

University of California Resource Guide for Academic Appointees with Disabilities

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**THE UNIVERSITY'S COMMITMENT TO
ACADEMIC APPOINTEES WITH DISABILITIES**

Many people will at some point experience a short- or long-term disability that affects their working lives. The University of California recognizes that academic appointees with disabilities are active and productive members of the University community, and the University is committed to providing reasonable accommodations to allow qualified academic appointees with disabilities to continue to contribute to the University's vital educational, research and public service mission.

The University's commitment includes the following basic principles.

The University of California develops policies and procedures in compliance with State and federal nondiscrimination laws.

As the Americans with Disabilities Act states: "No covered entity shall discriminate against a qualified individual on the basis of disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment."¹ Disability laws applicable to the University include:

- The Federal Rehabilitation Act of 1973
- The Americans with Disabilities Act of 1990 (ADA), with the ADA Amendments Act of 2008: <http://www.ada.gov>
- The California Fair Employment and Housing Act (FEHA): http://www.fehc.ca.gov/act/pdf/code_regulations/pdf

The University recognizes that academic appointees prefer to work, earning full income and gaining satisfaction from what they do.

To this end, the University is committed to participating in the Interactive Process to determine and implement reasonable accommodations to the working environment (which do not cause an undue hardship), to assist academic appointees with disabilities in accommodating restrictions or limitations in the workplace.

One of the goals of the Interactive Process is minimizing the impact of a disability on the appointee's capacity to participate in the University work environment, thereby shortening the amount of time that appointees are away from work due to disability.

¹ Americans with Disabilities Act (ADA), Sec. 12112(a)
UCOP Academic Personnel – 7/13/2010

DEFINITIONS

The following terms are used commonly when discussing disability in an employment context.

An **Individual with a Disability** is a person who:

- Has a physical or mental impairment or medical condition that limits one or more of the major life activities,
- Has a record of such an impairment; or
- Is regarded as having such impairment.²

A **Qualified Individual** is an individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires.³

The **Interactive Process** is an ongoing dialogue between the appointee and appropriate representatives of the University about possible options for reasonably accommodating an appointee with a disability. This process includes ascertaining the appointee's job-related limitations and determining how they could be overcome with a reasonable accommodation as well as identifying potential accommodations and assessing their effectiveness.⁴ Both the appointee and the University are required to participate in this process in good faith.

A **Reasonable Accommodation** is a modification or adjustment to the workplace that enables an appointee to perform the essential functions of the job held or desired without imposing an undue hardship on the operation of the employer's business.⁵

Essential Functions means the fundamental job duties of the employment position.⁶ "Essential functions" does not include the marginal functions of a position. A job function may be considered essential for a variety of reasons, including:

- The position exists in order to perform that function.
- Only a limited number of employees is available among whom the performance of that job function can be distributed.
- The function may be highly specialized, so that the incumbent in the position is hired for his or her expertise or ability to perform the particular function.

² See: ADA, § 12102(1), also Fair Employment and Housing Act (FEHA) § 12926(k)

³ See: ADA, § 12111(8)

⁴ See *Electronic Code of Federal Regulations*, Title 29, Part 1630, *Appendix to Part 1630 - Interpretive Guidance on Title I of the Americans with Disabilities Act*

⁵ See: *Nadaf Rahrov v. The Nieman Marcus Group, Inc. (2008)*; also ADA, Sec. 12111 (9) and FEHA Sec. 12926(n)

⁶ See: FEHA Sec. 12926(f)

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The essential functions of a position may be described in a job description or other documentation. Other factors that may provide evidence of whether a function is essential include the amount of time spent performing the function; the consequences of not requiring the incumbent to perform the function; or the work experience of past incumbents or current incumbents in similar jobs.

Undue Hardship means requiring significant difficulty or expense to the employer, taking into account such factors as the:

- nature and cost of the accommodation
- overall financial resources of the employer
- number of persons employed in the facility
- effect of the reasonable accommodation on resources
- impact of the accommodation on operations⁷

No single factor is intended to have more weight than another. Rather, all the factors are considered together in determining whether a proposed accommodation imposes an undue hardship.

⁷ See: ADA Sec. 12111(10) and FEHA Sec. 12926(s), as paraphrased in UC Personnel Policies for Staff Members 81, *Reasonable Accommodation - Universitywide Procedures*
UCOP Academic Personnel – 7/13/2010

IMPORTANT POINTS TO REMEMBER

Academic appointees and campus administrators are reminded to consult their local Disability Management and/or Rehabilitation Offices, ADA/504 Coordinators or other appropriate campus resource persons for guidance and consultation, to obtain important information and ensure that proper procedures are followed when dealing with disability issues.

The obligation to explore reasonable accommodation through the Interactive Process begins once the University is informed or becomes aware of the need for an accommodation.

Both The University and the academic appointee are expected to participate in a timely Interactive Process in good faith.

The University is expected to:

- Make a good faith effort to identify and implement reasonable accommodations
- Continue to engage in the Interactive Process until it has been determined that no reasonable accommodation, including transfer of the appointee to an open vacant position for which the appointee is qualified, is available which does not cause an undue hardship.

The appointee is expected to:

- Notify the department chair or unit head or supervisor of the need for a reasonable accommodation
- Respond to reasonable requests for information in a timely manner, including providing, when requested, medical documentation to assist in understanding the nature of functional limitations
- Cooperate in determining whether an accommodation, once implemented, will allow him or her to perform the essential functions of his or her position

**ACADEMIC PERSONNEL POLICIES AND
COLLECTIVE BARGAINING AGREEMENTS**

The following Academic Personnel Policies and collective bargaining agreements address various issues concerning academic appointees with disabilities at the University of California. Please note that if a policy or collective bargaining agreement contains outdated provisions or does not address the Interactive Process, the University will comply with current law.

Interactive Process and Reasonable Accommodation

University policy on the Interactive Process is outlined in:

[APM - 711, Reasonable Accommodation for Academic Appointees with Disabilities](#)
Memorandum of Understanding, Non-Senate Instructional Unit: [Article 20, “Rehabilitation”](#)

Leave Policy

A leave of absence or reduction in time may constitute a reasonable accommodation or part of a reasonable accommodation.

[APM - 710, Leaves of Absence/Sick Leave/Medical Leave](#)
[APM - 730, Leave of Absence/Vacation](#)
[APM - 758, Leaves of Absence/Other Leaves With Pay](#)
[APM - 759, Leaves of Absence./Other Leaves Without Pay](#)
[APM - 760, Family Accommodations for Childbearing and Childrearing](#)
MOU, Non-Senate Instructional Unit: [Article 12, “Leaves”](#)
MOU, Professional Librarian Unit, [Article 18, “Leaves of Absence”](#), [Article 19, “Sick Leave”](#), [Article 20, “Vacation”](#)

Family and Medical Leave

When an academic appointee requests a leave of absence for illness, injury or disability, the department should determine if the leave is eligible for Family and Medical Leave (FML) and follow appropriate notification and documentation procedures. For more information, please see:

[APM - 715, Leaves of Absence/Family and Medical Leave](#)
MOU, Non-Senate Instructional Unit: [Appendix C, §A, “Family Care Medical Leave”](#)
MOU, Professional Librarian Unit, [Article 18, “Leaves of Absence”](#); [Appendix D, §A “Family Care and Medical Leave”](#)

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Medical Separation

If the Interactive Process has been followed and it has been determined that no reasonable accommodation including transfer of the appointee to an open vacant position for which the appointee is qualified, is available, that would not create an undue hardship,, a Medical Separation review may be considered:

[APM - 080, Medical Separation.](#)

MOU, Non-Senate Instructional Unit: [Article 16, “Medical Separation”](#)

MOU, Professional Librarian Unit: [Article 29, “Medical Separation”](#)

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SUGGESTED ADDITIONAL RESOURCES

Other resources which may be useful to academic appointees and campus administrators include:

Americans with Disabilities Act of 1990 and ADA Amendments of 2008:

<http://www.ada.gov/pubs/ada.htm>

Fair Employment and Housing Act:

<http://www.dfeh.ca.gov/about/fehaDescription.aspx>

Equal Employment Opportunity Commission ADA implementation guidelines:

<http://www.eeoc.gov/types/ada.html>

Electronic Code Of Federal Regulations, Title 29: *Labor*; Part 1630 – *Regulations To Implement The Equal Employment Provisions Of The Americans With Disabilities Act* ([link](#))

U.C. Office of the President Human Resources/ Benefits

<http://www.ucop.edu/humres/welcome.html>

The Job Accommodation Network (JAN) 1-800-526-7234 (www.jan.wvu.edu)

Campus Resources:

Disability Management Office

Rehabilitation Counselors

ADA/504 Compliance Office