UCSD HR TRAINING
ACCES and accommodations

• Matthew MacKinnon, MBA, CPDM
  Certified Professional Disability Management

• Accommodation Counseling & Consulting Services (ACCES)
Matthew MacKinnon Bio:

- Disability Management Counselor for the UCSD Accommodation Counseling and Consulting Services (ACCES)
- Master’s in Business Administration (MBA)
- Alumni of UCSD-BA in Sociology
- Certified Professional in Disability Management (CPDM)
- 20 + years in vocational rehabilitation counseling
- 15+ years as consultant, business owner
- Ergonomic Consultant – Dept. of Labor & Industries and private sector
- Legal testimony/vocational rehab assessments for Longshoreman & Harbor Workers and WA State Workers’ Comp
- Stay at Work/Return to Work accommodations conference speaker
- Member of Puget Sound Human Factors and Ergonomic Society
GOAL OF ACCES

To Help Departments Keep UCSD Employees Productive and Working in Meaningful Work
ACCES Can Provide

- **Cost savings** to departments through Disability Management
- **Information** to HR and employees to foster communication and understanding
- **Prevention** of disabling conditions
- **Assistance** to enable informed decisions
- **Services** to enhance potential for retention of **productive** employees
• Disability Management Counselors provide faculty, staff, HR, supervisors and administrators:
  - Consulting and Counseling services
  - Stay at work/return to work planning and support
  - Job accommodation services

• Work with appropriate departments to assure access to buildings, information, and services for people with disabilities
Legal Considerations

- Americans with Disabilities Act
- Family Rights Act
- Pregnancy Leave Act
- Family and Medical Leave Act
- Civil Rights Act
- Rehabilitation Act

- Fair Employment & Housing Act
- Equal Employment Opportunity Commission Guidelines
- Labor agreements
- UC policy
- Past practices
Which Do You Know?

- ESL
- ERTW/SAW
- STD
- LTD
- TTD
- WCTD
- WCPD
- ADA

- MMI
- SSDI
- QIW
- QID
- UCRP DI
- P&S
- AME
- FEHA
- HIPAA
Top 3 most prevalent disabilities at UCSD:

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<tbody>
<tr>
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<tr>
<td>Cancer</td>
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2013 Most Prevalent Disabilities

Liberty Mutual (January 2013 through June 2013 at UCSD)

145 Claims at UCSD

- (70) Maternity/Pregnancy
- (16) Musculoskeletal
- (15) Mental Health
- (11) Cancer
- (8) Back
- (5) Hearing
- (5) Respiratory
- (15) Other
EMPLOYEE IMPAIRMENTS
July 1, 2012 - June 30, 2013

ORTHOPEDIC: LOWER and UPPER
- EXTREMITY, BACK, CERVICAL

PSYCHOLOGICAL: ANXIETY, DEPRESSION, BIPOLAR

CANCER
MULTIPLE BODY PARTS
PREGNANCY
NEUROLOGICAL
VERTIGO
SUBSTANCE ABUSE
MIGRANE HEADACHES
DEAF OR HARD OF HEARING
CARDIAC IMPAIRMENT
AUTOIMMUNE DISORDER
VISION LOSS
COGNITIVE
MULTIPLE SCLEROSIS
INFLAMMATORY DISORDERS
RESPIRATORY DISORDERS
STROKE

QUADRIPEGIA
TRAUMATIC BRAIN INJURY
VOCAL CORD LESIONS
PARKINSON’S DISEASE
PHOBIC REACION
KIDNEY DISORDER
LUPUS
FIBROMYALGIA
HEPATITIS
HERNIA
CROHN’S DISEASE
ALLERGIC REACTION
SLEEP APNEA

KIDNEY DISORDER
LUPUS
FIBROMYALGIA
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CROHN’S DISEASE
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SLEEP APNEA

STROKE
Bossectomy

- Is this a new disability impairment?
- Can an employee demand a new boss under ADA?
The HIPAA Privacy Rule provides federal protections for individually identifiable health information held by covered entities and their business associates and gives patients an array of rights with respect to that information. At the same time, the Privacy Rule is balanced so that it permits the disclosure of health information needed for patient care and other important purposes.
CONFIDENTIALITY
Fair Employment & Housing Act (FEHA)

- The *Fair Employment and Housing Act* (FEHA) prohibits harassment and discrimination in employment because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, mental and physical disability, medical condition, age, pregnancy, denial of medical and family care leave, or pregnancy disability leave and/or retaliation for protesting illegal discrimination related to one of these categories...
2001 Amendments to Fair Employment and Housing Act (FEHA) in CA

- **AB 222 states;**
  
  It shall be an unlawful employment practice... for an employer to **fail to** engage in a *timely, good faith, interactive process* with the employee or applicant to determine effective reasonable accommodations.
Interactive Process Defined

(j) “Interactive process,” as set forth more fully at California Code of Regulations, title 2, section 7294.0, means timely, good faith communication between the employer or other covered entity and the applicant or employee or, when necessary because of the disability or other circumstances, his or her representative to explore whether or not the applicant or employee needs reasonable accommodation for the applicant’s or employee’s disability to perform the essential functions of the job, and, if so, how the person can be reasonably accommodated.
5 Steps of the **Interactive Process**

1. Evaluation of the employee’s limitations.
2. Evaluation of the essential functions of the position.
3. Communications between the employer and employee.
4. Consideration of the employee’s preference.
5. Implementation of a reasonable accommodation.
WHAT ROLE DO YOU PLAY in HR?

Communication with Worker
Guiding Supervisor / Department
Coordination with ACCES
Interactive Process
Confidentiality and Compliance
WHAT ROLE DO YOU PLAY in HR?

- Faculty or Staff Member's Printed Name/Signature
- Supervisor’s Printed Name/Signature
- Human Resources Representative’s Printed Name/Signature
- Accommodation Counseling and Consulting Services (ACCES) Counselor’s Printed Name/Signature
“Major Life Activities” shall be construed broadly and include physical, mental, and social activities, especially those life activities that affect employability or otherwise present a barrier to employment or advancement.

Major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working.
Americans with Disabilities Act

- To be protected by the ADA, one must have a disability, which is defined by the ADA as a **physical or mental impairment that substantially limits one or more major life activities**, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment. The ADA does not specifically name all of the impairments that are covered.
HOW TO IDENTIFY ACCOMMODATION OPTIONS

- RELY UPON CURRENT SPECIFIC MEDICAL INFORMATION
- ASK EMPLOYEE FOR SUGGESTIONS AND IDEAS
- INVOLVE THE SUPERVISOR IN ACCOMMODATION SUGGESTIONS/IDEAS
- IF NECESSARY, INVOLVE THE COWORKERS
- ACCESS THE JOB ACCOMMODATION NETWORK
- USE YOUR IMAGINATION
THE ADA DEFINES “REASONABLE ACCOMMODATION” TO INCLUDE

Making existing facilities used by employees readily accessible to and usable by individuals with disabilities and:

- job restructuring
- part-time or modified work schedules
- reassignment to a vacant position
- acquisition or modification of equipment or devices
THE ADA DEFINES “REASONABLE ACCOMMODATION” TO INCLUDE (CONTINUED)

- Appropriate adjustment or modification of equipment or devices

- Appropriate adjustment or modifications of examinations, training materials or policies

- The provision of qualified readers or interpreters

- Other similar accommodations for individuals with disabilities
Other Types of Accommodations

- Ergonomics
- Telecommuting
- Flex Work Schedule
- Office Space
Service Animals per ADA

- Defined as dogs or miniature horse that are individually trained to do work or perform tasks for people with disabilities
- Must be harnessed, leashed, or tethered, unless these devices interfere with the service animal’s work or the individual’s disability prevents using these devices
- must allow service animals to accompany people with disabilities in all areas of the facility where the public is normally allowed to go
Service Animals ADA -continued

How do I verify if a service animal?

- Can I ask for paperwork, certificate or other document?
- Is the animal required to wear and special identifying garments?
- Can I ask worker to explain nature of disability in relation to service animal?
Service Animal ADA-What can I Ask?

- Do you need this animal because of a disability?
- What work or tasks has the animal been trained to do?
Focus on the ABILITIES of the person rather than the disabilities
An ACCES Counselor is available to attend and facilitate the Interactive Process meeting and to help you identify a reasonable accommodation.

Use “The Job Accommodation Interactive Process Form” to document each meeting; or discussion with the employee, and the outcomes.

Go to Blink for Disability and Rehabilitation Forms and (select) Job Accommodation Request
Common Challenges

- Hidden Disabilities
- Pregnancy
- Progressive Disabilities (example, MS)
- Medical Notes (accommodation not restriction)
- Extended Leave (month to month)
- Temporary Disabilities (case study-broken leg)
Contact worker while out on leave

- Keep engaged
- Prepare for return
- Improves rate of return
- Documentation
What Does ACCES Expect from HR?

- Knowing when to contact ACCES
- Follow through and work closely with ACCES
- Assist in training department supervisor, chair
- Help facilitate IP with department and worker
- Document, document, document
- Confidentiality
- Be Positive
These links will serve as a resource for faculty and staff who need guidance in understanding these processes.

http://blink.ucsd.edu/Blink/External/Topics/Policy/0,1162,15660,00.html for Menu: Disabilities and Rehabilitation

http://blink.ucsd.edu/Blink/External/Topics/Policy/0,1162,20852,00.html for Job Accommodation and The Interactive Process

http://blink.ucsd.edu/Blink/External/Topics/How_To/0,1260,20854,00.html for The Employee's Role

http://blink.ucsd.edu/Blink/External/Topics/How_To/0,1260,20856,00.html for The Supervisor's Role
Who Can You Call?
Accommodation Counseling and Consulting Services-ACCES
858-534-6744 (front office)
858-534-7700 (Matt)
QUESTIONS?

Accommodation Counseling and Consulting Services (ACCES)