Disability Accommodations at Work

FACT SHEET

Civil Rights Department
STATE OF CALIFORNIA

CALIFORNIA EMPLOYMENT PROTECTIONS

California law protects people with disabilities from discrimination at work. The law protects:

- Job applicants
- Employees
- Interns
- Volunteers

These protections apply to private employers with five or more employees, and all public employers.

People with disabilities have the right to request reasonable accommodations at work. A reasonable accommodation is a change that makes it possible for a person with a disability to do their job or advance in their career. This can include changing a worksite or workplace rule.

SHOWING THE NEED FOR AN ACCOMMODATION

The person who needs a reasonable accommodation must show they have a disability recognized by the law.[1] Generally, to receive a reasonable accommodation at work, a person must have a mental or physical impairment that limits their ability to do major life activities.

Major life activities are physical, mental, and social activities – including activities that affect a person's ability to work or advance in their career. Examples include:

- Thinking
- Communicating
- Walking
- Lifting and
- Concentrating

A person may request a reasonable accommodation even if their disability is:

- In remission (like cancer)
- Only happens sometimes (like asthma or migraines)
- Can be treated with medications (like using insulin for diabetes)
- Temporary (back injury, broken arm)

REQUESTING ACCOMMODATIONS AND THE INTERACTIVE PROCESS

Employers cannot require people to request accommodations in writing or require them to use specific words. If a person with a disability requests a change to their workplace or working conditions so they can perform the essential functions of their job, it is a reasonable accommodation request. There is no limit on when a person can request an accommodation or how many accommodations a person can request. Accommodations can be requested at any time during employment.

When requesting accommodations, applicants and employees must explain the connection between their disability-related need and their requested accommodation. This means explaining how the accommodation would help them do their job.

Employers must respond promptly to reasonable accommodation requests. After receiving an accommodation request, the employer must start the interactive process.[2] This is an opportunity for the employer and the person with a disability to discuss the request. Whether or not the accommodation can be granted as requested, everyone must participate in the interactive process in good faith and in a way that does not delay the reasonable accommodation process.

Reasonable accommodations may be unique and creative because they respond to a person's specific disability-related needs.

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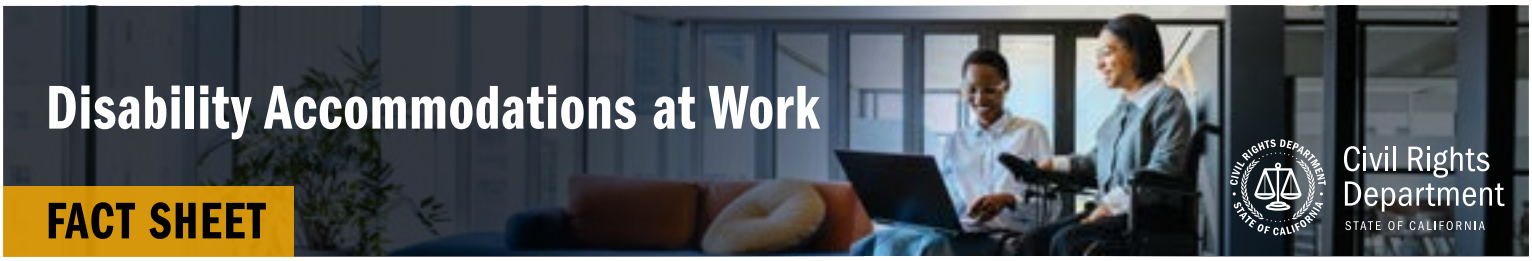
1 Examples of conditions that are not covered under law include conditions that do not limit major life activities, kleptomania (uncontrollable urge to steal) and substance use disorders due to current illegal drug use. However, if a person has a psychoactive substance use disorder limiting a major life activity because of past drug use, but they are no longer using illegal drugs, they may be considered disabled.

2 Cal. Code Regs., tit. 2, § 11069



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Accommodations can include:

- Allowing service animals at work sites, like guide dogs
- Providing readers or interpreters
- Transferring employees to different work sites
- Restructuring job tasks
- Changing work schedules
- Adjusting exams, training materials, or policies
- Providing additional training
- Allowing an employee to work from home

SUPPORTING MEDICAL DOCUMENTATION

Employers may sometimes request medical documentation during the interactive process. Various types of health care providers can provide medical documentation. These include:

- Doctors
- Surgeons
- Dentists
- Clinical psychologists
- Marriage and family therapists
- Acupuncturists
- Nurse midwives
- Clinical social workers
- Other health care providers[3]

When employers do not know about the disability and/or the disability is not obvious, they can request medical documentation, which can include:

- Letters or notes from healthcare providers
- Detailed certification forms[4]
- Simple certification forms[5]
- Medical inquiry forms completed by healthcare providers after a request

If employers use their own medical certification or inquiry forms, the forms must not request more information than the employer is entitled to by law. This includes requests for medical records, specific diagnoses, or information about what caused the disability. If the medical documentation is unclear, or the employer needs additional information, the interactive process continues.

When the disability or need for the accommodation is obvious, employers cannot request medical documentation. For example, an employer cannot ask for medical documentation from an office worker with an obvious mobility disability who needs an adjustable desk to use their workspace.

GRANTING ACCOMMODATIONS

Employers should grant and put accommodations into effect without delays, when possible.

During the interactive process, the employer and the person requesting an accommodation may find multiple accommodations that could help the person do their job.

Employers have to consider the preference of the person requesting the accommodation. But employers may choose the accommodation that best suits their needs when multiple effective accommodations exist.[6] Employers cannot require people to accept accommodations that do not address their disability-related need.

DENYING ACCOMMODATIONS

An employer can only deny an accommodation request in one of these situations:

1. The applicant or employee does not have a disability recognized by the law,
2. Granting the accommodation takes away an essential function[7] of the job,

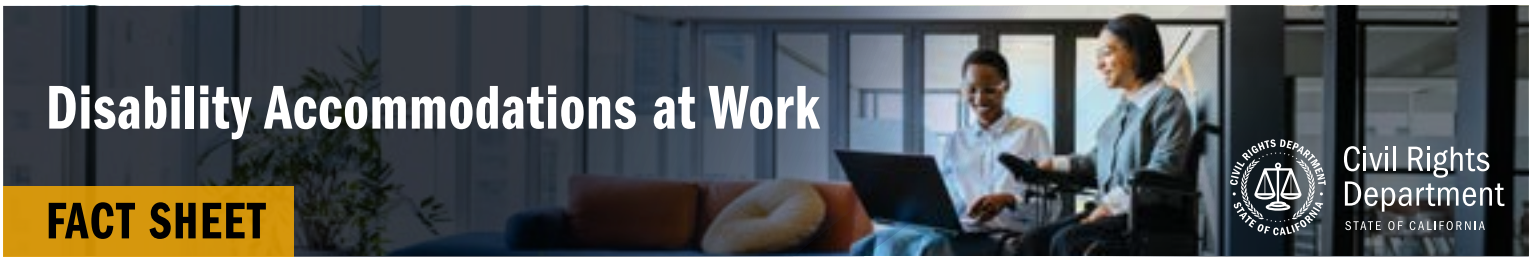
3 Cal. Code Regs., tit. 2, § 11065(i)

4 See CRD's Request for Reasonable Accommodation package (https://bit.ly/RApackage)

5 See CRD's sample Certification of Healthcare Provider forms, related to leave under the California Family Rights Act or Federal Medical Leave Act (https://bit.ly/cfraforms) and Pregnancy Disability leave, transfer, or other reasonable accommodations (https://bit.ly/pregcert).

6 Cal. Code Regs., tit. 2, § 11068(e)

7 Essential functions are the primary and/or foundational tasks for a specific job. For example, tasks are essential if the job exists only to do that task, the task is highly specialized, or a limited number of employees can do the task. Gov. Code § 12926(f).



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3. The accommodation creates significant difficulty and expense for the employer (undue hardship), or
4. The accommodation endangers the health and safety of the requestor and others at the workplace.

Employers should consider the specific resources available to them when deciding if an accommodation creates an undue hardship. Other factors include:

- Size of the business
- Number of employees
- Functions of the business
- Cost of the accommodation

If the employer can show the accommodation would create an undue hardship, they must continue the interactive process. Employers must work together with employees or applicants to find accommodations that work for everyone. Employers cannot ignore or delay responding to requests to avoid granting requests. They also cannot persuade or pressure employees to find another job to avoid granting requests. If employers treat applicants or employees negatively or unfairly after they request a reasonable accommodation, this may be unlawful retaliation.[8] Retaliation can happen whether an accommodation is granted or denied.

LEAVE FROM WORK AFTER VIOLENCE

California law requires that employers reasonably accommodate employees who are victims, or whose family member is a victim, of certain acts of violence, for the safety of the employee while at work. The reasonable accommodation may include implementation of safety measures, reassignment, modified schedule, or a variety of other accommodations in response to domestic violence, sexual assault, stalking, violent threats, acts involving dangerous weapons, or other qualifying acts of violence.[9]

TO FILE A COMPLAINT

If you believe you experienced discrimination because of your disability, you may file a complaint with CRD.

Civil Rights Department

calcivilrights.ca.gov/complaintprocess

Toll Free: 800.884.1684

California Relay Service (711)

Have a disability that requires a reasonable accommodation? CRD can assist you with your complaint.

For translations of this guidance visit calcivilrights.ca.gov/posters/employment

8 Learn more about retaliation in CRD's workplace retaliation fact sheet (https://bit.ly/emp-retaliation)

9 Gov. Code § 12945.8(e)(1)-(8).

This guidance is for informational purposes only, does not establish substantive policy or rights, and does not constitute legal advice.