

Leaves of Absence and Fitness for Duty Hybrid Workshop

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Presented by:

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Today's Agenda

- Disabilities and qualified individuals
- Reasonable accommodations
- The interactive process
- Fitness for duty and documentation
- Leaves of absence for school employees
- New leave laws



Why Accommodate?

Laws Governing Disability Discrimination

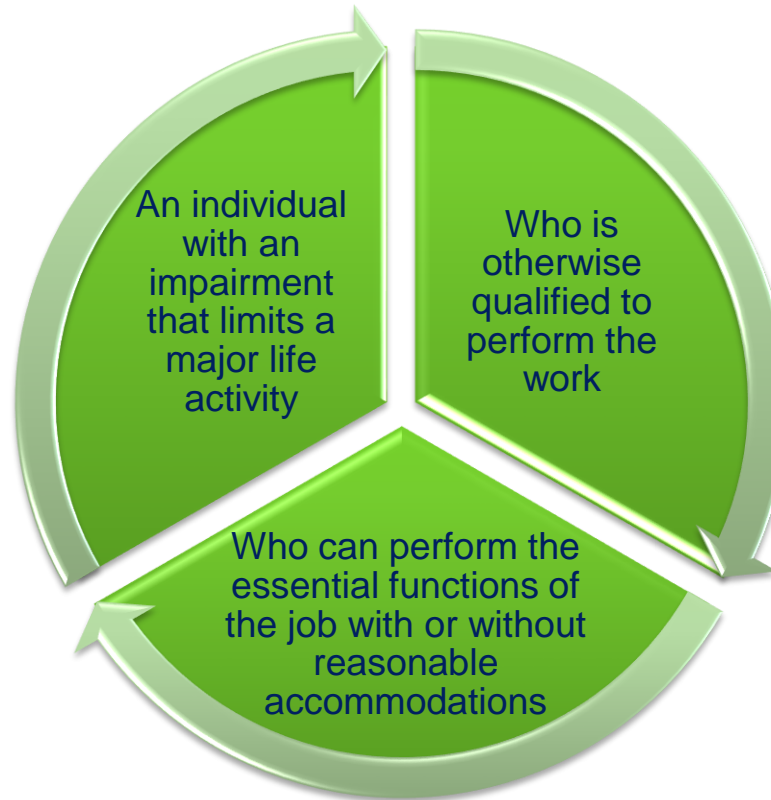
- Americans with Disabilities Act (ADA)
- ADA Amendments Act (ADAAA)
- California Fair Employment & Housing Act (FEHA)
- Equal Employment Opportunities Commission (EEOC) Guidelines
- Rehabilitation Act of 1973
- Workers' Compensation laws



What Do We Mean By “Disabilities”?

Who Is Covered?

The ADA & FEHA protect *qualified individuals with disabilities*, defined as:



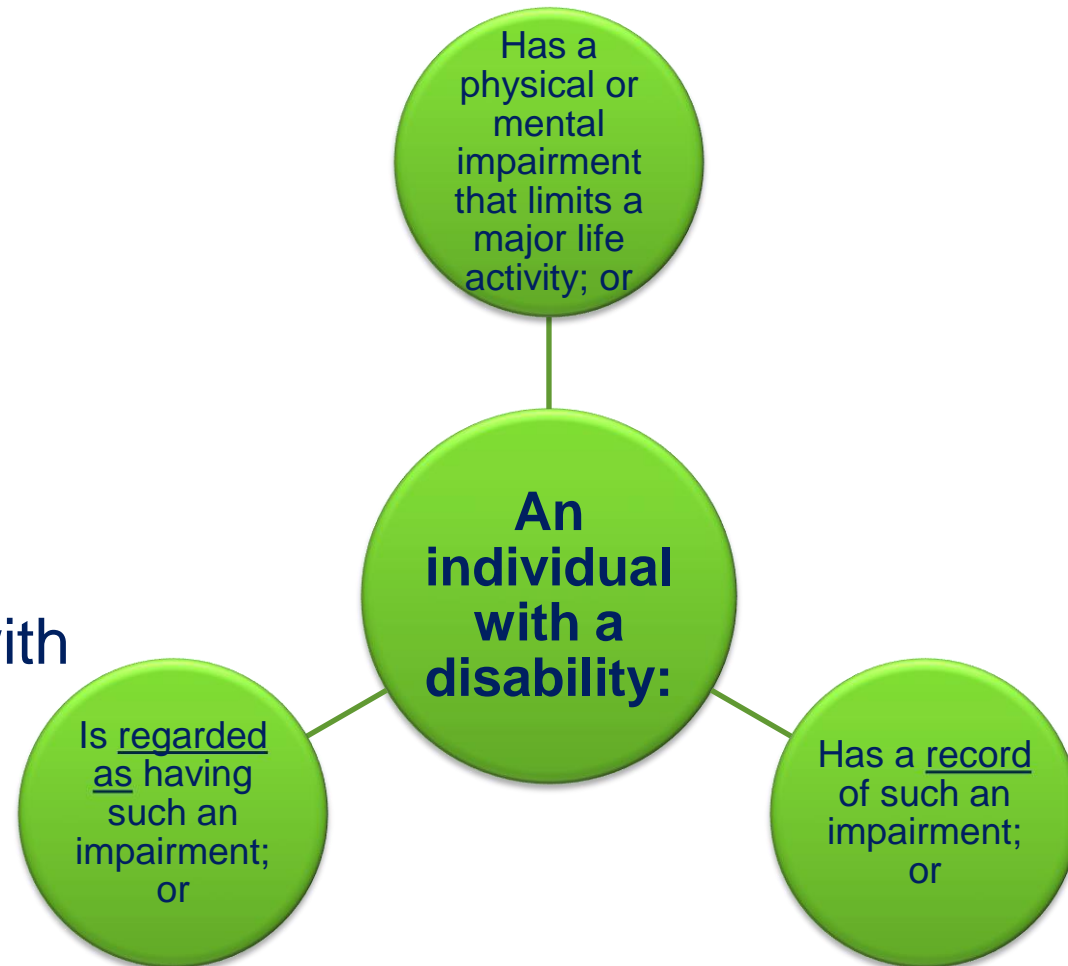
Who Is Covered?

- ❑ *Any* employee — permanent, probationary, temporary, and substitute — who is a qualified individual with a disability.
 - ❖ Accommodations may differ for a temporary or substitute employee.
- ❑ Management, part-time, seasonal, and non-bargaining unit employees are all covered.
- ❑ Applicants are also protected.
 - ❖ The law does *not* require employers to hire unqualified applicants.

What Is a Disability?

ADA/FEHA protections apply to all three categories

ADA & FEHA also protect from employment discrimination qualified individuals who are associated with an individual with a disability. (*Castro-Ramirez v. Dependable Hwy. Express* (2016))



What Is a Disability?

A mental disability includes:

- Any mental or psychological disorder or condition, such as intellectual disability, organic brain syndrome, emotional or mental illness, or specific learning disabilities, **that limits a major life activity**. (Gov. Code § 12926(j)(1))
- Chronic or episodic conditions, clinical depression, and bipolar disorder. (Gov. Code § 12926.1(c))

What Is a Disability?

- A mental disability does *not* include:
 - X Stress/anxiety **over working for a particular supervisor** (*Higgins-Williams v. Sutter Medical Foundation* (2015))
 - General stress/anxiety disorder **is** likely a disability
 - X Sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs
(Gov. Code §§ 12926(j)(5), (m)(6))

What Is a Major Life Activity?

Major life activities include:

- Working
- Walking, running, standing
- Sleeping
- Caring for oneself
- Breathing
- Learning, reading, concentrating, thinking, communicating
- Major bodily system functions
- Procreation

What About Mitigating Measures?

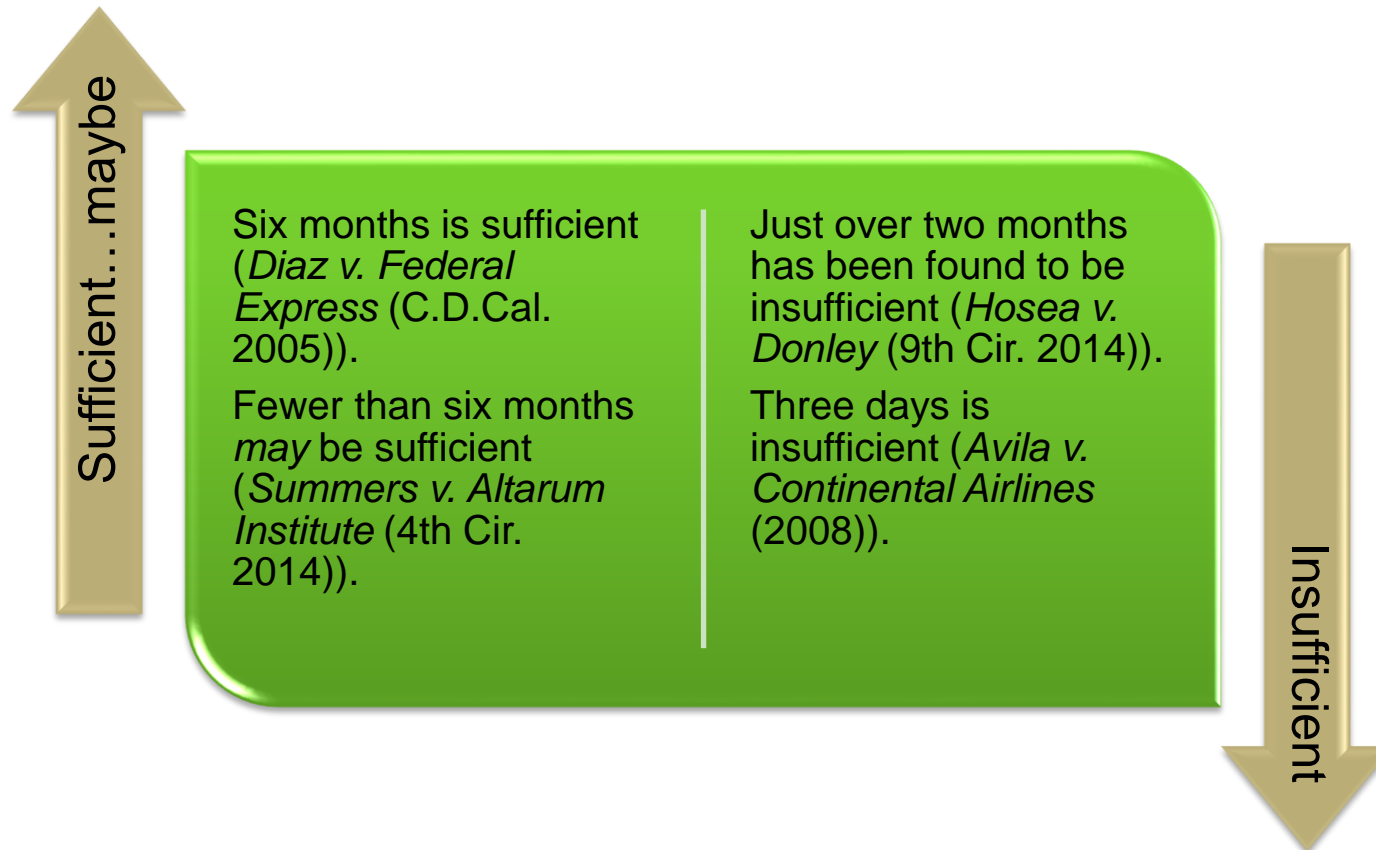
- Under California law, “whether a condition limits a major life activity must be determined without respect to any mitigating measures, unless the mitigating measure itself limits a major life activity.” (Gov. Code § 12926.1(c))
- Mitigating measures include employees’ devices (such as wheelchairs) and medications.
- Mitigating measures do **not** include ordinary eyeglasses and contact lenses. (2 Cal. Code Regs. § 11065(n)(1))
- Since the 2009 ADA amendments, federal law is similar. (Overruling *Sutton v. United Air Lines* (1999))

“Voluntary” Conditions

- The *voluntariness* of a condition is irrelevant when determining if the individual has an impairment.
 - EEOC: irrelevant whether an individual developed the impairment through some “volitional act” (EEOC Compliance Manual § 902.2(e) at p. 14).
 - For example, it is irrelevant that someone got lung cancer because he smoked.
 - It “makes no difference” that high blood pressure was “induced by gravity” (*Navarro v. Pfizer* (1st Cir. 2001)).

Temporary Disabilities

- No bright line rule as to how long a condition must disable or impair the individual to be protected.



Work-related Conditions

The duty to accommodate disabling conditions applies regardless of whether the condition is related to a workplace injury or illness.

The primary distinction between work-related and non-work-related conditions is the amount of *leave* the employee is entitled to use.

Accommodation may be required *before* the employee is declared “permanent & stationary.”

“Record of” a Disability

Individual had a *past* impairment that limited a major life activity but (1) no longer has the impairment or (2) the impairment no longer limits the activity.

- Recovering drug user (*Hernandez v. Hughes Missiles Systems* (9th Cir. 2002))
- Record of mental illness (*Doe v. The Salvation Army* (6th Cir. 2008))
- History of cancer (*Adams v. Rice* (D.C. Cir. 2008))
- Past leaves or extensive absences (*Snead v. Metropolitan Property & Casualty Ins. Co.* (9th Cir. 2001))
- Prior receipt of disability benefits (*Lawson v. CSX Transportation* (7th Cir. 2001), agreeing with EEOC)

“Regarded as” Disabled

- Individual has *no* impairment or has an impairment that does not limit a major life activity, but employer treats or perceives the employee as having an impairment.
 - Excludes impairments that are “transitory *and* minor”
 - Covers any adverse employment action taken “because of” an actual or perceived impairment
- Employer need not accommodate impairments that are merely perceived or regarded.

“Qualified” Individual

Employee or applicant must be qualified for the job.

- Qualified means able to meet all prerequisites for the job (*Johnson v. Board of Trustees of Boundary School District No. 101* (9th Cir. 2011)), and able to perform the *essential functions* of the position with or without reasonable accommodation (*Jensen v. Wells Fargo Bank* (2000)).
- In a disability lawsuit, the *plaintiff* must prove he/she is qualified for the job (*Green v. State of California* (2007)) and able to perform the essential functions *at the time of the adverse action* (*Carroll v. City of Stone Mountain* (11th Cir. 2013)).

“Qualified” Individual

- What are *essential functions*?
 - Job exists to perform the function
 - Function vs. way of performing function
 - Limited number of employees available who can perform it
 - Function is highly specialized
 - Function is not “marginal” (marginal functions can be redistributed, while essential functions need not be)
- Employer must show the position *does* perform the function
 - Written job description is significant evidence of essential functions
 - Job description alone is not sufficient

“Qualified” Individual

- Time spent performing the function is not dispositive
 - Driving is essential function of field nurse’s job though only 25% of the day is spent driving (*EEOC v. LHC Group* (5th Cir. 2014)).
 - Restraining inmates was essential for youth worker, even though rarely performed, because of the consequences if it could not be done (*Wardia v. Justice & Public Safety Cabinet Dept.* (6th Cir. 2013)).
 - Firefighting is essential function of fire investigator position because firefighters could die if investigator could not assist in suppressing fires (*Creemeens v. City of Montgomery* (11th Cir. 2011)).
 - Function may not be essential if employee has never had to perform it (*Shell v. Smith* (7th Cir. 2015) [driving bus might not be essential function of mechanic helper job where employee had not driven bus on public road in 12 years of employment]).

Documenting Essential Functions

- Include a comprehensive list of essential functions in each job description.
- As jobs change, update job descriptions and discard old ones. (Note: negotiable)
- Job descriptions should include:
 - “The essential functions of the position include, but are not limited to ...”
 - Attendance and qualitative and quantitative performance standards.
 - Sensory and physical requirements such as:
 - Use full range of peripheral vision to drive a van.
 - Read student health records.
 - Lift 30-lb. boxes of textbooks intermittently for approximately 30 minutes per day.
 - Answer office telephones and communicate information to callers.



Documenting Essential Functions

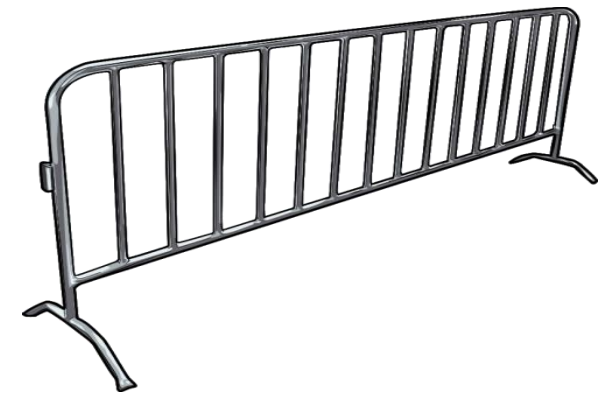
Job descriptions should include:

- If the job involves interaction with co-workers, a statement like “the ability to interact cordially with co-workers to accomplish common tasks” as an essential function.
- If the job involves last-minute deadlines or other stressful circumstances, a statement that “the ability to function under highly stressful circumstances” is an essential function.
- As the final job duty, “other functions that may be assigned.”

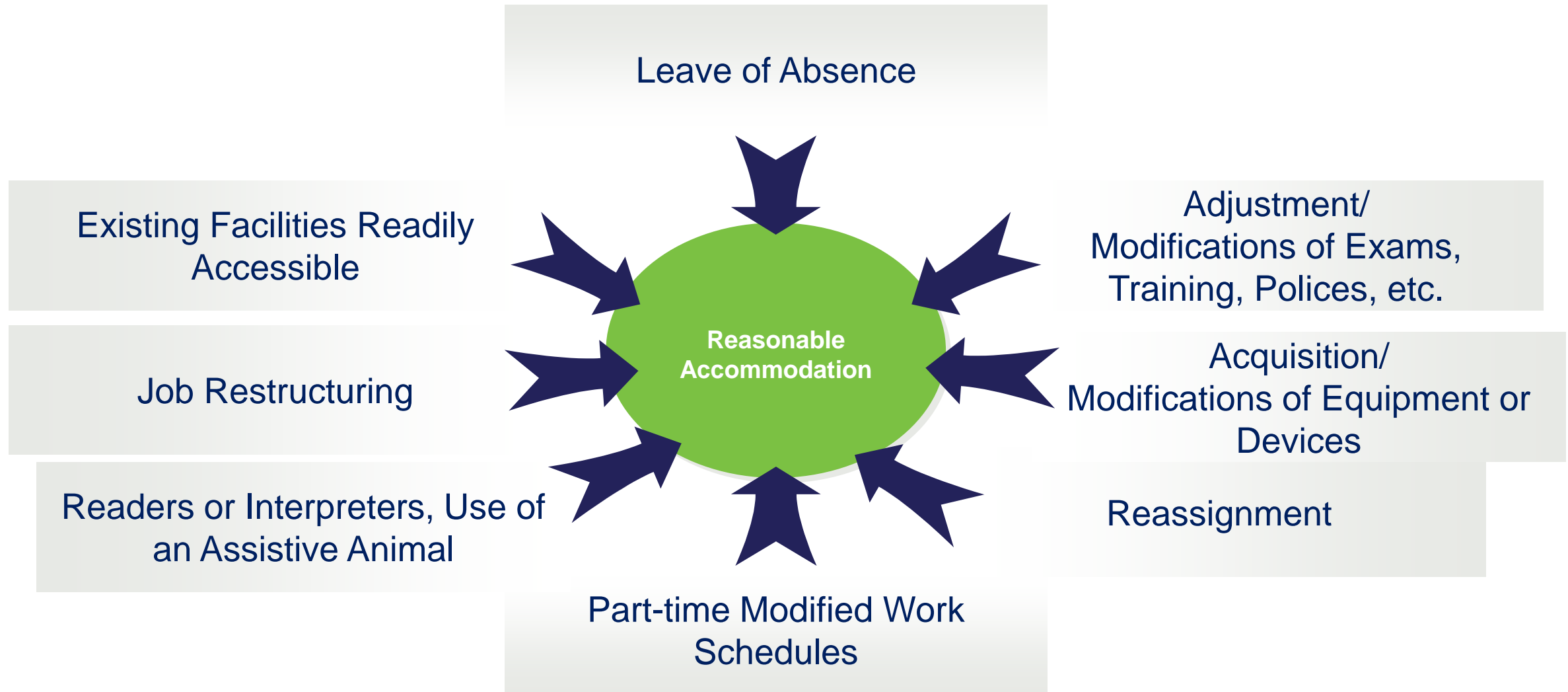
Reasonable Accommodations

What Are Accommodations?

- *Reasonable accommodation* means the removal of workplace barriers to allow an individual with a disability to perform the essential functions of a job.
- Categories of accommodations include:
 - Changes to the job application process
 - Modifications to the work environment
 - Changes that allow an individual with a disability to enjoy equal benefits and privileges of employment



Types of Reasonable Accommodations



What Is “Reasonable”?

Accommodations
must be
reasonable:

- Effective – enables employee to perform the job
- Removes a *workplace* barrier (not a personal one)
- Possible cost-benefit analysis (caution!)
- Need not violate seniority provisions of a CBA
- Need not be the employee’s *choice* of accommodation:
 - Employer may select *any* effective accommodation
 - Give consideration to employee’s preferred accommodation

What is Not “Reasonable”?

Accommodation does not require employers to:

- Create a position for the disabled employee
- Hire another employee to perform the job functions
- Waive the requirement that the employee perform all essential functions of the job
- Promote the employee
- Provide paid leave if the employee has no paid leave available
- Bump another employee out of a position

Undue Hardship

Accommodations
need not pose an
“undue hardship”:

- One that involves significant difficulty or expense considering the employer’s resources
- An unduly extensive or disruptive accommodation
- Accommodation that fundamentally alters the nature or operation of the business (42 U.S.C. §12111(10); 29 C.F.R. §1630.2(p))

Direct Threat

What if the employee's presence *or* the accommodation itself poses a “direct threat” in the workplace?

- Threat to the safety or health of the disabled employee
- Threat to the safety or health of other employees/students



Direct Threat

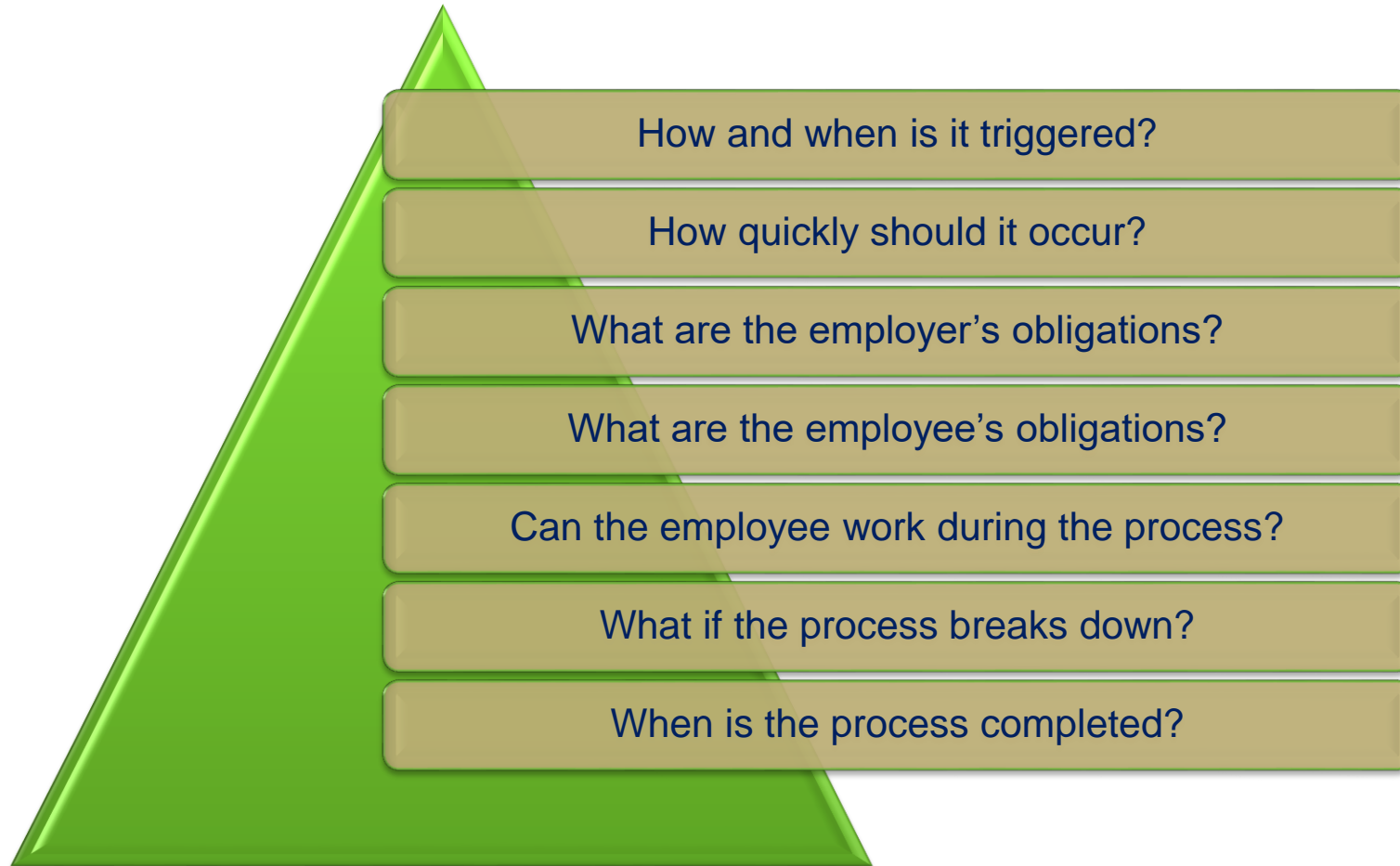
- The employer bears the burden of showing that an individual poses a “direct threat” in the workplace.
(*EEOC v. Wal-Mart Stores* (8th Cir. 2007))
- An individual analysis is required, considering:
 - The duration of the risk posed
 - The nature and severity of the potential harm
 - The likelihood that the potential harm will occur
 - The imminence of the potential harm
- Can a reasonable accommodation eliminate the risk?

Accommodating Applicants

- Applicants must be reasonably accommodated in the application process:
 - Tests/examinations
 - Additional time
 - Reader/interpreter
 - Writing requirements
 - Interviews
 - Interpreter
 - Pre-employment physicals?

The Interactive Process

The Interactive Process

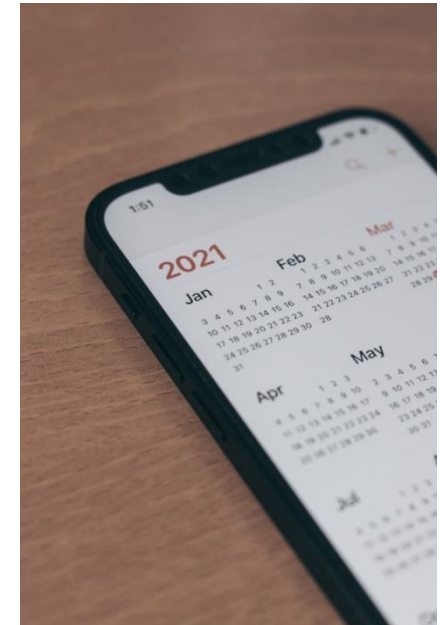


What Triggers the Interactive Process?

- Generally, the employee or applicant must *request* an accommodation
 - Request need not be formal
 - No magic words
 - Request need not be specific
 - Request may be ambiguous
 - Request may be made to HR, a supervisor, or anyone in the employee's chain of command
- An employer must accommodate only *known* disabilities

When Does the Interactive Process Begin?

- The employer must engage in a *timely*, good faith interactive process (Gov. Code § 12940)
 - Employer should respond to a reasonable accommodation request as soon as practicable
 - Unwarranted delay is a violation of the duty to accommodate
 - Lengthy delay is a failure to engage in the process in good faith



The Interactive Process

- Who should attend an interactive process meeting?
 - Employee
 - Employee's representative, if requested
 - Human Resources
 - Employee's supervisor/manager
 - If appropriate, a process facilitator
 - Legal counsel, if employee brings an attorney



The Interactive Process

Prepare for the interactive meeting

- Review the job description/job function analysis
- Review the employee's restrictions
- Request additional details about restrictions if needed
- Consider any accommodation requested by the employee
- Identify other possible accommodations
- If an effective accommodation in the current position appears unlikely, determine whether the employee is qualified for any vacant positions
- Determine how much leave the employee has available

The Interactive Process

- **Possible outcomes of the interactive meeting**
 - Employee states no accommodation is needed
 - Employee identifies new restrictions
 - Employee declines proffered accommodation(s)
 - Employee insists on a specific accommodation
 - Supervisor is resistant to accommodations
 - Employer offers temporary accommodation on trial basis
 - Employer determines restrictions cannot be accommodated
 - Parties determine more information is needed

The Interactive Process

Document the interactive process meeting

- Summarize the discussion in writing
- Describe accommodations discussed, offered, declined, or accepted
- Describe the terms of any agreed-on accommodations
- Set a date for follow-up discussion
- Signed by each participant
- Do not place in employee's personnel file; use a separate confidential file

When the Interactive Process Breaks Down

- *Both* parties must cooperate in the process
 - Employer must promptly initiate the interactive process.
 - Employee must cooperate by providing appropriate medical documentation of (1) the impairment(s) and (2) the employee's functional limitations (not a diagnosis) (*Jackson v. City of Chicago* (7th Cir. 2005); *Bundy v. Chaves County Board of Commissioners* (10th Cir. 2007)).
 - Employee must participate in the interactive meeting (*EEOC v. Sears* (7th Cir. 2005)).
 - Employee may not “uncompromisingly insist on a single accommodation that is unreasonable” (*Whelan v. Teledyne Metal Working Products* (3d Cir. 2007)).

When the Interactive Process Breaks Down

- If the employee causes the process to break down, he/she has no claim for failure to accommodate.
 - *Gratzl v. Office of Chief Judges* (7th Cir. 2010) [employee could not unilaterally insist on accommodation of her choice where employer offered an effective alternative].
 - *Carter v. Northwest Airlines* (7th Cir. 2004) [employee did not respond to employer's calls or invitation to meet, and declined to take test for the job he claimed to be qualified for].
 - *Kratzer v. Rockwell Collins* (8th Cir. 2005) [employee failed to provide requested documentation of restrictions and appropriate accommodation for mechanical test needed for promotion she sought].

When Must the Accommodation Begin?

- The employer must provide the accommodation(s) *expeditiously*
 - Does the employer control the possible modifications?
 - Is the modification readily available?
 - Must the employer order equipment?
 - Must the employer have equipment installed?
 - Does the modification require moving offices or other employees?
- In most cases, consider the accommodation(s) a *permanent* modification

Telling Others about the Accommodation

Employees' medical information is confidential. Inform others on a need-to-know basis:

- The employee's supervisor may need to know that the employee requires breaks or other accommodations.
- The site administrator may need to know about the accommodation.
- Individuals assigned to assist the employee may be told only the extent of their assignment.
- First aid and safety personnel may be informed if the disability might require emergency treatment.
- Coworkers should be told the district is "complying with the law."

When Is the Interactive Process Complete?

- The duty to accommodate is *ongoing*.
- “The duty to reasonably accommodate a disabled employee is a continuing one that is not exhausted by one effort.” (*Swanson v. Morongo Unified School District* (2014), cited in *Atkins v. City of Los Angeles* (2017))

When Is the Interactive Process Complete?

Follow up with the employee to ensure the accommodations are effective.

Follow up with the supervisor to identify concerns.

Hold additional meetings, if necessary.

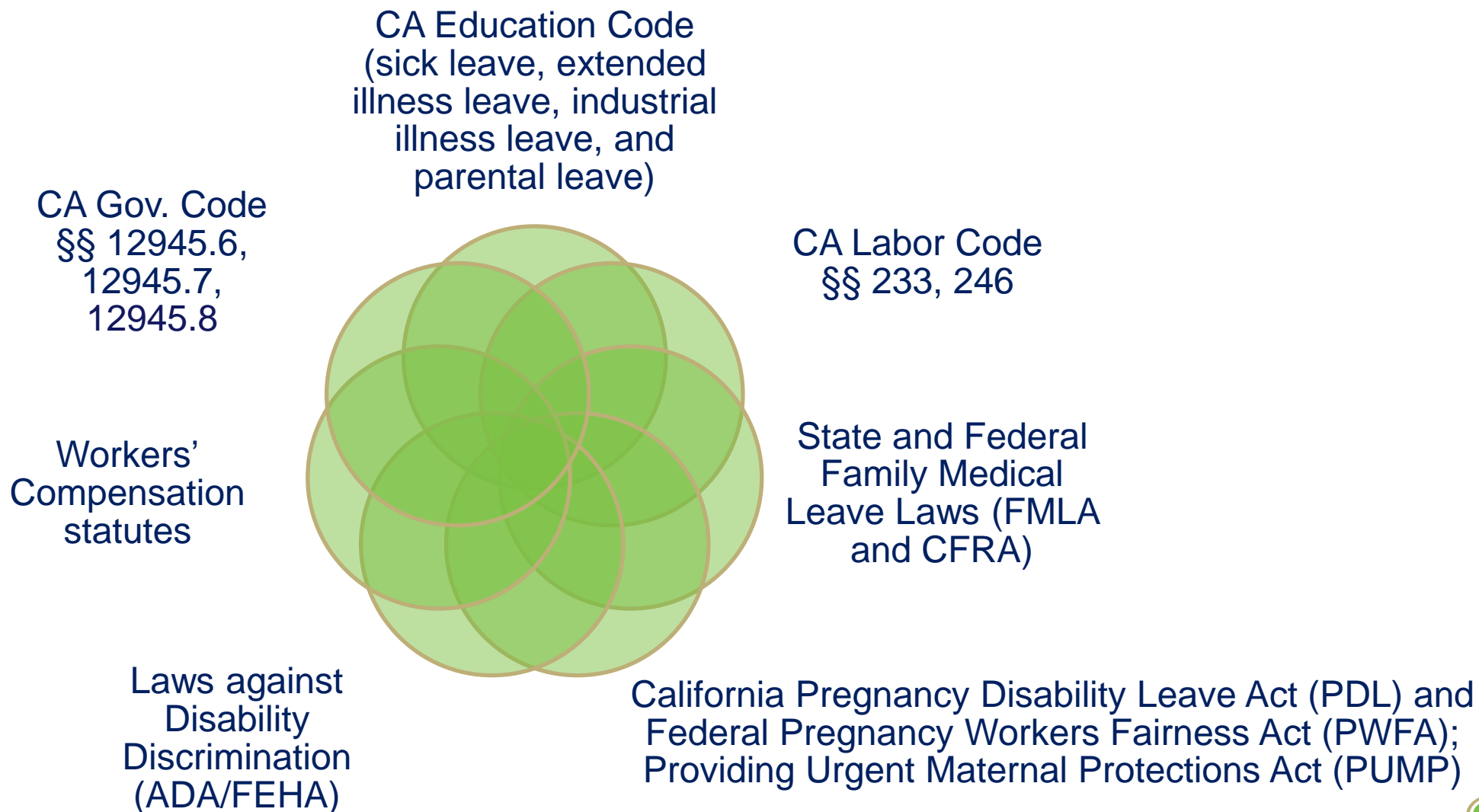
Request current medical verification if appropriate.

Give the employee a contact for questions.

Hypotheticals

Leaves of Absence for School Employees

Leave Laws Applicable to School Districts



Challenges for California School Employers

Education Code already VERY GENEROUS even without added FMLA/CFRA/PDL protections.

Leave rights may be expanded even further by Board Policy, past practice, and collective bargaining provisions.

Certificated and classified employee leave rights are governed by parallel, and *almost* identical Ed Code provisions.

Overview of FMLA and CFRA

Family and Medical Leave Act of 1993 (FMLA)

- 29 U.S.C. §§ 2601, *et seq.*
- U.S. Department of Labor
 - 29 C.F.R. §§ 825.100, *et seq.*
- www.dol.gov/whd/fmla

California Family Rights Act (CFRA)

- CA Gov. Code, § 12945.2
- California Civil Rights Department (formerly DFEH)
 - Cal. Code Regs., tit. 2, §§ 11087 *et seq.*
- <https://civildrights.ca.gov/family-medical-pregnancy-leave/>

FMLA/CFRA Qualifying Reasons

- Serious health condition of the employee. (FMLA/CFRA)
- To care for a parent, spouse, or minor child or adult child with a disability and incapable of self-care, with a serious health condition. (FMLA/CFRA)
- To care for a registered domestic partner, grandparent; grandchild; sibling; child regardless of age, disability, or dependency status; parent-in-law; or designated person; with a serious health condition. (CFRA only)
- Birth of an employee's child or placement of a child with the employee for adoption or foster care. (FMLA/CFRA)

FMLA/CFRA Qualifying Reasons

- Qualifying exigency arising out of the fact that a spouse, registered domestic partner (CFRA only), child, or parent of the employee is a covered servicemember being deployed overseas (FMLA; CFRA effective 1/1/21).
- Serious illness or injury sustained in the line of duty on duty by a military servicemember or veteran who is the spouse, child, parent, or next of kin of the employee (FMLA and maybe CFRA).

Pregnancy Disability Leave Act

- Gov't Code §12945
- California Department of Fair Employment and Housing
- <https://calcivilrights.ca.gov/family-medical-pregnancy-leave/>
- 4 months of unpaid leave for disability due to pregnancy, childbirth, or related medical conditions.
- Continuation of health insurance on the same terms as if working.
- Reinstatement to same or equivalent position.
- Protection against discrimination and retaliation.

Paid Parental Leave

- *aka* AB 2393
- Ed. Code §§44977.5, 45196.1, 87780.1, and 88196.1
- Up to 12 workweeks of leave in 12-month period to care for and bond with an employee's newborn child, or child newly placed for adoption or foster care.
- Employee may use up to 12 workweeks of current and accumulated sick leave.

Pregnancy Disability and Bonding Leave

- Extended illness leave can be used for pregnancy related disability leave.
- Both education code extended illness leave and child-bonding leave and use a similar pay structure (substitute/50%), but...
- The parental leave child-bonding leave “bucket” under the education code is separate from the five months/100 days “bucket” for extended illness or injury leave.

Pregnancy & Child Bonding Leave

- Paid Parental Leave (AB 2393):
 - » Set forth in Education Code §§44977.5 (certificated), 45196.1 (K-12/county office classified), 87780.1 (academic), and 88196.1 (community college classified).
- The laws apply to all certificated, academic, and classified employees, including management, supervisory, and confidential employees.
- The four statutes set forth the same rules except for the rate of pay once full-paid sick leave is exhausted.
- Paid “parental leave” defined as leave taken for birth of a child of the employee or the placement of a child with the employee for adoption or foster care.
- All certificated, academic, and classified employees are entitled to use up to 12 workweeks of current and accumulated sick leave for parental leave.
- **Employees do not have to be FMLA or CFRA eligible to use sick leave for paid parental leave.**

Pregnancy & Child Bonding Leave

Paid Parental Leave (AB 2393) (continued)

- **If an employee does not have 12 workweeks of sick leave** but wants to take 12 workweeks of child-bonding/parental leave, he or she may receive substitute differential or 50% pay (depending on which model the district or county office has adopted for extended illness leave) for the remainder of the 12 workweeks of parental leave if:
- The employee exhausts all current and accumulated sick leave; **and**
- The employee is eligible for CFRA leave except **the employee is not required to have worked 1,250 hours in the 12 months prior to the leave.**
- Regardless of which extended illness leave model the district or county office has adopted, **the employee is entitled to at least 50% pay for paid parental leave.**

New Leave-Related Laws

Transfer of Sick Leave Balances Between School Employers (AB 2134)

Amends Ed Code §§ 44979, 44980, 44982, and 45202 (merit & non-merit)

- An employer receiving an employee's transfer of leave request must honor the request at any time during the employee's employment with the subsequent school employer.
- Certificated employee must have worked one school year for Employer 1 (44979); classified employee must have worked one calendar year for Employer 1 (45202).
- Information Employer 1 must provide in response to Employer 2's request (44979(b); 45202(e)).
- Classified employees (see 45202):
 - Excludes employees terminated by Employer 1 for cause, unless both employers agree.
 - Provides options for Employer 2 to count work for Employer 1 for seniority.

Domestic Violence (AB 2499)

Adds Gov. Code § 12945.8, among other revisions to laws

- Expansion of prior rights for victims of DV
- Now codified in FEHA; will be enforced by CA CRD
- Employers required to provide written notice of rights established under this bill to new hires, to all employees annually, at any time upon request, and any time the employer becomes newly aware that an employee or an employee's family member is a victim
- Replaces crime or abuse with "qualifying act of violence."
- "Family member" means a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner, as those terms are defined in [Gov. Code § 12945.2, or designated person.
- Labor Code 246.5 – paid sick days for these purposes (same rules as Labor Code kin care)

Additional Leave-Related Legislation passed in 2024

AB 2123, SB 1090, AB 1239, AB 1870

- AB 2123: Disability/Paid Family Leave
- SB 1090: Timeline for filing for State Disability Insurance/Paid Family Leave
- AB 1239: Work Comp indemnity payments on a pre-paid card
- AB 1870: Updating Work Comp notices to inform employees they can consult with attorneys

Leave as a Reasonable Accommodation

- What if the employee continues to be absent after leave under FMLA or CFRA expires?
- What if the employee exhausts 5 months/100 days of leave and continues to be absent?

Leaves for Public Education Employees

Full-Paid Sick Leave

Certificated Employees (Ed. Code § 44978)



- Full-time employees earn 10 days per year
- Part-time employees earn proportionally less

Classified Employees (Ed. Code § 45191)



- Full-time 12-month employees earn 12 days of sick leave per year
- Part-time employees , or those who work less than 12 months, earn proportionally less

Full-Paid Sick Leave

Unused sick leave is never lost and accumulates from year to year.

Employees may not cash out when leaving employment.

Entire annual entitlement can be used immediately (before actually earned), except for new classified employees.

Extended Illness Leave

Two different types of extended illness leave available for each group of employees (certificated and classified)

1. Substitute Differential (default) (Ed Code §§ 44977, 45196)
2. 50% Rule (if alternative is adopted by District or COE) (Ed Code §§ 44983, 45196)
3. Some districts negotiate a hybrid — sub differential or 50% whichever is greater

May be used day-by-day for illness once full-paid sick leave exhausted (*CTA v. Parlier USD* (1984) 157 Cal. App. 3d 174)

Extended Illness Leave (Sub Differential)

Certificated Employees (Ed. Code § 44977)




Entitled to the difference between regular salary and the amount paid to a sub or would have been paid to a sub

Reduced pay and five-month clock begin after exhaustion of all current and accumulated sick leave

Limited to one 5-month period per illness/accident (see *Veguez v. Gov. Bd. of Long Beach USD* (2005) 127 Cal. App. 4th 406)

Classified Employees (Ed. Code § 45196)



Entitled to the difference between regular salary and the amount paid a sub only if a sub is hired

5-month clock runs concurrently with sick leave, vacation, and other paid leaves and sub difference pay available after they are exhausted

No per-illness limit

Extended Illness Leave (50% Rule)

Certificated Employees (Ed. Code § 44983)




Entitled to 50% of salary for 5 months per year

5-month clock begins after the current year's entitlement of sick leave and runs concurrently with accumulated sick leave; 50% pay commences after sick leave exhausted

No per-illness limit

Classified Employees (Ed. Code § 45196)



Entitled to 50% of salary for 100 days per year

Credited with 100 days each year

100-day clock runs concurrently with sick leave but exclusive to other paid leaves (such as vacation)

No per-illness limit

Industrial Accident and Illness Leave

Certificated Employees (Ed. Code § 44984)



Entitled to 60 days per fiscal year for same illness or accident (if regulation adopted limiting it to 60 – otherwise unlimited)

Used prior to sick leave and extended illness leave

Pay is integrated with temporary disability payments, so employee gets no more than 100% of salary

Classified Employees (Ed. Code § 45192)



Same amount and timing as with certificated employees

District can require specified minimum service time (up to 3 years) before eligibility

Pay is integrated with temporary disability payments, so employee gets no more than 100% of salary

Industrial Accident and Illness Leave

During industrial accident/illness leave, the employee receives no more than regular pay for 60 work days.

Any workers' compensation benefits paid to the employee during the 60 days are deducted from the industrial leave pay.

When industrial leave is exhausted, the employee may use current and accumulated sick leave, vacation, and comp time, to the extent he/she is not compensated through WC benefits. If the employee receives full pay leave, he/she must endorse benefit payments to the district.

Industrial Accident and Illness Leave Classified Employees

When all leave is exhausted, the employee goes on a 39-month reemployment list.

An employee on the 39-month list who is medically released for return to duty and fails to accept an appropriate assignment *shall be dismissed*. (Distinct from other types of 39-month reemployment rights.)

Exhaustion of Leaves

Reasonable Accommodation

- Prior to terminating an employee for exhaustion of leaves, employer must consider whether employee has a disability protected by state and/or federal law.
- If he/she has a disability the employer must engage in the interactive process to determine whether employee can be reasonably accommodated.
- Additional leave, paid and unpaid, can be a reasonable accommodation under law.

Before Placing Employees on the Reemployment List, Consider Leave Rights under Other Laws

Family Medical Leave Statutes

- Family and Medical Leave Act (FMLA)
- California Family Rights Act (CFRA)
- Pregnancy Disability Leave Act (PDL)

Disability Discrimination / Accommodation Statutes

- Americans With Disabilities Act (ADA)
- Fair Employment and Housing Act (FEHA)

Placement on Reemployment List upon Exhaustion of All Leaves

Certificated Employees (Ed. Code § 44978.1)

Permanent – 39 months, probationary – 24 months of reemployment rights

Automatic right to be reemployed in a position for which they are credentialed and qualified — no vacancy required.

Classified Employees (Ed. Code § 45192 and § 45195)

39 months: Industrial – probationary or permanent
39 months: Non-industrial – permanent only

Entitled to be reemployed in a vacant position in the class of the previous assignment

Must be advised of the right to request additional leave, but no obligation to grant the request

Avoiding Disability Discrimination

- 1 Communicate attendance and leave policies to employees, obtain acknowledgment
- 2 Habitually absent employee may need a reasonable accommodation
- 3 Engage in the interactive process
- 4 Document! Document! Document!
- 5 Equal enforcement of rules and policies

Hypotheticals

Question & Answer Session

Thank You

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