

## *Policy*

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It is the California Department of Food and Agriculture's (CDFA) policy that accommodations are offered to qualified individuals with disabilities and/or medical conditions 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.

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

This policy applies to all CDFA and District Agricultural Association (DAA) staff, board members, contract and temporary employees, and volunteers.

## *Authority*

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Americans With Disabilities Act (ADA) of 1990, ([42 U.S.C. 12101-12213](#))

California Code of Regulations, [Title 2, section 11065, 11069](#)

California Fair Employment and Housing Act, Government Code Sections [12940 et seq.](#), [12926](#)

California Government Code Sections [18940](#), [19230-19237](#), [19700-19706](#)

Disabled Persons Act, [California Civil Code section 54, et seq](#)

Federal Civil Rights Act of 1964, [Title VII](#)

Rehabilitation Act of 1973, [sections 501 and 505 \(U.S.C.\)](#)

## *Definitions*

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**Essential Functions:** 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.

**Direct Threat:** A significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by the Reasonable Accommodation (RA).

**Interactive Process:** A timely, good-faith communication between the employer and the job/exam applicant (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 video conferencing, email, or telephone conversations.

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**Limits, Limitations, or Restrictions:** A restriction on the size or amount of something permissible or possible in the course of the job as defined by the employee's medical substantiation.

**Major Life Activity:** Broadly construed to include physical, mental, and social activities including, but not limited to working, walking, reading, and writing.

**Mental Disability:** Having any mental or psychological disorder or condition, such as an intellectual disability, organic brain syndrome, 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. A disability or condition that is obvious may still require medical certification of work restrictions depending on the nature of the request.

**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, circulatory, 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 accommodation, can perform the essential functions of either the position or the job classification.

**Reasonable Accommodation:** Any modification or adjustment to a job, work environment, or in the method of performing functions, which enables an individual with a disability to enjoy equal employment opportunities and perform the essential

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functions of the position. Accommodations in the job application, examination, or hiring processes may enable an individual with a disability to have equal opportunity in the hiring process.

**Undue Hardship:** An action requiring significant difficulty or expense when considered in light of a number of factors

### *Responsibility*

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#### **Office of Civil Rights (OCR):**

- Administer the RA program including designating an RA Coordinator, maintaining the RA policy and forms, and developing RA training.
- Investigate complaints of discrimination, harassment, and retaliation.
- Review all requests for RA denials, modifications, and undue hardships submitted on the Accommodation Modification/Denial Worksheet ([SO-90](#)) and make determinations.

#### **RA Coordinator:**

- Provide consultation and assistance to ensure compliance with state and federal laws and regulations and the RA process.
- Facilitate the interactive process between the RA requestor and the program by discussing the requested modifications necessary to enable the employee to perform the essential functions of the job.
- Provide the employee with a timely written notice concerning the status of the request within 20 working days. The notice approves or denies the request, seeks additional information, or continues the interactive process.
- Provide written notification to departmental staff, including, but not limited to; the Human Resources Branch (HRB), or Departmental Services Branch (DSB) 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.

#### **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, a resignation/retirement, or when a State Compensation Insurance Fund (SCIF) claim, the Family Medical Leave Act/California Family Rights Act (FMLA/CFRA), Pregnancy Disability Leave (PDL), Qualifying Exigency Leave (QEL), Military Caregiver Leave (MCL), State Disability Insurance (SDI), or Non-Industrial Disability Insurance (NDI) is involved.
- Work with the supervisor to accommodate an employee when the accommodation is related to an open SCIF claim.

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### **Building and Property Management Unit, DSB:**

- Provide consultation on physical changes to workspaces as needed based on the restrictions identified in an RA request.
- Work with the program to facilitate any necessary physical changes to workspaces with vendors and landlords as needed.

### **Health and Safety Coordinator:**

- Advise on Health and Safety matters related to accommodations.
- Conduct ergonomic evaluations in accordance with the Ergonomic Program policy when needed for new equipment or when designated as part of an RA agreement.

### **RA Procurement Coordinator:**

- Work with the RA Coordinator to facilitate the purchase of RA equipment.
- Ensure RA acquisitions are tracked and expedited.
- Participate in trainings as required by the Department of General Services.
- Ensure RA acquisitions are accurately recorded in the Financial Information System for California (FI\$Cal).

### **Managers, Supervisors, Chief Executive Officers (CEOs):**

- Must offer an opportunity for an employee to request an accommodation immediately if they are made aware that an employee may have a disability or medical condition that is keeping them from performing their essential functions. Failure to do so will result in a violation of this policy and may result in disciplinary action.
- Must consider accommodations for applicants for exams, interviews, or other components of the hiring process if an applicant requests an accommodation for a disability or medical condition during the hiring process.
- Work with the OCR by engaging in the interactive process with the employee or applicant by discussing the requested modifications necessary to enable the employee to perform the essential functions of the job or the applicant to participate in the hiring process.
- Upon receipt of a verbal or written RA request, refer the employee to the OCR and notify the OCR of the forthcoming request.
- Notify the HRB Disability Management Unit (DMU) if the employee has a current worker's compensation claim, is on family medical leave (FMLA/CFRA), QEL, MCL, SDI, or NDI.
- Provide assistance to the employee or applicant in completing the Reasonable Accommodation Request form ([SO-142](#)). The employee or applicant may also be referred to the OCR for assistance.
- Document all discussions regarding the request.
- Provide copies of all relevant documentation to the OCR.

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- Discuss accommodations with others only on a need-to-know basis and limit disclosure of accommodations to other staff or management unless absolutely necessary.
- Provide the OCR with a timely written notice as to the program's recommendation on the employee's RA request. The correspondence should indicate whether the request can be approved or denied, if additional information is needed, or whether additional time is needed to evaluate alternative methods to accommodate the employee's work-related limitations.
- If requesting an RA denial, modification, or undue hardship, complete the [SO-90](#) and submit to the OCR.
- Notify the OCR within five working days of implementation of the RA.
- Attend the required RA training once every four years.

### **Employees:**

- Initiate the request for accommodation and discuss the need with their immediate supervisor.
- Complete the [SO-142](#) to identify barriers or work-related limitations, based on a disability or mental condition.
- Submit the request for accommodation to the immediate supervisor and the OCR.
- Include sufficient medical documentation, as outlined in this policy, to justify the need and identification of modifications, equipment, or services for accommodation.
- File a complaint with the OCR if they feel they are being discriminated or retaliated against or harassed based on a protected characteristic or for requesting an RA.

### **Job/Examination Applicants:**

- Initiate the request for accommodation and discuss the need with the hiring manager, hiring contact, exam proctor, HRB, or OCR.
- Complete Question Two on the Examination/Employment Application ([STD 678](#)).
- Complete the [SO-142](#) to identify barriers or work-related limitations, based on a disability or mental condition.
- 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.
- File a complaint with the OCR if they feel they are being discriminated or retaliated against or harassed based on a protected characteristic or for requesting an RA.

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### *Initiating a Request for Reasonable Accommodation*

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A request for RA may be initiated by an employee/applicant with a disability or medical condition, family member, health professional, or other representative authorized to act on the employee's behalf. The employee/applicant shall provide medical documentation to substantiate their need for an RA. Medical documentation may be waived if the disability/condition is obvious and the accommodation request is directly pertinent to the obvious disability/condition.

The employee/applicant may also give permission, via the Authorization for the Release of Medical Information on page three of the [SO-142](#), to their manager, supervisor, hiring contact or the OCR to consult with their physician.

The completed [SO-142](#) shall be submitted to the OCR by email, standard mail, or in person.

### *Medical Certification*

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It is the employee's/applicant's responsibility to provide appropriate medical information from a qualified health care provider verifying their limitations and the requested accommodation. When a disability/medical condition is obvious, as defined above, and the request itself is directly pertinent to that disability/medical condition, the need for medical certification may be waived.

When obtaining medical certification, the employee/applicant should share the duty statement with their medical provider.

The medical certification shall address the following:

- Verify the employee/applicant has a disability (not the diagnosis).
- Describe how the employee's limitations interfere with their ability to perform the essential functions of the job OR describe how the applicant's limitations interfere with the hiring process.
- Indicate whether these limitations are temporary or permanent. If temporary, the anticipated start and end date must be indicated.
- Recommend a specific accommodation.

If the medical certification does not clearly explain the limitations or the need for the accommodation, additional medical certification will be required.

For accommodations that extend beyond one year, programs and the OCR reserve the right to request updated certification that an accommodation is still necessary and may do so on a yearly basis.

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### *Interactive Process*

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The interactive process is initiated immediately upon receipt of the RA request. The employee/applicant, the manager or supervisor, and the OCR 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.

### *Analysis, Approval, and Reasonable Accommodation Agreement*

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The RA process requires an individualized assessment of both the job and the specific limitations of the individual that are directly related to the need for RA.

The Department will consider the employee's/applicant's preferred accommodation request but may provide alternate options if they are effective for the employee/applicant.

An RA need not be the highest quality, most expensive, or the specific accommodation requested, if it achieves the desired result, which is to enable the employee to perform the essential functions of the job or to allow an applicant to effectively participate in the hiring or examination process. Where two or more accommodations are reasonable, the OCR, in consultation with management, will determine which accommodation is offered based upon operational needs.

When an RA request is approved and all parties have agreed to the accommodation, the OCR 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 duration of the accommodation.
- Any other pertinent information as determined by the case.

The final agreement shall be signed by the OCR, the employee's/applicant's manager, supervisor, and/or hiring contact, and the employee/applicant. The signed agreement shall be returned to the OCR to be retained in the employee/applicant's file. The manager and/or supervisor shall notify the OCR within five business days of the accommodation going into effect. The OCR will follow up routinely with all accommodation agreements as needed, but no less than

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annually.

### *Denial or Modification of a Reasonable Accommodation Request*

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A request shall not be denied based on a belief that the accommodation should have been requested earlier (i.e., during the application or hiring process). Approval from the OCR is required to deny a requested accommodation or to modify an existing accommodation. To request denial or modification of a requested accommodation, the employee's manager or supervisor must submit the basis of the denial or modification, in writing, to the OCR on the [SO-90](#). If the denial or modification is approved, the OCR will notify the employee in writing of the denial or modification. Reasons for denial or modification may include, but are not limited to:

- 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.

### *Undue Hardship*

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If a program requests denial of an RA request because the RA would impose an undue hardship on its operations, the employee's manager or supervisor shall submit a completed [SO-90](#) to the OCR detailing 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 includes the composition and structure of the program's workforce. If undue hardship is claimed on the basis of 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.
- Significant impacts to the operational needs of the unit, branch, or division.

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### *Direct Threat*

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The determination that an RA poses a direct threat shall be based on a case-by-case assessment of the individual's present ability to safely perform the essential functions of the job. This assessment shall be based on the most current medical knowledge and/or on the best available objective evidence. In determining a direct threat, the factors to consider include:

- Duration of the risk.
- Nature and severity of the potential harm.
- Likelihood that the potential harm will occur.
- Imminence of potential harm.
- Any relevant information about an employee's past work history.

### *Worksite Modifications and Equipment*

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Worksite modifications or equipment purchased specifically for medical conditions or disabilities must be obtained through the RA process, which can include the purchase of non-standard equipment on a case-by-case basis. Equipment and worksite modifications not needed for a disability or medical condition would not require an RA and should be approved at the discretion of the program. This includes equipment suggested through ergonomic evaluations which are considered preventive measures to identify and mitigate potential injuries or illnesses.

Any equipment purchased by the Department for an employee as an accommodation will be retained for use by the employee as long as they remain employed by the Department. 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.

If an employee is on a telework schedule and equipment is needed, the interactive process will be used to determine the needs of the program and the employee both at their home and the worksite. Determinations of what equipment is needed at a home office versus what is needed at the worksite will be determined on a case-by-case basis.

Upon an employee's transfer from one program to a different program within the Department, the managers from each program 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 the Department, all

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accommodating equipment shall be retained by the Department. If an employee wishes to make a request for the transfer of RA acquired equipment or assistive devices (purchased by the Department) to a different state department, the employee must 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, the Department retains ownership, and the employee must request an RA through the new department.

### *Managers' and Supervisors' Responsibilities*

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Managers and supervisors have a responsibility to offer an employee the opportunity to request an accommodation by immediately providing them with this policy and the [SO-142](#) when a manager or supervisor becomes aware of an employee's need for accommodation. Upon receipt of the completed [SO-142](#), the request shall be forwarded to the OCR for review and engagement in the interactive process. Failure by the supervisor or manager to follow the process above violates this policy and may result in disciplinary action.

Managers and supervisors are expected to maintain reasonable confidentiality of an employee's accommodation. Managers, supervisors, and CEOs are expected to limit disclosure of an employee's accommodation to other staff, supervisors, or management unless absolutely necessary and on a need-to-know basis.

Discussions of an employee's accommodation should be limited to key staff including, but not limited to, the employee; their manager, supervisor, or CEO; the OCR; and, if necessary, their Branch Chief or Division Director; DSB; and HRB. Please consult with the OCR if there are questions about who has a need to know. Failure by the manager, supervisor or CEO to follow the above violates this policy and may result in disciplinary action.

### *Discrimination, Harassment, and Retaliation Prohibition and Complaints*

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Discrimination or harassment against an individual because of their actual or perceived protected characteristic, including disability or medical condition<sup>1</sup>, is strictly prohibited and will not be tolerated by the Department. Additionally, retaliation against an individual for exercising their right to request an accommodation related to a disability or medical condition is strictly prohibited and will not be tolerated by the Department.

These prohibitions apply to all employees, not only managers and supervisors of

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<sup>1</sup> For a comprehensive list of all protected characteristics, please refer to the Discrimination and Harassment Prevention Policy.

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those requesting an accommodation.

An employee may file a complaint through the Department's discrimination and harassment complaint process, in the event they believe they are experiencing discrimination, retaliation, or harassment because of their protected characteristic, because they requested an RA, or because they have been denied access to the interactive process. Please refer to the [Discrimination and Harassment Prevention Policy](#) for the processes and procedures for filing a complaint with the OCR or other entity.

### *Appeal Rights and Procedure*

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If a request for an accommodation is denied or if the OCR fails to acknowledge an RA request as detailed above, the employee may file an appeal or complaint with the following entities:

- **California Civil Rights Department**  
Website: <http://www.calcivilrights.ca.gov>  
English to Voice/TTY: 800-588-7100  
Spanish Voice/TTY: 800-855-7200  
Speech to Speech (STS): 800-855-7300  
Visually Assisted STS: 800-855-7400
- **Equal Employment Opportunity Commission**  
Website: <https://www.eeoc.gov>  
Telephone: 800-669-4000
- **State Personnel Board**  
Telephone: (916) 653-0799  
Online: <https://appeals.spb.ca.gov/aos/appeal.html>  
Email: [appeals@spb.ca.gov](mailto:appeals@spb.ca.gov)

Please refer to the [Discrimination and Harassment Prevention Policy](#) for further directions and timelines for filing complaints with these entities.

### *Confidentiality of Medical Documents*

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Medical information obtained in connection with the RA process shall be kept confidential. The information the OCR 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*

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All managers, supervisors, and CEOs are required to take the Department's RA training at least once every four years.

### *Distribution*

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Distribution of the above policy includes all employees.

Questions concerning this policy or if seeking advice or consultation regarding an RA request should be directed to the OCR at (916) 654-1005 or [civil\\_rights@cdfa.ca.gov](mailto:civil_rights@cdfa.ca.gov).

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**THIS SERVES AS NOTICE TO EMPLOYEES OF THE CDFA  
REASONABLE ACCOMMODATION POLICY.**

I hereby certify I have read and understand CDFA's Reasonable Accommodation Policy. This is to be acknowledged upon hire and annually thereafter.

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Employee Name

Employee Signature

Date

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Division/Branch/DAA

Retain in the employee's supervisor drop file until superseded. Do not send to the OCR.

cc: Employee