

TO: Department of Fair Employment & Housing
RE: E200910D0961-00-pev/37AB013243

(1) The following information is being provided as requested:

- (A) Legal name of business
Preferred Employers Group, LLC
- (B) Any other name(s) which business has operated under in California
Preferred Employers Insurance Company
- (C) Total number of persons employed in California,
(98) employees
- (D) Does your company have a current contract(s) for the provisions of goods,
services or public works in the state of California?
No

E Answer only if you employ 50 or more employees:

- (1) The number of supervisory employees employed in the last year:
(22)
- (2) The dates training regarding sexual harassment was provided to
supervisory employees in the last year. (See attached)
- (3) Name(s) and qualifications of trainer. (See attached).
- (4) Copies of training materials provided to supervisors (See attached).

Person preparing response:

Name: Daryl Tilghman

Title: Assistant Vice President, Human Resources

Signature: _____ Date: _____

**Preferred Employers Insurance Group, LLC
Response To The Complaint of Discrimination
Case# E200910-D-0961-00-pev**

- (1) State the reason(s) complainant was terminated and provide all documentation to support your reason, ie, counseling notices, written reprimands, attendance records, etc. In addition, please state complainant's salary/rate of pay, and benefits received at the time of termination. Explain or submit a copy of the policy, which governed complainant's termination.

The complainant was granted (12) weeks of (intermittent) leave as per FMLA/CFRA standards, and was made aware that when the leave benefit was exhausted, she would be required to return to work. After the complainant's leave benefit was exhausted, the complainant called to request (2) additional months of leave beyond her scheduled return date. The Company was unable to grant the additional time requested, and therefore informed the complainant that she must return back to work or be terminated. The complainant's position is a "full time" position, requiring the complainant to work Monday thru Friday, 40 hours a week, and in the course of her day-to-day duties, exercise independent judgment and discretion. Please see attachments; 1(a) Benefits Summary Upon Termination for complainant's salary/rate and benefits received at time of termination.

- (2) Provide a copy of any written notice(s) to complainant of her termination. See See attachment 2(a) Notice of Termination.
- (3) Provide a copy of the job description for complainant.
See attachment 3(a) Vendor Manager Job Description.
- (4) List all employees, to include the complainant, who were supervised by the same Person supervising complainant during the past two years. Identify each person's protected class, job classification and provide the current home address, telephone number and work number. Provide copies of any reprimands, counseling notices and evaluations for each employee for the past two years. If evaluations are not available, provide a statement with copies of substantiating documentation, describing how well each person performed his/her duties.
See attachment 4(a) Claims Employee Spreadsheet.
- (5) Provide the name, age, job classification, date of hire and salary of complainant's replacement.
The position is currently vacant.

- (6) Provide a copy of complainant's personnel file.
See attachment 6(a) Personnel File.
- (7) What is the policy on contacting employees on leave regarding their return date?
Per FMLA/CFRA guidelines, the Company determines what they will require of the employee with regard to regular contacts from the employee to the Company. In this case, the agreement was every (two) weeks.
See attachment 7(a) FMLA-Notice of Eligibility and Rights and Responsibilities.
- (8) State when you first learned that the complainant had a disability/medical condition. State who first learned this and by what method.
Benefits Analyst, Kim Urban, was notified via a doctor's note on 2/18/2010, that complainant would be unable to work due to illness through 4/15/2010.
- (9) Describe the essential requirement of complainant's position. Provide a copy of the standards. Describe the standards that complainant did not meet, if any and if not, explain why complainant did not meet these standards.
Complainant was not terminated for performance issues. The complainant was terminated for failure to return to work as scheduled.
See attachment 3(a) Notice of Termination Letter.
- (10) Why was the complainant denied a reasonable accommodation?
The complainant was not denied a reasonable accommodation. Neither the complainant nor her physician at any time mentioned that the complainant was disabled. The first we became aware of complainant's disability was upon receipt of the complaint from the Department of Fair Employment & Housing, dated 6/30/2010.
On 9/22/09, the complainant went out on an approved leave to care for her critically ill sister, whom her sister's attending physician had certified the complainant as the primary care giver. This leave was taken intermittently through 2/17/10. At this time the complainant had used (191) hrs of her (480) hr benefit.
On 2/18/10, the complainant began a full time leave due to her physician's note stating, the complainant was "*unable to work due to her own illness*". She was to return to work on 4/12/10, as at that time the complainant's total leave benefit of (-480) hrs. had been exhausted. The complainant agreed to return to work on 4/12/10, and signed a statement to that affect.
On 04/07/10, the complainant sent our Human Resources Department an email stating, "*Due to unforeseen circumstances in my sister's recovery, my doctor can not release me to work full time and has extended my leave until 6/15/10.*" Additionally, on 04/07/10, the complainant's physician faxed a note stating the complainant *will be unable to work "due to medical necessity through June 15th, 2010.*" **At no time was there any mention of the complainant being disabled. Again, at the time of the complainant's request, she had exhausted all of her leave benefit. (See attachments 10A and 10B.)**

(6) Provide a copy of complainant's personnel file.

See attachment 6(a) Personnel File.

(7) What is the policy on contacting employees on leave regarding their return date?

Per FMLA/CFRA guidelines, the Company determines what they will require of the employee with regard to regular contacts from the employee to the Company. In this case, the agreement was every (two) weeks.

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Benefits Analyst, Kim Urban, was notified via a doctor's note on 2/18/2010, that complainant would be unable to work due to illness through 4/15/2010.

(9) Describe the essential requirement of complainant's position. Provide a copy of the standards. Describe the standards that complainant did not meet, if any and if not, explain why complainant did not meet these standards.

See attachment 3(a) Vendor Manager Job Description.

See attachment 9(a) Verbal Conversations Regarding Standard Issues.

(10) Why was the complainant denied a reasonable accommodation?

The complainant was not denied a reasonable accommodation.

On 04/07/10, the complainant sent our Human Resources Department an email stating, "Due to unforeseen circumstances in my sister's recovery, my doctor can not release me to work full time and has extended my leave until 6/15/10."

Additionally, on 04/07/10, the complainant's doctor faxed a note stating the complainant will be unable to work "due to medical necessity through June 15th, 2010." At the time of the complainant's request, she had exhausted all of her leave benefit. (See attachments 10A and 10B.)

Full time attendance is an essential function of the complainant's job.

The complainant's job function requires attendance Monday thru Friday, 40 hours a week. The complainant's position is a 'specialized' position, requiring a high level of technical expertise, which currently has no designated backup with the required skill set to perform the duties of the complainant's position. During the complainant's leave of absence, the complainant's supervisor attempted to cover the "basic" functions of the desk. Consequences of failing to perform the full functions of the position could result in significant financial costs to the Company in the following ways:

-If the essential functions of complainant's position is not performed, the Company becomes at risk of losing the Medical Provider Network Program completely. Specific daily maintenance and updates are required.

-Without the required attention to the rules and regulations governing the Medical Network Program, substantial fines could be assessed, due to non-compliance.

-Lack of daily oversight of the network physicians and vendors could result in legal action against the Company.

(11) Provide a copy of your reasonable accommodation policy.

While the Company does not have a formal policy regarding reasonable accommodation, it has been, and continues to be committed to the adherence of all applicable rules and regulations required by State & Federal authorities.