



OFFICE OF THE PRESIDENT

Robert C. Dynes
President

1111 Franklin Street
Oakland, CA 94607-5200
Phone: (510) 987-9074
Fax: (510) 987-9086
<http://www.ucop.edu>

July 21, 2006

**CHANCELLORS
LABORATORY DIRECTORS
MEDICAL CENTER DIRECTORS**

Revised Personnel Policies on Medical Separation (PPSM 66) and Reasonable Accommodation (PPSM 81), and Implementation Procedures

Dear Colleagues:

Enclosed are modified personnel policies on Medical Separation and Reasonable Accommodation. The policies have been revised to align them with the federal Americans with Disabilities Act and the California Fair Employment and Housing Act. The policies specifically address the need for the employer and employee to engage in an “interactive process” to identify possible options for reasonably accommodating the employee’s disability.

Also enclosed are new Universitywide Procedures for both policies. The procedures are intended to provide additional guidance to ensure consistent implementation at all locations.

The policies and procedures take effect on July 1, 2006 and will be published online at:

http://atyourservice.ucop.edu/employees/policies/staff_policies/index.html

Sincerely,

Robert C. Dynes

Enclosures

cc: Members, President’s Cabinet
Associate Vice President Boyette
Acting Assistant Vice President O’Rourke
Universitywide Policy Coordinator Capell
Principal Officers of The Regents

Personnel Policies for Staff Members

Separation Actions

66. Medical Separation

July 1, 2006

A. GENERAL

A regular status employee who becomes unable to perform essential functions of his or her position with or without reasonable accommodation, due to a disability, may be separated. Prior to medical separation, the University will engage in the interactive process in accordance with the provisions of Staff Policy 81 – Reasonable Accommodation. An employee separated under this policy is eligible for special reemployment procedures.

B. BASIS FOR SEPARATION

1. A medical separation shall be based on: (a) a written statement by the department head describing the essential functions the employee is unable to perform, and (b) a written review by a vocational rehabilitation counselor, or appropriate representative, determining that no reasonable accommodation exists without causing undue hardship (see Staff Policy 81, Reasonable Accommodation).

A medical separation may also be based on: (a) the employee's receipt or approval of disability payments from a retirement system to which the University contributes, such as UCRP or PERS and (b) a written review by a vocational rehabilitation counselor, or appropriate representative, determining that no reasonable accommodation exists without causing undue hardship.

2. An employee shall not be separated under this policy while on sick leave or extended sick leave, except as provided under Section 3 below. However, an employee may be separated for medical or other reasons if the date of separation was set prior to the commencement of sick leave or extended sick leave and if the employee is afforded all rights provided by the employee's retirement system.

3. An employee who is a law enforcement member of the University of California Police Department or in active firefighting and prevention service in a University of California Fire Department may be medically separated after receiving leave with full salary for a period not exceeding one year, in accordance with Staff Policy 44.F, Work-Incurred Illness and Injury – Safety Members.

C. MEDICAL DOCUMENTATION

Proof of the employee's disability or medical condition is required and is subject to verification by a University-appointed licensed healthcare provider. The University shall pay the costs of any medical examinations requested or required by the University.

D. NOTICES

An employee shall be given advance written notice of the intention to separate. The notice shall state the reason for medical separation; include copies of the department head's statement and any other pertinent material considered, including documentation related to the interactive process; and state that the employee has the right to respond orally or in writing within 8 calendar days regarding the separation. After the employee has responded or 8 calendar days have passed, the employee shall be notified of the decision. If it has been determined that separation is appropriate, the employee shall be given advance written notice of the separation date and notice of the right to appeal.

The effective date of separation shall be at least 10 calendar days from date of issuance of notice of separation or 18 calendar days from date of issuance of notice of intention to separate, whichever is later.

E. SPECIAL REAPPOINTMENT PROCEDURES

For a period of one year following the date of a medical separation, a former employee may be selected for a position without the requirement that the position be publicized (see Staff Policy 20.B.3, Exceptions to Recruitment). However, if the former employee receives disability benefits from a retirement system to which the University contributes, the period shall be three years from the date benefits commenced. If an employee is reappointed within the allowed period, a break in service does not occur.

Applicability: All Regular Status Staff Members. See also Section D of Policy 81, Reasonable Accommodation.

PPSM 66
Medical Separation
Universitywide Procedures
July 1, 2006

Local Procedures shall be implemented in accordance with the following Universitywide Procedures

A. GENERAL

A regular status employee who becomes unable to perform essential functions of his or her position with or without reasonable accommodation, due to a disability, may be separated.

Prior to any medical separation, the University will engage in the interactive process in accordance with the provisions of Staff Policy 81 – Reasonable Accommodation.

An employee separated under this policy is eligible for special reemployment procedures, as outlined in PPSM 66.E – Special Reappointment Procedures.

B. BASIS FOR SEPARATION

(1) A medical separation is based on: (a) a written statement by the department head describing the essential functions the employee is unable to perform, and (b) a written review by a vocational rehabilitation counselor, or appropriate University representative, determining that no reasonable accommodation exists without causing an undue hardship.

The written statement by the department head should contain the following:

- the essential functions of the position that the employee is unable to perform, with or without reasonable accommodation, due to their disability or medical condition;
- an explanation of why the employee cannot be reasonably accommodated within the department, including, where applicable, whether reasonable accommodations were attempted and failed;
- medical documentation;
- written documentation of the Interactive Process within the department; and
- other pertinent information.

A current job description, documentation of functional limitations, and any other information relevant to the medical separation will accompany the written statement. All documents will be submitted to the local vocational rehabilitation counselor, or appropriate University representative, for review.

The vocational rehabilitation counselor, or appropriate University representative, reviews and analyzes the written statement and accompanying materials to ensure that the Interactive Process was appropriately completed at the Departmental level.

The vocational rehabilitation counselor, or appropriate University representative, is responsible for continuing the Interactive Process until a location-wide review for reasonable accommodation is completed. This effort will be documented and include an explanation of why the employee cannot be reasonably accommodated location-wide.

If the employee cannot be reasonable accommodated at the end of the interactive process, the department may propose medical separation.

A medical separation may also be based on (a) the employee's receipt or approval of disability payments from a retirement system to which the University employee contributes, such as UCRP or PERS, and (b) a written review by a vocational rehabilitation counselor, or appropriate University representative, determining that no reasonable accommodation exists without causing undue hardship. (Employee may waive this review.)

(2) An employee may not be separated under this policy while on sick leave, extended sick leave, and Extended Sick Leave (ESL) provided under a Paid Time Off (PTO) program, except as provided under PPSM 66.B.3. However, an employee may be separated if the date of separation was set prior to the commencement of sick leave, extended sick leave, or ESL and if the employee is afforded all rights provided by the employee's retirement system.

(3) An employee who is a law enforcement member of the University of California Police Department or in active firefighting and prevention service in a University of California Fire Department may be medically separated after receiving leave with full salary for a period not exceeding one year, in accordance with PPSM 44.F. Work-Incurred Illness and Injury – Safety Members.

C. MEDICAL DOCUMENTATION

Proof of the employee's disability or medical condition is required and is subject to verification by a University-appointed licensed healthcare provider. The University pays the costs of any medical examinations requested or required by the University.

D. NOTICES

The employee is given advance written notice of the intention to separate. The notice will:

- state the reason for medical separation;
- include a copy of the department head's statement and any other pertinent material, including documentation related to the interactive process and reasonable accommodation, if any;
- state that the employee has the right to respond either orally or in writing within 8 calendar days regarding the medical separation; and
- identify the person to whom the employee responds.

After the employee has responded or 8 calendar days have passed, the employee is notified of the decision. If it is determined that separation is appropriate, the employee is given advance written notice of the separation date and notice of the right to appeal.

The effective date of separation will be at least 10 calendar days from date of issuance of notice of separation or 18 calendar days from date of issuance of notice of intention to separate, whichever is later. A copy of the final notice of medical separation is placed in the employee's personnel file. Any associated medical documentation should be treated as confidential medical records for purposes of record storage.

E. SPECIAL REAPPOINTMENT PROCEDURES

For a period of one year following the date of a medical separation, a former employee may be selected for a position without the requirement that the position be publicized (see Staff Policy 20.B.3 Exceptions to Recruitment). However, if the former employee receives disability benefits from a retirement system to which the University contributes, the period is three years from the date benefits commenced. If an employee is reappointed within the allowed period, a break in service does not occur.

Applicability: All Regular Status Staff Members. See also Policy 81, Reasonable Accommodation.

Personnel Policies for Staff Members

Other

81. Reasonable Accommodation

July 1, 2006

A. GENERAL

The University provides reasonable accommodation to otherwise qualified employees who are disabled or become disabled and need assistance to perform the essential functions of their positions. The interactive process shall be used to determine what, if any, reasonable accommodation will be made.

B. THE INTERACTIVE PROCESS

The interactive process is an ongoing dialogue between the employee and appropriate representatives of the University about possible options for reasonably accommodating the employee's disability. Options may include, but are not limited to: a modified work schedule; a leave of absence; reassignment; modified equipment; assistive devices; modification of existing facilities; and restructuring the job. Both the University and the employee are expected to participate in the interactive process.

During the interactive process the University considers information related to: the essential functions of the job, functional limitations; possible accommodations; the reasonableness of possible accommodations; and implementation of a reasonable accommodation. This information will be used by the University to determine what, if any, reasonable accommodation will be made.

Universitywide and local procedures provide further guidance on the implementation of the interactive process.

C. MEDICAL DOCUMENTATION

The employee is responsible for providing medical documentation to assist in understanding the nature of the employee's functional limitations. When necessary, the University may require that the employee be examined by a University-appointed licensed healthcare provider. In such a case, the University shall pay the costs of any medical examinations requested or required by the University.

D. SPECIAL SELECTION

Any employee who becomes disabled may be selected for a position which has not been publicized (see Staff Policy 20.B.3., Exceptions to Recruitment).

Applicability: All Staff Members

PPSM 81
Reasonable Accommodation
Universitywide Procedures
July 1, 2006

Local Procedures shall be implemented in accordance with the following Universitywide Procedures

A. GENERAL

The University provides reasonable accommodation to otherwise qualified employees who are disabled or become disabled and need assistance to perform the essential functions of their positions. Reasonable Accommodation is addressed through the use of the interactive process to determine what, if any, reasonable accommodation will be made.

B. THE INTERACTIVE PROCESS

The interactive process is an ongoing dialogue between the employee and appropriate representatives of the University (e.g., a department or unit head, a vocational rehabilitation counselor, or the ADA/504 Compliance Officer) about possible options for reasonably accommodating the employee's disability.

An employee may start the interactive process by asking for an accommodation. A request for reasonable accommodation is a statement that an employee needs a work-related adjustment or change for a reason related to a mental or physical disability. A request may be made orally or in writing by the employee, or by someone on his or her behalf.

The supervisor should attempt to engage in the interactive process if he or she becomes aware of the disability and the possible need for an accommodation (e.g., an employee mentions a difficulty in performing work duties due to medical treatment for a health condition).

Once the University is informed or becomes aware of the need for an accommodation, the University will coordinate the interactive process. Participants in the process should include the employee, the employee's health care provider, and other appropriate University representatives.

The employee must respond to reasonable requests for information in a timely manner and must engage in the interactive process. The interactive process includes the following steps:

1. Analyze the job requirements and identify essential and non-essential job functions

A job function is essential if the job exists to perform that function. For example, for a position as a proofreader, the ability to read documents accurately is an essential function because that is the reason the position exists.

Additionally, a job function may be essential because of the limited number of employees available to perform the function, or among whom the function can be distributed.

2. Identify job-related limitations by consulting with the employee and by reviewing documented functional limitations

The employee and his or her health care provider must provide documented information concerning the employee's work restrictions. A current job description that outlines essential and non-essential job functions must be used by the health care provider to determine functional capabilities information and as a basis for recommendations for the University to consider.

3. Identify possible reasonable accommodations

Generally, a reasonable accommodation is one that effectively enables an employee to perform the essential functions of the job. The University and the employee should identify possible reasonable accommodations. Examples include, but are not limited to:

- transfer of non-essential job functions to another employee;
- ergonomic adjustments;
- time off for medical visits;
- modification of work tools or equipment;
- modified work schedule;
- leaves of absence;
- assistive devices; and
- modification of existing facilities.

When other accommodations are not effective, reassignment to an active, vacant position for which the employee is qualified with or without accommodations, may be required.

4. Assess whether the proposed accommodation poses an undue hardship

The University need not provide a requested accommodation if to do so would pose an undue hardship. This determination is made on a case-by-case basis. Undue hardship is defined as any action requiring significant difficulty or expense, taking into account such factors as:

- the nature and cost of the accommodation;
- the overall financial resources of the campus;
- the number of persons employed in the facility;
- the effect of the reasonable accommodation on resources; and
- the impact of the accommodation on operations.

No single factor is intended to have any particular weight. Rather, all the factors are considered together in determining whether providing an accommodation imposes an undue hardship on the campus.

5. Implement the reasonable accommodation

Once the reasonable accommodation is implemented, the employee and supervisor (and co-workers, where appropriate) should become fully familiar with any changes in their roles and responsibilities so that the accommodation plan may be fully realized.

6. Monitor effectiveness of the reasonable accommodation

Any changes in circumstances, whether in the employee's condition or in workplace factors, may warrant a re-evaluation of the reasonable accommodation. For example, the receipt of new information regarding functional limitation generates a dialogue between the University and the employee to determine next steps based on the new information.

The interactive process is an ongoing obligation. If a given accommodation is not effective or no longer effective, the University and the employee must continue to engage in the interactive process to identify possible alternatives, or additional accommodations.

7. Documentation

A written record should be kept of the interactive process and any reasonable accommodation that is considered and/or implemented.

C. MEDICAL DOCUMENTATION

The employee is responsible for providing medical documentation to assist in assessing the extent of the employee's functional limitations and facilitate the interactive process to determine possible reasonable accommodations.

This documentation may be subject to confirmation by a University-appointed licensed healthcare provider. When necessary, the University may require that the employee be examined by a University-appointed licensed healthcare provider. In such a case, the University pays the costs of any medical examinations requested or required by the University.

D. SPECIAL SELECTION

Any employee who becomes disabled may be selected for a position which has not been publicized (see Staff Policy 20.B.3., Exceptions to Recruitment).

An employee who becomes disabled may be selected for an open position for which they qualify, and may be considered for open positions over non-disabled applicants. The local Vocational Rehabilitation Counselor, or an appropriate University representative, will assist the disabled employee with alternate job placement.

Applicability: All Staff Members