



HANDLING DISABILITY

A Webinar Panel Presentation – sponsored by
EPIC – UC’s Employment Practices
Improvement Committee
will start at **10:30** – please go to the following
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HANDLING DISABILITY: THE INTERACTIVE PROCESS, REASONABLE ACCOMMODATION & RELATED ISSUES PART I

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– UC’s Employment Practices
Improvement Committee



Panelists

- GayLynn Kirn Conant – Lombardi, Loper & Conant
- Dennis Huie – Rogers, Joseph, O'Donnell
- Adrienne Malka- Manager, Employee Disability Management Services, UCLA
- Leslie Van Houten – Senior Counsel, Office of the General Counsel, UCOP

Moderator: Carolyn Yee – Senior Counsel, Office of the General Counsel, UCOP



What is the Interactive Process?

“An ongoing dialogue between the employee and appropriate representatives of the University about possible options for reasonably accommodating the employee’s disability.”

UC Policy PPSM 81: Reasonable
Accommodation



Timeliness: When should the Interactive Process be Initiated?

- When there is an awareness of a disability and a concern regarding the employee's ability to perform the essential functions of the job or that there is a possible need for accommodation;
- This can be **BEFORE** an employee returns to work (i.e. release to return with restrictions, workers' compensation returns)
- The employee does **NOT** need to personally request accommodation

Who are the participants in the Interactive Process?



- Supervisor /Manager
- Human Resources/Employee Relations
- Disability Management
- Rehabilitation Counselor



Getting Started with the Interactive Process

- Recognize, respond and initiate the interactive process with the employee
- Analyze the essential job functions
 - What are the duties the employee is required to actually perform?
 - What are the duties that are fundamental and not marginal?
 - Does the position exist to perform that function? How much time is spent performing that function?
 - Are there limited numbers of employee available to perform the function or among whom the function can be distributed?
 - Is the position highly specialized?



Getting started with the Interactive process (continued)

- Obtain medical documentation of physical/cognitive functional limitations
 - Focus on job-related duties
 - Limitations: no supervisory direct contact with medical provider, no inquiry as to seriousness of injury, medical diagnosis or medical condition, protect employee privacy.



Getting started with the Interactive process (continued)

- Discuss with the employee the potential performance barriers due to disability (permanent or temporary restrictions)
- Discuss with the employee possible options



What is reasonable accommodation?

Accommodation is a change to the job, terms and conditions of employment, or to the work environment that enables the disabled employee to perform the essential functions of the job.

Reasonable accommodations can include:

- Making existing facilities used by employees readily accessible and usable by individuals with disabilities
- Job restructuring – reallocating or redistributing marginal job functions;
- Leaves of absences

What is reasonable accommodation? (continued)



Reasonable accommodations can also include:

- Altering when, how or where the essential job function is performed (modified/light duty issues):
- Part-time or modified schedule, such as changing start or end time and allowing time off for medical appointments
- Telecommuting or working from home;
- Reassignment to active, vacant position to which employee is qualified with or without accommodation



What does “good faith” mean?

The law and University policy require that the interactive process be conducted timely and in good faith. “Good faith” is defined as demonstrated, documented efforts to communicate, identify and implement a reasonable accommodation.



What does “good faith” mean?

- Examples of “good faith” include:
 - Following up with employees who are out on leave with notes of good cheer;
 - Making diligent attempts to explore assistive aids without expecting or requiring the employee to produce specific information;
 - Ensuring that timely follow-ups are made with employees and documenting the contacts and efforts
 - Monitoring /showing interest in the employees’ situation
 - Treating employees with dignity and respect

When does the interactive process end?



- It is on-going unless
 - The reasonable accommodation works
 - The employee does not cooperate
 - The employee is determined to not have a qualified disability
 - Where there is no reasonable accommodation available without undue hardship



Keys to a successful interactive/reasonable accommodation process

- Best practices
 - Early intervention. Initiate the IP once the medical condition or disability is known and it impacts job performance. Don't wait for a long absence or work limitation to become intolerable.
 - Address performance problems before a disability issue is raised



Keys to a successful interactive/reasonable accommodation process

- Best Practices (continued):
 - Treat employees and job applicants with a disability with dignity and respect
 - Maintain contact with an employee who is out on leave, (notes of good cheer)
 - Through written correspondence, assure the employee of their status
 - Know where and whom to go to for assistance .
Address complex issues of performance and disability with the appropriate manager, not “assistant”;



Keys to a successful interactive/reasonable accommodation process

- Best Practices (continued):
 - Document conversations and meetings;
 - Note that an employee cannot be requested to perform tasks outside the medical documentation;
 - Special selection status – if minimally qualified, that employee gets the job over similar qualified applicants;
 - Refer to your Disability Management office for any issue involving a medical condition or disability that affects the employee's work;
 - Read applicable policies and contract articles.



“By working together we can accomplish great things”.

Eleanor Roosevelt

