

Policy

It is the policy of the California Department of Food and Agriculture (CDFA) that accommodations are offered to qualified individuals with disabilities to enable them to perform the essential functions of their jobs, enjoy equal employment benefits and privileges, and to enable applicants to participate in the examination/selection process.

CDFA is committed to a policy of equal employment opportunity and a discrimination-free work environment for all employees and applicants.

Authority

Federal Civil Rights Act of 1964, Title VII

Federal Rehabilitation Act of 1973

Americans With Disabilities Act (ADA) of 1990

California Government Code Sections 19230-19237, 19700-19706

California Fair Employment and Housing Act, Government Code Sections 11006, 12925, 12926

Definitions

<i>Essential Functions:</i>	Tasks that are fundamental to the performance of the job. A job task may be considered "essential" if the position exists to perform that function.
<i>Interactive Process:</i>	A timely, good faith communication between the employer and the applicant or employee, with a known physical or mental disability or medical condition in an attempt to accommodate the employee. Communication may be fulfilled in person, via email, or via telephone conversations.
<i>Limits, Limitations, or Restrictions:</i>	A restriction on the size or amount of something permissible or possible. Shall be determined without regard to mitigating measures such as medications, assistive devices, prosthetics, or accommodations, unless the mitigating measure itself limits a major life activity.
<i>Major Life Activity:</i>	Broadly construed to include physical, mental, and social activities including working.
<i>Mental Disability:</i>	Having any mental or psychological disorder or condition, such as an intellectual disability, organic brain syndrome,

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emotional or mental illness, or specific learning disability that limits a major life activity.

A mental or psychological disorder or condition that limits a major life activity if it makes the achievement of the major life activity difficult.

“Mental disability” does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

Obvious:

For the purpose of this policy, a disability or condition is obvious when it is clearly visible, self-evident, or apparent. As such, an individual does not need to produce medical information to prove an obvious or apparent limitation such as a missing limb.

Physical Disability:

Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that does both of the following:

Affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin and endocrine; **and** limits a major life activity.

A physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that limits a major life activity if it makes the achievement of the major life activity difficult.

“Physical disability” does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

Qualified Individual:

An individual who satisfies the requisite skills, experience, education, and other job-related requirements of the job classification. This includes those individuals with disabilities who, with or without an accommodation, can perform the essential functions of either the position or the job classification.

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Reasonable Accommodation (RA):

Any modification or adjustment to a job, work environment, or in the method of performing functions, that enables an individual with a disability to enjoy equal employment opportunity and perform the essential functions of the position. An accommodation in the job application, examination, or hiring processes may enable an individual with a disability to have equal opportunity in the hiring process.

Reasonable accommodations do not include modifications made to the work station based on ergonomic evaluations, which are considered preventive measures to identify and mitigate potential injuries or illnesses.

Undue Hardship:

An action requiring significant difficulty or expense when considered in light of a number of factors.

Responsibility

Equal Employment Opportunity (EEO) Office:

Provide consultation and assistance to ensure compliance with state and federal laws and regulations and the RA process.

Provide the employee with a timely written notice concerning the outcome of the request within 20 working days. The notice approves or denies the request or seeks additional information.

Provide written notification to departmental staff, including, but not limited to; the Human Resources Branch (HRB), the Labor Relations Officer, or Departmental Services staff in the event additional resources are required to implement an accommodation.

Once a request is approved, engage in regular follow ups and consultations with the employee and their manager or supervisor to evaluate the effectiveness of the accommodation.

Develop and offer the CDFA RA training to managers and supervisors.

Human Resources Branch:

Provide consultation when the accommodation requires a personnel action, such as a major or substantial change in job duties, a job transfer, a temporary reassignment, or

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Managers and Supervisors:

when State Compensation Insurance Fund (SCIF) claims, the Family Medical Leave Act (FMLA), State Disability Insurance (SDI), or Non-Industrial Disability Insurance (NDI) are involved.

Work with supervisors to accommodate an employee when the accommodation is related to an open SCIF claim.

Must offer an opportunity for an employee to request an accommodation if they are made aware that the employee may have a disability that is keeping them from performing their essential functions.

Immediately enter into the interactive process with the employee by discussing the requested modifications necessary to enable the employee to perform the essential functions of the job.

Notify the EEO Office upon receipt of a verbal or written RA request.

Notify the HRB Disability Management Unit if the employee has a current worker's compensation claim, is on family medical leave (FMLA/California Family Rights Act), SDI, or NDI.

Provide assistance to the employee in completing the Reasonable Accommodation Request form ([SO-142](#)). The employee may also be referred to the EEO Office for assistance.

Document all discussions regarding the request.

Provide copies of all relevant documentation to the EEO Office.

Provide the EEO Office with a timely written notice concerning the status of the request within 10 working days. This notice approves or denies the request, seeks additional information, or seeks additional time to evaluate alternative methods to accommodate the employee's work-related limitations.

Notify the EEO Office within five working days of implementation of the RA

Attend the required RA training at least once every four years.

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Employees: Initiate the request for an accommodation and discuss the need with their immediate supervisor. The employee shall complete the [SO-142](#) to identify barriers or work-related limitations, based on a disability or mental condition.

The request for accommodation may be made to the immediate supervisor or the EEO Office.

If the disability or condition is not obvious, the request shall contain sufficient medical documentation to justify the need and identification of modifications, equipment, or services for accommodation.

Initiating a Request for Reasonable Accommodation

A request for RA may be initiated by an employee with a disability, a family member, health professional, or other representative authorized to act on the employee's behalf. In cases where the nature of the disability and the need for accommodation are not obvious, or where the employee has not provided sufficient information to substantiate the disability or accommodation, the employee shall provide necessary medical documentation. The employee may also give permission, via the Authorization for the Release of Medical Information on page four of the SO-142, to their manager, supervisor, or the EEO Office to consult with his or her physician.

The completed SO-142 shall be submitted to the EEO Office by email, standard mail, or in person.

Interactive Process

The interactive process is initiated immediately upon receipt of the Reasonable Accommodation Request. The employee, the employee's manager or supervisor, and the EEO Office shall communicate with each other about the request, the precise nature of the limitation(s) that is generating the request, and alternative accommodations that may be effective in meeting the employee's need.

Employees needing an accommodation for a disability on an intermittent basis, such as the assistance of sign language interpreters or readers, only need to submit one request as long as the accommodation is the same each time the accommodation is needed. If the accommodation is needed on a regular basis (i.e. weekly staff meeting), the employee's manager or supervisor should ensure that the accommodation is met without requiring a request in advance for each occasion.

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Approval and Reasonable Accommodation Agreement

When a Reasonable Accommodation Request is approved and all parties have agreed to the accommodation, the EEO Office will draft an agreement that details:

- The agreed upon conditions of the accommodation.
- The responsibilities of both the employee and the manager or supervisor.
- The timeframe for which the accommodation is in place if designated by the employee's physician as a temporary accommodation.
- Any other pertinent information as determined by the case.

The final agreement shall be signed by the EEO Office, the employee's manager or supervisor, and the employee. The signed agreement shall be mailed or scanned back to the EEO Office to be retained in the employee's file.

Denial or Modification of a Reasonable Accommodation Request

A request may not be denied based on a belief that the accommodation should have been requested earlier (i.e. during the application or hiring process). An intention to deny or modify an accommodation must be approved by the EEO Office prior to notifying the employee of the modification or denial. If a request is denied or modified, an explanation must be submitted in writing to the employee explaining the reasons for the denial or modification. Reasons for denial or modification may include, but are not limited to:

- Medical documentation is inadequate to establish the individual has limitations and/or restrictions, or needs an accommodation.
- The accommodation would not enable the individual to perform the essential functions of the job.
- The accommodation would pose an undue hardship to the Department.
- The accommodation poses a direct threat to the individual or others.

If the information provided is inadequate to establish the employee has limitations and/or restrictions related to a disability, the EEO Office will request additional medical documentation from the employee, explaining what information is needed. The employee must obtain the missing documentation and submit it to the EEO Office. If the employee does not provide the requested documentation within a reasonable amount of time, the case will be considered closed until the documentation is provided or a new Reasonable Accommodation Request is received.

Undue Hardship

If a program denies a RA request because the RA would impose an undue hardship on its operations, the program shall submit in writing to the EEO Office

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the criteria upon which the undue hardship is based. The determination of undue hardship must be made on a case by case basis. Factors for determining undue hardship include, but are not limited to:

- The overall size of the program with respect to the number of employees, number and type of facilities, and size of budget.
- The type of operation including the composition and structure of the program's workforce. If undue hardship is claimed based on the composition and structure of the program's workforce, it must be clearly documented that all available alternatives have been explored to accommodate qualified disabled applicants or employees.
- The cost of the accommodation needed. A claim of undue hardship based on cost must clearly indicate alternatives explored and how the cost will impact the operation of the program.

Appeal Rights and Procedure

The employee may appeal the denial of or lack of response to a RA request directly to State Personnel Board's (SPB) Appeals Division within **30 days** after the denial or lack of a timely response. Appeals may be filed with:

State Personnel Board
Appeals Division
801 Capitol Mall, MS #22
P.O. Box 944201
Sacramento, CA 95814
Telephone: (916) 653-0799
Fax: (916) 654-6055
Online: <https://appeals.spb.ca.gov/aos/appeal.html>
Email: appeals@spb.ca.gov

The appeal to SPB should specifically state what action is appealed, why the employee disagrees with the Department's decision, what remedy is sought and any other relevant information in support of the request.

Request for Reasonable Accommodation for the Examination or Selection Process

Any qualified individual with a disability or medical condition, which limits their ability to participate in a Civil Service examination, may request an accommodation to effectively compete in the process.

Applicants requesting accommodation during the examination or selection process are responsible for completing Question Two on the Examination/Employment

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Application ([STD 678](#)). The request must be in writing and follow any special instructions contained in the examination bulletin or the job announcement.

Worksite Modifications and Equipment

Medical conditions for which an employee is under a physician's care or the physician has indicated the disability/condition may require worksite modifications, must be handled through the RA process.

Any equipment purchased by CDFA for an employee as an accommodation will be retained for use by the employee as long as they remain employed by CDFA. If the employee moves to a new position within the Department, the equipment purchased should move with them to the new position unless the equipment will not help them with their new essential functions. In this instance, a new RA should be initiated by the employee and/or that employee's manager/supervisor to ensure they can perform their essential functions.

Upon an employee's transfer from one program to a new program the managers from each should work out an agreement to have the RA equipment moved to the employee's new workstation and address any cost recovery.

Upon an employee's transfer or separation from CDFA, all accommodating equipment shall be retained by CDFA. If an employee wishes to make a request for transfer of RA acquired equipment or assistive devices (purchased by CDFA) to a new state department, the employee will make the request in writing to their supervisor. If approved, the receiving department is responsible for all moving costs associated with the transport of any RA equipment.

If the receiving department does not agree to arrange and pay for transportation of the equipment, CDFA retains ownership and the employee must request a RA through the new department.

Confidentiality

Medical information obtained in connection with the RA process shall be kept confidential. The information the EEO Office obtains will be kept in files separate from the employee's personnel file and other non-medical employment related files.

Non-medical information related to the accommodation may only be shared with those who have a need to know, and those individuals may only receive information that is necessary to make appropriate determinations and arrangements related to the employee's accommodation.

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Training

All managers and supervisors are required to take the CDFA Reasonable Accommodation training at least once every four years.

Distribution

Distribution of the above policy/procedure includes all employees.

Any questions concerning this policy or anyone seeking advice or consultation regarding a RA request may contact the EEO Office at (916) 654-1005.