

Protections for At-Risk Workers

REASONABLE ACCOMMODATIONS

Under the federal Americans with Disability Act (ADA) and the California Fair Employment and Housing Act (FEHA), employers must provide **reasonable accommodations** to employees with a **qualifying disability** which would allow those employees to do their **essential job functions**.

The employer and the requesting employee have a duty to meet and engage in a **good faith interactive process** to determine whether a reasonable accommodations is possible **without undue burden** to the employer.

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REASONABLE ACCOMMODATIONS – What is a qualifying disability?

- COVID-Risk Pre-existing Conditions Likely to Be Qualifying Disabilities
 - ✓ Chronic lung disease
 - ✓ Severe asthma
 - ✓ Serious heart conditions
 - ✓ Conditions that compromise immunity (cancer treatments, immune-deficiencies, organ transplants)
 - ✓ Diabetes
 - ✓ Kidney/liver disease
 - ✓ Hypertension
 - ✓ Severe obesity
 - ✓ Pre-existing mental health diagnoses (anxiety disorder, obsessive compulsive disorder, PTSD)
- COVID-Risk Factors That Are Not Qualifying Disabilities
 - ✓ Age
 - ✓ Living with someone who is at-risk or disabled
 - ✓ Generalized anxiety or nervousness about COVID

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REASONABLE ACCOMMODATIONS- What accommodations is the employer required to provide?

- Types of Possible COVID-19 Accommodations
 - PPE/distancing/other transmission reduction measures recommended by CDC
 - Transfer to vacant position with less contact
 - Telework/distance learning
 - Medical leave
- Mandatory Interactive Process
 - The employer must meet with requesting employee and their representative in an "interactive process," to discuss all possible options and alternatives for reasonable accommodations. If the employer denies any accommodations, it must provide reason why all possible accommodations are an "undue burden" on the employer.

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OTHER AVAILABLE LEAVES, PROTECTIONS AND OPTIONS

- Regular Sick Leave & Differential Pay
(Education Code § 44977-44978)
- Workers Compensation
- Family Medical Leave Act/California Family Rights Act
- Families First Coronavirus Response Act (FFCRA)