

## California Department of Public Health

### REASONABLE ACCOMMODATION POLICY

It is the policy of the California Department of Public Health (Department) to comply with the Americans with Disabilities Act (ADA), the Fair Employment and Housing Act (FEHA), and the comprehensive civil rights laws that prohibit discrimination against a qualified applicant or employee because of his/her disability. Under the ADA and FEHA, qualified individuals with disabilities must have equal access to all aspects of employment that are available to employees without disabilities.

Pursuant to the ADA and FEHA, the Department will provide, upon request, reasonable accommodation to a qualified applicant and/or employee with a disability to allow him/her to perform the essential functions of his/her job, unless the accommodation would create an undue hardship for the employer.

#### REASONABLE ACCOMMODATION

Reasonable accommodation can be considered as the logical adjustment to a job or work environment that enables a disabled person to perform the essential functions of his/her job. The Department is required to provide reasonable accommodation for qualified individuals with physical or mental limitations. Reasonable accommodation includes, but is not limited to:

- Modifications or adjustments to a department's application, examination, or interview process that will enable a qualified applicant with a disability to be considered for the desired position; **or**
- Modifications or adjustments to the work environment, or to the method under which the position held or desired is routinely performed, that enables a qualified individual with a disability to perform the essential functions of that position; **or**
- Modifications or adjustments that will enable an employee with a disability to enjoy the same benefits and privileges of employment as those enjoyed by similarly situated employees without disabilities.

The Department may choose to provide an alternative accommodation other than the one requested by the employee, as long as it is effective in assisting the employee in performing his/her essential job functions.

#### Essential Functions

Essential functions are the tasks that are fundamental to the job. A job function may be considered essential for any of the following reasons:

- The position exists to perform the function. • There are a limited number of employees to whom the performance of the function can be distributed.
- The function is highly specialized and the incumbent in the position was hired for his/her expertise in performing the function.

## **INDIVIDUAL WITH A DISABILITY**

An individual is considered to be disabled if he/she:

- Has a permanent physical or mental impairment that limits the performance of one or more major life activities; **or**
- Has a record of such an impairment; **or**
- Is regarded as having such impairment.

### **Physical or Mental Impairment**

Physical or mental impairment includes, but is not limited to any physiological disorder or condition, cosmetic disfigurement, anatomical loss affecting one or more of the body systems, or any mental or psychological disorder. Examples of conditions that would constitute disabilities because they limit a major life activity include paralysis, hearing or vision loss, epilepsy, and cancer.

### **Major Life Activities**

Major life activities include self care, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. The list of major life activities is not exhaustive.

### **Functional limitations**

Determining whether a functional limitation in performing essential functions exists due to a physical or mental impairment is the first step in establishing whether an individual is entitled to a reasonable accommodation. Many impairments do not impact a person's life to the extent of limiting a major life activity. An impairment rises to the level of limiting a major life activity when it makes the performance of a major life activity difficult.

When evaluating a reasonable accommodation request, the Office of Civil Rights (OCR) considers several factors in assessing the functional limitation(s) a physical or mental impairment causes in performing essential functions:

- The specific physical or mental limitation or medical condition which requires an accommodation;
- The duration or expected duration of the impairment;

- The permanent or long-term impact, or the expected permanent or long-term impact of, or resulting from, the impairment.

## **EXAMPLES OF REASONABLE ACCOMMODATION**

Each reasonable accommodation request is evaluated on a case-by-case basis, so that the accommodation provided meets the needs of the individual with the disability, and will allow him/her to perform the essential functions of his/her job. Reasonable accommodations may include, but are not limited to:

- **Special Testing/Interview Arrangements** - Allowing competitors additional time to complete training or written examinations, providing written tests in Braille or large print, readers for visually-impaired, or sign-language interpreters.
- **Accessible Test Sites** - Examinations and training sessions must be administered in accessible facilities. For barriers such as stairs or inaccessible restrooms, an alternate facility will be utilized.
- **Worksite modifications** - Modifications may be provided to allow access to perform work activities. Some modifications may include raising or lowering modular furniture or equipment, widening access areas or doorways, installing additional electrical outlets, placing Braille labels or tactile cues on shelves.
- **Assistive devices** - Prescribed chairs, computer improvements and/or software, telecommunication devices for the deaf (TDD/TTY), or footrests.
- **Support Services Assistants** - Sign-language interpreters, readers, captioners, or drivers.
- **Job restructuring** - Reassignment of marginal duties, modified work schedule to allow for medical treatment or appointments, job sharing or reduced work schedule, telecommuting.
- **Equal access to services and events** - Employer-sponsored services and social events (e.g., retirement luncheons/dinners, holiday functions) must be accessible to individuals with disabilities.
- **Alternative job placement** - If an employee with a disability cannot be accommodated through any other method, he/she may be reassigned to a vacant position for which he/she is qualified. A position may not be created for the individual, nor will another employee be displaced in order to accommodate the employee with the disability.
- **Transportation/Parking** - State employees are responsible for providing their own transportation to and from work. Transportation provided by the Department for

its employees (e.g., shuttle service between facilities) must be accessible to employees with disabilities. In employee parking lots owned or leased by the State, spaces closest to building entrances should be assigned to employees with mobility-related disabilities.

## **REQUESTING REASONABLE ACCOMMODATION**

The Department has established procedures to request a reasonable accommodation to ensure it is an interactive process between the individual and the department.

Employees are encouraged to utilize the Reasonable Accommodation Request form (CDPH 1048) to ensure that all necessary information is included. However, it is not required that requests for accommodation be in writing.

To request reasonable accommodation, the employee must communicate his/her need to his/her supervisor. To expedite the process, the employee should complete the [CDPH 1048](#) and submit to his/her supervisor. At this time, the employee should also submit a copy of the [CDPH 1048](#) to the OCR. This alerts OCR that a request for reasonable accommodation has been made. If the request is verbal, the supervisor should use the [CDPH 1048](#) to document the request and submit a copy to OCR to alert OCR that a request for reasonable accommodation has been made. All requests for reasonable accommodation, whether written or verbal, must provide the following information:

- The type of accommodation requested;
- An explanation of the limitation for which the accommodation is needed;
- A description of how the accommodation will allow the individual to perform the essential functions of his/her job.

An employee must also submit medical documentation to provide evidence of his/her functional limitation due to a non-obvious (hidden) disability in support of the request for reasonable accommodation. The employee should send the medical documentation **directly to OCR**, where it will be kept in a confidential reasonable accommodation file.

At a minimum, the medical documentation must include the following:

- A description of the functional limitation as it relates to the employee's job duties, including the anticipated duration (e.g. temporary or permanent). If temporary, specify the date it is anticipated the functional limitation will end.
- A description of the functional limitations caused by the disability in work related terms. For example, if "no prolonged walking" is requested, the medical statement should specify how long or how far the employee is able to walk; if "no prolonged sitting" is requested, the medical statement should specify how long and under what circumstances the employee can sit; if rest periods are required, the medical statement should specify how often and how long the rest periods should be.

- State the accommodation and describe how it will help the employee to perform his/her essential job duties.
- The medical documentation must be written/typed on the official letterhead stationary of the health professional or health professional's organization. The documentation must identify the health professional's credentials (e.g., M.D., D.O., R.N.) and practice specialty (e.g., Physical Therapist, Social Worker, Chiropractor), and be signed and dated by the health professional.

The OCR will provide guidance to managers, supervisors, and persons requesting reasonable accommodation at all stages of the process. The OCR evaluates each reasonable accommodation request on a case-by-case basis. The decision to grant or deny a request for accommodation will be made only after considering all essential information, including but not limited to input from the employee, his/her supervisor, and his/her health professional. The applicant is not automatically entitled to the accommodation he/she requests; however, an individual may refuse an accommodation offered by the Department.

## **INTERACTIVE PROCESS**

Within five (5) work days of receiving a request for Reasonable Accommodation by a disabled employee or applicant, the Department and its representatives must engage in a timely, good faith, interactive process to determine effective reasonable accommodations. To ensure that all effective accommodations have been considered, the supervisor must discuss the request with the employee when the specific limitation, problem, or barrier is unclear; where effective accommodation is not obvious; where modifications to the request may be appropriate; where the parties are choosing between different possible reasonable accommodations; or in other situations where the interactive process can further promote resolution of the request for accommodation. The interactive process should take place in person, unless it is impractical to do so. The interactive process with the employee or applicant shall include, but is not limited to:

- Discussing the purpose and the essential functions of the specific position;
- Reviewing how the functional limitations of the disability can be overcome with reasonable accommodation;
- Identifying potential accommodation options;
- Evaluating the effectiveness of each potential accommodation option;
- Documenting all options discussed and reasons for selecting particular option(s);
- Implementing the most appropriate option(s), after consulting with OCR and appropriate staff; and
- Keeping the applicant or employee informed until accommodation is provided or denied.

## THE ONGOING PROCESS OF REASONABLE ACCOMMODATION

The Department is required to make reasonable accommodations for qualified persons with disabilities. The duty to accommodate is a continuing duty that is not exhausted by one effort. Once the Department becomes aware that an accommodation is not working, it must consider alternative accommodations. If it becomes apparent that a previously granted accommodation is not working, the supervisor or manager must further engage in the interactive process with the employee to identify appropriate accommodations, as discussed above. Prior to any substantive modification or adjustment of a previously granted accommodation, the OCR must be consulted. Furthermore, prior to the denial of any newly requested accommodation, the OCR must also be consulted.

If the Department denies or fails to respond to the Reasonable Accommodation Request within twenty (20) working days, the applicant may file an appeal directly with the State Personnel Board (SPB). An applicant has thirty (30) days during which to file an appeal, once the twenty working-day period has ended. Applicants may also file a complaint with the Department of Fair Employment and Housing and/or the U.S. Equal Employment Opportunity Commission.

Should you have any questions, please contact the OCR at (916) 445-0938 (voice), (916) 323-5499 (FAX) or (916) 323-5498 (TTY).

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