over the past decade or so, there has been greater scrutiny on how stress and burnout can significantly impact employee mental health. To ensure a positive and supportive work culture, it's important for your business to prioritize combatting the strain your workforce may experience. By recognizing the signs and causes of stress and implementing effective mitigation strategies, your company can create an environment that promotes mental well-being.

One of the primary contributors to stress and burnout is an overwhelming workload. Reducing this isn't simply a case of taking on more workers. Rather, it's important to recognize that solid workflow processes support employee mental wellness. By optimizing company systems and management practices to maximize efficiency and reduce errors, you're minimizing the potential for unnecessarily overworking employees. You can further bolster this impact by utilizing automation to handle the repetitive menial tasks that add to an already heavy workload and negatively impact worker satisfaction.

Another important step is encouraging a healthy work-life balance among your employee base. This could include offering flexible schedules or remote work options. This tends to enable employees to both attend to their personal needs and perform at work, rather than have to experience conflicting demands that can disrupt their mental wellness. In addition, your company should encourage employees to take regular breaks, vacations, and time off to recharge and rejuvenate.

Provide Flexible Resources

In today's diverse and dynamic work landscape, it is not enough to provide static mental wellness resources to workers. This is because workers will have varying needs that standard programs may not effectively meet. By offering a range of flexible resources, your company can ensure your workers' employees have access to the support that makes a difference.

This is particularly important for remote and hybrid workers, who face some unique practical and psychological challenges when working from home. Their experiences of common workplace stress may be further compounded by a sense of isolation or even the pressure of excessive micromanagement. These workers may also not be able to easily meet a counselor in person. It is, therefore, wise to offer workers more flexible telehealth therapy options. This provides the convenience of accessing therapy from anywhere, making it an ideal resource.

You can also consider providing workers with access to mental wellness mobile applications. These tools can offer a wide range of resources, including guided meditation, stress management techniques, mindfulness exercises, and educational materials. Such platforms allow employees to access the content at their own pace and convenience, empowering them to take control of their mental well-being as and when they need to.

Eliminate Stigma

Open communication about mental health is crucial for creating a supportive work environment where employees feel safe to seek help and support when needed. Yet, one recent study found that only 13% of employees feel comfortable discussing mental health at work. This is largely because the stigma surrounding mental health issues still exists in many workplaces. Your company must commit to taking steps to identify and eliminate the presence of such negative elements that can actively disrupt workers' wellness and their connections to your business.

This should start with good quality worker education. Many employees may not have a thorough understanding of mental health or may hold inaccurate misconceptions about it. Your company can combat this by conducting regular training sessions or workshops on mental health awareness. These initiatives can help employees understand common challenges, recognize signs of distress in themselves and their colleagues, and learn appropriate ways to offer support.

In addition to discussions during training, your business should actively work towards normalizing day-to-day conversations about mental health. Company leaders can play a vital role by sharing educational content, promoting mental health initiatives, and even offering personal stories about overcoming mental wellness challenges. By normalizing these conversations, your business sends a powerful message about its commitment to wellness that is backed by solid support resources. This may encourage employees to feel more comfortable sharing their experiences and seeking assistance if necessary.

Conclusion

Creating a mentally healthy workplace is not only an ethical imperative but also a strategic business decision. Some of the key steps to consider include reducing workplace stress through effective workload management and providing flexible resources such as telehealth therapy options. In addition, eliminating stigma through education and open discussions can create a supportive environment where employees feel safe seeking help.

It's also worth considering that your efforts to boost worker mental health can have a wider impact on your culture. By prioritizing a mentally supportive environment you're fostering a sense of belonging for all employees, regardless of their backgrounds or identities. This inclusive approach contributes to a more diverse and representative workforce. When combined with your other diversity and inclusivity initiatives, your commitment to wellness can be a truly powerful influence on your organization.

https://www.bbntimes.com/companies/enhancing-employee-mental-health-key-steps-for-companies-to-consider

Opinion: Employers need to prioritize employee mental health if they want to attract new talent

One way to fight mental health stigma at work is by encouraging workplace leaders to share stories about their personal struggles. Credit: Shutterstock

Canadian employers are currently facing significant challenges in attracting and retaining talent in the workplace, putting the responsibility on employers to attract employees to their organizations.

One key way for employers to achieve this is by prioritizing the mental health of their employees. Workplaces are increasingly recognizing that productive employees actively seek out workplaces that prioritize mental well-being and offer flexible working conditions.

This recognition is well-founded, as employees tend to be more productive when they are not burdened by mental health challenges.

As a teacher of current and future leaders, my experience confirms that employees want workplaces that facilitate well-being. Many of my students have indicated that mental health support at work is a must-have.

Mental health stigma

Mental health is a pressing issue for many. In 2021, a quarter of Canadians reported having symptoms of a mental health disorder. Five million reported needing professional help, and over one-third said they were burned out. Forty percent of workers aged 18 to 24 indicated they were at a "breaking point."

Although many employers are starting to recognize the importance of mental health support in the workplace, stigma still persists, resulting in negative attitudes and discriminatory behaviors. Leaders play a crucial role in addressing mental health stigma by modeling risk and vulnerability. By using informal communication, like sharing stories about their personal struggles, leaders can support the mental health of their employees.

There is growing evidence that shows stigma decreases when leaders disclose their own mental health and substance use problems. This reduction in stigma, in turn, encourages employees to share their own stories and seek out treatment.

Being mindful of language

Leaders need to be careful about how they go about addressing stigma. Even those with good intentions can unintentionally cause harm. For example, using the word resilience to discuss mental health can be problematic.

Framing resilience as a necessary skill for battling mental illness overlooks the fact that some mental health conditions are disabilities that cannot be toughed out. Assuming that mental toughness is an inextricable part of addressing disability is a form of ableism.

Any employee who is suffering from mental health issues that cannot be fixed by resilience may avoid telling their story or seeking support for fear of being seen as weak.
It's important for leaders to be mindful of the language they use to foster mentally safe and supportive working environments.

Workplace flexibility
Evidence-based research about the outcomes of mental health awareness and wellness programs is currently lacking. These programs are well-intended, and experts are optimistic that we will have a better idea of what really works once we have more data.

In the meantime, there is something employers can do immediately to prioritize the mental health of their employees: allowing them to choose when and where they work.
Flexibility has been proven to work well in many jobs over the past few years, including in larger organizations like 3M Canada and Desjardins Group, as well as small and medium employers like Auvik Networks and GSoft.

Unfortunately, flexibility can sometimes lead to boardroom debates about how many days in the office employees should work. As a result, what was initially intended as flexibility can inadvertently lead to rigid remote work policies. Workplaces need to be aware of this.

True flexibility, without the need for employees to justify themselves, can help mitigate mental health challenges. By allowing for downtime and encouraging employees to do activities unrelated to their work, stress and burnout can be minimized.

Challenges can also be minimized by recognizing when employees are most energized and productive and adjusting work schedules accordingly. The success of a flexible workplace hinges on the ability of leaders to trust their employees and refrain from micromanaging them.

A new way of thinking
According to a recent job insight survey, when employees are forced to choose between flexibility and stability, most will choose stability.

But do we need to choose one over the other? Why can't we have both? As many know from the last few years, employees can be productive at different times and in different places when leaders provide the necessary resources and support to make flexibility possible.

Leaders have the valuable opportunity to challenge the typical "either/or" way of thinking and instead using "both/and" thinking. A personal experience of mine exemplifies this.

Once, during a teaching session, a sales executive recounted a story about an employee of hers who asked to work remotely due to mental health challenges. This leader turned down the request, insisting the sales team could not successfully sell remotely.

A debate ensued among the other executives and a suggestion was put forth: Why not have the sales team try selling remotely and see how it goes?
Either/or thinking stops new solutions from emerging. It misses how creative tension—the gap between where a group is and where it wants to go—can help us challenge conventional assumptions about work, like the belief that flexibility and stability are mutually exclusive.

In light of the prevalence of mental health issues, and the importance of fostering inclusive workplaces, leaders who act as agents of change can help reshape conventional notions of leadership and build better workplaces.
https://phys.org/news/2023-05-opinion-employers-prioritize-employee-mental.html

How Mental Health Services Can Improve the Patient and Employee Experience

Health care workers are also known to put the well-being of their patients before themselves. As a health care leader, it's your responsibility to ensure your team gets the support they need to be their best selves for their patients.

The American Psychological Associations' 2022 Work and Well-being Survey found that 81% of respondents are seeking companies that support mental health programs for their employees. The benefits of supporting employee mental health go beyond hiring and retaining talent.

Fostering an empowering environment that promotes wellness initiatives demonstrates to employees that their well-being is essential to the organization. This can help improve employee morale and have a trickle-down effect on patients, who in turn get the best, most caring service.

A Wellness Framework Organizations in any industry, especially health care, should consider developing a wellness framework to address employee mental health to include:
1.   Employee assistance programs that give team members and their families access to mental health support services, such as free counseling sessions and virtual events led by mental health experts. This initiative has been well-received by our team members.
2.   Comprehensive health benefits that include resources for quality mental health care services and treatments
3.   Robust internal communications so that all members of an organization feel like they're on the same team working for the same cause
4.   Dedicated time to celebrate team members' roles and their accomplishments. Through Employee Experience Week, we celebrate the achievements of our team members, recognize their talents and what they bring to the company (i.e., Embryology Day), and schedule fun

events and activities where we can connect on a level outside of everyday work. We also celebrate our team members on a regular basis and throughout the company.

5. DEI efforts that celebrate different perspectives, experiences, and backgrounds. This type of support can help fuel a compassionate workplace where employees feel safe, heard, and valued.

https://www.newsweek.com/how-mental-health-services-can-improve-patient-employee-experience-1802491

How Companies Are Protecting The Mental And Emotional Wellbeing Of Their Employees, A Real Priority Among Gen Z

Despite mass layoffs, postponed start dates and a general "go slow" approach to hiring graduating seniors, Gen Z job seekers are not backing down. They prioritize their mental and emotional health, and they want their future employers to do the same.

A recent survey revealed that 92% of college seniors feel that employers should offer mental and emotional health benefits, and more than a third are prioritizing those companies during their job search.

And with Gen Z estimated to comprise 27% of the workforce by 2025, executives looking to attract top talent can benefit by taking a fresh look at both the mental health benefits they offer and their commitment to making sure employees use them.

Is Wellwashing the New Greenwashing?
Much like greenwashing is a problem among companies trying to gain favor for their eco-friendly promises without actually changing their environmental behaviors, so too is wellwashing. Employees who prioritize mental health can sniff out companies who simply talk the talk but don't make any organizational change to support the initiatives.

Who is Walking the Walk?
Companies are getting the message. A recent report from the Society of Human Resource Management (SHRM) reveals that nearly 78 percent of organizations currently offer or plan to offer mental health resources in the next year.

"It's a win-win situation—businesses can benefit by recruiting and retaining top talent, and workers benefit by having access to resources that will improve their lives," shared Rocki Basel, SHRM's lead researcher.
A
nd while a recent study reveals there may be a slight disconnect between what most employers offer (free in-person and virtual counseling sessions) and what employees actually want (mental

health days and subscriptions to meditation apps), at least mental health benefits at work are increasingly becoming part of the conversation – and in some very unique ways.

Rokt - Offers Employees a Personal Self-Improvement Concierge

The ecomm technology leader has upped the mental wellness bar. Simply offering each of its more than 500 global employees an annual $5,000 credit toward personal and career improvement (the company's Level Up program) just wasn't enough, as the majority of employees simply weren't using the benefit.

So, company executives went one step further. "We hired Maillard Howell, our full-time Level Up Concierge, to help our employees figure out what inspires them," said Elizabeth Buchanan. The company's Chief Commercial Officer says the Concierge not only helps employees identify the best self-improvement opportunities but matches employees with programs to ensure that the highest percentage of employees actually activate the benefit. According to Howell, "Our Level Up program creates better humans who are developing themselves and that brings greater diversity of thinking back to the programs at Rokt."

Patagonia - Encourages Employees to "Hang 10" at Noon

It's not surprising that outdoor clothing manufacturer Patagonia - the company widely known for prioritizing employee wellbeing and sustainability over profits - encourages its employees to stay physically *and* mentally well. In addition to allowing employees to access bikes, volleyball courts and onsite yoga, the company encourages its employees to catch a wave or two in the middle of the workday by posting daily surf reports and making companywide announcements on good surf days. Not surprising from a company whose founder titled his memoir, *Let My People Go Surfing*.

Netflix - Takes the 9-to-5 Out of the Workday

The media giant takes its employees' mental wellbeing seriously. The company says it supports the needs of its employees during "moments that matter" by offering "benefits that enhance productivity." What does that mean? Well, for one thing it means no real work hours. "We don't have a prescribed 9-to-5 workday," the company explains when describing its work/life philosophy. "So we don't have prescribed time off policies for salaried employees, either. We don't set a holiday and vacation schedule, so you can observe what's important to you—including when your mind and body need a break. We believe in working smarter, not harder." A great philosophy for night owls or for employees who simply need flexibility in their lives.

Ben & Jerry's - Gives Employees a Sweet Incentive

You may disagree that this falls under "wellness", but I challenge you to find a better endorphin releaser. The progressive ice cream brand rewards its employees with three pints of free ice cream every day. At an average of almost 1,300 calories per pint, one can only assume the frozen freebies are used by employees as delicious gifts and to share with friends - a natural mood enhancer for sure.

More and more, employees are viewing mental health benefits the same, and as important, as physical health benefits. And according to Luke Hejl, the CEO of virtual health and well-being solution TimelyCare, so should employers. "Employers should view the Gen Z passion for self-care and their insistence for mental and emotional health support in the workplace as a unique strength that has the potential to change American work culture for the better."
https://www.forbes.com/sites/janehanson/2023/05/05/how-companies-are-protecting-the-mental-and-emotional-wellbeing-of-their-employees-a-real-priority-among-gen-z/?sh=1e778caf4b1c

Younger workers struggle with mental health but employers can help, study finds

One-third of U.S. workers say their job has negatively affected their mental health in the past six months

Younger employees continue to feel the impact of mental health challenges in the workplace. Although the COVID-19 public health emergency will officially end later this month, employers need to remain engaged in meeting the needs of their workers.

"An employer's role in addressing employees' mental health as it relates to the workplace has obviously become increasingly important," says Wendi Safstrom, president of the SHRM Foundation. "Finding, communicating and providing access to the benefits and support that reflect the needs of your employees, especially in a multi-generational workplace, is key."

One-third of U.S. workers say their job has negatively affected their mental health in the past six months, according to the organization's 2023 State of Mental Health & Well-Being in the Workplace report. Moreover, 47% of Generation Z employees and 46% of millennial workers say they have experienced stress related to their job at least once a week in the last six months, compared to 27% of baby boomer and traditionalist workers.

Among other key findings:
•   More than 1 in 4 Gen Z workers say their job made them feel depressed at least once a week in the last six months, compared to 18% of millennials, 14% of Gen Xers and 7% of baby boomers.
•   Forty-two percent of Generation Z and 36% of millennial employees say their job made them feel overwhelmed once a week in the last six months, compared to fewer than 1 in 4 baby boomers and traditionalists.

•   Nearly 1 in 4 Gen Z and 17% of millennial workers say their job made them feel lonely once a week in the last six months, compared to 5% of baby boomers and traditionalists.
•   Roughly 1 in 3 Generation Z employees and more than 1 in 4 millennial employees say their job made them feel disengaged at least once per week over the last six months, compared to Gen Xers (16%) and baby boomers and traditionalists (8%).

https://www.benefitspro.com/2023/05/08/younger-workers-struggle-with-mental-health-but-employers-can-help-study-finds/

SHRM: 1 in 3 employees says their job has a negative impact on their mental health

An employer's role in addressing employees' mental health has become increasingly important, the president of the SHRM Foundation said.

Recent research from the SHRM Foundation has revealed big gaps in how different generations experience the workplace in terms of mental health. Generation Z and millennial workers struggle more than baby boomers, Generation X and traditionalists, according to the research arm of the Society for Human Resource Management.

In its survey of 1,000 workers conducted in late March, the organization found that 1 in 3 employees said their job had a negative impact on their mental health over the past six months. Thirty percent of respondents said their job made them feel overwhelmed, and 29% said it made them feel anxious at least once per week.

When broken down by generation, the foundation found that younger workers were hardest hit. Twenty-seven percent of Gen Z reported feeling depressed by their job at least once per week in the last six months, compared with 18% of millennials, 14% of Gen Xers and 7% of baby boomers and traditionalists.

Gen Z and millennials were also more likely to report feeling overwhelmed by work at 42% and 36%, respectively, compared with 20% of baby boomers and traditionalists. Gen Z and millennial workers reported higher levels of loneliness and disengagement as well.

"An employer's role in addressing employees' mental health as it relates to the workplace has obviously become increasingly important," Wendi Safstrom, president of the SHRM Foundation, said in a press release on the findings sent to HR Dive. "Finding, communicating and providing access to the benefits and support that reflect the needs of your employees, especially in a multigenerational workplace, is key."

More employers over the past few years have turned their attention to their mental health offerings, with mixed results. A recent report by OneMedical found that only about 1 in 5 workers accessed their mental healthcare benefits, with workers listing cost, embarrassment and lack of time as key reasons they skipped out on such care.

Yet workers have also emphasized the importance of such benefits, arguably sending mixed signals to employers. Employees specifically have cited things that promote wellness — like gym memberships, monthly wellness stipends and yoga memberships — as benefits they would likely take advantage of.

https://www.hrdive.com/news/shrm-gen-z-millennial-workers-mental-health/649707/

Gen Z Expects Mental Wellness Support from Employers, 8 strategies employers can use

Members of Generation Z—the oldest of whom are 25—are prioritizing mental wellness.

Report after report shows they expect tangible employer support and to be comfortable talking about their struggles without feeling stigmatized.

SHRM research found that 61 percent of Generation Z respondents said they would strongly consider leaving their current job if offered a new one with significantly better mental health benefits.

Monster's *2023 State of the Graduate Report* found that 54 percent of 1,000 new and soon-to-be college graduates would turn down a job offer if an employer did not offer work/life balance. Ninety-two percent of respondents said it's important they feel comfortable discussing mental wellness at work.

Emily Rosado-Solomon, assistant professor of management at Babson College in Wellesley, Mass., has seen an uptick among college students talking about their mental health—and a change in the tenor of those conversations.

There's a willingness since the COVID-19 pandemic began "to disclose they have anxiety or depression," Rosado-Solomon said. "When I started teaching, I didn't see that."
Students "expect these conversations to be able to continue in the workplace," she added.

The disruption and trauma in the last several years—political and social unrest, layoffs, COVID-19—has led to "the normalization of mental health challenges at work," the *Harvard Business Review* reported.

But while employers have responded with enhanced counseling benefits, apps, and mental health days or weeks, it's not enough.

"Employers," *HBR* said, "must connect what they say to what they actually do."

This is especially important because work is negatively impacting workers' health, *SHRM Online* reported.

Meeting Mental Health Expectations

So, what can employers do? From personal coaches to mindfulness training and flexible environments, there are a variety of ways employers can create a culture that supports mental health.

1. Design jobs in ways that promote good mental health.

"While unlimited flexibility is not possible in all jobs, managers should look for ways to increase employees' autonomy where it doesn't compromise a business need," Rosado-Solomon said. "Managers might consider hybrid work options when employees don't have to be in the office, or they might allow employees to take breaks at nonstandard times and make up work later in the day."

Allowing workers to attend a therapy session during the middle of the afternoon is another form of workplace flexibility.

2. Encourage managers to serve as mental wellness role models, when possible.

"This may manifest as managers mentioning that they are taking a mental health day or putting a therapy appointment on a shared calendar that's visible to subordinates," Rosado-Solomon said.

Executive leaders also should model mental wellness behaviors.

"It has to start from the top down," Finkle said. If company leaders don't use the benefits, "people don't feel they have permission to take advantage of that wellness program or activity."

3. Introduce structured, healthy team-based activities.

Finkle likes the idea of team activities, which he said can take the form of a weekly walking meeting or an employee book club.

"Our willpower can diminish very quickly in staying with good habits on our own," he pointed out.

An ADP Research Institute report, *People at Work 2023: A Global Workforce View* found team-building activities were gaining traction as mental health-boosting initiatives, favored by 27 percent of 32,612 respondents surveyed in Asia Pacific, Europe, Latin American and North America (Canada and the U.S.). Respondents were full- and part-time employees as well as gig workers.

4. Offer allocated vacation days instead of unlimited paid time off (PTO).
Employees often feel guilty about taking unlimited PTO and don't use it, Finkle said.
However, "when it is a sanctioned/allocated vacation that HR reminds everyone to take, it gives everyone in the company permission to take the time off. It removes any guilt or judgment," he added.

5. Conduct mindfulness training during onboarding.
"This can be done in person or through Zoom," Finkle pointed out. "Having all employees learn/develop the skill of breathing will give them some tools to greatly help manage their nervous system."

6. Offer insurance coverage for therapy.
Forty percent of 2,756 graduating college seniors LaSalle Network surveyed in March said insurance coverage for therapy is the No. 1 employer benefit they want.
"They want to make sure they were able to go to therapy and it wasn't a taboo subject at the company," said Sirmara Campbell, CHRO at LaSalle Network.

7. Offer personal coaches.
"Therapy can be great, but I still think there's a stigma in the business realm," especially among older generations, Finkle said. He suggested giving everyone a business or life coach from outside the organization who meets individuals for 30 minutes once a week.
These conversations can help the employee excel in all areas of their life, and that "carries over to impact the business," he said.

8. Provide mental health training to managers.
The idea is not to turn managers into therapists, Rosado-Solomon said, but to educate them on how to show compassion without "overstepping boundaries of the supervisor-subordinate relationship or prying in a way that might make an employee uncomfortable."
There are training programs, she said, that offer specific suggestions on what managers should and should not say to an employee in crisis, give them a better understanding of mental health challenges, and teach them how to check in with employees.

https://www.shrm.org/hr-today/news/hr-news/pages/gen-z-expects-mental-wellness-support-from-employers.aspx

Half of employees have lied about the reason for their mental health day

Just because employees may not be putting in their notice does not mean that all is well in the workplace, and they say factors like compensation and being overworked are to blame.

Job Sage's recent survey of 1,005 employees revealed that although mental health has prompted 41% of Americans to consider quitting their jobs, attrition is down by over 20% in

2023. Employers should hold off on celebrating, however, as the data also shows that work-related stress, anxiety and burnout is higher than it was last year.

Sixty-seven percent of employees say they are stressed by their jobs, compared to 54% last year, the survey found. Meanwhile, 55% of employees say they are anxious because of job aspects, compared to 36% in 2022.

Despite many organizations upping their mental health and wellness offerings beyond basic benefits, three out of five employees don't feel comfortable discussing their mental health at work and view it as a personal matter or a professional risk, according to the survey. Additionally, that stigma is keeping workers from seeking out employer-provided care options or even taking a break: almost half of those who took advantage of an offered mental health day chose to give another reason for their absence.

In turn, many of the burdens shouldered by employees go undiscussed, and therefore unfixed. Employers should revisit what's stressing employees out, according to JobSage, and take these proactive steps to better support them.

Provide digital mental health tools

Almost half of employees believe their employers are not doing enough to support their mental health, compared to 20% in 2022. Twenty-nine percent say that better mental health benefits would be appreciated. Cost is the biggest factor getting in the way of employees seeking mental health care, according to the survey, and one in three wish their employer provided access to online mental health resources so they did not have to seek it out and pay for it themselves.

Promote work-life balance and allow more time off and flexibility

Employees feel that the biggest ways employers can aid in the struggle with stress are encouraging a positive work-life balance (42%), giving the option for more time off (40%), and offering more flexibility (36%).

Make it known that mental well-being is a priority

Sixty-four percent of employees say having social support at their job would reduce stress and improve overall well-being, according to JobSage. However, almost three quarters of respondents said they believe social support is not a priority. Some popular ways to promote social support, according to respondents, are social events, team-building activities and employee-assistance programs.

Consider salaries

Forty-two percent of employees say compensation is the top cause of stress at work, according to the survey. When asked to rate their mental health from extremely good to extremely bad, those with salaries above $50,000 reported "good mental health," while those below reported "okay mental health." Even if raises aren't a reality for everyone, additional ways to

compensate employees and ease financial stressors can often be found within existing benefit offerings.

 Help boost employee mood and productivity

Poor mental health has a big impact on employees in and out of work. Finding ways to help them strike a better balance and get the support they need can help the 70% who said their mood is affected by their mental health status, and the 56% who have seen decreased productivity or performance when they're struggling from a mental health standpoint.

https://www.benefitnews.com/list/half-of-employees-have-lied-about-the-reason-for-their-mental-health-day#:~:text=Half%20of%20employees%20have%20lied%20about%20the%20reason%20for%20their%20mental%20health%20day,-By%20Lee%20Hafner&text=Just%20because%20employees%20may%20not,being%20overworked%20are%20to%20blame.

A Potential Downside to Remote Work? Higher Rates of Depression

Remote and hybrid work have become highly desired workplace perks, with plenty of research showing their advantages. In fact, employees who work remotely often say they're happier, more productive and more likely to stay with their employer.

But new research shows there's at least one drawback to these arrangements: Remote and hybrid workers tend to experience higher rates of mental health issues.

Fully remote (40 percent) and hybrid work (38 percent) are associated with an increased likelihood of anxiety and depression symptoms compared to in-person work (35 percent), according to an analysis by the Integrated Benefits Institute (IBI), an Oakland, Calif.-based nonprofit research organization. For its report, IBI analyzed data from the Household Pulse Survey, an online resource created by the U.S. Census Bureau to determine how households were impacted by the pandemic. IBI partnered with Elevance Health (formerly Anthem) to analyze claims data related to mental health.

Although there isn't a massive disparity between in-person and remote workers' likelihood of depression and anxiety, it's an important difference that employers would be wise to pay attention to, researchers said.

"The differences in prevalence of anxiety and depression symptoms between hybrid, remote and onsite are statistically significant. Our research illustrates that remote work may not be the ideal solution for every employee," said Candace Nelson, director of research at IBI, adding that more exploration of the topic is needed.

IBI's analysis isn't the only research to have found more mental health problems associated with remote and hybrid work: A majority of executives (64 percent) said remote work negatively affected their employees' mental health in 2022, up from 55 percent the previous year, according to an October survey by RSM US, a professional services firm, and the U.S. Chamber of Commerce. Seventy-three percent of executives said workers felt isolated, an increase from 68 percent in 2021.

So, what's behind the increase in mental health issues for remote and hybrid workers?

While the new IBI report does not address that question, Nelson noted that IBI researchers saw some evidence in their previous analysis on hybrid and remote work. Among the factors: Many employees are dealing with constant interruptions (cited by 43 percent of remote workers) and battling for home office space (23 percent), as well as dealing with "slow internet connections, isolation, a house in disarray, and a seemingly endless workday," she explained. Twenty-seven percent find it harder to balance work and family responsibilities; nearly half report spending too little time with their children under 18; and 40 percent say they spend too little time with their partner. Some remote workers (30 percent) also feel disconnected from their colleagues, IBI found.

The research comes at an interesting time in remote work: Some large employers, including the Walt Disney Co. and Amazon, recently announced they will be requiring employees to come back to the office most of the week, but many of those workers—despite the aforementioned challenges—are pushing back on such policies and petitioning to continue working from home. Employees and employers are engaged in a tug of war over working arrangement preferences.

More Mental Health Help Needed

It's worth noting, though, that mental health issues have been a growing concern for all workers, regardless of their working arrangement. The ongoing pandemic, sky-high inflation and social unrest have all contributed to a decline in employees' well-being over the last few years, and there hasn't been significant improvement since a startling decline in mental health was first seen at the start of the COVID-19 pandemic.

"Three years ago, when the pandemic began, the rug was pulled out from under us. We lost a sense of control, and that greatly affects our mental health. Nothing really has turned around since," Paula Allen, global leader of research and total wellbeing at Telus Health, a health care firm in Vancouver, British Columbia, Canada, recently told *SHRM Online*. "What you see now is likely not going to change without some significant interventions."

Meanwhile, the rate of individuals taking a prescription medication for a mental health condition has increased to 22 percent from 20 percent year-over-year, and the unmet need for counseling has increased to 14 percent from 12 percent, IBI found.

Employers can do several things to help improve the situation for all employees, Nelson said. Those include increasing access to mental health care; offering programs that help employees

coordinate physical and mental health care, as conditions such as diabetes and heart conditions often occur alongside anxiety and depression; and prioritizing inclusivity and access to culturally appropriate mental health care. Improving workplace culture to reduce stigma around mental illness and committing to proactively improving mental health outcomes, such as by adding programs that help employees work through day-to-day life challenges, is also important, she said.

For remote workers in particular, employers might allow flexible scheduling, emphasize connection so remote employees feel less isolated and offer benefits and programs to help employees with child care or pet care. Employers may also consider helping workers prioritize work/life balance—perhaps by encouraging them to log off from work at 5 p.m., for instance. IBI President Kelly McDevitt said the research is just one example of the complexities of an evolving workplace that has shifted dramatically as a result of the pandemic, and it illustrates the need to support overall employee well-being.

"It highlights the fact that there cannot be a one-size-fits-all approach for employers to meet the needs of the business and the workforce," she explained. "A single-model approach— whether hybrid, work at home or in-office—may never satisfy the needs of all."

Especially as organizations consider whether to bring employees back into offices or allow them to continue working remotely, McDevitt said employers "should take a step back and evaluate what works best for their people, their business and their culture, and it may turn out to be more than one solution."
Likewise, employees should speak up about what's best for their own mental health.

"Employers may also consider evaluating whether employees are well-suited to working from home (as we did pre-pandemic)," McDevitt said. "Just because we can work at home, doesn't mean we should work at home."

https://www.shrm.org/resourcesandtools/hr-topics/benefits/pages/remote-workers-experiencing-higher-rates-of-depression.aspx#:~:text=Fully%20remote%20(40%20percent)%20and,%2Dbased%20nonprofit%20research%20organization.

Employees still uncomfortable discussing mental health

JUST ONE in ten employees surveyed who have experienced certain mental health conditions sought help from their line manager over the past year, according to research of UK consumers by Aviva* this Mental Health Awareness Week 2023.

Just 14% of employees surveyed said they would discuss their mental health with a work colleague and only 5% said they would speak to their colleagues in HR or a wellbeing officer.

There were small changes in attitudes compared to previous Aviva research carried out in February 2020[2].

Employee action regarding their mental health	2020	2023
Sought help from a line manager	9%	10%
Discussed their mental health with a work colleague	12%	14%
Spoke with HR	4%	5%

Sophie Money, wellbeing manager at Aviva said, "The employee and employer experience has changed drastically in the three years that this research spans, with COVID-19 as the main driver of change. It is likely that many of the participants of this research had varying experiences of their own and colleagues' mental health during this period, so it is interesting that we have not seen greater changes in attitudes over this time."

The research also found a significant disconnect between employee and employer attitudes to whether the right support was provided to those struggling with their mental health in the workplace.
Over three-quarters (79%) of employers surveyed have agreed* that they're 'good at recognizing when team members/employees are under pressure', yet only 44% of employees surveyed agreed* their line manager is very good at recognizing when they are under pressure. This, however, is a slightly smaller gap compared to 2020 when 77% of employers said they are 'good at identifying when team members are under pressure' but only 37% of employees agreed with this statement.

https://www.hsmsearch.com/Employees-still-uncomfortable-mental-health

Empowering Frontline Workers: Overcoming Mental Health Stigma and Improving Access to Care

A disproportionate level of stigma still plagues frontline and service industries, preventing essential workers from receiving the mental healthcare they need.
Every organization is addressing mental health awareness at a different pace.

Many modern companies are tackling mental health stigma directly in the workplace. But a disproportionate level of stigma still plagues frontline and service industries, preventing essential workers from receiving the mental healthcare they need.

Factory workers at a large food and beverage company are giving us an unfiltered look at the fear stigma can cause, and how they are benefiting from therapy.

Frontline workers are facing a mental health crisis
Bayley and her co-workers help illustrate how mental health stigma in frontline workplaces can lead to feelings of fear, shame, frustration, misunderstanding, and avoidance. Each of these reactions represent a unique layer in the foundational barrier to employee wellbeing at work.

The stigma around mental health remains a prevalent, almost impenetrable presence in many workplaces across the country. Frontline or essential workers—which make up nearly half of our workforce—have historically faced a higher level of stigma, compared to their counterparts in traditional office-based jobs.

The challenges facing frontline workers
According to The State of Mental Health in America 2023 report, a growing demand for mental health services, a shortage of mental health providers, and an increase in out-of-network participation often results in access to quality mental healthcare that is only available for those with higher incomes.
Those with lower incomes frequently encounter difficulties accessing the treatment they need, and on average, frontline workers receive lower wages than any other cohort of the workforce. Prior to the COVID-19 pandemic, there was a well-documented crisis in mental health. The previous three years have further fractured America's workforce and deeply impacted frontline workers.
The pandemic exacerbated mental health challenges for a population that wasn't afforded the safety and peace of mind that working from home allowed their counterparts in most offices. Additionally, isolation is more prevalent among frontline workers who are navigating mental health issues. Isolation and stigma can contribute to the belief that one's struggles with mental health are unique and abnormal: "no one else is struggling with their mental health like I am, so there must be something wrong with me."
Bayley's barrier to therapy

Bayley's fear of being stigmatized for going to therapy caused her to discontinue care. Even though she knew how helpful it could be, she felt that by going to therapy, people would perceive her as being incapable of handling life challenges.

She says, "I want to be a better person for my partner. (Therapy) is something I know will help me get through it and that I could really benefit (from). I just don't know how that will be perceived."

The honesty demonstrated by Bayley and her co-workers speaks volumes about the barriers to mental health access that stigma can build—particularly in these two quotes, which illuminate the factor fear plays in frontline workplaces.

"So, a lot of us here are going through some really deep, dark personal issues and journeys and we are so scared because there's that judgment," admits one co-worker.

"I feel like when it comes to mental health everybody's scared. I think that it will always be something that's going to be a little bit touchy," says another co-worker.

5 ways to reduce mental health stigma among frontline workers

HR and People leaders play a critical role in creating sustainable change in the culture and wellbeing of the workplace. Here are five steps your organization can take to reduce mental health stigma:

Create more opportunities for normalized conversations

In many frontline workplaces, the opportunity to have meaningful conversations or personal interactions while working can be limited. That's why dialogue between an employee and manager, email communications, or team meetings present valuable opportunities to normalize conversations around mental health.

Conquering stigma in the workplace can be achieved with just one employee talking openly about mental health, whether it be their current challenges or what they are doing to address it.

Provide training that empowers leaders to recognize mental health challenges

If People leaders have not received adequate training, they may feel unequipped and hesitant to identify or address mental health issues in their employees.

Giving your employees the tools to succeed requires training your People leaders to properly recognize mental health symptoms, show empathy and understanding, and normalize conversations around mental health.

If needed, People leaders should also know when to confidentially escalate issues to HR leaders to confront any stigma that may be stopping employees from getting help.

Increase meaningful engagement between leadership and workers

Organizations can effectively overcome mental health stigma and nurture employee engagement when prioritizing their responsibility of care toward their workforce.

This includes facilitating honest conversations that lead with empathy, giving employees the flexibility in their work schedule to attend therapy, and ensuring they're receiving care that's beneficial.

Establish new open lines of communication

Confidential communication channels that encourage workers to share experiences about mental health challenges facilitate the normalization of meaningful conversations in the workplace.

This can also help struggling individuals recognize that they're not alone—and fellow co-workers have experienced and overcome similar challenges.

Establishing new strategies for leadership to stay informed about employee mental health needs is critical. Leaders can't effectively address issues affecting their workforce if they aren't aware of exactly what the issues are.

Proven strategies include confidential self-screening literature and educational, company-wide email communications about mental health support resources.

Provide workers with expanded access to precision mental healthcare
An innovative EAP like Spring Health provides expanded access to mental healthcare that's precise, personal, proven, and 100% confidential.
An advanced EAP program can be a catalyst for normalizing support for frontline workers, breaking down the barriers (reinforced by stigma) that prevent them from seeking the help they need.

https://www.springhealth.com/blog/frontline-workers-mental-health-stigma

As mental health crisis grows, leave requests are on the rise

As Mental Health Awareness Month nears a close, timely new research suggests that the growing mental health crisis is driving up employee leaves of absences—and creating new challenges for HR leaders.

In its 11th year, the Survey featured input from 515 in-house lawyers, C-suite executives and HR professionals across the U.S. Among key findings, 65% of respondents report receiving an increase in requests for disability accommodations and leaves of absence related to mental health conditions/issues since the start of 2022. In fact, more employers saw increase requests about mental health than about non-COVID physical health conditions and long COVID.

According to Littler Shareholder Devjani Mishra, some of the mental health accommodation and leave requests "may be based on new conditions that stem from the disruption of the past few years, as so many individuals had their support systems challenged or suffered real losses, including bereavement, during the pandemic."

Mishra adds that others may relate to pre-existing mental health conditions; employees may be becoming less reluctant to raise these issues than in prior years, or may be more aware of the process for seeking an accommodation.

Still others, she explains, may be tied to the continuing push for more on-site work, as employees who have been working remotely are asked to re-adapt to working alongside others. At the same time, the widespread use of remote work may mean both that employers are out

of practice in dealing with accommodation requests and that courts may be applying new perspectives to whether remote work or other accommodations are reasonable.

"Just as with physical disabilities, it is important for employers to consider mental health-based requests case-by-case," Mishra says, adding that HR can help mitigate problems by ensuring the essential functions of a given job have been well-defined. And, if an issue arises, engage the requesting employee in an interactive process to truly understand what the person's limitations are and whether reasonable adjustments can be made.

"Often, the desired accommodation may involve something that an employer is already doing, like providing detailed job descriptions and performance goals or regular structured feedback," Mishra says.

Mental health should remain important even if worker is remote

And if employers plan to continue hybrid or remote work in the future, "it is important to ensure that employees with accommodations are not pushed 'out of sight and out of mind,' but remain valued colleagues."

That's particularly relevant, given that more than 70% of employers surveyed have workforces operating on a hybrid schedule.

"In an environment where some hybrid work is likely to remain the norm, employers need to pivot away from crisis management and toward intentional remote work structures that can be broadly applied and consistently enforced," Mishra says. "Given the current spotlight on equity, transparency and employee wellbeing, company leaders need to develop and communicate their remote work policies clearly and consistently to promote employee engagement and satisfaction."

https://hrexecutive.com/as-mental-health-crisis-grows-leave-requests-are-on-the-rise/

Should you tell your boss about your mental illness? Here's what to weigh up

Whether you know about it or not, it's likely someone you work with or manage has a mental illness. One in five Australians have experienced a mental illness in the last 12 months.

Many people stay silent about their mental illness at work. Roughly 50%–70% of employees choose not to disclose their condition. This may leave employees vulnerable, as employers can't provide individual support without disclosure.

Over the years, many experts and commentators have suggested workers stay silent about mental illness, for fear of stigma and discrimination, and to protect their jobs.
But the evidence suggests there are often benefits to disclosing a mental health condition at work.

What does the research say?
The largest Australian study of stigma, from 2018, found employees who disclosed their mental health conditions to their employers were well supported. They reported receiving accommodations such as flexible work arrangements and time off for appointments. They also felt supported by their colleagues and managers.

Other research shows disclosure can, for some people, lead to increased social support and better mental health. Being open about a mental health condition reduces self-stigma (negative beliefs people develop about themselves due to societal stigma and discrimination), increases empowerment and facilitates a sense of power and control.

Our team conducted a randomized controlled trial involving 107 adults considering disclosing their mental health concerns at work. Participants used our newly developed online decision aid to make an informed decision about disclosing their mental health concerns to their employers. It includes seven modules to guide users to consider the potential outcomes, benefits and challenges of disclosing.

A review of the decision aid found the people who disclosed their mental health condition at work reported a reduction in symptoms of depression and stress (from severe to moderate), on average, compared to those who chose to stay silent. This finding was based on self-reported clinical diagnostic scales for depression and validated measures of stress.

Changing the culture
Many people with mental illnesses worry disclosing their condition will result in negative consequences, such as losing their job, being passed over for promotions, or being treated unfairly by colleagues.

These worries are major barriers to disclosure – and can become a reality for some people who disclose.

However, the world of work is changing. Employees are seeking jobs that prioritise mental health, with many saying they would take a pay cut for an organisation that promotes and implements measures focused on employees mental health and happiness.

People who are open about their experiences with mental ill-health can experience increased self-acceptance and feelings of connectedness. Disclosure can help people feel more

understood and supported by others, which in turn can lead to greater feelings of self-worth and belonging.

Sharing their experiences helps to break down the stigma surrounding mental illness and foster a culture of openness, understanding and empathy among peers. It can also help colleagues overcome the fear of stigma.

So how can employers create safe environments for disclosure?
Managers have a huge responsibility when it comes to their employee's mental health. According to recent research, managers have just as much impact on an employee's mental health as their partner, and significantly more than their doctor or therapist.

Managers need to ensure they provide a safe and supportive environment in which to disclose mental ill-health. This requires knowledge and confidence. Managers can emphasise the support and resources available to employees who choose to disclose, rather than dwelling on what the staff member might lose or the potential impact on the organisation.

People who perceive their disclosure positively tend to have supportive managers. As "David" from our research told us:
Five years ago, and at the very tail-end of my career, I thought I'd confide in a boss. His first words were, 'What can we do to help you?' With those simple words, he instantly won my undying loyalty.

With an increasing focus on mental wellbeing at work, it's time our mental health advocates moved away from messages to stay silent. Instead, we need to ensure all staff with mental health conditions can access much-needed workplace support and accommodations.

By creating environments where employees feel safe and supported to share their experiences, we can begin to break down the barriers to disclosure and create workplace cultures that prioritise mental health and wellbeing. For many, disclosure can be positive and we have the tools to help.

https://canadianinquirer.net/2023/05/22/should-you-tell-your-boss-about-your-mental-illness-heres-what-to-weigh-up/

Encouraging Mental Health Awareness: How to Support New Employees from Day One

Here are three ways employers can reduce the stigma around mental health and make an impact on employees right away.

Make Resources Available During Onboarding
During the onboarding process, it's important to make new employees aware of any mental health resources that are available to them alongside any company policies on the subject. This could include company coaches, assistance programs and any counselling that's available.
If your company doesn't currently have many mental health resources in place, consider looking into any services available that can offer your employees some additional support. It's not only beneficial for the employee, but it can also boost their productivity, so make sure to promote these resources from the beginning. This can help to set a positive tone and demonstrates that mental health is a priority for the business.

Promote Taking Mental Health Days
Due to the pressures of everyday life, it's not uncommon for employees to experience feelings of burnout. This can be a particular concern when starting a new job, as the onboarding and training process can be quite mentally draining.
Therefore, it can be helpful to encourage your employees to take mental health days. The purpose of taking a mental health day is to give employees a break from work, allowing them to focus solely on themselves without any other commitments. It can be highly beneficial to promote this within a business, as they typically return with a renewed mindset which could lead to an increase in productivity.

Provide Managers with Mental Health Training
Managers play a crucial role in promoting mental health awareness. Providing them with training on how to recognize signs of mental struggles can help them to intervene early on, offering an opportunity to discuss the issue without any judgment. It's also important to ensure managers know how to respond in an empathetic way, as coming off too brash can discourage employees from coming to them in the future.

In order to support open discussions, it can be helpful to enforce an open-door policy for managers. This allows new employees to discuss anything that's bothering them without having to organize a formal meeting, helping to make it less intimidating.

The subject of mental health often comes with a stigma attached to it, so it's important to work to combat it. The only way to recover from mental health issues is to confront them head-on, which is made difficult if people feel ashamed. By creating a supportive and open environment, businesses can help to foster a culture that prioritizes mental health.

Normalize the conversation around mental well-being, from the top down

How do a company and its leaders assess the roles they play in supporting the emotional and mental well-being of their people? It's a question I ask myself often in my current role as head of talent and culture at KPMG U.S. It's not as simple as creating a good benefits package. Normalizing the conversation around this topic is as critical as developing preventative actions and programs that can help people find ways to manage their energy, set healthy boundaries and meaningfully connect with each other.

For Mental Health Awareness Month, our firm planned events and awareness campaigns to help our people prioritize their well-being and reduce the stigma surrounding mental health. We also reflected on where we are in our journey towards equipping everyone at our firm with the tools and resources they need to proactively manage their own mental well-being and that of their teams.

Three pillars are important in this journey:
1. Seek employee feedback and act on it. In February, we conducted a mental well-being experience survey of our people to get a better understanding of their day-to-day experience. This survey indicated bright spots that signal people feel a sense of camaraderie within their teams, feel respected and cared for by their team leaders, and feel positive about the work itself. However, key challenges remain around work and life pressures, including the ability to maintain a reasonable balance. As a result, we are currently conducting digital focus groups with thousands of our people to dive more deeply into the findings from the survey and identify areas where we can make the most impact, including in the preventative and responsive offerings we provide. This will ensure we have the right benefits for what our people need, both now and in the future.

We also launched two virtual trainings — "Psychological Safety" and "Mental Health Matters"— that address how people can take care of themselves and others and create a psychologically safe work environment. The former is mandatory, and all partners and employees will have taken the training by August. Although our Mental Health Matters training isn't mandatory, over one-third of our people have voluntarily taken the course to date, reflecting the importance of this topic to our community.

2. Focus on team leaders. Individuals manage their own mental health and encounter the mental health of the people they work with daily. Therefore, it is critical for us to make sure that our leaders have the resources that they need to not only support their own mental-being

but to also have meaningful conversations with their teams and counselees. This includes actions like:

•   Assessing managers' existing workload — considering what can be streamlined and automated — so they're not overburdened or overwhelmed and can effectively support those that they manage.

•   Working with leaders and managers to understand the ripple effects of their own well-being — whether positive or negative — with recommendations and resources on how to manage their feelings even when they are not at peak health to provide situational consistency for their teams.

•   Best-practice sharing around successful approaches and techniques for 1:1 and group check-ins to avoid potential pitfalls such as invasive questions or unnecessary oversharing.

•   A new pilot program called "EAP test drive" among managers, where they are asked to personally test and experience how the confidential service connects employees to mental-health resources. This gives managers a better understanding of how the process works when an employee seeks help, while also giving them insight into the many services that the EAP provides for employees and their families.

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Although specific resources and tools may be necessary for acute mental health issues, by equipping all our people from the top-down with effective approaches to managing mental well-being for themselves and others, we can create an environment where we openly discuss mental health the same way we do physical health.

3. Reimagine work to reduce pressures in the system. I mentioned earlier what it was like to be traveling week after week early in my career. One goal of our hybrid work model, Flex with Purpose, is to alleviate some of that pressure by empowering our employees to partner with their clients and colleagues and decide when connecting in person makes sense. Balancing the benefits of being in person with the flexibility that helps alleviate burnout is important. These purposeful in-person gatherings include meetings and trainings at KPMG Lakehouse, our firm's state-of-the-art training, development and innovation facility and cultural home that hosted nearly 26,000 employees last year. It also includes volunteer activities like our annual Community Impact Day which saw more than 22,000 professionals come together to provide over 60,000 volunteer hours to approximately 450 nonprofits last year on our firm's 125th anniversary.

https://www.hrdive.com/news/normalize-conversation-mental-wellbeing-at-work/651065/

Employee Benefits and The Remote Workforce: Strategies and Considerations

The corporate landscape has undergone a significant transformation with the rise of remote work. As more companies embrace flexible work arrangements, it becomes crucial for organizations to reassess their employee benefits programs. The remote workforce requires a tailored approach to ensure the well-being, engagement, and productivity of employees. In this article, we will explore various strategies and considerations for implementing effective employee benefits for remote workers.

1.   *Emphasize Mental Health Support:* Remote work can blur the boundaries between personal and professional life, leading to increased stress and burnout. Prioritizing mental health support is essential to maintain a healthy and motivated remote workforce. Companies should consider providing access to virtual therapy services, meditation apps, and stress management programs. Additionally, regular check-ins with managers and team members can help identify and address any mental health challenges.
Remote workers may face feelings of isolation, as they lack the social interactions that come naturally in an office environment. Encouraging virtual team-building activities, such as online games, virtual coffee breaks, or themed virtual events, can help foster a sense of connection and alleviate feelings of loneliness. Moreover, creating online communities or discussion forums where remote employees can share their experiences and provide support to one another can be highly beneficial.

2.   *Flexible Work Hours and Time-Off Policies:* One of the advantages of remote work is the flexibility it offers. Employers can enhance employee satisfaction and work-life balance by implementing flexible work hours. Allowing employees to choose their preferred working hours and providing time-off policies that accommodate personal needs can contribute to higher productivity and reduced stress levels.
Companies should establish clear guidelines regarding flexible work hours to ensure effective collaboration and coordination among remote team members. Encouraging employees to set boundaries and establish a structured routine can also help in maintaining a healthy work-life balance. Providing adequate support, such as technological tools for time tracking and task management, can assist remote employees in organizing their work effectively.

3.   *Remote Wellness Programs:* Implementing virtual wellness programs is crucial for remote employees to maintain their physical health. Companies can organize online fitness challenges, virtual yoga or meditation classes, and provide subscriptions to health and wellness apps. Encouraging regular exercise and healthy habits among remote workers can lead to improved overall well-being and increased productivity.
In addition to physical wellness initiatives, employers can also consider incorporating programs that promote emotional and social well-being. Virtual workshops on stress management techniques, resilience building, and maintaining healthy relationships can provide valuable support to remote employees. Offering resources and training on ergonomics and setting up a

healthy home office environment can also contribute to reducing physical strains associated with remote work.

4.   *Health Insurance and Telemedicine:*   Remote employees may face challenges in accessing healthcare services, especially if they are based in different locations. Offering comprehensive health insurance plans that cater to the specific needs of remote workers can alleviate this concern. Additionally, incorporating telemedicine options can provide remote employees with convenient access to healthcare professionals for minor ailments and routine consultations.
Telemedicine enables remote employees to seek medical advice without the need for in-person visits, reducing both time and cost constraints. By partnering with telemedicine providers, employers can offer their remote workforce access to virtual consultations, prescription services, and even mental health counseling. This ensures that remote employees have adequate healthcare support, regardless of their geographic location.

5.   Professional *Development and Skill Enhancement:*   Remote workers often crave opportunities for growth and development. To engage and retain top talent, companies should invest in professional development programs tailored for remote employees. Virtual workshops, webinars, and online courses can help remote workers enhance their skills, expand their knowledge, and stay motivated in their roles.
Creating a culture of continuous learning and development is vital for remote employees. Employers can provide access to online training platforms and resources, offer mentorship programs, or even arrange virtual networking events where remote employees can connect with industry professionals and expand their professional network. Encouraging employees to set individual development goals and providing regular feedback and coaching sessions can further support their growth.

6.   *Communication and Collaboration Tools:*   Remote work heavily relies on effective communication and collaboration. Companies must provide remote employees with reliable and secure tools that facilitate seamless virtual collaboration. Platforms for video conferencing, project management, and instant messaging are essential for maintaining clear lines of communication and fostering teamwork among remote teams.
Employers should invest in robust communication and collaboration tools that enable real-time interaction and information sharing. These tools should support video conferences, screen sharing, and document collaboration to ensure that remote employees can collaborate efficiently. Implementing project management software helps in tracking progress, assigning tasks, and promoting transparency within remote teams. Regular team meetings, both synchronous and asynchronous, can keep remote employees aligned and engaged.

7.   *Financial Wellness Programs:*   Financial well-being is a significant concern for many employees, including remote workers. Employers can offer financial wellness programs, such as retirement planning assistance, access to financial advisors, and financial education resources.

These initiatives can empower remote workers to make informed financial decisions, reduce stress related to money matters, and enhance their overall job satisfaction.

Educational resources on budgeting, investing, and managing personal finances can be made available to remote employees. Offering retirement savings plans with matching contributions can incentivize remote workers to save for their future. Additionally, providing access to financial advisors who can offer personalized guidance and recommendations can help remote employees navigate complex financial situations.

As the remote workforce becomes increasingly prevalent, companies must adapt their employee benefits programs to cater to the unique needs of remote workers. Prioritizing mental health support, implementing flexible work policies, offering virtual wellness programs, providing comprehensive health insurance, investing in professional development, and facilitating effective communication are crucial strategies to ensure the success of a remote workforce. By considering these factors, organizations can foster a positive work environment, enhance employee satisfaction, and achieve long-term success.

https://www.corporatewellnessmagazine.com/article/employee-benefits-and-the-remote-workforce-strategies-and-considerations

4 in 5 employees suffering from burnout

'It is a vicious cycle,' says expert, citing employee absences, lower productivity, higher turnover

Employees across the world are calling for the implementation of flexible work arrangements, according to a new report, amid staggering statistics of burnout in workplaces.

Nearly four in five workers (79%) admitted that they felt burnt out in their careers.
That includes 35% who said they are suffering from mental and physical exhaustion, finds a survey released by Express Employment Professionals.

Express franchise owners attributed the surging cases of burnout to high turnover rates in the US.

"There has been massive turnover, causing stress on the existing workers as they are left to carry the load for their job, along with the need to train and develop new employees," said Greg Sulentic, an Express franchise owner in Nebraska.

Assigning more work to fewer people raises the possibility of burnout, said Express franchise owner Chris Cary.
"It is a vicious cycle. Burnout increases employee absences, results in lower productivity, and causes higher turnover, all of which will affect a company's bottom line."

Solutions for burnout

To address the problem, employers are trying to be more in tune with employees' needs, including:

- Recognizing employees for a job well done (46%)
- Allowing flexible work schedules (39%)
- Prioritizing the health and safety of employees (38%)
- Encouraging small breaks throughout the workday (35%)
- Encouraging time off (34%)
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"There are steps business owners can take to keep their most important assets - their employees - healthy," said Bill Stoller, Express Employment International CEO.

"Small gestures can go a long way to prevent worker burnout and the negative consequences that come with it."

The top ways an organisation could help to prevent feelings of burnout at work, according to the more than 2,000 respondents in the survey, are:

- Allowing flexible work schedules (53%)
- Providing incentives or bonuses (52%)
- Recognizing employees for a job well done (46%)
- Encouraging time off (46%)

For respondents who are jobseekers, 46% said organizations could also put more premium on the health and safety of employees.

https://www.hcamag.com/us/specialization/employee-engagement/4-in-5-employees-suffering-from-burnout/447426

Workplace mental health: 5 ways to support employee wellness, boost retention

Recent studies have shown that employee retention rates are significantly higher when companies provide resources that support their mental health, according to the Top Employers Institute.

Mental health is crucial to overall well-being, affecting every aspect of our lives, including work. Recent studies have shown that employee retention rates are significantly higher when companies provide resources that support their mental health. Top Employers Institute has identified some essential resources companies can give employees to improve their mental health and retain them long-term.

Flexible work arrangements: Companies can offer flexible work arrangements to their employees to help them better manage their work-life balance. This means that employees can work from home or choose their working hours to accommodate their personal responsibilities or mental health conditions.

Mental health support: Companies can offer mental health support to employees by providing access to trained professionals to help them manage their conditions. This can include counseling services, therapy sessions, or even psychiatric consultations.

Healthy work environment: Maintaining a healthy work environment is essential to improving mental health. Creating a positive work culture and promoting work-life balance can help reduce work-related stress and burnout.

Training and development: comprehensive training and development programs can help employees better manage their mental health, acquire new skills, and grow their careers. This can include training on conflict resolution, effective communication, or stress management techniques.

Employee Benefits: Companies can offer employee benefits such as health insurance, gym memberships, and wellness programs to support employees' physical and mental health. The Top Employers Institute has found that companies offering these benefits have lower employee turnover rates and higher levels of job satisfaction.

https://www.benefitspro.com/2023/05/12/workplace-mental-health-5-ways-to-support-employee-wellness-boost-retention/

Supporting employee mental health: How do you know if your employees are really OK?

Employees are struggling. They're burned out, managing mental health challenges and doing their best to balance work duties with caregiving responsibilities that have increased dramatically in recent years. And while these challenges have significant HR and business-related impacts, there are steps that HR can take to support employees and to better understand if they are really "OK."

Understanding the issues
The first step to supporting employees is to acknowledge that life is hard for everyone at times, but there is always hope and there is always help.
There are numerous factors that impact employee mental health, but burnout remains a significant contributor. Employers and benefits teams continue to keep their eye on burnout

because it has also been shown to decrease employee engagement and productivity while increasing turnover.

Consider, for example, that Google searches for excuses to miss work increased by 630% from 2018 to 2022. In addition, burnout is believed to cause $125 billion to $190 billion in healthcare costs related to psychological and physical problems.

However, burnout isn't the only issue affecting employee mental health these days; caregiving is increasingly being recognized as a workplace challenge as well. The number of unpaid family caregivers is on the rise and the challenges they face are spilling over into the workplace.

According to one survey, 70% of working caregivers said they suffer work-related difficulties due to their dual roles, and 69% have had to rearrange their work schedule, decrease hours or take unpaid leave to meet their caregiving responsibilities. In the worst-case scenario, the need to balance caregiving duties can influence turnover, with 61% of caregivers saying they have changed jobs at least once due to caregiving responsibilities.

Six tips to support employee mental health
Given these and a wide variety of other challenges, there is a significant incentive for employers to understand the mental and emotional state of their employees. But how do you know if your employees are really OK, and what can you do to better support them? Here are six tips for assessing the state of your workforce.

1. Survey employee opinion. Sometimes the straightforward approach is best. Keep an open line of communication with employees so you understand their challenges and can more easily identify opportunities to offer support that will make a meaningful difference in their well-being and work satisfaction. Employees might not necessarily respond to direct questions about their mental health, but an anonymous survey or well-being hotline could help you make an impact.

2. Continue to destigmatize employee mental health. Despite the growing recognition of mental health challenges, discussing mental health in the workplace can still feel taboo. Currently, 70% of employees say there is some or a high level of stigma around mental health in their workplace, and 79% say an anti-stigma awareness campaign would be helpful. In addition, an estimated 80% of workers with mental health conditions say that stigma keeps them from seeking mental health care. Look for ways to open lines of communication around mental health in the workplace. That may include hosting a guest speaker who can tell their story, highlighting stories of mental health challenges in internal communications or encouraging leadership to be open about their own struggles with mental health. Doing so will make it easier for employees to ask for help and to normalize mental health challenges.

3. Encourage active leadership: There's been plenty of talk about quiet quitting in recent years, but less discussion of quiet leading. Put simply, not all leaders are doing the work required to form authentic relationships with their employees, and that failure to connect on a personal

level may reduce an employee's engagement with their work. By being present as more than a figure of authority in the workplace, leaders can better understand the challenges their employees are facing. As a benefit, this can help workers feel more appreciated for their contributions to the workplace. This is particularly important, considering that 46% of U.S. workers left a job because they felt unappreciated, while 65% said they would work harder if they felt like their contributions were noticed by management.

4. Remove barriers to care by offering resources, tools and support: While reducing stigma may make it easier for employees to acknowledge they need mental health support, actually finding that support and engaging in a timely manner is another story. According to one study, the average wait time for mental health treatment was more than 10 weeks.
Meanwhile, Americans know someone who has had to drive more than an hour round trip to seek treatment. Virtual options and on-demand educational content can be effective resources to help employees bridge the gap between unqualified advice available online and in-person therapy sessions.

5. Understand the challenges your employees face on the job and how this could affect their mental well-being. No two people are the same, and no two jobs create the same kinds of stress. For example, a frontline healthcare or retail worker is affected in different ways by their job than an employee who works from home. In fact, 82% of retail workers say burnout and stress have increased. However, just because an employee doesn't have a high-level job doesn't mean their jobs aren't stressful. Take time to talk with employees about the stresses they face on the job. Better yet, take time to work the job alongside them to understand how they may be affected. It's also important to realize that even remote employees feel stress and burnout. Recent data shows that 75% of remote workers experience stress and burnout at work, and 37% say they work longer hours than they did previously.

6. Get familiar with the makeup of your workforce and the health and well-being challenges they face. Approaching your workforce as if all employees have the same mental health concerns will be detrimental to any attempts to improve their well-being. For example, some ethnic groups are more susceptible to substance use disorders, which can affect mental health. And a married father of four will have different concerns than a young woman just starting her professional journey. As a result, employers should consider options that provide mental health resources alongside substance use assistance, caregiving support and more.

Most U.S. employers report plans to make employee mental health a priority either now or in the near future. But those efforts do not always resonate with employees, nearly 70% of whom say it is difficult to access mental health care.

Take time to understand the state of mental health in your workforce and the challenges that your employees bring to work with them every day. This will allow your HR team to better identify struggling employees before minor challenges reach crisis level.

https://www.hrmorning.com/articles/supporting-employee-mental-health/

How Your Employee Assistance Program Supports Mental Health

We're just starting to understand the effects of more than two years of lockdowns, closures, and isolation, but one thing is clear—the mental health of various populations has been severely affected. Whether you have a healthcare worker dealing with burnout or an employee facing high anxiety, mental health issues pose a risk to employees that employers cannot ignore.

> •	An employee assistance program (EAP) is an effective way to assist employees through mental health issues and improve their overall well-being. Additionally, mental health benefits can help address workplace mental health stigma, prevent burnout, and promote productivity and motivation. What are EAPs?
> - •	Behavioral health programs versus EAPs
> - •	Utilization tips for employers
> - •	How to communicate about your program

What are Employee Assistance Programs (EAPs)?
Employee Assistance Programs have evolved to address issues that could have the biggest impact on employee performance. An EAP is typically a separate benefit offered by an employer to help employees navigate short-term issues that may distress or distract them from work. For example, EAP counseling sessions may address issues such as work-related worries, formal mental health or substance use disorders, relationship issues, and other things that could affect well-being and productivity using problem assessment, short-term counseling, and referrals for additional services.

An EAP typically includes some combination of the following resources:
•	Short-term counseling: Limited number of sessions with a counselor to help staff members deal with immediate issues. The counselor might also make use of this time to refer employees to additional services, such as substance abuse support groups
•	Financial counseling: Resources for employees to handle debt, manage their budgets, etc.
•	Legal services: Free or discounted legal representation for bankruptcy, divorce, and other issues or referrals to legal resources
•	Adoption assistance: Free legal and financial support through adoption aid or referrals to adoption agencies
•	Child and elder care services: Resources and support for caregivers in the areas of child and elder care
•	Substance abuse referral services: Short-term counseling and group support services for employees who are struggling with substance abuse
•	Workplace trauma counseling: Support for employees experiencing trauma following acts of workplace violence.

•   Education and training: Classes, webinars, videos, and other resources covering stress management, mindfulness, resiliency, conflict management, etc.

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Typically, an EAP provides a limited number of counseling sessions at no cost to the employees. A sample EAP benefit may offer three to 10 no-cost visits (per year), either in person, virtually, or a combination of both. If the issue is not resolved in the number of counseling visits offered, employees may then transition to behavioral health benefits (explained below). Therefore, it's a good idea to consider EAP benefits as a first option since it does not require fees or filing claims paperwork.

Employee Assistance Programs

✔ Provide employees with resources to address immediate stress

✔ Provide access to short-term therapy and services like legal and financial support

✔ Can help employees connect with long-term counseling resources

✔ Is typically free for employees

Behavioral Health Programs versus EAPs: What's the Difference?

Employers can add behavioral health programs as an extra benefit on top of traditional EAP. Alternatively, some behavioral health programs can include EAP as part of their offering.

The main difference between an EAP mental health benefit and a behavioral health program is how they approach addressing issues. An EAP program focuses on external stressors. These include workplace issues, financial difficulties, elder care needs, childcare needs, crisis assistance, or legal issues. EAP counseling sessions are typically offered to employees for a set number of visits at no cost. In comparison, a behavioral health program focuses on the individual and addresses the emotional, mental, and physical sources of stress to promote healthy behaviors.

If an employer offers both, employees can transition from an EAP to behavioral health benefits if they need more assistance. EAP counselors are often also included in the employer's health plan network of providers. This will allow benefits to continue seamlessly from the EAP to a behavioral health plan for continuity of care.

Below are some differences between behavioral health programs and EAPs:

Traditional EAP	Behavioral Health Program
Used typically for short-term and immediate mental health care	Characterized by establishing a long-term relationship with a counselor
Provides three to 10 counseling sessions to address issues such as bereavement, work	Treatments are specifically designed to address behaviors that worsen symptoms

stress, major life events, depression, and anxiety	and to develop habits that facilitate more positive outcomes
Provides crisis response support	Provides therapeutic resources to develop healthy behaviors to nurture overall wellness
Offers resources for substance abuse referral services, financial counseling, legal services, adoption assistance, child and eldercare services, and workplace trauma counseling	Includes counseling for mental health disorders, substance abuse, addiction, gambling, and support for healthy eating, movement, and meditation

Utilization Tips for Employers

Choosing an EAP program is just the first step. An ongoing project is to ensure your program is effective and meets the needs of your employees. Below are some ways to boost EAP program utilization:

• Clearly define the scope of EAP services your organization will cover and thoroughly communicate these to managers, employees, and family members
• Be proactive in managing EAP programs to ensure high-quality and relevant services
• Actively coordinate the roles and responsibilities of EAP with other health and productivity programs
• Utilize the EAP's organizational services to support human resources and disability management functions
• Discuss ways to analyze EAP performance and employee engagement statistics (data confidentially gathered), including validated outcome measurement tools
• Consider conducting periodic intake and/or case assessments to evaluate the quality of the member experience
• Include diversity, equity, and inclusion (DEI) efforts as well as LGBTQ+ and BIPOC-inclusive messaging
• Consider renaming and rebranding the EAP to highlight the EAP as more than a counseling service, but rather one that can support employee and family issues and concerns objectively
• Promote alternative counseling methods, such as telephonic and text, to assist employees and family members with time or transportation constraints

https://www.jdsupra.com/legalnews/how-your-employee-assistance-program-9981507/

4 Things To Know About Your Mental Health Benefits At Work

We are just beginning to see the impact that the coronavirus has had on mental health in the workplace and in general. Mental Health America released its 2023 report on the State of Mental Health in America, which collected data from the third and fourth quarters of 2020, showing that 21% of adults are experiencing a mental health illness — over 50 million Americans. In a more recent Gallup Poll, 44% of employees experienced stress "a lot" the previous day.

Mental Health America reported that as of June 2022, more than 152 million people lived in mental health workforce shortage areas, meaning that there are not enough mental health workers to meet the country's mental health needs. One of the contributing factors? Low reimbursement rates for mental health providers, which increases out-of-network practitioners. A recent report showed that 17.2% of mental health workers were out-of-network providers compared to just 3.2% for primary care providers and 4.3% for medical/surgical specialists.

A survey conducted by the American Psychological Association showed that 71% of workers believe their employers care about this issue, and more than 80% agreed that how employers support mental health will make a difference when looking for work.

Despite the need and sentiment about mental health issues in the U.S., only a fraction of employees are taking advantage of workplace mental health benefits or Employee Assistance Programs. The answer might be in the complexity of navigating employer-based benefits — there is a fundamental breakdown in communication between HR departments and employees.

Here are four things to know about mental health benefits at work:

1. Insurance coverage is different in every state. In a nutshell, the federal government sets guidelines or minimum standards that each state must meet, but some states go further than others. For example, some states may provide better coverage for many types of mental illness, whereas others may limit coverage to serious mental illnesses or biologically based mental illnesses.

Remote workers have another challenge. Their mental health benefits often pertain to the state where their employer is based. If they live out of state, insurance may only cover a portion. Many out-of-state workers (remote workers living in a different state from their employer's corporate address) may have to pay out-of-network copays.

2. Not all insurance plans cover mental health. Parity or equal coverage laws prohibit healthcare plans from discriminating between coverages for mental illness, serious mental illness, substance abuse, and other physical disorders and diseases. The Affordable Care Act requires qualified health plans to meet certain standards, including sufficient in-network health

care providers. Yet, many employees are unable to find in-network providers or discover extensive waiting periods before getting treatment.

A 2022 America's Health Insurance Plans poll shows things are changing. Three in four insured Americans (73%) reported it was easy to get the mental health support they needed, and 91% were satisfied with their treatment... But only four in ten (38%) were able to find treatment within a week or two.

3. Know your "why" before telling your boss about mental health concerns. There are two broad types of mental illness: mental disorders and mental health challenges. Both have an effect on work performance. A mental disorder is often long-lasting and formally diagnosed by a mental health practitioner. Examples include depression, anxiety disorders, substance abuse, and PTSD. Mental health challenges may be temporary and triggered by specific events, such as discrimination, bullying, a recent breakup, or other significant occurrences.

Before disclosing mental health concerns — which are protected by HIPPA laws — think about the outcome you want from your employer. Do you need some time off or a temporary reduction in workload? Or do you need permanent accommodations like a quiet workspace or a flexible schedule?

In the US, it's illegal for your employer to fire you, modify your employment contract, or withhold things like promotions based on disclosing mental health conditions. Unfortunately, mental health discrimination in the workplace still happens. Know your rights, clarify discrimination, and talk to HR sooner rather than later if you feel you're being discriminated against.

4. Employee assistance programs (EAP) can help. The majority of mid- to large-sized companies offer EAPs, often at little to no cost to employees. EAPs traditionally helped employees with substance abuse problems but now cover a variety of other services, including mental health issues, child and elder care, financial or legal problems, and adoption assistance.

Unfortunately, studies show that employee utilization of EAPs is below 10% within a given year. Almost half of the employees surveyed don't know whether their employer offers EAPs. And only 5% of employers are pleased with the EAP they offer.

Mental health affects engagement in the workplace, thus, performance. And despite the stigma associated with getting help, research shows that 86% of employees treated for depression report an improvement in job performance. Some studies have shown a reduction in absenteeism and presenteeism by 40 to 60%. Presenteeism is showing up to work while struggling with physical or mental health concerns.

One of the benefits of the pandemic is the growing awareness of mental health in the workplace. If you are experiencing a mental health crisis, talk to your human resources department. Find out what benefits are available to you and take advantage of those.

https://www.forbes.com/sites/ashleystahl/2023/05/09/4-things-to-know-about-your-mental-health-benefits-at-work/?sh=699a457a2929

Beyond the EAP: How Mental Health Apps Can Enhance Employee Assistance Programs and Support Well-Being

In today's fast-paced and highly competitive business environment, employees are increasingly facing high levels of stress and pressure, leading to an increase in mental health issues such as depression and anxiety. According to a survey by the American Psychological Association, 61% of workers report that job-related stress is their most significant source of stress. This growing concern has led many organizations to implement Employee Assistance Programs (EAPs) to support the mental health and well-being of their employees. While EAPs have been around for decades, advancements in technology have led to the development of mental health apps, which can enhance EAPs and provide additional support to employees.

Mental health apps are digital platforms that offer a range of tools, resources, and support for individuals seeking help with their mental health. These apps are designed to be easy to use, accessible, and provide a range of features that can help individuals manage their mental health issues, including depression, anxiety, and stress. Some of the key benefits of mental health apps include:
1.   Easy Accessibility: Mental health apps can be accessed from anywhere at any time, providing individuals with the support they need when they need it most.
2.   Anonymity: Many individuals feel uncomfortable seeking help for their mental health issues due to the stigma attached to mental health problems. Mental health apps provide individuals with the anonymity they need to seek help without fear of being judged.
3.   Personalization: Many mental health apps offer personalized support, tailoring their features to the individual needs of the user.
4.   Tracking: Mental health apps can track progress over time, providing individuals with insights into their mental health and identifying any patterns or triggers that may be contributing to their mental health issues.

Incorporating mental health apps into EAPs can enhance the support provided to employees and improve the overall mental health and well-being of the workforce. By offering a range of tools and resources, mental health apps can complement EAPs by providing additional support and flexibility.

Here are some ways mental health apps can enhance EAPs:

1.   Immediate Support: Mental health apps can provide immediate support to employees in crisis, offering a range of resources, including hotlines and chatbots, that can connect employees with mental health professionals when needed.

2.   Customized Support: Mental health apps can be tailored to meet the needs of individual employees, providing personalized support that is specific to their mental health issues.

3.   Self-Help Resources: Mental health apps can offer self-help resources, including guided meditations, breathing exercises, and other stress-reducing techniques that employees can use to manage their mental health issues independently.

4.   Continuous Support: Mental health apps can provide continuous support to employees, allowing them to track their progress and identify any patterns or triggers that may be contributing to their mental health issues.

Incorporating mental health apps into EAPs can enhance the support provided to employees, improving their overall mental health and well-being. These apps provide a range of benefits, including easy accessibility, anonymity, personalization, and tracking. By providing additional support and flexibility, mental health apps can complement EAPs, ensuring that employees receive the help and support they need to manage their mental health issues.

https://www.corporatewellnessmagazine.com/article/beyond-the-eap-how-mental-health-apps-can-enhance-employee-assistance-programs-and-support-well-being

Nearly half of LGBTQ employees in the US think being "out" at work is a bad career move

A majority of LGBTQ+ workers polled reported hearing or being the subject of homophobic remarks

Pride month is here, but not all LGBTQ employees feel like celebrating.

A new survey commissioned by job site Glassdoor found that 45% of LGBTQ employees believe being "out" at work would hurt their opportunities for advancement. The survey was conducted among 6,179 employed adults in the US, aged 18 and older.
A further 55% said they overheard or were the subject of homophobic remarks made by co-workers, highlighting that workplace discrimination is still alive and well, despite an increasing focus on diversity, equity, and inclusion initiatives.

The numbers have shifted little from 2019, where 47% of those polled(pdf) said being "out" at work could hinder promotions or even cost them their job, while 53% recalled anti-LGBTQ+ remarks being made at work.

"This survey data shines a light on the LGBTQ+ employee experience and is a reminder that many companies still have progress to make," said Tyler Murphy, a Glassdoor career trends expert.

He added: "When looking for an LGBTQ-friendly company to work for, keep an eye out for things like LGBTQ+ employee resource groups or LGBTQ+ benefits and inclusive language in their job listings."

Office discrimination aside, data shows that lower pay and lack of legal protections for many LGBTQ workers in the US continue to be barriers to equitable workplaces.

Whether or not one is "out" at work, several studies have found that LGBTQ employees are getting paid less than their peers.

A paper published in the Social Science Research Network last year found that LGBTQ individuals in the US earned 22% less than heterosexual cisgender individuals a decade out from graduation.

Human Rights Campaign (HRC), an LGBTQ advocacy organization, surveyed over 7,000 queer workers in 2021 and found their median wages were 10% lower that of a "typical" US worker based on Bureau of Labor Statistics data. That gap broadened for queer Black and Native American workers, which HRC found earned 80 cents and 70 cents, respectively, for every dollar earned by a straight, cisgender worker.

LGBTQ employees ranked Google, Microsoft, and supermarket chain H E B as the best places to work in 2022 on Glassdoor. The company review site also reported that on average LGBTQ employees rate companies lower than other workers, with transgender employees—who face higher levels of workplace discrimination—giving the lowest ratings.

https://qz.com/lgbtq-employees-being-out-bad-career-move-1850494750

Using Employees' Requested Pronouns: It's About Dignity, Respect and Workplace Compliance

As employers strive to create inclusive and compliant workplaces, you should note that using an employee's requested pronouns not only conveys respect but also helps you stay in compliance with anti-discrimination laws. In fact, the Equal Employment Opportunity Commission (EEOC) takes the position that intentionally and repeatedly using the wrong pronouns to refer to LGBTQ+ employees may give rise to an actionable Title VII claim based on sexual orientation and gender identity discrimination. Although the legal parameters in this area are still being defined, employers that create an inclusive environment for all workers can reduce their risk of facing these types of discrimination claims. What do you need to know about this developing

area of law? Here's a quick refresher, as well as three best practices for creating a safe and legally compliant work environment for transgender and non-binary employees.

The Legal Landscape is Evolving
The EEOC issued relevant workplace guidance on sexual orientation and gender identity discrimination after the Supreme Court's 2020 holding in *Bostock v. Clayton County, Georgia*. In this landmark ruling, SCOTUS held that workplace discrimination based on sexual orientation and gender identity constitutes unlawful "sex" discrimination in violation of Title VII of the Civil Rights Act of 1964. In the Court's majority opinion, Justice Gorsuch stated that "[a]n individual's homosexuality or transgender status is not relevant to employment decisions. That's because it is impossible to discriminate against a person for being homosexual or transgender without discriminating against that individual person based on sex."

Notably, however, the parameters are still being tested nearly three years after the Supreme Court's decision and the EEOC's subsequent guidance. You can read a comprehensive legal update on transgender worker's rights, here.

Additionally, even though further protections have been afforded to LGBTQ+ employees, there are still unanswered questions about how misgendering or refusing to use an employee's preferred pronouns will be analyzed in conjunction with the protection of individual religious freedoms.

Coming Into Focus
However, we are beginning to see the legal landscape take shape. Indeed, the 7th U.S. Circuit Court of Appeals just weighed in on this issue on April 7 in *Kluge v. Brownsburg Community School Corporation*. In this case, the school district maintained a policy that required its faculty to honor the preferred names and pronouns of transgender students. The policy was subsequently challenged by the plaintiff who claimed that the policy violated his religious beliefs. The court held that allowing the plaintiff to be excepted from the district's policy based on his religion would pose an undue hardship, as this would create further harm to students in addition to a disrupted learning environment. As such, the district was not obligated to accommodate the plaintiff's religious beliefs under these circumstances. As a result, even though he had religious objections, the plaintiff was required to abide by the policy requiring the use of preferred names and pronouns.

Although the 7th Circuit covers only Illinois, Indiana, and Wisconsin, we expect more federal appeals courts to weigh in on this issue — and SCOTUS could ultimately resolve disagreements that arise among the circuit courts. Indeed, several ongoing legal debates over transgender workers' rights with seemingly conflicting results may find their way to the Supreme Court in the near future.

Also of note, the EEOC itself recently filed a lawsuit on behalf of a transgender employee who claimed sex discrimination in violation of Title VII based on gender identity. The basis of the complaint included allegations such as intentional misgendering, asking invasive questions

about the employee's body, and making anti-trans comments. Although the case is still pending, the lawsuit illustrates the EEOC's commitment to protecting transgender employees in the workplace, specifically regarding intentional misgendering claims, and employers should expect to see a rise in these claims. 3

While the legal landscape in this area continues to unfold, employers need to remain cognizant that gender identity and sexual orientation are protected categories under Title VII. As a result, you should maintain policies and practices that ensure a safe and legally compliant work environment for LGBTQ+ employees. Referring to employees by the names and gender pronouns with which they identify will not only help you stay legally compliant but also remains an important component of treating employees with the dignity and respect necessary to building a healthy work environment.

Consider the following three best practices for creating and maintaining a positive and inclusive work environment:
1. Refer to employees by the name and gender pronoun with which they identify. This creates an atmosphere of respect for all employees. An accidental misuse of a transgender employee's preferred name and/or pronoun may not violate Title VII. However, intentional and repeated transgressions would likely violate your anti-harassment policy and could establish a hostile work environment.
2. Address teasing, offhand comments, and other isolated incidents immediately. Ensure that such behavior will not be tolerated. Remind employees about the provisions in the employee handbook that expressly prohibit this type of misconduct.
3. Train supervisors and managers to recognize the significance of these issues and their role as leaders in fostering a safe and legally compliant work environment. You may also want to provide additional awareness training to all employees.

https://www.fisherphillips.com/news-insights/using-employees-requested-pronouns-its-about-dignity-respect-and-workplace-compliance.html

EEOC Issues Guidance on Use of AI

Employers can't rely on a vendor's assurances that its AI tool complies with Title VII of the Civil Rights Act of 1964. If the tool results in an adverse discriminatory impact, the employer may be held liable, the U.S. Equal Employment Opportunity Commission (EEOC) clarified in new technical assistance on May 18. The guidance explained the application of Title VII of the Civil Rights Act of 1964 to automated systems that incorporate artificial intelligence in a range of HR-related uses.

Without proper safeguards, employers might violate Title VII when they use AI to select new employees, monitor performance, and determine pay or promotions, the EEOC said.

"Too many employers are not yet fully realizing that long-standing nondiscrimination law is applicable even in the very new context of AI-driven employment selection tools," said Jim Paretti, an attorney with Littler in Washington, D.C. He described the guidance as a "wake-up call to employers."

Neutral tests or selection procedures, including algorithmic decision-making tools, that have a disparate impact on the basis of race, color, religion, sex or national origin must be job-related and consistent with business necessity; otherwise, they are prohibited, the EEOC said. Even if the procedures are job-related and consistent with business necessity, alternatives must be considered. The agency noted that disparate impact analysis was the focus of the technical assistance.

Employers May Be Surprised by Title VII's Reach

"Employers are not prepared for the Title VII implications of using AI HR tools for two main reasons," said Bradford Newman, an attorney with Baker McKenzie in Palo Alto, Calif.

"First, front-line HR managers and procurement folks who routinely source AI hiring tools do not understand the risks," he said. "Second, AI vendors will not usually disclose their testing methods and will demand companies provide contractual indemnification and bear all risk for alleged adverse impact of the tools."

The EEOC puts the burden of compliance squarely on employers. "[I]f 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," the agency states in its technical assistance guidance.

The employer may also be held responsible for agents' actions, including 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," the EEOC stated in the guidance.

Employers may want to ask the vendor whether steps have been taken to evaluate whether use of a tool causes a substantially lower selection rate for individuals with a characteristic protected by Title VII, the agency recommended. If the vendor says a lower selection rate for a group of individuals is expected, the employer should consider whether the tool is job-related and consistent with business necessity and whether there are alternatives.

"The guidance leaves unanswered the key question of how employers should establish that AI-based tools are, in fact, job-related," said Mark Girouard, an attorney with Nilan Johnson Lewis in Minneapolis.

In addition, if the vendor is incorrect about its own assessment and the tool results in disparate impact discrimination or disparate treatment discrimination, the employer could be liable.

Four-Fifths Rule for Selection Rate Explained

The document explains the four-fifths rule—a general rule of thumb for determining the selection rate for applicants—and notes that it applies to the use of algorithmic decision-making tools.

Employers can assess whether a selection procedure has an adverse impact on a particular protected group by checking whether the use of the procedure causes a selection rate for individuals in the group that is substantially less than the selection rate for individuals in another group.

Suppose 80 white individuals and 40 Black individuals take a personality test as part of a part of a job application that is scored using an algorithm, and 48 of the white applicants and 12 of the Black applicants advance to the next round of the selection process, the EEOC hypothesized. Based on these results, the selection rate for white individuals is equivalent to 60 percent and the selection rate for Black individuals is 30 percent.

The ratio of the two rates is thus 30/60 or 50 percent. Because this ratio is lower than four-fifths, or 80 percent, the selection rate for Black applicants is substantially different than for white applicants and could be evidence of discrimination.

"Courts have agreed that use of the four-fifths rule is not always appropriate, especially where it is not a reasonable substitute for a test of statistical significance," the agency cautioned. Employers may want to ask a vendor whether it relied on the four-fifths rule when determining whether the use of a tool might have an adverse impact or relied on a standard such as statistical significance that's often used by courts, the EEOC added.

"Unfortunately, the current EEOC standards for establishing the validity of a hiring tool—which are now nearly 50 years old—don't lend themselves neatly to analysis of these new and emerging technologies," Girouard said.

Oversight

Employers using AI HR tools should have effective AI oversight, including a chief AI officer, and routinely test for potentially adverse impact, Newman said.

Scott Nelson, an attorney with Hunton Andrews Kurth in Houston, noted AI and its interplay with the law is rapidly evolving.

"I'm not sure any of us are truly ready for the potential impact AI can, and likely will, have on our daily lives," said Erica Wilson, an attorney with Fisher Phillips in Pittsburgh. "That being said, employers have been put on notice that they cannot simply pick a software program off the shelf, or write one themselves, and assume it works as intended without inadvertent bias. Employers need to pay attention and test their employment-related AI tools early and often to make sure they aren't causing unintended harm."

New EEOC Guidance Clarifies Employer Responsibility for Discrimination in AI Employment Tools

Many employers have begun using artificial intelligence (AI) tools supplied by third-party vendors. On May 18, 2023, the Equal Employment Opportunity Commission (EEOC) provided guidance indicating that, in its view, employers are generally liable for the outcomes of using selection tools to make employment decisions.

The EEOC's new technical guidance titled, "Assessing Adverse Impact in Software, Algorithms, and Artificial Intelligence Used in Employment Selection Procedures Under Title VII of the Civil Rights Act of 1964," details how the EEOC understands Title VII to apply to the use of algorithmic decision-making tools in employment decisions.

What Tools Are Covered
The EEOC's guidance begins with a broad definition of covered selection tools often used by employers. Algorithmic decision-making tools include software, AI, and automated systems. The new guidance offers examples of algorithmic decision-making tools, including the following:
•	Resumé scanners that prioritize applications using certain keywords.
•	Employee monitoring software that rates employees on the basis of their keystrokes or other factors.
•	"Virtual assistants" or "chatbots" that ask job candidates about their qualifications and reject those who do not meet predefined requirements.
•	Video-interviewing software that evaluates candidates based on their facial expressions and speech patterns.
•	Testing software that provides "job fit" scores for applicants or employees regarding their personalities, aptitudes, cognitive skills, or perceived "cultural fit" based on their performance on a game or on a more traditional test.

Evaluating Algorithmic Decision-Making Tools for Disparate Impact
After defining the tools, the EEOC's guidance details that the selection criteria should be evaluated under Title VII of the Civil Rights Act of 1964 and, specifically, the disparate impact theory. Title VII prohibits employment discrimination based on race, color, religion, sex, and national origin. Disparate impact occurs when a neutral test or selection procedure disproportionately excludes people based on a protected characteristic.

According to Title VII's three-part test, employment discrimination exists where (1) a selection procedure has a disparate impact on a particular protected class, (2) the employer cannot establish that the test is job related for the position in question, and (3) a less discriminatory tool is available but not used.

Supplementing Title VII, the EEOC also relies on the *Uniform Guidelines on Employee Selection Procedures* (*Guidelines*) as support for the appropriate analysis. Notably, while the EEOC has adopted the *Guidelines*, the new technical guidance does not rise to the level of official EEOC regulations. Applying the legal test to the range of tools, the EEOC has stated that employers can be held responsible under Title VII for the use of such tools, even if the tools are designed or administered by a third party.

Monitoring for Adverse Impact Discrimination in Algorithmic Decision-Making Tools
After setting forth the legal test, the guidance turns to how employers can mitigate those risks by monitoring for disparate impact, which the new EEOC guidance refers to as "adverse impact discrimination," when using algorithmic decision-making tools. The EEOC does not establish a new policy for algorithmic decision-making tools, but rather applies the aforementioned principles already established under Title VII.

According to the EEOC, employers should:
•   Regularly monitor the use of algorithmic decision-making tools to determine if the disparity in selection rates between groups is statistically significant.
The *Guidelines* recommend but do not require that employers apply the "four-fifths rule," which states that one rate is "substantially" different than another if their ratio is less than four-fifths (or 80%). The EEOC recognizes that other tests of statistical significance (such as the standard deviation test) may be appropriate depending on the sample size or other statistical considerations. As such, the EEOC suggests that employers and vendors use the appropriate test to determine statistical significance.
•   If monitoring demonstrates an adverse impact, the employer should determine whether the use of the algorithmic decision-making tool is job-related and consistent with business necessity.
•   If the use of the algorithmic decision-making tool is job-related and consistent with business necessity, the employer should still explore less discriminatory alternatives and implement alternatives if available.
•   If the employer is relying on a vendor or third party to develop or administer an algorithmic decision-making tool, the employer should ask the vendor about what process, if any, they use to determine whether the use of the tool might have an adverse impact.
•   If, during the development of an algorithmic decision-making tool, the employer discovers an effective alternative to reduce the adverse impact, the employer should adopt the alternative tool. The new EEOC guidance explains that employers may be liable for failure to adopt a less discriminatory algorithm that was considered during the development process.

The recent EEOC guidance is part of the agency's 2021 Initiative on Artificial Intelligence and Algorithmic Fairness and provides a useful starting point for employers using these tools. The new guidance, however, does not provide a broad description of the EEOC's position on the fast-changing legal landscape. Nor does the new guidance provide any significant technical detail related to algorithmic tools. For a deeper dive into the topics, see our previous Update on the NIST (National Institute of Standards and Technology) study and recommendations for employers. Employers with operations in New York also may want to consult our previous Update on New York's final rules for implementation of NYC's Local Law 144. The use of algorithmic tools in employment decisions remains an evolving topic, and employers should seek experienced counsel to mitigate legal risks.

https://www.jdsupra.com/legalnews/new-eeoc-guidance-clarifies-employer-7175449/

AI Users Beware: Federal, State and Local Legislators and Regulators to Crack Down on AI-Related Employment Discrimination

According to a 2022 survey from the Society for Human Resource Management, approximately one in four organizations use automation and/or AI to support employment-related activities, such as recruitment and hiring. AI tools used in employment decision-making include chatbots that guide applicants through the application process, algorithms that screen resumes and predict job performance, and even facial recognition tools used in interviews to evaluate a candidate's attention span. For employers, these tools may offer an efficient and effective way to recruit promising talent, but federal, state and local governments are increasingly focused on the potential for discrimination.

Title VII prohibits employment discrimination on the basis of race, color, religion, sex (including pregnancy, sexual orientation and gender identity), national origin, age (40 and over), disability and genetic information (including family medical history). The law prohibits both intentional discrimination and "disparate impact" discrimination, which involves using neutral tests that have the effect of disproportionately excluding persons based on a protected characteristic. If, for example, an employer has a height requirement in hiring, this may have a disparate impact on women applicants, and, if so, will run afoul of Title VII.

At first glance, AI tools might seem like a good alternative to flawed human decision-making. But evidence shows that, in fact, these tools often reproduce or worsen the human biases upon which they are built. This means that even if an AI tool is designed to avoid disparate treatment by protecting certain characteristics, the tool's assessment of other qualities, such as gaps in work experience or verbiage used in a resume, may lead to discrimination by proxy, also called "algorithmic discrimination." Discrimination by proxy is a form of disparate impact discrimination, in which a seemingly neutral criterion is used as a stand-in for a protected trait. Proxy discrimination can be intentional—such as using a person's zip code as a proxy for class

or race—or unintentional, such as not selecting individuals with gaps in their resumes and incidentally excluding working parents.

Whether intentional or not, an employer can be held liable for discrimination that results from the use of AI and algorithmic decision-making tools.

Updates in AI Regulation
Federal Efforts: The Equal Employment Opportunity Commission (EEOC) From launching the AI Bill of Rights to announcing heightened enforcement attention on potential bias in AI systems, the Biden administration is proceeding with its commitment to monitor and regulate AI, including the use of AI in employment decision-making. The EEOC, which has dubbed discrimination in AI and automated systems the "New Civil Rights Frontier," is among the federal agencies leading the charge.

In January, the EEOC published a draft strategic enforcement plan, which for the first time emphasized the pervasiveness of AI and automated systems in employment decision-making. The plan announced the agency's focus on scrutinizing employment decisions, practices or policies in which the use of technology may contribute to discrimination based on a protected characteristic. Through monitoring and regulating, the EEOC seeks to root out discrimination. Since then, the EEOC has repeatedly shown its commitment to ensuring that these new technologies comply with federal EEO laws. In April, the EEOC joined the Consumer Financial Protection Bureau (CFPB), Department of Justice (DOJ) and Federal Trade Commission (FTC) in a joint statement communicating the agencies' commitment to monitoring and regulating automated systems, including those used in employment recruitment, hiring and firing. In announcing the joint statement, EEOC Chair Charlotte Burrows underscored that the EEOC will utilize its enforcement mechanisms to ensure that "AI does not become a high-tech pathway to discrimination."

On May 18, the EEOC issued a new guidance document cautioning employers that AI and algorithmic decision-making tools are vulnerable to running afoul of Title VII. The EEOC warned that "in many cases" an employer will be responsible under Title VII for its use of AI tools or algorithmic decision-making "even if the tools are designed or administered by another entity, such as a software vendor." To prevent such an outcome, the EEOC recommends that employers ensure that the technology vendor has taken steps to determine whether the use of the tool causes a significantly lower selection rate for individuals with a protected characteristic. The agency further suggests that employers conduct self-analyses on a regular basis to determine whether their employment practices—whether or not they are dependent on AI and algorithmic decision-making tools—disproportionately impact individuals of a protected class.

State Regulation In addition to action on the federal level, many states have introduced legislation to regulate AI-based employment tools. This includes California A.B. 331, which would require employers using AI tools to conduct an annual impact assessment and would expose employers to liability if their AI tools result in algorithmic discrimination. Similarly, the

District of Columbia's "Stop Discrimination by Algorithms Act of 2023" would require a third-party bias audit of any AI-based employment tool and would prohibit using algorithmic decision-making "in a discriminatory manner." Bills are also under consideration in Connecticut, New Jersey, New York and Vermont. Additionally, two states—Illinois and Maryland—have passed laws restricting the use of facial recognition technology in job interviews.

New York City Local Law 144 On July 5, 2023, New York City will begin enforcing its Automated Decision Tools law, making it the first jurisdiction to regulate an employer's use of artificial intelligence. The New York City Department of Consumer and Worker Protection (DCWP) issued final regulations in early April 2023 to clarify the scope and implementation of the law. The law applies to New York City-based employers and employment agencies that use an "automated employment decision tool" (AEDT). The regulations define AEDT as "any computational process, derived from machine learning, statistical modeling, data analytics, or artificial intelligence" that issues "simplified output," which substantially assist[s] or replace[s] discretionary decision-making," like a score or recommendation, which ultimately has a determinative impact in the hiring or promotion process. Companies who use AEDTs are required to contract with an independent auditor to conduct a bias audit and meet certain notice requirements. The contours of the law are complex, and we therefore urge New York City-based employers to closely review their AEDTs and consult counsel to ensure compliance.

Next Steps for Employers Employers that use AI or automated systems to assist with hiring or other employment decision-making should proactively address potential bias and discrimination. Employers should develop clear, well-defined policies and procedures explaining the extent to which they use AI tools in employment decisions. Such procedures should be disclosed in employee handbooks and disseminated to employees. Employers using AI tools should also begin annual bias audits to determine whether the tools are resulting in biased or discriminatory employment decision-making practices.

For those employers in jurisdictions already enforcing against the use of discriminatory AI, consider consulting counsel to ensure compliance. Other employers should not wait to act: any employer using AI tools in employment decision-making should contact their vendors, independent auditors and counsel to assess next steps.

https://www.jdsupra.com/legalnews/ai-users-beware-federal-state-and-local-8902871/

<u>10 Types of Discrimination to Be Aware Of</u>

Discrimination is defined as prejudiced, unfair, or unequal treatment of people based on their personal characteristics such as race, religion, disability, age, nation of origin, or gender (gender identity, sexual orientation, pregnancy).

Discrimination is a reality that many people face in different areas of their life each and every day. In 2017, the U.S. Equal Employment Opportunity Commission (EEOC) reported that there

were more than 80,000 workplace discrimination complaints. Of these complaints, 30% were based on sex, 34% on race, and 22% on age.

This unfair and unequal treatment can impact people's access to equitable education, employment, compensation, housing, and healthcare. Discrimination is considered a social determinant of health; it is part of a person's social environment that can affect other factors, including housing, education, and employment, that affect health and well-being.

While there are laws in place that protect people from discrimination in employment and housing, prejudice and unfair treatment still frequently occur. Knowing how to recognize discrimination and understanding your rights can help you decide how to handle it if you experience discriminatory treatment.

Protections Against Discrimination

Learning more about your rights can also help you better recognize discrimination and know how to respond when you encounter it. Some laws are in place that protect people from discrimination in areas such as housing and employment, including:

• The Civil Rights Act, the Age Discrimination in Employment Act, and the Americans with Disabilities Act: Protect workers from discrimination based on age, disability, nationality, sex, color, race, pregnancy, and sexual orientation.
• The Fair Housing Act: Protects people from being discriminated against based on their parental status, religion, nationality, race, color, and disability when buying, renting, or financing housing.

Age Discrimination

Age discrimination, sometimes referred to as ageism, involves being treated unfairly based on your age. For example, age discrimination may originate from the idea that older adults are less willing to accept change or learn new skills, which can lead to an unwillingness to train, hire and promote older workers. While it is often applied to discrimination against older adults, it can also involve bias against people of all ages.

Examples of ageism include being fired, not being hired, not getting promoted, not receiving equitable training, or not getting job assignments because of your age. This might involve being fired in favor of hiring a younger candidate or not being promoted because an employer believes you are too young.

How to Handle It

Age-based discrimination is illegal in some instances. The Age Discrimination in Employment Act (ADEA) protects job applicants and employees over the age of 40 from being discriminated against based on their age. It protects workers against discrimination in hiring, promotion, termination, compensation, job training, or other conditions and privileges of employment. Unfortunately, workers under the age of 40 are not protected by ADEA.

The Age Discrimination Act of 1975 forbids age-based discrimination in programs and activities that receive financial assistance from the federal government, such as housing programs and educational institutions. It covers discrimination against people of all ages and is enforced by the Civil Rights Center.

Disability Discrimination

Disability discrimination involves unfair or biased treatment of individuals due to their disability. Title I and V of the Americans with Disabilities Act (ADA) protect against disability discrimination in employment, public accommodations, access to programs and services, and communications.

Disabilities that qualify for ADA protection include bipolar disorder, cancer, schizophrenia, intellectual disability, epilepsy, diabetes, and a host of other conditions. However, people may still be protected even if they don't have a formal diagnosis if their condition limits one or more major life areas or activities.

Discrimination can be direct, such as not hiring someone because of a chronic illness, or indirect, such as having job requirements that exclude people with disabilities. It can also involve failing to make reasonable accommodations, harassment, and victimization.

How to Handle It

If you have experienced disability discrimination, you can file an ADA complaint with the Civil Rights Division of the Department of Justice. Your complaint may be referred to the ADA Mediation Program or to a federal agency that will handle specific issues related to your complaint. In some cases, you may be contacted for further information, or the Department of Justice may open an investigation into your complaint.

Sexual Orientation

Sexual orientation discrimination refers to discriminatory treatment based on a person's sexual orientation. This discrimination may involve the denial of rights and services related to employment and housing. It can also involve verbal or physical harassment and other displays of prejudice.

Examples of this type of discrimination include refusing to hire someone because they are gay or refusing to rent to someone based on their sexual orientation or gender identity. It can also involve harassment based on sexual orientation or gender identity that creates a hostile work environment. An example of this would include repeatedly and intentionally using the wrong pronouns or deadnaming a transgender employee.

How to Handle It

Sexual orientation is covered under Title VII of the Civil Rights Act of 1964, which provides employment protections against discrimination based on a person's sexual orientation or gender identity. It prohibits discrimination that affects any aspect of employment, including hiring, job assignments, pay, training, promotions, layoffs, and any other benefit or condition of employment.

If you have experienced workplace discrimination based on your sexual orientation or gender identity, you can contact the EEOC at 1-800-669-4000 to file a charge.

Status as a Parent

Discrimination can also occur based on a person's status as a parent. Parental status refers to whether or not someone is a parent. It includes having children, but it also applies to not having children. For those who are parents, it includes biological parents, step-parents, adoptive parents, foster parents, custodian of a legal ward, or in loco parentitis.

In loco parentitis refers to a responsible adult who acts in place of a parent, such as an adult who is caring for their grandchild, their partner's child, or a relative's child.

Examples of discrimination based on status as a parent might include:
•   Firing someone for being pregnant
•   Reducing someone's hours because they are a parent
•   Expecting childless employees to work longer hours
•   Denying promotions to people because they have children
•   Excluding people from activities based on their parental status
•   Transferring someone to a different job because they had a baby
•   Making disparaging comments about someone's status as a parent

How to Handle It

An executive order prohibiting discrimination based on parental status in federal employment was signed in 2000.

If you have experienced such discrimination, keep a record of when the event occurred and notify the EEOC. You may then be asked to participate in dispute resolution with the employer or provide more information if the EEO opens a formal investigation.

Unfortunately, there is no federal law protecting people against parental status discrimination in the private sector. Some states, such as New York, provide protections for parents in the workplace. Some aspects of parental status may also be protected by the Pregnancy Discrimination Act of 1978 and the Family and Medical Leave Act.

Religious Discrimination

Religious discrimination is treating someone differently or unfairly based on their religious beliefs and practices. This can involve unfavorable attitudes or behaviors directed at people who are part of major world religions such as Christianity, Islam, Judaism, Hinduism, or Buddhism. It can also involve discrimination against people with other deeply held religious, moral, and ethical beliefs and those with a lack of religious belief.

Examples of religious discrimination can involve mocking someone's religious practices, harassment that creates a hostile work environment, and segregating them from others due to their religion.

How to Handle It

Religious discrimination in hiring, firing, and other aspects of employment is prohibited by the Civil Rights Act of 1964. Employers must provide reasonable accommodations for religious practices unless it presents an undue burden. This also protects people who are part of non-traditional religions and atheists.

If you have experienced religious discrimination in the workplace, you can file a charge online with the Equal Employment Opportunity Commission. In the private sector, you must file a claim within 180 days of the incident. If you work for the federal government, you must contact an EEO counselor within 45 days.

National Origin

Discrimination based on national origin involves prejudiced treatment due to a person's place of birth, culture, ancestry, or linguistic characteristics.

Examples of this type of discrimination include denying someone employment because of their accent or harassing them because of their nationality. Teasing or offhand remarks would qualify as discrimination if they create a hostile work environment.

How to Handle It

National origin discrimination in the workplace is prohibited by Title VII of the Civil Rights Act of 1964. You can file a report with the EEOC if you *have experienced workplace discrimination because of your national origin.*

Pregnancy

Pregnancy discrimination involves unfair treatment of pregnant people in the workplace. Examples can include:

- Not hiring people because they are pregnant
- Firing people for being pregnant
- Denying promotions to pregnant people
- Not providing training, benefits, assignments, or other conditions of employment to pregnant individuals

How to Handle It

Title VII of the Civil Rights Act of 1964 and the Pregnancy Discrimination Act of 1978 protects employees against discrimination based on pregnancy, childbirth, and medical conditions related to pregnancy and childbirth.

Such protections apply to current pregnancy, past pregnancy, potential pregnancy, conditions related to pregnancy, lactation/breastfeeding, abortion, and birth control. Pregnant people are also protected by the Americans with Disabilities Act (ADA) if they develop a disability or condition resulting from pregnancy, such as gestational diabetes.

If you have experienced employment discrimination as a result of pregnancy or a pregnancy-related disability, you can file a charge with the EEOC.

Sexual Harassment

Sexual harassment involves unwanted sexual advances. Examples can include comments, touches, gestures, written communications, or other unwanted advances. The Centers for Disease Control and Prevention (CDC) notes two kinds of sexual harassment: quid pro quo and hostile work environment.

Quid pro quo harassment involves a person in a position of power offering employment rewards, such as promotions or raises, in exchange for sexual favors. A hostile work environment involves sexual harassment, making it difficult and uncomfortable for employees to perform.

How to Handle It

Title VII of the Civil Rights Act of 1964 also prohibits sexual discrimination, and you can file a charge with the EEOC office.

Race, Color, and Sex

Discrimination can also occur based on a person's race, color, or sex. The Title VII of the Civil Rights Act of 1964 also prohibits such discrimination.

Examples can include:
• Treating people differently in the workplace due to their sex
• Refusing to hire someone because of their race
• Harassing or mistreating people because of the pigment of their skin

How to Handle It

If you have experienced discrimination due to your race, color, or sex, you can file a complaint with the EEOC office.

Reprisal / Retaliation

Employment laws also protect workers from discrimination for filing a complaint or participating in the equal employment opportunity process. Examples of reprisal and retaliation include:

• Firing or demoting workers who have participated in an EEOC investigation

• Denying promotions, benefits, or other conditions of employment to workers who have filed complaints

• Threatening, harassing, or reprimanding employees who have opposed unfair employment practices

The EEOC notes that retaliation is the most frequently reported form of discrimination in the federal sector.

How to Handle It

If you have been subjected to retaliation or reprisal for filing a complaint, participating in the EEO process, or opposing discrimination in the workplace, you must file a charge with the EEOC within 180 days if you are working in the private sector or contact an EEOC counselor if you are a federal employee. *What Happens After You File a Complaint?*

After filing a complaint of employment discrimination based on age, disability, sexual orientation, race, pregnancy, or another type of discrimination, the EEOC will investigate. They may offer mediation, which may result in your employer taking steps to correct the situation. Or you may opt to file a lawsuit for unlawful discrimination. In some cases, the EEOC may take legal action on your behalf.

Coping With Discrimination

There are laws intended to combat discrimination in the workplace and in housing, but discrimination often takes more subtle and insidious forms in everyday interactions. Examples can include microaggressions (making rude or invalidating comments), being treated with disrespect, being ignored, or getting poorer service. Moreover, the stigma associated with various mental health conditions (using insensitive terms or labels or denying someone educational/housing/employment opportunities on the basis of a mental illness) can also be forms of discrimination)

Research has found that discrimination can seriously affect a person's health and well-being. Different forms of discrimination have been linked to higher suicide rates, worse heart health, and an increased risk for hypertension.

Outside of federal, state, and local laws that prohibit discrimination based on an individual's personal characteristics, there are other things steps you can take.

Explore Workplace Options

Learn more about the options for reporting and addressing discrimination in your workplace. This might include reporting the discrimination to human resources and having discussions with trusted supervisors.

Seek Support

Discrimination can harm self-esteem, particularly when people start to internalize the negative attitudes they encounter. Surrounding yourself with supportive people can help alleviate some of the detrimental effects of discrimination, validate your experiences, and remind you of your value.

You might also consider joining advocacy groups that help raise awareness of discrimination and support people who have experienced it. It can be a great way to talk to other people who have had similar experiences and connect with a supportive network that can offer advice and information.

Manage Stress Levels

Encountering discrimination is stressful and can trigger anger, sadness, and anxiety. Stress leads to a range of physical, emotional, and behavioral responses, including negative emotions and increased blood pressure.

Because stress has significant health implications, it is essential to find ways to manage these feelings when they happen. Experiment with different stress management techniquesto determine what works best for you. Some that you might find helpful include deep breathing, yoga, meditation, exercise, aromatherapy, or guided imagery.

Talk to a Professional

Facing discrimination can also increase your risk of mental health problems such as anxiety and depression. Talking to a mental health professional can also help you cope with the effects of discrimination.

You can use the American Psychological Association (APA) Psychologist Locator tool to find licensed psychologists in your area who can help you cope with discrimination-related issues. You might also consider the Inclusive Therapists Directory to find BIPOC and LGBTQ+ mental health providers.

https://www.yahoo.com/lifestyle/10-types-discrimination-aware-200042039.html?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlLmNvbS8&guce_referrer_sig=AQAAAGCiIJS6VHOtHxPz3agtpNMHtO2btfrQzVU5kQgBFJerxjIxm4Ci8Rc9xjwRGt0gxa81uJDws-VZxOsXpqtAndoTl_xAAxobWZDup_aa-VxC8bsemPBZ_nDDpAo_Df0u4MNvlMTbM4TyHP2DwCOSFU1XN-Y66Az6NS8u_mqlhmNF

Supreme Court Won't Hear Reverse Discrimination Case

The U.S. Supreme Court recently declined to hear a reverse discrimination and retaliation case brought by two white police officers who opposed a diversity initiative.
The two former Michigan State Police officers claimed they were demoted and fired, respectively, in retaliation for complaining about their employer's diversity initiative and alleged double standards in disciplining employees.

The police agency said the former officers were disciplined because of their misconduct in handling a transfer of another employee. The U.S. District Court for the Western District of Michigan ruled in favor of the agency in December 2021.

The Supreme Court's decision lets the district court's ruling stand. The lower court's ruling sheds light on when white employees can or cannot claim reverse discrimination.
Under federal law, "the prohibition against discrimination includes discrimination against white employees and applicants. In effect, this means that everyone is in a protected category when it comes to race and gender," said Cara Crotty, an attorney with Constangy, Brooks, Smith & Prophete in Columbia, S.C.

Background
In 2019, the new director of the Michigan State Police emphasized that diversity was a priority for the agency. In 2020, the Michigan State Police staff was 89.5 percent white and 91 percent male, and 71 out of the 77 first lieutenant posts were held by white males, according to court documents. At a staff meeting, the two plaintiffs said the agency's diversity initiative hurt the morale of white male officers.

The agency later received a complaint that one of the plaintiffs, who had a rank of inspector, yelled at and badgered another employee. An agency investigation found that the two plaintiffs pressured a subordinate to change scores on an evaluation form in an effort to oppose a lateral transfer for another employee. The investigation concluded the inspector was insubordinate, provided inaccurate and unethical direction to an employee, mishandled the protocols required for a lateral transfer process, and lied about what he had done, according to court documents.

The inspector believed he was being punished for opposing the diversity initiative and complaining about racial remarks a Black employee had made during an off-duty comedy routine. The agency later fired the inspector and demoted the other plaintiff.

To prove discrimination with circumstantial evidence, employees must show that they are a member of a protected class, are qualified for the job, suffered an adverse employment decision and were treated differently than similarly situated employees who weren't in the protected class. If that is proven, then the employer must show it had a legitimate, nondiscriminatory reason for taking the adverse action.

The district court found the white officers failed to show they were treated differently than nonwhite officers. The plaintiffs pointed to four nonwhite officers who they thought were disciplined less harshly than white officers, but the court found those four individuals were not comparable to the plaintiffs because they didn't have the same rank, supervisor or alleged misconduct.

Retaliation Claim

In a retaliation claim, a plaintiff must show they engaged in protected activity and the employer knew about this protected activity and subsequently took an adverse employment action because of it.

Workers' objections to an employment practice are legally protected activity if their supervisors should have reasonably understood that they were complaining about unlawful discrimination; however, it's not protected activity if the objection is too vague or about general unfairness, the district court explained.

"The complaints cannot just be about a belief or feeling that different treatment is occurring or will occur," said Luther Wright, an attorney with Ogletree Deakins in Nashville, Tenn. "Complaints or allegations that are really just disagreements with how management handled a particular situation do not constitute reports of discrimination, will not constitute protected activity and will not support a claim for retaliation."

In this case, the plaintiffs' "chief concern was that the diversity initiative was unfair to white police officers, not that it illegally discriminated against white males," the district court said. Furthermore, the plaintiffs did not prove the state police director had any knowledge of their criticisms about the diversity initiative, the court concluded.

"If an employee raises concerns about the organization's diversity, equity and inclusion (DE&I) practices, this could potentially be considered protected activity," Crotty said. "Employers should treat such a complaint like any other issue involving potential discrimination or harassment and ensure that the employee does not experience retaliation."

Best Practices

Employers should design "a DE&I program that truly embraces everyone. That requires an explanation of purpose to all employees and being open to having difficult conversations about past inequities, clearly stated current goals, and the role each employee plays in having a workplace where every person is respected and feels like they belong," Wright said.

Employers should not implement arbitrary hiring goals or use race in any way in the selection process, Crotty noted.

"Any hiring practice or objective that looks like a quota should be avoided," she said. "Employers want to make sure that protected characteristics are not a factor in making hiring

decisions and that hiring managers are not implicitly invited or expected to make decisions that incorporate those factors."

Instead, employers should focus recruitment efforts on sources that are likely to provide a diverse pool of candidates, "but they should not state a preference for candidates of any race or gender," she added. "Ideally, targeted recruitment will increase the diversity of the candidate pools from which an employer is selecting, and through application of a neutral selection process, the workforce will naturally become more diverse."

https://www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/supreme-court-reverse-discrimination-case.aspx

Why Women Leaders Are Leaving Their Jobs At Record Rates

According to the latest Women in the Workplace study sponsored by LeanIn.Org and McKinsey & Company, women leaders are leaving corporate America at the highest rate in years. In fact, the gap between women and men leaving is the largest it's ever been. It's called by some as the "Great Breakup," and it refers to a trend where women are more likely to leave their jobs to get their needs met.

It's important to note that these ambitious women aren't leaving the workforce. Instead, they are walking away from their companies in search of better opportunities. Because they are reevaluating their values and priorities, some are even switching industries or becoming entrepreneurs.

The economic and personal pressure is higher on women than ever before. Here are some primary reasons why they are leaving their jobs at record rates.

Unequal pay
A Pew Research Center analysis confirmed that in 2022 women earned approximately 82% of what men did. One explanation is that even though women have increased their presence in the C-suite, they are still overrepresented in lower-paying roles relative to their share of the workforce. Gender discrimination and unconscious gender bias may also contribute to the wage discrepancy. Not surprisingly, many of these women are deciding to start their own businesses. Because while entrepreneurship carries risk, it also has the potential to reap greater rewards over time.

Stress and burnout
Work-related stress is taking a physical and mental toll on female leaders. According to the Deloitte report, Women @ Work 2022: A Global Outlook, women are experiencing dangerously high levels of burnout. The situation is so severe that 53% of respondents say their stress levels

are higher than a year ago, with almost half feeling exhausted. As a result, nearly 40% of those women looking for new employment cited burnout as the main reason.

Harassment and micro-aggressions

Micro-aggressions can be around gender or race and include the use of sexist language or subtle comments that are disrespectful and sometimes toxic. One example is when a female employee shares an idea in a meeting, but then a male co-worker receives credit for it when he repeats it. According to the McKinsey data, women in leadership are also far more likely than men to have colleagues who imply that they aren't qualified for their jobs. And finally, women leaders are twice as likely as their male colleagues to be mistaken for someone more junior.

Lack of flexibility

To keep women leaders engaged, organizations must offer flexible options like remote/hybrid work, flexible hours and a four-day workweek. In fact, the McKinsey survey confirmed that almost half of women leaders say flexibility is one of the top three considerations in job mobility. Yet, while many companies claim to embrace flexibility, only 33% of the women in the Deloitte study say their employers offer flexible work policies. What is worse, a whopping 94% of respondents believe that requesting flexible options will negatively impact their chance for promotion.

Limited advancement opportunities

While women are just as likely to want to move up in the organization, it is more difficult for them to advance. In research from MIT Sloan, although women received higher performance ratings than their male colleagues, they received 8.3% lower ratings for potential than men. Potential scores are subjective and reflect how much their managers believed they would develop in the future. Because those ratings strongly predict promotions, female employees were 14% less likely to be promoted than male ones.

It's about time women start making bold choices. They want more from work and are taking action. If companies want to retain valuable talent, they need to create an equitable workplace where women can thrive. Otherwise, it's clear that women leaders won't hesitate to get their needs met elsewhere.

https://www.forbes.com/sites/carolinecastrillon/2023/05/07/why-women-leaders-are-leaving-their-jobs-at-record-rates/?sh=336b5cf24361

Fat, old and ugly: New wave of discrimination for HR to combat

Fat. Old. Ugly.

No one wants to be called any of those, but it's happening. In the workplace, of all places.

The new wave of discrimination at work includes weight, height and level of attractiveness, according to research and legal experts. And all the while, age discrimination continues in the workplace.

It's gotten so bad, legislators in New York City — where almost 4 million people work — banned employment discrimination based on a person's weight or height (pending the mayor's approval).

Half of the people at work are concerned about what others think of their appearance in the workplace. So on any given day, someone is thinking, *"No one talks to me because I'm fat." "They think I'm too old do that." "Everyone is staring at my bald spot."*

What's worse, some people in the workplace actually are making judgments based on weight, height, appearance and age.

"It's important that we address all forms of discrimination, and weight {height or appearance} discrimination is no exception," says Amy Kim, President at PowertoFly. "A person's body shape should not affect their ability to obtain or maintain employment … Companies need to hire the best of the best, and top talent comes in all shapes and sizes."

New wave of discrimination looks familiar, let's break it down to what researchers and experts know now:

Weight bias

·   26% of employees say they 'definitely' or 'probably' faced discrimination in the workplace because of their weight, a ResumeBuilder survey found

·   71% of those who self-identified as being *obese* have experienced discrimination

·   53% of those who say they're *overweight* have faced discrimination, and

·   42% of those who self-identify as *underweight* say they've been treated unfairly.

Age bias

·   30% U.S. workers have felt unfairly treated because of their age (too young or too old) at some point in their career, study found

·   For 72% of those who were treated unfairly, it was so bad, it made them want to quit the job

·   26% of employees over 50 say they've been the target of age-related remarks at work in the past six months

·   17% of HR pros have received reports of perceived ageism in their workplace, and

·   Almost 13,000 age discrimination charges were filed with the EEOC in 2021 (the most recent reported year).
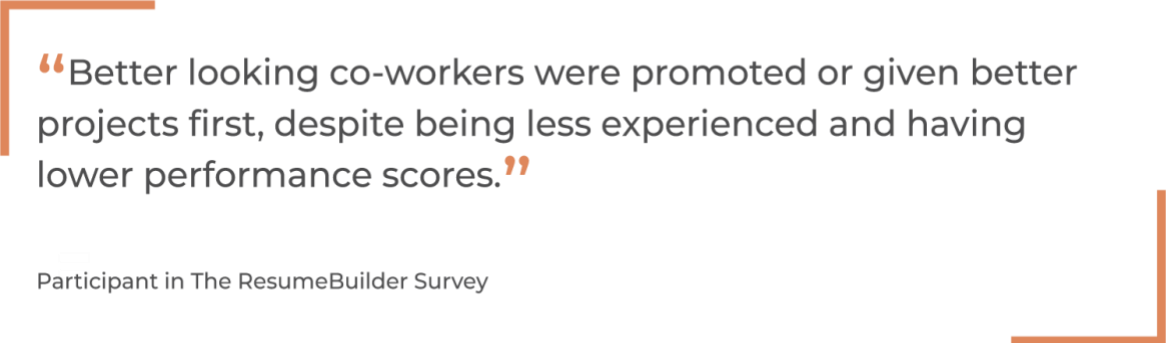
Appearance bias

·   23% of employees say they "definitely" or "probably" faced discrimination because of their attractive *or* unattractive appearance (as far as being "too attractive," mostly women cited discrimination because they weren't taken seriously)

· 64% of men who considered themselves "somewhat" or "very" unattractive said they faced discrimination
· 47% of women who identified as unattractive to some degree said they were treated unfairly, and
· 12% of employees say they have "definitely" or "probably" faced height discrimination.

Note: Employees age 40 or over are a protected class and can be victims of age discrimination under the federal Age Discrimination in Employment Act. In addition, a federal law known as Title VII protects employees and job applicants from employment discrimination based on race, color, religion, sex and national origin. Physical appearance — height, weight and/or degree of attractiveness — is not a protected class. *Yet*. Local legislation often catches like a wildfire until it becomes a national issue. (Also note: Obesity *may be* a disability protected from discrimination by the Americans with Disabilities Act if it results from an underlying physical condition or impairment.)

"The media's impact on self-perception has permeated our culture, and although we recognize its effects on the younger generation, we do not often address the effect on those in the workplace," says ResumeBuilder's Chief Career Advisor Stacie Haller. "As organizations continue to improve opportunities for all by addressing discrimination issues, they should also be looking at physical appearance discrimination."

Still, HR pros don't want any kind of behaviors that could be considered discriminatory — or just mean — in their workplace.

"Better looking co-workers were promoted or given better projects first, despite being less experienced and having lower performance scores.**"**

Participant in The ResumeBuilder Survey

Here are the critical reminders for employees (also included in handouts) to combat discriminatory behaviors in the workplace:
· Respect all differences in the workplace
· Be professional in conduct and speech
· Refuse to initiate, participate or condone discrimination and harassment

· Avoid race-based, culturally offensive, age or appearance humor or pranks. When in doubt, leave it outside the workplace
· Familiarize yourself with the company's workplace policies and act responsibly
· Attend training on EEO principles and learn about your legal rights and responsibilities under the anti-discrimination laws
· Be proactive. Report incidents of inappropriate, discriminatory, harassing or abusive behavior to your supervisor, Human Resources department, union or management, and
· If you experience or witness discrimination or harassment contact EEOC or your local human rights commission.

https://www.hrmorning.com/articles/wave-of-discrimination/

--New SHRM Research Details Weight Discrimination in the Workplace
Half of People Managers (50 percent) Say They Tend to Favor Interacting with Healthy Weight Employees

ALEXANDRIA, VA – Today, SHRM released new research detailing the current state of weight discrimination in the workplace. 12 percent of U.S. workers say they have felt unfairly treated due to their weight at some point in their career.

Collected in February – April 2023, this research is particularly significant given the ongoing conversations surrounding weight discrimination and the potential introduction of state and local legislation to ban such discrimination. Additionally, it contributes to the growing dialogue on weight loss medications.

Key findings include:
• 15 percent of U.S. workers say that others at work have made false assumptions about them because of their weight at some point in their career.
• Nearly three-quarters (72 percent) of U.S. workers who have experienced unfair treatment at work due to their weight say it made them feel like quitting their job.
• Although relatively few U.S. workers have sensed or experienced weight discrimination themselves over the course of their career, 1 in 5 have witnessed others being mistreated.
• Common stereotypes of certain weight groups remain somewhat prevalent – obese employees are more likely to be perceived as lazy (27 percent), unmotivated (23 percent) and unprofessional (17 percent) while average weight employees are more likely to be perceived as high performing (35 percent), hard-working (32 percent), motivated (31 percent) and as leaders (30 percent).
• 11 percent of HR professionals say an applicant's weight has played a role in decisions their organization has made during the job application process.
• Over 1 in 10 (11 percent) HR professionals say that obese employees at their organization are not always treated as fairly as average weight employees.

Methodology
In February 2023, SHRM surveyed a sample of 1,045 HR professionals using the SHRM Voice of Work Research. HR professionals responded on behalf of their organizations and data were weighted to be representative of U.S. companies, with a margin of error of ±3.78 percentage points. In March 2023, SHRM surveyed a sample of 1,000 people managers using a third-party online panel. Lastly, in March and April 2023, SHRM surveyed a representative sample of 1,749 U.S. workers using a third-party online panel.

https://www.shrm.org/about-shrm/press-room/press-releases/pages/new-shrm-research-details-weight-discrimination-in-the-workplace.aspx

New York City bans weight discrimination in the workplace

New York City is set to ban weight and height discrimination, providing additional protections for employees and job-seekers.

The latest. The city council voted on May 11 to pass a ban on weight and height discrimination. The bill stipulates that employers and housing authorities cannot reject applicants based on their height or weight, with limited exceptions, according to reports.

"Over 50 years ago, hundreds of body positivity activists gathered in Central Park to protest the daily injustices faced by heavier people," City Councilman Shaun Abreu said in a press release. "While it took way too long to enact something so basic and widely-supported, it is only fitting that the most diverse New York City Council in history is the one to step up and enshrine this anti-discrimination principle into law, in the very city where this movement began," he said. Abreu told the New York Times that he has personally received comments on his weight, noting the need for the legislation.

Protections needed. Advocates view the legislation as a crucial step in addressing workplace discrimination. Research has found that overweight women tend to earn less than their "normal weight" peers, according to a Vanderbuilt study, and are subject to negative bias from employers. "Walking into a job interview as a fat person, I'm already at a disadvantage…I know that whatever my qualifications are, my weight is a con," fat activist Victoria Abraham told CNN.

https://www.hr-brew.com/stories/2023/05/23/new-york-city-bans-weight-discrimination-in-the-workplace

What agencies and federal employees should know about the Pregnant Workers Fairness Act

Legal obligations to provide accommodations to pregnant employees under the Pregnant Workers Fairness Act(PWFA) apply to employers nationwide, but federal agencies may have a slightly different route for implementing the new law.

The PWFA, which President Joe Biden signed into law in December, will officially take effect June 27. It requires employers — including federal agencies — to offer accommodations to employees who have "known limitations" in the workplace that stem from pregnancy, childbirth and related medical conditions.

Federal agencies "will have to decide from an implementation perspective, what does that implementation look like? What will our procedures, our processes look like? How will we have to update our processes and procedures to reflect this additional protection?" Denesha James, an attorney advisor in the Equal Employment Opportunity Commission's Office of Federal Operations, told Federal News Network.

The new law broadens the current set of employment anti-discrimination laws, including the Pregnancy Discrimination Act (PDA), the Americans with Disabilities Act (ADA) and Title VII of the Civil Rights Act, to let pregnant employees request and receive accommodations, regardless of whether their limitations rise to the level of a disability.

"I think what was intended in enacting the law was to protect the holistic nature of the process," James said. "It's not just workers who have severe issues that rise to a certain level of the definition of a disability, but also some of the other medical conditions and limitations that are associated."

How will agencies approach implementation?
Rather than creating an entirely new process, agencies can modify their existing procedures, if needed, to incorporate accommodations requests coming from the Pregnant Workers Fairness Act. Most, if not all, agencies already have a reasonable accommodations office or standard operating procedure that managers and employees can use to process reasonable accommodations requests.
"Upon notifying a manager that you need an ergonomic chair, for example, there's a process for many agencies that exists today," James said. "Of course, that procedure looks different based on the agency, based on the size, based on a number of other factors."

Debra D'Agostino, founding partner of the Federal Practice Group, said it should be "quite easy" for agencies to implement this law.

"The government already has mechanisms in place for employees to request a reasonable accommodation," D'Agostino said in an interview. "Most agencies have pretty well-established

interactive processes that take place after an employee request an accommodation. I suspect for the government, implementing this won't be that heavy of a lift."

As part of the new law, agencies will have to incorporate training around what the PWFA entails for federal employees. But agencies can combine the information with their already-existing mandatory anti-discrimination training, James said.

Agencies, and all employers, can also deny requests if they can show that providing the accommodation would cause "undue hardship," for instance, if it would be extraordinarily expensive or prohibit normal operations.

But for this particular law, it may be rare for agencies to even bring up the issue, said Sharyn Tejani, associate legal counsel EEOC's Office of Legal Counsel.

"Most accommodations regarding the Pregnant Workers Fairness Act will probably be temporary. And some of them might be quite minor. So, it might not really ever reach the level of having this conversation about undue hardship," Tejani said in an interview. "It can just be, 'this is the kind of thing this person needs, this is what we can provide,' and it should be hopefully be quite straightforward."

In instances where agencies do want to invoke undue hardship under the PWFA, proving it will be an especially high bar.

"A small business might be able to say buying new chairs or building a ramp is just too expensive. The government can't get away with that same sort of excuse. It really has to be something that makes it so the government can't meet its mission because they're providing this accommodation," D'Agostino said. "I suspect agencies are going to have to provide these accommodations when requested."

What do federal employees need to know?
The PWFA will likely have a wide-ranging impact. Notably, 72% of working women will become pregnant while employed at some point during their career, according to data from the Census Bureau.
At the same time, one in five working mothers said they have experienced discrimination based on pregnancy, according to 2022 data from the Bipartisan Policy Center. Close to one quarter said they considered leaving their jobs due to a lack of reasonable accommodations or fear of discrimination during pregnancy, and 21% said that they have been scared to tell their employers about their pregnancies due to fear of discrimination or retaliation.

The types of accommodations pregnant employees need at work largely depend on the individual person and the specific job. Under the PWFA, they can include extra breaks to use the bathroom or eat, the ability to sit and drink water, temporary placement on light duty, time off for medical appointments or recovery from childbirth, closer parking to an office building or being excused from strenuous activities.

For federal agencies, the PWFA will be an opportunity to remind federal managers about the initial communications around limitations employees might have, or what they might need, James said.

"There are no magic words associated with how one should be starting the conversation," James said. "The communication should be the communication that you have with your employees on a day-to-day basis. But [managers should be] aware that there are lots of ways that a worker can convey that they have a limitation and then have the resources available to the manager to respond appropriately."

Agencies could get into hot water, though, if they start making assumptions about what a pregnant worker can or can't do.

"An agency can't say, 'because you're pregnant, we think this is too unsafe, or we think you're lifting too much weight, or you're standing for too long, and therefore, we're going to impose this accommodation on you,'" D'Agostino said. "It's really going to be important for agencies to wait for women to say, 'this is my limitation. This is the accommodation I need,' versus forcing anything on pregnant women."

Where did the PWFA come from?
The Pregnant Workers Fairness Act, which Sen. Bob Casey (D-Pa.) first introduced in 2012, was enacted a decade later as part of the fiscal 2023 omnibus spending package, after gaining bipartisan support.

The PWFA aims to close a gap among existing anti-discrimination laws. Specifically, the Pregnancy Discrimination Act of 1978 eventually led to the 2015 Supreme Court case of *Young v. United Parcel Service*. The Supreme Court issued a 6-3 decision, which said that employers had to provide reasonable accommodations for pregnant workers in the same manner they would accommodate other workers with impairments.

The decision was a step in the right direction, D'Agostino said, but many courts held that to claim a violation of the Pregnancy Discrimination Act, a pregnant worker had to show that the employer refused to provide them with the same accommodations that the employer provided to another worker with similar limitations.

The problem quickly became that in many situations, there wasn't a previous instance of the employer providing accommodations to another employee for the pregnant worker to use as a basis for claiming a violation of the law.

"It only really worked there if you could point to somebody else who was getting accommodation who wasn't pregnant," Tejani said.

"It created a bit of chaos," D'Agostino added. "Because there were so few circumstances where there was an ideal comparator, employers weren't being required to provide accommodations to pregnant women. The Pregnant Workers Fairness Act makes it so that employers have to provide the reasonable accommodation even where there isn't a comparator who's similarly situated. Hopefully this will be a cleaner process."

Unions including the American Federation of Government Employees have lauded the passage of the PWFA and said they look forward to its upcoming start date of June 27.
"This new law ensures that millions of pregnant workers, and those who have recently given birth, can protect their health without risking their paycheck," AFGE National President Everett Kelley said in a statement in April. "It is a major milestone for gender, racial and economic justice across the country."

Tejani added that "it's a good thing for agencies to offer these accommodations anyway. These are things that allow pregnant workers, workers affected by childbirth, workers with related medical conditions, to stay on the job and to do their jobs well. The time and energy it take to replace people is so high, that if you can do something like this for your workers, that's a better thing for the agency, because you get to keep the talent and keep the expertise, and these workers get through their pregnancy or childbirth or related medical condition in a way that makes it easier for them to continue working."

https://federalnewsnetwork.com/workforce-rightsgovernance/2023/05/what-agencies-and-federal-employees-should-know-about-the-pregnant-workers-fairness-act/