

AP 7348 Accommodations

Reference:

Government Code Sections 12926, 12940, and 12945;
Labor Code Sections 230 and 1030 et seq.;
Title 2 Sections 11040 et seq., 11050, et seq., and 11060 et seq.;
29 U.S. Code Section 207(r);
42 U.S. Code Sections 12101 et seq.;
42 U.S. Code Sections 2000e et seq.;
29 Code of Federal Regulations Parts 1605.1 et seq.

Absent undue hardship or direct threats to the health and safety of employee(s), the District provides employment-related reasonable accommodations to:

- Qualified individuals with disabilities, both applicants and employees, to enable them to perform essential job functions;
- Employees with conditions related to pregnancy, childbirth, or a related medical condition, if she so requests, and with the advice of her health care provider;
- Employee victims of domestic violence, sexual assault, or stalking to promote the safety of the employee victim while at work; and
- Employees who request reasonable accommodation to address a conflict between religious belief or observance and any employment requirement.

For Disabilities:

The District has an affirmative duty to provide reasonable accommodations to applicants or employees with disabilities unless the timely, good faith interactive process reveals that there is no reasonable accommodation that will allow the applicant or employee to perform essential job functions without causing the agency undue hardship or without presenting a direct threat to the health and safety of himself/herself or others.

For Pregnancy and Related Medical Conditions:

The District must provide an interactive process to assess reasonable accommodations, in addition to leave rights, to employees disabled by pregnancy and related medical conditions.

For Victims of Domestic Violence, Sexual Assault, or Stalking:

Effective January 1, 2014, the District also has an affirmative duty to provide reasonable accommodations to employee-victims of domestic violence, sexual assault, or stalking, that would protect the safety of the employee-victim while at work. As is the case with disability-related accommodations, the law requires a timely, good faith interactive process. The goal is to identify safety-related accommodations that do not cause undue hardship and that do not compromise the safety and health of all employees. Like the interactive process for disabilities, the agency has the duty to restart the interactive process if the employee requests new accommodation(s) due to changed circumstances.

- Disability Accommodation
- Supporting Documentation or Certification
- Reasonable Medical Documentation of Disability

The District is entitled to request reasonable documentation confirming the existence of a disability, the need for a reasonable accommodation, and the functional limitations or work restrictions that apply to the employee's ability to perform the essential functions of the job. If an employee or applicant provides documentation that does not confirm the existence of a disability, the need for a reasonable accommodation, or his/her functional limitations in performing essential job functions, then the District should explain why the documentation is insufficient and allow the applicant or employee to provide a timely supplement.

- Interactive Communication or Interactive Process

Employers must also be able to prove they acted with good faith during the interactive process. The District should create and maintain written documentation of its interactive process communications, including: letters to medical providers; letters to the employee to recap interactive process meetings; and notes to file regarding any analyses or consultations with experts as to potential accommodations. The documentation should be detailed and include: that the employee had the option to be represented and whether the representative attended the meetings; that the employer was flexible in scheduling the time and location of the meetings; whether the meeting was recorded; the accommodations that were suggested by the employer and the employee; the responses each party had to the suggested accommodations; and whether the interactive process meeting resulted in any agreements.

- Potential Accommodations for Applicants or Employees with Disabilities
- Potential Accommodations for Employees Affected by Pregnancy and Related Medical Conditions
- Determination Regarding Accommodation
- Certification of Victim Status

The District may require a victim of domestic violence, sexual assault, or stalking and who requests an accommodation to provide for his/her safety at work, to provide a written statement regarding the need for the accommodation, and a certification of his/her status as a victim of domestic violence, sexual assault, or stalking. In addition, the District may to request recertification of the documentation every six months. If circumstances change and the employee needs a new accommodation, the employer must restart the certification and interactive process.

Lactation Accommodation

Employees have the right to request lactation accommodation, and should make the request to the Vice President of Human Resources. The Vice President of Human Resources will respond to the request.

An overtime-eligible employee who wishes to express breast milk for her infant child during her scheduled work hours will receive additional unpaid time beyond the 15-minute compensated rest period. Breaks may be reasonably delayed if they would seriously disrupt operations. Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

The District will make reasonable efforts to accommodate employees by providing an appropriate location to express milk in private. The District will attempt to find a location in close proximity to the employee's work area, and the location will be other than a bathroom. The location shall contain a surface to place a breast pump and personal items, a place to sit, and have access to electricity or alternative devices, including, but not limited to, extension cords or charging stations, needed to operate an electric or battery-powered breast pump. Access to a sink with running water and a refrigerator or other suitable cooling device suitable for storing milk in close proximity to the employee's workspace will also be provided.

Employees occupying such private areas shall either secure the door or otherwise make it clear to others through signage that the area is occupied and should not be disturbed. All other employees should avoid interrupting an employee during an authorized break under this section, except to announce an emergency or other urgent circumstance.

Employees may file a complaint with the Labor Commissioner for any alleged violation of Labor Code Sections 1030, et seq., which governs lactations accommodations.

Any employee storing expressed milk in any authorized refrigerated area within the work area shall clearly label it as such. No expressed milk shall be stored at the work area beyond the employee's workday.