

HR Bulletin



October 24, 2014

Disability and Accommodation

California's Fair Employment and Housing Act

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According to the U.S. Census Bureau Americans with Disabilities 2010 Report, there are 56.7M people living with a disability in the United States, or nearly 1 in 5 Americans. With such a large number, it is likely that your workplace encounters applicants and employees with some form of disability. Additionally, disability-based complaints were one of the single largest categories of case complaints processed by the Department of Fair Employment and Housing in the past two years, with over 12,000 cases filed in 2013 alone.

In California, disability is defined by the Fair Employment and Housing Act (FEHA) as an actual or perceived physical or mental disability or medical condition that is disabling, potentially disabling, perceived to be disabling or potentially disabling, which limits a major life activity. A few examples of covered disabilities include anatomical loss, reproductive or digestive disorders, mental illness, learning disabilities, AIDS, obsessive compulsive disorder, diabetes and cancer.

Employer Responsibilities

If you employ five (5) or more employees, you are considered a covered employer under the FEHA, which means that you cannot discriminate or harass an applicant or employee for an actual or perceived disability. It also requires that you reasonably accommodate unless you can show that to do so would cause an undue hardship. Reasonable accommodation requires a timely, good faith, individualized interactive process between you and the employee, applicant or the individual's representative. This process involves exploring options for allowing the applicant or employee to perform the essential functions of the job.

Examples of Prohibited Employment Inquiries:

- Medical or psychological examination or questions
- Asking about mental or physical disability or medical conditions
- Probing into the nature and severity of a mental or physical disability or medical condition
- Questions related to workers' compensation claims
- Attendance questions that lead to disclosure of medical leaves

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56.7M

Number of people with a disability in the U.S., or nearly **1 in 5** Americans.



Source: U.S. Census Bureau Americans with Disabilities: 2010 report.

Disability and Accommodation (cont'd)

Examples of Reasonable Accommodation include:

- Modified work schedule
- Job restructuring
- Providing a leave of absence or time off for medical treatment
- Adjusting or relocating a work area
- Allowing employee to work from home

Factors for Undue Hardship

According to the California Code of Regulations, title 2, factors such as employer size, type of operation, nature and cost of the accommodation, and reasonable notice will be considered in determining whether an accommodation is reasonable. Also, if there exists any other reasonable alternative means of accommodation, the employer is free to explore options that may vary from the employee's request.

Events Calendar

➡ Legal Beagle "The \$4,000 Question, Accurate Paycheck Stubs" – October 28th
Email receptionist@flcz.net to register!

➡ Sexual Harassment Prevention Training – November 17th
Leadership Academy: Prioritization & Time/Work Life Balance – November 19th
Email woods@sierrahr.com to register!

Sierra HR Partners Team

Sierra HR Partner's team of certified professionals are here to support you in the areas of legal compliance, training, recruitment, handbooks, audits, policy development, job descriptions, performance evaluations, compensation, terminations, and related employment areas.

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