

Mental Health Accommodations – Ask The Expert



What are your responsibilities as an employer to make mental health accommodations for an employee who won't provide you with details?

Always approach employee mental health concerns with empathy, but if they don't directly request accommodations or ask for help, you can be put in a difficult situation.

QUESTION

I am an employer and am worried about an employee on our team. I feel that this employee is struggling with mental health issues but nothing has been confirmed. I let this employee know our workplace would provide any accommodations needed, but they refused to admit there is anything wrong. Their work performance is declining at a rapid pace – if they do not come forward, can I treat this as a work-related issue? How do I approach this difficult matter?

ANSWER

It sounds like you have done everything you can beyond a reasonable doubt to provide this employee with accommodations that would help them perform better at work and take care of their mental health. If they are not willing to disclose what they are struggling with and it continues to affect their work performance, it is within your rights to suggest a leave of absence to allow the employee to take care of their health. If they deny there are any issues and you continue to see poor performance every day, issue warnings before jumping to termination.

EXPLANATION

If an employee discloses a disability and requests accommodations, you must engage in a process to provide reasonable accommodations. However, if the employee does not request accommodations, you are not obligated to make changes based on mental health conditions. If the employee's performance is not meeting expectations, you can manage the situation as you would with any other employee struggling with performance issues. This could include setting clear expectations, providing feedback, offering additional training or support, and possibly following up with progressive discipline if necessary.

Termination should always be a last resort, especially when an employee is suffering, but if they give you nothing in terms of transparency so you can provide proper accommodations or an improved work performance, they will be leaving you with no other choice but to issue 3 warnings and then resort to just cause termination. Of course, it's crucial to document your interactions with the employee, including any conversations about performance and accommodations. This documentation will help protect your organization in case there are future concerns regarding potential discrimination or claims of inadequate support.