Got accommodations?
Exploring the intersection of COVID related disabilities, anxieties, race and socio-economic status

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Summary of Presentation

• Returning to campus
• Accommodation keys
• “Regarded as”
• Vaccination
• Role of race
• Operationalizing for justice
• Equity concerns for remote work
• Panel questions and scenarios
Working From Home/returning to Campus

• What is a disability?
• What information can be requested/expected from the employee/student?
• Who selects the accommodation options and makes the decision?

Keys for Successful Accommodation

• Refreshed definitions of essential job functions
• Consistency of process
• Cheat sheet of accommodation options
• Individualized analysis and exceptions
• Continued dialogue
• Documentation of analysis
The “Regarded as” Issue

- Those who report having had COVID
- Those in higher risk categories
- Keeping the real issue in focus

Vaccination

- Mandatory vaccination
  - Disability and religious accommodation
- Incentivized vaccination
- Inquiring regarding vaccination
- Vaccination documentation
The Role of Race in Workplace Accommodations

• Systemic inequality links race to poverty and disability
• Black people are more likely to have a disability and the disability is likely to have a greater impact
• Disability is both a cause and consequence of poverty
  • Exacerbates circumstances of poorer outcomes in education, income and employment caused by systemic inequality

Operationalize for Justice

• Disparate Impact of COVID-19 and Returning to Work
  • Essential v. Non-essential
    • BIPOC people more likely to be deemed essential, exposed, and have more severe health consequences
  • WFH not required, but virtual workplace more equitable
    • People with disabilities (accessibility)
    • Women (childcare, harassment, promotional opportunities)
    • BIPOC people (greater health/healthcare challenges)
    • People experiencing poverty (transportation, accessibility of training and promotional opportunities)
  • Reasonable skepticism of vaccines and health care systems
    • Different histories
    • Different outcomes
    • Different access
Equity Concerns with Remote Work

• Connectivity
• Accessibility of online environment for certain impairments (e.g., visual)
• Productivity of caregivers
• Housing insecurity or shared living environments

Panel questions
Scenario #1

- Thirty year employee, a groundskeeper, expresses anxiety at having to take public transportation to get to university.
- She has not received any diagnosis, but displays what her supervisor believes are visible signs of stress.
- Her supervisor also reports that the employee has a disabled adult child at home and is also caring for an immunocompromised parent.

Scenario #1 - Modified

- What if the employee is an IT professional?
- What if the employee is a part-time faculty member?
- What if the employee has only been employed for 9 months?
Scenario #2

• Your university found that remote teaching was largely effective and opts to continue a hybrid approach.
• How do you manage legal claims or union grievances by employees who are not given remote work options?
• What about the fact that most of those not offered remote work are lower wage earners?
• What about morale and fairness issues?

Accommodation

• How do you deal with post-COVID effects that do not impair a major life activity but are disruptive to others (e.g., a student or professor with a persistent cough).
Accommodation

• How do you separate, if you do, generalized fear from phobia?
• How does this impact treatment of other fears (i.e., not related to COVID)?

Accommodation

• How can an institution achieve uniformity?
• Should it attempt to do so?
Vaccination

• What if an employee refuses vaccination because they believe it will alter their DNA?
• Does your response change based on the basis of the employee’s refusal (e.g., history of racial bias in administration of experimental drugs in the past)?

Vaccination

• What proof of vaccination should we require?
Vaccination

• How deeply can an employer probe into an employee’s claim of a religious exception to mandatory vaccination?
• What constitutes a sincerely held religious belief?
• Should an institution’s religious accommodation policy be revised?

Vaccination

• What should an institution do with the unvaccinated?
  • Physical separation of employees?
  • Designated dorm floors for students?
Vaccination

• How do we deal with the refusal by others to interact with individuals who are not vaccinated?
• How does an institution prepare for claims of vaccination harassment?

Vaccination

• If you incentivize vaccination, how do you deal with those who were already vaccinated?
• What about those who require accommodation or who have sincerely held race-related concerns regarding vaccination?
Takeaway Points

• Preparation for issues won’t solve them, but will help
  • Policies
  • Staying current
  • Templates
• Repeatedly request information, but don’t relinquish control
• Consistency of process must be juxtaposed with individual evaluation
• Don’t stop communicating (and documenting)
• Consider equity considerations beyond legal requirements

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