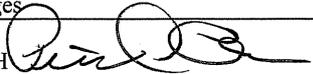


# Lawrence Berkeley National Laboratory

<b>NOTIFICATION/ESCALATION PROCEDURE FOR JOB ACCOMMODATION ISSUES</b>	Document No.	HSDM-2009-001
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## 1.0 PURPOSE

This procedure establishes guidelines for notifying upper management of problems encountered in placing employees with disabilities into jobs and defines the escalation protocol. The goal is to have the Chief Operating Officer intervene in return-to-work efforts in cases where departments demonstrate difficulty with or lack of cooperation in developing a return-to-work plan. The process begins when staff of Integrated Disability Management in Health Services identifies departments who have failed to provide an accommodation for impaired employees utilizing the stay-at-work/return-to-work program or the priority reassignment employment process. It ends with intervention from the Chief Operating Officer, who decides resolution of job placement issues, if the matter is escalated beyond the Chief Human Resources Officer.

## 2.0 REVISION HISTORY

Date	Revision No.	Change	Reference Section(s)
2/10/09	1.0	New Procedure Drafted	Not Applicable

## 3.0 PERSONS AFFECTED

- 3.1 Employee with a disability
- 3.2 Health Services Clinical staff and Integrated Disability Management staff (includes Return-to-Work specialist)
- 3.3 Human Resources Center Services staff
- 3.4 Human Resources Core Services staff
  - 3.4.1 Employee and Labor Relations (ELR) staff
  - 3.4.2 Equal Employment Opportunity and Affirmative Action (EEO/AA) staff
- 3.5 Department Supervisors and Managers
- 3.6 Chief Human Resources Officer (CHRO)
- 3.7 Division Directors
- 3.8 Chief Operating Officer (COO)
- 3.9 Laboratory Legal staff
- 3.10 Persons to Be Informed
  - 3.10.1 Third-party Administrators

## 4.0 POLICY

It is the policy of Lawrence Berkeley National Laboratory to foster and support stay-at-work objectives. The goal is to return employees with disabilities to suitable work within their work capacities and work restrictions. To that end, the Laboratory will make every effort to obtain the support and assistance of all department management in accomplishing the objectives.

The escalation procedure described in this document will be used in the case of departments that demonstrate difficulty or lack of cooperation in developing a return-to-work plan involving restricted-duty, lateral job-transfer, or demotion to a lower-level position. The Chief Operating Officer will ultimately be informed if there is a problem with a particular department.

## 5.0 DEFINITIONS

### 5.1 Disability

- 5.1.1 A physiological disease, physical disorder, condition, cosmetic disfigurement, or anatomical loss that (1) affects one or more of the following systems: immunological, musculoskeletal, special sense organs, respiratory, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin and endocrine, and (2) impairs or limits an individual's ability to participate in major life activities, such as work.
- 5.1.2 A mental or psychological disorder such as mental organic brain syndrome, alcoholism, emotional or mental illness, and specific learning disabilities (dyslexia).

### 5.2 Disability Management

Managing employee absence due to a medical condition, illness, or injury.

### 5.3 Transitional or Restricted-Duty Assignment

Temporary work tasks or restricted-duty assignment for employees who have some functional capacity and are released to return to work but still have temporary work restrictions; can include:

- 5.3.1 Temporary or transitional job duties (e.g., restricted-duty)
- 5.3.2 Modification of regular job (e.g., flex schedule, part-time schedule).

### 5.4 Position Description

Summary of duties and responsibilities of a job, to include all essential functions and marginal functions.

### 5.5 Functional Capacity

Ability to perform a job given an employee's current medical condition.

5.6 Essential Job Functions

Job duties that are fundamental or critical to the job, not marginal tasks, and directly related to the job's existence.

5.7 Physical, Environmental, Mental demands (PEM)

Job requirements from a physical, environmental, and mental standpoint

- 5.7.1 PEM information is required to determine if the employee with a disability and known work restrictions will be able to perform essential job functions.

5.8 Modified Work

Modification of the employee's job duties or job schedule to allow the employee with a disability to perform the essential job functions.

- 5.8.1 Modifications may include a flexible work schedule, removal of some marginal tasks, modification of equipment, or providing assistive devices.

5.9 Alternate Work

Another position which the employee with a disability is qualified to perform and can transfer into.

- 5.9.1 May be a lateral transfer into a vacant position within the employee's own department or another department within the Laboratory
- 5.9.2 May be a demotion into a vacant position for which the employee is qualified.

5.10 Job Accommodation

Any practical change or adjustment to a job or work environment or to policies that enables an employee with a disability who is qualified for the job to perform the essential job functions.

- 5.10.1 May be a lateral transfer into a vacant position for which the employee with a disability qualifies to perform
- 5.10.2 May be a demotion into a vacant position for which the employee with a disability qualifies
- 5.10.3 May be a telecommuting arrangement or modification of regular position.

5.11 Interactive Process (refer to Return-to-Work Procedure HSDM-2008-01, §5.7)

Documented *ongoing communication* between the employer and the employee with a disability who requests or needs a job accommodation.

5.12 Preferential Employment Process

A special priority re-assignment process whereby an employee with a disability may be selected for a transfer into another position within LBNL without the requirement that the position be publicized (refer to RPM §2.01(B)(4)(d) and Return-to-Work Procedure HSDM-2008-01, §7.4.4).

### 5.13 Escalation Protocol

Process by which accommodation or placement problems are reported to upper management; issue should be escalated first to the Chief Human Resources Officer, who will then communicate with the relevant Division Director, and then, if the issue remains unresolved, to the Chief Operating Officer. Employee/Labor Relations Manager may or may not intervene as well.

## **6.0 RESPONSIBILITIES**

### **6.1 Employee with disability shall**

- 6.1.1 Make a request for job accommodation for permanent impairment when needed
- 6.1.2 Cooperate with all parties in the Laboratory's efforts towards placement in transitional work assignments or in the provision of a permanent job accommodation
- 6.1.3 Advise the Health Services' Clinical staff of any medical changes and provides the Integrated Disability Management staff of any requested information concerning temporary or permanent work restrictions
- 6.1.4 Report any problems or issues during the transitional return-to-work efforts to the Return-to-Work Specialist.

### **6.2 Health Services (Clinical staff and Integrated Disability Management staff) shall**

- 6.2.1 Collect injury or illness incident information from the employee
- 6.2.2 Process on-the-job injury/illness claim form for submission to the Third-party Administrator
- 6.2.3 Provide the employee with any required leave-of-absence forms
- 6.2.4 Process the leave-of-absence forms and collect employee data
- 6.2.5 Designate type of leave and notify necessary parties of designation
- 6.2.6 Obtain medical status information and any work restrictions from medical care provider
- 6.2.7 Communicate work restrictions to the employees' supervisor and designated Human Resources Center staff member
- 6.2.8 Contact the employee's department to determine if accommodation can be provided for the known temporary or permanent work restrictions
- 6.2.9 Coordinate disability benefits for the employee, determines what benefits the employee is eligible for, and communicates this information to relevant parties
- 6.2.10 Request Position Descriptions and PEM information
- 6.2.11 Provide Third-party Administrators any requested information.

### **6.3 For non-industrial cases, Health Services' Integrated Disability Management staff shall**

- 6.3.1 Provide the employee with any necessary leave-of-absence forms
- 6.3.2 Determine what type of leave the employee may be eligible for
- 6.3.3 Counsel the employee on benefits he/she may qualify for (FMLA, CFRA, Pregnancy Disability, and Liberty Mutual) and communicate this

to the employee's supervisor, Human Resources Center staff, Timekeeper, Payroll Office, and Benefits Office

- 6.3.4 Request the employee's Position Description and send to the Third-party Administrator (Liberty Mutual) upon request
  - 6.3.5 Coordinate disability benefits for the employee
  - 6.3.6 Obtain medical status information and work restrictions from medical care provider
  - 6.3.7 Notify the employee's supervisor and Human Resources Center of any work restrictions
  - 6.3.8 Facilitate a return-to-work plan for employees who are released to temporary restricted-duty and for employees with permanent impairment requiring an accommodation.
- 6.4 For industrial cases, the Integrated Disability Management staff shall
- 6.4.1 Initiate a workers' compensation file upon receipt of a copy of the claim form
  - 6.4.2 Process on-the-job injury/illness claim form for submission to the Third-party Administrator
  - 6.4.3 Communicate claim status (acceptance, delay, or denial) to the employee's supervisor and Human Resources staff
  - 6.4.4 Request the Position Description and the Physical, Environmental, and Mental demands form (PEM) from the supervisor or the Human Resources staff, if needed
  - 6.4.5 Send the employee's wage statements, personnel file, Position Description, and PEM form to the Third-party Administrator(s), upon request
  - 6.4.6 Coordinate disability benefits for the eligible employee
  - 6.4.7 Obtain medical status information and any work restrictions from the Third-party Administrator
  - 6.4.8 Notify the employee's supervisor and Human Resources Center of any work restrictions
  - 6.4.9 Facilitate a return-to-work plan for employees on temporary restricted-duty or with permanent work restrictions.
- 6.5 For industrial and non-industrial cases, Return-to-Work Specialist shall
- 6.5.1 Liaise with the employee, supervisor, Human Resources staff, Clinical staff, and other Integrated Disability Management staff to obtain the necessary information to develop a return-to-work plan
  - 6.5.2 Initiate discussion of the interactive process and a reasonable accommodation or transitional restricted-duty assignment of the employee with the supervisor and Human Resources staff
  - 6.5.3 Communicate with the employee's medical care provider, if work restriction clarification is needed
  - 6.5.4 Provide the clarified work restriction information to the employee's supervisor, Human Resources staff and other Integrated Disability Management staff and Clinical staff

- 6.5.5 Identify/address both employer and employee concerns regarding returning to work
- 6.5.6 Participate as a facilitator in the interactive process with the employee, supervisor, and Human Resources staff
- 6.5.7 Liaise with management and Human Resources personnel of the department where vacancies have been identified to determine if the employee minimally qualifies to perform the essential job functions of a vacant position
- 6.5.8 Identify the departments/divisions that demonstrate resistance to employee accommodation or placement efforts
- 6.5.9 Notify first the Chief Human Resources Officer, then the Chief Operating Officer, following the escalation protocol, of the departments resisting accommodation or placement efforts
- 6.5.10 Consult with the Laboratory legal staff when necessary
- 6.5.11 Verify that documentation of one of the following has occurred prior to initiating the medical separation process on unsuccessful accommodation cases: the interactive process, any reasonable accommodation provided, or intervention by the Chief Operating Officer.

#### 6.6 Human Resources Center staff shall

- 6.6.1 Contact the Return-to-Work Specialist and the employee's supervisor upon receipt of work restrictions to initiate discussion of either the transitional job assignment or the interactive process
- 6.6.2 Participate in meetings with the employee needing placement or accommodation
- 6.6.3 Send the Position Description and Physical, Environmental, and Mental demands of an employee's job to Health Services' Integrated Disability Management staff, upon request
- 6.6.4 Advise the Return-to-Work Specialist if the employee's home department management is either unable or unwilling to provide accommodation to the employee released to return to work with work restrictions
- 6.6.5 Conduct a skills, knowledge, and abilities (SKA) assessment of the employee to determine what skills qualify for a transfer to vacant positions within the Lab
- 6.6.6 Research vacancies throughout the Lab for which the employee might qualify
- 6.6.7 Liaise with the Return-to-Work Specialist and identified department management staff to facilitate the employee's placement or accommodation
- 6.6.8 Initiate the Medical Separation process for those employees who either choose to separate/terminate or are not provided an accommodation (may include cases referred through the escalation process)

- 6.6.9 Process the paperwork to finalize the employee's medical separation and provide copies of the medical separation notices to the Integrated Disability Management staff.
- 6.7 Human Resources Center Managers shall
  - 6.7.1 Supervise, when necessary, Human Resources Generalists' involvement with disability cases where there may be problems with job placement or accommodation
  - 6.7.2 Notify the Integrated Disability Management staff about unresolved accommodation or placement problems.
- 6.8 Human Resources Core Services staff
  - 6.8.1 Employee/Labor Relations shall intervene when necessary
  - 6.8.2 Equal Employment Opportunity and Affirmative Action Officer shall intervene when necessary.
- 6.9 Department Supervisors/Managers shall
  - 6.9.1 Contact the Integrated Disability Management staff upon receiving work restrictions from the employee in order to initiate discussion of modified work or restricted-duty work for the employee or the interactive process, if applicable
  - 6.9.2 Participate in meetings with the employee, Human Resources staff, and Integrated Disability Management staff
  - 6.9.3 Cooperate with the Integrated Disability Management staff and the Human Resources staff in efforts to provide transitional work tasks or job accommodation
  - 6.9.4 Send the Position Description and PEM demands of the employee's job to Health Services' Integrated Disability Management group, upon request.
- 6.10 Chief Human Resources Officer (CHRO) shall
  - 6.10.1 Review cases referred by the Return-to-Work Specialist
  - 6.10.2 Provide opinion on referred cases.
- 6.11 Division Director shall
  - 6.11.1 Review cases referred by the CHRO
  - 6.11.2 Provide opinion on referred cases.
- 6.12 Laboratory Legal Staff shall
  - 6.12.1 Review referred cases at the request of the Return-to-Work Specialist, Labor and Employee Relations Manager, or the Equal Employment Opportunity and Affirmative Action officer
  - 6.12.2 Provide opinion on referred cases.
- 6.13 Chief Operating Officer (COO) shall
  - 6.13.1 Review referred cases when consulted

6.13.2 Provide opinion on referred cases

6.13.3 Make final decision concerning the accommodation of the employee referred.

## **7.0 PROCEDURES**

7.1 Communicating Job Accommodation Issues to Upper Management (when and whom to notify)

7.1.1 When the employee's home department indicates that it is unwilling or unable to provide temporary placement or an accommodation, the Return-to-Work Specialist shall confer with the employee's supervisor/manager as to the reasons the department is unable to accommodate temporary or permanent work restrictions (e.g., business necessity, violation collective bargaining agreement).

7.1.2 The Return-to-Work Specialist shall confer with the assigned Human Resources Generalist regarding possible transfer to other departments that have projects or vacancies for which the employee qualifies.

7.1.3 The Return-to-Work Specialist shall follow the escalation protocol for identified problem cases.

7.1.4 The Return-to-Work Specialist shall prepare a summary report on any unsuccessful accommodation and placement efforts so that the CHRO can initiate intervention.

7.2 If a department is unwilling or unable to provide temporary placement or an accommodation, the Return-to-Work Specialist shall provide the following information to the CHRO:

- Employee name
- Division and Division Director name
- Department and Department Manager name
- Unit and Unit Supervisor name
- Reasons given by unit, department, or division for why transitional restricted-duty placement cannot occur
- Reasons given by unit, department, or division for why an accommodation is not provided to an employee with a permanent disability
- Steps taken by the Return-to-Work Specialist to resolve placement or accommodation issues
- Steps taken by Human Resources staff to resolve placement or accommodation issues
- Steps taken by ELR, if involved, to resolve placement or accommodation issues
- Steps taken by Legal, if involved, to resolve placement or accommodation issues

7.3 If a disability case and summary report is brought to the COO, the COO shall

7.3.1 Confer with the appropriate parties to discuss case facts

7.3.2 Provide opinion and recommendations for resolution.