

Dispute Resolution Process

Duty To Accommodate (DTA) Dispute Resolution Advisory Committee (DRAC) Letter of Understanding #16

Dispute Management is about more than reaching resolution and settling a grievance. Often times in a DTA the outcome sought is placement in a position that meets the Employee's restrictions. While securing a position is the ultimate goal, it is not always possible to negotiate that at a meeting. There are still opportunities to manage the DTA dispute that may help the parties to move closer to that ultimate goal.

1. Define the issue(s). The parties may not know where they differ.
2. Articulate positions and understand each other.
3. Define abilities. Physical restrictions are one component of the process. The Employee's experience, knowledge etc. will also define viable placements.
4. Reach agreement on the restrictions. Is the medical information clear or does it need to be clarified?
5. Clarify the medical information. This occurs if the parties agree that the medical information is not clear but differ on how to clarify it.
6. Procedural defects. Is one party not cooperating with requests from the other? Open lines of communication are essential to a successful DTA process. You may need clear ground rules to facilitate future interactions.
7. Provide a clear explanation for refusal to place an Employee. The Employee is entitled to receive and to provide feedback when they are not placed. The parties may require help to explore the reasons given and whether there need to be additional considerations such as modifications to the existing position.
8. Explore other placement options. Sometimes a grievance discussion can become too focused on a particular placement and we lose track of other available options.
9. Lost wages – if an Employee is not placed appropriately there may be a dispute about lost wages.
10. Twenty-eight days to place – does the requirement apply? When does the timeline begin?

When you refer a matter to the DTA DRAC, each party should outline which of the above issues require discussion.