

The Year Ahead 2024: Employee Wellness

By Michael D. Thomas & Michael A. Griffin

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Transcript

Alitia Faccone:

Welcome to We get work™ and The Year Ahead 2024 podcast series. Covering workplace issues from both subject matter and industry perspectives, the 19 episodes in our series provide both big picture trends and detailed tactics that can help employers achieve their workplace ideal, while remaining real about regulations, compliance challenges, and more in 2024. Jackson Lewis invites you and others at your organization to experience the report's legislative, regulatory, and litigation insights in full at our website, JacksonLewis.com, or listen to the podcast series on whichever platform you turn to for compelling content.

Michael Griffin:

Good morning, everyone. Thank you for joining us for this special episode of We get work™ for the Year Ahead 2024 Special Report. Today, we're talking about workplace well-being. I'm Mike Griffin. I'm a principal in Jackson Lewis's Seattle office and with me, is Michael Thomas.

Michael Thomas:

Hello, and I'm Michael Thomas. I'm a principal in our Orange County office.

Michael Griffin:

What we're going to talk to you about very briefly this morning is workplace well-being. I'm going to talk about why employee well-being is important and some of the employer obligations that come along with it. Then I'll turn it over to Michael and he'll talk about challenges to employee wellness in 2024 and what employers can do to address those challenges.

So first and foremost, why is wellness in the workplace important? Well, we spend a massive amount of time at work. I mean, the average American worker, as I understand it, spends approximately one third of their life at work. Now, depending on your job, it might be considerably more than that. And about 40% of us, of workers, say that their job negatively affects their mental health. So given this huge amount of time we spend working and not liking it, it just makes good common sense and good business sense to take steps to promote wellness in the workplace.

What do employees want? They want to feel valued. They want to feel like their work has purpose. They of course, want to and have the right to be treated fairly. They want to feel like they can raise difficult issues without fear of retaliation and stigma. On the other side of the coin, employers want to ensure that they have productive employees, that they have lower turnover, higher retention rates, higher engagement rates, and higher rates of satisfaction.

Now, the more emotionally and physically healthy workers are, the more likely all of those wants and some needs can be achieved, and that's why we think it's important for all employers of every size, to put some level of focus on ensuring employee well-being. From a legal obligation standpoint, there are some considerations to keep in mind. In our view, the legal obligations around workplace well-being most directly relate to employer responsibilities in the areas of leave and accommodation of health conditions, but also indirectly when it comes to preventing discrimination, harassment, and retaliation.

First, and maybe not foremost, I'll talk very briefly about the leave obligations. This is not a new topic, of course. Most employers are familiar with these obligations on a federal and state level, but what we've seen in recent years is a significant rise in employees requesting medical leave for mental health issues versus physical health issues. This is because of an increase in stress, anxiety, depression, all of which can be and often are, exacerbated by issues arising at work.

So this sometimes is caused by difficult coworkers. Perhaps it's a manager or a supervisor with poor communication skills or a lower level of empathy than we would like them to have. Those situations, of course, can and do often lead to a higher number of employees, higher percentage of employees seeking leave from work, which of course, can have a negative impact on business operations and efficiency.

Second, when it comes to reasonable accommodation of disabilities under the ADA and equivalent state laws, it's important to consider that as a general rule. Of course, that duty to engage in the interactive process is triggered when the employee makes a request for accommodation, which again, we're seeing a higher instance of requests for accommodation for mental health issues, but according to the EOC, the duty to engage in that process, it's not necessarily required when an employee takes the first step and asks for leave, but perhaps when the employer knows that the employee has a disability, knows or has reason to know that the employee is experiencing workplace problems because of that disability, and knows or has reason to know that the disability prevents the employee from requesting a reasonable accommodation.

All of which means, the employer should take that first step and perhaps inquire, "Are you okay? How are you doing? We've noticed you've been struggling a bit." Stopping short, of course, of presuming or regarding the individual as having a disability, rather, the approach here would be showing some empathy and asking an employee if they're doing okay, and if not, how can we, as the employer, help?

Finally, the third sort of legal obligation that I think indirectly comes into play here is the obligation to prevent discrimination, harassment, and retaliation. Those obligations, of course, are well-known. They've been around for decades, but it

seems to us that in this space, in this context of employee well-being, making sure that the companies or the employers' commitment to prevention of discrimination, harassment and retaliation is strong, is consistent, and we're going to not just have policies that say, "This is our workplace culture," we're going to walk the walk, right?

The residual effect will be, we believe, that employees' mental health will improve because a lot of what we hear unfortunately through litigation is, when a dispute has come to litigation, we hear that, "Oh, I really didn't feel like I had anywhere to go. I didn't feel comfortable raising this issue because I was fearful of retaliation." Of course, as we know in a lot of those cases, employees are seeking damages for their mental health, and so it seems to us that focusing on employee health and well-being, particularly mental health and well-being, can have the residual impact of perhaps reducing disputes and ultimately claims in this area. Michael?

Michael Thomas:

Thanks, Mike. And I'm going to talk a little bit about really why focusing on employee wellness is really important for 2024, and obviously it's important really every year, but 2024 presents some unique challenges that could impact how employees are showing up to the workplace. And so some of the things that employees might be going through as they show up in the workplace in 2024 are things like the following.

So first, over the past year or so, we've seen changes in the workplace from hybrid work models and fully remote employees to use of AI in the workplace. And so the workplace itself is just different in ways that will require all of us to adapt and adjust. That can create a certain level of discomfort and insecurity.

Number two, employees are grappling with financial concerns including rising inflation, layoffs and economic instability. Number three, employees are often grappling with global conflict that's going on, and even within our own nation, our nation seems to be more polarized on a daily basis.

Employees are also grappling with increased workplace violence and shootings that you hear about on the news. So there's just a general loss of potential physical safety. And finally, greater work demands and concerns about fairness and equity in the workplace, are all contributors to work-related stress as we head into 2024. And what will make 2024 particularly challenging is that it's also a presidential election cycle and that will likely increase polarization in the workplace and therefore, increase anxiety for employees as they're showing up to work.

And so there actually is some good news and some of the good news is that employee mental health is being actively prioritized by most employers and conversations about mental health are being normalized, and so more employers are really offering more comprehensive mental health benefits for some of the reasons that Mike talked about. What are some things that employers can really do to address wellness in the workplace?

I'll just mention five. There's obviously a lot more, but number one, employers can promote a welcoming environment and a feeling of belonging in the workplace.

And this really means creating a work environment where employees and management support each other. And so encouraging open communication, active listening, and a nonjudgmental atmosphere where employees feel comfortable sharing their concerns or needs without fear of any negative consequences, becomes important.

So employees have that sense of psychological safety and trust within their work relationships. It reduces stress, it reduces fear, reduces anxiety, and really increases a positive feeling towards work. And so fostering that sense of belonging at work doesn't have to be this overly complicated thing. It's really about creating an environment whereas Mike talked about, employees feel heard, supported, and valued.

And not only does this really help employees mentally and physically, but you build trust, loyalty, and you increase engagement. And also, when employees are struggling with something or a work dispute comes up, they're less likely to go to a third party like another lawyer or a union, and they're more likely to come to you as the employer and give you an opportunity to really improve the workplace.

The second thing employers can do is really encourage physical health. And so physical health is closely linked to well-being and also productivity. So for example, absenteeism due to illness, result in lower production and ultimately affects the bottom line in the long run. However, you can prevent this concern of negative physical health by promoting regular exercise, healthy eating habits, and even providing more opportunities for employees to stay active during the workday. So number three, take a more holistic approach to well-being. So well-being is not just about physical health, mental health and also financial health and well-being are also on the forefront of workers' minds.

Number four is flexibility. And this becomes important because flexibility and flexible work arrangements continues to be a top driver for job seekers and also for a lot of employees. And so if possible, I know it's not possible for all work settings, but it becomes important to offer flexible options for how employees do their work and also where they perform their work.

And intuitively, this kind of makes sense, meaning that the common experience for most people during the pandemic was this feeling of uncertainty, unpredictability and loss of familiar habits and routines, so really a loss of control. And so intuitively, it makes sense that as we return to the workplace, we feel a greater sense of wellness or well-being when we have some choice or control or flexibility and how we spend our time.

And so the last point is really empowering the employee by asking for feedback. And so seek feedback from employees as to how the employer can address employee wellness. Employees are a huge part of your company's success and by allowing employees to participate in the decision-making process of coming up with a solution to a workplace problem like wellness, again, you earn that level of loyalty, decreased turnover, you build trust, you build psychological safety, and ultimately, it makes the workplace better for all of us.

And so it's a new year and finding ways to promote a safe and healthy work

environment is incredibly important, and we all contribute to our workplace culture. And whether that culture is toxic or not, we all play a role. And so really, our interdependence creates a joint responsibility for collective solutions. And so, I'll turn it back over to you, Mike, to maybe share some final thoughts that you might have on wellness in the workplace in 2024.

Michael Griffin:

Thanks, Michael. My only last thought would be that demonstrating patience and kindness at work goes a really long way towards improving all workers mental health, and that includes listeners to this podcast. So perhaps that's an intention you want to have for 2024, to increase your organization's patience and kindness with employees, with supervisors, with managers, so that hopefully, you create a healthier workplace and have a more happy, healthy, and productive 2024.

Michael Thomas:

Great advice, Mike. And so we want to thank everyone for listening, and if you have any questions, please feel free to reach out to Mike or myself or whatever JL lawyer you actively work with, and we thank you for your time. We wish you a healthy and safe 2024.

Alitia Faccione:

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