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April 30, 2015

VIA EMAIL: jlattis@uwsa.edu

Jennifer Sloan Lattis
University of Wisconsin System Administration
Office of General Counsel
1220 Linden Drive
1844 Van Hise Hall
Madison, WI 53706-1525

RE: Professor Sabina Burton/Request for Reasonable Accommodation

Dear Jennifer:

I was retained yesterday by Professor Burton to represent her and advocate on her behalf in the continuing interactive process towards a reasonable employment accommodation of her disability. Dr. Burton has previously advised the University she suffers from a disability. Her treating physician, Dr. Dianna Bearse, wrote that Dr. Burton was cleared to return to work but she made several "recommendations" for accommodations during the upcoming semester. Dr. Burton and Attorney John Lohmann, Interim Director of Human Resources, have engaged in correspondence regarding this matter. Dr. Burton provided me with copies of Mr. Lohmann's correspondence dated April 28, 2015; her prior request for accommodation and her physician's release to return to employment. Copies of same are attached hereto. I write to you as Dr. Burton also forwarded to me an email in which Mr. Lohmann wrote that he was referring the matter to "legal" as she had included me as a recipient of her communication to him.

Dr. Burton appreciates greatly Mr. Lohmann's assistance in this matter and his willingness to continue to work with her and her physician to resolve outstanding concerns. She also has several concerns regarding his correspondence of April 28 that require immediate attention. She did not request a reduction to a 50% load and decidedly objects to that approach. While Mr. Lohmann expressed an interest in pursuing the reduced-time appointment as a result of the institution's inability to provide Dr. Burton her request for on-line teaching responsibilities, the reduction in her appointment will greatly increase her physical stress, thus defeating the purpose of the accommodation. As an alternative to her request to be assigned both

classroom teaching and a 50% load teaching “on-line” courses from her home, Dr. Burton believes she will be able to teach up to four face-to-face courses this coming semester if she has the ability to rely on a graduate assistant on those episodic occasions when her disability temporarily disables her. She anticipates possibly needing such accommodation by graduate assistant support in facilitating group work and discussions, all, of course, under her careful guidance and by her instructions provided beforehand.

While Mr. Lohmann wrote that the “current financial challenges prevent any allocation of funds to hire any graduate assistants in the Department during the fall,” Dr. Burton subsequently corresponded with Dan Avenarius, who confirmed that “funds are currently available and for the MSCJ program to have a graduate student for fall, 2015 and spring, 2016.” She also advises us that the same arrangement existed during academic year 2014/2015 and the graduate assistant worked primarily with a newly hired assistant professor. That being the case it would be reasonable to make the grad assistant, already funded, available to Dr. Burton as needed as an accommodation and it would be reasonable for Dr. Burton to teach four on campus courses as an alternative to teaching two on campus and two “on-line” courses.

Dr. Burton also does not request relief from her service responsibilities many of which have been provided from her home office and can continue to be performed there. Dr. Burton anticipates that issues could arise, but frankly our review suggests that the current leave policies, custom and practice of University faculty suffice to meet them. Please advise if you believe otherwise. Specifically she writes:

- There may be a need to leave campus during the day and in between classes to rest as needed.
- To the extent reasonably necessary I will work from home. This would include grading student papers, preparing for class, responding to emails, holding some of my office hours by Skype or phone.
- In order to facilitate commute and rest times I request that, if possible, I teach my on campus courses on M/W/F and that I work exclusively from home on T/Th unless there is a special event or meeting to attend on those weekdays.
- Many aspects of committee work as well as student group advising duties can be accomplished remotely from home. For example on April 29 Jessica Schulenberg, Undergraduate Research Office, asked me to be part of a team that encourages undergraduate research and student presentations on campus. Ms. Schulenberg has no problem with me doing much of the work at my own pace or from home.
- I request again to be allowed to move into the soon to be vacant office next to my current office. The space, light and proximity to my current office offer advantages.

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I look forward to our continued discussion of Dr. Burton's requested accommodations and trust that we can reach a satisfactory solution. Your prompt response would be greatly appreciated.

Very truly yours,

HAWKS QUINDEL, S.C.



Timothy E. Hawks
thawks@hq-law.com

TEH:kak

cc: Dr. Sabina Burton



UNIVERSITY OF WISCONSIN
PLATTEVILLE

HUMAN RESOURCES AND
PAYROLL OFFICE

April 28, 2015
Via U.S. Mail & Email

Sabina Burton, Ph.D.
5768 MAPLE GLEN LN
PLATTEVILLE, WI 53818-9634

Re: Request for accommodations

Dear Dr. Burton,

I received your request for disability accommodations and supporting materials from Dr. Bearse. I have written to Dr. Bearse requesting additional information your requests. I am including herewith a copy of that letter.

I also wanted to share with you my preliminary thoughts on your requests and ask you to respond to them with any additional information or discussion that you think would be helpful to us as I make my decision(s).

Regarding your request to work at home for the rest of the spring and the summer semester, I believe we will be able to grant that request. You would likely be assigned to work on your own research to finish out the semester. You will not be on contract over the summer. You are, of course, free to use your campus office and the other campus resources during this time.

Your request to teach two on-line courses during the fall semester is not something we can accommodate at this time. The teaching contracts for the on-line courses to be offered in the fall semester have already been entered into. If we were to breach these contracts we would be liable for damages. In the current budget climate, it would not be realistic for us to reassign these courses to a different instructor as we lack the funds to be able to pay you to teach those courses and also to pay damages to the instructors to whom we have already made contractual agreements. I am told that we have approximately seven hundred on-campus students majoring in criminal justice and we need to provide traditional face-to-face instruction for these students. For this reason, I have written to your doctor to find out whether reducing your full time appointment to 50% would also serve as a reasonable alternative that would also accommodate your disabilities, while also serving the needs of our students.

In my letter to your doctor, as you will see I have asked for further information about her recommendation that I or the next Director of Human Resources schedule your classes. Paraphrasing what I stated to Dr. Bearse, I have no knowledge or training in the scheduling of courses. It is really outside of my bailiwick. Additionally my appointment in this position expires on June 30th of this year. The next individual in this position may be a person whom you do not know at all.

The accommodations you requested in your formal communication of April 17 also raise some concerns. I am looking to you and your health care provider to provide more information in the hopes that reasonable alternatives can be developed.

I have spoken with Dean Throop and Acting Chair Dalecki about your request to work at home during the fall semester as much as possible. They are willing to work with you to accomplish

Sabina Burton, Ph.D.

April 28, 2015

that to the extent that they are willing to remove you from any committee work or service obligations such as attending department meetings that would require you to be on campus. Some of your regular duties such as course assessment and preparation could be performed at home and we are open to additional ideas from you.

Regarding student advising, the Interim Chair is willing to assign you two distance students for advising and one local student. For the local student, some travel is required. Dr. Dalecki indicated that you told him you could not drive. If that is the case I will need some verification of that from your health care provider. The department will need you on campus to teach your courses. I asked Dr. Bearse if a fifty percent (50%) appointment would be a different accommodation that might work so as to get you in front of as many sections of live classes as possible under the circumstances. As we have discussed previously, Dr. Dalecki has agreed to move your office to Dr. Caywood's current office space, upon his retirement. This space has two windows and will hopefully help with your vision.

I am not in support of you advising a student organization at this time. Unlike scheduling for individual advisees, a group would need to have a set, predictable and reliable schedule to meet. I am concerned with the intermittent nature of your condition and the need to rest at unpredictable times that the students would not be best served. In my decision making this is no reflection on your abilities or achievements. It is only my concern for the students' needs that leads me to this conclusion.

It would appear at this stage that unless there is a radical and unexpected change in the budget situation, the Department will be unable to provide you with release from teaching your courses in order to perform other tasks. No one in the department will be receiving release time in the fall to serve as the Director of Forensic Investigation or to work on recruitment. Those duties will be absorbed in addition to a full-time teaching load for the individuals asked to handle them. The curriculum review is being performed by an elected committee and Dr. Solar has already been given a one-course release to do that work. I am told that he is the only faculty member in the Criminal Justice Department who has been given any release time whatsoever for the fall semester. Unfortunately the current financial challenges prevent any allocation of funds to hire any graduate assistants in the Department during the fall.

I acknowledge and empathize with the stress you have felt when working with Dr. Dalecki and Dean Throop. However, the position of the University is that it has no basis to believe and does not believe that they have harassed you nor that they require being ordered not to harass you.

As you know, there will be a new chair of the Department of Criminal Justice in the fall and she will be primarily responsible for assigning your duties once she arrives. Dean Throop will continue to serve as Dean and will directly supervise the new chair. Dr. Dalecki will make all course assignments for the fall semester, including yours, until such time as the new chair assumes her duties. Physical challenges are trying. I wish you the best during this difficult time.

Sincerely,



John A. W. Lohmann, J.D., M.B.A.
Interim Director of Human Resources



UNIVERSITY OF WISCONSIN
PLATTEVILLE
HUMAN RESOURCES AND
PAYROLL OFFICE

April 28, 2015

Dianna Bearse, DO
Medical Associates Clinic, P.C.
1240 Big Jack Rd.
Platteville, WI 53818

RE: Sabina Burton, Ph.D.

Dear Dr. Bearse,

I have received the return to work authorization for your patient and our employee, Dr. Sabina Burton. In order to evaluate her accommodation request, I am hoping you will provide additional information about her disability.

Would you please expand upon your thoughts as to why Dr. Burton's condition requires her to teach two on-line courses in the fall semester? For example, in your osteopathic-medical opinion is she unable to teach full-time on campus in face-to-face courses? Would a reduction in her appointment to teaching on campus in face-to-face courses limited fifty percent (50%) of the time serve as an alternative accommodation if she were off work for the other fifty percent (50%) of the time? The term we use to describe such an arrangement is a "fifty percent appointment". If you could elucidate on how her condition, symptoms, and/or sequelae are creating any functional limitations and what those limitations are, it would help me a great deal.

Second, while I believe I am on good terms with Dr. Burton, I have no knowledge or training in the scheduling of courses. It is really outside of my bailiwick. Additionally my appointment in this position expires on June 30th of this year. The next individual in this position may be a person whom Dr. Burton does not know at all. If you could suggest other alternatives in this regard I would appreciate it.

I thank you in advance for your kind attention.

Sincerely,

A handwritten signature in black ink that reads "John A. W. Lohmann".

John A. W. Lohmann, J.D., M.B.A.
Interim Director of Human Resources

cc: Sabina Burton, Ph.D.

The reasonable accommodation I am requesting is:

I request that I be assigned tasks that can be performed remotely from home to the extent possible. Tasks that involve release time, such as Director of Forensic Investigation or recruitment efforts would allow this flexibility, as would online teaching. Another possible task that would allow this flexibility would be an assignment to assist the new chair in curriculum reviews, etc.

I request that my on-campus teaching be limited to 50% of normal teaching load. With a grad assistant I could teach up to three courses since the grad assistant could take over if I become ill.

Since stress has caused my symptoms and aggravates them I request the following stress reducing accommodations:

1. That I not be required to interact with Dr. Dalecki or Dean Throop.
2. That Dr. Dalecki and Dean Throop be ordered not to harass me.
3. That the person who assigns my duties be someone other than Dr. Dalecki or Dean Throop. I suggest that John Lohmann might be a person for this task but I am not trying to dictate who would make the decisions, as long as it is someone other than Dr. Dalecki or Dean Throop.

Medical Associates Clinic, P.C

BURTON, SABINA J

April 16, 2015

To Whom It May Concern;

The above listed patient is requesting to return to work at this time. She is currently being treated for medical conditions directly related to her campus work environment. I would recommend the following accommodations.

I recommend that Sabina be allowed to work from home over the rest of the spring, and the summer semesters. She will be able to work with students and in other capacities using her home computer and Skype. It is necessary for her to be allowed to rest when she is having pain, or when her condition flares up. It would also be OK for her to work occasionally from her office on campus.

I would also request that during the fall semester she be allowed to teach 2 on-line courses, as well as 2 campus courses. Sabina will also be able to split her office hours between online and on campus. I have discussed with her that if her medical condition worsens due to her work situation, she is to let me know immediately as other recommendations may be necessary.

And lastly, I recommend that her scheduling of classes be handled by the HR Director rather than the Department Chair, as this is a very large part of what is exacerbating her medical condition.

Mrs. Burton has worked very hard to get to the point that she is healthy enough to start back doing what she was hired to do. She will require further testing procedures, medication, and close follow up in my office, and with her other specialists as needed.

Thank you for considering these recommendations, and if there is anything further you need, please do not hesitate to ask.

The above patient is cleared to return to work on Friday, April 17, 2015.

Sincerely,