Advanced Reasonable Accommodation Issues at Work

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CRD Monthly Webinar Series

Civil Rights Department
STATE OF CALIFORNIA

CRD disclaimer

This guidance is for informational purposes only, does not establish substantive policy or rights, and does not constitute legal advice.

This information is based on the most recent guidance as of the date of this training. It is the responsibility of the attendee to be aware of changing guidance and laws.

The opinions expressed by the presenters do not necessarily reflect the opinions of CRD.

1. This training assumes participants have a strong foundational knowledge about reasonable accommodations at work
2. This presentation is not exhaustive, and will not address all possible legal issues
3. We will email you a copy of the presentation
4. This training is not being recorded
5. Ask questions as we go using Q&A
    - CRD and Cal-ERT cannot respond to questions that ask for specific advice
6. Stay engaged and take care of yourself

Note about definitions and terminology

Legal definitions may be at odds with, or delayed in including, evolving language and terminology. Consider using glossary resources from disability and domestic violence organizations for culturally appropriate terminology.

Legal language in today's materials that is generally considered outdated, offensive, or disempowering by people with disabilities or people who experience violence:

- "Special needs"
- "Handicap"
- "Impairment"
- "Victim"

We will use this language when quoting the law, but otherwise will use different, more widely accepted, terms, like *disability*, *accessible*, and *survivor of violence*.

Agenda

- About the Civil Rights Department
- About the California Employment Roundtable (CalERT)
- The Fair Employment and Housing Act
- Disability accommodations
- Religious accommodations
- Safety accommodations for survivors of violence and their family members
- Key takeaways and best practices

Why are you attending this training?

A. I want to learn about my civil rights at work
B. I want to learn about my responsibilities under the law as an employer
C. I am a service provider
D. I have a specific issue I want to learn more about
E. Other (share in the chat!)

California Civil Rights Department

Mission

Protect the people of California from unlawful discrimination in employment, housing, and public accommodations, and from hate violence and human trafficking

California Employment Roundtable

California Employment Round Table overview

CalERT
CALIFORNIA EMPLOYMENT ROUND TABLE

The California Employment Round Table (Cal-ERT) is a volunteer nonprofit organization comprised of attorneys, workplace investigators, human resources professionals, and other individuals and organizations who present webinars intended to create an awareness of workplace discrimination, harassment, and retaliation in order to reduce such conduct and promote equal opportunities.

The Employment Round Tables were first established in 1983 in partnership with the agency now known as the California Civil Rights Department (CRD).

Visit Cal-ERT's website or its LinkedIn page for more information about Cal-ERT and its educational webinars.

Fair Employment and Housing Act

Fair Employment and Housing Act (FEHA)

- Prohibits discrimination and harassment against employees, applicants, interns, and volunteers on the basis of one or a combination of protected characteristics
- Prohibits retaliation
- Requires reasonable accommodations for disabilities, religious beliefs, and for survivors of violence and their family members' safety planning
- Generally, applies to state and local government employers and private employers with five or more employees
    - We'll discuss an important exception later!

California Government Code §§ 12900-12999

FEHA accommodation overview

Disability

- Addresses physical or mental impairments that limit a major life activity
- Helps ensure equal access to all benefits and privileges of employment

Religious

- Addresses all aspects of religious beliefs, practices, dress, and grooming
- Helps eliminate conflict between work tasks and religious beliefs

Safety

- Addresses safety needs of employees and their family members who experience a qualifying act of violence
- Helps support a safe workplace

Disability accommodations

Knowledge Check 1:

How much does the average workplace disability accommodation cost?

A. $0
B. $300
C. $500
D. $1,925

Accommodation costs

Most disability accommodations are free:

- 56% cost nothing
- 37% one-time cost (average $300)
- 7% ongoing cost (average $1,925)

Job Accommodation Network (JAN): "Cost and Benefits of Accommodation" 2019-2023

Case scenario: Work from home / telework (1 of 4)

Employee is a Senior Administrative Assistant.

Employee reports severe migraines which she feels are triggered by office lighting and office noise (including equipment alarms).

Essential functions include:

1. "Troubleshoot equipment malfunctions and arranging for service calls as needed"
2. "Provide coaching to junior administrative staff"
3. "Provide coverage for absentee junior administrative staff (including mail distribution)"

Employee is requesting work from home as an accommodation

Case scenario: Work from home / telework (2 of 4)

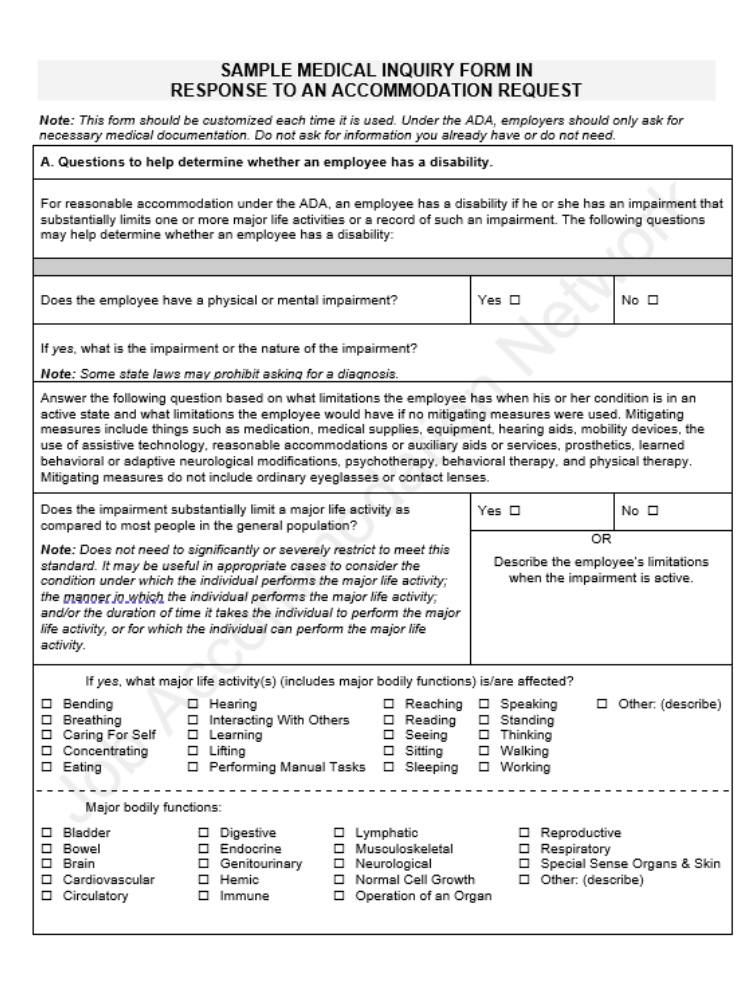
- Post pandemic realities, but a return to “normal”

- **Keep calm and remember the interactive process**
  - Is the accommodation request based on disability-related limitations?
  - Differentiating between employee preference and need for accommodation
  - What are the specific job-related limitations?
  - What is the gap between those limitations and typical performance of the job
  - Goal is successful performance of the essential functions
  - Are there accommodations that bridge the gap?

- EEOC Guidance *FAQ for Federal Sector about Telework Accommodations*

Case scenario: Work from home / telework (3 of 4)

- Do not rush to judgment in either direction (approval or denial)
- Is the request necessitated by disability-related limitations?
  - What to do with doctors' notes that say "Must work from home"
  - Use of the JAN Sample Medical Inquiry form
  - Employee's input in the process
- An analysis of the essential functions and potential impact on successful performance
  - Decisions must be based on reality and not just "words on paper"
  - Making "must work in the office" an essential function



SAMPLE MEDICAL INQUIRY FORM IN RESPONSE TO AN ACCOMMODATION REQUEST

Note: *This form should be customized each time it is used. Under the ADA, employers should only ask for necessary medical documentation. Do not ask for information you already have or do not need.*

A. Questions to help determine whether an employee has a disability.

For reasonable accommodation under the ADA, an employee has a disability if he or she has an impairment that substantially limits one or more major life activities or a record of such an impairment. The following questions may help determine whether an employee has a disability:

Does the employee have a physical or mental impairment?	Yes ☐	No ☐

If yes, what is the impairment or the nature of the impairment?

Note: *Some state laws may prohibit asking for a diagnosis.*

Answer the following question based on what limitations the employee has when his or her condition is in an active state and what limitations the employee would have if no mitigating measures were used. Mitigating measures include things such as medication, medical supplies, equipment, hearing aids, mobility devices, the use of assistive technology, reasonable accommodations or auxiliary aids or services, prosthetics, learned behavioral or adaptive neurological modifications, psychotherapy, behavioral therapy, and physical therapy. Mitigating measures do not include ordinary eyeglasses or contact lenses.

Does the impairment substantially limit a major life activity as compared to most people in the general population? ***Note:*** *Does not need to significantly or severely restrict to meet this standard. It may be useful in appropriate cases to consider the condition under which the individual performs the major life activity; the manner in which the individual performs the major life activity; and/or the duration of time it takes the individual to perform the major life activity, or for which the individual can perform the major life activity.*	Yes ☐ OR Describe the employee's limitations when the impairment is active.	No ☐

If yes, what major life activity(s) (includes major bodily functions) is/are affected?

☐ Bending	☐ Hearing	☐ Reaching	☐ Speaking	☐ Other: (describe)
☐ Breathing	☐ Interacting With Others	☐ Reading	☐ Standing	
☐ Caring For Self	☐ Learning	☐ Seeing	☐ Thinking	
☐ Concentrating	☐ Lifting	☐ Sitting	☐ Walking	
☐ Eating	☐ Performing Manual Tasks	☐ Sleeping	☐ Working	

Major bodily functions:

☐ Bladder	☐ Digestive	☐ Lymphatic	☐ Reproductive
☐ Bowel	☐ Endocrine	☐ Musculoskeletal	☐ Respiratory
☐ Brain	☐ Genitourinary	☐ Neurological	☐ Special Sense Organs & Skin
☐ Cardiovascular	☐ Hemic	☐ Normal Cell Growth	☐ Other: (describe)
☐ Circulatory	☐ Immune	☐ Operation of an Organ	

Case scenario: Work from home / telework (4 of 4)

- The analysis of how to bridge the gap
  - Remember – seek to understand how the employee is impacted
  - Problem solve transparently around any concerns
  - Differentiating (when needed) between employee preference and feasible solutions
  - A combination of accommodations? Look for comprehensive solutions
- What about a limitation / doctor's note saying, "Unable to drive to work"?
- The value in "trial period" of any accommodation

Religious accommodations

Knowledge Check 2:

What is included in the FEHA definition of religion?

Select all that apply.

A. Atheism
B. A sect with only 10 practitioners
C. A Jewish person who holds beliefs contrary to her rabbi's instruction
D. Marxism
E. Vegetarianism

Case scenario: religious accommodations (1 of 5)

Shaun and Kelly are the only two administrative workers in a small business.

Their cubicles are side-by-side and there is not space in the office to relocate them.

Case scenario: religious accommodations (2 of 5)

Shaun is a born-again Christian.

- Cubicle is decorated with icons, crosses, and images of Jesus and the Holy Family.
- Sincerely believes that they must proselytize and convey the “good news of Christ” to all persons.

Case scenario: religious accommodations (3 of 5)

Kelly is a practicing Wiccan.

- Cubicle decorated with symbols, candles, herbs, and poppets (cloth figures representing a person).
- During meal breaks, burns candles or herbs and chants aloud.
- Sincerely believes this is necessary to purify the atmosphere in the work environment, banish negativity, and allow focus.

Case scenario: religious accommodations (4 of 5)

Kelly and Shaun both object the other person's imagery and practices.

Both assert that they have a right to practice their beliefs, and are compelled to do so, while they are on meal or rest breaks. Both also assert that they should not be subjected to the other person's practices.

Kelly and Shaun were asked to find a compromise that would work for them. They were not able to resolve their differences.

Kelly and Shaun are now spending more time complaining than they are spending on completing their work.

Case scenario: religious accommodations (5 of 5)

What can the employer require Kelly and Shaun to do? Select all that apply.

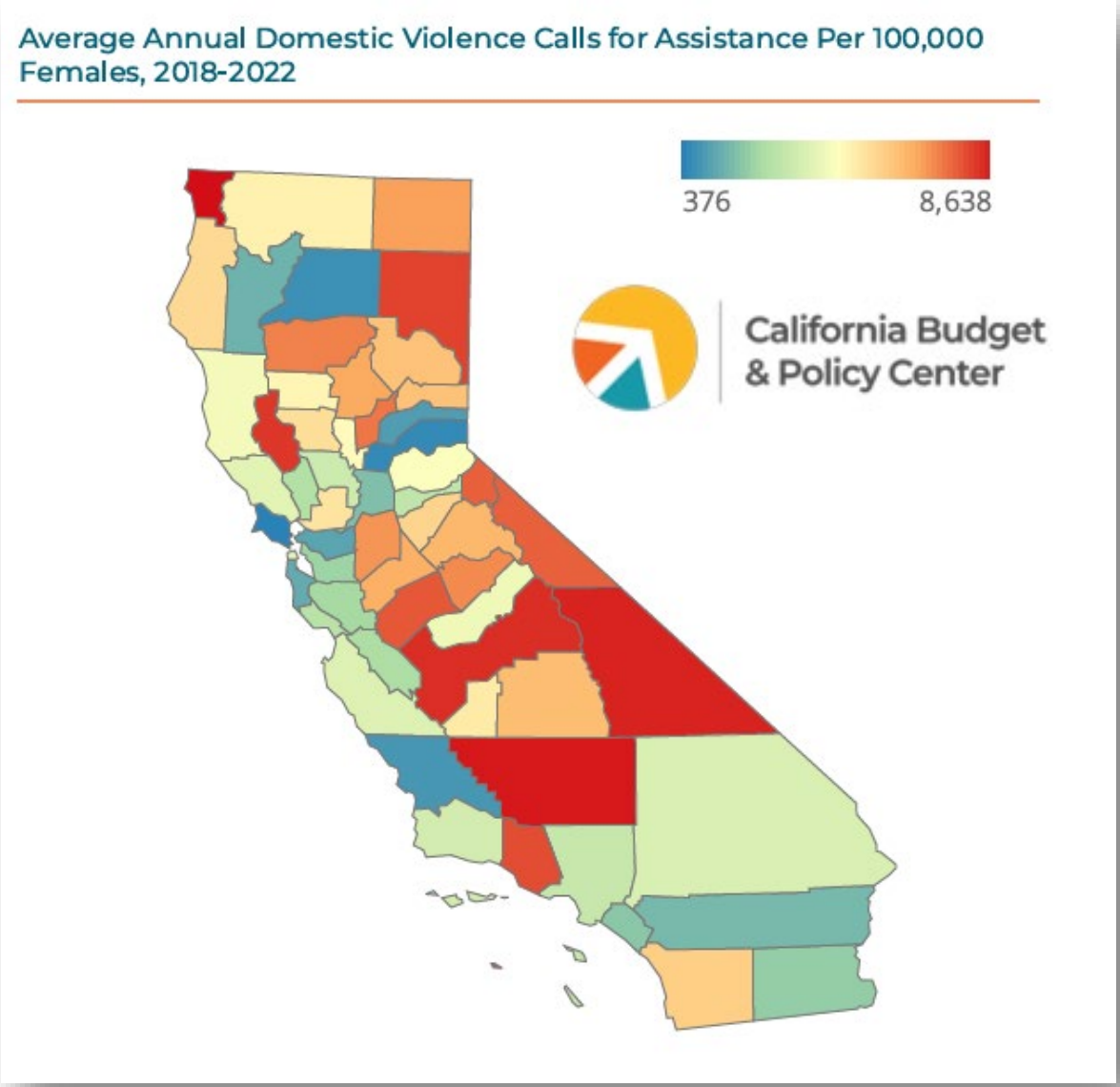
1. Discussion of accommodation including both Kelly and Shaun?
2. Limit displays?
3. Refrain from discussing religion?
4. Limit practices to meal and rest breaks?
5. Limit practices to off-site?
6. Require focus on work during work times?
7. Discipline?
8. End employment?
9. Other?

Safety accommodations for survivors of violence and their family members

Knowledge Check 3

How many women in the United States experience intimate partner violence in their lifetime?

A. 17%
B. 19.7%
C. 29.9%
D. 34%



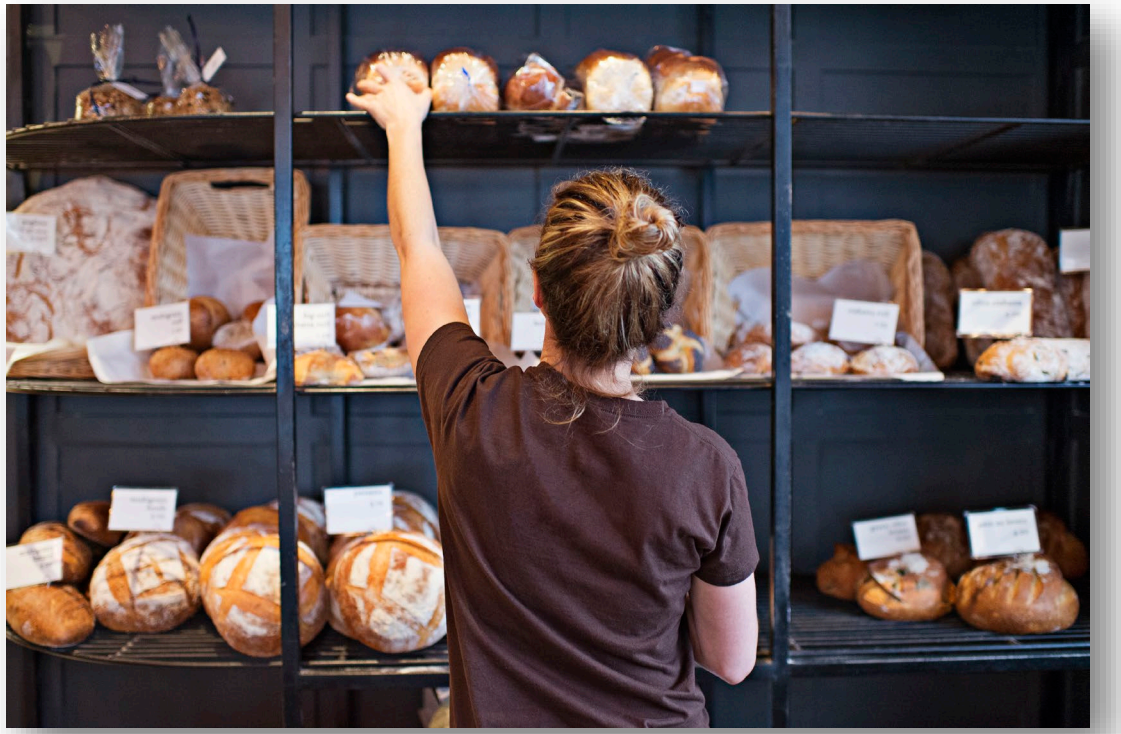
- Knowledge check data: *Center for Disease Control 2023/2024 National Intimate Partner and Sexual Violence Survey*
- Map: *California Budget and Policy Center*

Civil rights protections at work for survivors and victims of violence and their family members

Government Code section 12945.8 is a workplace civil rights law that protects employees affected by violence by providing certain leave and accommodations rights.

Government Code section 12945.8 prohibits discrimination, retaliation, and interference related to the exercise of those rights.

Which employees are eligible for safety-related accommodations?



California's protections for survivors-of-violence accommodations apply when:

1. An employee is a survivor of **qualifying act of violence**, or
2. An employee's **family member** experienced a qualifying act of violence

What is a qualifying act of violence?

A **qualifying act of violence** includes:

1. Domestic violence
2. Sexual assault
3. Stalking
4. Acts or patterns of conduct involving:
   - Injury or death
   - A firearm or other dangerous weapon
   - Threats of injury or death

No arrest or conviction is required.

Who is a family member for safety-related accommodation purposes?

Family members include:

- Child
- Parent
- Grandparent
- Grandchild
- Sibling
- Spouse
- Domestic partner
- **Designated person** means someone who is *like* family
    - An employer may limit this designation to one person in a 12-month period

Meet Nina

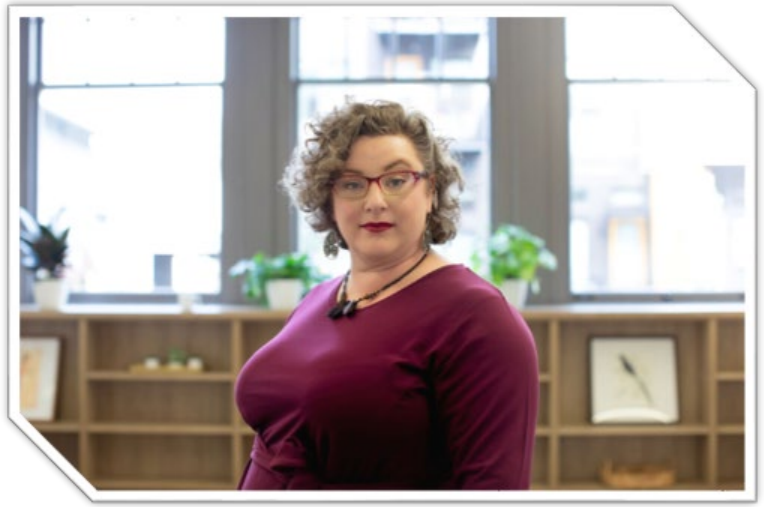


Photo credit: AllGo and photographer Michael Poley of Poley Creative

Nina works the closing shift at a grocery store in California. Her former partner has been stalking her. He has waited near the employee parking lot more than once. Nina is scared when she walks to her car after work. She has missed several days because she was afraid to come in after the stalking got worse.

Nina tells her manager, *"I'm dealing with stalking. I need help staying safe at work."* She asks for two things:

1. A temporary schedule change so she does not close alone
2. Permission to park closer to the entrance or have someone walk with her to her car.

Her manager says, *"This sounds personal. Don't bring your home problems to work."* The manager never talks with her again about possible safety changes.

What should the employer's response be? Share in the chat!

Safety accommodations process

A worker asks for a safety-related change at work

- *The worker is a victim of a qualifying act of violence*
- *The worker's family member is a victim of a qualifying act of violence*

Note:
Employer *may* request documentation after an accommodation request

Employer must respond & engage in an interactive process

- *Process should be timely*
- *Act in good faith*
- *Co-search for effective solution(s)*
- *Exception: undue hardship*

Reasonable safety-related changes at work

- *Includes referral to a victim assistance organization*

Accommodations at work for survivors of a qualifying act of violence and their family members

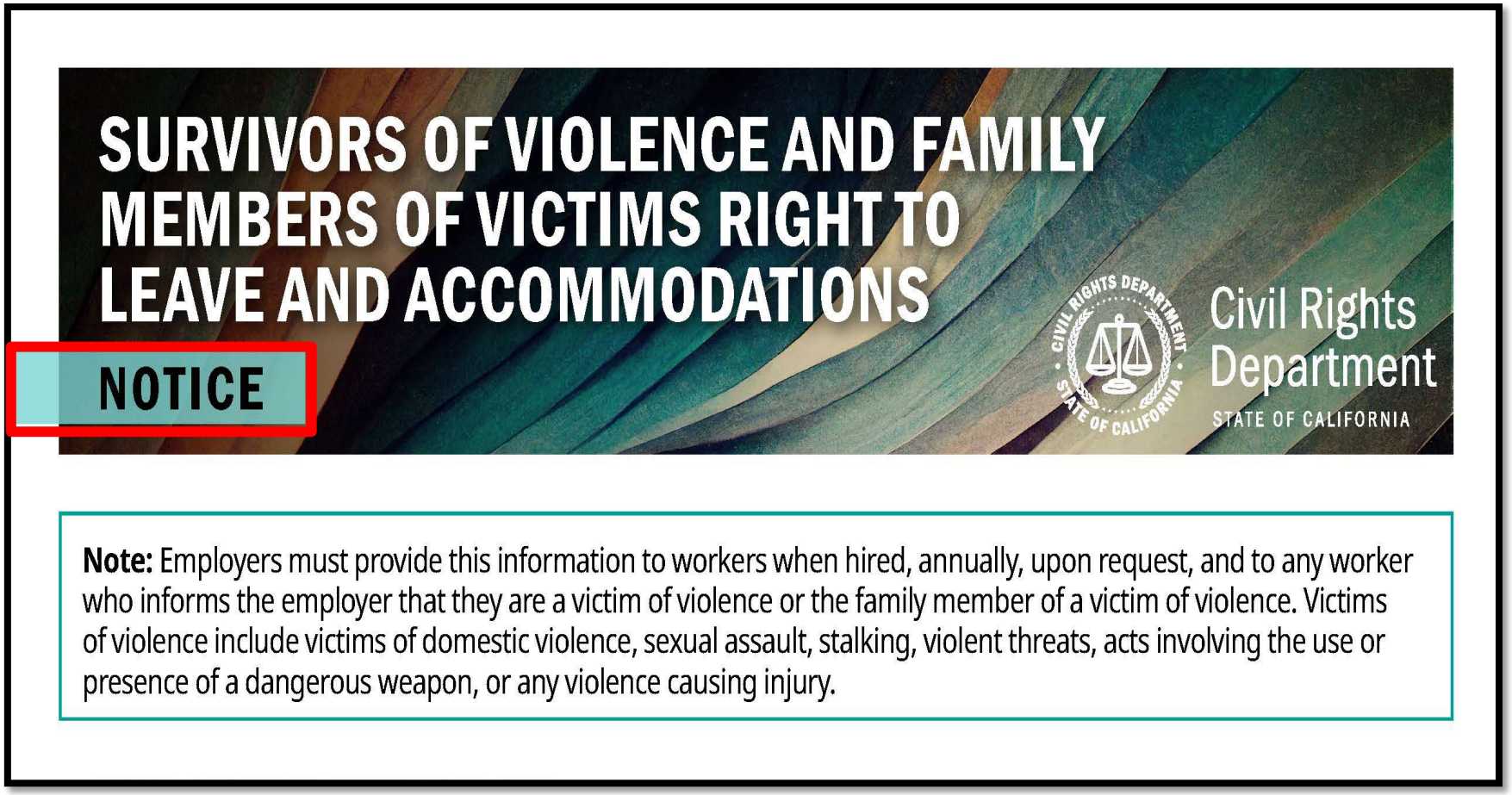
Protection area	What the worker needs	Employer size
Safety accommodations	**Safety accommodations**, or changes, at work, such as: • Transfer, reassignment, or modified schedule • Changing their work telephone number or workstation • Changing access to the workplace (locks, security measures) • Permission to carry a phone at work • Help documenting incidents at work • Safety procedures or other job/workplace adjustments • Referral to a victim assistance organization	Any size

Employer notice requirement

Employers must provide information about these protections to employees:

1. When a worker is hired
2. Once a year
3. When a worker asks for the information
4. When a worker tells the employer that they or a family member is a victim of violence

Required notice is available in multiple languages



- English
- Arabic
- Armenian
- Chinese
- Farsi
- Hindi
- Japanese
- Khmer
- Korean
- Punjabi
- Russian
- Spanish
- Tagalog
- Thai
- Vietnamese

Key Takeaways and Best practices

Common employer pitfalls

- **Unreasonably slow**
  - *Employer lacks familiarity with laws and must learn after an RA request, which takes time and delays their response to the request ("build the ship as they sail")*
- **Failure of imagination**
  - *Unwillingness to get creative with solutions / alternative accommodations*
- **Unreasonably burdensome**
  - *Requesting excessive records or requiring multiple unnecessary forms*
- **Misidentifying marginal functions as "essential functions"**
  - *Confusing "essential" with "how a person without a disability" does the job*
- **Accommodation interruptions**
  - *Forgetting an employee's reassignment and interrupting their accommodation*
- **Implementing arbitrary terms or drawing unnecessary lines in the sand**
  - *Changing requirements with no legal justification ("moving the goal post")*

Common requestor pitfalls

- **Vague request**
  - *Employee does not provide enough information to show a connection between their disability and reasonable accommodation request*
- **Confusing "preference" with an "equally effective" accommodation**
  - *Demanding the accommodation as requested, even though the employer proposes a less burdensome alternative*
- **Misidentifying "essential functions"**
  - *Employee's accommodation request misidentifies "essential" function as "marginal"*
- **Ending engagement in the interactive process**
  - *Abandoning the request because they are frustrated or discouraged by the process*
- **Requesting "unreasonable" accommodations**
  - *The law recognizes some accommodations employers are not obligated to provide, like lowering a production standard or providing an indefinite leave of absence*

Best practices

- Educate yourself (review the workplace reasonable accommodation policy and disability-related employment rights)
    - Use appropriate outside resources (Google, AI, ChatGPT can be unreliable)
- Document the process, including “informal” conversations
    - For example: When was the conversation? Who was there? What was said?
- Don’t let fear or suspicion shape the conversation
- Avoid preconceived ideas – these can get in the way of finding a solution!
- You don’t have to become a legal expert to have an inclusive workplace

Coming soon!

Disability Accommodations in Employment Fact Sheet

July 2026

Advanced Reasonable Accommodations in Employment Part II

November 10
11 am – 12 pm
Registration

Religious Discrimination in California

December 9
11 am – 12 pm
Registration

Sample Reasonable Accommodation Policy

December 2026

Thank you!

Contact CRD

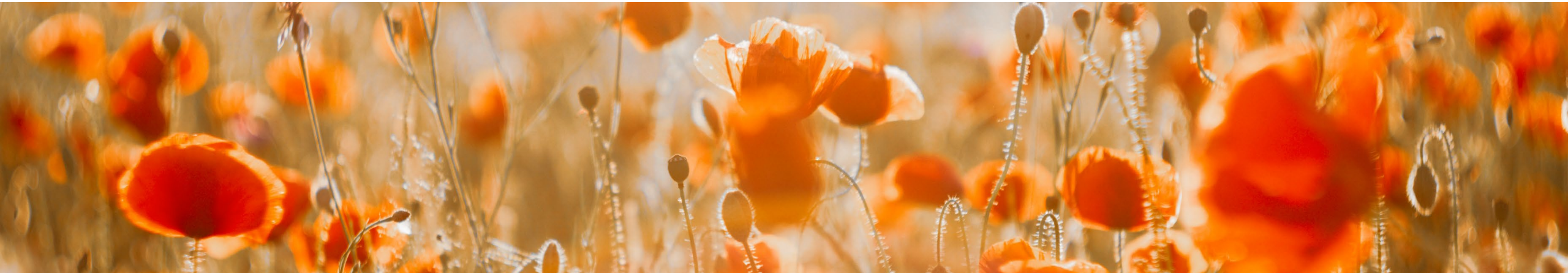
800-884-1684
California's Relay Service at 711
outreach@calcivilrights.ca.gov
www.calcivilrights.ca.gov

Contact CalERT

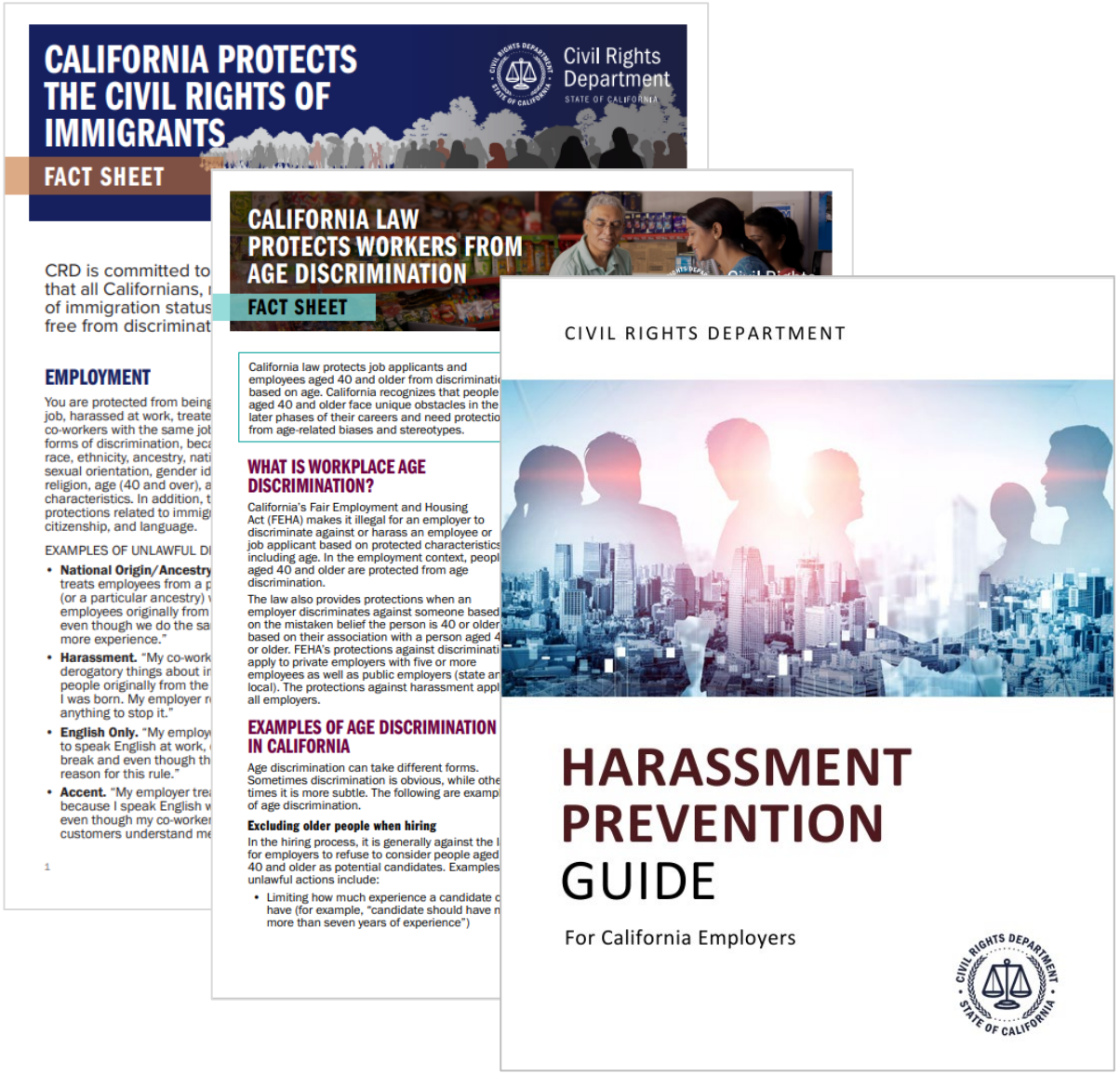
www.californiaemploymentroundtable.org
(MCLE credit)

Contact DMG

www.dmgworks.com
RE@dmgworks.com
(HR credit)



Resources



CRD written resources

- Employment
  - Right to Sue requests
  - Legally required postings
- Housing
  - Housing provider resources
- Unruh Civil Rights Act
- Ralph Civil Rights Act
- Human trafficking, U Visas, and T Visas
- Complaint process
- Outreach and education materials
- CRD training request form

CRD reasonable accommodation resources

- Required survivors' rights notice and FAQ
- Disability Accommodations at Work
- Religious Discrimination and Accommodations at Work fact sheet
- Sample reasonable accommodation form
- Family Care and Medical Leave Quick Reference Guide

SURVIVORS OF VIOLENCE A
MEMBERS OF VICTIMS RIG
LEAVE AND ACCOMMODATI

NOTICE

Note: Employers must provide this information to workers whe
who informs the employer that they are a victim of violence or t
of violence include victims of domestic violence, sexual assault,
presence of a dangerous weapon, or any violence causing injur

YOUR RIGHT TO TAKE TIME OFF

- You have the right to take time off work for jury service or to appear in court as a witness to comply with a subpoena or court order. All employees have this right, no matter the size of the employer.
- If you are a victim of violence, you have the right to take time off work to get relief (like a restraining order) to protect you or your child's health, safety, or welfare. All employees have this right, no matter the size of the employer.
- If you are the victim or family member of a victim of certain crimes, you have the right to take time off work to attend judicial proceedings related to the crime, including a delinquency proceeding, post arrest release decision, plea, sentencing, postconviction release decision, or any proceeding where a right of yours is at issue. All employees have this right, no matter the size of the employer.
- If you are a victim of violence or the family member of a victim of violence, and your employer has 25 or more workers, you have the right to take time off work for any of the following reasons:
  - To take part in safety planning or other actions to help keep you or your family member safe from future violence
  - To prepare for, participate in, or attend civil, administrative, or criminal legal proceedings, such as a court hearing, related to the violence
  - To seek, get, or provide childcare or care to a dependent adult if the care is necessary to keep the child or adult safe after an act of violence

RELIGIOUS DISCRIMINATION AND ACCOMMODATIONS AT WORK

FACT SHEET

OVERVIEW

California law protects job applicants, employees, interns, and volunteers from discrimination and harassment based on their actual religious creed, or the religious creed someone thinks they have. It also protects people from discrimination and harassment based on their association with people who have, or are perceived to have, a religious creed, like a friend, family member, or colleague.

Discrimination means treating a person unfairly because of their religious creed. Harassment means severe or pervasive unwelcome words or actions directed at someone because of their religious creed.

Legal protections against discrimination apply to private employers with five or more employees, as well as public employers (state and local). The protections against harassment apply to all employers. Non-profit religious institutions are generally not considered employers under California anti-discrimination law.

DEFINITION OF RELIGIOUS CREED AND RELIGIOUS BELIEFS

Religious creed includes all aspects of religious beliefs, observances of holy days, practices, dress, and grooming. Dress and grooming include:

- Religious clothing
- Head or face coverings
- Jewelry
- Artifacts
- Head, facial and body hair
- Any other related practice

1 Cal. Code Regs., tit. 2, § 11060

Disability Accommodations at Work

FACT SHEET

Civil Rights Department
STATE OF CALIFORNIA

CALIFORNIA EMPLOYMENT PROTECTIONS

California law protects people with disabilities from discrimination at work. The law protects:

- Job applicants
- Employees
- Interns
- Volunteers

These protections apply to private employers with five or more employees, and all public employers.

People with disabilities have the right to request reasonable accommodations at work. A reasonable accommodation is a change that makes it possible for a person with a disability to do their job or advance in their career. This can include changing a worksite or workplace rule.

SHOWING THE NEED FOR AN ACCOMMODATION

The person who needs a reasonable accommodation must show they have a disability recognized by the law.[1] Generally, to receive a reasonable accommodation at work, a person must have a mental or physical impairment that limits their ability to do major life activities.

Major life activities are physical, mental, and social activities – including activities that affect a person's ability to work or advance in their career. Examples include:

- Thinking
- Communicating
- Walking
- Lifting and
- Concentrating

A person may request a reasonable accommodation even if their disability is:

- In remission (like cancer)
- Only happens sometimes (like asthma or migraines)
- Can be treated with medications (like using insulin for diabetes)
- Temporary (back injury, broken arm)

REQUESTING ACCOMMODATIONS AND THE INTERACTIVE PROCESS

Employers cannot require people to request accommodations in writing or require them to use specific words. If a person with a disability requests a change to their workplace or working conditions so they can perform the essential functions of their job, it is a reasonable accommodation request. There is no limit on when a person can request an accommodation or how many accommodations a person can request. Accommodations can be requested at any time during employment.

When requesting accommodations, applicants and employees must explain the connection between their disability-related need and their requested accommodation. This means explaining how the accommodation would help them do their job.

Employers must respond promptly to reasonable accommodation requests. After receiving an accommodation request, the employer must start the interactive process.[2] This is an opportunity for the employer and the person with a disability to discuss the request. Whether or not the accommodation can be granted as requested, everyone must participate in the interactive process in good faith and in a way that does not delay the reasonable accommodation process.

Reasonable accommodations may be unique and creative because they respond to a person's specific disability-related needs.

1 Examples of conditions that are not covered under law include conditions that do not limit major life activities, kleptomania (uncontrollable urge to steal) and substance use disorders due to current illegal drug use. However, if a person has a psychoactive substance use disorder limiting a major life activity because of past drug use, but they are no longer using illegal drugs, they may be considered disabled.

2 Cal. Code Regs., tit. 2, § 11069

Live and recorded CRD webinars

- Visit CRD's website to sign up
  - Three webinars each month
  - Wednesdays at 11 AM
  - Held on Zoom
  - Open to anyone
- Each month CRD provides a training on
  - housing,
  - employment, and
  - special topic
- Visit CRD's YouTube channel to watch recorded webinars

Accessibility for people with disabilities

CRD will assist anyone who needs help accessing our services and information, including filing a complaint.

Contact us to arrange an accommodation if you have a disability:

- 800-884-1684
- California Relay Service at 711
- Accommodations@calcivilrights.ca.gov

Services in other languages

CRD offers interpretive services (spoken) and some translation services (written) for people who speak or read languages other than English.

Contact us to request interpretation or translation services:

- 800-884-1684
- California Relay Service at 711
- Contact.Center@calcivilrights.ca.gov