

REASONABLE ACCOMMODATION POLICY DEVELOPMENT/ASSESSMENT TOOL

This tool is intended to help Equal Employment Opportunity (EEO) Officers in drafting, revising, or implementing their agency/department's Reasonable Accommodation (RA) policies¹.

State of California Reasonable Accommodation Policy

It is the policy of the State of California to provide equal opportunity for all applicants and employees with disabilities. It is also the policy of the State that a department, agency and commission will make a reasonable accommodation for the known physical and mental limitations of an otherwise qualified employee unless it can demonstrate that making that accommodation would create an undue hardship. (Gov. Code sec. 19230)

Generally, it is unlawful for an employer to fail to accommodate in accordance with the policy, or to fail to engage the applicant or employee in a timely, good faith, interactive process to determine effective reasonable accommodations in response to a reasonable accommodation for a known physical or mental disability or medical condition. (Gov. Code sec. 12940(m)-(n))

A RA may be any modification or adjustment to a job or the work environment or in the way things are customarily done, that enables an individual with a disability to enjoy equal employment opportunity. Providing a RA in the job application/examination/hiring processes may enable an individual with a disability to have equal opportunity in the hiring process.

Examples of reasonable accommodation include, but are not limited to:

- Making existing facilities used by employees readily accessible to and usable by individuals with disabilities;
- Restructuring a Job;
- Reassigning an employee to a vacant position with different duties;

¹ There may be other legal requirements of a policy under California's Fair Employment and Housing Act (FEHA) and the Americans with Disabilities Act (ADA); this tool does not take the place of a department's legal counsel review.

- Modifying work schedules or time base;
- Acquiring tools, equipment, devices, furnishings, etc.;
- Modifying tools, equipment, devices, furnishings, etc.;
- Adjusting or modifying the conditions of examinations;
- Adjusting or modifying training materials;
- Adjusting or modifying workplace policies;
- Providing a qualified reader; and/or
- Providing a qualified interpreter.

I. INITIATING THE REASONABLE ACCOMMODATION PROCESS

Does the policy/procedure:

- Explain RA requests can be made by an applicant, an employee, a family member, health professional, manager/supervisor or other representative authorized to act on the individual's behalf?
- Make it clear RA requests may be either oral or in writing?
- Explain that a RA request does not require the use of specific terms or words such as "reasonable accommodation", "ADA", or "disability?"
- Describe the supervisor's responsibility for documenting the RA request and interactive process?
- Indicate the RA process is available to an applicant and/or employee, manager or supervisor?
- Indicate when the department's written RA Policy and Procedures is provided to an applicant or employee?
- Indicate immediate processing, without undue delay, of all RA requests if the need is obvious or limitations are substantiated?
- Allow for an applicant or employee to request RA at any time during the application process or period of employment?
- Clearly identify the department official(s) and/or office(s) designated to process RA requests?

II. RESPONDING TO RA REQUESTS

Does the policy/procedure:

- Explain how the department will handle a request for RA, including specifically what steps will be followed, and identify from whom the individual will receive a final decision?
- Identify who in the organization approves, modifies or denies RA requests?
- Require that the response to a RA request must² be timely, interactive, and in good faith?
- Indicate the interactive process between the employee and supervisor should continue regardless of whom in the organization approves, modifies or denies RA requests?
- List resources to assist decision makers in identifying and evaluating potential effective RAs?
- Clearly state an agency/department may not require the individual to submit a written request, for recordkeeping or other purposes, each time the same RA is needed or when the employee needs a type of RA on an intermittent or repeated basis, e.g., the assistance of sign language interpreters or readers?
- Identify who is responsible for obtaining, procuring, and/or providing the approved RA goods or services?

III. TIME LIMITS

Does the policy/procedure cover the:

- Time limits for supervisors' initial response to RA requests to demonstrate the employer's timeliness and good faith?
- Time limit for the decision (grant, modify or deny) on the RA request absent extenuating circumstances?

² Government Code section 19240 (m)

- Need to expedite decisions where the request is time-sensitive (for example, to enable an individual to participate in an examination with modified conditions or to participate in a specific agency activity such as training, meetings, and department events)?
- Decision-maker will keep the individual apprised of any medical information, evaluation, goods or services that are pending and which may delay the accommodation and inform the individual of the date by which the agency expects to complete the process?
- Agency/department will research and implement temporary measures to assist the individual with a disability perform the essential functions of the job while the RA is being processed?

IV. MEDICAL INFORMATION

Does the policy/procedure:

- Explain that the supervisor may need to obtain relevant medical information and supplemental medical information to prove:
 - The limitations/restrictions or the need for the RA
 - How the requested RA will assist the employee to perform the essential functions of the job, enjoy the benefits and privileges of the workplace, or assist an applicant with the application process?
- Specify who will interact with the medical practitioner to obtain necessary medical information support a RA Supervisor? Employee? Human Resources?
- Note that the individual need not produce medical information to prove an obvious, or apparent, limitation such as missing limbs?
- Identify the types of medical information or documentation the decision makers may and may not request?
- Encourage decision-makers to inform an individual who has provided insufficient documentation that additional information is still needed for effective evaluation of the request?

V. CONFIDENTIALITY OF MEDICAL INFORMATION

Does the policy/procedure:

- Note that having the employee obtain their medical practitioner's substantiation of their condition and need for RA reduces the risk that the supervisor will receive confidential information from the practitioner that the employee did not authorize?
- Indicate that all medical information will be kept confidential and maintained in files separate from the individual's personnel file and other non-medical employment related files?
- Explain to whom and under what circumstances medical information may be disclosed?
- Explain that medical information and the need for RA will only be disclosed with personnel who have a "need to know" in making a RA determination, accommodating the individual to perform the essential functions of the job, and/or to equally participate in the benefits and privileges of employment?

VI. DENIALS OF REASONABLE ACCOMMODATION

Does the policy/procedure:

- Explain that denials or modifications of RA requests proposed by the employer will be in writing and specifically explain the reasons that a RA was denied or modified such as, but not limited to the following scenarios:
 - Medical documentation is inadequate to establish the individual has a disability or needs RA;
 - The RA would not enable the individual to perform the essential functions of the job;
 - The RA would pose an undue hardship to the department; and/or

- The RA would pose a direct threat to the individual or others?
- Clearly state denials or modifications of RA requests will include information about the individual's right to file a complaint of discrimination with the Equal Employment Opportunity Commission, California Department of Fair Employment and Housing and/or the State Personnel Board, as well as any other informal dispute resolution processes?

VII. EMERGENCY PROCEDURES

Does the policy include guidance for supervisors to engage in an interactive process for known physical and mental disabilities in order for department emergency evacuation processes to be modified to accommodate the employee?

VIII. RESOURCES

Equal Employment Opportunity Commission

- Establishing Procedures to Facilitate the Provision of Reasonable Accommodation
- Questions and Answers: Policy Guidance on Executive Order 13164: Establishing Procedures To Facilitate The Provision Of Reasonable Accommodation
- EEOC's Practical Advice for Drafting and Implementing Reasonable Accommodation Procedures under Executive Order 13164
- Final Report on Best Practices For the Employment of People with Disabilities In State Government

Job Accommodation Network

- Sample ADA Policies, Forms, and Checklists
- Five Practical Tips For Providing And Maintaining Effective Job Accommodations

Department of Fair Employment and Housing

State Personnel Board Disability Resources

Department of Rehabilitation Disability Rights and Access in California

O*Net Online Help Job Accommodations