

WELCOME to the

*Win-Win Strategies to Address Employee  
Substance Use ECHO  
Session 3*

Session will start in less than 15 minutes



For educational and quality improvement purposes, we will be recording this video-session

By participating in this clinic you are consenting to be recorded – we appreciate and value your participation

If you have questions or concerns, please email

[ECHO@hitchcock.org](mailto:ECHO@hitchcock.org)



# Attendance

- Please type your name, organization, and email into chat
- If you joined as a group, please include all the names of those in your group
- Introductions of HUB team
- Please turn video on



# Respect Private Employee Information

To protect employee privacy, please only display or say information that doesn't identify an employee or that cannot be linked to a employee.

- **Names:** Please do not refer to an employee's first/middle/last name or use any initials, etc.
- **Locations:** Please do not identify an employee's county, city or town. Instead please use only the employee's state if you must.
- **Dates:** Please do not use any dates (like birthdates, etc) that are linked to an employee. Instead please use only the employee's age(unless > 89)
- **Employment:** Please do not identify an employee's work location or occupation.
- **Other Common Identifiers:** Employee's family members, friends, co-workers, phone numbers, e-mails, etc.



# Strategies for Employers to Respond to Workplace Substance Use Issues



# Conflict of Interest Disclosure Statement

No Conflicts of Interest



# Drug Use and Alcoholism Under the ADA

Increasingly, employers are recognizing that to attract and retain qualified employees, employers must both comply with the ADA and be supportive of employees' substance use recovery efforts.

How do ADA principles apply to employees' substance use, and what are some strategies for employers who want to be both ADA compliant and supportive of employees' recovery efforts?



The ADA makes distinctions between alcoholism and drug use.

- **Alcoholism:** The ADA may protect a “qualified” alcoholic who satisfies the definition of “disability.”
- **Drug Use:** The ADA does NOT protect an individual who currently engages in the use of illegal drugs. However, the ADA may protect a recovered drug addict who is no longer engaging in the illegal use of drugs and who meets the other requirements of the definition of “disability” and who is “qualified.”

# Under the ADA, an employer may:

- ❖ Comply with laws other than the ADA
- ❖ Require an employee to meet the same performance standards
- ❖ Prohibit the use of alcohol or illegal use of drugs in the workplace
- ❖ Require that employees not be under the influence at work
- ❖ Discipline an employee who violates a workplace policy prohibiting the use of alcohol or illegal drugs at work

# Some helpful questions in an ADA analysis:

1. What limitations is the employee experiencing?
2. How do these limitations affect the employee and the employee's job performance?

3. What specific job tasks are problematic as a result of these limitations?
4. What accommodations are available to reduce or eliminate these problems? Are all possible resources being used to determine possible accommodations?
5. Has the employee been consulted regarding possible accommodations?

6. Once accommodations are in place, would it be useful to meet with the employee to evaluate the effectiveness of the accommodations and to determine whether additional accommodations are needed?
7. Do supervisory personnel and employees need training?

The Job Accommodation Network also provides accommodation ideas for employers organized by “limitation.”



# Limitation: Attentiveness/Concentration

- Alternative Lighting
- Apps for Memory
- Electronic Organizers
- Flexible Schedules
- Noise Concealing Headsets
- Task Separation

# Limitation: Decreased Stamina/Fatigue

- Job Restructuring
- Periodic Rest Brakes
- Telework for Home/Working Remotely
- Modified Workspace



# Limitation: Executive Functioning Deficits

- Apps for Consideration
- Cubicle Doors, Shields, and Shades
- Extra Time
- Job Coaches
- On-Site Mentoring

# Limitation: Non-Compliant Behavior

- Behavior Modification Techniques
- Counseling/Therapy
- Supervisory Methods
- Support Animal
- Training Modifications

# Limitation: Stress Intolerance

- Apps for Anxiety and Stress
- Counseling/ Therapy
- Flexible Schedule
- Job Restructuring

Remember, reasonable accommodations are to enable the qualified employee to **perform the essential functions of the job**. The reasonable accommodation is NOT to accommodate the employee in his or her use of alcohol or illegal drugs.

An employer may hold an employee with substance use challenges to the **same** (not stricter) standards as employees who don't experience substance use challenges. This could include discipline.

However, other options could include:

- Referral to EAP and Required Participation in EAP
- Last Chance Agreements/Firm Choice Agreements

Employers have an interest in attracting and retaining good employees in a tight job market. Developing strategies to both comply with the ADA and help support good workers who have substance use challenges is a win-win for employers and employees.

# Resources for Employers which were used in this Presentation

- The Job Accommodation Network - <https://askjan.org/disabilities/Drug-Addiction.cfm>
- The Equal Employment Opportunity Commission – <https://www.eeoc.gov/facts/performance-conduct.html>
- David K. Fram, Esq., “Reasonable Accommodation” Issues, prepared for the National Employment Law Institutes 39<sup>th</sup> Employment Law Conference (November-December 2018)

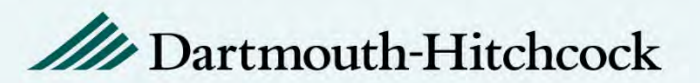




# THANK YOU

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# Reminders:

- Last Session Nov. 21st– Resources(Cameron Ford)
- Please type your name, organization, and email into chat
- Slides will be posted to the D-H ECHO Connect site
- Please complete post-session survey (link will be emailed)

