

**Fitting the Pieces Together 2023
40 Tips and 40 Minutes
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Tip 4 - Prevention and Awareness

How can your campus assist employees with mental and physical wellness?

Empathia – Employee Assistance Program

- LifeMatters Webinars
- Resource materials
- Counseling

Learning and Development:

- Instructor led training – Principles of Supervision
 - Managing Yourself
 - Managing Relationships
- CSU's Got Talent for 2023
 - Managing Conflict so it doesn't manage you
 - Know your Limits
 - Psychological Safety
 - Unstoppable Resilience

Tip 8 - Income Replacement

What income replacement benefits are available to injured employee?

- Industrial Disability Leave (IDL) in lieu of
- Workers' Compensation Temporary Disability (TD) benefits

Employee must decide.

Must be a CalPERS member to select IDL.

If eligible for IDL and runs out, can then enroll in TD.

CalPERS service credit continues to accrue, and employee still receives any salary increase.

IMPORTANT

Know your employees and their employment status. It will determine what they are eligible for.

Remember AY employees do not receive IDL payments during the summers if they are not teaching.

Keep in mind that other employer disability benefits should be offset when receiving IDL. Some employees work more than one job – i.e. lecturers

TD is paid by a third party so no paycheck from the SCO is generated unless there is supplementation.

Employees can choose but most opt for IDL.

Tip 10 - LOA concurrently with Workers' Compensation.

What leaves of absence programs run concurrently with workers' compensation benefits?

Family Medical Leave must run concurrently with IDL and TD. In situations whereby an employee is on TD, FML requires health benefits to continue. This is paid by the employer during this time.

In the event FML does not run concurrently, the employee could demand FML at some other point in time when all benefits cease which would continue to provide job protection and continuance of health benefits.

Tip 16 - SUPPLEMENTATION?

What is supplementation? How does it work?

Keep in mind that IDL and TD are not designed to be full income replacement.

Employee with sick leave accruals may use to bring pay up to 100% net for IDL.

The employee must request the use of leave accruals and must do so within 15 days from the mailing of the benefit eligibility notification.

Tip 18 - Catastrophic Leave

Can an employee use Catastrophic Leave as supplementation?

Catastrophic leave can be used to supplement IDL/TD but it cannot be used to replace IDL/TD.

However, in most cases employees will not be able to use Catastrophic Leave while on IDL. Catastrophic Leave requires that all leave credits be depleted before an employee is eligible to use. IDL only allows sick leave to be used.

Exception would be an employee who is injured with no leave credits available or opts for TD benefits.

Tip 23 - CalPERS

What does CalPERS require of employers when an employee is unable to return to work?

Before steps are taken to separate an employee unable to work due to a workplace injury, check to see if the employee is eligible for disability retirement with CalPERS. **CalPERS requires it.**

The member should immediately apply for disability retirement if they are unable to perform the usual duties of their position, due to a physical or mental condition, and if their condition is expected to be permanent or last longer than 12 months.

If a workers' compensation claim has been filed, the condition does not have to be permanent and stationary.

If the employee does not apply, the employer must do so on their behalf.

There is no age requirement for a disability retirement.

The employee must, however, be vested.

If the employee is Unit 8, they could be eligible for an industrial disability retirement which does not require vesting or age.

Tip: If the employer is aware of medical conditions or workers' compensation claim(s) at the time of an employee's separation (other than

non-retention), they should counsel their employee and provide information on disability retirement. The employer should discuss with the member all their options, including disability retirement and provide the member with a

Tip 28 - CalPERS

What happens when CalPERS no longer deems a retired employee disabled? Does the campus have to “take the employee back?”

Yes. The employer must rehire the former employee.

A retiree has mandatory reinstatement rights to their former position if they were employed by the State of California or California State University (CSU) and CalPERS determines they are no longer disabled from performing the job duties.

A State or CSU retiree has permissive reinstatement rights to a position other than the position they retired from if CalPERS determines they are no longer disabled from performing the job duties.

Permissive reinstatement means the employer can decide whether to hire the employee for the position.

Tip 29 - Disability Retirement

What is Service Pending Disability Retirement?

If a member meets the vesting and age requirements for service retirement, then they can apply for Service pending DR/IDR. This will allow them to receive a service retirement allowance while the disability retirement is being determined.

The disability retirement process can take up to 4-6 months.

Sometimes a service retirement is a better option than disability retirement. It depends on the employee's age, years of service and retirement formula.

Tip 32 - Disability Retirement

What is an Employer initiated disability retirement?

Government Code section 21153 obligates the employer to file on behalf of the member if they have reason to believe they may be disabled, and the member has not applied on their own behalf.

You cannot separate the employee without first filing on their behalf.

CalPERS will then contact and follow up with the member.

Prior to applying for disability retirement on a member's behalf, issues of modified work and reasonable accommodations should have been considered and exhausted. CalPERS reminds employers that disability retirement is not a means of handling personnel issues.

Once the employer's application is received, CalPERS will notify the member and send them an application.

The member is given 21 days to submit the completed application, medical information, and signed medical release form.

If the member does not provide the requested information within 21 days, CalPERS will send them a letter explaining their options.

If the member does not reply to the options letter, the application will be cancelled.

The employer should not separate the employee until notification of an approval, denial, or cancellation is received from CalPERS.

Once CalPERS makes the determination, the employer has satisfied their requirements, under the law, by filing an application for disability retirement on behalf of the member.

Tip 33 - Disability Retirement

What is Temporary Disability Allowance (TDA)?

Note: This would not necessarily be a workers' compensation leave situation. TDA is required when an employee is involuntarily placed on an unpaid leave of absence. This information has been provided as supplemental.

Temporary Disability Allowance (TDA) is a program administered by the state.

When there is medical or other pertinent information that indicates an employee is unable to perform the essential functions of their current position or any other position, the employer may file an application for disability retirement on the employee's behalf.

The employer must give the employee 15 days written notice of their intention to file a disability retirement application.

Senate Bill 1073 allows the employer to remove the employee from their job and place them on involuntary leave (IL) when they file an application for disability retirement.

It provides for a temporary disability allowance for employees who exhaust their leave credits and programs while on involuntary leave.

CalPERS will reimburse the temporary disability allowance to the employer, if the application for disability retirement is approved.

An employer is responsible for paying TDA when all of the following conditions have been met:

- The employee is placed on an involuntary leave status
- The employee has exhausted their leave credits or elected to use available leave credits and participate in current programs, such as Industrial Disability Leave (IDL) with supplementation or Non-industrial Disability Insurance (NDI)
- The employer is applying for disability retirement on the employee's behalf