




**FEHA/ADA:
Reasonable Accommodations
for Applicants**



**WRIPAC
Winter Meeting**
Presented by:
Rachel Shaw, Monjaras & Wismeyer Group, Inc.



What We'll Cover:


- General overview of FEHA/ADA legal requirements
- Applicant Requests
- Job Offeres
- Alternative Work Placement
- Q&A





Disability Laws


- **Federal**
 - Americans with Disability Act (ADA)
 - Recently amended, effective January 1, 2009 by Americans with Disabilities Amendments Act (ADAAA)
 - Family and Medical Leave Act (FMLA)



FEHA Applies to

Disability Laws Apply to the Entire Range Of Employment:

- **Hiring Process**
 - Applicants, job offeres
- Job Assignments
- Benefits
- Employer – Sponsored Activities
- Policy Making



What FEHA Requires


FEHA Mandates

Reasonable Accommodation

“Once a disability that is protected under the law is established, an employer is obligated to provide a reasonable accommodation unless the accommodation would represent an undue hardship to the business operation.”

- For candidates and employees

Source: Fair Employment and Housing Act- FEHA (Government Code § 12940(a))




How It Must Be Done

FEHA Mandates a


Good Faith Interactive Process

“Employers must engage in a good faith interactive process with employees and candidates who have disabilities to determine the appropriate reasonable accommodations that might overcome the employee's/applicant's job limitations.”

Stand alone statutory requirement.




Source: Fair Employment and Housing Act- FEHA (Government Code § 12940(a))



Reasonable Accommodation

RA rules to live by:

1. Do not assume.
2. You are not Dr. House
3. Error in favor...




Interactive Process

What constitutes the
“Good Faith Interactive Process”

All activities that are necessary to properly address the potential need for Reasonable Accommodation by an applicant or employee, including:


- Every verbal and written communication with injured applicant/employee
- Meetings
- Actions, etc.




IP 5 Step Process

Step 1: Determine eligibility – Who
For applicants

- General application
- Specialized form (sample)






IP 5 Step Process

Step 5: Process and Results
For applicants


- Document, document, document
- Document all discussions and outcomes
- Letter decision



Application Process

1. Application submission
2. Written examination
3. Oral examination
4. Hiring Authority Interview
5. **Selection / pre-employment post offer**

Hiring Authority should not know what accommodation that was given.




Pre-employment Post Offer


- What are your obligations to engage in the interactive process again and prior to starting work?

"Add reasonable accommodation to hiring interview "refusal"

"Become formal ADA interactive level once you have offered them a job"



**Questions
&
Answers**



THANK YOU

Monjaras & Wismeyer Group, Inc.
*Providing comprehensive disability compliance consulting
services throughout California.*

Rachel Shaw | Senior Consultant
Disability Compliance & Human Resources
2945 Townspale Road, Suite 20
Westlake Village, CA 91361
Direct Tel.: 805.498.6611 | Toll Free: 877.984.7099
rachel@corbis.com

ORGANIZATION NAME

APPLICANT REASONABLE ACCOMMODATION FORM

In compliance with the Americans with Disabilities Act and the Fair Employment and Housing Act, the ORGANIZATION provides "reasonable accommodations" for applicants with disabilities that may affect their ability to take required examinations. It is the applicant's responsibility to notify the ORGANIZATION of the desired accommodation(s). We are not required to provide accommodations if we are unaware of your needs. Information provided to support an applicant's requested will be considered strictly confidential and will not be shared with any outside source without your express written permission.

NAME: _____
(Last/First/Middle)

ADDRESS: _____

ORGANIZATION: _____ STATE: _____ ZIP CODE: _____

TELEPHONE #: (____) - _____ (____) - _____
(Work) (Home)

POSITION APPLIED FOR: _____
(Classification Title)

NOTE: If the requested accommodation involves modifying the examination administration procedures (i.e., additional testing time, a reader or writer) applicant will be required to obtain professional verification from a health care provider. If the request is limited to wheelchair access, or sitting in the front of the room, professional verification from a health care provider is not required.

Please respond to the following. Attach additional sheets as needed.

My disability impairs my ability to accurately exhibit my knowledge and skill on the examination in the following manner:

The reasonable accommodation(s) I am requesting is:

- Wheelchair access
- Separate testing area
- Sign language interpreter
- Extended testing time
- Large print materials
- Written instructions as accommodation for hearing impairment
- Reader as accommodation for visual for motor impairment
- Scribe as accommodation for visual for motor impairment
- Specified breaks during testing (Also available for lactating mothers)
- Other _____



Disclaimer: The examples in this presentation should not be acted on without legal advice. Participants are encouraged to contact their legal counsel prior to relying on any of the examples.