



THE STATE BAR OF CALIFORNIA

Center for Access & Fairness



**Disability Awareness:**

**How to Accommodate**

**Persons with Disabilities**



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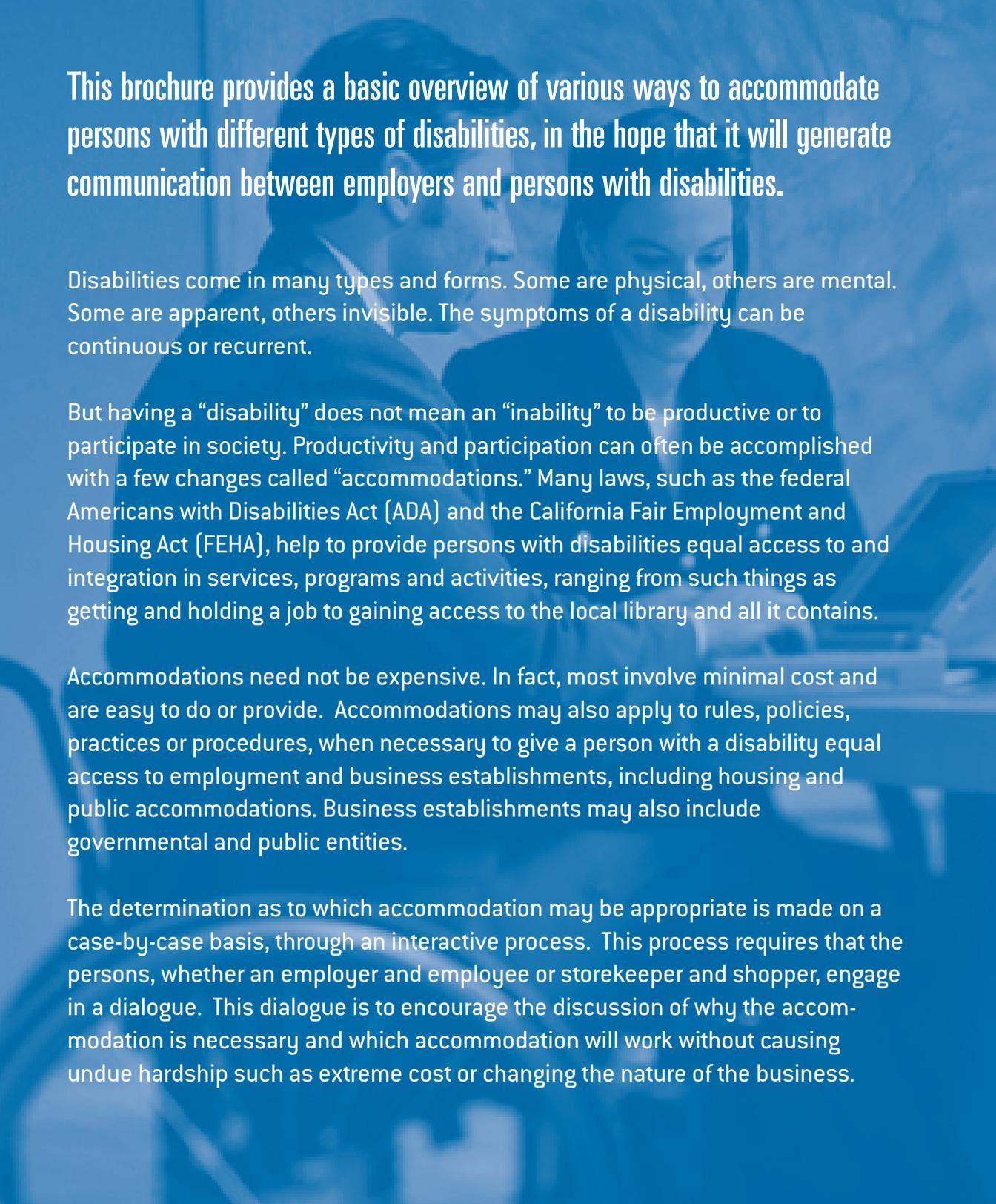


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The purpose of this booklet is to provide general information on the law, which is subject to change, and is not intended to provide legal advice. If you have a specific legal problem, you may want to contact a lawyer.



**This brochure provides a basic overview of various ways to accommodate persons with different types of disabilities, in the hope that it will generate communication between employers and persons with disabilities.**

Disabilities come in many types and forms. Some are physical, others are mental. Some are apparent, others invisible. The symptoms of a disability can be continuous or recurrent.

But having a “disability” does not mean an “inability” to be productive or to participate in society. Productivity and participation can often be accomplished with a few changes called “accommodations.” Many laws, such as the federal Americans with Disabilities Act (ADA) and the California Fair Employment and Housing Act (FEHA), help to provide persons with disabilities equal access to and integration in services, programs and activities, ranging from such things as getting and holding a job to gaining access to the local library and all it contains.

Accommodations need not be expensive. In fact, most involve minimal cost and are easy to do or provide. Accommodations may also apply to rules, policies, practices or procedures, when necessary to give a person with a disability equal access to employment and business establishments, including housing and public accommodations. Business establishments may also include governmental and public entities.

The determination as to which accommodation may be appropriate is made on a case-by-case basis, through an interactive process. This process requires that the persons, whether an employer and employee or storekeeper and shopper, engage in a dialogue. This dialogue is to encourage the discussion of why the accommodation is necessary and which accommodation will work without causing undue hardship such as extreme cost or changing the nature of the business.

There are a wide range of disabilities that require accommodation. This brochure discusses several major categories of disability although the need to provide accommodations is not limited to the following (in alphabetical order): (1) Blind and Low Vision, (2) Chronic Medical Condition; (3) Deaf or Hard of Hearing; (4) Learning Disability; (5) Mental Health Disability; (6) Mobility Impairment and (7) Soft Tissue Injury. Each category describes the general disability and how it may affect job functions and performance and access to services. This brochure also provides suggested accommodations for each of the seven categories of disability.

Many of these suggestions for accommodations apply to several types of disabilities. Therefore, an employer or service provider will get a more complete understanding of possible accommodations by reading the entire publication, rather than focusing on the category pertaining to just one disability. As you will see, there are many ways to provide effective reasonable accommodations.

For any person with a disability, scheduling accommodations might be needed. A person undergoing treatment for a medical condition might require a flexible schedule to accommodate his or her treatment and regular time off for therapeutic reasons. For an employee with a disability, a job modification or transfer to an existing open position may be an accommodation.

The suggested accommodations using technology reflect just a small segment of the enormous number of technological products, as technology is continuously being developed and refined. Competitive pricing of these innovative devices brings them within reach of most employers and service providers. The sophistication of these products will help ensure that a person with a disability will be able to function productively. A complete review of current inventions is available at an annual international conference entitled "Technology and Persons with Disabilities" held every spring in Los Angeles. Information on this program is available from its sponsor, the Center on Disabilities at Cal State Northridge at [www.csun.edu/cod/conf](http://www.csun.edu/cod/conf).



Employers interested in more information about reasonable accommodations in the workplace should contact the U.S. Department of Labor's Job Accommodation Network (JAN) at 800-526-7234 or [www.jan.wvu.edu](http://www.jan.wvu.edu). JAN's staff answers questions about the ADA and accommodations, and can suggest individualized reasonable accommodations after consulting their database of different types of equipment.

The U.S. Department of Education maintains [ABLEDATA.com](http://ABLEDATA.com), which provides information regarding costs and manufacturers of available equipment for job accommodations, including assistive devices and equipment. The large database on assistive technology is sorted by its intended function. The website also provides links to other resource centers and information on training for employers.

In California, the Pacific ADA & IT Center Region IX provides information on accommodations and training for businesses and public entities. The center is available at [www.pacdbtac.org](http://www.pacdbtac.org) or 800-949-4232. For more information on the ADA, employers can call the Department of Justice hotline at 800-669-3362 or go to the website at [www.USDOJ.gov](http://www.USDOJ.gov). Materials about the ADA are also available from the EEOC at [www.eeoc.gov](http://www.eeoc.gov) or 800-699-3362.

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## >> Blind or Low Vision

For people who are blind or who have low vision, accommodations may include the use of one or more of the following:

- Extra lighting
- Large print software programs (screen enlargement)
- Accessible websites
- Screen readers that read the entire computer screen, menus, documents and the Web
- Text to speech software programs that read aloud
- Cassette or digital recorders
- Written materials made available on audio cassette or computer disk
- Written materials and signage in an accessible format, such as Braille and large print
- Chimes that indicate the up or down direction of an elevator and announce each floor stop
- Hallway access clear of boxes or other obstacles
- Modification of employment and academic tests, such as additional time
- Persons to read and take notes
- Flexible work schedules
- Transportation assistance
- Service animals allowed to accompany the person, who is blind or has low vision, wherever he or she is allowed to go

## >> Chronic Medical Condition

This category covers a wide range of conditions such as cancer, heart disease, diabetes, kidney or liver disease, HIV/AIDS, multiple sclerosis, muscular dystrophy, asthma, hypertension, and chronic fatigue syndrome. As with other disabilities, the need for accommodations is symptom-based and should be discussed on an individual basis.

The accommodations for persons with chronic medical conditions could fall into any of the categories discussed above. A person with heart disease might have trouble climbing stairs, while someone with multiple sclerosis might have reduced vision. See the [Mobility Impairment](#) and [Blind or Low Vision](#) sections for a description of some accommodations these chronic medical conditions may require.

Many people with a chronic medical condition could use one or more of the following accommodations:

- A space heater or an office with its own thermostat, if an individual with multiple sclerosis needs special temperature requirements.
- An air purifier to alleviate reactions to dust and other particles for an individual with asthma or environmental illness.
- A flexible schedule of one or two days per week to accommodate needed dialysis treatment for a person with kidney disease.
- Regular rest periods that a diabetic might need for insulin testing or for food intake.
- Authorized leave for long-term medical care to be used in short periods to accommodate frequent treatments.



## >> Deaf or Hard of Hearing

An individual with a hearing loss may be either deaf or hard-of-hearing. While a hearing aid or cochlear implant may make hearing easier for some, an accommodation may still be required for adequate communication.

A person with a hearing loss may need the following accommodations:

- Assistive listening systems or headsets
- An amplifier on telephone handset for those who are hard-of-hearing
- Vibrating paging devices
- A text telephone device for the deaf or special speakerphone when working with sign language interpreters
- Closed captioning on videos tapes
- Real time captioning in large conferences, meetings or training sessions
- Microphones for speakers
- Kits consisting of amplifiers for the telephone, flashing light alarms, wakeup vibrator alarm and television screen messaging at hotels
- The California Relay Service for communicating between a person who is deaf or has a speech disability and another person by dialing 711
- Sign language interpreters for those who are deaf
- Flexible schedules to accommodate eye strain from lip reading or sign language interpretation
- A quiet work space without distraction (If there is a noisy printer, provide a printer sound muffler or move the printer)
- Someone to take calls and write down messages instead of using voice-mail

## >> Learning Disability

Persons with learning disabilities have difficulty with their visual or auditory processing of information. Examples include dyslexia, attention deficit disorder (ADD) and attention deficit hyperactivity disorder (ADHD) which affects one's reading ability. Those with learning disabilities may benefit from one or more of the following accommodations:

- Speech recognition software
- Graphical and outline organizational software
- Text to speech software programs that read aloud
- Cassette or digital recorders
- Written materials made available on audio cassette or computer disk
- A distraction-free and noise-free workstation
- Persons to read and take notes
- Modification of employment and academic tests, such as providing additional time
- Flexible scheduling



## >> Mental Health Disability

Disabilities that make it difficult to work are not just physical. Mental disorders are among the most common of all the disabilities. In fact, major depression is a leading cause of disability in the United States. Other mental disorders include the anxiety disorders such as panic disorder, general anxiety disorder, post-traumatic disorder, social anxiety disorder (social phobia), agoraphobia, and specific phobias (e.g., claustrophobia and fear of elevators, bridges, or tunnels), obsessive-compulsive disorder, bipolar disorder (manic depression), and psychotic disorders (such as schizophrenia).

Mental disorders usually have a number of causes: biological, genetic, psychological and environmental. They are not due to a personal weakness or character flaw. People suffering from a mental disability such as depression cannot simply pull themselves up “by their bootstraps” but often need additional assistance, compassion and understanding.

People who have a mental disorder may be reluctant to tell anyone because of the stigma that is frequently attached to having a “mental illness.” To help allay the stigma and explain the organic nature of mental illness, some use the term “brain disorder” rather than “mental illness” or even the less offensive term “mental disorder.”

Some people are so embarrassed by or ashamed of having a mental disorder—especially one that affects their job performance—that rather than disclosing their condition, they will quit their job or risk being fired when their mental condition starts to interfere significantly with their job performance. Employers should make it clear in their employee handbooks that employees facing physical or mental difficulties should talk with the human resource department or their immediate supervisor about their disability and appropriate accommodations.

The best thing to do in the interactive process after the worker has requested an accommodation for a mental disability is for the employer to talk openly yet with

empathy with the employee and ask him or her for suggestions as to what accommodation(s) the employee feels may help. An employer must keep confidential the results of all inquiries about an accommodation for a disability, mental or physical.

The employer must also maintain the employee's medical records and other records of disability separately in files with restricted access. A non-employer -such as a psychologist or a place of business must also keep information about an individual's request for accommodation strictly confidential. The employer must keep the employee's mental health disability confidential, even if others may feel that the employee with the mental disorder is receiving special or preferential treatment.

In developing reasonable and effective accommodation, every person with a mental health condition must be treated separately, as the symptoms and impairments of the same mental disorder affect each person differently. The accommodation must be custom-tailored to the individual employee. What works as a reasonable accommodation for one person may not work for another person who suffers from the same disorder.

Persons suffering from a mental disorder may need:

- Frequent breaks or policy changes: a person who takes psychotropic medication may need to periodically drink fluids due to dry mouth, use a bathroom more often or respond to other side effects caused by the medication and may need more frequent breaks than permitted under current policy.
- Modified schedule: permitting the person to start later, for example at 10:00 a.m. rather than at 8:30 a.m. as required of others, may be a reasonable accommodation. Persons with mental disorders may find it extremely difficult to function in the morning due to drowsiness or fatigue, which are side effects of the medication or symptoms of the illness. The person with the mental disability would still be required to put in a full day, unless the accommodation consists of having the person change from full-time to part-time status.

A work schedule modification could include adjusting the employee's working hours so that the employee can make appointments for psychotherapy and medication management, or take more frequent breaks for medication management or treatment. Permitting the employee to telecommute/telework from home several days of the week is a reasonable accommodation in some cases.

- **Modified workstation:** an employee who has a difficult time concentrating on work may function better, if his or her workstation is relocated to a quieter, less distracting area, or has cubicle walls placed around the work station. Some employees with a mental disorder may prefer working in a brightly lit office; others may prefer a darker environment. A claustrophobic employee in a windowless office may need to be relocated near a window.
- **Unpaid leave:** if the employee is unable to work satisfactorily due to his or her mental disorder after all vacation days, sick leave, and personal days have been used, the employee should be permitted an unpaid leave of absence, so that he or she may be treated, whether in a hospital or at home, until the condition is brought under control and the employee is able to return to work. The mentally disabled worker may have rights under the federal Family and Medical Leave Act and/or the California Family Rights Act.
- **Modified marginal job duties,** as long as the change does not involve an essential job duty. For example, an employee with a mental disability who finds it difficult to deal with the public may request to be relieved from such interaction. If dealing with the public is not an essential function, limiting the amount of time the employee must deal with the public or eliminating such contact altogether may be a reasonable accommodation.
- **Training:** an employee with a mental health disability, especially one that affects his or her ability to concentrate, learn and remember, may need additional or specialized training to master the job. In some cases, the employer might provide a job coach to help the employee learn the job.
- **Modified supervision:** an employee with a mental health disability may seek modified supervisory techniques, more frequent feedback and performance reviews, more detailed instruction or task assignment. Another effective adjustment might be an alteration in communication methods, such as a switch to or away from e-mail, an increase in written instructions or an increase in face-to-face meetings.

## >> Mobility Impairment

Mobility impairment is the most commonly recognized type of disability. However, mobility impairment is not limited solely to persons who use wheelchairs. Persons with mobility disabilities include persons who require assistance to walk, persons who cannot climb stairs or ramps, and persons with limited “reach” ranges. These various forms of disabilities can arise due to an almost unlimited range of injuries or illness.

Persons who use wheelchairs can have many problems accessing buildings and facilities. Some cannot climb stairs, step over curbs, have difficulty opening and closing doors, and need extra space to accomplish the same. They may not be able to access emergency exits. They need extra space to utilize toilet facilities. Because they are constantly in a sitting position, features that are commonly designed for person who are standing can be inaccessible.

This area of accommodations is the subject of much regulation by the U.S. Department of Justice. The Americans with Disabilities Act Accessibility Guidelines (“ADAAG”) provide numerous examples of the types of barriers and how to remove them. The most common examples would be providing:

- Accessible parking spaces
- A path of travel that follows a relatively flat hard surface from parking and the public right of way to building entrances
- Curb-cuts
- Ramps where the only means of access is by stairs
- Automatic doors or replacing door hardware to reduce the force needed to operate the door
- Door hardware to avoid fixtures that require tight grasping or twisting

Indoors, there are likewise many types of accommodations that may be needed:

- A lower ATM or a Point of Service machine (like a card reader)
- A lower counter for service
- Removal of fixed seating at counters or space for wheelchairs
- Lower drinking fountains that are in accessible locations
- Restrooms revamped to allow ingress and egress and adequate space for a person with disability to transfer from a wheelchair to the toilet and back, or to access the sink

Mobility problems can often be overcome by changing the way a task is typically done. Rather than having a person who is a quadriplegic get books out of the library by himself, you could have him submit a list of what he needs to the librarian and have the librarian retrieve them. Also, a person who is unable to reach for books may be provided a tool to reach and grab things (known as a “grabber” or “reacher”) in order to retrieve lightweight books from the library shelves.

## >> Soft Tissue Injury

This category includes carpal tunnel syndrome and other types of repetitive strain injuries (RSI), back or joint injuries, and arthritis. Soft tissue injuries often cause stiffness or pain, and prevent extensive use of muscles.

A person with a soft tissue injury could use one or more of these accommodations:

- Voice recognition software for persons who can no longer type an entire document -- Software also can be programmed to provide automatic breaks or brief pauses in computer usage to prevent additional injury
- Oversized trackballs, enlarged gesture pads and rolling rods instead of a regular mouse -- A trackball guard is also available for laptop computers
- Ergonomic and adaptive keyboards can be positioned to accommodate an individual's physiology when typing
- Wrist saver wraps to improve hand and wrist posture and help relax muscle tension in wrists, arms, and shoulders
- Cushioned armrests that clamp to a desk to provide support to the user's arms and maintain a comfortable neutral wrist position
- Ergonomic furniture to properly support the body and position the equipment for an individual who has pain when using a computer
- “Neck and leg savers” to support the lower back and relieve leg pressure against the seat to improve leg circulation for individuals who have trouble sitting for extended periods of time
- Frequent breaks may be provided to a person doing repetitive work or work requiring continuous movement

A soft tissue injury can also restrict mobility. For example, an individual might have difficulty climbing stairs or reaching for files. See the [Mobility Impairment](#) section for some suggested accommodations.

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