

Reasonable Accommodations for Disabled Employees

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Employers must provide reasonable accommodations for disabled employees, but it is frequently difficult to determine what is reasonable. The California First District Appellate Court recently explored this issue in *Williams v. Genentech, Inc.*

Starting in 1990, Rochelle Williams worked as a receptionist for Genentech. As part of her duties each day, Ms. Williams received a “Per Alert” which included instructions on what particular people to watch for and what to do if she saw them. On October 16, 2000, Ms. Williams recognized one of the people on the Per Alert and she contacted security as she was supposed to do. However, while on the telephone with security, she spoke to the security officer in a “code” which she created.

The security supervisor complained that Ms. Williams improperly handled the situation, and on October 18, 2000, Ms. Williams’ supervisors met with her to address the complaint. They told Ms. Williams that she was supposed to follow the instructions on the Per Alert, and she was not supposed to use code because that could have “messed up the investigation”. Ms. Williams had to be taken to the hospital where she was diagnosed as suffering an exacerbation of asthma. Ms. Williams began a medical leave that same day.

Genentech’s written family and medical leave policy provided that employees would receive six months paid medical leave, and that employees who qualified for leave under the California Family Rights Act would be placed in the same position upon their return if their leave did not exceed 12 weeks in a 12 month period. The policy explicitly stated that after the 12 weeks, Genentech could not guarantee that a position would be available to the employee, but the employee would be allowed to apply for available positions for 60 days following the employee’s return to work.

Ms. Williams’ medical leave was continued several times, and she was finally released to return to work without restrictions effective May 16, 2001 (almost 7 months later).

During her leave, Ms. Williams’ position was covered by one of three floater receptionists. This caused some business problems since the one floater was no longer available to cover for illnesses and vacations. Additionally, they had to shorten the lunch breaks for the other receptionists, and morale suffered. In January 2001, Genentech determined that it could not bring in a temporary agency employee to fill because there was too much training required, not enough qualified persons, and there is a high turnover for temporary employees. Accordingly, Genentech notified Ms. Williams that

she had exhausted her 12 week position guarantee, and Genentech would be hiring a replacement for her position. Genentech then filled the position.

When Ms. Williams was released to return to work two and half months later, there were no vacant receptionist positions at Genentech. Ms. Williams lacked the requisite qualifications and experience for the positions which were vacant. At the end of 60 days, her employment was terminated.

Ms. Williams sued Genentech, claiming that Genentech discriminated against her based upon disability. The trial court ruled in Genentech's favor, and the Appellate Court affirmed that decision.

The Court noted that while providing a finite leave of absence is a reasonable accommodation, employers are not required to wait indefinitely. The Court appears to point to Genentech's policies as setting a reasonable time period to wait for an employee to return to the same position. The Court also notes that it was a hardship for Genentech to cover vacations and leaves when a receptionist in Ms. Williams' department was out. This is good news for employers because it appears to set a fairly low standard for what is considered a hardship.

In light of *Williams v. Genentech*, employers may consider having their family medical leave policies revised to provide a defined length of time they will keep an employee's position open. As always, employers need to consistently apply their policies, and employers should proceed with caution in addressing the issues surrounding employees who are on disability leave.