

# Model Policy on Reasonable Accommodation (Disability)

California Department of Human Resources  
August 2023

## Policy Statement

The [Name of Agency/Department/Commission] shall engage in a timely, good faith, interactive process with qualified applicants or employees with physical or mental disabilities requesting reasonable accommodation, as required by the Fair Employment and Housing Act.

The [Name of Agency/Department/Commission] shall provide an effective reasonable accommodation unless it would cause an undue hardship or create a direct threat to the health or safety of the individual or others.

The [Name of Agency/Department/Commission] is committed to employing qualified persons with disabilities, providing timely and effective reasonable accommodation, and ensuring the successful administration of the agency's reasonable accommodation process through the oversight of the agency's Equal Employment Opportunity (EEO) Officer.

## Reasonable Accommodation Definition

Reasonable accommodation is any modification or adjustment to the job, work environment, or in the way things are customarily done, that enables a qualified person with a disability to have an equal employment opportunity. Reasonable accommodation ensures equal opportunity in the examination, application, and hiring process that will enable a qualified applicant or employee with a disability to participate in those processes and perform the essential functions of the job. There are different types of reasonable accommodation requests, and each request is unique and must be evaluated on an individual basis.

Reasonable accommodation enables applicants and employees with a disability to participate in state civil service and enjoy equal benefits, privileges, and full access to the workplace.

## Examples of Reasonable Accommodations

- Make existing facilities used by applicants and employees readily accessible to and usable by individuals with disabilities. This may include but is not limited to: providing accessible break rooms, restrooms, training rooms, or reserved parking places; acquiring or modifying furniture, equipment, or devices; or making other similar adjustments in the work environment.

- Allow applicants or employees to bring assistive animals to the worksite.
- Transfer an employee to a more accessible worksite.
- Provide assistive aids and services such as qualified readers or interpreters to an applicant or employee.
- Restructure the job. This may include, but is not limited to, reallocation or redistribution of non-essential job functions in a job with multiple responsibilities.
- Provide a part-time or modified work schedule.
- Permit an adjustment of when and/or how an essential function is performed.
- Provide an adjustment or modification of examinations, training materials, or policies.
- Modify an employer policy.
- Modify supervisory methods.
- Provide additional training.
- Permit an employee to work from home.
- Provide a paid or unpaid leave for treatment and recovery.
- Provide a reassignment to a vacant position.

## Accommodation Requests

Job applicants with a disability have the right to request a reasonable accommodation for the examination, application, and interview process.

State employees with disabilities have the right to request reasonable accommodation for a modification or an adjustment to the job, work environment, or in the way things are customarily done.

A reasonable accommodation request may be made verbally or in writing and an applicant or employee need not use the term “reasonable accommodation” to signal a reasonable accommodation request.

If the applicant or employee wishes, a third party (such as a family member, health care professional, or other representative) may make a reasonable accommodation request on behalf of an applicant or employee. A third party may participate with the employee in the interactive process.

## Interactive Process

The agency shall initiate an “interactive process” when an applicant or employee requests reasonable accommodations. The employer shall also offer to initiate an interactive process when the employer becomes aware of the possible need for an accommodation. This awareness might come through a third party, by observation, or because the employee has exhausted leave benefits but still needs reasonable accommodation.

The interactive process is the series of communications between the employee or applicant and the Reasonable Accommodation Coordinator regarding the employee or applicant’s limitations, the need for accommodation, the expected date the accommodation will be provided, or the reason why the request is denied.

These are some examples of circumstances prompting an employer to engage in the interactive process:

- A job applicant with a disability requests a reasonable accommodation for an examination or job interview.
- An employee with a disability requests a reasonable accommodation that will enable the individual to perform the essential functions of the position or enjoy equal opportunities and benefits.
- An employee returns to work after an illness or injury and needs reasonable accommodation.
- An employee returns to work after an extended leave such as California Family Rights Act (CFRA), Family Medical Leave Act (FMLA), or approved reasonable accommodation leave.
- An employee's disability has changed, and the need arises to modify an existing accommodation.
- An existing accommodation no longer appears to be effective.
- An employee cannot fully access or understand training materials or the examination process due to a limitation related to a disability.

## Medical Certification

The agency may request certification from a qualified health care provider, verifying that an accommodation is necessary when the applicant's or employee's disability or need for accommodation is not apparent or known to the employer. It is the applicant's or employee's responsibility to provide appropriate medical information related to the limitations and the requested accommodation.

The employer will provide a copy of the employee's duty statement to share with their health care provider. The medical certification shall address, in writing, the following:

- Verify the employee has a disability (not the diagnosis).
- Describe how the employee's limitations interfere with their ability to perform the duties of the job.
- Indicate whether these limitations are temporary or permanent. If temporary, state the anticipated start and end date of the limitations.
- Recommend specific reasonable accommodation(s).

The agency can request additional relevant medical information if the information submitted does not clearly explain the limitations or the need for the accommodation. The health care provider should clarify how the requested accommodation will assist the employee in performing the essential functions of the job, access the workplace, or enjoy the benefits and privileges of employment.

## Reasonable Accommodation Analysis

The reasonable accommodation process requires an individualized assessment of both the job and the specific physical or mental limitations of the individual that are directly related to the need for reasonable accommodation.

The employer must consider the applicant or employee's preferred accommodation request but may provide alternate reasonable accommodations if they are effective for the applicant or employee.

A reasonable accommodation need not be the highest quality, the most expensive, or the specific accommodation requested, if it achieves the desired result, which is to enable the employee to perform the essential functions of the job. Where two or more possible accommodations are reasonable, the agency will determine which accommodation is offered based upon business reasons.

## Reasonable Accommodation Request Denial

Undue hardship and direct threat are the only legitimate reasons for denying a reasonable accommodation request from a qualified applicant or employee with a disability.

### Undue Hardship

Undue hardship includes any action that is unduly costly, substantial, disruptive, or that would fundamentally alter the nature of operations. Factors that must be considered in determining undue hardship include:

- Overall size of the agency with respect to the number of employees, number and types of facilities, and the size of the overall budget.
- Type of operation, including the composition, structure, and functions of the agency's workforce.
- Nature and cost of the accommodation.

### Direct Threat

Direct threat is a significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation. The determination that an individual poses a direct threat shall be based on a case-by-case assessment of the individual's present ability to safely perform the essential functions of the job. This assessment shall be based on a reasonable medical judgment that relies on the most current medical knowledge and/or on the best available objective evidence. In determining a direct threat, the factors to consider include:

- Duration of the risk.
- Nature and severity of the potential harm.
- Likelihood that the potential harm will occur.
- Imminence of the potential harm.
- Any relevant information about an employee's past work history.

## Complaint/Appeal

Applicants and employees may file a discrimination complaint with the agency's EEO Office regarding a denial of reasonable accommodation. Applicants and employees may also file a complaint with the State Personnel Board (SPB), California Civil Rights Department (CRD), and with the United States Equal Employment Opportunity Commission (EEOC) regarding denial of reasonable accommodation. The SPB, CRD, and EEOC have different statutes of limitations and it is the applicant's or employee's responsibility to file the complaint within the regulatory agency's respective timeframes.

## Harassment, Discrimination, and Retaliation Prohibition

The agency shall prohibit and promptly address harassment, discrimination, and retaliation toward or from participants in the reasonable accommodation process.

## Reasonable Accommodation Coordinator

The agency's Reasonable Accommodation Coordinator shall serve as the primary point of contact and subject matter expert on reasonable accommodation matters. The Reasonable Accommodation Coordinator shall be responsible for:

- Maintaining the reasonable accommodation policy, forms, and other documents related to the administration of the reasonable accommodation process.
- Providing training, information, and relevant resources to participants in the reasonable accommodation process.
- Leading the reasonable accommodation interactive process, which includes:
  - Providing information regarding the reasonable accommodation process to applicants, employees, supervisors, managers, and other relevant participants in the reasonable accommodation process.
  - Acknowledging receipt of an applicant or employee's accommodation request.
  - Requesting relevant information or certification from the applicant, employee, or other relevant participants in the reasonable accommodation process.
  - Analyzing the requested accommodation.
  - Proposing alternative solutions when necessary.
  - Coordinating with the Reasonable Accommodation Procurement Coordinator on the acquisition of approved reasonable accommodation equipment.
  - Ensuring effective implementation of approved accommodations.
  - Formally notifying the applicant or employee of the approval or denial of the reasonable accommodation request, including applicable complaint/appeal rights.

## Reasonable Accommodation Procurement Coordinator

The agency shall designate a Reasonable Accommodation Procurement Coordinator who will be responsible for the following activities:

- Receive Reasonable Accommodation acquisition requests from the state agency's designated Reasonable Accommodation Coordinator(s).
- Ensure Reasonable Accommodation acquisitions are expedited.
- Track Reasonable Accommodation acquisitions to ensure the acquisition is expedited and that the goods or services are delivered timely.
- Evaluate and recommend internal procurement procedures to expedite acquisitions.
- Participate in training as required by the DGS.
- Ensure that Reasonable Accommodation acquisitions are accurately reported in the Financial Institution System for California (FI\$Cal) database.

## Policy Distribution

This policy shall be disseminated in hard copy or electronic form to all new employees (permanent, seasonal, or temporary, including interns and volunteers) upon appointment. A current version of the policy shall be posted on the internet for job applicants and on the intranet for existing employees. The electronic versions of the policy and related materials shall be accessible to and useable by persons with disabilities. The reasonable accommodation policy shall be provided in alternate formats upon request.

## Record Retention

Reasonable accommodation records are confidential, shared only on a need-to-know basis, and shall be retained for the duration required by the agency's records retention policy. An employee's reasonable accommodation records shall be stored separately from the employee's Official Personnel Files.

## Authority

- [California Fair Employment and Housing Act](#)
- [Americans with Disabilities Act](#)
- [Section 503 of the Rehabilitation Act of 1973](#)
- [Section 504 of the Rehabilitation Act of 1973](#)
- [Government Code Section 19790](#)
- [State Contracting Manual Vol. 2, 3, and F, Ch. 2 – Procurement Planning; Vol. F, Ch. 1](#)