

## REASONABLE ACCOMMODATION POLICY

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Consistent with the Government Code Section 19230, the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA), and the fact that employees with a disability have made a positive impact on State service, it is the policy of the Department to prohibit discrimination against any individual with a disability who is seeking employment, or is currently employed by the Department. All persons will be selected, evaluated, and/or promoted on the basis of job-related criteria, (e.g. experience, qualifications, and likelihood for success) and not on the basis of disability.

The policy of the Department of Alcoholic Beverage Control is to consider and resolve all reasonable accommodation requests by Department employees and applicants on an equitable and uniform basis in accordance with Federal and State laws.

The Department will consider requests submitted by applicants or employees with a disability on a *case-by-case* basis. Applicants and employees seeking a reasonable accommodation are required to comply with the appropriate provisions identified in the Department's Reasonable Accommodation Policy.

### Definition of Reasonable Accommodation

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.

### 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 a disability 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.

## **Summary of Responsibilities**

The following is a summary of responsibilities regarding the provisions of reasonable accommodations for parties involved:

1. The Department will provide a reasonable accommodation to the known physical or mental limitations of an applicant or employee with a disability unless it can show that the accommodation would impose an "undue hardship" or “direct threat” to the organization. "The concept of undue hardship includes any action that is unduly costly, extensive, substantial, disruptive, or that would fundamentally alter the nature or operation of the business." (ADA, Title I) The obligation to provide reasonable accommodation applies to all aspects of employment. This duty is ongoing and may arise any time that a person's disability or job changes.
2. Generally, it is the obligation and responsibility of an individual with a disability to request a reasonable accommodation, to provide all necessary medical information, and to cooperate with supervisors, the EEO Office, and medical professionals in determining the most appropriate accommodation.
3. The Headquarters Reasonable Accommodation Coordinator is responsible for evaluating accommodation requests in a timely manner.
4. The first-level supervisor is responsible for assisting employees with a disability in initiating reasonable accommodation requests, working with the employee and the Reasonable Accommodation Coordinator to locate the most appropriate accommodation, assuring the implementation of the accommodation recommended, monitoring the progress of the employee, and assuring the employee’s adherence to medical restrictions.
5. A qualified individual with a disability has the right to refuse an accommodation. However, if the individual cannot perform the essential functions without the Accommodation, they may not be qualified for the job.
6. The State Personnel Board is responsible for providing technical assistance to the Department regarding reasonable accommodations and evaluating complaints based on the denial of reasonable accommodations.

## **Medical Verification of a Disability**

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 Request Procedures

The reasonable accommodation request procedure for current employees is as follows:

1. A request for reasonable accommodation should be initiated by the employee in writing on a "Reasonable Accommodation Request", Form ABC- 36-A.
2. The employee's Supervisor shall provide the individual with a Form ABC-36-A, and, as necessary, a duty statement identifying the essential functions of the job.
3. The Supervisor may contact the Headquarters EEO Officer for assistance.
4. The employee must complete Form ABC- 36-A and attach the required medical documentation.
5. Upon receipt of the completed Form ABC-36-A, and the required medical documentation, the employee's Supervisor shall:
  - a. Review the ABC-36-A and medical documentation, compare it to the instructions on Form ABC-36-A and place their signature in Section II unless the accommodation is complex than the Supervisor shall forward the request to the Reasonable Accommodation (RA) coordinator for review as soon as possible.
  - b. If the request for reasonable accommodation is simple and appropriate, and the immediate Supervisor is able to make the accommodation, it should be made immediately. If the request is more complex, and may have a fiscal implication or may cause undue hardship to the program operation of the Department, the request should be discussed and reviewed by the first-level supervisor with their immediate supervisor and the RA coordinator.
  - c. Forward the original Form ABC-36-A and the medical documentation to the Headquarters Reasonable Accommodation Coordinator for review.

## Complaint/Appeal Process

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.

Any questions regarding reasonable accommodation should be directed to the Reasonable Accommodation Coordinator at (916) 285-8519.

### **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.

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**PART A SECTION I – COMPLETED BY EMPLOYEE**

**Instructions**

Medical verification must accompany an employee's request for reasonable accommodation. The documents substantiating a medical recommendation for reasonable accommodation must meet, at a minimum, the criteria listed below:

- A. Documentation must be written on the official letterhead of the treating doctor. Acceptable treating doctors are doctor of medicine (M.D.), chiropractic (D.C.), osteopathic (D.O.), podiatry (D.P.M.), or psychology (PH. D).
- B. Be dated and signed by the treating doctor.
- C. Describe the disability as it currently exists and only in relationship to the job and whether the disability is permanent or temporary. If temporary, specify the date the disability is expected to end.
- D. Describe the limitations caused by the disability, e.g., no prolonged walking (describe how far); no prolonged sitting (describe how long and in what setting); rest periods needed (how often and for how long), etc.
- E. The documents must indicate the extent to which the accommodation will permit the employee to perform the essential functions of the job.

If insufficient information is received, additional information will be required to accurately assess the requested accommodation. All persons receiving a reasonable accommodation will be asked to complete a Change in Disability Status Survey upon notification of the approval of the accommodation.

The employee must be notified, in writing, within 30 working days of the denial of the complete request and informed of the appeal process. See Form ABC-036 (Reasonable Accommodation Policy) for more information.

1. Name

2. Classification

3. Bargaining Unit Number

4. Office

5. Unit/Section

6. Work Telephone Number

7. Work Address

8. Identify the specific physical or mental limitation that requires accommodation. (Check the appropriate boxes)

- Developmental    Hearing    Mental    Physical    Speech    Visual

Other (Describe)

Disability is:            Permanent    Temporary (Expected end date):

9. Provide a general description of how your medical condition or disability limits you to perform the essential functions of your job.

10. Identify the type of accommodation requested. (Check the appropriate box.)

- Assistive device or equipment            Jobsite modification or architectural changes            Restructure of job duties
- Support Services
- Other (Describe)

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**PART A SECTION I – COMPLETED BY EMPLOYEE (continued)**

11. Name(s) of the treating physician(s) for this condition. (Attach medical documentation as per instructions.)

12. Name(s) of the vendor(s) and approximate cost of equipment or assistive device, if known.

13. Describe how the accommodation will enable you to perform the essential duties of the position.

14. Describe alternative methods of providing the accommodation.

15. Employee Signature

16. Date Signed

**SECTION II – COMPLETED BY SUPERVISOR**

**First Level Supervisor**

Recommendation:

Signature:

Date signed:

**Second Level Supervisor**

Recommendation:

Signature:

Date signed:

**SECTION III – COMPLETED BY EEO OFFICER**

**EEO Officer**

This request is:

Signature:

Date signed:

**Assistant Director, Administration**

This request is:

Signature:

Date signed: