

## **PERB Regulation 32142**

### **Requests for Accommodations for Persons with Disabilities**

In proceedings where an Applicant is a person with a disability, as defined herein, and is requesting an accommodation either at the informal conference, prehearing conference, formal hearing or any other investigatory or adjudicatory proceeding before the Board, the Applicant shall be responsible for requesting accommodations.

(a) "Persons with disabilities" means individuals covered by California Civil Code section 51 et seq.; the Americans With Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.); or other applicable state and federal laws. This definition includes persons who have a physical or mental impairment that limits one or more of the major life activities, have a record of such impairment, or are regarded as having such an impairment.

(b) "Applicant" means any lawyer, party, witness, or other person with an interest in attending or participating in any proceeding before the Board.

(c) "Accommodations" means actions that result in services, programs, or activities being readily accessible to and usable by persons with disabilities. Accommodations may include making reasonable modifications in policies, practices, and procedures; furnishing, at no charge, to persons with disabilities, auxiliary aids and services, equipment devices, materials in alternative formats, readers, or certified interpreters for persons with hearing impairments; relocating services or programs to accessible facilities; or providing services at alternative sites. Although not required where other actions are effective in providing access to Board services, programs, or activities, alteration of existing facilities by the Board may be an accommodation.

(d) Process for Requesting Accommodations

The process for requesting accommodations is as follows:

- (1) Requests for accommodations may be presented ex parte on a form provided by the Board, in another written format, or orally. Requests must be submitted to the ADA Coordinator, within the time frame provided in (d)(3). Requests for accommodation made by a party seeking to continue a scheduled informal conference, prehearing conference, or a formal hearing, or placing the case in abeyance, may be submitted to the board agent assigned to the matter.
- (2) Requests for accommodation must include: (1) the name of the case, (2) the case number, (3) a description of the accommodation sought, and (4) a statement of the impairment that necessitates the accommodation. The Board, in its discretion, may require the applicant to provide additional information about the impairment.

- (3) Requests for accommodation must be made as far in advance as possible, and in any event, must be made no fewer than 30 days before the requested implementation date. The Board may waive this requirement for good cause.
- (4) The Board will keep confidential all information of the Applicant concerning the request for accommodation unless confidentiality is waived in writing by the applicant, disclosure is required by law, or to ensure the fairness of the proceeding. The Applicant's identity and confidential information will not be disclosed to the public or to persons other than those involved in the accommodation process, including the Board agent who will be responsible for overseeing or implementing the accommodation. Confidential information includes all medical information pertaining to the Applicant, and all oral or written communication from the Applicant concerning the request for accommodation.
- (5) Permitted communication under this rule must address only the accommodation requested by the applicant and must not address, in any manner, the subject matter or merits of the case proceedings before the Board.

(e) Response to Accommodation Request

The Board will respond to a request for accommodation by informing the Applicant in writing, as may be appropriate, in an alternative format, of the following:

- (1) That the request for accommodation is granted or denied, in whole or in part, and if the request for accommodation is denied, the reason therefore; or that an alternative accommodation is granted; and
- (2) The nature and duration of the accommodation to be provided, if any.

(f) Denial of Accommodation Request

A request for accommodation may be denied only when the Board determines that:

- (1) The applicant has failed to satisfy the requirements of this regulation;
- (2) The requested accommodation would create an undue financial or administrative burden on the Board; or
- (3) The requested accommodation would fundamentally alter the nature of the service, program, or activity provided by the Board.

(g) Review Procedure

An Applicant in which an accommodation request has been granted or denied may seek review of a determination made by the ADA Coordinator or the assigned Board agent

within 10 business days of the date of the response by submitting, in writing, a request for review to the General Counsel or Chief Administrative Law Judge.

(h) Duration of Accommodations

The accommodation by the Board must be provided for the duration indicated in the response to the request for accommodation and must remain in effect for the period specified unless (1) the Applicant requests that the accommodation be terminated, (2) the Applicant requests and the Board approves a modification to the accommodation, or (3) the Board agent determines that, in practice, the accommodation has resulted in the circumstances described in subsection (f)(2) or (f)(3) of this Regulation. The Board may provide an accommodation for an indefinite period of time for a limited period of time, or for a particular matter or appearance.