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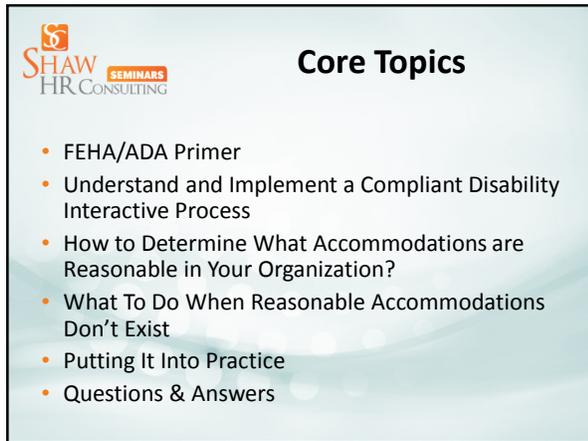
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## FEHA & ADA OVERVIEW

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## Disability Laws

- **Americans with Disabilities Act** and 2008 Amendments (ADA), 42 U.S.C.§§ 12012; 12101 et seq.
- **California Fair Employment and Housing Act (FEHA)**, Government Code §§ 12940 et seq.
- **Rehabilitation Act** of 1973



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## ADA

### Title I of the Americans with Disabilities Act

“Title I of the Americans with Disabilities Act of 1990 prohibits private employers, state and local governments, employment agencies and labor unions from discriminating against **qualified individuals with disabilities** in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions, and privileges of employment.”

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 **FEHA** 

**BACKGROUND AND ENFORCEMENT OF THE FEHA:  
THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT  
(CALIFORNIA GOVERNMENT CODE § 12940 ET SEQ.)**

On September 30, 2000, California enacted sweeping changes to FEHA resulting in a substantial expansion of state protection against disability discrimination. Most notably, these reforms intentionally separate FEHA from its national counterpart, the ADA. The FEHA continues to track the ADA in certain ways (i.e., adopting ADA guidelines with regard to physical examinations for applicants with disabilities and FEHA's adoption of ADA provisions or related case law that would provide even broader protection than FEHA). The ADA still preempts "inconsistent" requirements established by state or local laws for safety or security-sensitive positions. FEHA is already interpreted as providing the broadest protection against disability discrimination among state laws given its preemptive effect over those laws that would provide narrower protection.

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 **FEHA**

**California Fair Employment and Housing Act**

"It is an unlawful employment practice... For an employer, because of the race, religious creed, color, national origin, ancestry, **physical disability, mental disability, medical condition**, marital status, sex, age, or sexual orientation of any person, to refuse to hire or employ the person or to refuse to select the person for a training program leading to employment, or to bar or to discharge the person from employment or from a training program leading to employment, or to discriminate against the person in compensation or in terms, conditions, or privileges of employment."

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 **ADAAA**

The ADA Amendments Act of 2008 (ADAAA) was enacted on September 25, 2008, and became effective on January 1, 2009.

The law made a number of significant changes to the definition of "disability" under the Americans with Disabilities Act (ADA). It also directed the U.S. Equal Employment Opportunity Commission (EEOC) to amend its ADA regulations to reflect the changes made by the ADAAA.

The ADAAA now more closely tracks the countries strongest disability law, California's Fair Employment and Housing Act.

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## FEHA

**Mandates:**

1. Employers must engage in a Timely Good Faith Interactive Process, and
2. Employers must provide Reasonable Accommodation

*Each is a stand alone statutory obligation*

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## Other Applicable Laws

- California Confidentiality of Medical Information Act (CA Civil Code Sec. 56.10.8(b))
- The Health Insurance Portability and Accountability Act of 1996 (HIPAA)
- Family Medical Leave Act (FMLA) / California Family Rights Act (CFRA)

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## ENFORCEMENT AND COMPLIANCE

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**APPLICANT / EMPLOYEE  
ELIGIBILITY**

FOR DISABILITY INTERACTIVE PROCESS

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**Eligibility**

**FEHA Definition of a Disability:**

- Physical or mental medical condition that “limits... a major life activity.”
- “Limits” = “makes the achievement of a major life activity difficult”
- Work is considered a major life activity

Government Code Sections 12962(i),(k)



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**Eligibility**

**The 3 typical ways an employer is triggered to start a time good-faith interactive process:**

- 1. Request for Accommodation**
  - Applicant or employee verbalizes concern, regardless of the specific words that they may use
- 2. Perception of disability / Impacting work**
  - Performance changes
  - Attendance problems / changes
  - Rumors, with an impact on work performance or availability
- 3. Knowledge of work restrictions / functional limitations impacting work**
  - Medical Note listing work restrictions

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 **Eligibility**

- An employer should start a timely good-faith interactive process as soon as 1 of the triggers occurs – **don't wait for PROOF that an employee/applicant is disabled**
- Just because you start the disability interactive process does not mean that you will need to explore or offer reasonable accommodations

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 **Eligibility**

**You MAY NOT ask questions to determine if a person is disabled, such as:**

- What disability / condition they have / claim to have
- What treatment (medication, therapies, etc.) they are receiving
- If they have had a workers' compensation injury in the past
- If they are taking their medications / what medications are being taken

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 **Eligibility**

**Human Resources / Risk Management MAY ask:**

- For a medical note indicating if the employee:
  - Has a serious medical condition that impacts their ability to perform one or more of the essential functions of their job
  - What are their work restrictions / functional limitations / leave needs
  - What is the duration of work restrictions / functional limitations / leave
- Opinion: Reasonable Accommodation Forms – yes or no?

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 **Eligibility** 

**Front Line Supervisors MAY ask:**

- If your employee believes that they may benefit from workplace accommodations due to a medical condition. **This is a yes or no question.**
  - If yes, get Human Resources/Risk Management involved to obtain remaining needed information. Call and send email to Human Resources/Risk Management outlining the possible accommodation need of employee
  - If no, email Human Resources/Risk Management to document the question asked and document the response received from employee
  - Example: If an employee is acting "off," it's reasonable to say "Are you OK today?" But don't say "You seem depressed."

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 **Eligibility**

**Best Practice Recommendation:**

- **Targeted Front-Line Supervisor Training (10-minutes annually):** Understand and train out to your front line supervisors to inform Human Resources/Risk Management when they *think* that they have been triggered that their employees *may* have a disability that is impacting
  - their ability to do the work assigned and/or
  - be safe while working
- Your employee can have a disability and NOT be disabled from work

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**Understanding the...**  
**DISABILITY INTERACTIVE PROCESS**

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 **Interactive Process**

**Statutory Obligation # 1:**  
Provide a timely good-faith interactive process



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 **INTERACTIVE PROCESS HALLWAY**

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 **Interactive Process**

**Shared responsibility to engage in good-faith:**

- The employee must also “cooperate in good faith” and provide “reasonable medical documentation” identifying the existence of the disability and the related work restrictions, if requested. (2 Cal. Code Regs., tit 2 § 11069(d).)

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 **Interactive Process**

**Interactive Process is...**

All activities that are necessary to properly address the potential need for Reasonable Accommodation by an applicant or employee

- Every verbal and written communication with injured or disabled applicant/employee
- Meetings
- Actions, etc.

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 **Interactive Process**

Uniformly apply two interactive processes across the organization, regardless of how injury occurred:

<b>Short-Term Interactive Process (Low Touch)</b>	<b>Temporary Work Restrictions / Known Leave Needs</b>
<b>Long-Term Interactive Process (High Touch)</b>	<b>Permanent Work Restrictions or Leave / Chronic Conditions / Unknown Duration of Leave or Restrictions</b>

Same hallway... same doors... used efficiently

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**The Disability Interactive Process Hallway**

**LONG-TERM REASONABLE ACCOMMODATION DECISIONS**

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## Interactive Process

- Long-Term Interactive Process Hallway is used when decisions relate to permanent or long-term work restrictions / functional limitations and where the decision may result in medical separation / termination
- Ensure your process and documentation tools are a match for the level of importance of the decision and risk your organization is assuming
- The Long-Term Interactive Process is more robust than the Interactive Process used for Short-Term decisions.

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## Interactive Process Hallway

**Obtain Necessary Documentation/Information**

**Medical report with:**

- ✓ Serious medical condition impacting work
- ✓ Yes/No answer
- ✓ START here...

**Door #1**

1. Does Mr./Ms. NAME have a physical or mental impairment that limits his/her ability to engage in a major life activity such as the ability to work; care for his/herself; perform manual tasks; walk, see, hear, eat, sleep; or engage in social activities?
  - NO, Mr./Ms. NAME does not have a physical or mental impairment that limits his/her ability to engage in a major life activity.
  - YES, Mr./Ms. NAME has a  PHYSICAL and/or  MENTAL impairment that limits his/her ability to engage in a major life activity.
2. If the answer to question 1 is yes, does the impairment currently affect Mr./Ms. NAME's ability to perform the essential functions of a POSITION TITLE (see attached job description)?
  - NO, Mr./Ms. NAME's impairment does not limit his/her ability to perform all of the essential functions of his/her position.
  - YES, Mr./Ms. NAME's impairment does affect his/her ability to perform the essential functions of his/her position.

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 **Interactive Process Hallway**

 **Obtain Necessary Documentation/Information**

**Medical report with:**

- ✓ Serious medical condition impacting work  
- Yes/No answer
- ✓ Clear work restrictions
- ✓ Duration of work restrictions, or
- ✓ Leave Needs & Duration

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 **Interactive Process Hallway**

 **Clear Work Restrictions / Leave Needs:**

**Know if restrictions or accommodations & always clarify both:**

- Heavy lifting
- Undue stress
- Part-time work / 4 hours per day
- No working with Rachel Shaw
- Repetitive bending
- Prolonged standing
- Light work

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 **Interactive Process Hallway**

 **Obtain Necessary Documentation /Information Continued...**

**How to get clear work restrictions?**

- Employee (non-industrial)
- Call/write to doctor
  - Medical supplemental reports
- FFD Examination

**Note:** California Confidentiality of Medical Information Act / HIPPA

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### Interactive Process Hallway

**Who is a Health Care Provider? (29 CFR 825.102)**

- A doctor of medicine or osteopathy who is authorized to practice medicine or surgery... and podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist), nurse practitioners, nurse-midwives, clinical social workers and physician assistants... Christian Science Practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts, any health care provider from whom an employer or the employer's group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits; and a health care provider listed above who practices in a country other than the United States, who is authorized to practice in accordance with the law of that country, and who is performing within the scope of his or her practice as defined under such law.
- Any other person determined by the Secretary to be capable of providing health care services.
- Provider must be authorized to practice under State law and who are performing within the scope of their practice as defined under State law

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### Interactive Process Hallway



**Obtain Necessary Documentation /Information Continued...**

- **Essential Functions Job Analysis (EFJA)**
  - Understands and document the Essential Functions of the job description/classification and the particular assignment
  - Document this in advance of a medical examination or accommodations meeting
  - **SAMPLE**

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### Interactive Process Hallway



**Obtain Necessary Documentation /Information Continued...**

- An Essential Function is the outcome of an incumbent performing a set of tasks, not the task itself. For example:
  - Floor Care vs. mopping
  - Customer Service vs. answering phones

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### Interactive Process Hallway



**Engage, Interact and Explore Together**

- Ensure applicant/employee is aware of process
- Talking and/or informal meeting with applicant/employee
- Seek applicant/employee opinions and interests
  - **Research ideas of employee/applicant, department or organization before accommodations meeting**
- Consult with professionals in the field for assistance to identify reasonable accommodation options
- Use Resources: Attorneys, WC examiners, consultants
- No Decisions, but know Options

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### Interactive Process Hallway



**Schedule Accommodations Meeting / Have the Right People Involved in Decisions:**

- **Long-Term decisions:**
  - Human Resources
  - Workers' Compensation / Risk Management
  - Employee's Manager / Supervisor
  - Employee
  - Employee Representative of choice
    - PERB found in SEIU v Sonoma County Superior Court – EE's are entitled to union representation at IP meetings
  - Facilitator & Note Taker

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### Interactive Process

**Use the Disability Interactive Process to evaluate if you can provide Long-Term Accommodations:**

1. Offer of Modified Work
  - Current classification, performing all of the essential functions, same efficiency and effectiveness
2. Offer of Alternative Work/Reassignment
  - a) Available and approved to be filled
  - b) Not a promotion
  - c) Minimally qualified
  - d) Only after a to c, physically appropriate with/without reasonable accommodation

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 **Interactive Process Hallway**

**At the REASONABLE ACCOMMODATIONS MEETING, TAKE NOTES.** Notes should include:

1. Purpose of meeting / Reason for Meeting
2. Documents relied on (EFJA, Medicals)
3. Summaries of discussions between all parties relating to:
  - Modified work
  - Extended leave of absence
  - Alternate work
4. Summarize outcomes/decisions or next steps
5. Signatures of all attending parties



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 **Interactive Process Hallway**

 **Door #4**

**Post-Meeting Activities / Close Process Correctly**

- Place all documents in the accommodations file
  - Process Letters (Summaries of events, meeting invites)
  - Meeting Notes Templates
- Complete Post Meeting Agreements
  - Inform others that need to know of a result
  - Complete post meeting forms, letters, etc.
- Identify Next Steps of the Interactive Process

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**The Disability Interactive Process Hallway**

**SHORT-TERM (TEMPORARY) REASONABLE ACCOMMODATION DECISIONS**

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 **Interactive Process for Short-Term Restrictions**

- For temporary / short-term restrictions, process can reflect the risk
- Usually you are not considering medical separation/ termination for short-term / temporary work restrictions, if you are, Long-Term Interactive Process should be initiated
- Process goals:
  - Timely
  - Manageable
  - Produce realistic documentation



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 **Short-Term Processes & Decisions**

- What is Short-Term anyway?
  - Organizational decision
  - Short-term process usually will move into a Long-term process when the following criteria are present:
    1. Employee does not show medical improvement after 60 or 90 days
    2. Restrictions or leave are for an unknown duration
    3. Employee is upset about Short-term process decisions
    4. 6 months of temporary modified or light duty assignment
    5. When paid Organization leaves exhausts and/or 6 months of leave

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 **Interactive Process TMLD**

- Door #1** • Obtain Clear Medical Work Restrictions
  - Evaluation how the work restrictions impact the Essential Function Performance
    - May determine an EFJA document needs to be created
- Door #2** • Call/email/discuss with employee and supervisor if temporary accommodations can be extended or if leave is needed
- Door #3** • In lieu of formal accommodations meeting, may have informal meeting or phone call to confirm agreement on Return to Work
- Door #4** • Execute a signed Temporary Accommodation Agreement

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 **Short-Term Processes & Decisions**

**How Long Do You Extend Temporary Modified or Light Duty Assignments (TMLD)?**

Opinion: How long should a TMLD assignment be for?

- Is it supporting **medical improvement**?
- Is EE performing **meaningful work** for the organization?

**If yes to both... extend.**

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 **Reasonable Accommodation**

**Statutory Obligation # 2:**  
Determine the appropriate reasonable accommodations that might overcome the employee's/applicant's job limitations



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 **Reasonable Accommodation**

**Reasonable accommodations include:**  
Any appropriate measure that would allow the applicant or employee with a disability to perform the **essential functions** of the job, such as:

- Facility modifications
- Schedule changes
- Equipment purchases
- Modifying examinations
- Changing policies



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 **Reasonable Accommodation**

**An accommodations can be ANYTHING.**

**What makes an accommodation REASONABLE:**

1. Provides the employee/applicant with a **SAFE** work environment
2. Allow the employee/applicant to perform the full set of **ESSENTIAL FUNCTIONS** of their position.

**Technically:**

1. Undue hardship (29 CFR §1630 app. §1630.15(d)) (1996)
2. Direct threat (42 U.S.C. § 12113(b); see 29 CFR §1630 app. §1630.2(r))

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 **Reasonable Accommodation**

**Short-Term Accommodations:**

1. Offer of Temporary Modified
  - Temp. Modified: Current classification, performing all EF, same efficiency and effectiveness
    - **Optional:** Temp. Light Duty - Performing part of / some of the EF of current job or set of meaningful work duties or special assignments
      - Supporting medical improvement / stabilization, and
      - Performing organizationally meaningful work
2. Offer of and Extended Leave of Absence
  - Potentially in excess of your policies
  - If not possible, then Alternative Work is explored

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 **Reasonable Accommodation**

**Short-Term Accommodations - Offer of an Extended Leave of Absence**

- **When is a LOA a reasonable accommodation?**
  - Known duration
  - Expected to support return to work
- **How to get clarification?**

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 **Interactive Process**

Let's Agree on Vocabulary:

**Temporary Modified Duty**  
(Different than Light Duty)

- Performing 100% of the essential functions of the position, same effectiveness and efficiency as all others in the position/class but with accommodations that are temporarily needed or temporarily reasonable to implement
- Determination has not yet been made if the accommodations would be reasonable to implement long-term, but they may be if they truly support employee to perform all of the work safely and fully

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 **Interactive Process**

Let's Agree on Vocabulary:

**Light Duty**  
(Sometimes called Temporary Alternative)

- Performing some of the essential functions of the usual and customary position, and/or
- Performing less than the full workload of the assignment or working part-time, or
- Performing a different job assignment or set of tasks; regardless if the work is represented by a formal job description or assignment in the organization
- Not required to be offered, but may be a good idea. Can offer to Work Comp and not Non-Occ injured / disabled employees

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 **Reasonable Accommodation**

**Long-Term Accommodation:**

1. Offer of Modified Work: Current classification, performing all of the essential functions, same efficiency and effectiveness
2. Offer of Alternative Work/Reassignment
  - a) Available and approved to be filled
  - b) Minimally qualified
  - c) Not a promotion
  - d) Only after a to c, physically appropriate with/without reasonable accommodation

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 **Interactive Process**

Let's Agree on Vocabulary:

**Modified Duty**

- Performing 100% of the essential functions of the position, same effectiveness and efficiency as all others in the position/class but with LONG-TERM reasonable accommodations that the organization believes will be able to be implemented on-going
- Determination HAS been made that it appears the accommodations are reasonable for the long term as the employee appears to have **long-term or permanent work restrictions / functional limitations**
- However, NOTHING in life is permanent and this could change if the condition changes, the work changes or if it no longer appears that the accommodations are working sufficiently

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 **Interactive Process**

Let's Agree on Vocabulary

**Alternative Work / Reassignment**

- If an employer determines that they cannot accommodate an employee to return to work in their regular/usual and customary position and that an extended leave of absence is not reasonable due to their **long-term or permanent work restrictions / functional limitations**, the employee may be reassigned into another position
- Position must be vacant and approved to be filled
- Position cannot be a promotion
- Employee must be minimally qualified / demonstrate minimum proficiency for the position
- Employee must be able to perform all of the essential functions of the position with the same effectiveness and efficiency as all others in the positions – with or without reasonable accommodations

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 **Reasonable Accommodations**

**An employer is not required to:**

- Lower quality or production standards
- Provide personal use items (such as glasses or hearing aids)
- Create a new position / create permanent “light-duty” ^
- Displace (bump/layoff) other employees

• ^Source: Raine v. City of Burbank, Court of Appeals of California, Second District, January 25, 2006.

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 **Making Decisions**

**When no accommodations are reasonable,** employer must be prepared to prove one or more of the following:

1. Essential functions could not be performed
2. Accommodation options created a direct threat or undue hardship;
3. Extended leave of absence would not support a return to work at a later time and was not reasonable to offer;
4. No appropriate vacant positions available



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 **Making Decisions**

**When accommodation is not reasonable:**

- Use of leaves, paid and unpaid (FMLA/CFRA)
  - Designate FMLA/CFRA
  - Sick Leave
  - Vacation Leave
- Medical Separation / Retirement
  - Retirement Obligations:
    - Employer Generated CalPERS Disability Retirement Application (Gov. Code 21153, Ed Code)
    - Other Plans
  - Labor Contracts
  - Civil Service Rules

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 **Public Employees' Retirement Law**

**(PERL) GC 21153:**  
"Notwithstanding any other provision of law, an employer may not separate because of disability a member otherwise eligible to retire for disability but shall apply for disability retirement of any member believed to be disabled, unless the member waives the right to retire for disability and elects to withdraw contributions or to permit contributions to remain in the fund with rights to service retirement as provided in Section 20731."  
(Classified CalPERS only)

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**Workers' Compensation and the FEHA/ADA**  
INTERACTION AND COORDINATION

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 **Workers' Compensation**

Key Terms in Workers' Compensation and what they mean for the Disability Interactive Process:

- Permanent and Stationary / Maximum Medical Improvement
- Prophylactic work restrictions
- Repetitive / very repetitive
- Prolonged
- Heavy / very heavy



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**SHAW SEMINARS HR CONSULTING**

### Workers' Compensation Doctors

**The Workers' Comp Pyramid of doctors**

- WC Dr. hierarchy means nothing to FEHA/ADA
- FEHA/ADA requires employers to utilize accurate medical restrictions / opinions
- Industry standard is to combine and accommodate to the most restrictive when there is more than one accepted WC medical opinion
  - Exceptions

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**SHAW SEMINARS HR CONSULTING**

### FEHA/ADA & Workers' Compensation

**Communicating with Medical Providers:**

- **Primary Treating Physician (PTP):**
  - No restrictions in how you communicate with this provider except for medical privacy regulations.
  - You can only request work restrictions and duration of limitations
  - Opinions coordinate with any QME, pQME or AME opinions

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**SHAW SEMINARS HR CONSULTING**

### FEHA/ADA & Workers' Compensation

**Communicating with Medical Providers in Workers' Compensation**

- **State Panel Qualified Medical Examiner (pQME)**
  - L.C 4062.3(e): You can communicate the State Panel QME in writing however parties have to be carbon copied.
  - Do not send new medicals to the State Panel QME requesting that she review and comment without parties agreeing to the new medicals, however, if it's medicals that the doctor already reviewed in his initial evaluation parties can be carbon copied.
  - Recommendations:
    - Before sending an EFJA, make sure both parties received it already
    - Treat QME and pQME the same; and if EE is represented, ensure your attorney OKs all communication with QME
  - Opinion coordinates with the PTP's opinion

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 **FEHA/ADA & Workers' Compensation**

**Communicating with Medical Providers in Workers' Compensation**

- **Agreed Medical Examiner:**
  - Means that EE is represented by an attorney
  - Cannot send request to clarify restrictions directly to doctor, must send through your workers' compensation attorney
  - Don't recommend you introduce opinions of other doctors (PTP/FFD providers) to AME
  - Ensure that the AME has an Essential Functions Job Analysis to review as he/she makes opinions
  - If you cannot get AME to clarify restrictions in writing, request that your attorney depose the doctor.
  - Opinion coordinates with the PTP's opinion

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 **FEHA/ADA & Workers' Compensation**

**Door # 1 - Clear Medicals**

- Don't guess what restrictions mean
  - No Heavy Lifting, No Bending, No undue stress
  - Don't be afraid to send two questionnaires or more, if needed, to best understand limitations.
- Obtain clarification on leave needs
- Don't use American Medical Association (AMA) definitions
- Don't use CA Department of Industrial Relations definitions
- Do use specific medical definitions by the employee's workers' compensation doctor(s).

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 **FEHA/ADA & Workers' Compensation**

Labor Code Sec. 132a:

"It is the declared policy of this state that there should not be discrimination against workers who are injured in the course and scope of their employment. (1) Any employer who discharges, or threatens to discharge, or in any manner discriminates against any employee because he or she has filed or made known his or her intention to file a claim for compensation with his or her employer or an application for adjudication, or because the employee has received a rating, award, or settlement, is guilty of a misdemeanor..."

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 **WORKERS' COMP DOCTORS**

- When There are Conflicting Medical Opinions from Multiple Providers: Combine and Accommodation to the Most Restrictive
- Concern with using a FFD = Serious and Willful Risk
- How old is too old for a WC report



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 **FEHA/ADA & Workers' Compensation**

**Summary:**

1. Go through each door down the interactive process hallway
2. Don't guess what restrictions mean
3. Door # 1 is the key and will take time
4. Allow Disability Compliance Coordinator to obtain the information needed from workers' compensation doctors, even if there is added cost

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**Abuse, Misuse and Excessive Use of Leave Considerations**

**TOOLS TO SUPPORT MANAGEMENT OF LEAVE USAGE**

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**FEHA/ADA & Leaves:**

**Criteria that Makes Leave Reasonable:**

1. Know Duration
2. Expected to Support Return to Work

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**FEHA/ADA & Leaves:**

- Paid Leave Use is reasonable when eligible for the time
- Workers' Compensation leave, when have District paid leaves available
  - Designate FMLA for Accepted Workers' Compensation Claims: From day # 1 of lost time, designate the leave without the need for a HCP form.

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 **FEHA/ADA & Leaves:**

- **FMLA/CFRA:**
  - FMLA/CFRA and Ed Code Leaves triggers you, and allowing the leave is a Reasonable Accommodation
  - **Second / Third Opinions:** If you have concerns that the FMLA/CFRA leave is not medically needed, consider a Second Opinion option

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 **ADA & Leaves:**

**When Leave May NOT Be Reasonable – Implement a Leave Management Program:**

- Who:
  1. Identify Highest Users of Time Off
  2. Identify Concern for Abuse or Misuse of Leave Persons
- Select a data point and pull those folks into your Hallway
  - 50 days for 2 to 3 years in a row?
  - 70 days for 2 years in a row?
  - Exhaust all FMLA for 2 years in a row? (exclude mommies)
  - Will exhaust all paid time before June 30<sup>th</sup>
  - Other

– BE CONSISTENT!

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 **ADA & Leaves:**  
**Putting it All Together**

**USE THE HALLWAY!**  
**When issues of excessive use, concerns over abuse or otherwise unmanageable leaves occur... talk with your employees**

- Open the Hallway and explain the ADA Interactive Process
- Ask employees about their leave, are they aware of the leave or the impact on the company?
- Ask about ways to support them to have the leave they need, but also not impact operations
- Ensure they are following their FMLA/CFRA Certifications
- Sometimes employees just don't know how to say "I need help" or "goodbye"

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 **In Closing...**

- 1. Develop it:** Develop and implement a comprehensive Disability Management program
- 2. Staff it:** Have sufficient persons in your organization knowledgeable enough to manage your program
- 3. Consistently Apply it:** Be disciplined in consistently applying your program across your organization – even when it is unpopular
- 4. Document it:** Document everything 

The above will ensure you make good decisions organizationally, and when you don't, you will know it. 

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**Questions & Answers**

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