

CHAPTER 8
DISABILITY SERVICES PROGRAM
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CHAPTER 8

DISABILITY SERVICES PROGRAM

1. INTRODUCTION.

The purpose of the Disability Services Program (DSP) is to provide members of the public, applicants, and employees who have disabilities with equal opportunity, access, and participation in all programs, activities, and services provided by the Department. This includes all aspects of recruitment, examination, selection, training, promotion, and other benefits and privileges extended through employment.

a. Objective. The Department's DSP has two major objectives to ensure compliance with federal and state laws regarding persons with disabilities:

(1) To reach, attract, employ, and retain qualified persons with disabilities to the Department at a level commensurate with their representation in the California labor force.

(2) To ensure all persons with disabilities have equal access to any programs, services, and activities under the jurisdiction of the Department for which they are eligible.

2. POLICY.

It is the policy of the Department to provide persons who have disabilities with equal employment opportunity and equal access to programs, activities, and services which must be as effective in affording equal opportunity to obtain the same result, gain the same benefit, or reach the same level of achievement as those provided to others. All practices, applications, and conditions of the Department's Equal Employment Opportunity (EEO) Program shall include and apply to persons with disabilities.

As the Office of Primary Interest, the Equal Opportunity & Access Section (EOAS) oversees the DSP to ensure members of the public, applicants, and employees with disabilities are provided equal opportunity, access, and participation in all programs, activities, and services provided by the Department.

Members of the public, applicants, and departmental employees may request assistance regarding access to programs, activities, and services by contacting the EOAS, Americans with Disabilities Act (ADA) Coordinator at (916) 843-3190.

3. SUBSTANCE USE OR ABUSE.

a. In compliance with law, the Department is required to ensure the workplace is free from the illegal use of controlled substances, other drugs, and alcohol. The Department prohibits employees from using, possessing, or being under the influence of illegal or unauthorized drugs or other illegal mind-altering substances, or from being under the influence of alcohol to any extent that would impede an employee's ability to perform their duties safely and effectively.

b. An individual with an alcohol use disorder or who is recovering from an alcohol use disorder (commonly known as alcoholism) may under certain circumstances be considered disabled under the ADA. However, the Department may discipline, terminate, or deny employment to an individual with an alcohol use disorder whose use of alcohol adversely affects their job performance or conduct to the extent they are no longer qualified.

4. ELEMENTS OF THE DISABILITY SERVICES PROGRAM.

a. The following comprises the Department's Disability Services Program:

(1) Reasonable Accommodation. Refer to HPM 10.12, Equal Employment Opportunity Manual, Chapter 9, Accommodation Services.

(2) Hiring Persons with Disabilities.

(3) Limited Examination and Appointment Program (LEAP).

(4) Advisory Committee for Persons with Disabilities (ACPD).

(5) Accessibility – Members of the Public.

5. HIRING PERSONS WITH DISABILITIES.

The Department is responsible for ensuring efforts are made towards the recruitment, hiring, and retention of persons with disabilities. Pursuant to California Government Code (GC) Section 19232, if the Department does not meet disability parity in the workforce, the Department will be required to establish and implement an effective affirmative action program to ensure that individuals with a disability, who are capable of employment, have access to positions in state service on an equal and competitive basis with the general population.

a. Pre-employment Inquiries. Federal and state law prohibits the Department from making inquiries into a person's medical status/history prior to making a

conditional offer of employment. For additional information regarding the hiring policy refer to HPM 10.3, Personnel Transactions Manual, Chapter 2, Nonuniformed Hiring and Appointments.

b. Reasonable Accommodation. Under the ADA and the California Fair Employment and Housing Act, the Department is required to provide reasonable accommodation to the known physical and/or mental disabilities of qualified applicants and employees with a disability. This includes applicants, candidates, and incumbent employees, for all classifications utilized by the Department, unless doing so would impose an undue hardship. For information on reasonable accommodation refer to HPM 10.12, Chapter 9.

c. Testing Persons with Disabilities.

(1) Persons with disabilities are encouraged to test and apply for positions within the CHP. A qualified individual with a disability has the option to take a state test to obtain eligibility on a hiring list, and/or work with the California Department of Rehabilitation to obtain certification on a Limited Examination and Appointment Program (LEAP) hiring list. LEAP is a voluntary, competitive, and alternative method of hiring persons with disabilities. For more information regarding LEAP see section 6 of this chapter.

(2) If an applicant requires special testing arrangements due to a disability or medical condition, they may request a reasonable accommodation by contacting the agency administering the test as referenced on the official copy of the examination bulletin for the position in which the applicant is testing for. The Department shall make every reasonable effort to accommodate.

The applicant is required to submit their request for a reasonable accommodation in advance to allow the Department a reasonable amount of time to explore and implement accommodations.

d. Interviewing Persons with Disabilities.

(1) When a qualified individual with a disability is notified they have been selected to interview for a position for which they have applied, they may request a reasonable accommodation due to a disability or medical condition. The Department shall make every reasonable effort to accommodate.

(2) If a qualified individual with a disability is selected for the position for which they interviewed, they may request a reasonable accommodation to assist them with performing the essential functions of their position. The Department shall make every reasonable effort to accommodate.

6. LIMITED EXAMINATION AND APPOINTMENT PROGRAM.

a. General. The LEAP is a voluntary, competitive, and alternative method of hiring persons with disabilities for state employment. The process begins with an initial assessment of minimum qualifications and a secondary on-the-job evaluation, called a Job Examination Period (JEP). During the JEP, LEAP candidates are assessed on job-specific related criteria which requires performance of the essential functions of the job and qualifies for permanent appointment to state civil service.

The Department shall make LEAP appointments to vacant positions consistent with merit selection rules. Any job classification may be designated as a LEAP-certified classification and shall have the same qualifications as the parallel (non-LEAP) classification.

(1) To become an eligible LEAP candidate, persons must be certified by the Department of Rehabilitation and have their LEAP certificate information entered into the CalHR database. Once approved, the candidate may enter the program through the following steps:

- (a) Take one or more LEAP examinations (also known as a Minimum Qualifications Assessment or Readiness Evaluation) to obtain list eligibility.
- (b) Apply for job openings.
- (c) Complete the JEP if selected by the hiring department.

b. Job Examination Period.

(1) Eligible LEAP candidates applying for positions within the Department will compete with non-LEAP applicants. A LEAP applicant who has been selected to move forward in the hiring process shall be appointed by the Department as a limited-term appointment for a period not to exceed one year, except in the case of permissible absences.

(2) Once the candidate is hired, the Selection Standards and Examinations Section (SSES) will notify the hiring manager and the EOAS LEAP coordinator of the new hire's LEAP status.

(3) The EOAS will contact the newly hired LEAP candidate and the hiring manager to explain the JEP process and evaluations which are to be completed on the CalHR Form 273, Job Examination Period Evaluation. The EOAS will also provide a memorandum addressed to the LEAP candidate's commander. This memorandum will provide information regarding the JEP process and will identify due dates for each JEP evaluation. Prior to the

commencement of the JEP, the candidate shall be provided a copy of their duty statement and the evaluation standards applicable during the JEP.

(4) During the JEP, the supervisor shall complete a CalHR 273 no less than once every four weeks, regardless of time base. A copy of the completed and signed CalHR Form 273 shall be provided to the EOAS. A copy of the signed CalHR Form 273 shall be provided to the LEAP candidate and retained in their confidential medical file for five years.

(5) The length of a JEP for a full-time LEAP classification shall be the same as the probationary period of the parallel non-LEAP classification. The length of a JEP for a part-time or intermittent basis shall be based on the total hours worked. A LEAP-certified classification with a six-month JEP shall be 840 hours total and a LEAP-certified classification with a 12-month JEP shall be 1,680 hours total. If the position has an intermittent time base and the classification has a one-year probation period, the Department may allow the candidate to work in excess of the 1,500-hour working limitation during the JEP within 12 consecutive months where there is availability of work and funds. Hours worked toward completion of the JEP must be physically worked. Time off from work shall not be counted as time worked.

(6) The Department shall only extend or shorten the JEP when approved by the CalHR under the following:

(a) Extending the durations of the JEP shall only be considered based on permissible absences.

(b) Shortening the duration of the JEP is allowed when the candidate has demonstrated the ability to perform all duties. Reasons to shorten the JEP shall be requested via email to the EOAS. In no event may a LEAP candidate serve less than three quarters of the JEP.

(7) The EOAS will notify the Human Resources Section (HRS) and the SSES of the candidate's appointment to a permanent civil service status. Candidates transitioned to a permanent civil service appointment after the JEP are not required to serve an additional probation period.

c. Unsuccessful Completion of the Job Examination Period.

(1) The LEAP candidate may be terminated if the candidate: fails to meet conditions for appointment; fails to satisfactorily demonstrate the level of knowledge, skill, and ability required; for other reasons relating to the candidate's qualifications; for good of the service; or for failure to demonstrate merit, efficiency, fitness, including medical condition, or moral responsibility.

(2) If the LEAP candidate is unable to satisfactorily perform the duties of the position, the employee may be terminated during the JEP, or no later than 30 days following the completion of the JEP. The hiring command may contact the EOAS for guidance on procedures regarding termination of a LEAP candidate. The hiring command shall provide the LEAP candidate with a written notice of termination at least five working days prior to the effective date of the termination.

(3) Once the LEAP candidate has been notified of their unsuccessful completion of the JEP, the EOAS will immediately notify HRS and SSES of the candidate's final day with the Department to terminate their limited-term appointment. The EOAS will retain the written notice for five years.

(4) Failure to terminate the appointment of a LEAP candidate within 30 days after the end of the JEP will result in a presumption that the candidate satisfied the JEP job-specific related criteria.

NOTE: In the event of termination, it is important to ensure the LEAP candidate was given a fair chance to succeed. Commanders must ensure any performance deficiencies and action taken to correct them, including reasonable accommodation, are thoroughly documented on the CalHR 273. LEAP candidates who are terminated have the same rights of appeal that other state employees have.

d. Salary and Benefits. A LEAP candidate receives the same salary, health, dental, vision, and leave benefits as other state employees in limited-term positions. Candidates hired through the LEAP process receive the same general salary adjustments as those hired through non-LEAP processes. Time spent in the JEP counts as time served in the classification.

e. Bargaining Unit Designation. All candidates hired through the LEAP process shall be placed in the appropriate bargaining unit of the civil service classification and receive the same employment rights and privileges pursuant to the appropriate memorandum of understanding.

f. Confidentiality. Employees authorized to access information regarding a candidate's participation in LEAP shall be limited to those whose official duties require they process or review such records. Duty statements, electronic communications, and any other written or verbal communications shared with unauthorized staff, or documents included in Official Personnel Files, shall not include references to LEAP candidates or make a distinction to identify such individuals. All documents pertaining to LEAP will be maintained in the individual's confidential medical file.

g. Retention. All LEAP documents shall be retained in the candidate's confidential medical file and the EOAS for five years.

h. Reasonable Accommodation. All LEAP candidates may request and receive a reasonable accommodation during the JEP in accordance with HPM 10.12, Chapter 9, Accommodation Services.

7. ADVISORY COMMITTEE FOR PERSONS WITH DISABILITIES.

a. General. Pursuant to GC Section 19795(b), the Department established the ACPD to serve in an advisory capacity to the Office of the Commissioner on issues of concern to employees with disabilities and matters relating to improving the representation of individuals with a disability in its workforce.

b. Responsibilities. The ACPD collaborates with the Department's EEO Officer and the EOAS in the following:

- (1) Assisting the Department in EEO planning regarding the employment of persons with disabilities within the Department, to include identifying best practices to recruit, hire, and retain persons with disabilities.
- (2) Supporting organizational culture to cultivate an inclusive workplace.
- (3) Promoting departmental awareness of accessibility and reasonable accommodation policies.
- (4) Identifying training needs and resources for managers and supervisors to increase sensitivity and awareness of issues relevant to persons with disabilities.
- (5) Assisting employees with disabilities in achieving career goals by providing guidance to internal and external resources such as newsletters.
- (6) Articulating concerns and perceptions expressed by persons within the disability community and employees with disabilities regarding applying to or working for the Department.
- (7) Reviewing the Department's workforce data regarding hiring activities designed to achieve the representation of individuals with a disability to provide ongoing advice in the formulation and implementation of departmental plans to overcome and correct any underrepresentation as determined by the most current parity rate established by CalHR.

c. Composition. The ACPD is comprised of a minimum of 11 members including a chairperson and vice-chairperson. The ACPD members serve two-year

staggered terms, are required to attend scheduled meetings, and work on designated projects as assigned. The chairperson and vice-chairperson are elected by the members on an annual basis and serve in those roles for one year, but may be reelected for one subsequent additional year.

d. Meeting Schedule. The Office of the Commissioner holds an annual meeting with the ACPD to discuss the mission and vision of the committee prior to the start of each fiscal year. The EEO Officer may represent the Office of the Commissioner during the annual meetings. The ACPD conducts meetings each quarter, and the meeting are posted on the CHP Intranet site.

e. Bylaws. The ACPD has established bylaws, which can be found on both the EOAS's Intranet site and Internet site. The bylaws formalize the ACPD's purpose, the requirements for membership, and the committee member's titles and responsibilities, along with how the members will be assigned, how often meetings will be held, and how the meetings will be conducted, subject to the Bagley-Keene Open Meeting Act as set forth in GC Sections 11120-11132.

f. Disabilities Awareness Award.

(1) The Disability Awareness Award (DAA) is presented to a departmental employee each year for performing an act, or acts, which supports, enhances, or assists persons with disabilities. The DAA serves to promote ACPD's mission to bring awareness of persons with disabilities both inside and outside of the Department.

(2) Each October the EOAS will submit a Comm-Net requesting nominations for the DAA from Division commanders to recognize employees whose personal performance, whether on duty or off, support, enhance, and/or assist persons with disabilities. All employees of the Department are eligible to receive this award. Examples of employee activities which support a nomination may include, but are not limited to:

(a) Actions taken to improve the Department's efforts to hire persons with disabilities.

(b) Actions taken to improve access for persons with disabilities to the Department and its operations.

(c) Actions taken to provide volunteer community service to assist legitimate causes designed to help persons with disabilities.

(3) The nominations sent from commands should include:

(a) Employee information of the nominee such as full name, ID number, classification title, and assigned location.

(b) A detailed explanation of the nominee's actions which prompted the nomination to be made.

(4) The EOAS will present the nominations to the ACPD for their recommendations to the Office of the Commissioner. The award recipient is then selected by the Commissioner and is awarded a CHP 123, Certificate of Commendation. Refer to HPM 150.1, Departmental Awards Manual.

8. ACCESSIBILITY—MEMBERS OF THE PUBLIC.

a. General. No member of the public shall be denied the right to participate, or be limited from participating, in any activity simply because that person has a disability. The Department shall operate programs, activities, and services so they are readily accessible and usable by persons with disabilities. Accessibility to members of the public may include physical access, communication access, or digital access.

(1) The Department is required to make reasonable modifications in policies, practices, and procedures to allow access for persons with disabilities, unless doing so would result in a fundamental alteration to a program or service, or an undue burden. The programs and services must be provided in an integrated setting, unless separate or different measures are necessary to ensure equal opportunity. A person with a disability has the right to choose to participate in the regular program even when separate programs are available.

(2) The Department will not place a surcharge on persons with disabilities to cover the costs of measures necessary to ensure nondiscriminatory treatment, such as making modifications required to provide program accessibility or providing qualified interpreters.

(3) Persons with disabilities are not required to accept a special accommodation or benefit provided by the Department if the person chooses not to accept it.

(4) The Department may provide special benefits beyond those required by law to persons with disabilities.

(5) The Department may not discriminate against persons with disabilities through contracts or other arrangements.

b. Physical Access.

(1) The Department is required to follow specific architectural standards in the new construction and alteration of their buildings. The Department must relocate programs or provide access to older buildings that are inaccessible and provide clear communication to people who have hearing, vision, or speech disabilities. The Department is not required to take actions that would result in undue financial and administrative burdens. Reasonable modifications to policies, practices, and procedures are required where necessary to avoid discrimination, unless it can be demonstrated that doing so would fundamentally alter the nature of the service, program, or activity being provided.

(2) The Department shall provide equal access to all members of the public and include access to service animals which may be required by a person to assist with their disability. The Department shall allow service animals to accompany people with disabilities in all areas where the public is allowed access.

(a) For the purposes of paragraph 8, service animals are defined as dogs or other animals that are individually trained to do work or perform specific tasks for an individual with disabilities. The tasks performed by the service animal must be directly related to the person's disability. Examples of such work or tasks include guiding people who are blind, alerting people who are deaf, pulling a wheelchair, alerting and protecting a person who is having a seizure.

(b) Under the ADA, comfort animals, emotional support animals, or pets do not qualify as service animals, unless they have been trained to identify an onset of a medical condition and take specific action to avoid or lessen the impact of a medical condition.

(c) A support dog, or other animal, provides emotional, cognitive, or other similar support to a person with a disability, including, but not limited to, traumatic brain injuries or mental disabilities, such as major depression, and may constitute a reasonable accommodation in certain circumstances. As in other contexts, what constitutes a reasonable accommodation requires and individualized analysis reached through the interactive process.

(d) When it is not obvious what service an animal provides, only limited inquiries are allowed. Pursuant to ADA guidelines, departmental employees, including supervisors and managers, shall only ask two questions:

1 Is the service animal required because of a disability?

2 What work or task has the service animal been trained to perform?

(e) Departmental employees shall not ask about the person's disability, nor ask that the service animal demonstrate its ability to perform the work or task. Nor shall employees require medical documentation, a special identification card, or training documentation.

(f) Persons with disabilities who use service animals cannot be isolated from other persons, treated less favorably than other persons, or charged fees that are not charged to other persons without animals.

(g) A person with a disability cannot be asked to remove their service animal from the premises unless the service animal is out of control and the handler does not take effective action to control it, or the service animal is not housebroken. When there is a legitimate reason to ask that a service animal be removed, departmental employees must offer the person with the disability the opportunity to obtain goods or services without the animal's presence.

(h) More information may be found at www.ADA.gov.

c. Communication Access. The Department is required to ensure that its communication with persons with disabilities is as effective as its communication with persons without disabilities. The Department must make available appropriate auxiliary aids and services, such as qualified sign language interpreters, communication access realtime translation (CART) services, note takers, telecommunication services, readers, Braille, and large print materials. The Department is prohibited from charging a person with a disability for the use of an auxiliary aid.

(1) The Department is required to provide access to telecommunication services to persons with hearing and speech impairments.

(a) Teletypewriter (TTY) and California Relay Service (CRS) telephone numbers shall be placed on job announcements, examination bulletins, correspondence, memoranda, and other departmental materials which provide a telephone number.

(b) A TTY is a telecommunications device for the deaf and hard of hearing. A TTY relay service, such as the CRS can be reached by anyone by dialing 711 from a telephone or TTY. The 711 feature is available nationwide to access non-internet-based relay services such as a TTY relay services, speech-to-speech relay services, voice carry over TTY, and hearing carry over TTY relay services. The TTY service communication assistant connects TTY relay calls with people who communicate by telephone, converting voice-to-text and text-to-voice communication,

providing 24-hour service. The TTY relay services/CRS can be accessed by dialing 711, or 1-800-735-2929 (TTY) or 1-800-735-2922 (Voice).

(c) The Department is required to provide access to telephone emergency response services for persons with hearing and speech impairments, as referenced in HPM 60.1, Communications Operations Manual, Chapter 4, Call Answering.

(2) The Department may need to provide sign language interpreters and readers to persons with hearing, speech, and/or vision impairments during events and law enforcement contacts.

(a) Sign Language Interpreters. Interpreters must be qualified, which means the person must be able to effectively, accurately, and impartially interpret both receptively and expressively, using any necessary specialized vocabulary. There are three factors the Department should consider when determining whether a sign language interpreter is needed for people who are deaf or hard-of-hearing:

- 1 The context in which the communication is taking place.
- 2 The number of people involved.
- 3 The importance of the communication.

The Department shall provide a sign language interpreter during any criminal or quasi-criminal investigation unless the person affirmatively indicates they do not need or cannot use the interpreter.

Contact the EOAS for assistance in providing sign language interpreters for members of the public in nonemergency situations. For applicant and employee requests, refer to HPM 10.12, Chapter 9, Accommodation Services. Members of the public may utilize “text-to-911” or the CRS in emergencies, and all communication operation centers are equipped with the TTY function when answering calls. Please refer to HPM 60.1, Chapter 4.

(b) Communication Access Realtime Translation services. The Department shall provide CART services when requested. CART is a service similar to court reporting in which a transcriber types what is being said at a meeting or event into a computer that projects the words onto a screen. This service, which can be provided on-site or remotely, is particularly useful for people who are deaf or have hearing loss but do not use sign language.

(c) Readers. The Department should provide readers or reading devices to individuals with vision impairments who want to review public documents, examine public records, or fill out CHP forms. Providing a reader does not mean the Department must create and fill a new job classification. The Department can meet its obligation by having a departmental employee assist the person when necessary, by reading forms or applications when they come into the office or provide information over the telephone.

(d) Alternative Formats for Printed Materials. Written communication (e.g., public service pamphlets, recruitment materials, accident reports) provided by the Department to persons with visual impairments shall be as effective as the written communication provided to persons without visual impairments. The Department shall provide printed materials normally available to members of the public in alternative formats.

1 The Department shall take the necessary steps to provide printed materials in accessible formats. This includes, but is not limited to, providing printed materials in large print from an office copy machine, using a recording device to record the written information and providing the person a copy of this format, or obtaining Braille writing service and to have the information transcribed Braille format.

2 Printed materials shall be provided to all persons. Persons shall not be dissuaded from taking materials based on the assumption they cannot utilize the information.

(3) Digital Access. Under GC Section 7405, the Department must adhere to Section 508 of the federal Rehabilitation Act of 1973. The Department shall provide all persons with disabilities, including members of the public and employees, with access to electronic documents and information that is comparable to the access of persons without disabilities, unless an undue burden would be imposed on the Department by doing so. For more information regarding internet content, please refer to HPM 40.4, Information Security and Administration Manual, Chapter 4, Intranet/Internet.

d. Americans with Disabilities Act Coordinator. The Department shall appoint an ADA coordinator who is located in the EOAS. The ADA coordinator is essential to effective implementation of the ADA. The Department shall make the name, office address, and telephone number of the ADA coordinator readily available to all interested persons on the CHP's Intranet and Internet.

e. Americans with Disabilities Act Notice of Compliance and Grievance Procedure. In accordance with the requirements of Title II of the ADA, the CHP shall not discriminate against individuals with disabilities on the basis of disability in

its programs, activities, and services. In addition, the Department shall provide procedures for filing an ADA Grievance. The Department has created one poster to include the ADA Notice of Compliance and ADA Grievance Procedure, which shall be posted in a conspicuous place for applicants, employees, and members of the public to view. This notice shall also be posted in all CHP commands as well as on the CHP's Intranet and Internet.