

# Deputy Directive

Number: DD-42-R3

*Refer to*

Director's Policy: DP-01-R1  
Equal Opportunity  
DD-48  
Reasonable Accommodation

Effective Date: September 2004

Supersedes: DD-42-R2  
(01-01-1999)

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**TITLE** Americans with Disabilities Act (ADA) and State Disability Laws  
**POLICY**

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The California Department of Transportation (Department) makes every effort to ensure equal employment opportunities for employees and applicants, including those with a disability, by providing access opportunities to departmental programs, services, and activities. The Department considers the accessibility needs of customers with disabilities to enable participation in all departmental programs, services, and activities available to the public. The Department, with its partners, identifies accessibility deficiencies and addresses those over which the Department has control.

## DEFINITION/BACKGROUND

Americans with Disabilities Act of 1990 [42 U. S. C. 12131] - Requires accessible services and facilities to all employees and specifies requirements to provide reasonable accommodation to all qualified customers and employees with disabilities.

Reasonable Accommodation - A logical adjustment made to a job or work environment that allows a qualified person with a disability to participate in any and all aspects of the Department's employment process and in all work-related activities and functions.

California Fair Employment and Housing Act (FEHA) [Government Code 12900] - Exclusively governs processes for defining a person with a disability in California. FEHA, while offering greater protection and accessibility to persons with disabilities, has precedence over the federal act according to Section 501 of the ADA of 1990.

Authority and direction for accessible service and facilities include the following:

- Civil Rights Act of 1991
- Rehabilitation Act of 1973, Section 504
- Civil Rights Act of 1964, Title VI and Title VII

- ADA of 1990, Section 501
- Fair Employment and Housing Act

Disability Advisory Committee (DAC) [Government Code 19795 (a)] - This advisory body is an active infrastructure that provides guidance to the Department. It reviews policies and procedures on a continual basis and identifies potential Department barriers that impede the full participation of individuals with disabilities.

Disability [Government Code 12926 (k)] - In California, FEHA has established the definition of a person with a disability as someone:

- With any physical, mental impairment, or medical condition that limits one or more major life activities; or
- Who has a record of said impairment or medical condition; or
- Who is perceived by others as having an impairment or medical condition.

Disability may include, but is not limited to:

- Persons with identified genetic markers or having a history of cancer.
- The inability to perform one's usual and customary work if it is a limitation to a major life function.
- A condition, which is permanent or long term in duration and provides such limitation to a "major life activity." FEHA directs that "major life activity" shall be considered in determining a disability.

Mitigating Measures - Mitigating measures are not considered in determining whether a condition "limits" a major life activity, unless the mitigating measure itself limits a major life activity. These measures may include, but are not limited to, assistive devices, glasses, hearing aids, prosthesis, medication, wheelchairs, therapy, etc.

Major life activity includes such basic functions as walking, talking, thinking, seeing, hearing, reading, writing, ability to care for oneself, social functioning, and working.

Employees are all persons who work for the Department including civil service, temporary, emergency, limited-term, seasonal, exempt, retired annuitant, special employment, and personal services contract employees.

Customers are all persons participating in the Department's programs, services, and activities. In this case, it refers to such customers who are persons with disabilities as defined by the FEHA statute, and users of the Department's services, such as employees of other State and local government entities, as well as the public.

Applicants are all persons who seek employment with the Department.

*RESPONSIBILITIES*

Chief, Office of Equal Opportunity:

- Appoints and supervises the activities of the “responsible individual” for the Department, as required by Title II of the Act.
- Supervises the coordination of the evaluation of all Department programs, facilities, and services for compliance with the Department’s ADA Self-Evaluation and Transition Plans.
- Provides technical assistance for deputy directors, district directors, division chiefs, and program managers regarding ADA and disability issues.
- Ensures the proper processing of formal discrimination complaints in accordance with the Discrimination Complaint Investigation Unit (DCIU) Investigation Procedures Manual.

Deputy Directors, District Directors, Division Chiefs, and Program Managers:

- Make every effort to ensure employees and customers are provided access to departmental programs, services, and activities in accordance with the Department’s ADA and State Disability Laws Policy.
- Consider employees’ and clients’ accessibility needs when developing processes and procedures within their specific area.
- Determine accessibility priorities, in consultation with the Disability Advisory Committee, and allocate resources for inclusion of the ADA Transition Plan identified needs in accordance with mandated requirements.
- Make every effort to ensure managers and supervisors are trained about employees’ and customers’ accessibility needs and rights.
- Make every effort to ensure employees are trained about disability laws and issues.
- Follow procedures as established in the Equal Opportunity Plan, the ADA/Section 504/Disability Program Plan guidelines, and the Reasonable Accommodation guidelines.

Managers and Supervisors:

- Make every effort to ensure employees’ known accessibility needs are met to enable full participation and equal employment opportunities in the workplace.
- Make every effort to identify and remove accessibility barriers to programs and services in accordance with ADA guidelines and state law.
- Understand and apply the requirements of the ADA and other disability-related civil rights laws for provision of services to the public.

The ADA/Section 504 Disability Program Coordinator:

- Coordinates and supervises the ADA/Section 504 Disability Compliance Program and serves as the departmental resource for related issues.
- Monitors implementation of the ADA Program as established in the Department's Equal Opportunity Plan and the ADA/Section 504 Disability Program Plan.
- Is the "responsible individual," as required by Titles 28 and 49 Code of Federal Regulations and the Title II Technical Assistance Manual for complaints from employees and customers concerning access to services and facilities.
- Administers the ADA liaison program, which serves employees, managers and supervisors, and customers regarding accessibility and disability issues.
- Refers informal and formal complaints to the Office of Equal Opportunity's Intake Officer to begin the complaint process.

The District Equal Employment Opportunity Officers:

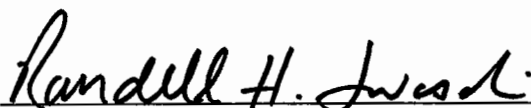
- Serve as a liaison between employees, managers and supervisors, and clients regarding accessibility and employment issues.
- Serve as a resource on disability program and policy issues.
- Conduct discrimination complaint intake activities, and assist the DCIU in facilitating investigations as required and/or directed by the Equal Employment Staff Guide and/or the DCIU Investigation Procedures Manual.

Employees:

- Identify and report any known accessibility deficiencies to their immediate supervisor.
- Request any needed reasonable accommodation with appropriate documentation in a timely manner, according to the Reasonable Accommodation Policy and Guide (see DD-48).

*APPLICABILITY*

All departmental employees, applicants, and customers.



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Interim Director



Date Signed