

KNOW YOUR RIGHTS!

Disability Accommodations

PROTECTIONS BEYOND OUR CONTRACT

Along with the federal Americans with Disabilities Act (ADA), there are a variety of other state laws which give employees the right to request workplace accommodations for temporary or permanent disabilities:

- California Fair Employment and Housing Act (FEHA)
- California Disabled Persons Act (CDPA)

While SDUSD's accommodation process references the ADA, it's important to know that we have protections at the state level, even if federal enforcement changes.

WHAT COUNTS AS A DISABILITY?

Disability is a **physical or mental impairment** that **substantially limits** one or more major life activities. Disabilities can be temporary or permanent.

WHAT COUNTS AS REASONABLE?

Reasonable accommodation is a **modification** to a job or work environment that will enable an employee with a disability to continue to perform the **essential functions** of their job and enjoy equal benefits and privileges of employment. An employer is not required to provide an employee with their **preferred** accommodation. Under ADA,

reasonable means that the accommodation does not create "undue hardship" on the employer. An example of an accommodation that *would* create an undue hardship is a request for a different position if that different position doesn't currently exist. This would not be considered reasonable under ADA. The District does not have to create a new position to accommodate an employee's disability.

UNION REPRESENTATION

Under state law, you have the right to union representation in meetings about accommodations, whether that is with your supervisor or with HR. You can request union representation from your site rep or an organizer on staff at SDEA. (Keep in mind that it is your responsibility to request union representation. The District must allow you to have representation, but does not have to arrange this for you.)

REFERENCES & RESOURCES:

- **Job Accommodation Network:**
Look up possible accommodations for specific disabilities
- More CA info: **DOR & CRD**
- **Know Your Rights Flyer:** More details about your right to representation
- **2017 PERB Decision** re: union representation
- **SDUSD Accommodation Process**

KNOW YOUR RIGHTS!

Disability Accommodations

ACCOMMODATION REQUESTS:

You can always informally ask your supervisor for what you need to do your job. However, a formal request through HR lets you submit documentation and helps the District & union representatives hold admin accountable for giving you the accommodations you need. To request accommodation through HR:

1. **Complete the online Employee Statement.** This triggers HR to send the supervisor a form.
2. **Get the Physician's Statement from your doctor.**
3. When scheduling a follow up meeting with HR, you can request union representation.

MEETING ABOUT ACCOMMODATIONS IS AN INTERACTIVE CONVERSATION!

The District has to engage in what is called an **interactive process** to approve accommodations, using the information submitted by the member, supervisor, and physician.

The District might say: *We don't think we can give you __, but what about __ accommodation?* You might respond: *No, I really need __ because ____.* Or maybe: *I think that would work, if we also __.*

This is a **back-and-forth** between you and the District. **You know your disability better than anyone else.** You are your own best advocate!

WHAT IF MY REQUEST IS DENIED?

If the District denies a **reasonable accommodation based on your disability**, dues-paying union members can be referred to a union lawyer. These lawyers can provide guidance and recommended next steps to enforce your rights under the law.

TIPS FOR YOUR APPLICATION:

- Request a statement from healthcare professional(s) primarily responsible for your care of the relevant condition(s) that you need accommodated.
- You *do not* have to disclose your diagnosis, but you *do* have to disclose how it impairs you.
- Make sure you & your healthcare professional identify the same impairment & accommodation!
- If possible, draft a healthcare professional statement to be signed, including:
 - Major life activities impacted
 - Duration if applicable (but avoid premature expiration dates!)
- You can refer to job descriptions to identify the core or essential functions of your job. What accommodations would let you still complete these functions?