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Accommodating Anxiety, Stress and Related Conditions in Today's Classroom Environment

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School district employees are presenting increased cases of anxiety, depression and stress-related conditions. This raises issues for employers as to what extent they are required to accommodate for those conditions and for employees as to what extent they may want to choose to disclose their condition to their employer and request accommodations.

Are Anxiety, Depression and Stress-Related Conditions Considered a "Disability" Under the Americans With Disabilities Act ("ADA")?

One of the first questions that arises in connection with many ADA cases is whether an individual has a "disability." A disability is defined as a "physical or mental impairment that substantially limits one or more of the major life activities of such individual." 42 U.S.C. 12102(2)(A). It also includes having a "record of" such an impairment, or being "regarded as" having a disability. 42 U.S.C. 12102(2)(B)(C). This definition specifically includes mental impairments. The ADA Amendments Act (ADAAA) states that the definition of disability "shall be construed broadly." ADAAA, S.3406 Sect. 4(a) (2008). However, in order to be entitled to protection under the ADA, the employee must be able to establish that their condition otherwise meets the requirements of the ADA, including whether a "major life activity" is affected, whether medication is taken into account in determining if the impairment substantially limits a major life activity, whether an impairment is considered "short-term," and whether particular conditions are considered disabilities. One of the purposes of this paper is to address the circumstances where the mental health of a school district employee deteriorates to the point where they qualify for an accommodation pursuant to ADA.[1]

Disabilities and Impairments

The threshold consideration for determining whether an employee has a disability under the ADA is whether the employee is "impaired." The ADA regulations broadly define impairments to include a wide variety of disorders or conditions affecting any number of body systems, including the neurological or musculoskeletal systems, special sense organs, respiratory,

[1] Please note that this paper does not address related issues encompassed under the ADA, such as an employer's obligation to refrain from discrimination against an employee with a disability or against an employee who is regarded as having a disability. These issues, although significant, are beyond the scope of this topic.

cardiovascular, reproductive, digestive, genito-urinary, hemic, lymphatic, or endocrine systems, or skin. Impairments also specifically include mental or psychological disorders, including mental retardation, organic brain syndrome, emotional or mental illness, and certain learning disorders. 29 C.F.R. § 1630.2 (h). There has been little litigation on the issue of whether an individual has an impairment. This is probably because employers -- in most cases – do not question the mere existence of an impairment.

It is reasonable to assume that any disorder could be considered an "impairment" under the ADA. For example, in Mueck v. La Grange Acquisitions, L.P., 75 F.4th 469 (5th Cir. 2023), the court held that alcoholism would be a disability if it substantially limits the individual in performing a major life activity. However, there are many conditions that are expressly excluded from the ADA's protections, even if they are substantially limiting impairments. These conditions include transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, many gender identity disorders, other sexual behavioral disorders, compulsive gambling, kleptomania, pyromania, and psychoactive substance use disorders resulting from current illegal drug use. 42 U.S.C. 12211. It is also important to distinguish between an "Impairment" (which is covered under the ADA) and a "trait" (which is not). In Coons v. Department of the Treasury, 383 F.3d 879 (9th Cir. 2004), the court held that abdominal distress, palpitations, heart pounding, and chest pain, and depression and panic disorder were impairments. However, "traits" like irritability, quick temper and chronic lateness are not themselves impairments. Duda v. Board of Education of Franklin Park Public School District No. 84, 133 F.3d 1054 (7th Cir.1998); Brunke v. Goodyear Tire and Rubber Co., 344 F.3d 819 (8th Cir. 2003); EEOC Enforcement Guidance on the ADA and Psychiatric Disabilities, No. 915.002 (3/25/97), at p. 4. This Guidance is available on the Internet at www.eeoc.gov.

Whether A Major Life Activity Is Impacted

Once the existence of an impairment is established, an employee must be able to show that the impairment substantially limits a major life activity. A considerable number of major life activities are delineated in the regulations and a significant amount of litigation has identified others. The ADAAA specifically provides a very broad, non-exclusive list of conditions that should always be considered major life activities, including caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking,

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