



## MIA Employee Assistance Program

*Counseling Services / Information & Referrals / Management Consultation*  
**800.451.1834**

### **The Able Workplace: Resourceful and Respectful with Disabilities**

*Talent knows no boundaries...no color, race, gender, physical disability, religion, creed, country of origin...if you ignore talent because of the package in which you find it, then you lose, and your organization loses. Period. - Bob Nelson and Peter Economy*



Humanely and economically navigating an employee's disability can often be complicated, but with most situations a few key concepts and approaches offer clarity.

First, the **Americans with Disabilities Act of 1990**, simply put, states that any governmental or private employer with **over 15 employees**, must not discriminate against qualified persons with disabilities in any way. **Job application procedures, hiring, firing, advancement, compensation, job training, and any other privileges of employment** must be equally available to employees with a "physical or mental disability" (this is the language of the Act) as to an employee who does not have a disability.

Second, an individual with a disability is **defined by the Act** as someone whose mental or physical impairment **substantially limits one or more major life activities**, who

**has a record** of such an impairment, or **is regarded** as having such an impairment.

Third, an **employee with a disability is someone who**, with or without reasonable accommodation, **can perform the essential functions of the job** in question. While accommodations can include very creative and collaborative methods and devices, some **common accommodations** include: making **facilities accessible, job restructuring, modified work schedules, reassignments to vacant positions**, modifications or acquisitions of **equipment**, adjusting or **modifying examinations and training materials**, and providing **qualified readers and interpreters**.

What sorts of **conditions or illnesses** are considered disabilities? While the list is extensive, a short cut is to remember that **any serious health impairment** such as diabetes, cancer, HIV/AIDS, heart disease, as well as blindness, deafness, paralysis, spinal injury, etc. are all covered by the ADA. Also covered are **learning disabilities**, and **other mental health conditions** like depression, anxiety, post traumatic stress disorder, and attention deficit disorder. A non-diagnosable "stress" in the workplace does not qualify. In addition, **alcohol abuse or dependence also qualifies** while illegal use of drugs does not. **A short-term impairment** like a broken leg, which will heal, does not qualify under the ADA.

## The Able Workplace (con't.)

Be aware that five out of ten leading causes of disability worldwide are mental illnesses. Dr. Joni Johnston, a Human resources expert, says that more working days are lost each year as the result of mental conditions than from physical conditions.

***“Obstacles don't have to stop you. If you run into a wall, don't turn around and give up. Figure out how to climb it, go through it, or work around it.” Basketball Superstar, Michael Jordan***

In a resourceful and motivated workplace, managers and employees collaborate and work together to produce, promote or serve with a maximum of output. An environment conducive to respect, strong teamwork, and interpersonal satisfaction will generally run efficiently. In an atmosphere of openness everyone knows what conditions apply in seeing a project or product through. However, **supervisors and managers have to be careful when probing information concerning a disability.** You can get into **trouble by “playing the physician,”** says the New Haven employment law firm of Garrison, Phelan and Epstein. It is important to **know what you can and cannot ask** an employee who indicates, by direct report, or indirectly through behavior, that they are having trouble at work due to a potential disability. The most important thing to remember when talking with an employee appearing to have difficulty is to **focus on their work performance rather than on analyzing what's wrong, or making medical suggestions to the employee** which lets them know you are **perceiving a disability.** If you were later to terminate an employee they could say you had terminated them due to a perceived disability.

Some of the common workplace **effects of disability** are: **late arrivals or frequent absences; low morale; general inability to work with others; decreased productivity; increased accidents or safety problems; frequent complaints of fatigue or unexplained pains; problems concentrating, making decisions or remembering things; missed deadlines or poor work; and decreased interest or involvement in one's work.**



## Questions Supervisors Ask

**Q. This year I am determined to improve the level of respect employees show each other in our company. Beyond policies and work rules, what is a key strategy to positively influence change?**

**A.** Maintaining a respectful workplace is a growing concern for businesses, but what many people do not realize is that much disrespect is not premeditated. Instead, it is reflective of a lack of self-control, education, and the influence of personal biases. Supporting a work culture where employees actively discourage disrespectful behavior toward each other by pointing it out as it happens is a powerful change strategy. Beyond formal training, actively encourage and support a respectful workplace for employees.

**Q. Can the EAP help me consider my approach to gently confronting employees with bad breath, other bad habits or personal matters like body odor, so that I don't offend the employee?**

**A.** The key roadblock to discussing an annoying personal habit or behavior with an employee is imagining how horrible you would feel when confronting the employee, along with the shock on the employee's face when the issue is raised. Usually there is a business reason for requesting that an employee alter an annoying behavior or change a disagreeable habit. The key is being able to articulate the behavior, and link it to your request in a way that allows the employee to preserve his/her dignity. The EAP can help with this process and add some role playing if you think it may be helpful.