

The Interactive Process

What is the Interactive Process?

California State and Federal laws define the “interactive process” as an on-going communication between the employer and the employee in an effort to provide reasonable accommodation.

The Interactive Process refers to the collaborative and good faith effort involving an employer and employee to determine if the employee can return to work subsequent to an occupational or non-occupational injury. The process typically involves a face-to-face meeting with the employee and representatives for the employer (usually the employee’s supervisor, the employee and if work related, the workers’ compensation district contact). The parties bring various ideas to the table regarding whether the employee can be accommodated by returning to their usual and customary position or some other type of temporary modified work. The parties may agree that a certain aspect of the employee’s position can be modified, or if available alternative work found, to accommodate the employee’s work restrictions.

It is unlawful for employers to fail to engage in a timely, good faith, interactive process whether or not the interactive process would have resulted in an obligation to provide a reasonable accommodation.

What is Good Faith?

An employer and employee must communicate directly with each other to determine essential information and neither party can delay or interfere with the process. The employer’s behavior should promote the identification of an appropriate accommodation.

Who Should Be Involved

In order to be effective, the process should include the employee, the manager/supervisor and if work related, the district workers’ compensation contact.

The Interactive Process is Required by Law

It is unlawful for employers to fail to engage in a timely, good faith interactive process whether or not the interactive process would have resulted in an obligation to provide a reasonable accommodation. Failure to hold the interactive process may result in administrative fines up to \$150,000. If the matter is heard in civil court, additional damages may be awarded.