



PPSM-81: Reasonable Accommodation

FORMAL REVIEW MASTER REDLINE – OCTOBER 2018

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| Responsible Officer: | Vice President – <u>Systemwide</u> Human Resources |
| Responsible Office: | <u>SHR</u> – <u>Systemwide</u> Human Resources |
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| Scope: | Professional & Support Staff, Managers & Senior Professionals, and Senior Management Group Members |

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| Contact: | Christopher Simon <u>Abigail Norris</u> |
| Title: | <u>Policy Specialist</u> |
| Email: | <u>christopher.simon</u> Abigail.Norris@uco |
| Phone #: | <u>p.edu</u> (510) <u>987-06127-0503</u> |

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I. POLICY SUMMARY

The policy ~~and procedures~~ addresses ~~the interactive process in which~~when the University ~~engages with employees with disabilities and the employee will engage in an interactive process~~ to identify and implement reasonable accommodations~~possible options for reasonably accommodating an employee's disability that will enable employees to perform the essential functions of their positions.~~ If there is no reasonable accommodation that would enable the employee with a disability to perform the essential functions of the employee's current position absent undue hardship, the interactive process is used to explore the possibility of reassignment to a vacant position for which the employee is qualified.

II. DEFINITIONS

Detailed information about common terms used within *Personnel Policies for Staff Members* can be found in *Personnel Policies for Staff Members 2 (Definition of Terms)*.

Disability: (1) A physical disorder or condition that limits a major life activity; (2) a mental or psychological disorder or condition that limits a major life activity; (3) a Medical Condition that is (a) a cancer-related physical or mental health impairment from a diagnosis, record or history of cancer; or (b) a genetic characteristic that is known to be a cause of a disease or disorder that is associated with a statistically increased risk of development of a disease or disorder, though presently not associated with any disease or disorder symptoms; and (4) any other condition recognized as a disability under applicable law.

~~**Exception to Policy:** An action that exceeds what is allowable under current policy or that is not expressly provided for under policy. Any such action must be treated as an exception.~~

~~**Executive Officer:** The University President or Chancellor.~~

Interactive Process: The process by which the University and the employee engage in a dialogue about the employee's functional work limitations due to a disability and any accommodation that can be ~~provided made~~ that would ~~enable~~ allow the employee to perform the essential functions of the position.

~~**Top Business Officer:** Executive Vice President–Business Operations for the Office of the President, Vice Chancellor for Administration, or the position responsible for the location's financial reporting and payroll as designated by the Executive Officer.~~

III. POLICY TEXT

A. General

Consistent with applicable law, tThe University provides reasonable accommodation to an otherwise qualified employees who has a ~~are~~ disability ~~ed~~ or has become disabled and as a result needs assistance to perform the essential functions of the employee's current ~~their~~ positions. The interactive process will ~~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 with a disability and appropriate representatives of the University about possible options for reasonably accommodating the employee in the employee's current position, per Section V.A.3's- disability. If there is no reasonable accommodation that would enable the employee to perform the essential functions of the employee's current position absent undue hardship, the interactive process is available to explore reassignment, per Section III.D. ~~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 in good faith.

~~During the interactive process the University considers information related to: t~~The essential functions of the job, the employee's functional limitations, possible accommodations, and; the reasonableness of possible accommodations; ~~and implementation of a reasonable accommodation will be considered during the interactive process.~~ This information will be used by the University to determine what, if any, ~~reasonable accommodation will be made.~~ Universitywide procedures (per Section V) and local procedures provide further guidance on ~~the~~ implementation of the interactive process.

C. Supporting Medical Documentation

When the University requests that the employee provide documentation from the employee's health care provider to confirm that the employee has a disability and to identify the employee's functional limitations, the employee has an obligation to promptly comply with such requests. The information in this documentation may be subject to confirmation by the University. When the University determines that such confirmation is 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 ~~circumstances a case~~, the University ~~will~~shall pay the costs of ~~any medical~~the examinations requested or required by the University and reimburse the employee for any reasonable out-of-pocket travel expenses incurred in connection with the examination.

D. Special Selection Reassignment

The University will pursue reassignment when (1) the interactive process has resulted in a determination that there is no reasonable accommodation that would enable the employee to perform the essential functions of the employee's current position absent undue hardship; (2) the employee may be able to perform the essential functions of another University position, with or without reasonable accommodation; and (3) the employee is interested in reassignment. An alternate job search will be conducted to identify a suitable vacant or soon to be vacant position.

An alternate position is suitable if the employee possesses the requisite qualifications for the position (e.g., required skills, knowledge, abilities, experience, education, license, certificate) and can perform the essential functions of the position with or without reasonable accommodation. When a suitable position has been identified, the employee will be given preferential consideration for that position. An employee may be reassigned to a suitable position as a reasonable accommodation even if the position Any employee who becomes disabled may be selected for a position which has not yet been publicized, ~~per (see Staff Policy Personnel Policies for Staff Members (PPSM) 20.III.G.3 (Exemptions).~~

When conducting the alternate job search, vacant positions that would be considered lateral to the employee's current position will first be considered. All aspects of a vacant position will be considered when assessing whether it is lateral to the employee's current

position. Notwithstanding the definition of “promotion” in PPSM 2 (Definition of Terms), for purposes of this policy, if an employee’s salary could remain the same in the alternate position, the fact that the salary range of the alternate position has a higher maximum than the salary range of the employee’s current position will not, standing alone, mean that reassignment to that position would be a promotion rather than a lateral move. If there are no suitable lateral positions, the possibility of reassignment to a lower position will be explored.

IV. COMPLIANCE / RESPONSIBILITIES

A. Implementation of the Policy

The Vice President–Human Resources is the Responsible Officer for this policy and has the authority to implement the policy. ~~The Responsible Officer may apply appropriate interpretations to clarify the policy provided that the interpretations do not result in substantive changes to the underlying policy.~~ The Responsible Officer may develop procedures or supplementary information to support the implementation of this policy. Such supporting documentation does not require the approval of the President. The Responsible Officer may apply appropriate interpretations to clarify the policy provided that the interpretations do not result in substantive changes to the underlying policy.

The Chancellor, Lawrence Berkeley National Laboratory Director, and Vice President–Agriculture and Natural Resources ~~are~~ authorized to establish and ~~are~~ responsible for local procedures necessary to implement the policy.

In accordance with PPSM 1 (General Provisions), the authorities granted in this policy may be redelegated except as otherwise indicated.

B. Revisions to the Policy

The President is the Policy Approver and has the authority to approve policy revisions upon recommendation by the Vice President–Human Resources.

The Vice President–Human Resources has the authority to initiate revisions to the policy, consistent with approval authorities and applicable *Bylaws* and *Standing Orders* of the Regents.

The Executive Vice President–Business Operations has the authority to ensure that policies are regularly reviewed, updated, and consistent with other governance policies.

C. Approval of Actions

Actions within this policy must be approved in accordance with local procedures. Chancellors and the Vice President–Human Resources are authorized to determine responsibilities and authorities at secondary administrative levels in order to establish local procedures necessary to implement this policy.

All actions applicable to PPSM-covered staff employees who are not Senior Management Group members that exceed this policy, or that are not expressly provided for under any policy, must be approved by the Vice President–Human Resources unless otherwise indicated.

D. Compliance with the Policy

The following roles are designated at each location to implement compliance monitoring responsibility for this policy:

The Top Business Officer and/or the Executive Officer at each location will designate the local management office to be responsible for the ongoing reporting of policy compliance.

The Executive Officer is accountable for monitoring and enforcing compliance mechanisms and ensuring that monitoring procedures and reporting capabilities are established.

The Vice President–Human Resources is accountable for reviewing the administration of this policy. The Director–HR Compliance will may periodically monitor compliance to this policy.

E. Noncompliance with the Policy

Noncompliance with the policy is handled in accordance with PPSM Personnel Policies for Staff Members 61, 62, 63, 64, 65, and 67 62, 63, and 64, and with PPSM-II 64 pertaining to disciplinary and separation matters.

V. REQUIRED PROCEDURES

Any local pProcedures shall be implemented will be consistent 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.A. The Interactive Process

The interactive process will be initiated by the University when the employee formally or informally requests an accommodation or the University otherwise has reason to believe that the employee may need assistance in performing the essential functions of the employee's current position due to a disability. A request for accommodation may be made orally or in writing by the employee, or made by someone on behalf of that employee.

~~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 and, a manager, typically the employee's supervisor. Other health-care provider, and other appropriate University representatives may include, but are not limited to, the location's Disability Manager or appropriate Human Resources representatives.~~

~~The employee and University representatives are expected to participate in the interactive process in good faith. For the employee, that good faith obligation includes promptly responding to the University's reasonable requests for information about the employee's functional limitations, including requests for supporting documentation from the employee's health care providers.~~

~~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 may be considered~~ is essential for any of several reasons, including but not limited to:

~~a. The function may be 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.~~

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

~~c. The function may be highly specialized so that the employee in the position is hired or retained for the employee's expertise or ability to perform the particular function.~~

2. ~~Identify the employee's job-related functional limitations by consulting with the employee and by reviewing~~ documentation related to the employee's functional limitations.

~~The employee and his or her health care provider must provide documented information concerning the employee's work restrictions. If the University requests information regarding the employee's functional limitations, the University will provide a~~ A current job description and/or other documentation that outlines essential and non-essential job functions, ~~which must be used by~~ the health care provider ~~can reference when evaluating the employee's to determine~~ functional capabilities ~~and limitations. The job description and/or other documentation may also enable the health care provider to suggest possible accommodations 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 effectively. The University and the employee should work together to identify possible reasonable accommodations. The University will consider possible accommodations suggested by the employee in addition to those identified by the University.

Examples include, but are not limited to:

- job restructuring (e.g. transfer of non-essential job functions to another employee);
- ergonomic adjustments;
- modification of work tools or equipment;
- assistive devices;
- modification of existing facilities;
- ~~time off for medical visits;~~
- ~~modification of work tools or equipment~~
- modified work schedule; and
- ~~leaves of absence for treatment and/or recovery.~~
- ~~assistive devices; and~~
- ~~modification of existing facilities.~~
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When the interactive process has resulted in a determination that the employee with a disability cannot be reasonably accommodated in the current position absent undue hardship but the employee may be able to perform the essential functions of another University position, with or without reasonable accommodation, and the employee is interested in reassignment, the University will consider other accommodations are not effective, reassignment to a suitable n-active, vacant or soon to be vacant position, per Section III.D. 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 doing~~ so would pose an undue hardship. This determination is made on a

case-by-case basis. ~~An 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 impact the proposed accommodation would have on operations, and

~~the overall financial resources of the location;~~ 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~~ When 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 and continue the interactive process as necessary.

~~Any changes in circumstances, whether in the employee's condition or in workplace factors,~~ may warrant a ~~re-evaluation~~ continuation of the interactive process so that the employee and the University can reevaluate the reasonable accommodation and determine whether any changes are needed. For example, if the employee's the receipt of new information regarding functional limitations change or the reasonable accommodation is not effective or becomes ineffective, the employee should promptly advise their supervisor so that the interactive process can be continued. ~~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. Document the process and accommodation.

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.B. Special Selection Reassignment

When reassignment is appropriate under Section III.D, the Disability Manager or other appropriate University representative will conduct the alternative job search in consultation with the employee.

C. Recordkeeping

Any medical documentation about an employee received in connection with the employee's request for reasonable accommodation or the interactive process should be treated as a confidential medical record for purposes of record storage.

~~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.~~

VI. RELATED INFORMATION

- [Personnel Policies for Staff Members 20 \(Recruitment\)](#) (referenced in Section III.D. of this policy and in Section V.D. of these procedures)
- [Personnel Policies for Staff Members 2 \(Definition of Terms\)](#) (referenced in Section III.D. of this policy)
- [Personnel Policies for Staff Members 1 \(General Provisions\)](#) (referenced in Section IV.A of this policy)
- [Personnel Policies for Staff Members 61, 62, 63, 64, 65, and 67](#) (referenced in Section IV.E. of this policy)
- [Personnel Policies for Staff Members 62, 63, and 64](#) (referenced in Section IV.E. of this policy)
- [Personnel Policies for Staff Members II-64 \(Termination of Appointment\)](#) (applicable to Senior Management Group Members) (referenced in Section IV.E of this policy)

VII. FREQUENTLY ASKED QUESTIONS

TBDNot applicable.

VIII. REVISION HISTORY

The following revisions were made as of [Month Day, Year]:

- Language expanded, clarified, and reformatted throughout
- Definitions added in Section II to provide clearer guidance
- “Special Selection” changed to “Reassignment” in Section III.D to reduce confusion

As a result of the issuance of this policy, the following document is rescinded as of the effective date of this policy and is no longer applicable:

- Staff Personnel Policy 81 (Reasonable Accommodation), dated July 1, 2006

This policy was reformatted into the standard University of California policy template effective July 1, 2012.

~~As a result of the issuance of this policy, the following policy documents are has been rescinded as of the effective date of this policy and are is~~ no longer applicable:

- ~~Staff Personnel Policies 764 (Rehabilitation), dated January 1, 1981~~

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