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## MANAGEMENT | RESEARCH ARTICLE

# The untapped potential of the ADHD employee in the workplace

Randall Robbins<sup>1\*</sup>

**Abstract:** As diagnoses increase, Attention Deficit Disorder (ADD) and Attention Deficit Hyperactivity Disorder (ADHD) have come to the forefront of popular understanding. Subsequently, much discussion exists concerning the legal and social ramifications for those who have ADD or ADHD in the workplace. Although many people with ADD or ADHD will not qualify for special treatment under the Americans with Disabilities Act, the absence of legal requirements guiding management does not mean that managers' responsibilities end. The greatest task for managers of ADD/ADHD employees will be working with their conditions, rather than against them, in order to foster efficiency and productivity in the workplace. Management solutions for employees with ADD and ADHD are compiled in light of their positions as valuable components of today's workforce.

**Subjects:** Law; Behavioral Sciences; Economics, Finance, Business & Industry

**Keywords:** ADD/ADHD; legalities of disabilities in the workplace; management strategies

### 1. Introduction

The modern-day workplace is not only regulated by federal and local law, but is also influenced by firm management. As the number of Attention Deficit Disorder (ADD) and Attention Deficit Hyperactivity Disorder (ADHD) diagnoses rise,<sup>1</sup> and as new light is increasingly shed on these conditions, business management is tasked with adapting to and creating an environment where ADHD employees can be their most productive selves. Studies indicate that ADHD employees will make between \$10,791 and \$4,334 less than employees without ADHD—which is surely significant considering this loss equates to nearly \$77 billion a year of lost wages in the United States.

### ABOUT THE AUTHOR

Randall Robbins is a Professor of Management in the Mississippi College School of Business. His research interests have centered on the areas of organizational culture, diversity in the workplace, and employment law. Robbins is published in all of these areas.

### PUBLIC INTEREST STATEMENT

Upon researching treatment of Attention Deficit Hyperactivity Disorder (ADHD) employees, there appears to be no hard and fast formula for managing these employees. Failing to adapt, or discriminatorily avoiding hiring those with Attention Deficit Disorder (ADD)/ADHD, are both poor solutions to addressing this emerging medical issue. For success in the future, employers and managers will need to familiarize themselves with and adapt to a changing workforce. Those who fail to adapt do so not only at the risk of profitability, but also for legal recourse. This risk and the importance of finding viable and legally compliant solutions are addressed.

After researching the present treatment of ADHD employees, there appears to be no “hard and fast” formula for best managing these employees. According to the Centers for Disease Control and Prevention, diagnoses of ADHD in children have tripled from 5 to 15% of the population from the 1970’s to the early 2000’s (Data & Statistics, 2012).

For success in the future, employers and managers will need to familiarize themselves with and adapt to a changing workforce. In order to benefit employees and businesses alike, ADHD sensitivity and competency must be a priority for today’s firms. Otherwise, both firms and employees stand to lose money, effort, and time as a result of mismanagement. Moreover, employers who fail to adapt do so not only at the risk of profitability, but also put themselves at risk of being sued. In discussion to follow, this risk and the importance of finding viable, equitable, and legally compliant solutions are expounded.

## **2. Methodology**

The study is primarily based upon secondary data. For this extant literature related to the topic from different databases, websites, and other available sources were collected. A systematic review of collected literature was done in detail.

## **3. Rational for investigation**

For purposes of legal compliance and for maintaining a healthy and productive work environment, thoughtful management must be cognizant of and adaptive to new issues arising within the firm. ADHD is, relatively speaking, the newest and most hotly debated of disabilities. As such, it generates significant legal and managerial implications for today’s firms. Specifically, these implications orbit four areas of interest for discussion:

### **3.1. Compliance rationale**

Because every business is required to provide equal employment opportunity, failure to hire employees because they have ADHD is ill-advised. Compliance regarding discrimination is a civil rights issue, and judicial review is conducted under the highest level of scrutiny. If discriminatory hiring practices are proven, a firm could be reduced to financial insolvency for avoiding ADHD employees and could be saddled with near insurmountable compensatory and punitive damages. Further, not only is a business unequivocally mandated to follow regulations for hiring and employing people with disabilities under the law, the firm simply cannot afford to solve issues with ADHD to solve issues with ADHD employees in the workforce in discriminatory or insufficient ways.

### **3.2. Firm rationale**

The increasing prevalence of ADHD in the general population means that employers will undoubtedly encounter ADHD employees in their workforces. In order to best utilize an ADHD employee, firms must inform themselves about these workers. With the requisite knowledge, businesses can construct successful management techniques that enable an ADHD employee to perform at full capacity. Consequently, proper management correlates to greater profitability. If the statistics indicating the untapped potential of these workers are correct, firms stand to gain enormously more from workers, both with and without ADHD, to build a stronger team that works more productively.

### **3.3. Employee rationale**

Employees with and without ADHD may benefit greatly from better management techniques, or techniques that are more sensitive to ADHD needs. There is ample evidence that ADHD employees feel underutilized and have low self-confidence within the firm because they are misunderstood, and are therefore, mismanaged. As members of a team, uplifting these employees could greatly improve their productivity, which could have the added effect of increasing firm morale and team efficiency for all workers. A confident and properly utilized workforce would undeniably benefit all individuals involved, regardless of ADHD status.

### **3.4. Ethical rational**

Above and beyond legal and financial motivations to successfully manage ADHD employees, significant moral and ethical reasons exist for enabling them to succeed. Because America is a nation of hard workers and is founded on the ability to work and contribute, we have a moral obligation to remove obstacles for those who are willing to work and contribute. Thus, society at large has a compelling interest in and a pressing responsibility to break down barriers to contribution by assisting people who want to contribute, but are estopped from doing so.

The following literature review examines the “what,” “how,” and “why” related to ADHD employees in today’s workplace. Specifically, the review will outline (1) *what* ADHD is, (2) *how* ADHD is regulated by law regarding employment, and (3) *why* ADHD is of consequence to management. This review’s purpose is to provide an informative foundation, necessary for arguments made later in the “managerial implications” section. By way of foreword, discussion of managerial implications will be predicated upon the review in order to make informed recommendations for employees and managers regarding ADHD.

## **4. Literature review**

ADHD is relatively novel to the American workplace. Thus far, no clear solutions have been promulgated for addressing this condition in professional settings, and moreover, little information exists concerning adult life with ADHD. The scarcity of empirical data acts in a prophylactic manner toward education and management of adults with ADHD. However, the following review indicates that this does not bar successful management.

### **4.1. The what: What is ADHD?**

ADHD is recognized by the American Medical Association and the Diagnostic and Statistical Manual of Mental Disorders. According to the AMA, ADHD is a neurogenetic developmental disorder (Report 10 of the Council on Science & Public Health, 2007). The AMA characterizes ADHD as a “lifespan disorder,” meaning that people with ADHD will have it permanently (Report 10 of the Council on Science & Public Health, 2007). ADHD is the single most common reason for referral of children for mental health services, and males are 2.5 times more likely to develop it<sup>2</sup> (Derelien, 2001). Moreover, the AMA specifically underscores that ADHD diagnoses criteria, research and information is woefully lacking for adults (Report 10 of the Council on Science & Public Health, 2007). Considering these facts, a genuine impetus arises to understand and provide for those with ADHD at present and into the future.

Due to the majority of the scientific data on ADHD being derived from pediatric studies, adults are at a serious disadvantage for societal education—despite the reality that children with ADHD become adults with ADHD. The research associated with ADHD necessarily limits understanding it in broader contexts, such as within the firm. But, academic and legal discussion still exists, and will be approached carefully for the purposes of this review with these limitations in mind. Further, the National Resource Center on ADHD suggests that characteristics of children with ADHD are very similar, if not identical to, the characteristics observed in adult ADHD. The key difference being that pediatric and adult ADHD manifest uniquely from each other because activities carried out by adults differ from those of children.

Although relevant information is limited, research does indicate that people with ADHD have common difficulties. Challenges related to the work-environment include distractibility by external and internal sources, impulsivity, hyperactivity, poor memory, boredom, time management issues, procrastination, difficulty managing long-term projects, attention to detail, and interpersonal or social skills issues (Novotini, 2003).

In addition to behavioral and cognitive challenges, ADHD employees often incur emotional difficulties, such as low self-esteem, anxiety, and depression. According to an ADHD study conducted at the Adult Clinic of the University of Massachusetts Medical Center, approximately 80% of the study’s

patients reported low self-esteem, and 40% met criteria for major depression (Hallowell, 2005). Moreover, the study's patients "associated social interactions with either embarrassment, disappointment, criticism, or failure" (Hallowell, 2005).

Typically, people with ADHD will score lower on evaluations, but empirical data strongly indicates that ADHD has nothing to do with IQ (Succeeding in the Workplace, 2013). In relation to someone's value within the workplace, an employee with ADHD may be the quintessential "diamond in the rough." Accordingly, ADHD employees have a special propensity to outperform other employees when managed properly. Specifically, C.H.A.A.D (Children and Adults with Attention Deficit/Hyperactivity Disorder), posits that adults with ADHD may be better equipped to perform in non-sedentary jobs, like sales, or in highly creative jobs, such as advertising and graphic design, than their non-ADHD peers (Succeeding in the Workplace, 2013).

#### **4.2. The how: How does the law regulate ADHD in the workplace?**

The law is somewhat elusive regarding its treatment of ADHD in the workplace, and is as equally unclear about employer responsibility in managing ADHD employees. For the purpose of understanding the legal framework, this section will briefly describe the controlling civil rights law and regulatory agencies relevant to this discussion.

ADHD is considered a cognitive disability. As such, ADHD issues in the workplace are considered in light of the Americans with Disabilities Act Amendments Acts of 2008, or the ADAAA. Among the congressional findings that prefaced the original ADA is its statement that:

... [I]ndividuals with disabilities are a discrete and insular minority who have faced restrictions and limitations, subjected to a history of purposeful and unequal treatment, and relegated to a position of political powerlessness in our society, based on characteristics that are beyond the control of such individuals and resulting from stereotypic assumptions not truly indicative of the individual ability of such individuals to participate in, and contribute to society. (2 U.S.C. § 12101(a)(7) (2000))

In short, the ADA is a piece of federal civil rights legislation designed to protect people with physical and cognitive disabilities from discrimination in employment. Although the original act was passed in 1990 and was amended three times prior to its most recent 2008-version, similar legislation has existed since 1973.<sup>3</sup> Preventing discrimination in general, but also on the basis of disability, has been of tantamount importance as a compelling interest to both the legislative and judicial branches of government.

The United States Equal Employment Opportunity Commission, or EEOC, is responsible for enforcing the ADA. The EEOC regulates employer compliance with the ADA provisions for hiring, employment, accommodation of disability, and termination of employment, but only upon complaint by an employee. At each potential phase of an employee's membership or consideration within a company, the EEOC provides guidance for both employers and employees. Further, the Job Accommodation Network, or JAN, provides supplemental guidance as an arm of the Office of Disability Employment Policy of the U.S. Department of Labor and by committees within the Department of Health and Human Services, or HHS, formerly known as the Department of Health, Education, and Welfare, or HEW.

Given the above schema, it is readily apparent that regulation of cognitive disabilities is muddled even in its composition. The EEOC, JAN, and HHS each have different interpretations of the ADA—meaning that employers and employees are subject to grave ambiguity from the outset of an inquiry into proper protocol. The agencies do agree on the following basics, however. As this paper aims to address only private firms, only the pertinent ADA provisions will be presented.

First, the company for which an employee works or applies to work for must employ more than fifteen people to be considered a “covered entity” under the law. Covered entities are the only businesses that are subject to ADAAA regulation. Here, it is important to note that civil rights law does not ban all discrimination, it merely prohibits some types of discrimination in some limited circumstances. Thus, employers may lawfully discriminate against disabled employees on the basis of their disabilities provided that their companies do not meet the fifteen-employee threshold.

Second, simply having a diagnosed physical or cognitive impairment does not guarantee coverage under the ADAAA. Provided the employee works for or applies to a covered entity, the ADAAA has further qualifications. The ADAAA defines qualifying disability in three ways:

The term “disability” means, with respect to an individual—(A) a physical or mental impairment that substantially limits one or more major life activities of such an individual; (B) a record of such an impairment; or (C) being regarded as having such an impairment. (29 C.F.R. § 1630.2 (2008))

Simply explained, the distinction between the three qualifying circumstances given its temporal in nature: an individual must have an impairment presently, in the past and not at present, or must have been mistakenly diagnosed with an impairment in the past (Bland, 2008). Because ADHD is a “lifespan” disorder, this discussion will only focus on section (A) above, as (A) describes a present and on-going disability (Report 10 of the Council on Science & Public Health, 2007).<sup>4</sup>

In order to further qualify under (A), an employee would need to jump two more hurdles. The impairment must (1) “substantially limit” (2) at least one “major life activit[y].” But, legislative reports behind creation of the ADAAA do not exhaustively define substantial limitations or major life activities. As is typical with protection-oriented legislation, the drafters intended to leave these qualifications open to interpretation so that the judiciary could interpret satisfaction of the standards on an individual basis. Although the open-ended nature of disability qualification is intended to be more inclusive than exclusive of coverage, courts have interpreted “substantial limitations” strictly and “major life activities” narrowly.

In effect, and without belaboring case law, courts’ interpretations have been exclusive of many people with significant ADHD impairments despite the above-referenced intent behind the ADAAA. Because the interference required by the first prong is practically raised to the level of severity and not merely to substantiality, the activities in which to exhibit the requisite interference are so limited that employees rarely qualify. According to Paul Miller, one of the longest serving presidentially appointed commissioners of the EEOC:

There are several rational and substantive reasons why the ADA’s definition of disability is structured using this individualized analysis of who has standing. The disability experience, especially as it relates to employment discrimination, exists in a social context, and not simply within a medical framework. It involves the relationship between the individual and others; a relationship between the individual and the environment and the culture. By acknowledging this social context of disability through the individualized analysis of coverage, the ADA responds to disability myths and stereotypes and seeks to achieve economic integration in a way similar to the means used under every other civil rights law. Notwithstanding these very valid rationales, the definition is not working. The courts are excluding disabled victims of discrimination from the ADA’s protection. (Miller, 2005)

Moreover, “working” is not considered to be a major life activity, and even though cognitive functions are implied by some of the examples given by the legislative committee notes to the amendments, courts usually interpret these activities to include functions such as sight, hearing, sleeping, eating, and walking. Thus, someone with a cognitive disability is at a fortiori disadvantage for qualification because the standards for qualification do not lend themselves to substantial cognitive difficulties



when interpreted narrowly, as has been the historical pattern. In *Calef v. Gillette Co.*, a case where a mechanic with ADHD asked for special accommodations from his employer, the First Circuit held,

Calef's evidence is totally unlike the evidence presented by plaintiff in *Gillen v. Fallon Ambulance Service* where we found a triable issue of disability by a one-armed ambulance attendant who had significant difficulty lifting objects. Calef, in contrast, fails the test for significant restriction as to the condition, manner, and duration for either learning or speaking. *Calef v. Gillette Co.*, 322 F.3d 75, at 85–86 (1st Cir. 2003) (internal citations omitted)

Further, any showing of cognitive disability is also grounds for asserting that an employee was unqualified for her position and dissolves an employer's liability.

Because ADA regulation applies narrowly to cognitive disabilities, an employer is not typically bound by any legal obligation to accommodate an individual on the basis of mere ADHD diagnosis. To activate any affirmative duty upon an employer, an employee must make his disability known if the disability is not the type that would be facially obvious. Moreover, employers are not responsible for intuiting that an employee has ADHD because courts do not expect laypersons to possess medical knowledge. Importantly, questions of ADA compliance only arise post-maleficance. In other words, the ADA works retrospectively—not prospectively. This often means that neither the employer nor the employee knows whether the employee qualifies as disabled until after an alleged harm has occurred and the employee has submitted a claim to the EEOC.

In light of the procedural architecture of disability claims, it does not matter whether an employee is disabled or not within the ADA definition of purposes of determining whether mandate is imposed on the employer. Employers have a difficult task in avoiding claims prospectively when it is tacitly unclear whether an employee is legally disabled. Thus, in disputes arising from claims of inadequate accommodation, discriminatory hiring practice, or discriminatory termination practice, employers can either treat each employee that claims she is disabled as legally disabled, or employers can run the risk of suit.

The incentive at present is to risk suit because the cost of accommodation rests solely with the employer. First and foremost, accommodation is especially expensive with regard to cognitive disabilities. Where an employee uses a wheelchair, for example, the employer may need to buy a retrofitted desk as accommodation; but an employee with ADHD, on the other hand, may require a personal assistant or an organizational coach for the duration of his employment. It is then not necessarily insensitive of an employer to reasonably deny such requests. It would be unaffordable to act upon every suspicion of disability before knowing whether an employee is legally disabled. This is especially true where imprudent spending gives rise to derivative suits by shareholders.

Moreover, the ADA only prohibits certain types of discrimination and not discrimination altogether. If someone has ADHD but does not satisfy the ADA standard, an employer is completely within his rights to discriminate against an employee solely on the basis of that disability. There are, however, many reasons for employers to take interest in ADHD employees aside from the very minimal legal implications described.<sup>5</sup>

#### **4.3. The why: Why is ADHD of consequence in the workplace?**

Although there is minimal legal protection afforded to people with ADHD in the workplace, as well as a lack of adequate information on the prevalence of ADHD in the workforce, the rise in ADHD diagnoses means employers have a vested interest in understanding and managing ADHD in order to facilitate productivity. Outside of legal compulsion, the primary impetus for companies to properly manage employees with ADHD is self-interest. This is so because as diagnoses rise companies will necessarily have more employees with ADHD—regardless of whether they gear recruiting processes to avoid hiring ADHD employees.

Additionally, there is legal support for avoiding hiring people with disabilities. As aptly noted by Michael Stein, a drafter of the United Nations Convention on the Rights of Disabled People, Justice Rehnquist of the United States Supreme Court opined that “it would be entirely rational for [employers] to conserve scarce financial resources by hiring employees who are able to use existing facilities” (Stein, 2005 quoting *Bd. Of Trustees of Univ. of Alabama v. Garrett*, 531 U.S. 356 at 376 (2001)). Or, specifically considering cognitive disabilities according to Rehnquist, it would be acceptable for employers to avoid hiring employees that require any extra assistance. Again, although popular belief may suggest that America is the land of equality, this is not the case for certain disabilities under the ADA when those disabilities require employers to expend money for accommodation.

Further, while many generally accepted or perceived legitimate medical disabilities are not even covered by the ADA, ADHD has a uniquely distinct uphill battle: many people believe it does not exist or is merely an excuse given by undisciplined people. One legal scholar contends,

This problem would seem to be all the graver with respect to the often indeterminate distinction between the able and disabled. If one were to list the one hundred most important human qualities that determine this-worldly success, virtually all human beings are above average in a few, approximately average in most, and below average in some. Precisely why some qualities, and not others, merit special importance and protection is not immediately clear. (Lerner, 2004)<sup>6</sup>

There also exists significant judicial bias against ADHD cases, where the condition has been denied recognition as a valid disability (Aggeler, 2000). Moreover, the lack of information about adult ADHD only conflagrates this misconception. Again, despite the prevalent skepticism concerning ADHD, the AMA and DSM IV provide concrete authority that it does exist. Therefore, employers must—even on the basis of their own self-interest—shake the unfounded opinion that ADHD is merely an excuse for “lazy” people. Importantly, even the above except necessarily implies that the idea of disability is not simply a conceptual abstraction. Individuals have different strengths and weaknesses, and smart managers will want to mitigate their employees weaknesses to increase productivity, and subsequently, profitability.

But, it is difficult to tell if an employee is unqualified or is simply barred by a cognitive disability.<sup>7</sup> Recognizing the costs of recruiting and training an employer would logically do best to explore whether ADHD is holding a productive member of her team hostage. Unlocking this potential would save costs already invested into the employee. So, even if, as Justice Rehnquist says above, a company is faced with a cost-benefit analysis when deciding whether to accommodate an employee with ADHD the analysis is not simply limited to just the costs of the accommodation. Other costs such as recruiting, training, and replacing are relevant, but even further, there exist opportunity costs that are not initially obvious. For example, studies mentioned earlier in this review suggest individuals with ADHD may perform better than those without ADHD in sales positions and graphic design. Hiring someone without ADHD simply to avoid accommodation costs could potentially mean that the company is hiring a less productive team member. Many business analysts suggest that this type of short-sighted cost-cutting is not a helpful philosophy for businesses that aim for optimum productivity (Henkoff, 1990).

Lastly, if there is any credence to the critical position that ADHD is an excuse because everyone has some degree of difficulty, accommodations made for an employee with ADHD stand to benefit everyone else as well. For example, if the proper accommodation for an individual with ADHD is purchasing a program that keeps deadlines, segments work objectives into smaller tasks, and organizes the employee’s assignments, then the whole office will likely be able to use the program. Thus, accommodations for one ADHD employee would not only help that individual worker, but would help those who are undiagnosed and those without ADHD.



## 5. Managerial implication

This section employs the information above and additional sources to argue for a different managerial trajectory than seems to be the case for handling employees with ADHD. The subsections below describe how more informed and accommodating management can supplant the current treatment of individuals with ADHD. Against criticisms that accommodations are too expensive to afford, this section of the paper explains what specific steps might be needed for refining an ADHD—sensitive management style. Lastly, the paper will end with a consideration of how the law in this field may be properly seated in the relationship between management and employees.

### 5.1. Management strategies

Whether based on profit-driven, legally driven, or morally driven reasons, managers will want to enable their employees to achieve the greatest level of productivity possible. In order to create such strategies for managing ADHD employees, managers must understand the needs and difficulties of people who have ADHD, which include:

- Sequencing disorder, which may result in problems with prioritizing, organizing, doing mathematics, and following instructions;
- Language disorders, such as difficulty with receptive or expressive language;
- Visual perceptual and visual motor disorders, which may cause difficulty in processing information visually and affect reading, spelling, and writing;
- Auditory disorders, which may cause difficulty with processing sounds, for example, distinguishing words that sound similar;
- Memory disorder, which includes difficulty retrieving information from memory within a reasonable period of time; and
- Fine motor disorders, which could result, for example, in difficulty with handwriting. (Latham & Latham, 2007)<sup>8</sup>

According to the August 2013 Workers' Compensation Guide, managers can take preliminary steps for managing ADHD employees before expending any accommodation costs by taking steps to:

- Divide large assignments into several small tasks
- Set a timer to make an alarm after assigning ample time to complete a task
- Provide a checklist of assignments
- Supply an electronic or handheld organizer, and train on how to use effectively
- Use wall calendar to emphasize due dates
- Develop a color-coded system (each color represents a task, or event, or level of importance)
- Allow co-worker or supervisor to add entries on the calendar, or to double-check entries added by the employee with ADHD. (Sensitivity Training for Managing Individuals with Disabilities, 2013)

Again, such measures would benefit the office at large and does not ask much of the employer.

Further, whether required to make accommodations by law or not, there are many other ways an employer can spend a little more money to achieve much greater productivity from the workforce at large. JAN, referenced in the above literature review, defines an accommodation as:

A reasonable accommodation is a modification or adjustment to a job, the work environment, or the way things usually are done that enables a qualified individual with a disability to enjoy an equal employment opportunity. An equal employment opportunity means an opportunity to attain the same level of performance or to enjoy equal benefits and privileges of employment as are available to an average similarly-situated employee without a disability. (Job Accommodation Network, 2013)

Moreover, many individuals with disabilities may be able to secure a job coach paid by either a public or private social service. This means the employer may have no out-of-pocket expense, and the benefits of such an arrangement are twofold: a trained job-coach may be best equipped to understand a particular employee's needs, whereas a manager who is not an ADHD specialist may not, and a job-coach may be best suited to find successful management strategies which could remain with the company even if that particular ADHD employee leaves the company in the future.

As particularly important to successful management with any employee, managers of individuals with ADHD would need to make sure that the employee's job description and task assignments are clear. A manager's clarity with respect to task assignments is particularly crucial to successfully completing them. Emphasizing clarity in communication between managers and employees—again regardless of disability—could by itself prevent or lessen some of the difficulties for ADHD employees specifically. Managers could use more precise language when setting timelines, whereas instead of saying a project needs to be complete “as soon as possible,” the instruction could provide an exact time. Or additionally, making a job description that provides an enumerated list of work responsibilities, as opposed to a description that is flowery and abstracted, could help accomplish the segmenting and narrowing management strategy described above.

Most importantly, per a human element, scientific studies cited in earlier sections of this paper suggest that individuals with ADHD are frequently prone to depression and embarrassment when coping with their disabilities in isolation. This suggests that low self-confidence would also interfere with productivity. Thus, although ADHD management strategies would help mitigate the negative effects of ADHD, there is also literature that suggests that the encouraging nature of an accommodating manager would help greatly as well (Livingston, 2003). Specific to the work place, literature suggests a phenomenon called “emotional contagion” occurs when co-workers, supervisors, and supervisees may exchange and absorb each other's moods (Emens, 2006). The moods of ADHD employees can affect others positively or negatively, and improving the well-beings of some employees could improve overall morale.

### **5.2. Employee responsibilities**

Because the law does not expect an employer to make medical diagnoses, an employee should make the employer aware of his ADHD in order to be properly accommodated. Further, an employee should try to mitigate the negative impacts of ADHD by seeking out and following any medicinal or nutritional instructions given by a doctor. Ideally, guidance on job selection and personal management of ADHD difficulties would be available to an individual as well. An employee who is serious about combating some of the struggles that accompany ADHD does have many resources online, and could employ the strategies referenced above in the previous section.

Beyond the self-help method, an individual with ADHD may want to discuss further strategies with a counselor. Admittedly, it may be difficult for someone to openly communicate about a medical disability with his or her manager. Therefore, addressing difficulties with a manager to whatever extent is comfortable, and in tandem with a counselor, may create a very promising network for an individual with ADHD to succeed.

Lastly, as ADHD becomes more well-known and more prevalent, an ADHD employee may feel more confident and less isolated. This means that employees may not be as burdened with the depression and hardship that is sometimes attached to ADHD. Consequently, an employee can be more empowered. If an employee is better able to communicate and feels management is sensitive to her needs, there is certainly a great chance for unlocking the full potential of an individual with ADHD.

## 6. Conclusion

Although much adversity accompanies the acceptance and management of employees with ADHD at present, much can be done by means of awareness and pro-activity to change this. Despite the lack of legal protection afforded to those with cognitive disabilities in the workforce, and particular judicial and society bias against ADHD specifically, accommodating those with ADHD is likely to greatly improve the productivity of these workers. Further, informed commentary on the subject strongly indicates that these accommodations can be made at little cost to the employer, in addition to benefiting the company and non-ADHD employees as well. Thus, whether for legal, economic, or moral reasons, adapting to the emergence ADHD in the workforce is desirable and feasible for a multitude of compelling reasons. Lastly, employees with ADHD have great potential and removing the obstacles to fulfilling that potential is relatively inexpensive. By doing so, today's firms are in a great position to explore the "diamond in the rough" that is the ADHD employee.

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### Notes

1. In following American Medical Association precedent, this paper will refer to ADD and ADHD collectively as "ADHD." The two have become nearly indistinguishable at present and the distinction itself has become antiquated. Further, the symptoms and coping methods related to both are so closely related that to make such differentiation in this paper would be redundant and largely unhelpful.
2. Please note that Report 10 does mention that ADHD studies conducted may have been biased by an over-presence of Caucasian males in its medical research.
3. Specifically, the first anti-discriminatory provision for disabilities was enacted as Section 504 to the Reformation Act, and later became the Rehabilitation Act.
4. While the latter two sections have minute potential to invoke ADHD discussion, the ultimate purpose of this paper is focused on managing people with ADHD, rather than people who grew out of it for some reason or were mistakenly diagnosed. Thus, this paper will not address them as any connection would be largely attenuated or irrelevant.
5. Please note that some limited discussion exists concerning Title VII, however I did not find it to be relevant here as Title VII only applies in this context where someone can show he is a member of a protected class and without qualifying as disabled under the ADAAA, Title VII is not invoked.
6. See *Axelrod v. Phillis Academy*, 46 F. Supp. 2d 72 (D. Mass. 1999) (where the court held "The fact that Nicholas has ADHD is not a general excuse for Nicholas' failure to meet academic standards").
7. See *Sullivan v. Neiman Marcus*, 358 F.3d 110 (1st Cir. 2004), where the First Circuit held, "by demonstrating that his ability to work is substantially impaired, [an employee] may demonstrate that he is unqualified for the job and therefore excluded from ADA protection. If

he does not introduce that evidence, however, he may fail to show that he was substantially impaired".

8. As noted earlier, ADHD may vary among people so this section will outline general strategies for all the symptoms associated with ADHD, even though in reality some individuals may not suffer from all of the symptoms.

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2 U.S.C. § 12101(a)(7) (2000).  
29 C.F.R. § 1630.2 (2008).



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