



Update

FROM THE PRESIDENT

BY CINDY SUMMERS, PRESIDENT



The Annual Meeting in Grass Valley was very well attended, thank you to all that were there. Huge shout out goes to Nevada Cemetery District for the Green Burial presentations on Thursday at Rough and Ready Cemetery and on Friday morning for your Q&A. Green Burial is a new concept to most of us and with virtually no guidance in the Health and Safety Code, learning from each other is key! Congratulations to all the award winners. Mark Marshall for the M&M Vendor Appreciation award, Bob Hunt for the President's award, and Galt - Arno for the Cemetery of the Year award. In reading everyone's comments and suggestions for next year, we expect a few changes to the program. We will have break-out sessions and round table discussions. We will try to have varied topics so there are more sessions for grounds, office staff, manager's and Trustees. When going to lunch, go with smaller groups so as not to overwhelm the local restaurants with large groups (unless you were able to make a reservation). YES - the snacks were a hit!

Hurricanes, Tropical Storms and Floods.....in emergency situations - STAY CALM, thanks Mark, we will try.

Thank you to Visalia Public Cemetery District for agreeing to host the Annual Training Day again in April of 2024.

The PCA Board's vision is to build a training day schedule with locations around California so all our members can attend at least one meeting a year in a "nearby location". Call me at 805-466-1242 if you have a location suggestion.

Cindy Summers,

PCA Board President/Manager



In this issue of the **Update**:

Page

1	From the President
3	Legal Update, The Interactive Process
4	Board Member Highlight—Jennifer Stallions
10	Stuffed Pork Chops Recipe
13	2023 PCA Conference Highlights
14	GSRMA 17th Annual Training
17	Mark Your Calendar

(Please let us know if you have particular issues or questions you would like to see addressed in a future edition of the **Update**.)

PCA BOARD OF DIRECTORS

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THE INTERACTIVE PROCESS AND REASONABLE ACCOMMODATION OBLIGATION

BY DEREK HAYNES AND DYLAN DE WIT



What is the 'Interactive Process' and Why is it Necessary?

The California Fair Employment and Housing Act (FEHA) is a series of statutes designed to promote diversity and inclusion in the workplace and protect employees and applicants from discrimination. One area that is often overlooked is unintentional, but nonetheless unlawful, discrimination against individuals with disabilities.

As the United States Commission on Civil Rights explained: "Discrimination against handicapped people cannot be eliminated if programs, activities and tasks are always structured in the ways people with 'normal' physical and mental abilities customarily undertake them. Adjustments or modifications of opportunities to permit handicapped people to participate fully have been broadly termed reasonable accommodations."

To that end, employers are required to engage in what is called the "interactive process" with applicants and employees who have physical or mental disabilities in order to identify and implement reasonable accommodations that will allow those individuals to perform the essential functions of the job.

Lawfully complying with that obligation can be complicated. It is easy for employers to unintentionally make a mistake along the way. Unfortunately, those mistakes can expose employers to significant liability. This article provides a general guide for engaging in an effective interactive process to identify available reasonable accommodations and providing those accommodations so that employers can avoid liability.

How Does the Interactive Process Start?

Let's start with the basics. A "reasonable



accommodation" is defined as any "modification or adjustment to the workplace that enables the employee to perform the essential functions of the job held or desired." Accommodations often take the form of physical alterations to the work environment. However, they can also be changes to the general structure of the job and even leaves of absence in certain circumstances, discussed below.

The "interactive process" is the process by which employers work together with employees and applicants to identify available reasonable accommodations. The law specifically requires that employers engage in a "timely, good faith interactive process" to identify accommodations that allow employees and applicants to perform the essential functions of the job.

The first step in the interactive process is identifying when you have to engage in it. An employer's duty to initiate the interactive process is triggered either by an employee's request for an accommodation or when the employer knows an employee has a disability or becomes aware of the possible need for accommodation. This awareness may come through a variety of means, including from the employee directly, information disclosed by a third-party like a medical provider or another employee, by witnessing things that indicate the employee has a disability or need for accommodation, or because the employee is returning from a leave of absence with certain limitations.

An explicit request for accommodations obviously triggers the interactive process. However, that is not required. The obligation to engage in the interactive process is also triggered through other more informal means, including verbal communications. It can be as simple as em-

(Continued on page 5)

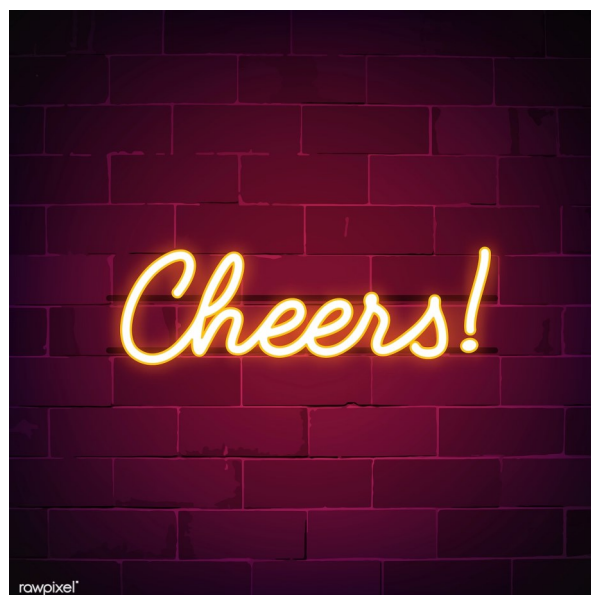
Board Member Highlight



Congratulations to our newest Board Members, Jennifer Stallions. Jennifer represents Visalia Public Cemetery District.

Jennifer has been working as the Board Secretary/Treasurer for the past year and was appointed to the Board of Directors at the 2023 PCA Annual Conference at Gold Miner's Inn in Grass Valley.


PCA appreciates Jennifer's work, effort, time and dedication to this organization.



PCA Board of Directors thanks everyone who participated in the 2023 Annual Conference in Grass Valley.

We look forward to reviewing your surveys and bringing you more of what you seek.

Until PCA's next Annual Conference August 1-2, 2024, at Gold Miner's Inn, Grass Valley, we encourage you to attend the regional trainings to remain abreast of the ever-changing landscape for cemetery districts.



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THE INTERACTIVE PROCESS AND REASONABLE ACCOMMODATION OBLIGATION

BY DEREK HAYNES AND DYLAN DE WIT

(Continued from page 3)

employees advising that they have a medical issue that is making it difficult for them to start work on time or a comment indicating that they have some form of pain that is making it difficult to do the job. The key issue is whether the employer receives information indicating that the employee has a disability that might require accommodation. That can occur in so many different ways that employers must be vigilant in listening to their employees and seeking clarification when necessary to understand their needs.

Failing to initiate a prompt and communicative interactive process after receiving notice of a potential need for accommodation can trigger independent liability.

What Does the Interactive Process Entail?

Now that you are on notice, what are the next steps?

When it comes to shaping an appropriate and effective interactive process, there is no one-size-fits-all approach. Employers engaging in an interactive process should be flexible, communicative, and thorough. The ultimate goal of the interactive process is to help employees obtain the support they need to perform the essential functions of the job.

The interactive process will vary in length, depth, and necessity. In some instances, the disability and the type of accommodations needed will be obvious, and therefore little or no discussion will be needed. As an example, employers are often able to provide the exact accommodation requested by the employee or applicant.

In other instances, the employer and employee may have questions or be unsure about the best available avenue. In all instances, employers should document the process along the way, lead with patience and apply a problem-solving approach. The affirmative duty to reasonably accommodate a disabled employee is a continuing and evolving duty. It

is rarely satisfied by one single action.

In general though, there are four steps employers should follow when engaging in the interactive process:

Step One: Identify what limitations the employee or applicant might have that limits their ability to perform the essential functions of the job. This includes identifying and distinguishing between essential and nonessential functions of the job. Employees can continue working if they can perform the essential functions of the job, regardless of their ability to perform other tangential tasks. Consult with the employee or applicant to ascertain the precise job-related limitations imposed by their disability. Employers can insist that information regarding the employee's or applicant's specific limitations comes from the medical provider.

Step Two: Having identified the limitations, the second step is to identify possible accommodations for those limitations. Employers should work with the employee or applicant to identify available accommodations that allow them to perform the essential functions of the job.

Step Three: Having identified one or more possible accommodations, the third step is to assess the reasonableness of each potential accommodation in terms of effectiveness and equal opportunity. Think about how the potential accommodations help the employee and how they impact business operations.

Step Four: The final step is to implement the accommodation that is most appropriate for the employee and the employer that does not impose an undue hardship on the employer's operations. It is important to note that the employer is free to select the actual accommodation to implement that allows the employee or applicant to perform the essential functions. Employers are not obligated



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THE INTERACTIVE PROCESS AND REASONABLE ACCOMMODATION OBLIGATION

BY DEREK HAYNES AND DYLAN DE WIT

(Continued from page 5)

to select the employee's preferred accommodation. However, selecting the employee's preferred accommodation does limit the risk of the employee discontent.

There are a few specific points to highlight. As set forth above, it is imperative that the employer document all of the steps taken during the interactive process. That includes sending a correspondence to the employee or applicant, confirming everyone's agreement with the selected accommodation.

It is also important to seek clarification when needed. When there is uncertainty regarding an employee's or applicant's need for accommodation – just ask. To be clear though, employers are not entitled to ask or know what specific disability or medical condition an employee or applicant might have. That is confidential information. Employers are only entitled to information regarding the manner in which the disability or medical condition impacts the employee's or applicant's ability to work (i.e. the limitations).

Employers can also seek clarification from an employee's or applicant's medical provider. Employers are not authorized to obtain that information directly from the medical provider, however. Employers should ask the employee or applicant to seek the clarification. Employers are well within their rights to provide employees or applicants with a form containing questions they would like answered by the medical provider. Remember though, the inquiries are limited to the nature of the employee's or applicant's limitations and how they impact their ability to perform the essential functions of the job. Employers cannot seek information regarding the nature of the actual disability or medical condition. We always recommend that employers seeking clarification provide the medical providers with a copy of the employee's or applicant's job description to ensure accurate information.

Remember, reasonable accommodations are unique to the job and the employee. The process requires an individualized assessment of both the job and the specific physical or mental limitations of the individual.

Providing Accommodations

The employer has ultimate authority to choose the reasonable accommodation, so long as the chosen accommodation is effective. If more than one option is found reasonable and effective, then the employer can consider the employee's preferred option, but the ultimate decision rests with the employer.

Reasonable accommodations can take many forms, but the most common include:

Restructuring job duties – Such as reallocating or redistributing marginal job functions that an employee is unable to perform because of a disability or altering when/how a function is performed.

Providing leave for medical care – Permitting the use of accrued paid or unpaid leave. This is one area where employers often get confused. A finite leave of absence is a form of accommodation that employers generally must offer.

Changing work schedules – Providing part-time or modified schedules, adjusting arrival, departure, or break times.

Relocating or modifying the work area – Providing appropriate furniture or adjusting existing furniture or moving someone to a more accessible workspace.

Adjusting or modifying examinations, training materials or policies – providing physical copies, accessible font sizes, visual aids, etc.

Providing mechanical or electrical aids – Such as readers or interpreters, software or hardware that improves accessibility.

Reassignment to a vacant position – If the employee or applicant is unable to perform the essential functions of the current position then employers must offer them other, vacant positions in which they can perform the essential functions provided they are qualified for the position.

Reassignment to an alternative position should be used as a last-resort accommodation when there are no effective accommodations for the individual to retain their current position, or other accommodations would cause an undue hardship. Reassignment re-

(Continued on page 9)

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BY DEREK HAYNES AND DYLAN DE WIT

(Continued from page 7)

quires a showing that the individual possesses the skill, experience, education, and other requirements of the job and can perform the essential functions of the vacant position, with or without reasonable accommodation. The employer need not promote the employee or create a new position. The obligation is to consider other, vacant, similarly situated positions. Lesser paying positions may be a viable solution, where a comparable position is unavailable.

As set forth above, finite leaves of absence are also accommodations that employers must consider when there are no other accommodations available that would allow the employee or applicant to work. The purpose of the leave is to provide the employee or applicant time to recover from temporary injuries. To be clear, employers are not required to provide an indefinite leave of absence. Once it is objectively uncertain if or when the employee will be able to return then continuing the leave is no longer required.

Employees with disabilities may also have separate rights to protected leaves of absence under the Federal Family and Medical Leave Act (FMLA) or the California Family Rights Act (CFRA). It is important to note that the obligation to consider a further leave of absence as a form of accommodation under the FEHA is triggered when the employee exhausts the protected leave under the FMLA or CFRA.

Denying Accommodations

Employers should do their best to accommodate employees when possible. They are not, however, required to grant every form of potential accommodations. Employers are not required to grant accommodations that pose what is called an “undue hardship.” That does not mean any hardship. Most accommodations will require some form of hardship. The hardship must be “undue” in the eyes of the law for employers to refuse to provide the accommodation.

Determining what constitutes an “undue” hardship is not easy. Courts do so by considering a variety of factors, including, but not limited to: (1) the nature

and cost of the accommodation; (2) the employer’s ability to pay for the accommodation; (3) the nature of the employer’s operations; (4) the impact the accommodation would have on operations; (5) the number of employees employed at the facility and the relationship of the employees’ duties to each other; (6) the number, type and location of the employer’s facilities; and (7) the administrative and financial relationship of the facilities to one another.

How those factors apply will vary case-by-case. Overall though, the inquiry turns on the level of burden imposed on the employer.

We do want to caution you. Courts are highly reluctant to find that an accommodation poses an undue hardship, particularly for larger employers.

What Happens After an Accommodation is Provided?

The interactive process continues even after an initial reasonable accommodation has been provided. Employers should regularly check-in with employees to see if the accommodation provided is working well, or if their conditions have changed, requiring more, less or different accommodation(s). That is particularly true when an employee who is on leave is set to return. Be sure to consider other accommodations that might be necessary. The common goal between employers and employees is a return to full duty work when employees are able. That goal can be achieved in most cases with the proper communication and support.

For more information and a sample Request for Reasonable Accommodation package to assist you and your employees in engaging in the interactive process, visit the [California Civil Rights Department](#) website and/or the [Equal Employment Opportunity Commission Enforcement Guidance](#) website. When in doubt, document the process and ask your employment law attorney.



Stuffed Pork Chops

You will need: 2 boneless pork chops, 1/4 cup each of sliced mushrooms and chopped onion, 1 cup julienned spinach, 2 Tbs butter, 2 Tbs olive oil, 1/2 tsp minced garlic, 2 ounces cream cheese, salt and pepper to taste.

Remove pork chops from refrigerator and slice through from side, leaving connected opposite side. Season with salt, pepper, and garlic powder on all sides and let stand about 1/2 hour to bring them to room temperature.

Add butter and olive oil to skillet and melt. Add mushrooms, onion, and minced garlic, then sauté on medium heat until onions are tender. Add spinach and continue cooking until spinach is thoroughly cooked. Mix in the cream cheese, salt, and pepper. Remove from skillet and set aside.

Place pork chops in skillet, open, to sear the interior. (This adds flavor to the interior of the chops.) Remove from skillet and place, raw side down on baking sheet,

Stuff pork chops with spinach mixture and fold them over. Bake at 375 degrees for about 1/2 hour or until pork chops reach desired doneness.

Enjoy with your favorite vegetable, salad or side.

Recipe courtesy Cynthia Connelkly

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2023 PCA Conference, Grass Valley

August 10-11, 2023



Thursday, August 10 Nevada Cemetery District presented a Green Burial demonstration at Rough and Ready.



Attendees enjoying a session on Vandalism presented by Grass Valley Police Department.



Brian Edinger and Daniell Frampton present Mark Marshall with PCA's first M&M Award. This award was created in honor of the contributions to PCA from Mel Lewis and Mark Marshall over the years. We hope to continue gleaming from Mark's experience.



(Continued on page 12)

More from 2023 PCA Conference, Grass Valley

(Continued from page 11)



Mark Marshall and Cindy Summers present Bob Hunt with the PCA President's Award.



Belinda Ellis, Director of Galt Cemetery District accepts the 2023 Cemetery of the Year award from Board President Cindy Summers.



Seven vendors attended the 2023 PCA Conference, but nine provided prizes for the attendees who remained through the end of Friday.



The winner of GSRMA's gift basket is pictured above, flanked by Steve Wood and Ryan Brannon.

***Mark Your Calendar for the 2024
PCA Annual Meeting to be held at Gold
Miner's Inn, Grass Valley August 1-2,
2024***



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17th ANNUAL TRAINING CONFERENCE - 2023

Don't miss GSRMA's 2023 Annual Training Conference!

October 19-20, 2023

We are excited to invite all our members to our Annual Conference. The day will be filled with valuable information, entertaining speakers, good food and the opportunity for our members to share ideas with their peers.

THURSDAY
OCTOBER 19, 2023
8:00 AM - 4:30 PM

Keynote Speaker Jesse Brisendine

Making Work Meaningful: Empowering Leaders for Effective Communication and Job Fulfillment

In today's fast-paced and interconnected world, employers face numerous challenges in creating meaningful work environments. This keynote aims to empower attendees with the essential tools and capabilities needed to be confident and effective leaders. By addressing common pain points such as day-to-day miscommunications and feelings of inadequacy, this engaging keynote equips participants with actionable strategies to enhance communication, employee fulfillment, and overall leadership skills.

Kevin Bibler, Alliant Insurance Services

Rick Brush, PRISM

Culture Shock!!! The skyrocketing costs of liability claims, their impact on the market and what we can do about it

We haven't experienced insurance markets like this since the public entity insurance crisis of the 70's. Insurance costs are skyrocketing because claims costs are skyrocketing with little relief in sight. Understanding why this is happening may not pay the increased premiums but it will make it easier to explain to those signing the checks. Such insight could give us some idea of what we need to do to weather the storm.

NOON - 1:00 PM **Buffet Lunch**

Michael Coogan, MC2

AI: What's Possible, What's Practical, and What's Ethical

Amidst the buzz around Artificial Intelligence (AI), small and mid-sized public entities may question its relevance to their operations. This session aims to demystify AI, providing an accessible exploration of its potential. We'll discuss AI's practical applications available today, future prospects, and associated ethical considerations, arming you with the knowledge to determine the utility of AI within your organization.

Derek Haynes and Dylan de Wit, Porter Scott

Accommodating Injured Employees

This session will focus on the steps employers must take upon learning of an employee's disability and the associated risks.

5:00PM- 7:00PM **Vendor Reception Hosted by GSRMA**

*Golden State Risk Management Authority
17th Annual Training Conference
Rolling Hills Resort, Corning, CA
October 19-20, 2023*



FRIDAY, OCTOBER 20, 2023

CONCURRENT SESSIONS

8:00AM – 9:00AM

Ryan Brannon, Steve Wood, Brian Edinger GSRMA

Developing a Culture of Safety

Have you struggled with implementing a safety program or getting buy-in from coworkers? This course will cover the solid foundation needed for Developing a Culture of Safety, tips, and tricks for getting buy-in from coworkers, items needed for compliance, and more!

Dave Glende and Sam Adams, GSRMA

Cyber Risk in Local Government: Lessons learned and current trends

A presentation on current trends in cyber security and what has been learned over the past year via the GSRMA Cyber Risk Self-Assessments.

9:15AM – 10:15AM

Jennifer Chilton and Ritesh Sharma, James Marta & Company LLP

Fraud – Managing a Changing Landscape with Proven Tools

As we are pressured to give greater attention to cyber risks, the risk of traditional internal and external financial fraud has never diminished. While the computerization of accounting and finance functions has changed how we do business, it is vital that we maintain adequate internal controls and loss prevention practices. Compare your financial controls to industry best practices in our ever-changing world of fraud.

Naomi Whatley, Employee Benefits Specialist, GSRMA

Squeezing Every Bit of Value Out of Your Employee Benefits

Employee benefits – health, dental, vision and life insurance – are expensive. Yet few employees take full advantage of all that is offered by their carriers. Get a better understanding of why health insurance is so expensive. Then learn how your employees can get the most out of your program while helping to keep costs down.

10:30AM – Noon

Emiliano Comejo and Scott Dinits, The Training Place, Butte College

Breaking Cycles and Creating Change

As supervisors, community, and organization leaders, we create change in our organizations and community. This work demands a lot from us, and the way we show up every day is critical. As we provide support to others, we have so many things going on, and being brought to us each day. This training space will offer safe learning experience that supports our skill-building through engagement and reflection. Let's take some time to create a space to learn and grow with each other.

*Golden State Risk Management Authority
17th Annual Training Conference
Rolling Hills Resort, Corning, CA
October 19-20, 2023*

Please Register by October 5, 2023

Golden State Risk Management Authority's 17th Annual Training, October 19-20, 2023, at Rolling Hills Resort & Casino, Corning, CA. [Click here](#) to register at our website or by returning the completed form via fax 530.934.8133 or email to events@gsrma.org.

Conference begins with registration and full breakfast at 8:00 am.

Name (Last, First)

Title

Member Entity

Phone

Address, City, State and Zip

Email Address

Please check the sessions/events you will be attending:

- ☐ **Thursday – General Sessions – 8:00am – 4:30pm**
- ☐ **Thursday Evening Vendor Reception – Hosted by GSRMA: 5:00pm – 7:00pm**
- ☐ **Friday Concurrent Sessions**

Please select one option during each time slot below:

8:00AM – 9:00 AM

- ☒ **Developing a Culture of Safety**
- ☒ **Cyber Risk in Local Government: Lessons learned and current trends**

Initial 9:15AM – 10:15AM

- ☐ **Fraud – Managing a Changing Landscape with Proven Tools**
- ☐ **Squeezing Every Bit of Value Out of Your Employee Benefits**
- 10:30AM – Noon**
- ☐ **Closing Keynote Session: Breaking Cycles and Creating Change**

- ☐ **Friday Lunch**
- ☐ **Lunch on-site**
- ☐ **Boxed lunch to go**

Accommodations

There are two hotels onsite, their contact information is below:

- The Lodge (The Vagabond Inn) is located on the north end of the main building.
- The Inn at Rolling Hills, is south of the facility adjacent to the conference center.

The phone number for reservations is (530) 528-3500. Mention Golden State Risk Management Authority to receive the special conference rate.

Driving Directions:

From the north – Take Interstate 5 South to Exit 628, Liberal Avenue. Exit right on Liberal, then turn left onto Barham Rd. arrive at Rolling Hills Resort.

From the south – Take Interstate 5 North to Exit 628, Liberal Avenue. Exit right, then turn left on Liberal and drive over the overpass. Make a left onto Barham Rd., arrive at Rolling Hills Resort.

Mark Your Calendars!



October 19 -20, 2023 - GSRMA Annual Training, Corning, CA

December 08, 2023 - PCA Regional Training, Galt, CA

April 10, 2024 - PCA Regional Training, Visalia, CA

August 1-2, 2023 - PCA Annual Meeting, Gold Miners Inn, Grass Valley

