



Insurance, Risk Management, and Employee Benefits for Charter Schools

MEMBER GUIDE TO
REASONABLE ACCOMMODATION AND THE
INTERACTIVE PROCESS

2017 – 2018

This Guide is not intended as legal advice but merely a guide for our members to use when dealing with a reasonable accommodation and interactive process issue.

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Sample Policy

Disability Accommodation

<CHARTER SCHOOL> is committed to complying with all applicable provisions of federal, state and local laws prohibiting discrimination on the basis of disability. It is <CHARTER SCHOOL>'s policy not to discriminate against any qualified employee or applicant with regard to any terms or conditions of employment because of such individual's disability or perceived disability so long as the employee can perform the essential functions of the job. Consistent with this policy of nondiscrimination, the school will provide reasonable accommodation to a qualified individual with a disability who has made <CHARTER SCHOOL> aware of his or her disability, provided that such accommodation does not constitute an undue hardship on <CHARTER SCHOOL>. Employees with a disability who believe they need a reasonable accommodation to perform the essential functions of their job should contact the <POSITION TITLE >. <CHARTER SCHOOL> encourages individuals with disabilities to come forward and request reasonable accommodation.

Background

The Law

There are federal and state laws that require employers to comply with the interactive process and provide, where possible, a reasonable accommodation. In addition, the courts have made clear that a reasonable accommodation may need to include reassignment to an open and vacant position or a leave or extension of leave.

Federal Law	Rehabilitation Act of 1973	Applies to federal contractors Prohibits discrimination on the basis of disability Requires employment affirmative action Requires the provision of reasonable accommodation for employees and applicants with disabilities
Federal Law	Americans with Disabilities Act of 1990 with the ADA Amendments Act of 2008 (ADA)	Prohibits discrimination on the basis of disability in employment, state and local government, public accommodations, commercial facilities, transportation and telecommunications Prohibits discrimination by requiring reasonable accommodation for employees with disabilities http://www.ada.gov/
California Law	The Fair Employment & Housing Act (FEHA)	Prohibits discrimination against those with physical and mental impairments, including conditions that are disabling, potentially disabling, or perceived as disabling, or residual effects of disabilities. Requires employers to engage in the Interactive Process and provide a reasonable accommodation. http://www.fehc.ca.gov/act/pdf/code_regulations.pdf

Basic Definitions

Essential Functions – The duties the employee is required to perform and that are fundamental and not marginal. Some indications that a function is essential are: (1) the position exists to perform that function; (2) there are a limited number of other employees available to perform the function, or among whom the function can be distributed; (3) the function is highly specialized.

Good Faith – demonstrated and documented efforts to communicate, identify, and implement a reasonable accommodation.

Interactive Process – The Interactive Process is an ongoing dialogue between the employee and employer about possible options for reasonably accommodating the employee’s disability, which includes follow-up conversations to ensure the accommodation is working. The Interactive Process should be commenced timely and conducted in good faith by both parties.

Reasonable Accommodation – Generally, a reasonable accommodation is one that effectively enables an employee to perform the essential functions of the job. The school and the employee should identify reasonable accommodations as part of the Interactive Process.

Timely – prompt, immediate, soon, and what most people would define as a reasonable time.

Undue Hardship – any action or accommodation requiring significant difficulty or expense, taking into account such factors as the:

- Type and cost of the accommodation
- Overall financial resources of the school
- Number of persons employed at the school
- Effect of the reasonable accommodation on resources
- Impact of the accommodation on operations

The Importance of Compliance

The two compelling reasons for compliance with legal regulations and school policy are to support employees during difficult times and to minimize risk, penalties and other costs. As an employer, your charter school supports its faculty and staff by providing reasonable accommodations to perform essential job functions. This practice supports the values and mission of the charter school.

The cost associated with the failure to comply with the law increases annually. The general requirements for employers to accommodate individuals with a disability are not new, and the recent changes in California and Federal law apply to a broader population of employees. Even as more employees are entitled to these protections, the courts have further clarified the nature and types of accommodations to be provided. As the protections for employees have increased, so has the number of lawsuits alleging discrimination and failure to accommodate.

The Employer's Role

The employer's obligation under the law is to conduct the Interactive Process, and to identify and implement a reasonable accommodation. The Employer should initiate the Interactive Process when it becomes aware of an employee with a disability and the possible need for an accommodation. A reasonable accommodation request may be made orally, or in writing, by the employee, or by someone on his or her behalf.

Where possible, it is preferable to initiate the Interactive Process with the employee before he or she returns from sick and/or disability leave (including workers' comp leave). This will allow you the opportunity to prepare a reasonable accommodation beginning the first day of work.

The Employer is responsible for:

1. Analyzing the job description and determining the essential functions of the job.
2. Obtain current medical documentation of physical and/or cognitive functional limitations. During the Interactive Process, you should not inquire about the nature, extent and severity of the mental or physical condition of the employee. Rather, your inquiry should be limited to the employee's ability to perform job-related functions. Do not ask for a medical diagnosis, or attempt to discover the medical condition of the employee. Do not contact the employee's health care provider directly. If clarification is needed, ask the employee to contact their health care provider.
3. Discuss with the employee the potential performance barriers due to the disability related functional limitation(s).

4. Discuss with the employee possible options for an effective job accommodation. Consider including a rehabilitation counselor or disability expert to broaden the nature and type of accommodations considered. An accommodation is not reasonable and should not be implemented if it poses an undue hardship for the school.

1. General information

- I. The purpose of the Interactive Process is to determine whether – for employees who, due to a disability, have limitations that prevent them from performing the critical elements of their job – a reasonable accommodation exists which will allow them to be able to perform the critical elements of their job. The following are six specific questions which the Interactive Process is designed to answer:
 - Does the employee have a disability with which the Americans with Disabilities Act or FEHA requires the school to accommodate?
 - What are the critical (essential), as opposed to the non-critical, elements of the employee’s job?
 - Does the employee have limitations that result from his or her disability? If so, what are those limitations?
 - Do those limitations interfere with the employee’s ability to perform the critical elements (i.e. the essential functions) of his or her job?
 - Is there a reasonable accommodation, which the school can provide which would allow the employee to perform those essential functions of his or her job?
 - If so, what is that accommodation?
 - Does the accommodation create an undue hardship for the school?
- II. If the employee requests an accommodation, the employee need not use the words, “reasonable accommodation” in the request. If an employee says that he or she has a limitation or restriction, treat it as a request for an accommodation. The request need not be in writing. Also, it may come from a family member, a co-worker or a health professional.
- III. If the employee does not request an accommodation but you have knowledge that would put a reasonable person on notice that the employee needs an accommodation, you must begin the Interactive Process.

- IV. During the Interactive Process, you must, at a minimum:
- Analyze the employee’s job and determine its purpose and the essential functions;
 - Consult with the employee to ascertain the precise job-related limitations imposed by his or her disability, and how a reasonable accommodation might address those limitations;
 - Identify potential accommodations and discuss them with the employee; and
 - Select the most appropriate accommodation(s) considering the employee in question.
- V. You cannot compel an employee to identify an accommodation and cannot impose an accommodation upon an employee even if you believe that the employee needs it.
- VI. While the employee’s input is taken into consideration, the employee and medical provider cannot choose the accommodation.
- VII. The employer is also not obligated to provide the employee’s preferred accommodation. The employer may discuss the accommodation with the employee and provide an alternative accommodation that is reasonable and which allows the employee to perform the critical elements of his or her job that are in question.
- VIII. Few jobs, work environments and/or disabling conditions are entirely static; therefore no grant or denial of an accommodation is forever. Thus, neither the reasonable accommodation nor the Interactive Process obligations of the employer are satisfied by a one-time participation in the process. The Interactive Process is for that reason both open and ongoing, and an employer does not meet its obligation to engage in the Interactive Process by simply considering and rejecting the employee’s suggestions for a reasonable accommodation. Both the employer and employee must continue to be open to monitoring, reviewing, modifying or even terminating an accommodation based upon the experience of how it has worked in the past or is working in the present in light of changed circumstances either in the workplace or with the employee. Each request should be considered on its own merits.
- IX. The Interactive Process must be accomplished in good faith and in a timely manner. Undue delays and obstructions, by either the employer or the employee, are documented by both the employer and the employee.

- X. General advice:
- Act quickly;
 - Be thorough;
 - Communicate with the employee at every step
- XI. Finally, document all the steps in the process and all proceedings.

2. Recognizing an Accommodation Request

- I. The Interactive Process starts with an accommodation request from an employee with a disability. According to the federal Equal Employment Opportunity Commission (EEOC), an individual may use “plain English” and need not mention the ADA or use the phrase “reasonable accommodation.” Anytime an employee indicates that he or she is having a problem and the problem is related to a medical condition, the employer should consider whether the employee is making a request for accommodation under the ADA and FEHA.

The EEOC Reasonable Accommodation and Undue Hardship Enforcement Guidance at <http://eeoc.gov/policy/docs/accommodation.html>) provides the following examples:

Example A: An employee tells her supervisor, “I’m having trouble getting to work at my scheduled starting time because of medical treatments I’m undergoing.” This is a request for a reasonable accommodation.

Example B: An employee tells his supervisor, “I need six weeks off to get treatment for a back problem.” This is a request for a reasonable accommodation.

Example C: A new employee, who uses a wheelchair, informs the employer that her wheelchair cannot fit under the desk in her office. This is a request for a reasonable accommodation.

Example D: An employee tells his supervisor that he would like a new chair because his present one is uncomfortable. Although this is a request for a change at work, his statement is insufficient to put the employer on notice that he is requesting reasonable accommodation. He does not link his need for the new chair with a medical condition.

TIPS:

- **Err on the side of caution:** If an employer is not sure whether an employee has requested an accommodation, the employer should ask the employee to clarify what is being requested and why.
- **Act quickly:** Once an accommodation request is identified, the employer should respond immediately – unnecessary delays in processing an accommodation request can violate the ADA and FEHA.
- **Assign Responsibility:** Employer should assign at least one person who is responsible for making sure an accommodation request is processed so the request is not lost on someone's desk.
- **Conduct training:** Employer should train all managers and supervisors to recognize accommodation requests and what to do with a request once it is received.

3. Gathering Information

- I. Once an accommodation request has been received, the employer should gather whatever information is necessary to process the request. Necessary information may include documentation of the disability and need for accommodation. In some cases, the employee's disability and need for accommodation are obvious and no additional information is needed. For example, if an employee who recently started using a wheelchair indicates that he needs a ramp to get into the workplace, the disability and need for accommodation are obvious.
- II. In cases where the disability is not obvious, and the employee indicates that he or she is having trouble completing his or her work tasks because of a disability, the employer does not have enough information to provide effective accommodation. The employer needs to know what limitations are interfering with job performance and what specific work tasks are at issue.
- III. The best source of information about the disability and possible accommodation is the employee. However, because you cannot ask the employee for specific information about the disability or the medical condition it is often best to simply ask the employee to provide medical documentation to help determine whether the employee has a covered disability, needs an accommodation and other information, which will assist in processing the request for accommodation.

TIPS:

- **Find out the limitation and problem:** In most cases, to find effective accommodations employers need to know what limitation is preventing the employee from performing their job. Identifying performance limitations is usually a good place to start.
- **Get information from the employee when possible:** Employees with disabilities are familiar with their limitations and often know what accommodations will work best for them.
- **Remember ADA/FEHA rules for medical inquiries:** A good policy for employers is to remember to only ask for what is absolutely necessary. Never ask what the medical condition is or for a diagnosis and never ask for medical records. Use the standard medical information request form (See Appendix 6)

4. Exploring Accommodation Options

- I. Once the employer has identified the employee's limitations and has identified what the limitation is, then the employer is ready to explore accommodation options. This is the time to brainstorm and consider what might work.
- II. Again, the employee who requested the accommodation is a good place to start so employers should always invite the employee to suggest accommodations (this is part of the Interactive Process). If more ideas are needed, the employer (through the employee) can ask the employee's medical provider for suggestions. If still more ideas are needed the employer should consult with outside resources such as JAN (Job Accommodation Network), vocational rehabilitation and disability-related organizations.

TIPS:

- **Keep an open mind:** Accommodations are about doing things differently to help overcome disability-related limitations, so keep an open mind when exploring accommodation options.
- **Invite the employee to suggest accommodation:** The employee who requested the accommodation may have some good accommodation ideas, but may be hesitant to bring them up without being asked to do so.
- **Ask the employee's medical provider for ideas:** Some medical professionals will brainstorm accommodation ideas with employees and employers.
- **Use JAN when needed:** JAN is a free, national resource for employers who are seeking help coming up with accommodation ideas (<http://askjan.org>).

5. Implementing the Accommodation

- I. Once an accommodation has been chosen, it is time to implement the accommodation. This step is very important to the success of an accommodation
- II. If equipment is involved, it needs to be properly installed and the employee needs to be trained in its proper use. If the accommodation involves a schedule change or policy modification then certain managers or supervisors (not co-workers) may need to know of the change to effectively implement it. If the accommodation involves an outside service, someone needs to make sure the service is provided promptly and effectively. If the accommodation is a reassignment, then the employee may need time to acclimate to the new job.

TIPS:

- **Make sure all necessary steps are taken to implement the accommodation.** A good way to do this is to check with the employee to see if the accommodation is actually working.
- **Communicate with essential personnel about the accommodation.** Remember, the ADA confidentiality rules only let managers and supervisors know about the accommodation, if necessary.

6. Monitoring the Accommodation

- I. An often-forgotten part of the Interactive Process is monitoring accommodations after they are in place. An accommodation may become ineffective or stop working altogether for various reasons. The employee's limitations may change; equipment changes, the job and/or the workplace changes, or the accommodation may become an undue hardship for the employer.
- II. Employers must periodically check back with the employee to monitor the ongoing effectiveness of the accommodation. The most important way to monitor accommodations is to encourage ongoing communication. Employees who are receiving accommodations need to understand that they should let their employers know if there are changes or problems with the accommodation and who specifically to contact.

TIPS:

- **Check on effectiveness:** As things change in the workplace, accommodations may need to change so employers should periodically check the effectiveness of the accommodation.

- **Check on effectiveness:** As things change in the workplace, accommodations may need to change so employers should periodically check the effectiveness of the accommodation.
- **Maintain the accommodation:** Equipment will not function forever without maintenance so when equipment is part of an accommodation, employers need to make sure the equipment is properly maintained.
- **Encourage ongoing communication:** for any workplace issue, ongoing communication is the key to success. Employers should encourage employees to communicate any issues they have with their accommodations.

THE INTERACTIVE PROCESS

Step 1: Recognizing an Accommodation Request



Step 2: Gathering Information



Step 3: Exploring Accommodation Options



Step 4: Choosing an Accommodation



Step 5: Implementing the Accommodation



Step 6: Monitoring the Accommodation



SUCCESSFUL ACCOMMODATION

SOME EXAMPLES OF POSSIBLE ACCOMMODATIONS

- Eliminating non-essential job functions from the current position
- Changing the employee's work schedule including changing start or end times, allowing time off for medical appointments
- Placing the employee on leave
- Extending an existing leave
- An auxiliary aid to read to the employee
- Assistive technology which allows the employee to utilize a computer
- A portable fan to circulate the air in the employee's work environment
- A compact refrigerator for storing the employee's medication
- Making existing facilities used by employees readily accessible to and useable by individuals with disabilities
- Job restructuring – reallocating or redistributing marginal job functions
- Altering when, how or where an essential job function is performed
- Acquisition/modification of tools, equipment, devices, furnishings, etc.
- Adjustment or modification of workplace policies, procedures or regulations, including adjustments to a policy governing leaves of absence
- Provision of a qualified reader or interpreter
- Reassignment to an active, vacant position for which the employee is qualified with or without accommodations, may be required if accommodations are not effective.

Communicating with Employees on Disability Leave

It is a good idea to maintain regular communication with an employee on disability leave (this includes FMLA and Workers' Compensation leave) to support the employee during the leave. This communication process can assist your workload planning as the employee begins a transition from disability leave back to work. Remember, it is not appropriate to ask the employee to perform any type of work that would be compensable while they are on leave.

Support is an important component of communication. Consider sending a personal note or a card from the school. It is important to reinforce a positive return-to-work message.

It is also important to remember, however, that communication should not include any discussion or questions about private or confidential medical information. If the employee voluntarily discloses medical information, do not inquire further about the medical condition, but steer the topic to any potential functional limitations that may be anticipated with the employee's return to work.

When an employee is ready to return to work, it is important to determine the capability to perform the essential job functions. Suggested questions include:

- When do you expect that you will be able to return to work?
- Do you have any restrictions or limitations?
- What do you need to assist your return to work?

Do not say, "I need someone to perform at 100%." It is very important to note that the employee is not required to be "100%" when they return to work from medical leave.

Remember, communication with an employee on disability leave is appropriate and necessary to keep communication channels open with the employee and to demonstrate concern. This will help to ensure a seamless transition from sick/disability leave back to work.

Personnel Practices

Maintain appropriate and fair personnel practices when addressing the concerns of an employee with a disability.

Provide qualified employees with disabilities with equal opportunities to obtain promotions and awards. Ensure that employees with disabilities have access to training and career development programs.

Manage an employee with a disability as you would other employees when it comes to adverse actions and performance problems. It is very important; however, to ensure that performance problems are not related to the inability to provide reasonable accommodation and are based

solely on inability to perform after a reasonable accommodation is made. Managers should not lower performance standards or expectations for employees with disabilities. Managers are not required to hire or retain anyone who is not qualified to perform a job.

If a co-worker communicates concern that a reasonable accommodation is being provided to an employee with a disability, the school's position is that this supports the mission of the school and is an appropriate business practice that acknowledges and values an employee's contributions. However, you are never allowed to tell another employee that a reasonable accommodation is being provided, or why an employee is being allowed to do something different or have something not normally available to other employees. You cannot discuss one employee's reasonable accommodation with other employees.

Even if you believe that the school cannot accommodate an employee with a disability you **must** engage in the interactive process. It is a separate violation of the law to not to engage in this process. If you feel unable to find a suitable accommodation, **always** contact legal counsel before taking steps toward terminating the employee.

APPENDIX 1

Interactive Process Checklist

All Steps of the Interactive Process Must be documented (this will be done by the ADA Coordinator or the Employee's Supervisor).

STEP		DATE COMPLETED
1	The employee requests an accommodation from his/her supervisor, or the supervisor observes a need for one or is advised through 3 rd party. Note 1	
2	Supervisor contacts the ADA Coordinator (i.e. Executive Director, Business Manager or HR Director) for consultation and information.	
3	Give the employee the following two forms with instructions to return the completed forms to the ADA Coordinator.	
3a	<u>Employee Request for Disability Related Accommodation Form</u> should be filled out by the employee; and,	_____ Form Rec'd from Employee
3b	<u>Health Care Provider Inquiry Form</u> should be completed by the employee's medical provider. <i>DIRECT CONTACT WITH THE HEALTH CARE PROVIDER IS NOT PERMITTED</i>	_____ Form Rec'd from Employee
4	The ADA Coordinator will issue a memo to the manager/supervisor, copying the employee and the appropriate administrative staff, indicating whether the employee's condition meets the FEHA requirements for limitations for a disabling condition and if so, instructing the manager that the Interactive Process will be initiated. The ADA Coordinator opens a confidential file where all the employee's documentation is eventually stored.	_____ Date Memo Sent
5	Upon receipt of the memo, analyze the employee's job functions and make two lists:	
5a	A list of the employee's essential tasks; and,	
5b	A list of his/her non-essential tasks	
6	Meet with the employee to: Note 2	
6a	Identify the employee's precise job limitations and/or restrictions;	
6b	Identify possible accommodations; and	

6c	Assess how each accommodation will enable the employee to perform the job functions which they are limited in performing.	
	In making these identifications and assessments, both the employee and the medical provider's input should be considered. Do not ask about the employee's impairments. Ask only about limitations and only job-related limitations . Ask about the details of the limitations, (i.e., what the employee can and cannot do). Suggested limitations are listed at the Job Accommodations Network (JAN), at www.jan.wvu.edu , and the U.S. Department of Labor web sites. Any limitation with substantiated documentation is eventually stored in the confidential file maintained by the ADA Coordinator. Record the specifics of the consultation. Note 3	
7	If the employee does not consider the proposed accommodation reasonable, meet with the Director/HR Director/Accommodation Specialist to discuss possible alternatives. Note 2	
8	Implement the accommodation	
9	Keep all documentation of the Interactive Process in a separate file under the employee's name (not in the general personnel file).	
10	Do periodic monitoring of accommodation and communicate with employee	
11	Calendar expected end date and communicate with employee	
12	Consult with an attorney before denying a reasonable accommodation request based on undue hardship	
13	Ensure that employees who request reasonable accommodations are not retaliated against	

Notes:

1. The employee may initiate the process him/herself by filing the Accommodation Request Form and Medical Provider Inquiry Form with the Supervisor or HR Department. If so, the supervisor's or the ADA Coordinator's role begins by filing in the blank in #5 above and then following #6-9.
2. Bring the following with you to the meeting:
 - a. The two forms identified in Section 3 above;
 - b. Your lists of the employee's essential and non-essential tasks described in #6 above;
 - c. The Interactive Process Meeting form; and,

- d. The Interactive Process Meeting Summary Sheet
3. If you need time to research a possible accommodation:
- a. Inform the employee that you will research possible accommodations and get back to him/her by a specified date; and
 - b. Document that you so informed the employee and the date of the scheduled follow-up meeting.

APPENDIX 2

INTERACTIVE PROCESS EMPLOYEE/SUPERVISOR MEETING (SCRIPT)

Employee: _____ Date: _____

1. The following parties were in attendance at the meeting:
 - a. _____, Employee
 - b. _____, Supervisor
 - c. _____, Title: _____
 - d. _____, Title: _____

2. A Guide for Giving the Supervisor's Message: (Need not be delivered verbatim)
 - a. The purpose of this meeting today is to try to determine if a reasonable accommodation exists which will allow you to perform the essential function(s) of your job which you have a limitation or restriction performing.

 - b. Under the California Fair Employment and Housing Act, the School is required to do the following three things:
 - i. Respond in a timely manner to your request for a reasonable accommodation
 - ii. Engage in a timely, good faith interactive process with you in order to determine whether a reasonable accommodation exists which will allow you to perform the essential functions of your job; and,
 - iii. Provide the reasonable accommodation if one is found.

 - c. We're going to discuss the following four things during our meeting today:
 - i. Your limitation(s)/restriction(s);
 - ii. Your job function that you are limited in or restricted from performing;
 - iii. A possible accommodation to help you perform that function; and
 - iv. How that accommodation will help you perform that function.

 - d. We're going to fill out a Meeting Summary Sheet to capture the results of our discussion. I'll record on the page, among other things, **possible** accommodations*. I'll provide you with a copy of the completed form at the end of the meeting.

Do you have any questions?

 - e. Now let's get started by filling out the Meeting Summary Sheet

*If necessary, you may inform the employee of the following at the end of the meeting:
"I'll do some research to determine if the **possible** accommodation that we identify today, is reasonable. You may want to do your own research, also. Let's meet again on _____ to discuss the results of the research."

APPENDIX 3

Interactive Process Employee/Supervisor Meeting Summary

SAMPLE

Employee: _____ Date: _____

1. The following parties were in attendance at the meeting:
 - a. _____, Employee
 - b. _____, Supervisor
 - c. _____, Title: _____
 - d. _____, Title: _____
 - e. _____, Title: _____

Employee's Limitation or Restriction	Employee's Job Function that the Limitation or Restriction Impacts	Possible Accommodation(s)	Provided Accommodation(s)
Cannot lift over 10 pounds	Unable to carry a vacuum cleaner upstairs	Use elevator Re-assignment to downstairs level	Use Elevator

APPENDIX 4

Interactive Process Employee/Supervisor Meeting Summary

Employee: _____ Date: _____

1. The following parties were in attendance at the meeting:

- a. _____, Employee
- b. _____, Supervisor
- c. _____, Title: _____
- d. _____, Title: _____
- e. _____, Title: _____

Employee's Limitation or Restriction	Employee's Job Function that the Limitation or Restriction Impacts	Possible Accommodation(s)	Provided Accommodation(s)

APPENDIX 5

EMPLOYEE REQUEST FOR DISABILITY-RELATED ACCOMMODATIONS

Name: _____ Position: _____

Phone: _____ Email: _____

Work Location and/or Supervisor: _____

Accommodation Requested: (Please be specific) _____

Reason for Request – please explain your disability-related limitations and how an accommodation will help you do your job - *****DO NOT GIVE A DIAGNOSIS***** _____

Anticipated recovery date (if known): _____

Do you have functional limitations? (e.g. standing, walking, sitting, seeing, hearing, carrying)

Is your limitation: Permanent Temporary Unknown

Is the above described disability the subject of a worker's compensation claim? Employees with work-related injuries may also be eligible for a reasonable accommodation independent of the worker's compensation process.)

Yes No If yes, date filed: _____

Have you requested FMLA, CFRA, PLD or other leave in conjunction with the above described disability?

Yes No If yes, please specify what you requested and when: _____

I verify that the above information is true and correct to the best of my knowledge and agree to

allow this information to be reviewed by the necessary parties to enable my accommodation.

I acknowledge that the information above regarding my job status and essential job function is correct to the best of my knowledge. I also acknowledge that this request for an accommodation is both reasonable and within the scope of the job tasks assigned to me.

Employee Signature: _____ Date: _____

Note: The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II From requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, we are asking that you not provide any genetic information when responding to this request for medical information. "Genetic information" as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

APPENDIX 6

HEALTH CARE PROVIDER INQUIRY FORM

[Date]

[Health Care Provider Name & Address]

Re: Health Care Provider Inquiry Form

Your patient, [Employee Name], is an employee of [Employer Name] and has requested an accommodation for his/her disability. To fulfill our responsibility under federal and California law, specific information is being requested at this time. An Employee Health Care Provider Release Authorization signed by the employee is attached. Please do not send copies of medical records or provide a medical diagnosis. Please read through the following questions and answer them to the best of your ability. Thank you in advance for your prompt reply. If you have any questions, please contact _____ at _____.

A job description which includes the essential functions is attached for the employee's position. Our employee has been advised that this form must be completed by you and returned to no later than [Date]. Your information will be kept confidential. Employers must generally retain medical certifications and related documents separately from usual HR/personnel files.

Attached is a list of the essential functions for the above-named employee for his/her position.

Date accommodation to begin: _____

Date accommodation to end or is continuous until: _____

A. Questions to help determine the employee's specific impairments.

In order to qualify for a reasonable accommodation under the ADA, an employee must have either a disability, which results in an impairment that limits one or more major life activities, or a record of such impairment. Your answers to the following questions may help determine whether the employee has such an impairment or record thereof. *

1. Does the employee have a physical or mental impairment? Yes No
2. Is the impairment long-term or permanent? Yes No

If not permanent, how long will the impairment likely last? _____

Please answer the following questions based on what limitation the employee has when his or her condition is in an active state.

3. Does the impairment limit a major life activity? Yes No
(Note: Does not need to significantly or severely restrict to meet this standard.)

4. Does the impairment limit the operation of a major bodily function? Yes No
(Note: Does not need to significantly or severely restrict to meet this standard.)

B. Questions to help determine whether an accommodation is needed.

An employee with a disability is entitled to an accommodation only when the accommodation is needed because of a disability. Your answers to the following questions may help determine whether the requested accommodation is needed because of the disability.

- What limitation(s) is interfering with the employee's job performance?
- What job function(s) is the employee having trouble performing because of the limitation(s)?
- How does the employee's limitation(s) interfere with his or her ability to perform those job functions?

C. Questions to help determine effective accommodation options.

If an employee has a disability and needs an accommodation because of the disability, the employer must provide a reasonable accommodation, unless the accommodation poses an undue hardship to the employer. Your answers to the following questions may help determine effective accommodations:

- Do you have any suggestions or recommendations regarding possible accommodations to allow the employee to perform the essential functions of the job? If so, what are your suggestions or recommendations?
- How would your suggestions aid the employee's job performance?
- If no accommodation is necessary, please indicate.

D. Other Comments:

E. Health Care Provider Information:

Health Care Provider Name: _____

(PLEASE PRINT)

Name of Health Care Practice: _____

Address: _____

City: _____ State: _____ ZIP: _____

Telephone: _____

Email: _____

Health Care Provider's Signature: _____

Date: _____

Once completed, this form may be either returned to the employee, mailed to the address below, or email to the person below. The employee may choose either.

*** The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, we are asking that you not provide any genetic information when responding to this request for medical information. "Genetic information" as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.**