



California's protection & advocacy system

Discrimination Fact Sheet: Testing and Licensing Accommodations

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The Americans with Disabilities Act and other state and federal laws prohibit disability-based discrimination by any private, state, or local government entity that offers examinations related to applications, licensing, or professional certification. This means that entities who offer such examinations must ensure equal access to people with disabilities and provide appropriate testing accommodations. These requirements apply to academic entrance exams like the SAT, MCAT, or GRE, as well as to professional licensing exams like the California Bar Examination.

Testing accommodations include both physical changes to the testing environment, as well as auxiliary aids and services such as Braille or large-print exam books, screen reading software, or ASL interpreters. Other examples of testing accommodations include extra time for the exam, access to food or medicine during the exam, or distraction-free testing rooms. The goal is to ensure that a person with a disability has an opportunity to demonstrate their true aptitude or achievement level on the exam, rather than their disability. However, test providers are not required to approve testing accommodations that would fundamentally alter the nature of the exam or that would assist with a skill the exam is designed to measure.

You can find more information about testing accommodations here:

U.S. Department of Justice website:

- Testing & Licensing fact sheet:
https://www.ada.gov/regs2014/testing_accommodations.html

- Information on the Rights of Persons with HIV/AIDS to obtain occupational Training and State Licensing:
https://www.ada.gov/qahiv aids_license.pdf

The Job Accommodations Network website:

- Information available accommodations:
<https://askjan.org/topics/test.cfm>

Obtaining Testing and Licensing Accommodations

These are the steps to take to obtain accommodations on a testing or licensing exam or application:

1. Write a request for accommodations. Your request should explain the following:
 - that you are a person with a disability (you do not need to disclose the name of your disability);
 - the ways in which your disability affects your ability to perform on the exam;
 - the specific testing accommodations (modifications / auxiliary aids and services) you need; and
 - the date by which you expect a response.
2. Obtain documentation to support your need for accommodations. Documentation can be either:
 - documents showing you have a history of accommodations in similar exam situations; or
 - a support letter from your doctor or other treating professional. This letter should explain why you need the requested modification because of your disability.
3. Send your written request and supporting documents to the test provider.

A sample letter requesting accommodations and a sample support letter are at the end of this fact sheet. You may also use forms that are provided by a testing or licensing agency.

Testing and licensing agencies should respond to requests for accommodations in a timely manner. They may ask you for additional information about your need for accommodations, but such requests must be reasonable and limited to the need for the requested testing accommodations. If a testing or licensing agency asks you to provide more information than is necessary to determine the need for the requested accommodation, you do not have to provide that information.

Administrative Complaints

Public Entities:

If you believe that you have been discriminated against by a state or local government entity, you can file an administrative complaint with the U.S. Department of Justice (DOJ) under federal law, or with the DFEH under state law. Complaints must be filed with the DOJ within 180 days of the discriminatory conduct. Complaints must be filed with DFEH within one year of the discriminatory conduct. Contact information for the DOJ and the DFEH is below.

Private Entities:

If you believe that you have been discriminated against by a private testing company, you can file an administrative complaint with the DOJ under Title III of the ADA, or with the DFEH under state law. DFEH complaints must be filed within one year of the discriminatory conduct. You can appeal a DFEH decision to the DFEH Director within 10 days of the decision. See 2 C.C.R. Section 10033.

Title III complaints can be filed with the DOJ at any time. However, it is best to file as soon as possible, because the passage of time can make discrimination more difficult to prove. Contact information for the DOJ and the DFEH is below.

Contact Information DOJ and DFEH:

DOJ Complaints:

U.S. Department of Justice
Civil Rights Division

950 Pennsylvania Avenue, N.W.
Disability Rights Section – 1425 NYAV
Washington, D.C. 20530

Online Filing: https://www.ada.gov/filing_complaint.htm

Phone: (800) 514-0301

TTY: (800) 514-0383

DFEH Complaints:

Online Filing: <https://www.dfeh.ca.gov/filing-a-complaint-online/>

Phone: (800) 884-1684

TTY: (800) 700-2320

Mail: Call (800) 884-1684 and request the appropriate complaint form to print and return. Please allow additional time for mail and processing.

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 litigation, and that you could potentially lose claims if you do not act within the applicable statute of limitations. These deadlines can be as short as two years from the date of discrimination.

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. Here is a link to a Disability Rights California publication that explains the process of using Small Claims for discrimination cases:

<https://www.disabilityrightsca.org/publications/a-guide-to-small-claims-court-how-to-sue-if-a-business-or-landlord-discriminates>

Additionally, the Government Tort Claims Act requires that a government tort claim be filed within six months of a discriminatory incident before bringing a lawsuit for money damages against a state or local governmental entity. More information about tort claims can be found at <https://www.disabilityrightsca.org/publications/tort-claims-filing-claims-against-public-entities-under-the-california-tort-claims-act>.

Please note that this website links to the form for claims against the state or a state agency or employee, which may not apply in your case. Other

public entities may have their own tort claims form available on their website. If you are interested in pursuing litigation, you should consult with an attorney as soon as possible.

Sample Letter to Request Accommodations

[Date]

Dear [Testing Company/Licensing Entity]:

I am writing to request [accommodations] for my [disability / disabilities].

I plan to take the [date of exam/test] [exam/test name]. Because of my disability, I need the following: [list accommodations].

My [physician / psychiatrist / psychologist / therapist / social worker / occupational therapist / other individual (describe)] has deemed these modifications necessary in light of my disability. Please see the attached [letter from doctor or professional's name/ documentation of testing accommodations].

Federal and state law require that testing and licensing entities provide people who have disabilities with accommodations that so that the test or exam accurately reflect the individual's skills or abilities. 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

[Date]

Dear [Testing Company/Licensing Entity]:

I am the [physician / psychiatrist / psychologist / therapist / social worker / occupational therapist] for [Name], and am familiar with [his / her] condition. [She / 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]'s performance on [Test or Exam] to accurately reflect [Name]'s aptitude and skills. [Describe how the accommodations will assist or support the individual].

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

Sincerely,

[Name and Title]

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For legal assistance call 800-776-5746 or complete a [request for assistance form](#). For all other purposes call 916-504-5800 (Northern CA); 213-213-8000 (Southern CA).

Disability Rights California is funded by a variety of sources, for a complete list of funders, go to <http://www.disabilityrightsca.org/Documents/ListofGrantsAndContracts.html>.