



Disability Discrimination Fact Sheet: Employment

February 2018, Pub. #F109.01

Title I of the Americans with Disabilities Act (ADA) prohibits disability-based discrimination by private employers. Discrimination includes unequal treatment, retaliation and harassment against employees and job applicants with disabilities. It also includes the failure to provide reasonable modifications to an employer's practices, policies or workplace conditions in order to accommodate an employee's or applicant's disability. Provided on page three is a sample letter to request a reasonable accommodation, and on page four is a sample support letter from a treating professional.

The California Fair Employment and Housing Act (FEHA) provides similar protections. Any violation of the ADA is also a violation of state law. However, in some circumstances, state law may provide a higher level of protection than federal law. For example, the ADA covers employers that have 15 or more employees, and FEHA covers employers that have five or more employees.

Provided below are some online resources to learn more about disability discrimination and reasonable accommodations in employment:

- The U.S. Equal Opportunity Commission website: <http://www.eeoc.gov/laws/types/disability.cfm>
- The California Department of Fair Employment and Housing website:
<http://www.dfeh.ca.gov/Employment>
- The Job Accommodations Network website, for information about reasonable accommodations in employment: <http://askjan.org>
- The Legal Aid at Work website, for resources and legal representation: www.legalaidatwork.org.

Self-Advocacy If you believe that you have been discriminated against, you can file an administrative complaint (or "charge") with the federal Equal Employment Opportunity Commission (EEOC), or with the California Department of Fair Employment and Housing (DFEH). You must file an administrative complaint, and obtain a "right to sue letter" from the EEOC or the DFEH, before you can file a lawsuit for disability discrimination in federal or state court. Complaints can be filed with the EEOC within 300 days from the date of discrimination, and with the DFEH within one year from the date of discrimination.

The processes for filing a charge with the EEOC or DFEH are explained on the websites for the EEOC and DFEH at <https://www.eeoc.gov/employees/charge.cfm> and <https://www.dfeh.ca.gov/filing-a-complaint-online/>

The EEOC and DFEH share responsibility for investigating employment discrimination complaints. If DFEH accepts your complaint for investigation and your complaint meets the requirements for filing

with the EEOC, then DFEH will forward your complaint to the EEOC. If you file with the EEOC, it will automatically forward a copy of the complaint to the DFEH.

Litigation Violations of the laws discussed above may also be enforced through private lawsuits. Please be aware that statutes of limitations restrict the timeframe for filing a lawsuit. The deadline for filing a lawsuit may be as short as 90 days from the date of the “right to sue letter” resulting from the EEOC administrative complaint process. If you decide to pursue a lawsuit, you should discuss these deadlines with a private attorney.

If you are seeking less than \$10,000 in money damages, another option is to file a discrimination case in Small Claims Court. The statutes of limitations discussed above will apply. You cannot use a lawyer if you go to

small claims court. A web link to a Disability Rights California publication that explains the process of using Small Claims for discrimination cases can be found at <http://www.disabilityrightsca.org/pubs/520601.pdf>. You can also find information on small claims cases at the California Courts website at <http://www.courts.ca.gov/1062.htm>.

Sample Letter to Request a Reasonable Accommodation

[Date]

Dear [Employer]:

I am writing to request [a] reasonable accommodation[s] for my disability/disabilities. I [am an employee of/am applying for a position at] [Public Entity]. Because of my disability, I need the following accommodations: [list accommodations]. My [physician/psychiatrist/psychologist/therapist/social worker/occupational therapist /other individual (describe)] has deemed these accommodations/modifications necessary in light of my disability. Please see the attached letter from [doctor or professional’s name].

Federal and state law require that employers accommodate employees and applicants who have disabilities. Please respond to this request by [date]. Feel free to contact me at [your phone number and/or e-mail address] if you have any questions. Thank you.

Sincerely,

[Your name] [Your address]

Sample Support Letter from a Treating Professional

[Date]

Dear [Public Entity]:

I am the [physician/psychiatrist/psychologist/therapist/social worker/occupational therapist] for [Name], and am familiar with his/her condition. [S/he] has a disability that causes certain functional limitations. These limitations include [list functional limitations that require the requested accommodation].

[The requested accommodation] is necessary for [Name] to [work at/apply for employment at] [Employer]. [Describe how the accommodation will assist or support the individual].

Thank you for providing this reasonable accommodation for [Name].

Sincerely, [Name and Title]