EMPLOYMENT ADVICE FOR PEOPLE WITH PSYCHIATRIC DISABILITIES

This handout tries to answer several questions about how people with psychiatric disabilities can get and keep a job. The questions that are answered include:

1. Is there any law that can help me get or keep a job?
2. What does the law say?
3. What does that mean?
4. What does it take to do the job?
5. What are "reasonable accommodations"?
6. So, if I can do the job, with accommodations if I need them, then do I get the job?
7. Who decides who is the most qualified person for the job?
8. How do I find and apply for a job?
9. Should I tell the employer about my current or past mental illness when I apply for a job?
10. If I am looking for a job, and decide not to tell the employer of my history of mental illness, does that mean that there will be no discrimination against me in the hiring process?
   So what should I do about symptoms and my resume?
11. What if I know that I am going to need "reasonable accommodations" to be able to do the job? Shouldn't I bring that up in my job interview?
12. If I decide to talk to the interviewer about my history of mental illness, should I also talk about accommodations that I will need?
13. If I don't get the job, how will I know if it was because of illegal discrimination based on my mental illness?
14. What if I need an accommodation at work? How do I get one?
15. What if I don't know what accommodations might help?
16. Who decides if I will get an accommodation, or what kind of accommodation I will get?
17. How will the employer determine if the accommodations are necessary?
18. Once I convince my employer that I need an accommodation, does my employer have to provide it?
19. How expensive is too expensive?
20. What if my disability causes me to act "strangely" at work?
21. What if my employer wants to provide a different accommodation than the one I have asked my employer to provide?
22. What if I cannot convince my employer that I need an accommodation or I do not believe the accommodation my employer has chosen will work for me?
23. How do I file an employment discrimination complaint?
24. Where can I get more information on this?
Questions & Answers

1. Is there any law that can help me get or keep a job?

Yes, the law now prohibits most employers from discriminating against people with disabilities, including people with mental illness. The only employers who are not covered by a law are private employers with less than 15 employees who get no federal money.

2. What does the law say?

The law prohibiting discrimination says that an employer must not treat you differently because of a prejudiced view of people with mental illness or a history of mental illness. The law also states that employers must provide you with a reasonable accommodation if you need one in order to do your job.

3. What does that mean?

It means that your current or past mental illness should not keep you from getting or keeping a job.

4. What does it take to do the job?

Like any other applicant for a job, you have to meet the basic qualifications in education and training. If, for example, the job requires a high school diploma, then you have to have graduated from high school or have gotten your G.E.D. You also need to be physically and mentally able to do the essential tasks of the job, either with or without reasonable accommodations.

5. What are "reasonable accommodations"?

Reasonable accommodations are changes in the job requirements or workplace that take into account any impairments or problems you have due to your disability or treatment. Some examples are a later starting time (with a later leaving time as well) to accommodate morning medication problems, other modifications of the work schedule, elimination of some non-essential job duties, additional training time and/or job assistance, a work space in a quiet location, and extra unpaid leave to attend therapy. Another accommodation might be to have your employer train your supervisor to provide you with instructions in the most constructive manner for you. You may also want your employer to educate your co-workers about psychiatric disabilities. Lots of other things might also be reasonable accommodations.

6. So, if I can do the job, with accommodations if I need them, then do I get the job?

Yes, you should, if you are the most qualified person for the job.

7. Who decides who is the most qualified person for the job?

The employer decides. But, if you have reason to believe that you were at least as qualified as the person hired, and that you were not hired because of your psychiatric disability, then you may want to file a complaint of discrimination. Complaints of discrimination are described in Disability Rights Texas' separate Employment Discrimination handout. If you file a complaint, which is also called a "charge" of discrimination, the employer may have to explain to the investigating agency why the employer believes you were not the most qualified.
8. How do I find and apply for a job?

You find jobs in a variety of ways--word of mouth, newspaper advertisements, the Texas Rehabilitation Commission (if you qualify for their services), and the Texas Workforce Commission. The people at those offices can also help you prepare a record of your work history (if you have one), and can give you advice about applying and interviewing for jobs.

9. Should I tell the employer about my current or past mental illness when I apply for a job?

Usually not. Under the law, when you are applying for a job, you do not have to tell the employer about a disability, either physical or mental. The law also says that in most cases, the employer may not ask about any disability until after the employer offers you a job. So if the employer asks you during the job application if you have a mental illness, if you have been hospitalized, or if you take medication or see a psychiatrist, you do not have to answer. You may also have good reason to file a complaint of employment discrimination if the employer asks those questions during your job application.

Because you are not required to talk about your disability when you are applying for a job, many people choose not to talk about it until after they are hired and need some help because of their disability.

However, some people with mental illness may choose to talk with the employer about it from the start. If, for example, the employer already knows about your mental illness or if you have symptoms that make your illness apparent, you may want to discuss the illness and symptoms and the accommodations that may be needed. If the employer is not prejudiced and wants to hire you, this may help him or her work things out so that you can do the job. Some employers, however, are prejudiced and may not hire you because of your psychiatric disability.

10. If I am looking for a job, and decide not to tell the employer of my history of mental illness, does that mean that there will be no discrimination against me in the hiring process?

Not necessarily. The employer might guess that you have some type of mental disability or illness if you have symptoms from the illness, or if you have side-effects of medication that you are taking, that are obvious when you talk with an interviewer. If your resume indicates periods in your adult life when you were unemployed without explanation, the employer may ask why you were not working.

11. So what should I do about symptoms and my resume?

You have no reason to be ashamed of symptoms you cannot control or gaps in your employment that you could not prevent. Again, the question is whether you feel that you will be more likely to get and keep the job by talking to the employer up-front about those things. Whatever you decide about that, you should not make up past jobs or otherwise misrepresent your past work history. Whether or not you think that is justified, an employer may claim that it has the right to refuse to hire you, or to later fire you, if the employer finds out about misrepresentations (as they often do).
12. What if I know that I am going to need "reasonable accommodations" to be able to do the job? Shouldn't I bring that up in my job interview?

Usually not. As discussed above, the employer normally cannot talk about this during the job application. The only time you need to bring this up before getting a job offer is if you need an accommodation in order to complete the application process itself.

13. If I decide to talk to the interviewer about my history of mental illness, should I also talk about accommodations that I will need?

If a person's disability is apparent--for example, the person uses a wheelchair--the employer may ask what accommodations might be needed. But many people with mental illness or a history of mental illness have no obvious symptoms, so the issue of disability should not come up very often. On the other hand, as mentioned above, the employer might guess that you have some type of mental disability or illness. If the employer asks you about whether you need accommodations and what they might be, you can choose to discuss that or not. If you do not wish to discuss accommodations at the interview, you should tell the employer that you prefer not to discuss it. The employer should then not ask you anything more about it. You have to decide if talking about accommodations in the interview will help or hurt your chance of getting and keeping the job.

14. If I don't get the job, how will I know if it was because of illegal discrimination based on my mental illness?

You probably won't know for sure, but you might suspect it. You might suspect discrimination if the employer learns about your history of mental illness, or your treatment for mental illness, and afterwards the employer shows less interest in hiring you. Also, if you know that the qualifications of the person who was hired and your qualifications are as good or better, you have additional reason to wonder. You can ask the employer to explain why you did not get the job, but they do not have to give you an explanation. Only a governmental office that investigates employment discrimination, or your lawyer after a lawsuit has been filed in court, can force the employer to explain its actions. Disability Rights Texas' separate Employment Discrimination handout explains more about the investigation process.

15. What if I need an accommodation at work? How do I get one?

If you need accommodations, you should tell your supervisor or the employer's human resources officer. It is best to confirm your request in writing, although that should not be necessary. The employer then needs to decide whether or not the accommodations you have requested are necessary for you to do your job, and whether they are reasonable.

16. What if I don't know what accommodations might help?

You can ask for help from your therapist, if you have one, or from others you know who have a psychiatric disability. You may also want to contact Disability Rights Texas or other advocacy groups with local chapters such as Texas Mental Health Consumers, Psychiatric Survivors Networks, the Alliance for the Mentally Ill, and Mental Health Associations. You might also look at the resources published by Boston University's Center for Psychiatric Rehabilitation, including their web page on accommodations at http://www.bu.edu/cpr/reasaccom/employ-accom.html. The federal government has also established offices to provide advice on accommodations. They are the ADA Regional
Disability and Business Technical Assistance Hotline at 800-949-4232 (voice/TDD) and the Job Accommodation Network at 800-ADA-WORK (800-232-9675)(voice/TDD).

17. Who decides if I will get an accommodation, or what kind of accommodation I will get?

The employer decides, but they must give you one if you need one, and if a reasonable and effective accommodation is available. It is also important to enter into a dialogue with your employer, explaining your needs and giving your suggested accommodations, and listening to your employer's ideas.

18. How will the employer determine if the accommodations are necessary?

The employer may simply agree to provide the accommodations you request. But, after you are hired and you have requested an accommodation, the employer does have the right to ask you to get a written statement from your doctor explaining your need for the accommodation. The employer is also entitled to have a doctor examine you at the employer's expense for the purpose of evaluating your need for an accommodation.

19. Once I convince my employer that I need an accommodation, does my employer have to provide it?

Your employer has to provide accommodations that are not too expensive compared to the overall wealth of the company, and that will not interfere too much with the work or workplace.

20. How expensive is too expensive?

It depends on the company's wealth, which is something that can only be determined accurately by looking at financial records. Generally, that is not necessary, however. The vast majority of accommodations are very inexpensive compared to the finances of any company covered by one of the anti-discrimination laws.

21. What if my disability causes me to act "strangely" at work?

In general, an employer is not supposed to take action against you for conduct that is related to your disability. There are exceptions, however. An employer may not have to excuse misconduct that is serious enough to justify being fired, even if the behavior is a symptom of a psychiatric disability or medication. Also, the employer may have, and enforce, a policy against abusing drugs or alcohol at work.

22. What if my employer wants to provide a different accommodation than the one I have asked my employer to provide?

Again, you should talk to your employer about the accommodations. That includes telling the employer what you want, and listening to your employer's response and suggestions. Your employer may have an idea for an alternative accommodation to the one you would prefer that will still allow you to do your job or enjoy its benefits.

For example, if side-effects of your medication make it difficult for you to think clearly early in the morning, one accommodation might be to give you a later start time. Another accommodation might be to assign simple, non-essential tasks to you during the first hour or two of work each day.
Your employer would probably have the right to choose one accommodation or the other, as long as it is effective for you.

23. What if I cannot convince my employer that I need an accommodation or I do not believe the accommodation my employer has chosen will work for me?

You should continue to do your job as best you can and, at the same time, you should continue to speak with your employer yourself. It can sometime help if you ask for help from an understanding co-worker, advocate, friend, or family member. If you continue to disagree, you should get advice from an attorney to determine your next step. If you are thinking of quitting, be sure to talk to an attorney before you decide. One thing an attorney may advise you to do is to file a discrimination complaint.

24. How do I file an employment discrimination complaint?

You should review Disability Rights Texas’ Employment Discrimination handout. It explains what you need to do, and when. It also explains what you can expect from the governmental investigation process. Filing a charge of discrimination is often only the beginning of a long process that may or may not end in your favor.

25. Where can I get more information on this?


Conclusion

Now that there are laws protecting people with mental illness, employers may have more education and greater understanding about mental illness. If you have a current or past mental illness, you should now have a better chance of getting or keeping a job than you did just a few years ago. Nevertheless, many employers still discriminate against people with a psychiatric disability. If they do, it is important to enforce your rights by filing a charge of discrimination.

Disability Rights Texas’ goal is to make each handout understandable by and useful to the general public. If you have suggestions on how this handout can be improved, please contact our agency at the address and telephone number shown above or e-mail us at info@DisabilityRightsTx.org. Thank you for your assistance. This handout is available in Braille and/or on audio tape upon request. Disability Rights Texas strives to update its materials on an annual basis, and this handout is based upon the law at the time it was written. The law changes frequently and is subject to various interpretations by different courts. Future changes in the law may make some information in this handout inaccurate. The handout is not intended to and does not replace an attorney’s advice or assistance based on your particular situation.