

# Employment Law Corner

## Monthly Report



May 2026

### May Updates

[You Can't Contract Your Way Out of It: Independent Contractor Classification Unpacked](#)

[Layoffs Aren't the Risk – Your Selection Criteria Is](#)

[When the Uninvited Guest is OSHA](#)

[UNLIMITED PTO: Attractive on Paper, Risky in Practice](#)

[High Risk, No Reward: Another Reason AI Is a Gamble](#)

[Equal Pay Day 2026: The Clock is Running](#)

## **Mental Health at Work: The ADA Risk That's Often Overlooked**

Mental health accommodation requests are often subtle, informal, and easy to miss. That's where risk begins.

Employers don't need a formal request to trigger obligations under the Americans with Disabilities Act (ADA), and missteps in this area can quickly lead to legal exposure. With May marking Mental Health Awareness Month, now is a good time to revisit how your organization identifies and responds to these requests.

To understand those obligations, it starts with how the ADA defines mental health conditions.

### **Mental Health Conditions and the ADA**

The ADA covers employees with mental impairments that substantially limit one or more major life activities. The definition is intentionally broad and includes a wide range of conditions – many of which may be episodic or not outwardly visible.

Common examples include:

- Anxiety and depression;
- Post-Traumatic Stress Disorder (PTSD)
- Attention Deficit Hyperactivity Disorder (ADHD)
- Bipolar Disorder
- Autism Spectrum Disorder

**Most accommodation missteps don't come from bad intent. They come from missed signals.**

### Step 1: Recognize the Request

Accommodation requests are not always easy to identify. Employers must be able to recognize when a conversation may trigger ADA obligations.

Employees are not required to use specific language or reference the ADA to request an accommodation. A request can be as simple as indicating that a medical condition is impacting their ability to perform their job and that an adjustment is needed.

Phrases that may trigger ADA obligations:

- *I need flexibility with my work schedule because I am depressed...*
- *I need a quieter workspace because of my condition...*
- *I keep forgetting verbal assignments because I have ADHD...*

Once a potential need is identified, you must engage in an open-ended and collaborative dialogue with the employee to determine whether a reasonable accommodation can be provided.

### Step 2: Engage in the Interactive Process

The interactive process is often where employers face the greatest risk. Mental health conditions can present unique challenges, particularly when limitations and appropriate accommodations are not immediately clear. The purpose of the interactive process is to gather information about the employee's disability and potential limitations to determine reasonable accommodations.

Effective accommodations will vary depending on the role and each employee's needs, but may include:

- Flexible work and break schedules;
- Remote or hybrid work arrangements;
- Written instructions or modified communication methods; and
- Quiet or private workspace.

### Step 3: Evaluate Undue Hardship

Once potential accommodations are identified, you should assess whether they can be implemented without creating significant difficulty or expense. This is a high bar – and it requires a fact-specific analysis based on your operations, resources, and the role at issue.

### **Key Takeaways**

Mental health accommodations require a consistent, well-documented approach. To reduce risk, you should:

- **Train managers** to recognize and respond to accommodation requests.
- **Establish a clear process** for handling requests.
- **Avoid assumptions** about “invisible” conditions – focus on limitations.
- **Document** each step of the process and your decisions.

### **Need Help Navigating the ADA?**

We can help! Navigating mental health accommodations under the ADA can be complex, especially when conditions are not visible and solutions are not obvious. Without a clear process, employers risk inconsistency, employee

relations issues, and potential legal exposure. Our [ADA Reasonable Accommodation Compliance Toolkit](#) is designed to help employers implement a structured, consistent, and defensible approach to handling accommodation requests from start to finish. Contact us to learn how we can support your team.

**Do you have questions? [Contact us.](#)**

**We can help!** Our **Employment Counsel On-Call Triage Service** is a perfect resource for employers of all sizes looking to receive guidance on employment law and HR-related questions. We work with clients day in, day out to help them navigate complex legal issues and implement best practices. We receive unique questions every day through the **On-Call Service** and are ready to tackle any issue where you need help!

### **Who We Are:**

- We represent employers exclusively from coast to coast in all facets of employment law and litigation. Our mission is solving problems and anticipating issues so you can concentrate on your business.
- We are constantly searching for the trends and upcoming issues in the law that will impact our clients. We want our clients to be informed and ready. Our familiarity with the workplace and our approach sets us apart from other law firms, making us well equipped to handle your unique needs.
- We are not like other firms: Anyone can tell you what the law states and its limits. That is easy. We find creative solutions within those restrictions that move your business forward. We seek to minimize your risk so you can get back to business. Learn how we can help your business: **Foley & Foley PC attorneys specialize in Employment and Labor Law in the Public and Private Sectors (foleylawpractice.com).**

## Contact Us



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## **Meet Julia Pomella-Griggs**

Julia has experience on a wide range of employment matters in the public, private, and nonprofit sectors. Julia's experience includes counseling clients, drafting and analyzing policies, managing workplace misconduct, and conducting trainings.

For more info, check out her full bio [here!](#)

