



Resident Requesting Accommodations

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Disclosures

No relevant personal or financial disclosures.


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OUTLINE

- Background of a resident case
- ADA and University Policy
- “Reasonable” vs. “Unreasonable” accommodations
- Description of negotiation process
- What did we learn


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Upon completion, participant will be able to:

- Know the ADA definitions of disability
- Know the University employer’s responsibility to provide reasonable accommodations
- Name some factors to determine “reasonability” of accommodations
- Understand our experience with the steps of the negotiation process
- Understand that workplace accommodations are not contractual agreements


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CASE BACKGROUND

- CA-1 resident
- Struggles with workload
- Migraine headache syndrome
- Discussions ongoing about headaches and relationships to work patterns
- Resident worked with PCP on medication management
- Large amount of sick leave and call-ins


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CASE BACKGROUND

- Spring of CA-1 year resident contacted University ADA Coordinator to request negotiation of workplace accommodations
- Initiated by her completion of a “Reasonable Accommodation Request Form”
- Resident provided medical documentation to ADA Coordinator that she was a person with a disabling condition
- The Office of Equal Opportunity (OEO) designated the ADA Coordinator

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Accommodations Request Form

- Requests could be made through supervisor or directly by employee
- Suggested accommodations initially were solicited from employee directly on this form
- Asked about:
 - Description of impairment
 - How it affects ability to perform essential job functions
 - To list accommodations requested to perform essential functions

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ADA Language on Accommodation

- Section 504 of the Rehabilitation Act of 1973, Title II of the Americans With Disabilities Act of 1990, and the Americans with Disabilities Act Amendments Act of 2008, **collectively referred to in this policy as "ADA,"** protect against disability-based discrimination
- The University **must provide reasonable accommodations** to qualified individuals with a disability who are applicants for employment, active employees, and beneficiaries of University programs, services, and activities

Administrative Policies and Procedures Manual - Policy 3110: Reasonable Accommodation for Employees, Job Applicants, and Participants with Disabilities


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Further Definitions of Disability

<p>"Individual with a Disability"</p> <p>A person who has:</p> <ul style="list-style-type: none"> • a medical condition or a physical or mental impairment that • substantially limits <i>one or more</i> major life activities OR • has a record of such impairment OR • is regarded as having such impairment 	<p>"Qualified Individual with a Disability"</p> <p>Defined as an individual who possesses the requisite:</p> <ul style="list-style-type: none"> • skills, education, experience, knowledge, and other job requirements AND • who can, <i>with or without</i> a reasonable accommodation, perform the <i>essential functions</i> of the job
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Essential Functions = the fundamental (as opposed to marginal) duties of the job the individual holds


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So, what might be "reasonable" accommodation?

- The University must make reasonable accommodations to accommodate qualified individuals with a disability unless the accommodations would create an *"undue hardship."*
 - Whether an accommodation constitutes an undue hardship will be determined on a case-by-case basis.
- Examples given, including but not limited to:
 - Modifying a job so they could perform essential functions
 - Using part-time or modified work schedules


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So, what might be "reasonable" accommodation?

- The factors and information that will be used to determine if an accommodation is necessary and reasonable include, but are not limited to, whether:
 - The task for which the accommodation is sought is necessary for performing the essential functions of the employee's position.
 - The employee is otherwise qualified to perform the essential job functions and duties.
 - The accommodation will allow the employee to effectively perform the essential functions of the employee's position.
 - There is another more cost-effective option that would allow the individual to perform the essential functions of the job.


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THE NEGOTIATION PROCESS

1. What were "ground rules" of internal discussions?
2. Forwarded initial document by ADA Coordinator
3. Meeting set among myself, Chairman, DIO, ADA Coordinator and resident
4. Discussed requested accommodations as a group and proposed any changes via email drafts


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Accommodations Requested

- Modification of work schedule to accommodate sufficient recovery from headaches post-call
- Agreement was to maintain a call schedule with one of two weekly options:
 - Thursday night call, Friday post-call, Saturday recovery, and Sunday 12 hour weekend call –OR–
 - Friday night call, Saturday post-call, Sunday recovery
- No other weekday calls and eliminated 24 hour weekend call options
- Per our handbook, we require all residents to work 24 hour weekend call burden/month; split into two 12 hour shifts for this resident

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Challenges: What did we Learn

- We should **not** consider “fairness” to other residents when modifying the schedule for the one needing accommodations
- The Accommodations Agreement is **not** a contract; it could be revised at any time with negotiation between employee and employer
- Would elimination of overnight call ever be “reasonable” in context of a training program?

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