

**UNIVERSITY OF CALIFORNIA, SAN FRANCISCO
AUDIT AND ADVISORY SERVICES**

Disability Leave Management

Project #18-061

November 2017

University of California
San Francisco



Audit and Advisory Services

November 30, 2017

DAVID ODATO

Associate Vice Chancellor, Human Resources, UCSF
Senior Vice President, Human Resources, UCSF Health

SUBJECT: Disability Leave Management

Audit and Advisory Services (“A&AS”) conducted a review of Disability Leave Management. Our services were performed in accordance with the applicable International Standards for the Professional Practice of Internal Auditing as prescribed by the Institute of Internal Auditors (the “IIA Standards”).

Our review was completed in November 2017 and the preliminary draft report and Management’s final comments and responses to our observations were provided in November 2017. The observations and corrective actions have been discussed and agreed upon with department management and it is management’s responsibility to implement the corrective actions stated in the report. In accordance with the University of California audit policy, A&AS will periodically follow up to confirm that the agreed upon management corrective actions are completed within the dates specified in the final report.

This report is intended solely for the information and internal use of UCSF management and the Ethics, Compliance and Audit Board, and is not intended to be and should not be used by any other person or entity.

Sincerely,

A handwritten signature in black ink, appearing to read 'Irene McGlynn', with a horizontal line extending to the right.

Irene McGlynn
Director
UCSF Audit and Advisory Services

EXECUTIVE SUMMARY

I. BACKGROUND

As a planned audit for FY2018, Audit and Advisory Services (A&AS) conducted a review of Disability Leave Management at UCSF. Disability management is governed by the Americans with Disabilities Act (ADA), the Fair Employment and Housing Act, and University Policies as set out in Personnel Policies for Staff Members (PPSM-81 Reasonable Accommodation) and Academic Personnel Manual (APM -711) as well as collective bargaining agreements: The regulations requires an employer to make every effort to provide reasonable accommodation (RA) without causing undue hardship to the organization.¹

Disability Management Services (DMS) is part of UCSF Human Resources and comprises of six Disability Management Analysts, a Benefit Analyst, and a Manager. DMS receives funding support for two Analysts from the UC Office of the President (UCOP) and annually submits a Disability Management/Rehabilitation Program report to UCOP on campus DMS activities.

For the period July 2016 to October 2017, a total of 747 cases, comprised of 469 personal illness or injuries and 278 work injuries were administered by DMS. DMS facilitates the Interactive Process (IP), working with the employee, medical provider, department manager, and any other relevant stakeholders to determine necessary RAs such as providing ergonomic or equipment setup, modified work duties or change to a more suitable position wherever possible.

In October 2016, DMS transitioned to the UC Accommodate (UCA) system as a new system of record for documentation of the IP discussions and other services provided. Additionally, they use several reports from different systems including: Payroll & Personnel System, Health Leave of Absence (LOA) Database, and Liberty Mutual insurance to identify employees that have exhausted their Family and Medical Leave (FML) period and to determine if return to work review (RTW) is needed.

Insufficient processes and controls for the management of disability leave can create risks to the University including potential disability discrimination, liability claims and/or decrease in productivity to the organization if there are delays in returning employees to work.

II. AUDIT PURPOSE AND SCOPE

The purpose of this review was to assess the controls and processes in place for disability leave management in order to determine compliance with University policy and consistency in practices relating to assessment of work limitations and RTW accommodation plans for both Campus and UCSF Health employees.

Administration of work related injuries (Workers' Compensation) is excluded from the scope of this review as it is managed by a third party vendor. The scope of the review covered transactions and activities for the period July 2016 to September 2017.

¹ 29 C.F.R. § 1630.2(o)(1)(i-iii) (1997) requires description of the RA which includes modified job application process to allow qualified applicant with disability to be considered, modified work environment to enable disabled employee to perform essential functions, and adjustments that enable a covered entity's employee with a disability to enjoy equal benefits.

Procedures performed as part of the review included review of applicable policies and procedures for key requirements, interviews with DMS personnel to understand the processes for determination of RTW and accommodation when employees are under disability status, and the validation of a sample of employee disability cases for compliance with policy requirements and consistencies in practices.

Work performed was limited to the specific activities and procedures described above. As such, this report is not intended to, nor can it be relied upon to provide an assessment of compliance beyond those areas specifically reviewed. Fieldwork was completed in November 2017.

III. **SUMMARY**

Based on work performed, we found that DMS has processes and controls in place to detect when employees exhaust FML and disability leave would apply. Overall, the IP is initiated timely and IP discussions via phone or emails are documented in the UCA system demonstrating how DMS analysts engaged with employee, department and other stakeholders to determine if an employee with disability is able to RTW and/or if RA is needed. DMS has developed detailed written procedures on IP including turnaround guidelines for each type of actions.

Opportunities for improvement exist in the areas of documentation and follow-up.

The specific observations from this review are listed below.

- Lack of specific criteria on documentation of the IP has resulted in inconsistent documentation practices.
- Follow-up was not always done timely when actions are dependent upon other departments.

IV. Observations and Management Corrective Actions

| No. | Observation | Risk/Effect | Recommendations | MCAs |
|-----|---|---|---|---|
| 1 | <p>There is insufficient specificity on documentation criteria which has led to inconsistent documentation practices of the IP.</p> <p>During the review of DMS’ standard operating procedures (SOP) and also during examination of disability case records, we noted inconsistent documentation of the IP by the disability management analysts due to the lack of specific criteria. Examples of certain inconsistencies are shown below.</p> <p>a. <u>“All Key Interactions”</u>: DMS’ SOP stipulates that “all key interactions” should be documented, but does not define what “key interactions” entail. Per DMS manager, this would include “dates of engagement, the specific discussions, accommodations agreed upon or not agreed upon and why.”</p> <p>Some minor instances were noted in relation to capturing dates of request or actions taken, especially during hand-off points, to resume IP process and management response to the recommended RA.</p> <p>b. <u>Transitional Work Plan (TWP)</u>: Per the DMS’ SOP, TWPs are to be documented on TWP forms with each party (employee and department manager) acknowledging agreement with the plan. However, per discussions with DMS, it is an acceptable practice for TWP to be communicated via e-mail without formal sign-offs of an agreement by the employee and department manager. However, this is not clarified or documented in the DMS procedures.</p> | <p>Inconsistencies in documentation of the IP process may limit the University’s ability to fully demonstrate considerations for determining RA and could potentially increase the risk of non-compliance with Title III of ADA on disability discrimination.</p> | <p>DMS management should consider updating its SOP to define “key interactions”, circumstances when TWP written in emails is an acceptable practice, uploading of emails and retention in UCA, and defining required UCA data fields to be completed including determining the consistent use of “Accommodate” field.</p> | <p>a) During the course of the review, DMS had addressed many of the documentation practices issues identified. DMS has developed written procedures on the use of UCA system including:</p> <ul style="list-style-type: none"> • Uploading of e-mail attachments related to medical notes to be saved under “Medical Tab” and all other email attachments will be uploaded under Correspondence tab for easy access of documents. • Attachments will follow naming convention to easily identify type of attachment including dates link to email or event dates. • Required data fields to be completed in the UCA system were defined. <p>b) DMS will develop procedures on the use of the “Accommodate” field in the UCA system.</p> |

| <u>No.</u> | <u>Observation</u> | <u>Risk/Effect</u> | <u>Recommendations</u> | <u>MCAs</u> |
|------------|--|--------------------|------------------------|--|
| | <p>c. <u>User adoption of the UCA system</u>: Some DMS analysts are still storing documents in the prior FileMaker Pro system, including attachments of emails that may or may not include medical information.</p> <p>d. <u>Required data fields to be completed in the new UCA system have not been defined</u>: It was not clear which UCA data fields are required, as different staff have different practices and some fields such as “Accommodate”, “Disability”, “Consulted With”, “Bargaining Unit” and “Leave” tabs are not consistently populated, thereby limiting any meaningful future monitoring or trend reporting.</p> <p>e. <u>“Accommodate” field</u>: There were inconsistencies in the use of this data field amongst the DMS staff. Some selected the accommodation that was actually provided such as modified job/schedule while others entered accommodation subject discussion or accommodation options for the specific case. As such, any reporting of accommodations provided such as the current UCA Summary Report could indicate that accommodation was provided when in fact it wasn’t.</p> <p>The IP is designed to enable a dialogue among stakeholders to support employees with disability. Documentation of the IP process provides good evidence of due diligence performed by the University and is critical for ADA compliance.</p> | | | <p>Target Date: January 30, 2018</p> <p>Responsible Party Human Resources Executive Director</p> |

| <u>No.</u> | <u>Observation</u> | <u>Risk/Effect</u> | <u>Recommendations</u> | <u>MCAs</u> |
|------------|--|---|---|--|
| 2 | <p>Case follow-ups were not always performed timely when actions are dependent upon other departments.</p> <p>Overall, DMS Analysts actively manage their cases and generally respond timely to inquiries with the exception of cases that require certain actions or decisions from another department. DMS usually wait for other departments to act or make certain decisions and does not usually perform active follow up on those cases.</p> <p>Also, when an action or decision resides with an employee that is not part of the IP, DMS does not follow-up with an employee until months afterwards in certain cases. A timely check-in may enable closing of cases sooner.</p> | <p>Unclear expectation on follow-up could hinder timely response to accommodation requests which could increase disability discrimination liability claim and/or prolong employee from returning to work that may impact department's productivity.</p> | <p>DMS should consider having discussion with departments and relevant stakeholders (i.e. Ergonomic Department, LER, Liberty Mutual, etc.) and develop procedures to determine expectations on follow up when the action resides with another department.</p> | <p>DMS will define protocols for follow-up when actions reside with other department or a decision resides with an employee that is not part of the IP.</p> <p>Target Date: January 30, 2018</p> <p>Responsible Party Human Resources Executive Director</p> |