

CALIFORNIA DEPARTMENT OF HUMAN RESOURCES
CALIFORNIA STATE PERSONNEL BOARD
DEPARTMENT OF REHABILITATION

JOINT PROJECT

2015

RECOMMENDATIONS



TO INCREASE THE EMPLOYMENT OF
PERSONS WITH DISABILITIES IN
CALIFORNIA STATE GOVERNMENT

Table of Contents

Table of Contents	i
Acknowledgements	iii
Executive Summary	1
Highlights	1
Results in Brief	1
Background	2
Scope and Methodology	2
Findings and Proposal	3
Hiring, Promotion and Retention	4
Summary	4
Recommendations	4
1. Improve state efforts at outreach and recruitment	4
2. Improve state efforts at testing and hiring	5
3. Improve the Limited Examination and Appointment Program (LEAP)	7
4. Improve state efforts at promotion and retention	8
5. Improve state efforts at compliance	9
Disability Survey Re-Engineering	10
Summary	10
Recommendations	10
1. Design questions to comply with federal and state laws	10
2. Design questions to improve employee participation	11
3. Design and promote a statewide survey campaign	11
4. Process and report survey data	12
5. Assure functionality of computer based survey reporting	13
Reasonable Accommodation	13
Summary	13
Recommendations	14
1. Create a statewide model reasonable accommodation policy	14

2. Change law and controlling administrative policy.....	15
3. Assure appropriate agency staffing levels for reasonable accommodation	17
4. Track effectiveness of timely and effective provision of RA	18
Training.....	18
Summary	18
Recommendations	18
1. Training pertaining to hiring, promotion and retention of PWDs.....	18
2. Training pertaining to the disability survey and campaign	19
3. Training pertaining to provision of RA.....	19
Appendices	21
A: Hiring, Promotion and Retention.....	22
B: Disability Survey Re-Engineering.....	32
C: Reasonable Accommodation	59
D: Information Technology.....	106
Table of Authorities.....	113

California Department of Human Resources
California State Personnel Board
Department of Rehabilitation
Joint Project 2015

The purpose of the Joint Project is to increase the number of persons with disabilities working within state service and enhance the reasonable accommodation process to enable employees with disabilities to receive timely, effective accommodations that support employment success.

Executive Sponsors

Richard Gillihan, Director, California Department of Human Resources
Suzanne M. Ambrose, Executive Officer, California State Personnel Board
Joe Xavier, Director, Department of Rehabilitation

Project Manager

Robin Henry, California Department of Human Resources

Legislation and Regulation Coordinator

Jeanne R. Wolfe, State Personnel Board

Joint Project Stakeholders

Project sponsors thank and acknowledge the following partner stakeholders for their participation and support of the Joint Project:

Association of California State Employees with Disabilities
California Civil Rights Officers' Council
California Committee on Employment of People with Disabilities
California Institute of Technology
Coalition of State Civil Rights Associations & Organizations
Department of General Services
Department of Rehabilitation
Employment Development Department
Service Employees International Union, Local 1000
Statewide Disability Advisory Council

ACKNOWLEDGEMENTS

This proposal is the result of a 10-month effort to evaluate civil service policies and processes, and put forth recommendations to guide improvements that increase the employment of persons with disabilities in California state service. Project workgroups identified employment barriers and framed solutions by reviewing and evaluating current law, consulting subject matter experts and researching existing policy and hiring practices to formulate these recommendations.

The project sponsors greatly appreciate the individuals, state agencies and organizations who through tireless commitment, and some who through countless hours, generously contributed to the development of the final project proposal.

Joint Project Core Team:

The project Core Team reviewed each of the recommendations and fully vetted them to provide sponsors with best possible solutions. Core Team vetting of workgroup submissions concluded on September 24, 2015.

Association of California State Employees with Disabilities

Ralph Black, Esq.

Laurie Hoirup

California Civil Rights Officers' Council

Christine Martinez

Michele Villados

California Committee on Employment of People with Disabilities

Jonathan Clarkson

California Institute of Technology

Janice Campbell

Coalition of State Civil Rights Associations & Organizations

Neptaly Aguilera

Anita Macaluso

Tyrone Netters

Alfonso Ramirez

Darrel Woo, Esq.

Department of General Services

Michelle Armitage

Loretta Dillon

Lisa Lambeth

Julie Willson

Department of Human Resources

Brandi Blue

Jerry Gibbins
John Hering
Shafiullah Rahimi
Jacquelyn Sanders
Jackie Cheyne Shelton

Department of Rehabilitation

Michelle Alford-Williams
Cheryl Artega
Paulette Baker
Jacob Johnson

Employment Development Department

Kimberly Clinton
Connie Pouncy

Service Employees International Union, Local 1000

Jean Colyer
Sulghi Hong
Janet Sass McDermott
Brooke Pierman, Esq.
Kenny Sims

State Personnel Board

Lori Gillihan
Jeanne Wolfe, Esq.

Statewide Disability Advisory Council

Serena Ortega
Raymond Sanchez

Reasonable Accommodation Workgroup:

Association of California State Employees with Disabilities

Ralph Black, Esq.
Robert Sifuentes

California Public Utilities Commission

Wendy Al-Mukdad
Rashid Rashid, Esq.

California State Teachers' Retirement System

Lisa Hongsivilay

Coalition of State Civil Rights Associations & Organizations

Alfonso Ramirez

Department of Corrections and Rehabilitation

Jan O'Neill
Julia Zanchi

Department of Forestry and Fire Protection

Genavina Mabary
Serena Ortega
Mickey Teising

Department of General Services

Michelle Armitage
Lisa Lambeth
Julie Willson

Department of Human Resources

Tracy Caldwell
Jacquelyn Sanders

Department of Motor Vehicles

Candace Hudson

Department of Public Health

Kisha Holmes

Department of Rehabilitation

Cheryl Artega
Brent Jolley
Pam Stegall

Department of State Hospitals

James Baca
Allison Lopez

Employment Development Department

Connie Pouncy

Service Employees International Union, Local 1000

Jean Colyer
Janet Sass McDermott
Brooke Pierman, Esq.

State Compensation Insurance Fund

Rosa Gil-Robles

State Controller's Office

Rubena Khan

Disability Survey Re-Engineer Workgroup:

Association of California State Employees with Disabilities

Dan Clark
Fernando Russell

Coalition of State Civil Rights Associations & Organizations

Tyrone Netters
Darrel Woo, Esq.

Department of Human Resources

John Hering

Department of Rehabilitation

Jake Johnson

Employment Development Department

Susan Ayres
Kimberly Clinton

Service Employees International Union, Local 1000

Kenny Sims
Sulghi Hong
Janet Sass McDermott

Hiring, Promotion and Retention Workgroup:

Association of California State Employees with Disabilities

Catherine Campisi
Laurie Hoirup

California Civil Rights Officers' Council

Christine Martinez

California Institute of Technology

Victoria Chavez

California Public Utilities Commission

Wendy Al-Mukdad
Rashid Rashid, Esq.

California Committee on Employment of People with Disabilities

Maria Nicolacoudis

Coalition of State Civil Rights Associations & Organizations

Neptaly Aguilera
Anita Macaluso

Community College Facility Coalition

Hanan Boyd

Department of Community Services and Development

Ed Springer III

Department of Human Resources

Brandi Blue
Stacie Calderon
Jerry Gibbins
Brandon Littlejohn

Department of Justice

Joy Aria
Judy Glanville

Department of Rehabilitation

Michelle Alford-Williams
Paulette Baker
Brent Jolley
Victoria Medina-Perez
Deborah Sweeney

Department of State Hospitals

Kirsten Malme
James Perez

Employment Development Department

William Fallai
LaJuana Thompson

Mental Health Services Oversight and Accountability Commission

Kimberly Watkins

Service Employees International Union, Local 1000

Jean Colyer

State Controller's Office

Jerry Glass

Information Technologies Workgroup:

Agricultural Labor Relations Board

John Payne

Department of Rehabilitation

Greg Duncan
Jacob Johnson
Brandon Leyton

Office of Statewide Health Planning and Development

Jeri Foley

Special Contribution to the Joint Project

The Joint Project would also like to give special thanks and recognition to the following individuals without whose commitment, special talents and tireless efforts, the finalization of this project would not have been possible:

Kaye Abbey, State Personnel Board, Administrative Support

Brandi Blue, Department of Human Resources, Special Assistance to Project Manager

Eric Clegg, Department of Rehabilitation, Braille Services

Martina Cruz-Rivas, Department of Human Resources, Administrative Support

Gregory Dean, Department of Rehabilitation, Administrative Support

Genavina Mabary, Department of Forestry and Fire, Special Assistance to Project Manager

Phil Manning, Department of Human Resources, Duplication Services

Richard Perrin, Department of Human Resources, Technical Support

Shafiullah Rahimi, Department of Human Resources, Student Assistant to Project Manager

Sharda Ramdass, Department of Human Resources, Proposal Proofing

California Department of Human Resources
California State Personnel Board
Department of Rehabilitation - Joint Project
To Increase the Number of Persons with
Disabilities within State Service

Executive Summary

HIGHLIGHTS

The research performed through the Joint Project highlighted the following:

- The State of California as an employer is inconsistent in its policies, procedures, education, accountability, and data collection regarding employment of persons with disabilities.
- Many opportunities exist to standardize methodology across all State of California agencies to promote uniformity, consistency and sensitivity regarding the employment of persons with disabilities.
- The State of California will be unable to further its stated goal of increasing employment of persons with disabilities unless it makes fundamental changes and performs concerted outreach to promote itself as an employer of choice to that employment sector.

RESULTS IN BRIEF

The State of California has been a leader in promoting the employment of persons with disabilities. Many of the federal protections now afforded nationwide were first developed and practiced in California. However, research revealed that separate state agencies interpret and apply the regulations independently, causing a lack of consistency in how applicants and employees with disabilities are hired and treated. Standardization of methodology is required to assure persons with disabilities (PWDs) are afforded equal opportunities, benefits and privileges of employment regardless of the state agency to which they apply or belong.

In response to the request by sponsors for recommendations to improve equal employment opportunities (EEO) and increase the number of persons with disabilities working within California state government, the California Department of Human Resources (CalHR)/State Personnel Board (SPB)/Department of Rehabilitation (DOR) Joint Project team submits this proposal of recommended sustainable solutions and standards to ensure the state is an open and accessible employer in all facets of recruitment, selection and retention.

Background

According to the *2013 Annual Census of Employees in State Civil Service*¹ report to the California Legislature, the number of PWDs working in state civil service is not at parity with the population of those living in California. Additionally, inconsistent reasonable accommodation (RA) implementation methods and uncoordinated knowledge amongst state agencies of available options limits the ability to provide adequate and timely accommodations. Delayed provision of RA seriously impacts a PWD's overall employment success as unaddressed limitations undermine the employee's ability to perform essential job functions, and inconsistent implementation between agencies limits an employee's options for career progression. Similarly, current processes for capturing population data of PWDs within state service are flawed. State agencies inconsistently administer the disability survey, and not all employees participate or are counted.

CalHR, SPB and DOR co-sponsored a joint project in an effort to increase the number of PWDs working in California state government. The project kicked off in December, 2014 and engaged a team comprised of various stakeholder organizations and state agencies' subject matter experts² to examine, research and make recommendations for three areas of focus impacting equal and effective employment opportunities for prospective employees with disabilities as well as PWDs currently employed by the state.

Scope and Methodology

The project team first identified barriers and issues affecting state employment success for PWDs, and then focused on formulating recommendations in these areas:

- 1) Identify factors negatively impacting selection and retention of PWDs as well as changes to state policies and processes to eliminate those barriers;
- 2) Review current procedures for implementing RA and create a streamlined process;
- 3) Review the current method for surveying the population of PWDs working in state service and re-engineer the process.

Three major workgroups and one sub-workgroup researched and reviewed current laws, regulations, existing policies and state practices pertaining to hiring and employment of PWDs, RA, and the current disability survey. In addition, subject matter experts were consulted, focus

¹ The Census Report, prepared annually by CalHR for the Governor and Legislature, conveys data on statewide workforce representation in multiple categories, including disability.

² Subject matter experts were instrumental in providing guidance in multiple specialties including workforce planning, examination services, test evaluation, candidate selection, statewide training, research program management, the LEAP program, information technologies, and State and Federal law.

groups formulated and surveys conducted to provide foundational information for recommended changes to state policy and existing legislation. Issues of assistive technology, information technology (IT) and ways the state can improve IT accessibility for PWDs were of paramount concern to ground project recommendations in the latest technology solutions available statewide.

Findings and Proposal

Project research produced overall findings that the state could do more to improve its practices, policies and work environment to make state employment more attractive and desirable to PWDs. The state's civil service system is difficult to navigate and lacks a comprehensive application and selection process for prospective and existing employees, including PWDs. The existing structure of the Limited Examination and Appointment Program (LEAP) is largely outdated and requires complete revamping to be operationally effective.

The state provides no uniform practice of engaging employees in the interactive process and timely provision of RA. Guidance to state agencies and RA coordinators is largely non-existent, with written policies dating back in excess of 20 years. These outdated written policies do not establish standards or guidelines, resulting in inconsistent and varied operational policies amongst agencies. Furthermore, the state's procurement laws and policies significantly restrict agencies' ability to effectively manage the RA process.

Lastly, the current disability survey and survey process are methodologically constrained and do not include the entire population of state employees. The disability parity report does not fully incorporate the responses of employees exempted from civil service status under California Constitution Article VII, Section 4, those in safety classifications, retired annuitants and non-civil service student assistants. Conflicting federal and state definitions of disability create inaccurate comparisons between current state disability survey results and population estimates. These factors limit the reliability of the data as a sound decision-driver, undermining a central goal of mandated reports.

As a result of the findings, the project team proposes recommendations for:

- Strengthening outreach and recruitment of PWDs through use of accessible web-based and social media functions;
- Promoting a fair, professional selection process designed to minimize bias and engage all applicants equally;
- Promoting fair, professional and supportive employment practices for PWDs;
- Creating a statewide RA model policy and associated infrastructure;
- Designing a more effective disability survey tool;
- Designing a more inviting and inclusive statewide disability survey campaign; and
- Enhancing training and learning opportunities for all employees regarding selection, RA provision and administration, as well as disability awareness.

Hiring, Promotion and Retention

Summary

Increased and improved hiring, promotion and retention of PWDs in California state service is an ongoing goal. The project team focused on identifying strategies to reach this largely untapped pool of candidates and methods to advance their talents, once employed, to further diversify all ranks of state service.

Discussion groups, surveys, studies, and feedback from subject matter experts were utilized to determine the barriers PWDs encounter across the full spectrum of career progression. Inaccessible state agencies' web sites, inconsistent provisions of RA, varied hiring and selection procedures, and a general lack of well-focused outreach strategies were but a few of the barriers identified. The project team strived to provide viable solutions to promote fair, professional, and supportive selection, promotion and employment methodologies across all state agencies. The solutions are detailed herein for consideration.

Hiring, Promotion and Retention Recommendations³

1. Improve state efforts at outreach and recruitment.

Barriers:

- People (with and without disabilities) do not have knowledge of the state civil service system regarding how to find a vacant job, how to take a civil service exam and how to apply and interview for a vacancy.
- Recruitment processes and materials are not inclusive of PWDs.
- CalHR and other state agencies do not take full advantage of existing programs, mechanisms and community resources that provide work experience for PWDs to be competitive in the state hiring process.

Recommendations:

- CalHR shall conduct a customer satisfaction survey of potential and current applicants to assess how the state can improve all aspects of the hiring process. Include in the survey specific questions regarding barriers for PWDs and develop ongoing process improvements.
- CalHR shall centralize all resources for PWDs in one location on the CalHR website and promote the availability of RA.
- CalHR shall develop a skills translator that will allow PWDs and other potential applicants to match skill sets with current state classifications.
- CalHR shall create hiring and testing process guidelines in multiple formats to increase successful completion of the application and exam process.

³ The full, unexpurgated body of work for Hiring, Promotion and Retention may be found in Appendix A.

- CalHR shall update all state hiring, marketing and advertising materials to integrate pictures of people with visible disabilities within diverse groups of people, being sensitive to how people are portrayed in images and media.
- CalHR shall use focused recruitment of PWDs to increase hiring.
- CalHR shall take all actions necessary to provide staff responsible for outreach, recruitment, examination and hiring with the knowledge, skills, and abilities to conduct successful hiring, promotion, and retention of PWDs.
- CalHR shall promote hiring of high school and college students with disabilities using the Youth Aid and Student Assistant classifications. Partner with organizations such as Youth Organizing, Youth Leadership Forum, DOR Workability and Transition Partnership Programs, Employment Development Department's Youth Services Program, and similar programs.
- CalHR shall partner with institutions of higher education to develop paid internships and executive fellowship programs for PWDs to prepare individuals for permanent state government employment.
- CalHR shall promote the use of internships for veterans with disabilities to agencies. Partner with the Federal Veterans Administration, Chapter 31 Veterans Administration Vocational Rehabilitation and Employment (VAVR&E) Program. This will allow the state to have intern wages paid by the federal government while veterans gain state work experience.
- CalHR shall partner with DOR to establish a statewide volunteer program to provide training and job experience to PWDs.
- CalHR shall survey agency LEAP coordinators, Reasonable Accommodation Coordinators (RACs), Return to Work Coordinators (RTWCs), Classification and Pay Analysts, and EEO offices to identify how often they are contacted for disability information, what type of information is requested, and how often they collaborate with their peers regarding hiring, promotion and retention.
- Survey LEAP participants on the type of information they request and the usefulness and consistency of the information provided.

2. Improve state efforts at testing and hiring.

Barriers:

- The current state civil service testing and hiring process is a barrier to many PWDs and other individuals interested in employment with California state government. Getting started and knowing how to take a civil service exam can be confusing and cause individuals to abandon the process.
- Classification specifications and duty statements may establish minimum qualifications or require knowledge, skills and abilities which may not be essential or job-related, or they may contain other language which has the effect of screening out PWDs.

- State testing and hiring processes are not always accessible to PWDs and often state agencies are unprepared to provide accessible alternatives. Some state buildings or testing sites have physical and programmatic barriers and may not be fully accessible (lack of or unsafe parking spaces, limited testing locations, physical access into buildings) for PWDs participating in a hiring process (on-site exams, interviews, etc.) Testing and hiring procedures and processes (e.g., pencil and paper exam or oral interview) may present accessibility problems for individuals with sensory, communication and intellectual disabilities.

Recommendations:

- CalHR shall utilize online analytics to measure loss of interest and/or failure to complete online applications for state exams.
- CalHR shall develop survey tools, online and alternative formats, to collect information from job seekers about the application, hiring, and testing processes. Thereafter, create an implementation plan to address the issues identified.
- CalHR shall ensure that the Examination and Certification Online System (ECOS) is accessible for both applicant and business users.
- CalHR shall establish a workgroup of stakeholders (CalHR, State Disability Advisory Committee (SDAC), Association of California State Employees with Disabilities (ACSED), DOR, and Civil Service Improvement (CSI) teams), appropriate to review and revise class specifications that have language which impose non-job-related barriers (e.g., Scientific Aide: possession of a valid driver’s license, Office Technician: Typing). These non-job-related barriers are often incorrectly interpreted as essential functions during the hiring process (personnel, supervisors and managers, etc.).
- CalHR shall provide guidelines for agencies to use in order to ensure that duty statements are free from non-job-related barrier language.
- CalHR, in partnership with DOR, shall provide technology-based accessibility solutions and alternative testing processes to allow equal access for PWDs.
- CalHR shall ensure that agencies with delegated testing authority design exam plans that are accessible and ensure alternate testing processes.
- CalHR shall work with the Department of General Services (DGS) and all other appropriate entities to develop a plan for addressing physical accessibility issues in state-owned or leased facilities which create barriers for testing, hiring and employment of PWDs.
- Any person representing the hiring authority who acts in a manner that shows a bias against any protected class, including PWDs, may be prohibited from participating in the exam or hiring process under the direction of the EEO officer or the director.
- CalHR shall use available information (national data and other research) to identify non-job-related barriers and develop strategies to correct misperceptions that create those barriers.

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

Barriers:

- The current LEAP process is based on outdated policies that have limited its ability to support the hiring of PWDs.
- Not all state agencies have information available on their internet and intranet pages and/or links to the LEAP program and disability employment information.
- CalHR and other state agencies may require additional staffing to be able to effectively implement the proposed program changes.

Recommendations:

- CalHR shall create a new LEAP process.
 - Convene a workgroup comprised of stakeholders to update the LEAP manual to reflect the current statutes, ECOS, and proposed changes resulting from this Project.
 - Create a LEAP manual for state agencies, LEAP coordinators, RACs and job seekers.
 - Identify qualified persons to assess medical/disability documentation and authorize certification.
- Work with bargaining units to determine how to key LEAP candidates during the Job Examination Period (JEP).
- Rebrand the LEAP program by identifying a new name. Change statutes accordingly and update roles and responsibilities with the new program name.
- Create and promote LEAP training.
 - Review the three modules of California as a Model Employer Initiative (CMEI) training.
 - Update and align with new legislation and current best hiring practices.
 - Promote refreshed CMEI training to all state supervisors, managers, and candidates.
 - Reissue the PML regarding the CMEI training.
 - Update training and best practices specific to LEAP coordinators.
- Develop legislation to establish a Qualified Person with a Disability (QPWD) identifier certification for all exams. Allow candidates to utilize their DOR certification as a QPWD, currently limited to LEAP examinations, on all civil service examinations for which they meet the minimum qualifications.
 - Identify QPWDs, similar to veterans ranking, so that they are provided eligibility in rank 1 on all successful examinations.
- Develop legislation to establish the ability for hiring authorities to certify any employment lists utilizing the QPWD identifier.
- No one charged with making a hiring decision will be given access to information about whether someone is a QPWD, except when candidates self-disclose, as may be necessary to provide RA.

- If a QPWD is offered a position, he or she may choose to enter a JEP or move directly to civil service status.
- Any agency which has not yet achieved 80% of the parity goal will be required to ensure that at least 16%⁴ of all candidates interviewed for any position are QPWDs, unless there are not enough QPWDs on the employment list to satisfy this requirement.
- If an agency which has not achieved parity wishes to hire a person other than a QPWD, they will have the burden of demonstrating to CalHR that none of the QPWDs on the employment list are likely to be able to successfully perform the duties of the position even after the completion of a JEP and provision of any necessary RA.
- Create training and support on updated process to state agencies, current employees, and potential candidates.
- Automate the LEAP process such that DOR staff are able to electronically certify job seekers with disabilities. The goal would be to eliminate the risk of identity theft and to speed up the current manual process.
- Instruct state agencies to have information for PWDs and the LEAP program clearly available on agency internet and intranet employment pages.
- Review staffing levels and business processes to adequately support the workload needs to ensure transition of QPWDs to civil service employment is not delayed.

4. Improve state efforts at promotion and retention.

Barriers:

- The state lacks data to determine whether PWDs are promoted at comparable rates to people without disabilities.
- Mentoring programs or role models for PWDs in state government are not readily available to assist PWDs to be mentored for upward mobility and career advancement.

Recommendations:

- CalHR shall establish a workgroup to develop a system to capture promotion rates for PWDs and non-PWDs in order to identify solutions for any associated barriers.
- CalHR shall create a centralized or collaborative online workspace for mentors, subject matter experts, and self-service options.
- CalHR shall partner with stakeholders (e.g., State Disability Advisory Council (SDAC), ACSED, etc.) to create a statewide mentoring program to aid supervisors and managers to coach, mentor and prepare PWDs and other state employees interested in upward mobility and career advancement. This will also serve to further the state's succession planning efforts.
 - Align mentoring program with those agency workforce strategic plans.
 - Develop an assessment tool to measure the progress of the new mentoring program against the promotion and retention data of PWDs.

⁴ This percentage may be based on future parity goal assessments not addressed under this Project.

- Develop an online resource to match employees and mentors based on mutually beneficial criteria such as shared professional interests and related job experiences and/or disciplines.
- Develop external web-enabled/password protected secure location for mentor and peer communication and collaboration.
- Create an easy to find state orientation web page for new state employees and create a state onboarding program with tools and resources for supervisors and managers.
- Using the data as developed above, modernize and boost the effectiveness of the SDAC and agency Disability Advisory Committees (DACs) by defining roles, requiring establishment of annual goals and objectives for the hiring, promotion, and retention of PWDs in alignment with agency strategic plans; and define the relationship of the DACs as an extension of the agency EEO/Civil Rights Offices (CROs); create online resources to aid in the effectiveness and success of DAC activities towards the hiring, promotion, and retention of PWDs in state government.

5. Improve state efforts at compliance.

Barriers:

- There are no consequences for state agencies failing to set and meet hiring goals and develop action plans to increase the representation of PWDs.
- Statutory compliance, business requirements, communication of EEO guidelines and employment goals, are not well known or widely communicated. As evidenced by disparate parity rates and varying practices around the employment of PWDs in state government, there is a need for clear, factual, and timely communication of laws, policies, standards, and procedures pertaining to EEO. There is no easy way to keep abreast of new laws, policies, and procedures. This situation is especially challenging for PWDs, when combined with the inaccessibility of many state technology products. Also, there is no centralized or collaborative online workspace for SMEs and there may be duplicative efforts by state agencies and no centralized resource for state agencies looking for what has already been done.

Recommendations:

- CalHR shall develop recommendations for consequences for agencies failing to meet parity or hiring goals.
- CalHR shall expand HRNet to include access to both human resources and EEO professionals (agency LEAP coordinators, RACs, RTWCs, Classification and Pay Analysts, EEO offices) to centralize information about statutory and regulatory compliance, business requirements, communication of EEO guidelines and employment goals (examples include shared information (best practices) (e.g.,

- SharePoint⁵), templates and standards, forums, best practices, training information, current documentation, and RA tracking.)

Disability Survey Re-Engineering

Summary

Policymakers require access to high quality data to better understand the needs of PWDs within state service and ensure mandated⁶ parity requirements are met. The project team took up the challenge of identifying the specific issues preventing accurate data collection and providing recommendations to transform the process.

Currently, state agencies utilize a disability survey to fulfill the state mandate. Unfortunately, the design of the survey tool is inefficient to produce the full range of needed information. Further, conflicts in federal and state disability definitions create inaccurate comparisons between survey results and population estimates. Some form of alignment is necessary to overcome these deficiencies.

Employee participation is critical to achieve accurate data collection. However, state agencies report a reticence amongst employees to self-identify disabilities. These employees fear the information may hinder their careers, subject them to disability-related bias, or that information security may be breached. Addressing these concerns is necessary to increase participation and collect valid data. Research revealed state agencies with the most successful survey campaigns had support from their directors and leaders who encouraged participation and provided an explanation of its importance.

Another issue impacting data validation is the practice of discounting certain employee classes. Government Code §19792(h) limits the scope of tracking to current civil service employees with disabilities. Non-civil service employees are out of scope. Further, safety classification employees have been historically discounted from consideration. State agencies which are heavily comprised of safety classifications have only been expected to meet the state parity standard for non-safety classifications.

Disability Survey Re-Engineering Recommendations⁷

1. Design questions to comply with federal and state laws.

Barriers:

- Conflicting federal and state definitions of disability create inaccurate comparisons between state disability survey and population estimates.

⁵ SharePoint as currently designed is not fully accessible, but modifications can be made for §508 compliance.

⁶ Government Code §19233(b)

⁷ The full, unexpurgated body of work for Disability Survey Re-Engineering may be found in Appendix B.

- Current questions do not cover all or more recent state definitions and/or regulations.
- The survey has two purposes: 1) to assess and compare the number of PWDs in state service to a parity number, and 2) to develop goals and timetables for affirmative action employment programs for state agencies. Meeting both goals is not possible using the current disability survey.

Recommendations:

- Use the valid and reliable set of six questions used by federal agencies to self-identify disabilities.
- Add additional disability questions based on California definitions to ensure all persons with disabilities are counted.
- Ensure disability categories are more comprehensive to reduce dependence on narrow exclusive categories currently offered, while providing more options for employees to choose, giving the state more accurate statistics and allowing for future updates.

2. Design questions to improve employee participation.

Barriers:

- Security issues exist related to providing the employee’s Social Security number within the survey.
- There is no ability to identify multiple disabilities in the current matrix.
- There is no option within the survey to decline participation.
- There is a perception that disclosing a disability will be misused or harm their career.

Recommendations:

- Move sensitive question about personal identifying information to the end of the survey.
- Include an option to “decline participation.”
- Omit requirement to choose primary disability for state definition question.
- Establish a formal policy that no personally identifiable data will be shared with agencies and clarify the confidentiality statement on the survey to explain this policy to participants.
- Provide clarification related to confidentiality as to how information is stored, shared and used.

3. Design and promote a statewide survey campaign.

Barriers:

- State agencies have inconsistent practices for encouraging employees to take the survey.
- Current resources for EEO officers, supervisors and managers to launch a successful disability survey campaign for their agency are outdated and inadequate.
- Not all employees have access to the electronic survey.

Recommendations:

- CalHR should create a coordinated statewide campaign so that resources, materials and training are easily available to all EEO officers or designated campaign coordinators:
 - The campaign should be developed around an overarching theme to make it recognizable as a statewide initiative.
 - Each state agency should c
 - conduct a disability campaign on two levels:
 - Coordinate with the statewide campaign from August through October (National Disability Employment Awareness Month); and
 - Establish a sub-campaign conducted year-round utilizing various publicity outreach tools.
 - The Governor and agency directors publically announce their support for the campaign and take on the role as campaign stakeholders in order to demonstrate to all employees a high level of support for the campaign;
 - Develop a campaign lead and team in each agency;
 - The agency director should add an award or certificate to the units which increase participation in the annual disability survey; and
 - To complement a stand-alone disability campaign, the disability survey can also be included into a more comprehensive survey of state workers. For example, CalHR could conduct an annual survey of all state workers to assess relevant worker characteristics used in their workforce analysis not otherwise easily tracked, such as gender, race/ethnicity, disability status, veteran status and/or other characteristics.

4. Process and report survey data.

Barriers:

- The state is unable to calculate a full count of employees with disabilities, because the disability survey process is methodologically constrained since it does not target state employees who are exempt from civil service status.
- CalHR is unable to provide a complete analysis of the disability survey data, because the final reports exclude certain safety classifications from their annual reports.
- Parity between the state’s workforce and the California population becomes harder to assess as state and federal governments continually evolve how each defines disabilities, measures this in its populations, and relies on new census and survey methodologies to do so. The role of the parity number and the type of benchmark it establishes should be periodically reviewed, as state and federal laws and census methodologies continue to evolve in the future.

Recommendations:

- Establish authority that allows CalHR to gather disability survey data for exempt and excluded employees as separate categories.
- Eliminate the practice of discounting employee data from the disability reports based on the pension plan option for their classification (e.g., safety).

- Parity rate for goal setting of safety classifications shall be set on relevant available labor market statistics for like positions.
 - Agencies should be required to set hiring goals for PWDs, if their representation level is less than 100 percent of parity.
5. Assure functionality of computer based survey reporting.

Barrier:

- The state’s disability survey reporting system and processes are based on outdated technology and ineffective processes that result in data that is inaccurate and incomplete. System functionality and reporting are limited due to its inflexible and undocumented design.

Recommendations:

- Replace existing mainframe-based survey system with modern system to include full collection of data and meet reporting requirements.

Reasonable Accommodation

Summary

Not all state agencies have a written RA policy and procedure, and those policies which do exist do not contain the same elements. Research has revealed that state agencies interpret and apply defined RA elements independently, causing a lack of consistency in how applicants and employees with disabilities are hired and treated. Standardization of methodology is required to assure persons with disabilities are afforded equal opportunities, benefits and privileges of employment regardless of the agency to which they apply or belong.

Once appropriate RA solutions are identified, timely provision of needed products and services is critical to the success and productivity of the PWD. However, significant delays exist due to current procurement laws and mandates. Moreover, during the annual budget close-out process and times of budgetary cutbacks or stalemates, RA procurement comes to a standstill, creating an unproductive and potentially unsafe working environment for PWDs. State agencies independently determine the roles, responsibilities, training, appropriate classification and adequate agency staffing levels for RACs. If the State of California, as a singular employer, is to provide equal opportunity to all PWDs it employs, statewide guidance and policy is necessary in these areas. Further, while most state agencies employ some method of tracking RA requests, there is no standard for how such tracking should be performed or what metrics should be captured. Therefore, absent a standardized tracking system, success of implemented RA reforms cannot be measured.

Reasonable Accommodation Recommendations⁸

1. Create a statewide model reasonable accommodation policy.

Barrier:

- The State of California as an employer lacks a clear mandate that sets forth the minimum standards each agency should have in place in support of the provision of timely and effective RA for employees with disabilities and applicants for employment in state government.

Recommendations:

- CalHR and SPB, in coordination with DFEH and DOR, shall establish an RA model policy that includes a specific set of standard elements (the floor) each state agency will be required to include in its RA policy. These elements should include:
 - ***Timelines*** – A requirement that policies identify the point at which an RA request is considered to be received and establish required progress benchmarks. The policy may include considerations of tolling a timeline in certain circumstances, such as waiting for clarification from a physician or response from the requestor.
 - ***Streamlining*** – A description of methods for streamlining responses to RA requests and provision of RA solutions.
 - ***Transparency and accessibility*** – Details of how agencies should fulfill the PML direction to post RA requesting processes in fully accessible formats on their home page and intranet site(s) for applicants and employees.
 - ***Interactive process*** – A statement defining the interactive process.
 - ***Career progression*** – An explanation of how an agency should develop RA policies and procedures that address all facets of career progression. They must identify what portion of the agency will provide RA assistance to applicants and how that may be requested. They must further identify what portion of the agency will provide RA assistance to existing employees and how that may be requested.
 - ***Handling of medical information*** – Requirements for how state agency policies will address the handling of medical information received during the RA process. This policy must conform with state and federal regulation, especially as related to HIPAA.
 - ***Procurement*** – Explanation of what state agency policies should cover concerning timely and effective procurement of RA solutions. Development of contracts and waiver procedures should be considered in this regard.
 - ***Avenues of redress*** – A requirement that agency policies and correspondence denying RA requests must identify all avenues of redress available to an applicant or employee.

⁸ The full, unexpurgated body of work for Reasonable Accommodation may be found in Appendix C.

- **Roles and responsibilities** – An explanation of the roles and responsibilities of all state agency representatives involved in the RA inquiry, decision-making, implementation and redress processes.
 - CalHR shall issue a Personnel Management Liaison memorandum (PML) which:
 - Directs each state agency to establish an RA Policy, written procedures and tools that are tailored to its needs that at a minimum contain the basic elements set forth in the state model policy.
 - Requires each agency to submit its RA policy and written procedures to CalHR within six months of the date of the PML.
 - Directs each state agency to post to its internal and external web pages (in appropriate locations) the RA process available to job applicants, employees, volunteers, interns, etc. that includes information on how to request RA during recruitment, hiring, promotion, retention, and return to work.
 - Thereafter, SPB shall monitor compliance of each state agency with this mandate by reviewing agency efforts on a three to five year basis via SPB’s audit function.
2. State law and administrative policies involving the procurement of goods, equipment, services, and the hiring of personnel for the provision of RA currently create barriers that hamper the ability of state agencies to provide approved accommodations in a timely and effective manner.

Changes in law and controlling administrative policies are needed to give state agencies the ability to insure the timely provision of RA. Specifically:

- **Legislation:**
CalHR, SPB and DOR should promote legislation to do all of the following:
 - State that, notwithstanding any statutory, regulatory or administrative rule or procedure, a state agency is authorized to expend funds, hire personnel, purchase goods and services, or take any other action which the director of such agency determines, in writing, to be necessary in order to provide RA to an employee with a disability in a timely and effective manner.
 - Exempt purchase of goods and services needed for RA of employees with disabilities and provision of authorized public services to individuals with disabilities (e.g., DOR consumers) from restrictions on procurement including, but not limited to, requirements for competitive bidding, mandates to use surplus property or purchase from Prison Industries if:
 - The purchase is made through the State Price Schedule for Purchase of Assistive Technology (SPS-AT);
 - The total cost of the purchase is less than \$25,000; and
 - If generic products which do not qualify as AT are included, the cost of such products does not exceed 25% of the total cost.
 - Create a statewide fund (to supplement state agency funds described in fourth bulleted “Executive Order” recommendation below) to be

“continuously appropriated” or otherwise structured in such a manner that funds will be available whenever needed to:

- Cover the cost of hiring staff or procuring equipment and services needed in order to provide unusually high-cost accommodations (e.g., more than \$10,000.00) for small state agencies (e.g., those with less than 100 employees). Agencies would need to subsequently budget for ongoing costs for any personnel hired through this process; and
 - Provide temporary funding for hiring staff or purchasing goods or services for any state agency during budget stalemates or other periods when hiring or purchasing is restricted for budgetary reasons. Agencies would be required to subsequently repay the fund for this type of expenditure.
- **Executive Order:**

CalHR should request that the Governor issue an executive order which would direct changes in administrative policies and procedures which will simplify, expedite, streamline and improve the ability of state agencies to hire personnel who provide RA and purchase goods and services needed for RA purposes. Specifically, it should:

 - Encourage state agencies to use the SPS-AT to identify and place orders with vendors who are qualified to provide the products or services needed for RA purposes.
 - Direct DGS and DOR to expand the SPS-AT to include a broader range of products and services that agencies might need for provision of RA to their employees.
 - Direct DOR, in consultation with OCR at CalHR, to develop a process by which DOR could assist other state agencies with RA solutions. This could include research and advice on RA solutions; a database or repository of information; and assistance or guidance on the procurement of needed products and services. Department of Finance will be directed to work with DOR to determine an appropriate funding source. If adequate funding can be provided for this resource, it could be provided at no cost to other state agencies. If this is not possible, a quick and streamlined process (such as a fee for service) should be developed by which a state agency can easily contract with DOR for needed assistance.
 - Direct each state agency, to the extent possible, to establish a centralized accommodation fund to be used exclusively to pay for the costs of provision of RA to employees with disabilities in that agency. The EEO/OCR office, or other unit where the RA function is housed, would be responsible for authorizing use of this fund to pay for approved accommodations.
 - Direct CalHR, in consultation with appropriate groups, to undertake a comprehensive review of personnel classifications and policies governing hiring of staff to provide accommodations for employees with disabilities. This should include, but not be limited to, consideration of whether use of

permanent intermittent positions is the best way to meet staffing needs, whether classifications in addition to the Support Services Assistant (SSA) and Support Services Assistant–Interpreter (SSA-I) are needed, and whether classification levels and pay scales for these classifications are adequate to attract and retain enough qualified personnel to meet the state’s needs. If it is determined that existing classifications or pay scales need to be adjusted, CalHR needs to engage in the collective bargaining process to pursue needed changes.

- Direct DGS, CalHR and DOR to develop a mandatory training for procurement staff on purchase of goods and services for RA.

3. Assure appropriate agency staffing levels for RA.

Barrier:

- Agency staff that perform RA functions often lack the knowledge, training, skills, ability and authority needed to administer an RA program.

Recommendations:

- The SPB and/or CalHR should adopt a regulation requiring each state agency to have at least one staff person appointed as a RAC(s) who is/are responsible for the agency’s RA program. In addition, agencies should ensure they have adequate staffing within the RA Program to meet the agency’s RA program requirements and responsibilities.
- CalHR should develop and issue a Personnel Management Liaison memorandum (PML) on the roles and major responsibilities of a RAC in a state agency. In developing this PML, input from agencies and advocate organizations should be solicited. This would reinforce the legal requirements of GC 19230 (c).
- After developing roles and responsibilities of the RAC to administer the RA program, CalHR should require state agencies to staff RAC positions at levels commensurate with RA program administration, as follows:
 - The RAC position should be staffed at the managerial level where he/she will be expected to formulate, implement, coordinate, and monitor the policy and RA program requirements and/or have decision making authority with agency-wide impact.
 - The RA program in each agency should be adequately staffed to comply with state and federal laws, regulations, policies, and guidelines.
 - If CalHR concludes that additional study is needed before providing guidance to agencies on this issue, it should convene an appropriate stakeholder group to support that effort.
- CalHR and/or SPB should audit all state agencies to evaluate their RA programs to ensure the staff are allocated at an appropriate level, RA program function is adequately staffed to appropriately administer the program within the agency, and that a tracking system is in place to measure the effectiveness and success of the RA Program.

4. Track effectiveness of timely and effective provision of RA:

Barrier:

- The state as an employer does not have a tracking system in place to assess the success of the RA program or the areas where improvement is needed.

Recommendations:

- CalHR and/or SPB shall convene a stakeholder group to develop metrics that will measure the success of the RA program and areas that need improvement including timeliness of providing RA and effectiveness of RA put in place.
- CalHR and/or SPB shall provide to state agencies the format and required elements for tracking RA requests so that, upon request, CalHR can collect the results of the measurements that agencies gather and develop recommendations and processes to improve the RA program and SPB will be able to effectively audit agency performance.

Training

Summary

Current state agency culture is diverse. Some state agencies actively promote the inclusion of and provide support to PWDs within their workforce while other state agencies are more reactive than proactive. The project team identified training as a major component to success of any effort to increase the numbers and improve the working conditions of PWDs in state government. Statewide training is needed at all levels of employment, and the detail of training should be commensurate with the level of responsibility for hiring, promoting and assisting PWDs.

Recommendations

1. Training pertaining to hiring, promotion and retention of persons with disabilities:

Barrier:

- Some interview panel members are not sensitive to PWDs, may not project a welcoming and diverse environment, and may not interact with the PWD effectively.
- Misconceptions and perceptions by managers and supervisors create non-job-related barriers to the hiring and promotion of PWDs.

Recommendations:

- Members of examination or interview panels should be selected with consideration given to whether the person has completed disability awareness training recommended as noted below, or has otherwise demonstrated understanding of issues related to employment of PWDs.
- CalHR shall ensure that chairperson training is expanded to include a segment regarding disability sensitivity and interviewing/hiring of PWDs.

- Within the new 80-hour mandatory supervisory training provide adequate time (e.g., 1 hour) to cover topics related to attitudinal barriers, hiring, promotion, RA, and retention of PWDs.
- CalHR shall provide online resources such as guides, policies and best practices on these topics for supervisors and managers.
- CalHR to share these topics and resources with other providers of the new state supervisor training to ensure the likelihood that these topics are addressed.
- CalHR should seek legislation specifying disability related topics to be covered in the new supervisory training and revise current law regarding sexual harassment prevention training to encompass prevention of harassment and discrimination of all protected groups, including PWDs.

2. Training pertaining to the disability survey and campaign:

Recommendations:

- Conduct an annual training and education for EEO officers and any other campaign leaders to explain the disability survey campaign tool kit, how to use its resources, and explain disability concepts.
 - Develop standardized training and education materials for the campaign leads and their team.
 - Create standard template letters that state agencies can use to support the annual campaign and year-round efforts. These could include:
 - Initial release letter from the agency’s director/executive director informing employees of state-wide disability survey period via email. Include frequently asked questions section attachment to release letter.
 - Reminder notification templates that will be sent to employees via email in week intervals from the director/executive director.

3. Training pertaining to provision of RA:

Barrier:

- Managers, supervisors and staff are not consistently informed of RA policy, procedures, process, or availability of RA options.

Recommendations:

- CalHR should mandate RA training to be conducted by agency EEO offices.
 - CalHR will develop and/or identify training that is mandatory for all staff to consist of disability awareness, the state’s commitment as an employer to PWDs, and overview of agency RA policy. This training should be provided to existing employees within six (6) months of implementation of this recommendation and to new employees as part of the “onboarding” process. To assist state agencies with fulfilling this training requirement, CalHR will develop and/or provide an electronic/printed guide to facilitate a greater

- understanding of the RA process that includes a general background of disability awareness.
- CalHR will develop and/or identify specialized, more in-depth, training that is mandatory for all supervisors, managers, administrators, RTWCs, business services staff, human resources staff, labor relations staff, and EEO staff. This training should be provided to existing staff within six (6) months of implementation of this recommendation. This training should be incorporated into the standard training for new managers and supervisors (or the training on sexual harassment and related topics provided under AB 1825) and to newly hired non-supervisory staff in the aforementioned categories within six (6) months of hire. The training should include:
 - Identifying the need for initiating RA protocol;
 - The basic elements of the agency's RA policy, as required by the state's model policy as described in RA recommendations, above, and with particular emphasis on the interactive process;
 - Legal requirements and best practices;
 - Addressing RA as necessary in employee evaluations; and
 - Available resources.
- CalHR will develop and/or identify specialized training and guides for all RACs which includes all of the above, plus:
 - Role of RA within adverse actions.
 - Triggering FEHA protocol when employee takes leave or returns to work;
 - Documenting RA discussions and actions;
 - RA review process;
 - Confidentiality of medical information;
 - Grounds for denial of RA requests (undue hardship/direct threat);
 - RA procurement process;
 - Information regarding RA resources (e.g., JAN, EEOC, DFEH, SPS-AT, contracted vendors, private resource providers and other accessibility-friendly goods and services.)
- CalHR should establish requirements for periodic refresher training for personnel who have direct contact with employees requiring RA. This shall include supervisors, managers, administrators, RTWCs, EEO Coordinators, Labor Relations, and RACs. Additionally, designated employees from Business Services and Human Resources who are involved with the purchase or provision of services will also be required to attend.
- CalHR should facilitate quarterly roundtable discussions with RACs and other interested staff. Participation in the quarterly roundtable discussions may partially fulfill the refresher training requirements proposed above.
- Agencies should be required to include RA discussion in all return to work options meetings.

APPENDICES:

The Core Team concluded vetting of all workgroup recommendations for inclusion in the executive document on September 24, 2015. Following are the full content documents as finalized by the workgroups. They are unexpurgated and provide greater detail for consideration.

APPENDIX	WORKGROUP	FINAL SUBMISSION DATE	PAGE
A	HIRING, PROMOTION AND RETENTION	October 13, 2015	22
B	DISABILITY SURVEY RE-ENGINEERING	September 8, 2015	32
C	REASONABLE ACCOMMODATION	September 30, 2015	59
D	INFORMATION TECHNOLOGY	September 4, 2015	106

APPENDIX A:

HIRING, PROMOTION AND RETENTION WORKGROUP

The Hiring, Promotion and Retention Workgroup (HPR) has been tasked to identify barriers impacting the hiring, promotion and retention of Persons with Disabilities (PWDs) in State employment and recommend methods to reduce or eliminate these barriers. The HPR intends by these changes to bring employment of PWDs closer to parity with California's PWD population and to improve the awareness, culture and sensitivity of the needs of PWDs within State employment.

According to the Census of California for 2000, statewide representation of Persons with Disabilities was 16.6%. This number was adopted by SPB as the state's disability parity goal. State agencies that do not meet the disability parity goal have a deficiency of Persons with Disabilities in their workforce. An agency with a disability representation below 13.3% (80% of the disability parity) is required to set a hiring goal and develop an action plan to increase representation of Persons with Disabilities.

As of December 31, 2013, the State of California employed approximately 21,626 persons who have identified themselves as having disabilities, representing 10.5%, of the state civil service workforce. This represents no change in the proportion of Persons with Disabilities compared to the percentage reported in the Annual Census of Employees in the State Civil Service 2012.

It is essential to bring additional qualified persons with disabilities (QPWD) into state service to meet parity goals and to ensure the state has a diverse workforce as well as takes advantage of the talents and abilities of all interested parties. Given the state's commitment in statute (Government Code 12803.6) to serve as a model employer for PWDs, the state is a suitable environment for them to use their skills and abilities to work and contribute to the state's economy.

OUTREACH/RECRUITMENT

HPR BARRIER/ISSUE # 1: People (with and without disabilities) do not have knowledge of the state civil service system regarding how to find a vacant job, how to take a civil service exam and how to apply and interview for vacancies.

HPR RECOMMENDATION #1A: CalHR shall conduct a customer satisfaction survey of potential and current applicants to assess how the state can improve all aspects of the hiring process. Include in the survey specific questions regarding barriers for people with disabilities and develop ongoing process improvements.

HPR RECOMMENDATION #1B: CalHR shall centralize all resources for PWDs in one location on the CalHR website and promote the availability of reasonable accommodation.

HPR RECOMMENDATION #1C: CalHR shall develop a skills translator that will allow PWDs and other potential applicants to match skills sets with current State classifications.

HPR RECOMMENDATION #1D: CalHR shall create hiring and testing process guidelines in multiple formats to increase successful completion of the application and exam process.

HPR RECOMMENDATION #1E: CalHR shall survey Departmental LEAP Coordinators, Reasonable Accommodation Coordinators, Return to Work Coordinators, Classification and Pay Analysts, and Equal Employment Opportunity Offices to identify how often they are contacted for information, what type of information is requested, and how often they collaborate with their peers. Survey LEAP participants on the type of information they request and the usefulness and consistency of the information provided.

HPR BARRIER/ISSUE #2: Recruitment processes and materials are not inclusive of PWDs.

HPR RECOMMENDATION #2A: CalHR shall update all state hiring, marketing and advertising materials to integrate pictures of people with visible disabilities within diverse groups of people, being sensitive to how people are portrayed in images and media

HPR RECOMMENDATION #2B: CalHR shall use focused recruitment of PWDs to increase hiring to include colleges, Independent Living Centers, Job Fairs, Virtual Fairs, etc. Develop and promote the use of an online listing of organizations with high populations of PWDs (Disabled Student Program Services at Community Colleges and Universities, Independent Living Centers, Affinity Groups, Disability-Specific organizations). Formalize a standing agenda item at the Recruiters Roundtable to regularly discuss efforts targeting recruitment of PWDs for State vacancies.

HPR RECOMMENDATION #2C: CalHR shall take all actions necessary to provide staff responsible for outreach, recruitment, examination and hiring with the knowledge, skills, and abilities to conduct successful hiring, promotion, and retention of PWDs.

HPR BARRIER/ISSUE #3: CalHR and other state departments do not take full advantage of existing programs, mechanisms and community resources that provide work experience for PWDs to be competitive in the state hiring process.

HPR RECOMMENDATION #3A: CalHR shall promote hiring of high school and college students with disabilities using the Youth Aid and Student Assistant classifications. Partner with organizations such as Youth Organizing (YO!), Youth Leadership Forum, DOR Workability and Transition Partnership Programs, EDD's Youth Services Program and similar programs.

HPR RECOMMENDATION #3B: CalHR shall partner with institutions of higher education to develop paid internships and Executive Fellowship Programs for PWDs to prepare individuals for permanent State government employment.

HPR RECOMMENDATION #3C: CalHR shall promote the use of internships for Veterans with disabilities to departments. Partner with the Federal Veterans Administration, Chapter 31 Veterans Administration Vocational Rehabilitation and Employment (VAVR&E) Program. This will allow the State to have intern wages paid by the Federal Government while Veterans gain State work experience.

HPR RECOMMENDATION #3D: CalHR shall partner with DOR to establish a statewide volunteer program to provide training and job experience to PWDs.

HPR RECOMMENDATION #4: CalHR shall promote use of innovative methods of recruitment and advertising such as the Talent Acquisition Portal, LinkedIn, Monster.com.

TESTING/HIRING

Background: To increase the number of PWDs in state government to meet or exceed the 16.6% parity goal of PWDs in State government, best hiring practices must apply to all prospective employees. Improvements can be made to the testing and hiring process so that all applicants are able to easily understand and apply for State government jobs. Changes made to the testing and hiring processes that benefit PWDs will benefit all. This includes providing accessible and usable testing and hiring methodology and tools. Better information and support during the testing and hiring process can be provided to all applicants including PWDs and hiring managers and supervisors.

HPR BARRIER/ISSUE #5: The current State Civil Service testing and hiring process is a barrier to many PWDs and other individuals interested in employment with California State government. Getting started and knowing how to take an exam can be confusing and cause individuals to abandon the process.

HPR RECOMMENDATION #5A: CalHR shall utilize online analytics to measure loss of interest/failure to complete online applications for State exams.

HPR RECOMMENDATION #5B: Call HR shall develop survey tools, online and alternative formats, to collect information from job seekers about the application, hiring, and testing processes. Create an implementation plan to address the issues identified.

HPR RECOMMENDATION #5C: Call HR shall ensure that ECOS is accessible for both applicant and business side.

HPR BARRIER/ISSUE #6: Classification specifications and duty statements may establish MQs or require KSAs which may not be truly essential or job related, or they may contain other language which has the effect of screening out PWDs.

HPR RECOMMENDATION #6A: CalHR should establish a workgroup of stakeholders (CalHR, SDAC, ACSED, DOR, CSI and others as appropriate) to review and revise class specifications that have language which impose non-job-related barriers (e.g. Scientific Aide (possession of a valid driver's license, Office Technician (Typing)). These non-job-related barriers are often incorrectly interpreted as essential functions during the hiring process (personnel, supervisors and managers, etc).

HPR RECOMMENDATION #6B: CalHR shall provide guidelines for departments to use in order to ensure that duty statements are free from non-job-related barrier language.

HPR BARRIER/ISSUE #7: State testing and hiring processes are not always accessible to PWDs and often state agencies are unprepared to provide accessible alternatives. Some State buildings or testing sites have physical and programmatic barriers and may not be fully accessible (lack of /unsafe parking spaces, limited test locations, physical access into buildings) for PWDs participating in a hiring process (on site exams, interviews, etc). Testing and hiring procedures and processes (e.g. pencil and paper exam or oral interview) may present accessibility problems for individuals with sensory, communication and intellectual disabilities.

HPR RECOMMENDATION #7A: CalHR in partnership with DOR shall provide technology-based accessibility solutions and alternative testing processes to allow equal access for PWDs.

HPR RECOMMENDATION #7B: CalHR shall ensure that departments with delegated testing authority design exam plans that are accessible and ensure alternate testing processes.

HPR RECOMMENDATION #7C: CalHR shall work with DGS and all other appropriate entities to develop a plan for addressing physical accessibility issues in state owned or leased facilities which create barriers for testing, hiring and employment of PWDs.

HPR BARRIER/ISSUE #8: Some Interview panel members are not sensitive to PWDs, may not project a welcoming and diverse environment, and may not interact with the PWD effectively.

HPR RECOMMENDATION #8A: CalHR shall provide guidance to departments that members of exam or interview panels should be selected with consideration given to whether the person has completed disability awareness training recommended under RA #3 or has otherwise demonstrated understanding of issues related to employment of PWDs.

HPR RECOMMENDATION #8B: CalHR shall provide guidance to departments that any person representing the hiring authority who acts in a manner that shows a bias against any protected class, including PWDs, may be prohibited from participating in the exam or hiring process under the direction of the EEO officer or the Director.

HPR RECOMMENDATION #8C: CalHR shall ensure that chairperson training is expanded to include a segment regarding disability sensitivity, and interviewing/hiring of PWDs.

HPR BARRIER/ISSUE #9: Misconceptions and perceptions by managers and supervisors create non-job related barriers to the hiring and promotion of PWDs.

HPR RECOMMENDATION # 9A: CalHR shall use available information (national data and other research) to identify non-job related barriers and develop strategies to correct misperceptions that create those barriers.

HPR RECOMMENDATION # 9B: Within the new 80 hour mandatory supervisory training provide adequate time (e.g. 1 hour) to cover topics related to attitudinal barriers, hiring, promotion, reasonable accommodation, and retention of PWDs.

HPR RECOMMENDATION # 9C: CalHR shall provide online resources such as guides, policies and best practices on these topics for supervisors and managers.

HPR RECOMMENDATION #9D: CalHR to share these topics and resources to other providers of the new State supervisor training to ensure the likelihood that these topics are addressed.

HPR RECOMMENDATION #9E: CalHR should seek legislation specifying disability related topics to be covered in the new supervisory training and revise current law regarding sexual harassment prevention training to encompass prevention of harassment and discrimination of all protected groups, including PWDs.

LIMITED EXAMINATION AND APPOINTMENT PROGRAM (LEAP)

Background:

The Limited Examination and Appointment Program (LEAP) was established by the State Personnel Board on January 1, 1989 pursuant to *Government Code, Section 19240* et seq. It is designed to minimize the adverse impact of the traditional selection process by providing an alternate means of assessing the qualifications and skills of job applicants with disabilities. LEAP facilitates the recruitment of applicants with disabilities to provide departments with qualified referrals for selected job classifications. The most recent revision to the Guidelines for Implementing the Statutes and Regulations Governing the Limited Examination and Appointment Program document is dated October 2005. In the intervening period, multiple technological advances have been made. It is respectfully submitted that the LEAP program has not kept up with those advancements such that PWDs may benefit accordingly. Even though the number of hires (and related workload) has increased, final approval of all LEAP examination appointments statewide is still manually done by only one CalHR Civil Rights

manager to ensure accurate and lawful certification and list eligibility (including approval of extensions or reductions of JEPs § 547.56. Transition from LEAP Position to Regular Civil Service Position). This limited staffing resource can cause a delay for LEAP applicants to transition to civil service employment with State government.

LEAP Barriers:

One of our primary recommendations is to revamp what is currently known as the LEAP program.

HPR BARRIER/ISSUE #10: The current LEAP process is based on outdated policies that have limited its ability to support the hiring of persons with disabilities.

HPR RECOMMENDATION #10A: CalHR shall create a new LEAP process.

- a) Convene a Workgroup comprised of stakeholders to update the LEAP manual to reflect the current statutes, ECOS, and proposed changes resulting from this Project. Create a LEAP manual for departments, LEAP Coordinators, RA coordinators and job seekers.
 - o Identify qualified persons to assess medical/disability documentation and authorize certification.
- b) Work with BUs to determine how to key LEAP candidates during the JEP.
- c) Rebrand the LEAP program by identifying a new name. Change statutes accordingly and update roles and responsibilities with the new program name.
- d) Develop legislation to establish a Qualified Person With a Disability (QPWD) Identifier Certification for all exams. Allow candidates to utilize their Department of Rehabilitation (DOR) certification as a QPWD - currently limited to LEAP examinations - on all civil services examinations for which they meet the minimum qualifications.
 - o Identify QPWDs, similar to veterans' ranking, so that they are provided eligibility in rank 1 on all successful examinations.
- e) Expand recruitment of PWDs by hiring departments, grant hiring authorities the ability to certify any employment lists utilizing the QPWD identifier. Develop legislation to establish the ability for hiring authorities to certify any employment lists utilizing the QPWD identifier
- f) No one charged with making a hiring decision will be given access to information about whether someone is a QPWD, except when candidates self-disclose, when necessary to provide reasonable accommodation or as in Item E above.
- g) If a QPWD is offered a position, he or she may choose to enter a JEP or move directly to civil service status.
- h) Any department which has not yet achieved 80% of the parity goal will be required to ensure that at least 16% of all candidates interviewed for any position are QPWDs, unless there are not enough QPWDs on the employment list to satisfy this requirement.
- i) If a department which has not achieved parity wishes to hire a person other than a QPWD, they will have the burden of demonstrating to CalHR that none of the QPWDs on the employment list are likely to be able to perform the duties of the position even after the completion of a JEP and provision of any necessary reasonable accommodations.
- j) Create training and support on updated process to departments, current employees, and potential candidates.

- k) Automate the LEAP process such that that DOR staff are able to electronically certify job seekers with disabilities. The goal would be to eliminate the risk of identity theft and to speed up the current manual process.

HPR BARRIER/ISSUE #11: Not all departments have information available on departmental internet and intranet pages and/or links to the LEAP program and disability employment information.

HPR RECOMMENDATION #11A: CalHR shall instruct departments to have information for PWDs and the LEAP program clearly available on departmental internet and intranet employment page.

HPR RECOMMENDATION #11B: CalHR shall create a centralized or collaborative online workspace for mentors, SMEs, and self-service options.

HPR BARRIER/ISSUE #12: Hiring Authorities and LEAP candidates do not have a full understanding of the LEAP process due to insufficient training, guidance, and marketing.

HPR RECOMMENDATION #12A: CalHR shall Create and promote LEAP training.

- a) Review the three modules of California as a Model Employer Initiative (CMEI) training
 - Update and align with new legislation and current best hiring practices.
 - Promote refreshed CMEI training to all State supervisors, managers, and candidates
 - Reissue the PML regarding the CMEI training
- b) Update training and best practices specific to LEAP Coordinators

HPR BARRIER/ISSUE # 13: Lack of coordination may exist between Departmental LEAP Coordinators, Reasonable Accommodation Coordinators, Return to Work Coordinators, Classification and Pay Analysts, Equal Employment Opportunity Offices, and LEAP participants. A lack of consistency results when each of these parties do not collaborate and, the PWD receives inadequate information that may lead to uninformed decisions.

HPR RECOMMENDATION # 13A: CalHR shall develop strategies to address gaps that can include the following:

- Develop tools to coordinate and centralize information regarding LEAP for Departmental LEAP Coordinators, Reasonable Accommodation Coordinators, Return to Work Coordinators, Classification and Pay Analysts, Equal Employment Opportunity Offices, and LEAP participants.

HPR BARRIER/ISSUE #14: Proposed changes to this program may impact the ability of CalHR and other departments to adequately implement the new program.

HPR RECOMMENDATION #14A: CalHR shall review staffing levels and business processes to adequately support the workload needs to ensure that the transition of QPWDs to civil service employment is not delayed.

PROMOTION AND RETENTION

Background:

Promotion: Currently there is no data describing promotions of PWDs to identify whether a lag exists for PWDs and the reasons for that lag. Promotion of State employees for career development and succession planning requires actions by the employee, the employee's supervisor/manager and other best practices to ready an employee for upward mobility and career development.

Retention: The 2013 State Census does identify that the proportion of separations of PWDs is approximately 25.5% when comparing the number of separations of PWDs during 2013 (5,505) against the number of PWDs working as of December 31, 2013 (21,626). The proportion of PWDs separating from State government (25.5%) is significantly higher when compared to overall proportions of separation data for all State employees (14.0%). According to the 2013 State Census, a separation from state civil service as tabulated may be due to retirement, layoff, a short- or long-term leave of absence, acceptance of an exempt appointment, resignation, rejection during probationary period, suspension, dismissal, or death.

HPR BARRIER/ISSUE #13: The state lacks data to determine whether PWDs are promoted at comparable rates to people without disabilities.

HPR RECOMMENDATION #13A: CalHR shall establish a workgroup to develop a system to capture promotion rates for PWDs and non-PWDs in order to identify solutions for any associated barriers. If disparities are found, the following could be used as strategies to improve promotion rates for PWDs:

- a) Mentoring programs or role models for PWDs.
- b) Partner with stakeholders (like State Disability Advisory Committee and ACSED) to create a statewide mentoring program to aid supervisors and managers to coach, mentor and prepare PWDs and other State employees interested in upward mobility and career advancement. This will also serve to further the State's succession planning efforts.
- c) Align mentoring program with department workforce strategic plans
- d) Develop an assessment tool to measure the progress of the new mentoring program against the promotion and retention data of PWDs.
 - Develop an online resource to match employees and mentors based on mutually beneficial criteria such as shared professional interests and related job experiences/disciplines.
 - CalHR shall develop External web enabled/password protected secure location for:
 - Mentor and peer communication and collaboration

- e) Create an easy to find State orientation page for new State employees and create a State onboarding program with tools and resources for supervisors and managers.
- f) Using the data as developed above, modernize and boost the effectiveness of the SDAC and departmental DACs by defining roles, requiring establishment of annual goals and objectives for the hiring promotion, and retention of PWDs in alignment with departmental strategic plans; and define the relationship of the DACs as an extension of the departmental EEO/CROs; create online resources to aid in the effectiveness and success of DAC activities towards the hiring, promotion, and retention of PWDs in State government.

COMPLIANCE:

Background:

The 2013 Annual Census of Employees in State Civil Service, State Civil Service Representation of Persons with Disabilities section states, State Civil Service Representation of Persons with Disabilities.

According to the Census of California for 2000, statewide representation of Persons with Disabilities was 16.6%. This number was adopted by SPB as the state's disability parity goal. State agencies that do not meet the disability parity goal have a deficiency of Persons with Disabilities in their workforce. An agency with a disability representation below 13.3% (80% of the disability parity) is required to set a hiring goal and develop an action plan to increase representation of Persons with Disabilities.

As of December 31, 2013, the State of California employed approximately 21,626 persons who have identified themselves as having disabilities, representing 10.5%, of the state civil service workforce. This represents no change in the proportion of Persons with Disabilities compared to the percentage reported in the Annual Census of Employees in the State Civil Service 2012.

HPR BARRIER/ISSUE #14: There are no consequences for departments failing to set and meet hiring goals and develop actions plans to increase the representation of PWDs.

HPR RECOMMENDATION #14A: CalHR shall develop recommendations for consequences for departments failing to meet parity or hiring goals.

INFORMATION TECHNOLOGY

HPR BARRIER/ISSUE #15: Statutory compliance, business requirements, communication of Equal Employment Opportunity guidelines and employment goals, are not well known or widely communicated. As evidenced by disparate parity rates and varying practices around the employment of people with disabilities in State government, there is a need for clear, factual, and timely communication of laws, policies, standards, and procedures pertaining to EEO. There

is no easy way to keep abreast of new laws, policies, and procedures. This situation is especially challenging for people with disabilities, when combined with the inaccessibility of many State technology products. Also, there is no centralized or collaborative online workspace for Subject Matter Experts (SMEs) and there may be duplicative efforts by State departments and no centralized resource for departments looking for what has already been done.

HPR RECOMMENDATION #15A: CalHR shall expand HRNet to include access to both HR and EEO professionals (Departmental LEAP Coordinators, Reasonable Accommodation Coordinators, Return to Work Coordinators, Classification and Pay Analysts, Equal Employment Opportunity Offices) to centralize information about statutory and regulatory compliance, business requirements, communication of EEO guidelines and employment goals. Examples are as follows:

- Shared information (best practices) (e.g. Sharepoint)
- Templates and Standards
- Forums
- Best Practices
- Training information
- Current documentation
- RA Tracking

APPENDIX B:

DISABILITY SURVEY RE-ENGINEER WORKGROUP

THE SURVEY INSTRUMENT

DSR #1 BARRIERS AND ISSUES FOR DESIGNING THE QUESTIONS SO THEY COMPLY WITH FEDERAL AND STATE LAWS.

- Conflicting federal and state definitions of disability create inaccurate comparisons between current state Disability Survey results and population estimates.
- Current questions do not cover all or more recent state definitions and/or regulations.
- The survey has two purposes: 1) to assess and compare the number of people with disabilities in state service to a parity number, and 2) for developing goals and timetables for affirmative action employment programs for state agencies. Meeting both these goals isn't possible using the current Disability Survey .

Background:

Conflicting federal and state definitions of disability create inaccurate comparisons between current state Disability Survey results and population estimates.

Government Code § 19233(b) mandates that the state “Survey the number of individuals with a disability in each department by at least job category and salary range for the purpose of developing goals and timetables pursuant to Section 19232 and *compare those numbers with the number of individuals with a disability in the workforce.*” (Emphasis added).

One goal of the Disability Survey is to assess and compare the rate of state civil service employees with disabilities to California’s workforce population rate with disabilities. For this comparison the survey questions need to align with how disability is assessed across California. To compare the Disability Survey results to the rest of the California workforce, the best data is collected by the US Census and the Bureau of Labor Statistics (federal agencies that collect population estimates of people with disabilities). However, the disability definitions used by the US Census and the Bureau of Labor Statistics are based on federal laws and regulations; whereas, California state codes and regulations contain much broader definitions of disability which the current Disability Survey is based on. This creates an inaccurate comparison of disability rates.

Currently the Disability Survey uses very different definitions of disability than the current parity measure from the 2000 US Census. The census asked about disability using two questions with multiple parts. For example, the census asked if people were blind or had a severe vision impairment while California defined a visual impairment as legal blindness or difficulty reading a newspaper without glasses or limited field of vision. Not only are the questions based on federal regulations from the 2000 US Census different from California’s questions, the US

Census no longer uses these questions replacing them with more valid and reliable ones in 2008.

While data on the representation of persons with disabilities self-reporting under the state definition must still be collected and reported as required by law, expanding the survey to include the new federal disability survey questions will improve the state's ability to compare representation of persons with disabilities. Because the change in Federal Census Bureau survey questions resulted in a drop from 16.6% of California's civilian labor force self-identifying as having a disability in 2000 to 4.8% in 2010, incorporating the Bureau's current questions into the survey is critical to comparing representation in the state civil service.

Current questions do not cover all or more recent state definitions or regulations.

For most definitions currently used in the Disability Survey, see Part 2.8. Department of Fair Employment and Housing, Chapter 4. Definitions 12926 (j) (1) & (2); (m) (1), (1) (A) & (2); and (n); excluding those listed under (j)(5) and (m)(6); also Regulation 470.1. However, specific disabilities found in these codes are missing from the current Disability Survey including: 12926.1(c) HIV/AIDS, hepatitis, bipolar disorder, multiple sclerosis. 12926.1(j)(1) organic brain syndrome, and 12926.1(i)(2) mentions genetic characteristics that may increase the risk of a disease or disorder even without current symptoms. Also the term “neuroses” used in the current Disability Survey is an outdated term no longer used in mental health care. Additionally, current questions use definitions from state regulations 470.1 from 1988 but no longer appear in the current regulations. The current Disability Survey needs to be revised to provide comprehensive and updated question terminology to align with State definitions.

The survey has two purposes: 1) to assess and compare the number of people with disabilities in state service to a parity number, and 2) for developing goals and timetables for affirmative action employment programs for state agencies. Meeting both these goals isn't possible using the current Disability Survey questions. While one goal of the Disability Survey is to compare disability rates to population estimates, another goal (Government Code § 19233) is to develop affirmative action employment programs based on survey results. For this goal, parity with the state's workforce could be part of the goal but other factors could influence the program as well. CalHR could set an appropriate goal of employment rate for persons with disabilities for state agencies, which can take into consideration the potential inaccuracies with the current parity number. This would allow the Disability Survey to use definitions based on state codes and regulations. One drawback to this approach is the vague nature of the definitions found within the codes and regulations and potentially overlapping categories making it difficult to ask separate valid and reliable questions. Updating the questions to cover all aspects of how disability is defined and making it easier to identify a disability without choosing a single category should provide better data for meeting the goal of developing affirmative action employment programs. However, using only questions based on state definitions of disability still won't meet the goal of comparison to the California workforce.

Solution(s) To Barrier:

Combine the two ways to ask about disability, according to federal definitions and state definitions. This is the best solution to the issue because we can collect both types of data that can be used to meet both goals of the Disability Survey.

- Use the valid and reliable set of six questions used by federal agencies to self-identify disabilities. These allow CalHR to accurately compare our results to population estimates within California compiled by federal agencies for people with disabilities as described in Government Code § 19233(b).
- Add one follow-up question on vision to the federal questions to capture the most common difference in definitions between federal and state definitions.
- Add a disability question based on the California definitions to ensure all people with disabilities are counted. This will be useful in developing affirmative action employment programs called for in Government Code § 19233.
- Proposed additional questions also include a more comprehensive and updated list of disability categories. The disability categories can be vague and overlapping, they do not have to be so discrete and specific as the current list on the survey. This list can be revised more often and use the terminology found in the regulations.

Discussion:

The US Census and the Bureau of Labor Statistics adopted six new questions about disability in 2008. These questions are used in the American Community Survey and the Current Population Surveys, each providing the best estimates of individuals with disabilities across California and in relation to other variables such as employment status, gender, age, race and ethnicity, and geographic location.

Because of the extensive testing of question wording for these six questions, they're valid. Meaning they measure what they're intended to measure (people with disabilities usually answer yes and those without disabilities answer no). And reliable, meaning they obtain the same answers when asked repeatedly. Because of the quality of these questions and the ability to directly compare the results from these two federal organizations with our own results, we should adopt these six questions in the redesigned Disability Survey.

However, the six questions used by the US Census and the Bureau of Labor Statistics are based on different definitions than was set forth in California's codes and regulations. Therefore, many people who qualify as having a disability under California's criteria would not be counted under the federal standards. The federal regulations count a disability if it "substantially limits" a major life activity, whereas, California code only requires a major life activity to be "limited" by a disability.

For example, if one has difficulty reading a newspaper without glasses, this is a disability under California standards, but is not one under federal standards. They must have difficulty reading *even when wearing glasses*. This question wording difference most likely accounts for rate

differences of visual disability seen in recent US Census results compared to recent CalHR Disability Survey results. For Californians aged 18-64 years old (US Census 2009-2013 5-year estimates), only 1.5% indicated a visual disability, the disability indicated least often by Californians. Whereas, according to CalHR Disability Survey results as of 12/31/2014, the most frequently chosen disability was visual, accounting for 3.7% of the population; more than double the rate seen in population estimates by the US Census. This increase in visual disabilities is most likely due to question wording.

Since this is a large difference in results, our solution includes a follow-up question to the federal one on vision to capture those who don't meet the federal definition, but meet the state one, "Do you have difficulty reading or driving without corrective lenses or have a limited field of vision?"

Beyond visual disability, our solution includes another question into the redesigned Disability Survey based on California definitions. This will allow those who don't meet the restrictive definition of a disability under federal laws, but meet the California ones, to be counted. This additional question wording provides more comprehensive and updated wording to better align with current codes and regulations.

The results from the California definition question can be used to address the goal of the survey in Government Code § 19233 to develop an affirmative action employment program within state agencies; setting appropriate goals for inclusion using an outside reference (data collected using federal definition) and a California specific one. This will also encourage agencies meeting parity with the federal results to set higher goals for inclusion based on their agency's previous results to the state definition disability question.

DSR#1 Recommendations :

- Use the valid and reliable set of six questions used by federal agencies to self-identify disabilities.
- Add additional disability questions based on California definitions to ensure all people with disabilities are counted.
- 3. Ensure disability categories are more comprehensive to reduce dependence on narrow exclusive categories currently offered, while providing more options for employees to choose from, giving the state more accurate statistics and allowing for future updates.

1) DSR #2 BARRIERS AND ISSUES TO DESIGNING THE QUESTIONS TO IMPROVE EMPLOYEE PARTICIPATION.

The current survey design inhibits employee participation in the following ways:

- Security issues related to providing the employee's Social Security Number (SSN) within the survey.

- No ability to identify multiple disabilities.
- No option within the survey to decline participation.
- Perception that disclosing a disability will be misused or harm their career.

Many agencies mentioned a perceived risk by employees to self-identify their disability. These employees are afraid their information will be used against them to hinder their career or to be singled out as a person with a disability. Further, by providing the last four digits of their SSN they perceive that their information is not confidential or secure. In addition, those with multiple disabilities are forced to choose their “primary” disability and there is no choice for declining participation apart from avoiding the survey altogether.

We have no data indicating how many people fail to complete the survey due to these concerns. However, since the goal of the Disability Survey Re-Engineer Workgroup is to increase survey participation, addressing these concerns should increase participation to some degree.

DSR #2 Solution(s) To Barrier:

The proposed concept for how the survey should be redesigned includes verbiage or ways to mitigate these concerns.

Security issues related to providing the employee’s Social Security Number (SSN) within the survey.

- Develop clear and consistent statewide policy that protects privacy and confidentiality, which tries to mitigate participant fears over disclosing their personal identifying information.
- Include a note that provides more assurance on the use of their information, “Note: We need this information to make sure your current responses update any previous survey responses you’ve provided. All personal information will be removed from the results before CalHR passes it on to your department for reporting purposes.”

No ability to identify multiple disabilities.

- Use the six separate questions used on the federal level to collect disability information, this allows individuals to identify more than one disability.
- Add one follow-up question on vision to capture the most common difference between state and federal definitions of disability.
- The proposed state level question about disability allows them to answer without having to choose a “primary” disability enabling those with multiple disabilities to easily respond.

No option within the survey to decline participation.

- The answer choices for the redesigned questions include an option for not wishing to answer each of the questions.

Perception that disclosing a disability will be misused or harm their career.

- Include this more precise wording in the survey instructions “Your answers are protected under the Privacy Act of 1974 (PL 93-579) and will be kept strictly confidential. All identifying information will be removed from your responses before CalHR passes the survey results to your organization.”

Discussion:

Security issues related to providing the employee’s Social Security Number (SSN) within the survey.

In the past two decades, California has twice changed the method by which it collects information about the disability status of its employees. Initially new hires were given opportunity to self-identify disability status during initial employment paperwork, and the hiring authority's personnel unit would key this information into the State Controller's Office (SCO) records along with all other hiring information.

Out of respect for employee privacy, the State Personnel Board (SPB) created a machine-readable form that employees could mail in without personnel employees having to manually enter the information. (SPB had responsibility for the disability survey prior to the creation of the California Department of Human Resources – CalHR.) There was a concern relating to the mail-in system as well, though: because the law requires that data analysis include information relating to occupation and pay as well as employment location, the form requested employees' Social Security Number (SSN) in order to match survey data on disability status with SCO payroll data.

Some employees expressed concern about providing their SSN by mail, outside of the setting of new-hire documentation. To address this, as well as to reduce costs, the state moved to its current system, in which each hiring authority is assigned a unique web address for its employees to take the survey. Rather than using a full SSN, employees now enter only their last name and the last four digits of their SSN, which is sufficient for CalHR to match the vast majority of survey data with SCO payroll records. But concerns over using the SSN in any capacity remains a real concern for employees.

The team reviewed many alternatives for linking survey responses to a unique identifier that could replace the current system in today’s survey. After much deliberation, we opted to leave the same identifying process in place, but to strengthen the privacy policies that affect how the survey data is collected and processed. In addition, the survey will contain a note describing the purpose of the information and how their personal data will be protected and remain confidential.

Also, survey industry best practices for sensitive questions such as this should be at the end of a survey not at the beginning, the current format ([See Dillman, et al, 2014](#)), Guideline 7.3: Place

sensitive or potentially objectionable questions near the end of the questionnaire). The redesigned survey asks for the e-mail information at the end of the survey.

No ability to identify multiple disabilities.

By using the six separate questions used on the federal level, this allows individuals to identify more than one disability. The visual disability definition appears to be the most common difference between state and federal standards. We added this follow-up question to the redesigned survey for those who don't meet the federal standard to see if they meet the state one. "Do you have difficulty reading or driving without corrective lenses or have a limited field of vision?"

The new state level question about disability allows to them to answer without having to choose a "primary" disability, reducing confusion and also providing some anonymity about the types of disabilities one has according to the state definition. Since the definitions within the regulations are vague and have overlapping conditions, it's difficult to separate the types of disabilities into mutually exclusive categories. Now they just read the descriptions and indicate if they have one or more of these disabilities, or ever had one.

Another advantage to using one question to assess disabilities by state definitions is the ability to quickly revise the descriptions as definitions change in state laws or regulations.

No option within the survey to decline participation.

The answer choices for the redesigned survey include an option for not wishing to answer each of the questions. This choice is also found on a disability survey recommended for federal contractors (Form CC-305 OMB control number 1250-0005).

Perception that disclosing a disability will be misused or harm their career.

To reduce concerns about perceived misuse of this information, this verbiage is added to the redesigned survey instructions, "Your answers are protected under the Privacy Act of 1974 (PL 93-579) and will be kept strictly confidential. All identifying information will be removed from your responses before CalHR provides summary data to your organization for reporting purposes."

List Proposed Recommendations:

- Move sensitive question about personal identifying information to the end of the survey.
- Include an option to "decline participation."
- Omits requirement to choose primary disability for state definition question.
- Establish a formal policy that no personally identifiable data will be shared with departments and clarify the confidentiality statement on the survey to explain this policy to participants.
- Provide clarification related to confidentiality as to how information is stored, shared, and used.

Impacts

The main impact to using the recommended redesigned Disability Survey is housing the additional data fields captured through the survey and their inclusion in various reports. However, capturing better quality data through the redesigned survey is worth the additional effort to house and incorporate these data.

Recommendation(s):

PART II: INCREASING EMPLOYEE PARTICIPATION BY RUNNING STATEWIDE SURVEY CAMPAIGN WITH TOOLKITS AND STANDARDIZED RESOURCES FOR THE STAFF WHO RUN THE CAMPAIGN

2) DSR #3: BARRIERS AND ISSUES FOR A STATEWIDE SURVEY CAMPAIGN

- Departments have inconsistent practices for encouraging employees to take the survey.
- Outdated and inadequate resources for EEO officers, supervisors, and managers to launch a successful disability survey for their department.
- Not all employees have access to the electronic survey.

Background:

An Inconsistent Step of Practices for Deploying the Disability Survey

We conducted a statewide survey and had focus group meetings with EEO officers to map out how departments encourage their employees to take the disability survey. We received information from over 80 departments and found out that there was no consistent practice for deploying survey. Some departments conducted annual campaigns to encourage employees to take the survey; other departments had not done so in years.

We also discovered that some staff did not understand the purpose of the survey, or how to encourage employees to participate, or what happens to the information. For example, one department representative shared that they had never taken the survey because they thought that the survey was only to be taken by persons with disabilities.

A few departments had developed detailed policies and guidelines for implementing the survey. In some cases, staff had developed thoughtful explanations of the importance of the survey and felt they could respond to employee questions on the matter. Some departments had a regular schedule for conducting a survey campaign and kept maintained some effort to encourage employee participation throughout the whole year.

Therefore, participation rates are low, and it is unknown whether employees are choosing not to take the survey or whether hiring authorities are not taking sufficient steps to publicize it. Additionally, most hiring authorities who hold informational campaigns about the survey do so during Disability Awareness Month, which is October, so employees hired late in the calendar year are less likely to respond during the year of their hire. The resulting data gives the appearance that comparatively few employees with disabilities are being hired while an unusually high number are developing disabilities after hire.

Leadership Support Is Needed to Launch a Campaign

One consistent finding was that departments with the most successful survey campaigns had support from their directors and leaders. Leadership would send an email to launch the campaign, encourage participation, emphasize that it was voluntary, while providing an explanation of its importance. Depending on the size and worksite distribution of the department, this type of encouragement also occurred at the manager level. In either case, explicit support from leadership that was linked to a campaign a specific point in time is something EEO officers said helps, or would help encourage employee participation.

A Good Time to Piggy Back on Other State Campaigns

Due to the recent passage of AB 1397 in 2014, CalHR must now also collect data on the veteran status of employees. Combining this and other data collection efforts would maximize efficiency for collecting, processing and reporting these types of data.

In general, the DSR workgroup discovered that the complex task of encouraging employees to take a voluntary survey that asks them to identify whether they have a disability or not has both cultural and methodological barriers that can be difficult to overcome. While some department EEO officers have already developed tools, resources, and strategies to overcome these, not all of the EEO officers had access or were aware of these. The topic of the survey requires that the departments begin to change the workplace culture, which is possible through role modeling from leadership, establishing a regular and routinized practice of offering the survey, and coupling the survey campaign efforts to other important survey campaigns and events. Overcoming the methodological barriers requires the development of standardized resources and strategies that all EEO officers are trained to use and can access.

Solution(s) To Barrier:

To increase survey participation, the state must consider how it develops and maintains a “positive culture” for taking the survey. For employees, the anxiety for being singled out as the only person who took the survey is something that is preventing participation. Also, state employees also expressed concern that their personal information would not be protected, which they believe could put them in harm’s way.

Our data also shows that employees who are responsible for implementing the survey have a hard time assuaging potential participants of their fears that their responses will lead to other

social or personal repercussions. EEO officers and other survey proctors need the training and knowledge to reduce this workplace anxiety.

One solution to this would be to begin to establishing a workplace culture that embraces the survey as an acceptable act will also serve to reduce employee hesitation. This culture change can be done in a variety of ways.

DSR #3 Recommendation(s):

- CalHR should create a statewide campaign. to be coordinated across departments so that resources, materials, and training are easily available to all EEO officers or designated campaign coordinators.(e.g. United Way Campaign or Charitable Contributions Campaign)

Possible implementation strategies:

- The campaign should be developed around an overarching theme that will make it recognizable as a statewide initiative. For example, a theme could be “Awareness Changes” or something like this. The design of the theme should be flexible so that a sub-theme that can be attached and tailored to each department’s local efforts. A department level modification could look something like this: “Awareness Changes – Join EDD In the Disability Survey 2015.”
- Each department should conduct a disability campaign that has two levels.
 - Establish a statewide annual campaign that begins in August and ends in October, which is Disabilities Awareness month. The state should create a campaign strategy plan in order to launch a synchronized launch of the annual disability survey campaign. The strategy plan should include a instruction for how to run the campaign, a timeline, suggested marketing strategies, and other resources to ramp up awareness of the survey through October.
 - Establish a sub-campaign that is conducted year round utilizing various publicity outreach tools:
 - Send the survey to all new hires
 - Promote the survey on department kiosks
 - Advertise the survey on employees check stub
 - Automatically send an employee the link to the survey when they receive an email account
 - Include an invitation to the survey whenever an employee does other required online trainings, such as sexual harassment prevention or workplace safety trainings.

- Include an invitation to the survey whenever an employee transfers from between jobs, or positions.
- The Governor and Department Directors should announce publically their support for the campaign and take on the role as campaign stakeholders in order to demonstrate to all employees a high level of support for the campaign.
- Develop a campaign lead and a campaign team in each department. This can include the EEO officer, DAC (disability advisory committee) members and a department designee as a contact person per each worksite.
- Conduct an annual training and education for EEO officers and any other campaign leaders to explain the disability survey campaign tool kit, how to use its resources, and explain the disability concepts. In particular, the frontline managers and supervisors who interact with rank and file employees should receive campaign promotion and topic sensitivity training so they can articulate the importance of the voluntary survey and its function in a respectful, inclusive and sensitive manner.
 - Develop standardized training and education materials for the campaign leads and their team. The training materials could include:
 - An explanation of purpose and function of the disability survey and that the campaign is a statewide initiative.
 - The value of the disability survey results, stressing the importance of participation of all employees regardless if they have a disability or not.
 - Reminder of the voluntary aspects of participation in the disability survey.
 - The importance of having each department’s Director and /or Leadership team leads the release of the disability survey to its employees.
 - The potential increased employee response rate when reminder notification are released after the initial release letter during the survey period.
 - Common frequently asked question portion to answer questions the coordinators and officers may have.
 - Also, include FAQs that coordinators, officers, supervisors, and managers may receive from the employees that receive the survey.
 - Create standard template letters that departments can use to support the annual campaign and year round efforts. These could include:
 - Initial release letter from Department’s Director/Executive Director informing employees of state wide disability survey period via email. Include FAQ section attachment to release letter.
 - Reminder notification templates that will be sent to employees via email in week intervals from the Director/Executive Director.

- The Department Director should add an award or certificate to the units that increases their unit’s participation in the annual disability survey.
- To complement a standalone disability campaign, the Disability Survey can also be included into a more comprehensive survey of state workers. For example, CalHR could conduct an annual survey of all state workers to assess relevant worker characteristics used in their Workforce Analysis not easily tracked, such as gender, race/ethnicity, disability status, veteran status and/or other characteristics.

PART III: WHO TAKES THE SURVEY AND HOW THE DATA IS PROCESSED?

3) DSR #4: BARRIERS AND ISSUES FOR PROCESSING AND REPORTING SURVEY DATA:

- The state is unable to calculate a full count of employees with disabilities because the disability survey process is methodologically constrained since it does not target state employees who are exempt from civil service status.
- CalHR is unable to provide a complete analysis of the disability survey data because the final reports exclude certain safety classifications from their annual reports.
- Parity between the state’s workforce and the California population becomes harder to assess as state and federal governments continually evolve how each defines disabilities, measures this in its populations, and relies on new census and survey methodologies to do so. The role of the parity number and the type of benchmark it establishes should be periodically reviewed as state and federal laws and census methodologies continue to evolve in the future.

Background:

The Disability Survey’s Mandate and Purpose

The current Disability Survey is the primary instrument for counting the number of employees with disabilities that are currently employed in the state workforce. One function of this survey is to enable the state to comply with government code requirements (Gov. Code § 19232 - 19233) where each state agency shall be responsible for establishing an effective affirmative action program to ensure individuals with a disability, who are capable of remunerative employment, access to positions in state service on an equal and competitive basis with the general population.

Specifically, this information is used by the state's Equal Employment Opportunity (EEO) Officers to compare the level of representation of persons with disabilities in the state civil service relative to the Relevant Labor Force (RLF), which is constituted of qualified persons in the geographic area from which the hiring authority can reasonably recruit. If persons with

disabilities are underrepresented by a statistically significant margin in any occupational category, this triggers an investigation to identify and eliminate any non-job-related barriers to EEO. The survey information also determines whether hiring authorities are within 80% of parity with labor force representation, in which case they are exempted from setting hiring goals for persons with disabilities. Further, survey data forms the basis for the Annual Census of Employees in State Civil Service, which helps to guide legislative and gubernatorial policy.

Distortions in the Disability Survey Data

CalHR serves as the primary reporting agency that relies on the disability survey data to generate the reports that show which departments have achieved parity and which have not. However, CalHR's ability to rely on the survey process and data to provide a more accurate count the number of employees with a disability is limited by two factors:

First, CalHR only has authority to gather, analyze, and report disability survey data for state employees in civil service. All non-civil service state employees, for example those who work Governor's Office, appointees, CEAs, and students (see California Constitution Article VII Section 4) are excluded from CalHR's scope of responsibility and authority in this matter.

Second, CalHR follows a decades old practice where it adjusts the final results of the reports that rely on the disability survey data. This adjustment is the process where departments that have safety classifications are allowed to discount data from individuals in those classifications, thus adjusting their department baseline number downward and only counting data for employees non in safety classifications.

Thus, any analysis that CalHR produces regarding the number of state employees with disabilities in the state workforce is significantly distorted. In March 2015, 55,000 state employees were discounted from the employees with disability report from CalHR (i.e. Report 5). This represents close to 26 percent of the total state workforce.

The Causes for Distortions in the Data

The basis for excluding non-civil service state employees from the survey process is a result of Gov. Code § 19792(h), which specifically outlines CalHR's scope for tracking employees with disabilities as only to include the current civil service workforce. Simply put, non-civil service employees, as defined in the California Constitution are simply out of scope.

Excluding certain positions from the state's count of employees with disabilities forces a question of the importance of parity at all levels of the state. California is clearly concerned with the diversification of its workforce and strives to provide upward mobility and career success to its employees with disabilities. By excluding the Governor's Office, CEAs, Boards, and other appointed positions from the survey, it doesn't allow the state to demonstrate to the public its full commitment to the issue. Representation across the spectrum of classifications is

adequate, and representation within the upper-level of classifications would be the paramount indicator of the full inclusion of persons with disabilities into the state’s workforce.

The basis for discounting employees in safety classifications from analysis and reports is not well established in government code, regulation, or rules. Rather, SBP put the practice in place many decades ago, and although the practice has changed a few times since, it largely remain in place. The initial argument for this adjustment was that a state worker with a disability would not be able to perform duties in safety classifications. Therefore, including safety classifications in any comparative demographic analysis of the state workforce against the wider California population would introduce a persistent distortion in the results. This statistical bias would have the greatest impact on departments that greatly rely on safety classifications, like CDCR. The greater the number of safety classification positions in a department, the greater the challenge for that department to meet the state’s standard for parity.

However, during our investigations and interviews, we encountered a second counterintuitive basis for excluding employees in safety classifications. The argument is that employees in safety classifications are prone to injury, and therefore become temporally disabled at a higher frequency than the rest of the state’s workforce. The distortion in this case would make it easier for these departments to meet the state’s standard of parity, but because the count would largely include employees who are temporarily disabled. This, however, would not reflect the “true” count of employees with a disability in that department because of the impermanent nature of the disability.

Over the decades two important changes have occurred. First, the definition of a disability in California has changed so that it is more inclusive than what it was in the 1970s. This means that many conditions of an individual’s daily experience of living are considered a disability today, but were not decades ago. This might include the need to wear glasses or contacts all day, a disability for which there is a technological solution that allows most people to perform all manner of jobs, including those performed by employees in safety classifications. The capacity for an individual with a disability to perform the work of a safety classification might depend on the severity, type and permanence of the disability as much as it does with the job’s duty statement and classification requirements.

Second, the number of classifications that have been re-categorized as a safety classification has increased over the years. Jobs that previously were not considered safety, which may have employees with disabilities performing, are now safety and this data is discounted from the reports. It appears that initially, discounting safety classification job was a short hand for removing classifications that perhaps were inaccessible to employees with disabilities. But, as a greater number of classifications are incorporated into this pension plan category, perhaps the usefulness of this process need to be re-assessed.

The private sectors' capacity to employ persons with disabilities should not limit the state's attempt to diversify its workforce. The market forces that govern the private sector's utilization of persons with disabilities in the general workforce do not necessarily align with the state's principled goal of increased employee diversity.

Clearly, the concept of what is an employee with a disability is very complex, and versions of this concept have been used in various ways to account for how the state counts, or does not count employee in its disability survey. The changing Federal and California definitions of a disability, whether a disability is severe or mild and the effect of this on a person's capacity to perform various types of work, or even if a disability is permanent or temporary, are only a few of the factors that make it very difficult to set a methodological standard for processing and reporting data that is transparent, logical, and epistemologically coherent.

Solution(s) to barrier:

Solution to the state excluding non-civil service employees from being targeted by the survey data: The state can extend CalHR's authority and responsibility for maintaining statistical information on employees with disabilities to include all state employees, including those who are exempt from civil service.

Solution to the practice of CalHR discounting of certain safety classifications from their annual survey disability reports: The state needs stop the practice of discounting certain classifications from its report.

Solutions to account for ever evolving Federal and State definitions of disabilities, how it is measured in the population, and the consequence of these metrics on establishing parity: parity should function as a base minimum goal rather than the target.

List Proposed Recommendations:

- Establish authority that allows CalHR to gather disability survey data for exempt and excluded employees as separate categories.
- Eliminate the practice of discounting employee data from the disability reports based on the pension plan option for their classification.
- Parity rate for goal setting for safety classifications shall be set on relevant available labor market statistics for like positions.
- Agencies should be required to set hiring goals for persons with disabilities if their representation level is less than 100 percent of parity.

Appendix of Authorities

United States Code

TITLE 42 - THE PUBLIC HEALTH AND WELFARE

CHAPTER 126 - EQUAL OPPORTUNITY FOR INDIVIDUALS WITH DISABILITIES

§ 12102. Definition of disability

As used in this chapter:

(1) Disability

The term "disability" means, with respect to an individual

(A) a physical or mental impairment that substantially limits one or more major life activities of such individual;

(B) a record of such an impairment; or

(C) being regarded as having such an impairment (as described in paragraph (3)).

(2) Major Life Activities

(A) In general

For purposes of paragraph (1), major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

(B) Major bodily functions

For purposes of paragraph (1), a major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

(3) Regarded as having such an impairment

For purposes of paragraph (1)(C):

(A) An individual meets the requirement of "being regarded as having such an impairment" if the individual establishes that he or she has been subjected to an action prohibited under this chapter because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.

(B) Paragraph (1)(C) shall not apply to impairments that are transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less.

(4) Rules of construction regarding the definition of disability

The definition of "disability" in paragraph (1) shall be construed in accordance with the following:

(A) The definition of disability in this chapter shall be construed in favor of broad coverage of individuals under this chapter, to the maximum extent permitted by the terms of this chapter.

(B) The term "substantially limits" shall be interpreted consistently with the findings and purposes of the ADA Amendments Act of 2008.

- (C) An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.
- (D) An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.
- (E)
- (i) The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as
- (I) medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies;
- (II) use of assistive technology;
- (III) reasonable accommodations or auxiliary aids or services; or
- (IV) learned behavioral or adaptive neurological modifications.
- (ii) The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.
- (iii) As used in this subparagraph
- (I) the term "ordinary eyeglasses or contact lenses" means lenses that are intended to fully correct visual acuity or eliminate refractive error; and
- (II) the term "low-vision devices" means devices that magnify, enhance, or otherwise augment a visual image.

Definitions for what is a disability are found in Part 2.8. Department of Fair Employment and Housing (FEHA)

§ 12926.1. (FEHA)

The Legislature finds and declares as follows:

(a) The law of this state in the area of disabilities provides protections independent from those in the federal Americans with Disabilities Act of 1990 (P.L. 101-336). Although the federal act provides a floor of protection, this state's law has always, even prior to passage of the federal act, afforded additional protections.

(b) The law of this state contains broad definitions of physical disability, mental disability, and medical condition. It is the intent of the Legislature that the definitions of physical disability and mental disability be construed so that applicants and employees are protected from discrimination due to an actual or perceived physical or mental impairment that is disabling, potentially disabling, or perceived as disabling or potentially disabling.

(c) Physical and mental disabilities include, but are not limited to, chronic or episodic conditions such as HIV/AIDS, hepatitis, epilepsy, seizure disorder, diabetes, clinical depression, bipolar disorder, multiple sclerosis, and heart disease. In addition, the

Legislature has determined that the definitions of “physical disability” and “mental disability” under the law of this state require a “limitation” upon a major life activity, but do not require, as does the federal Americans with Disabilities Act of 1990, a “substantial limitation.” This distinction is intended to result in broader coverage under the law of this state than under that federal act. Under the law of this state, whether a condition limits a major life activity shall be determined without respect to any mitigating measures, unless the mitigating measure itself limits a major life activity, regardless of federal law under the Americans with Disabilities Act of 1990. Further, under the law of this state, “working” is a major life activity, regardless of whether the actual or perceived working limitation implicates a particular employment or a class or broad range of employments.

(d) Notwithstanding any interpretation of law in *Cassista v. Community Foods* (1993) 5 Cal.4th 1050, the Legislature intends (1) for state law to be independent of the federal Americans with Disabilities Act of 1990, (2) **to require a “limitation” rather than a “substantial limitation” of a major life activity**, and (3) by enacting paragraph (4) of subdivision (j) and paragraph (4) of subdivision (l) of Section 12926, to provide protection when an individual is erroneously or mistakenly believed to have any physical or mental condition that limits a major life activity.

California Government Code § 19231.

As used in this article, "individual with a disability" means any individual who has a physical or mental disability as defined in Section 12926.

19232. Each state agency shall be responsible for establishing an effective affirmative action program to ensure individuals with a disability, who are capable of remunerative employment, access to positions in state service on an equal and competitive basis with the general population.

Each state agency shall develop and implement an affirmative action employment plan for individuals with a disability, which shall include goals and timetables. These goals and timetables shall be set annually for disabilities identified pursuant to guidelines established by the Department of Human Resources, and shall be submitted to the department no later than June 1 of each year beginning in 1978, for review and approval or modification. Goals and timetables shall be made available to the public upon request.

19233. The department shall be responsible for the following:

(a) Outline specific actions to improve the representation of individuals with a disability in the state workforce and to ensure equal and fair employment practices for employees who are **individuals with a disability**.

(b) Survey the number of individuals with a disability in each department by at least job category and salary range for the purpose of developing goals and timetables pursuant to Section 19232 and compare those numbers with the number of individuals with a disability in the workforce.

(c) Establish guidelines for state agencies and departments to set goals and timetables to improve the representation of individuals with a disability in the state workforce. Goals and timetables shall be set by at least job category.

Definitions for what is a disability are found in Part 2.8. Department of Fair Employment and Housing (FEHA), Chapter 4. Definitions 12926 (i); (j) (1) & (2); (m) (1), (1) (A) & (2); and (n); excluding those listed under (j)(5) and (m)(6).

(FEHA)

§ 12926.

As used in this part in connection with unlawful practices, unless a different meaning clearly appears from the context:

(i) “Medical condition” means either of the following:

(1) Any health impairment related to or associated with a diagnosis of cancer or a record or history of cancer.

(2) Genetic characteristics. For purposes of this section, “genetic characteristics” means either of the following:

(A) Any scientifically or medically identifiable gene or chromosome, or combination or alteration thereof, that is known to be a cause of a disease or disorder in a person or his or her offspring, or that is determined to be associated with a statistically increased risk of development of a disease or disorder, and that is presently not associated with any symptoms of any disease or disorder.

(B) Inherited characteristics that may derive from the individual or family member, that are known to be a cause of a disease or disorder in a person or his or her offspring, or that are determined to be associated with a statistically increased risk of development of a disease or disorder, and that are presently not associated with any symptoms of any disease or disorder.

(j) “Mental disability” includes, but is not limited to, all of the following:

(1) Having any mental or psychological disorder or condition, such as intellectual disability, organic brain syndrome, emotional or mental illness, or specific learning disabilities, that limits a major life activity. For purposes of this section:

(A) “Limits” shall be determined without regard to mitigating measures, such as medications, assistive devices, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.

(B) A mental or psychological disorder or condition limits a major life activity if it makes the achievement of the major life activity difficult.

(C) "Major life activities" shall be broadly construed and shall include physical, mental, and social activities and working.

(2) Any other mental or psychological disorder or condition not described in paragraph (1) that requires special education or related services.

(3) Having a record or history of a mental or psychological disorder or condition described in paragraph (1) or (2), which is known to the employer or other entity covered by this part.

(4) Being regarded or treated by the employer or other entity covered by this part as having, or having had, any mental condition that makes achievement of a major life activity difficult.

(5) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a mental or psychological disorder or condition that has no present disabling effect, but that may become a mental disability as described in paragraph (1) or (2).

"Mental disability" does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

(m) "Physical disability" includes, but is not limited to, all of the following:

(1) Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that does both of the following:

(A) Affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.

(B) Limits a major life activity. For purposes of this section:

(i) "Limits" shall be determined without regard to mitigating measures such as medications, assistive devices, prosthetics, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.

(ii) A physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss limits a major life activity if it makes the achievement of the major life activity difficult.

(iii) "Major life activities" shall be broadly construed and includes physical, mental, and social activities and working.

(2) Any other health impairment not described in paragraph (1) that requires special education or related services.

(3) Having a record or history of a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in paragraph (1) or (2), which is known to the employer or other entity covered by this part.

(4) Being regarded or treated by the employer or other entity covered by this part as having, or having had, any physical condition that makes achievement of a major life activity difficult.

(5) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment that has no present disabling effect but may become a physical disability as described in paragraph (1) or (2).

(6) *“Physical disability” does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.*

(n) **Notwithstanding subdivisions (j) and (m), if the definition of “disability” used in the federal Americans with Disabilities Act of 1990 (Public Law 101-336) would result in broader protection of the civil rights of individuals with a mental disability or physical disability, as defined in subdivision (j) or (m), or would include any medical condition not included within those definitions, then that broader protection or coverage shall be deemed incorporated by reference into, and shall prevail over conflicting provisions of, the definitions in subdivisions (j) and (m).**

Current Disability Survey definitions also use those found in Regulation 470.1 adopted in 1988, but no longer appear in the regulations.

470.1 DEFINITIONS (from 1988—not in current one)

For purposes of this Article:

(4) “Disabled” means a person who has one of the physical or mental impairments listed below which substantially limits one or more major life activities and either has a record of such impairment or is regarded as having such impairment:

- A. Legal blindness in one or both eyes; acuity after correction with eyeglasses or contact lenses is no better than 20/200 visual acuity or restriction in the visual field is 20 degrees or less;
 - B. Total deafness or inability to hear a normal conversation and/or use a telephone without the aid of an assistive device;
 - C. Speech impairment which causes speech to be unintelligible in normal conversation;
 - D. Orthopedic impairments, amputation, or functional limitation of upper or lower extremities, trunk, back or spine;
 - E. Periodic disturbance of consciousness during which generalized or partial seizure may occur whether medically controlled or not;
 - F. Limitation in balance, coordination, sensory and/or cognitive functions, i.e., cerebral palsy, autism, dyslexia;
 - G. Mental retardation, when identified by a physician, school system, California Department of Rehabilitation or other responsible governmental agency.
- “Major life activities” are: caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and holding gainful employment.

A person is “substantially limited” if such a person is likely to experience difficulty in securing, retaining, or advancing in employment because of a physical or mental impairment shown in this Rule.

These are not laws but industry guidelines or federal level survey examples.

See Dillman, et al, 2014), Guideline 7.3: Place sensitive or potentially objectionable questions near the end of the questionnaire.

Form CC-305 OMB control number 1250-0005.

Gov. Code § 19232 sets a requirement where each state agency shall be responsible for establishing an effective affirmative action program to ensure individuals with a disability, who are capable of remunerative employment, access to positions in state service on an equal and competitive basis with the general population.

Gov. Code § 19233. The department shall be responsible for the following:

(a) Outline specific actions to improve the representation of individuals with a disability in the state workforce and to ensure equal and fair employment practices for employees who are individuals with a disability.

(b) Survey the number of individuals with a disability in each department by at least job category and salary range for the purpose of developing goals and timetables pursuant to Section 19232 and compare those numbers with the number of individuals with a disability in the workforce.

(c) Establish guidelines for state agencies and departments to set goals and timetables to improve the representation of individuals with a disability in the state workforce. Goals and timetables shall be set by at least job category.

Gov. Code § 19792(h) Maintain a statistical information system designed to yield the data and the analysis necessary for the evaluation of equal employment opportunity within the state civil service. The statistical information shall include specific data to determine the underutilization of groups based on race, ethnicity, gender, disability, and veteran status. The statistical information shall be made available during normal working hours to all interested persons. Data generated on a regular basis shall include, but not be limited to, all of the following:

- (1) Current state civil service workforce composition by race, ethnicity, gender, age, veteran status, department, salary level, occupation, and attrition rates by occupation.
 - (2) Current local and regional workforce and population data for groups based on race, ethnicity, gender, and age.
-

ARTICLE VII SECTION. 4.

The following are exempt from civil service:

- (a) Officers and employees appointed or employed by the Legislature, either house, or legislative committees.
 - (b) Officers and employees appointed or employed by councils, commissions or public corporations in the judicial branch or by a court of record or officer thereof.
 - (c) Officers elected by the people and a deputy and an employee selected by each elected officer.
 - (d) Members of boards and commissions.
 - (e) A deputy or employee selected by each board or commission either appointed by the Governor or authorized by statute.
 - (f) State officers directly appointed by the Governor with or without the consent or confirmation of the Senate and the employees of the Governor's office, and the employees of the Lieutenant Governor's office directly appointed or employed by the Lieutenant Governor.
 - (g) A deputy or employee selected by each officer, except members of boards and commissions, exempted under Section 4(f).
 - (h) Officers and employees of the University of California and the California State Colleges.
 - (i) The teaching staff of schools under the jurisdiction of the Department of Education or the Superintendent of Public Instruction.
 - (j) Member, inmate, and patient help in state homes, charitable or correctional institutions, and state facilities for mentally ill or retarded persons.
 - (k) Members of the militia while engaged in military service.
 - (l) Officers and employees of district agricultural associations employed less than 6 months in a calendar year.
 - (m) In addition to positions exempted by other provisions of this section, the Attorney General may appoint or employ six deputies or employees, the Public Utilities Commission may appoint or employ one deputy or employee, and the Legislative Counsel may appoint or employ two deputies or employees.
-

Why are you being asked to complete this survey?

The California Department of Human Resources (CalHR) is committed to ensuring all citizens of our state who are ready, willing, and able to work have the opportunity to do so. **You can help ensure equal opportunities for all workers** by participating in the Employee Disability Survey. To help us measure how well the State is doing, we're asking you to confidentially tell us if you have or have ever had a disability.

Completing this survey is voluntary but critical to the State meeting its goal of equal representation of persons with disabilities. CalHR would like every state employee to respond to this questionnaire even if you do not have a disability. This provides CalHR a more complete understanding of the state employee population.

Your answers are protected under the Privacy Act of 1974 (PL 93-579) and will be kept strictly **confidential**. All identifying information will be removed from your responses before CalHR provides summary data to your organization for reporting purposes.

The first six questions are mainly based on disability definitions set by federal standards.

1. Are you deaf or do you have serious difficulty hearing?

- Yes
- No
- I don't wish to answer

2. Are you blind or do you have serious difficulty seeing even when wearing glasses?

- Yes
- No
- I don't wish to answer

2a. [IF NO to Q2] Do you have difficulty reading or driving without corrective lenses or have a limited field of vision?

- Yes
- No
- I don't wish to answer

3. Because of a physical, mental, or emotional condition, do you have serious difficulty concentrating, remembering, or making decisions?

- Yes
- No
- I don't wish to answer

4. Do you have serious difficulty walking or climbing stairs?

- Yes
- No
- I don't wish to answer

5. Do you have difficulty dressing or bathing?

- Yes
- No
- I don't wish to answer

6. Because of a physical, mental, or emotional condition, do you have difficulty doing errands alone such as visiting a doctor's office or shopping?

- Yes
- No
- I don't wish to answer

One more disability question!

It's important to know how well we're doing according to both national and state standards. The first six questions are based on disability definitions set by federal standards, but California defines a disability under a different standard. **So, regardless of your answers to the first six questions, you may have a disability according to California standards.** Please answer another question to help us fully meet our goal of equal representation of persons with disabilities.

How do I know if I have a disability according to California’s standards?

You are considered to have a disability if you have a physical or mental impairment or medical condition which **limits a major life activity without any aides** such as medication, assistive devices, prosthetics, or other reasonable accommodation.

Major life activities include, but are not limited to:

- Physical
- Mental
- Social Activities
- Working

Major life activities also include the operation of a **major bodily function**, including but not limited to:

Functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

Disabilities that potentially limit a major life activity or bodily function include, but are not limited to:

<ul style="list-style-type: none"> • Medical conditions such as diabetes, hepatitis, HIV/AIDS, heart disease, cancer, multiple sclerosis, autism, seizure disorder, cerebral palsy, epilepsy, dyslexia, other learning disabilities. 	<ul style="list-style-type: none"> • Physical disability includes, but is not limited to physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine. 	<ul style="list-style-type: none"> • Mental disability includes, but is not limited to, any mental or psychological disorder or condition, such as intellectual disability, developmental disability, organic brain syndrome, clinical depression, bipolar disorder, other emotional or mental illness.
<ul style="list-style-type: none"> • Difficulty hearing an ordinary conversation or using a phone without the aid of an assistive device. 	<ul style="list-style-type: none"> • Difficulty speaking or making oneself understood in person or on the phone. 	<ul style="list-style-type: none"> • Genetic characteristic known to cause a disease or disorder.

<ul style="list-style-type: none"> History of alcohol or drug abuse that substantially interfered with work. 	<ul style="list-style-type: none"> Other disability that limits a major life activity or major bodily function. 	
---	--	--

7. Do you have a disability, known to have a disability, or previously had a disability, affecting a major life activity or major bodily function?

- Yes, I have one or more disabilities (or previously had a disability)
- No, I don't have a disability
- I don't wish to answer.

Please provide the following information:

Department name _____

Name (First, Last) _____

Last four digits of Social Security number: _____

Note: We need this information to make sure your current responses update any previous survey responses you've provided. All identifying information will be removed from your responses before CalHR provides summary data to your organization for reporting purposes.

APPENDIX C:

REASONABLE ACCOMMODATION ISSUES

EXECUTIVE SUMMARY:

Objective: Review current procedures for implementing reasonable accommodations (RA), create a streamlined process for RA, and educate supervisors and managers on the new process.

RA # 1 BARRIER/ISSUE (RA Policies)

The State of California, as an employer, lacks a clear mandate that sets forth the minimum standards that each agency should have in place in support of the provision of timely and effective reasonable accommodation RA for employees with disabilities and applicants for employment in State Government.

Discussion:

Not all state agencies have a written RA policy and procedures and those policies which do exist, do not contain the same elements—resulting in inconsistent treatment of applicants and employees who need RA. The recommendations below would address this problem by proposing that all agencies be required to adopt written policies and procedures which may take into account individual agency needs, while adhering to a set of minimum standards set forth in a State Model RA Policy.

RA # 1 RECOMMENDATIONS

1. CalHR and SPB, in coordination with DFEH and DOR, shall establish an RA Model Policy that includes a specific set of standard elements (the floor) that each state agency will be required to include in its RA Policies. These elements should include:

- A. Timelines** – A requirement that policies identify the point at which an RA request is considered to be received and establish required progress benchmarks. The policy may include considerations of tolling a timeline in certain circumstances, such as waiting for clarification from a physician or response from the requestee. (For additional detail see Appendix B, Subsection A.)
- B. Streamlining** – A description of methods for streamlining responses to RA requests and provision of RA solutions. (See, Appendix B, Subsection B.)
- C. Transparency and accessibility** – Details of how agencies should carry out the direction of the PML to post on their home page and intranet site(s) information in fully accessible formats for applicants and employees about the process for requesting RA. (See, Appendix B, Subsection C.)

- D. Interactive process** – A statement defining the interactive process. (See, Appendix B, Subsection D.)
- E. Career progression** – An explanation of how an agency should develop RA policies and procedures that address all facets of career progression. They must identify what portion of the agency will provide RA assistance to applicants and how that may be requested. They must further identify what portion of the agency will provide RA assistance to existing employees and how that may be requested. (See, Appendix B, Subsection E.)
- F. Handling of medical information** – Requirements for how agencies policies will address handling of medical information received during the RA process. This policy must conform with state and federal regulation, especially as related to HIPAA. (See, Appendix B, Subsection F.)
- G. Procurement** – Explanation of what agencies policies should cover concerning timely and effective procurement of RA solutions. Development of contracts and waiver procedures should be considered in this regard. (See, Appendix B, Subsection G.)
- H. Avenues of redress** – A requirement that agency policies and correspondence denying RA requests must identify all avenues of redress available to an applicant or employee. (See, Appendix B, Subsection H.)
- I. Roles and responsibilities** – An explanation of the roles and responsibilities of all agency representatives involved in the RA inquiry, decision-making, implementation and redress processes.

2. CalHR shall issue a Personnel Management Liaisons memorandum (PML) which:

- A.** Directs each agency to establish an RA Policy, written procedures and tools that are tailored to its needs that at a minimum contain the basic elements set forth in the State Model Policy.
- B.** Requires each agency to submit its RA policy and written procedures to CalHR within six months of the date of the PML.
- C.** Directs each agency to post to its homepage (Internet) and internal Intranet (in an appropriate location) the RA Process available to job applicants, employees, volunteers, interns, etc. that includes information on how to request RA during recruitment, hire, promotion, retention, and return to work.

3. Thereafter, SPB shall monitor Agency’s compliance with this Mandate by reviewing agency efforts on a three to five year basis via SPBs Audit function.

RA # 2 BARRIER/ISSUE (Procurement for RA)

State law and administrative policies involving the procurement of goods, equipment, services, and the hire of personnel for the provision of reasonable accommodations currently create

barriers that hamper the ability of state agencies to provide approved accommodations in a timely and effective manner.

DISCUSSION:

Procurement of products and services needed for reasonable accommodation can take considerable time due to the restrictions imposed by current procurement laws and rules. Examples include the requirement to obtain competitive bids, the requirement to attempt to use surplus property, the requirement to purchase from Prison Industries or obtain a waiver, the prohibition on “follow-on” services, the requirement to use “mandatory” contracts negotiated by DGS, restrictions on personal services contracts, and the need to justify purchases limited to a single brand or source. Other examples of legal or policy barriers include requirements to obtain an excess lodging exemption for an employee with a disability traveling on state business that needs accessible lodging where none is available at state rates and the need to obtain approval from DGS to make minor accessibility modifications to state owned or leased facilities.

Moreover, during the annual budget close-out process, and during periods of budgetary cutbacks or stalemates, additional restrictions are frequently imposed on hiring of staff and purchase of goods and services. For example, during previous periods when the state lacked a budget, departments were typically required to submit a separate exemption request for hiring each Support Services Assistant (SSA) or support Services Assistant--Interpreter (SSA-I) and wait weeks while the exemption request was reviewed by agency secretaries and control agencies. The recommendations below address these problems by proposing legislation to remove statutory barriers and establish a fund which could facilitate purchases for RA purposes during budget stalemates or hiring freezes. An executive order is also proposed to coordinate cooperation by various agencies to reduce barriers created by administrative policies and procedures.

RA # 2 RECOMMENDATIONS

Changes in law and controlling administrative Policy are needed to give Departments the ability to insure the timely provision of RA).

Specifically:

1. Legislation:

CalHR, SPB and DOR should promote legislation to do all of the following:

- A.** State that, notwithstanding any statutory, regulatory or administrative rule or procedure, a state agency is authorized to expend funds, hire personnel, purchase goods and services, or take any other action which the director of such agency determines, in writing, to be necessary in order to provide reasonable accommodation to an employee with a disability in a timely and effective manner.

- B. Exempt purchase of goods and services needed for reasonable accommodation of employees with disabilities and provision of authorized public services to individuals with disabilities (e.g. DOR consumers) from restrictions on procurement including, but not limited to, requirements for competitive bidding, mandates to use surplus property or purchase from Prison Industries. **If:**
 - 1. The purchase is made through the State Price Schedule for Purchase of Assistive technology (SPS-At);
 - 2. The total cost of the purchase is less than \$25,000; and
 - 3. If generic products which do not qualify as assistive technology are included, the cost of such products does not exceed 25% of the total cost.
- C. Create a statewide fund (to supplement the departmental funds described in recommendation 2D below) which would be “continuously appropriated” or otherwise structured in such a manner that funds will be available whenever needed to:
 - 1. Cover the cost of hiring staff or procuring equipment and services needed in order to provide unusually high-cost accommodations (e.g. more than \$10,000) for small state agencies (e.g. those with less than 100 employees). Departments would need to subsequently budget for ongoing costs for any personnel hired through this process.; and
 - 2. Provide temporary funding for hiring of staff or purchase of goods or services for any state agency during budget stalemates or other periods when hiring or purchasing is restricted for budgetary reasons. Departments would be required to subsequently repay the fund for this type of expenditure.

2. Executive Order:

CalHR should request that the Governor issue an executive order which would direct changes in administrative policies and procedures which will simplify, expedite, streamline and improve the ability of state agencies to hire personnel who provide RA and purchase goods and services needed for RA purposes. Specifically, it should:

- A. Encourage **departments** to use the State Price Schedule for Purchase of Assistive Technology (SPS-AT) to identify and place orders with vendors who are qualified to provide the products or services needed for reasonable accommodation purposes.
- B. Direct **Department of General Services and Department of Rehabilitation** to expand the SPS-AT to include a broader range of products and services that departments might need for provision of reasonable accommodation to their employees.
- C. Direct the **Department of Rehabilitation**, in consultation with the **Office of Civil Rights at CalHR**, to develop a process by which DOR could assist other departments

with reasonable accommodation solutions. This could include research and advice on reasonable accommodation solutions; a database or repository of information; and assistance or guidance on the procurement of needed products and services. **Department of Finance** will be directed to work with **Department of Rehabilitation** to determine an appropriate funding source. If adequate funding can be provided for this resource, it could be provided at no cost to other departments. If this is not possible, a quick and streamlined process (such as a fee for service) should be developed by which a department can easily contract with DOR for needed assistance.

- D. Direct **each department**, to the extent possible, to establish a Centralized accommodation fund to be used exclusively to pay for the costs of provision of reasonable accommodation to employees with disabilities in that department. The EEO/OCR office, or other unit where the reasonable accommodation function is housed, would be responsible for authorizing use of this fund to pay for approved accommodations.
- E. Direct **CalHR**, in consultation with appropriate groups, to undertake a comprehensive review of personnel classifications and policies governing hiring of staff to provide accommodations for employees with disabilities. This should include, but not be limited to, consideration of whether use of permanent intermittent positions is the best way to meet staffing needs, whether classifications in addition to the Support Services Assistant (SSA) and Support Services Assistant – Interpreter (SSA-I) are needed, and whether classification levels and pay scales for these classifications are adequate to attract and retain enough qualified personnel to meet the state’s needs. If it is determined that existing classifications or pay scales need to be adjusted, CalHR needs to engage in the collective bargaining process to pursue needed changes.
- F. Direct **DGS**, **CalHR** and **DOR** to develop a mandatory training for procurement staff on purchase of goods and services for reasonable accommodation.

RA # 3 BARRIER/ISSUE (Training)

Managers, supervisors and staff are not consistently informed of reasonable accommodation Policy, Procedures, Process, or availability of reasonable accommodation options.

DISCUSSION:

Training with regard to implementing and understanding Reasonable Accommodation is inconsistent across the State with some agencies having vast, in-depth and continual training, while others provide little if any training on this subject. This means that, in some agencies, staff responsible for provision of RA, lack the information and resources to do their jobs and employees with disabilities may not receive timely and effective accommodations—putting the state at risk of litigation.

The recommendations below propose that CalHR require all state agencies to provide appropriate levels of training for their employees and that CalHr also provide guidance and assistance to agencies to support their implementation of these recommendations.

RA # 3 RECOMMENDATIONS

CalHR should mandate reasonable accommodation training to be conducted by departmental EEO offices.

1. CalHR will develop and/or identify training that is mandatory for all staff to consist of disability awareness, the State’s commitment as an employer to PWDs, and overview of department RA Policy. This training should be provided to existing employees within six (6) months of implementation of this recommendation and to new employees as part of the “onboarding” process. (Coordinate implementation of this recommendation with HPR Outreach and Recruitment Recommendation 2D) To assist agencies with fulfilling this training requirement, **CalHR** will develop and/or provide an electronic/printed guide to facilitate a greater understanding of the reasonable accommodation process that includes a general background of disability awareness.

2. CalHR will develop and/or identify specialized, more in-depth, training that is mandatory for all supervisors, managers, administrators, return-to-work coordinators, business services staff, human resources staff, labor relations staff, and EEO staff. This training should be provided to existing staff within six (6) months of implementation of this recommendation. This training should be incorporated into the standard training for new managers and supervisors (or the training on sexual harassment and related topics provided under AB 1825) and to newly hired nonsupervisory staff in the aforementioned categories within six (6) months of hire. **The training should include:**

- A. Identifying the need for initiating reasonable accommodation protocol;
- B. The basic elements of the department’s RA policy, as required by the State’s Model Policy described in RA 1, with particular emphasis on the interactive process;
- C. Legal requirements and best practices;
- D. Addressing RA as necessary in employee evaluations and;
- E. Available resources.

(Coordinate implementation of this recommendation with HPR Testing and Hiring Recommendation 8B)

3. CalHR will develop and/or identify specialized training and guides for all reasonable accommodation coordinators (which includes all of the above) **plus:**

- A. Role of reasonable accommodation within adverse actions
- B. Triggering FEHA protocol when employee takes leave or returns to work
- C. Documenting reasonable accommodation discussions and actions

- D. Reasonable accommodation review process
- E. Confidentiality of medical information
- F. Grounds for denial of RA requests (undue hardship/direct threat)
- G. Reasonable accommodation procurement process
- H. Information regarding reasonable accommodation resources (e.g. JAN, EEOC, DFEH, State Price Schedule for Assistive Technology, Contracted vendors, private resource providers and other accessibility-friendly goods and services).

4. CalHR should establish requirements for periodic refresher training for personnel who have direct contact with employees requiring RA. This shall include supervisors, managers, administrators, return-to-work coordinators, EEO Coordinators, Labor Relations, and Reasonable Accommodation Coordinators. Additionally, designated employees from business services and human resources who are involved with the purchase or provision of services will also be required to attend.

5. CalHR should facilitate quarterly roundtable discussions with reasonable accommodation coordinators and other interested staff. Participation in the quarterly roundtable discussions may partially fulfill the refresher training requirements proposed in Recommendation 4 above.

6. Departments should be required to include reasonable accommodation discussion in all return to work options meetings.

RA # 4 BARRIER/ISSUE (RA Program staffing)

The staff that perform RA functions often lack the knowledge, training, skills, ability and authority needed to administer an RA program.

Discussion:

There are no specific statewide rules, policies or guidelines on the roles and responsibilities and appropriate classification level of the Reasonable Accommodation Coordinator or for the adequate number of staff to administer an RA program.

Inadequate staff resources and staff working at an inappropriate classification level to perform the work create legal liabilities for state departments, waste taxpayer money, decrease the effectiveness of RA process and lead to lower productivity and inability of employees to successfully perform their jobs.

The recommendations below propose that regulations and guidance from CalHR be issued to define the appropriate staffing for RA programs and the roles, responsibilities, and appropriate classification of the RA coordinator at each agency.

RA # 4 RECOMMENDATIONS

1. The **SPB and/or CalHR** should adopt a regulation requiring each state agency to have at least one staff person appointed as a Reasonable Accommodation Coordinator(s) who

is/are responsible for the Department's RA program. In addition, **Departments** should ensure they have adequate staffing within the RA Program to meet the Department's RA program requirements and responsibilities.

2. **CalHR** should develop and issue a **Personnel Management Liaisons memorandum (PML)** on the Roles and Major Responsibilities of a RA Coordinator in a department. In developing this PML, input from departments and advocate organizations should be solicited. This would reinforce the legal requirements of GC 19230 (c).
3. After developing roles and responsibilities of the RA coordinator to administer the RA program **CalHR** should require Departments to staff RA Coordinator positions at levels commensurate with RA Program administration, **as follows:**
 - A. The RA Coordinator position should be staffed at the managerial level where he/she will be expected to formulate, implement, coordinate, and monitor the policy and RA program requirements and/or have decision making authority with department-wide impact.
 - B. The Reasonable Accommodation program in each agency should be adequately staffed to comply with state and federal laws, regulations, policies, and guidelines.
 - C. If CalHR concludes that additional study is needed before providing guidance to departments on this issue, it should convene an appropriate stakeholder group to support that effort.
4. **CalHR and/or SPB** should audit all state departments to evaluate their RA programs to ensure the staff are allocated at an appropriate level; RA program function is adequately staffed to appropriately administer the program within the department; and that a tracking system is in place to measure the effectiveness and success of the RA Program.

RA # 5 ISSUE: (Tracking system – Measureable results)

State Government as an employer does not have a tracking system in place to assess the success of the RA program or the areas where improvement is needed.

Discussion:

While most state agencies do some type of tracking of RA requests, there is no standard for how such tracking should be done or what metrics should be captured. Therefore, even if the reforms described in this report were made to improve the RA process, it will be impossible to look at data across all agencies to determine if progress is being made in terms of providing more timely and effective RA.

The recommendations below propose that CalHR define how such tracking should be done.

RA # 5RECOMMENDATIONS

1. **CalHR/SPB** shall convene a stakeholder group to develop metrics that will measure the success of the RA program and areas that need improvement including timeliness of providing RA and effectiveness of RA put in place.
2. **CalHR/SPB** shall provide to state agencies the format and required elements for tracking RA requests so that, upon request, CalHR can collect the results of the measurements that departments gather and develop recommendations and processes that will improve the RA program and SPB will be able to effectively audit agency performance.

FULL REPORT OF THE REASONABLE ACCOMMODATION WORKGROUP

BACKGROUND:

The most fundamental objective of the CalHR/SPB Joint Project is to increase the number of persons with disabilities who are hired, promoted and retained in employment with the State of California. Pursuant to existing law the State Personnel board established, and CalHR has maintained a “parity” goal of 16.6% representation of persons with disabilities in the state workforce. Current law mandates that departments to adopt affirmative action plans to meet this goal if their representation rate is less than 80% of the established parity figure.

The state has also established the LEAP program to facilitate the hiring of persons with disabilities and there have been several efforts to identify additional steps the state could take to improve the representation of persons with disabilities. despite these mandates and efforts, the representation rate for persons with disabilities has not improved significantly and has averaged only 10.3% over the past 6 years. (Based on the Annual Census Annual Census of Employees in State Civil Service Report issued by CalHR) The State would need to increase the hire of PWD’s from 1.9% (combined increase over the past 6 years) to a total of a 5% increase (11,314) in one year to achieve parity.

There are a variety of reasons why the state has not been able to make substantial improvements in the disability representation rate. In other portions of this report recommendations will be made for expanding outreach and recruitment, eliminating barriers to hiring and promotion, increasing awareness and training, and modifying the disability survey instrument and the way it is used. However, the Core Team concluded that one major reason that many state agencies have lower than expected disability representation rates is that they do not do a good job of accommodating persons with disabilities who apply for state employment or those who have been hired and need accommodations on the job or upon return to work after an injury. This means that the state may not be retaining some employees with disabilities who could be productive employees with the right accommodations. In addition, the state does not have a strong reputation in the disability community for proactively

addressing accommodation issues, which makes recruitment of new employees with disabilities more difficult.

The federal government has recently demonstrated that an intentional and concerted effort to improve disability employment, including a focus on timely and effective accommodation strategies, can be an effective approach. In 2013 alone, the federal government reported an increase in overall new hires of PWD's from 16.31 to 18.18 %, which they indicate is the greatest increase in 33 years.

We believe the same sort of strategy can work for the State of California if the recommendations set forth below, and those in other portions of the Project Report are effectively implemented.

The specific charge to the Reasonable Accommodation Workgroup (RAW) as reflected in its Charter is “[T]o improve the reasonable accommodation process to enable employees with disabilities to work more effectively.” RAW has identified its deliverables to CORE as the following:

1. Identify the factors negatively impacting the provision of reasonable accommodation;
2. Make recommendations for policy and/or process changes;
3. Recommend a timely, efficient, effective, and consistent process for providing reasonable accommodations in state departments;
4. Recommend an implementation plan for each recommendation.

To address these objectives, we have identified the following barriers to provision of appropriate reasonable accommodation and make the related recommendations for change as set forth below:

RA # 1 BARRIER/ISSUE (Policy)

The State of California, as an employer, lacks a clear mandate that sets forth the minimum standards each agency should have in place in support of the provision of timely and effective reasonable accommodation (RA) for employees with disabilities and applicants for employment in State Government.

RA # 1 RECOMMENDATIONS

1. CalHR and SPB, in coordination with DFEH and DOR, shall establish an RA Model Policy that includes a specific set of standard elements (the floor) that each state agency will be required to include in its RA Policies. These elements should include:

- A. Timelines** – A requirement that policies identify the point at which an RA request is considered received and establish required progress benchmarks. The policy may include considerations of tolling a timeline in certain

circumstances, such as waiting for clarification from a physician or response from the requestee (for additional detail, see Appendix B, Subsection A.)

- B. Streamlining** – A description of methods for streamlining responses to RA requests and provision of RA solutions. (See, Appendix B, Subsection B.)
- C. Transparency and accessibility** – Details of how agencies should carry out the direction of the PML to post on their home page and intranet sites information in fully accessible formats for applicants and employees about the process for requesting RA. (See, Appendix B, Subsection C.)
- D. Interactive process** – A statement defining the interactive process. (See, Appendix B, Subsection D.)
- E. Career progression** – An explanation of how an agency should develop RA policies and procedures that address all facets of career progression. They must identify what portion of the agency will provide RA assistance to applicants and how that may be requested. They must further identify what portion of the agency will provide RA assistance to existing employees and how that may be requested. (See, Appendix B, Subsection E.)
- F. Handling of medical information – Requirements for how agencies policies will address handling of medical information received during the RA process. This policy must conform with state and federal regulation, especially as related to HIPAA. (See, Appendix B, Subsection F.)**
- G. Procurement** – Explanation of what agencies policies should cover concerning timely and effective procurement of RA solutions. Development of contracts and waiver procedures should be considered in this regard. (See, Appendix B, Subsection G.)
- H. Avenues of redress** – A requirement that agency policies and correspondence denying RA requests must identify all avenues of redress available to an applicant or employee. (See, Appendix B, Subsection H.)
- I. Roles and responsibilities** – An explanation of the roles and responsibilities of all agency representatives involved in the RA inquiry, decision-making, implementation and redress processes.

2. CalHR shall issue a Personnel Management Liaisons memorandum (PML) which:

- A.** Directs each agency to establish an RA Policy and written procedures that are tailored to its needs but, at a minimum, contain the basic elements set forth in the State Model Policy.
- B.** Requires each agency to submit its RA policy and written procedures to CalHR within six months of the date of the PML.
- C.** Directs each agency to post to its homepage (Internet) and internal Intranet (in an appropriate location) the RA Process available to job applicants, employees, volunteers, interns, etc. that includes information on how to request RA during recruitment, hire, promotion, retention, and return to work

- D. Thereafter, SPB shall monitor Agency’s compliance with this Mandate by reviewing agency efforts on a three to five year basis via SPBs Audit function.
- E. Detailed recommendations of what may be considered and potentially incorporated in Agency RA policies regarding each topic listed above have been further identified (see Addendum B for those detailed recommendations, by topic).

Discussion:

One of the major objectives of the Core Team regarding reasonable accommodation is to make recommendations to ensure all State agencies 1) have a stated Reasonable Accommodation policy with a floor of standard elements and 2) incorporate certain structures into that policy so that all State applicants and employees with disabilities are treated equally and fairly regardless of agency. That being said, the P&P recognizes that each State agency has its own culture and unique needs. Therefore, it herein offers a “floor” of recommended issues to be included in each State agency policy.

AUTHORITIES:

Recommendations offered to address this barrier are informed and supported by the following authorities. (For excerpts of relevant portions, please see Addendum A.)

1. 1973 Rehabilitation Act, Section 508
2. ADA Titles I, II & III
3. Presidential Executive Order 13164 of July 26, 2000;
4. State of California Executive Order S-11-10, July 2010
5. CCP §§ 1798.14, 1985.3, 1985.6, 2020.410, 6253, 6254(c),
6. Gov. Code §§ 11135, 12926.1, 12927(c)(1), 12930, 12940, 12955, 12980(a) and (c), 18675, 19253.5, 19702, 19230
7. California Building Code (CBC) 2013
8. Cal. Code Regs., tit.2, Title 24
9. *Board of Trustees v. Superior Court* (1981) 119 Cal.App.3d 516 [174 Cal.Rptr.160];
10. Uniformed Services Employment and Re-Employment Rights Act (USERRA) 20 C.F.R. §1002.225, et seq.

IMPACTS:

1. A more uniform position statement across State agencies regarding the provision of Reasonable Accommodation to ensure that all State applicants and employees with disabilities are treated equally and fairly regardless of agency;
2. A more consistent application of Reasonable Accommodation for all State applicants and employees throughout State agencies;
3. Statewide Greater accessibility of Reasonable Accommodation to applicants through clear communication of its availability and how to request it;
4. More streamlined application process which clearly identifies the State’s position regarding Reasonable Accommodation in the hiring process;

5. Better use of staff time to focus on appropriate requests for Reasonable Accommodation and other essential functions assigned.

RA # 2 BARRIER/ISSUE

State law and administrative policies involving the procurement of goods, equipment, services, and the hire of personnel for the provision of reasonable accommodations currently create barriers that hamper the ability of state agencies to provide approved accommodations in a timely and effective manner.

RA # 2 RECOMMENDATIONS

Changes in law and controlling administrative Policy are needed to give Departments the ability to insure the timely provision of RA).

Specifically:

1. Legislation:

CalHR, SPB and DOR should promote legislation to do all of the following:

- A. State that, notwithstanding any statutory, regulatory or administrative rule or procedure, a state agency is authorized to expend funds, hire personnel, purchase goods and services, or take any other action which the director of such agency determines, in writing, to be necessary in order to provide reasonable accommodation to an employee with a disability in a timely and effective manner.
- B. Exempt purchase of goods and services needed for reasonable accommodation of employees with disabilities and provision of authorized public services to individuals with disabilities (e.g. DOR consumers) from restrictions on procurement including, but not limited to, requirements for competitive bidding, mandates to use surplus property or purchase from Prison Industries. If:
 1. The purchase is made through the State Price Schedule for Purchase of Assistive technology (SPS-At);
 2. The total cost of the purchase is less than \$25,000; and
 3. If generic products which do not qualify as assistive technology are included, the cost of such products does not exceed 25% of the total cost.
- C. Create a statewide fund (to supplement the departmental funds described in recommendation 2D below) which would be “continuously appropriated” or otherwise structured in such a manner that funds will be available whenever needed to:
 1. Cover the cost of hiring staff or procuring equipment and services needed in order to provide unusually high-cost accommodations (e.g. more than \$10,000) for small state agencies (e.g. those with less than 100 employees). Departments

would need to subsequently budget for ongoing costs for any personnel hired through this process.; and

2. Provide temporary funding for hiring of staff or purchase of goods or services for any state agency during budget stalemates or other periods when hiring or purchasing is restricted for budgetary reasons. Departments would be required to subsequently repay the fund for this type of expenditure.

2. Executive Order:

CalHR should request that the Governor issue an executive order which would direct changes in administrative policies and procedures which will simplify, expedite, streamline and improve the ability of state agencies to hire personnel who provide RA and purchase goods and services needed for RA purposes. Specifically, it should:

- A. Encourage **departments** to use the State Price Schedule for Purchase of Assistive Technology (SPS-AT) to identify and place orders with vendors who are qualified to provide the products or services needed for reasonable accommodation purposes.
- B. Direct **Department of General Services and Department of Rehabilitation** to expand the SPS-AT to include a broader range of products and services that departments might need for provision of reasonable accommodation to their employees.
- C. Direct the **Department of Rehabilitation**, in consultation with the **Office of Civil Rights at CalHR**, to develop a process by which DOR could assist other departments with reasonable accommodation solutions. This could include research and advice on reasonable accommodation solutions; a database or repository of information; and assistance or guidance on the procurement of needed products and services. **Department of Finance** will be directed to work with **Department of Rehabilitation** to determine an appropriate funding source. If adequate funding can be provided for this resource, it could be provided at no cost to other departments. If this is not possible, a quick and streamlined process (such as a fee for service) should be developed by which a department can easily contract with DOR for needed assistance.
- D. Direct **each department**, to the extent possible, to establish a Centralized accommodation fund to be used exclusively to pay for the costs of provision of reasonable accommodation to employees with disabilities in that department. The EEO/OCR office, or other unit where the reasonable accommodation function is housed, would be responsible for authorizing use of this fund to pay for approved accommodations.
- E. Direct **CalHR**, in consultation with appropriate groups, to undertake a comprehensive review of personnel classifications and policies governing hiring of staff to provide accommodations for employees with disabilities. This should include, but not be limited to, consideration of whether use of permanent intermittent positions is the best way to meet staffing needs, whether classifications in addition to the Support Services Assistant (SSA) and Support Services Assistant – Interpreter (SSA-I) are needed, and whether classification levels and pay scales for

these classifications are adequate to attract and retain enough qualified personnel to meet the state's needs. If it is determined that existing classifications or pay scales need to be adjusted, CalHR needs to engage in the collective bargaining process to pursue needed changes.

- F. Direct **DGS, CalHR and DOR** to develop a mandatory training for procurement staff on purchase of goods and services for reasonable accommodation.

DISCUSSION:

Once the interactive process has reached its conclusion and a particular type of accommodation has been approved, it is in the best interest of both the employee with a disability and the department for that accommodation to be provided as quickly as possible so that the employee can be as productive as possible. However, if the approved accommodation involves hiring support staff to provide assistance to the employee with a disability or purchasing assistive technology or services from outside firms, the laws and policies governing procurement, budgeting and hiring of personnel can make it difficult to provide accommodations in a timely manner. Some of the problems include:

1. In most instances, the cost of accommodating an employee with a disability is modest, but if a department requires each division or unit to absorb the cost of paying for accommodations for their employees, managers may be unable or unwilling to authorize needed expenditures when costs are more significant.
2. Similarly, some very small departments, boards or commissions may find it difficult to absorb the unexpected cost of accommodating an employee with a disability who happens to need products and/or services which are unusually expensive.
3. Those responsible for procurement in most state agencies lack knowledge of how assistive technology works, what products and services are available, and the unique nature of the market from which such products and services can be obtained.
4. There are relatively few providers of products and services which can be used to provide accommodations for employees with disabilities and many manufacturers authorize only one or two vendors to sell their products in California. These conditions sometimes make it difficult to apply traditional procurement policies, which require competitive bidding, to purchase of such goods and services.
5. The development of the State Price Schedule for Purchase of Assistive Technology (SPS) has improved the procurement of assistive technology products and services to some extent, but it does not currently include all products and services which might be needed for reasonable accommodation (At present, the SPS is largely restricted to purchase of assistive technology and services.) In addition, many state agencies are not familiar with how to use the system.
6. Even when the SPS is used to obtain the maximum flexibility, procurement of products and services needed for reasonable accommodation can take considerable time due to the restrictions imposed by current procurement laws and rules. Examples of such hurdles include the requirement to attempt to use surplus property, the requirement to purchase from Prison Industries or obtain a waiver, the prohibition on "follow-on" services, the

requirement to use “mandatory” contracts negotiated by DGS, restrictions on personal services contracts, and the need to justify purchases limited to a single brand or source.

7. Other examples of legal or policy barriers to timely provision of reasonable accommodation include requirements to obtain an excess lodging exemption for an employee with a disability traveling on state business who needs accessible lodging where none is available at state rates and the need to obtain approval from DGS to make minor access modifications to state owned or leased facilities in order to accommodate an employee with a disability.
8. During the annual budget close-out process, and during periods of budgetary cutbacks or stalemates, additional restrictions are frequently imposed on hiring of staff and purchase of goods and services. For example, during previous periods when the state lacked a budget, departments were typically required to submit a separate exemption request for hiring each Support Services Assistant (SSA) or support Services Assistant--Interpreter (SSA-I) and wait weeks while the exemption request was reviewed by agency secretaries and control agencies. This prevents or complicates and delays the provision of reasonable accommodation.
9. The SSA and SSA-I classifications do not allow for hiring staff to provide all of the kinds of services that might be required as accommodations. For example, there is no classification appropriate for hiring job coaches to assist employees with disabilities in mastering their jobs, so departments must contract out for these services. In addition, administrative and budgeting procedures generally require SSA and SSA-I staff to be hired as permanent intermittent employees. While this gives departments flexibility to increase or reduce staffing, it also limits the pool of those interested in filling such positions to people seeking part-time work.
10. The SSA-I classification has received general salary increases but those increases have not been adjusted to reflect market rate parity since 1981. This has made it almost impossible to recruit and retain state employees to perform interpreter duties. Therefore departments have been forced to contract out for these services. This is difficult because state law requires justification and approval before contracting for services which could be provided by state employees. It also increases costs because rates charged by agencies providing sign language services have continued to escalate.
11. The below market salary for the SSA-I classification also means that state agencies are unable to recruit and retain SSA-I as other entities are paying two to three times the current SSA-I rate.

AUTHORITIES:

The state and federal laws and regulations which generally require state agencies to provide accommodations to employees with disabilities were cited under RA 1. Additional authorities specific to the need for interpreter services include:

SPB 1991 policy memo - Executive Order S-11-10

Provisions which create barriers to timely and effective hiring of support staff and purchase of goods and services for RA purposes include, but are not limited to:

1. Government Code section 19130

2. Public Contract Code section 10295 et seq.
3. Public Contract Code section 10335 et seq.
4. Public Contract Code section 10365.5
5. Public Contract Code section 12100 et seq.
6. California Penal Code § 2807
7. SAM Manual § 3505
8. SAM Manual § 3671

IMPACTS:

1. If the law was changed as recommended above, state agencies would be able to quickly and easily purchase goods and services or take other actions needed to accommodate employees with disabilities.
2. Establishing a Centralized Accommodation Fund in each department would help ensure that managers and supervisors are not reluctant to approve hiring of SSAs or purchase of goods and services due to budgetary constraints.
3. If legislation is enacted creating a statewide accommodation fund as described above, agencies would be able to use it to make purchases or hire support staff for accommodation purposes even when such actions are not normally permitted—such as during budget close-out or budget stalemates.
4. DOR would be able to provide advice and assistance to departments that might be less familiar with handling RA requests and purchasing assistive technology.
5. The SPS would be expanded to encompass other types of services (e.g. job coaching) which might be needed for reasonable accommodation and departments would be encouraged to use that expanded resource.
6. CalHR would undertake a thorough study of issues related to hiring and retention of staff needed to provide accommodations for employees with disabilities. This would hopefully lead to removing or reducing some of the barriers which departments currently face in hiring SSAs and SSA-Is.

RA # 3 BARRIER/ISSUE (Training) –

Managers, supervisors and staff are not consistently informed of reasonable accommodation Policy, Procedures, Process, or availability of reasonable accommodation options.

RA # 3 RECOMMENDATIONS

CalHR should mandate reasonable accommodation training to be conducted by departmental EEO offices.

1. CalHR will develop and/or identify training that is mandatory for all staff to consist of disability awareness, the State's commitment as an employer to PWDs, and overview of department RA Policy. This training should be provided to existing employees within six (6) months of implementation of this recommendation and to new employees as part of the

“onboarding” process. (Coordinate implementation of this recommendation with HPR Outreach and Recruitment Recommendation 2D)

To assist agencies with fulfilling this training requirement, **CalHR** will develop and/or provide an electronic/printed guide to facilitate a greater understanding of the reasonable accommodation process that includes a general background of disability awareness.

2. CalHR will develop and/or identify specialized, more in-depth, training that is mandatory for all supervisors, managers, administrators, return-to-work coordinators, business services staff, human resources staff, labor relations staff, and EEO staff. This training should be provided to existing staff within six (6) months of implementation of this recommendation. This training should be incorporated into the standard training for new managers and supervisors (or the training on sexual harassment and related topics provided under AB 1825) and to newly hired nonsupervisory staff in the aforementioned categories within six (6) months of hire. The training should include:

- A. Identifying the need for initiating reasonable accommodation protocol;
- B. The basic elements of the department’s RA policy, as required by the State’s Model Policy described in RA 1, with particular emphasis on the interactive process;
- C. Legal requirements and best practices;
- D. Addressing RA as necessary in employee evaluations and;
- E. Available resources.

(Coordinate implementation of this recommendation with HPR Testing and Hiring Recommendation 8B)

3. CalHR will develop and/or identify specialized training and guides for all reasonable accommodation coordinators (which includes all of the above) plus:

- A. Role of reasonable accommodation within adverse actions
- B. Triggering FEHA protocol when employee takes leave or returns to work
- C. Documenting reasonable accommodation discussions and actions
- D. Reasonable accommodation review process
- E. Confidentiality of medical information
- F. Grounds for denial of RA requests (undue hardship/direct threat)
- G. Reasonable accommodation procurement process
- H. Information regarding reasonable accommodation resources (e.g. JAN, EEOC, DFEH, State Price Schedule for Assistive Technology, Contracted vendors, private resource providers and other accessibility-friendly goods and services).

4. CalHR should establish requirements for periodic refresher training for personnel who have direct contact with employees requiring RA. This shall include supervisors, managers, administrators, return-to-work coordinators, EEO Coordinators, Labor Relations, and Reasonable Accommodation Coordinators. Additionally, designated employees from business services and human resources who are involved with the purchase or provision of services will also be required to attend.

5. CalHR should facilitate quarterly roundtable discussions with reasonable accommodation coordinators and other interested staff. Participation in the quarterly roundtable discussions may partially fulfill the refresher training requirements proposed in Recommendation 4 above.

6. Departments should be required to include reasonable accommodation discussion in all return to work options meetings.

DISCUSSION:

Training with regard to implementing and understanding Reasonable Accommodation is inconsistent across the State with some Departments having vast, in-depth and continual training, whereas other Departments are lacking. Without statewide consistent core training across the state through all departments, the State of California opens itself up for litigation due to these inconsistencies.

CalHR currently has limited training program staff. Current PY staffing is as follows: 1 SSMIII, 1, SSMI, 1 AGPA, 1 OT, 1 Limited Term OT. Current reasonable accommodation and disability related training options for employees and management is limited in scope and availability.

One solution is core statewide training that will not impact current laws however will impact current practice in state government in that training should be required and implemented along with follow up to determine completion.

Implementation of solutions will assist in compliance with State and Federal statutes and regulations. Information should be distributed to each employee, supervisor, manager and Administrator within the State of California upon hire and every two years thereafter

AUTHORITIES:

There are several statutes which govern the current Equal Employment Opportunity Program and the responsibilities of CalHR in providing statewide leadership to achieve equal employment opportunity in the state civil service and the appointing power of each state agency including management in each state agency to monitor the effectiveness of the equal employment opportunity programs of their departments. They include

Government Codes Sections 19790, 19791, 19792, 19792.5, 19793, 19794, 19795, 19796, 19796, 19797, 19798, 19798.5, and 19799.

Other relevant authorities include:

Government Code Section 19230C

Government Code section 12940

California Department of Human Resources Memorandum dated 9/27/13

Impacts:

Administrative

1. Policy for local training requirements:
 - A. NEO and ongoing (Awareness and process)
 - B. Enhanced Continuing Education Training (See above for details)
 - C. Required participants for enhanced training:
 1. EEO Coordinators
 2. RA processors
 3. Return to Work Coordinators
 4. Labor Relations Analysts

2. Create a central repository for RA Training resources for all departments granting access to training materials/videos.
 - A. CALHR to house the master RA program. Will be responsible for developing program, establishing policy, maintaining program, revising as needed, training all other departments, maintain website, maintain forms and accessibility to all employees and candidates. Mandatory retraining every two years, facilitate mediation between agencies as needed,
 - B. Maintain a list of R/A Coordinators and make sure they are notified of changes to the law, trainings and best practices
 - C. Facilitate quarterly roundtable discussions with R/A Coordinators and other interested staff
 - D. Create a webinar and/or power point presentation to allow for all staff accessibility via the internet/intranet and for classroom settings.
 - E. Identify and use current available resources as required or needed pursuant to State and/or Federal Statutes.
 - F. Develop a website with appropriate contacts listed from all depts.
 - G. CalHR to provide an electronic/printed guide to facilitate a greater understanding of the RA Process:
 1. Delivered to all staff during NEO training
 2. Lists Federal, State, Agency, and State-approved private resources for the provision of various accommodations and best practices, products and services.
The guide should include contact information for a wide variety of accessibility-friendly goods and services and active links to the resources listed.

Legislative

Make RA a component of periodic mandatory training for all employees, not unlike the Sexual Harassment training:

- A. New Employee Orientation

- B. Supervisor (Enhanced) Training, and continuing education mandatory every two years thereafter.

4 BARRIER/ISSUE (RA Program staffing)

The staff who perform RA functions often lack the knowledge, training, skills, ability and authority needed to administer an RA program.

RA # 4 RECOMMENDATIONS

1. **The SPB and/or CalHR** should adopt a regulation requiring each state agency to have at least one staff person appointed as a Reasonable Accommodation Coordinator(s) who is/are responsible for the Department’s RA program. In addition, **Departments** should ensure they have adequate staffing within the RA Program to meet the Department’s RA program requirements and responsibilities.
2. **CalHR** should develop and issue a **Personnel Management Liaisons memorandum (PML)** on the Roles and Major Responsibilities of a RA Coordinator in a department. In developing this PML input from departments and advocate organizations should be solicited. This would reinforce the legal requirements of GC 19230 (c).
3. After developing roles and responsibilities of the RA coordinator to administer the RA program **CalHR** should require Departments to staff RA Coordinator positions at levels commensurate with RA Program administration, as follows:
 - A. The RA Coordinator position should be staffed at the managerial level where he/she will be expected to formulate, implement, coordinate, and monitor the policy and RA program requirements and/or have decision making authority with department-wide impact.
 - B. The Reasonable Accommodation program in each agency should be adequately staffed to comply with state and federal laws, regulations, policies, and guidelines.
 - C. If CalHR concludes that additional study is needed before providing guidance to departments on this issue, it should convene an appropriate stakeholder group to support that effort.
4. **CalHR and/or SPB** should audit all state departments to evaluate their RA programs to ensure the staff are allocated at an appropriate level; RA program function is adequately staffed to appropriately administer the program within the department; and that a tracking system is in place to measure the effectiveness and success of the RA Program.

Discussion:

The RA work group was charged with developing recommendations, which are aimed toward “improving the reasonable accommodation process to enable employees with disabilities to work more effectively in the development of barriers and recommendations data was collected.

One of the methods used to collect data was a survey sent to the departments by the Disability Survey Re-engineering work group. The survey asked departments the following questions

1. Is there a specific person designated as RA Coordinators. Out of 69 department, 6 (8.7%) did not have a specific person designated as a RA Coordinator;
2. If there are designated RA Coordinators, what are their classifications? 24 (34.8%) used AGPAs; 26 (37.7%) used SSM Is; and 19 (27.5%) have some other classification such Senior Industrial Hygienist, Senior Personnel Specialist and SSM II. The classifications ranged from the lowest level (Senior Personal Specialist) to the highest level (Staff Services Manager III). Other classifications included Associate Governmental Program Analyst, Staff Services Manager I and I, and Senior Industrial Hygienist. The survey did not include more specific questions such as how many staff does a department have for handling Reasonable Accommodation requests and what is their classification level; what is the total number of employees of employees working in a department; and in 2014 how many Reasonable Accommodation requests were reviewed by the Reasonable Accommodation staff in a department.

Approximately what portion of the RA Coordinators time is devoted to processing reasonable accommodation requests. 39 (56.5%) stated less than half of their time; 9 (13%) stated about half of their time; 9 (13%) stated more than half of the time or full-time; and 12 (17.4) stated that they were not sure. The Department of Fish and Wildlife stated that they are short staffed in the RA program and need more positions to devote more time to the RA process. In that department the RA Coordinator is also the ADA Coordinator for accessibility issues for the public in our wildlife areas; an EEO investigator; a Training Coordinator; and has other responsibilities.

The recommendations above regarding the designation of an RA coordinator and the staffing of the RA program were based, in part, on these findings as well as the expertise and experience of members of The RA Workgroup and Core Team. The recommendation that each state agency be required to designate an RA Coordinator is commensurate with the requirement that each agency have a Return to Work Coordinator. (See 2 Cal. Code Regs., §599.761.) The stipulation that the RA coordinator be classified at the managerial level is modeled on the requirement in Government Code section 19795 that each agency appoint an EEO officer at the managerial level.

AUTHORITIES:

Recommendations offered to address this barrier are informed and supported by the following authorities. (For excerpts of relevant portions, please see Addendum A.)

- California Government Code: 11135
- California Government Code: 12900-12996
- California Government Code: 12930
- California Government Code: 12940
- California Government Code: 19170
- California Government Code: 19230-19237

California Government Code: 19702
California Government Code: 19792
California Government Code: 19995.4
United States Code Title 42, Chapter 126
Section 12102
Section 12111
Section 12112
29 Code of Federal Regulations, Section 1630
Cal. Code Regs., Title 2, div 4.1, subch. 2
Executive Order D-48-85 - Return to work

RA # 5 ISSUE: (Tracking system – Measureable results)

State Government as an employer does not have a tracking system in place to assess the success of the RA program or the areas where improvement is needed.

RA # 5 RECOMMENDATIONS

1. **CalHR/SPB** shall convene a stakeholder group to develop metrics that will measure the success of the RA program and areas that need improvement including timeliness of providing RA and effectiveness of RA put in place.
2. **CalHR/SPB** shall provide to state agencies the format and required elements for tracking RA requests so that, upon request, CalHR can collect the results of the measurements that departments gather and develop recommendations and processes that will improve the RA program and SPB will be able to effectively audit agency performance.

DISCUSSION:

The mission of this work group is to bring forth recommendations which are aimed toward “improving the reasonable accommodation process to enable employees with disabilities to work more effectively.” In addition, the recommendations, when implemented, should create an effective and streamlined process for reasonable accommodations.

The law mandates that we enter into the interactive process with employees with disabilities to ascertain effective Reasonable Accommodations which will allow them to move beyond their limitations and enable them to perform the essential functions of their job. In order to move to an effective and streamlined process there must be a method of tracking, monitoring and identifying the steps to assess the weaknesses or effectiveness of the current process.

In looking at the survey to which 70 departments responded, 82% indicated that they already have a tracking system. Although the details of the tracking systems are not available it appears to be a best practice to have a system.

AUTHORITIES:

Recommendations offered to address this barrier are informed and supported by the following authorities. (For excerpts of relevant portions, please see Addendum A.)

California Code of Regulations, Title 2, Division 4 Chapter 1, subchapter 9 Section 7293.5

California Code of Regulations title 2, Division 4, Chapter 1, Subchapter 9 Section 7294.6

California Government Code section 19230

IMPACTS:

1. Statewide Uniform tracking system which can be used to assess the effectiveness of a R.A Program.
2. It will produce a more streamlined process in departments statewide.
3. Monitor costs and effectively institute by cost saving measures (by implementing prophylactic measures.
4. It would make more departments aware of the strengths and weakness of their RA Programs.

ADDENDUM A: AUTHORITIES:

Recommendations offered in this report are informed and supported by the authorities cited above. Below we have provided relevant excerpts from the controlling portions of the previously listed authorities.

1. 1973 Federal Rehabilitation Act, Section 508:

Accessibility:

(A) Development, procurement, maintenance, or use of electronic and information technology: When developing, procuring, maintaining, or using electronic and information technology, each Federal department or agency, including the United States Postal Service, shall ensure, unless an undue burden would be imposed on the department or agency, that the electronic and information technology allows, regardless of the type of medium of the technology—

- (i) individuals with disabilities who are Federal employees to have access to and use of information and data that is comparable to the access to and use of the information and data by Federal employees who are not individuals with disabilities; and
- (ii) individuals with disabilities who are members of the public seeking information or services from a Federal department or agency to have access to and use of information and data that is comparable to the access to and use of the information and data by such members of the public who are not individuals with disabilities.

(B) Alternative means efforts: When development, procurement, maintenance, or use of electronic and information technology that meets the standards published by the Access Board under paragraph (2) would impose an undue burden, the Federal department or agency shall provide individuals with disabilities covered by paragraph (1) with the information and data involved by an alternative means of access that allows the individual to use the information and data.

2. ADA Title I:

Title I of the Americans with Disabilities Act of 1990 prohibits private employers, State and local governments, employment agencies and labor unions from discriminating against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions, and privileges of employment. The ADA covers employers with 15 or more employees, including State and local governments. It also applies to employment agencies and to labor organizations.

3. ADA Title II: Subpart E—Communications: § 35.160 General, (a) and (b):

- a. (1) A public entity shall furnish appropriate auxiliary aids and services where necessary to afford qualified individuals with disabilities, including applicants, participants, companions, and members of the public, an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity of a public entity.
- b. (2) The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the method of communication used by the individual; the nature, length, and complexity of the communication involved; and the context in which the communication is taking place. In determining what types of auxiliary aids and services are necessary, a public entity shall give primary consideration to the requests of individuals with disabilities. In order to be effective, auxiliary aids and services must be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability.

4. ADA Title II:

[A]bsent undue hardship (“significant difficulty or expense”), applicants and employees with disabilities are entitled to reasonable accommodation to apply for jobs, to perform their jobs, and to enjoy equal benefits and privileges of employment.

5. ADA Title III:

Title III prohibits discrimination on the basis of disability in the activities of places of public accommodations (businesses that are generally open to the public and that fall into one of 12 categories listed in the ADA, such as restaurants, movie theaters, schools, day care facilities, recreation facilities, and doctors' offices) and requires newly constructed or altered places of public accommodation—as well as commercial facilities (privately owned, nonresidential facilities such as factories, warehouses, or office buildings)—to comply with the ADA Standards.

6. Presidential Executive Order 13164 of July 26, 2000:

Section 1. (a) Each Federal agency shall establish ***effective*** written procedures for processing requests for reasonable accommodation by employees and applicants with

disabilities. The written procedures may allow different components of an agency to tailor their procedures **as necessary to ensure the expeditious processing of requests.**

- Executive Order 13164, in Requiring Federal Agencies to Establish Procedures To Facilitate the Provision of Reasonable Accommodation-Section 1;10; states:
*(10) **Encourage** the use of informal dispute resolution processes to allow individuals with disabilities to obtain prompt reconsideration of denials of reasonable accommodation. Agencies **must also inform individuals with disabilities that they have the right to file complaints in the Equal Employment Opportunity process and other statutory processes, as appropriate,** if their requests for reasonable accommodation are denied.*
- Complaint of Discrimination/Harassment/Retaliation on the Basis of Mental and Physical Disability and Medical Condition/Denial of Reasonable Accommodation / Authority: Government Code sections 12940 et seq. (Fair Employment and Housing Act (FEHA)), 18675 and 19702; and California Code of Regulations, title 2, sections 10, 64.1 - 64.6.

Filing Deadline:

Complaint filed with appointing authority within one year of the discriminatory act (with an extension of 90 days in limited circumstances). Complaint with SPB within 30 days from the date the appointing authority served its response, or, if the appointing authority has failed to provide a decision within 90 days of the complaint being filed, no later than 150 days from the date the complaint was filed with the appointing authority. Please note that, as of January 1, 2013, the SPB accepts only complaints of discrimination, harassment, and retaliation on the basis of mental disability, physical disability, and medical condition, and denials of reasonable accommodation from State civil service employees and applicants. (Gov. Code, § 19702, added by Stats. 2012, ch. 360, § 69.) (In order to file a discrimination complaint on a different protected basis with another governmental agency, please see “Other Agency Filing,” below.) If a State civil service employee or applicant reasonably believes he or she has been discriminated against because of his or her mental disability, physical disability, or medical condition, or has **been denied a reasonable accommodation, he or she must first file a written complaint with the appointing power’s Equal Employment Opportunity Office or other office or individual designated by the appointing power to investigate such complaints, prior to filing a discrimination complaint with the SPB. The appointing power shall provide the employee or applicant a written decision within 90 days of the complaint being filed. The employee or applicant has 30 days from the date the decision rendered by the appointing power was served on the employee or applicant to file their complaint of discrimination with the SPB. However, if the appointing authority does not respond within 90 days of the complaint being filed, the employee or applicant may then file a discrimination complaint with the SPB. The complaint must be filed no**

more than 150 days after the employee or applicant filed the complaint with the appointing power.

Other Agency Filing

Under federal and state laws and rules, the U.S. Equal Employment Opportunity Commission (EEOC) and the Department of Fair Employment and Housing (DFEH) also regulate EEO laws and investigate and render decisions on discrimination or retaliation complaints. A state employee or applicant may file a complaint of discrimination, harassment, or retaliation on the basis of mental disability, physical disability, or medical condition, or **denial of reasonable accommodation** with the EEOC or DFEH, as well as with the SPB. Nevertheless, since the SPB no longer has the authority to accept discrimination complaints other than those based upon disability and medical condition or denial of reasonable accommodation, those employees or applicants wishing to file discrimination complaints on other protected bases may only file complaints with the EEOC or DFEH. Whether it has jurisdiction to review a complaint, SPB reviews whether:

- the filing requirements have been met
- the complaint was filed within the applicable time limits
- the complainant is a member of a protected class (i.e. mentally disabled, physical disabled, has a medical condition, or denied reasonable accommodation)
- the complainant has standing to file (i.e., the complainant alleges direct harm/injury from discrimination)
- the complainant has stated a prima facie case (i.e., enough information demonstrating protected status may have been a factor in the direct harm/injury)

All discrimination complaints found to be within SPB jurisdiction that are not resolved by SPB staff through an investigative process are referred to an evidentiary hearing before an ALJ for decision. In such hearings, the employee/applicant bears the burden of proving discrimination.

7. State of California Executive Order S-11-10, July 2010:

NOW, THEREFORE, I, ARNOLD SCHWARZENEGGER, Governor of the State of California, by virtue of the power and authority vested in me by the Constitution and laws of the State of California, do hereby issue the following orders to become effective immediately:

1. Within 30 days of the date of this Executive Order, each agency, department, board, commission and office under my direct executive authority shall establish and/or review its written reasonable accommodation guidelines to ensure that supervisors and managers have the information and resources to provide reasonable accommodations to employees with a disability in a timely and effective manner.
2. During this review process, each agency, department, board, commission and office under my direct executive authority shall consult with its Equal Employment Opportunity Officer to ensure that the written reasonable accommodation guidelines are sufficient and up to date.

3. Within 60 days of this Executive Order, the State Personnel Board, in consultation with the Department of Rehabilitation, will meet with all Equal Employment Opportunity Officers to coordinate training of all supervisors and managers regarding their duties to accommodate an employee with a disability.

4. The Department of General Services, in consultation with the Department of Rehabilitation, shall develop contracts for reasonable accommodation services and equipment to better meet the needs of employees with a disability.

5. The Department of General Services shall develop and include additional criteria in its statewide purchases to ensure that the goods and services procured are accessible and available to employees with a disability.

IT IS FURTHER ORDERED that all agencies and departments under my direct executive authority shall cooperate in the implementation of this Order.

8. CCP § 1798.14:

“Each agency shall maintain in its records only personal information which is relevant and necessary to accomplish a purpose of the agency required or authorized by the California Constitution or statute or mandated by the federal government.”

9. CCP § 1798.21:

“Each agency shall establish appropriate and reasonable administrative, technical, and physical safeguards to ensure compliance with the provisions of this chapter, to ensure the security and confidentiality of records, and to protect against anticipated threats or hazards to their security or integrity which could result in any injury.”

10. California Code § 19995.4:

“Supervisory employees shall have a minimum of 80 hours of training, which includes employment law relating to persons with disabilities, and grievances.”

11. Master Agreement for Workers’ Compensation Claims Administration between State Compensation Insurance Fund and the California Department of Human Resources (July 1, 2014 through June 30, 2019) (7.Services/7.1 Claims – Section #28):

(28) Departments shall ensure that their RTWCs are properly trained in the areas of workers’ compensation, disability management, etc. The RTWC shall take the Return-to-Work Training class given by CalHR, and/or an accredited or CalHR approved equivalent training program, within twelve (12) months of their appointment. Each year thereafter, the RTWC’s shall take at least sixteen (16) hours of additional training (this can include the quarterly CalHR forums or other seminars). It is important to ensure that our Departments are aware of the training that shall be provided to our internal employees.

12. CCP § 1985.3:

(a) For purposes of this section, the following definitions apply: (1) "Personal records" means the original, any copy of books, documents, other writings, or electronically stored information pertaining to a consumer and which are maintained by any "witness" which is a physician, dentist, ophthalmologist, optometrist, chiropractor, physical therapist, acupuncturist, podiatrist, veterinarian, veterinary hospital, veterinary clinic, pharmacist, pharmacy, hospital, medical center, clinic, radiology or MRI center, clinical or diagnostic laboratory, state or national bank, state or federal association (as defined in Section 5102 of the Financial Code), state or federal credit union, trust company, anyone authorized by this state to make or arrange loans that are secured by real property, security brokerage firm, insurance company, title insurance company, underwritten title company, escrow agent licensed pursuant to Division 6 (commencing with Section 17000) of the Financial Code or exempt from licensure pursuant to Section 17006 of the Financial Code, attorney, accountant, institution of the Farm Credit System, as specified in Section 2002 of Title 12 of the United States Code, or telephone corporation which is a public utility, as defined in Section 216 of the Public Utilities Code, or psychotherapist, as defined in Section 1010 of the Evidence Code, or a private or public preschool, elementary school, secondary school, or postsecondary school as described in Section 76244 of the Education Code.

13. Gov. Code § 11135:

(a) No person in the State of California shall, on the basis of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, genetic information, or disability, be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by

the state or by any state agency, is funded directly by the state, or receives any financial assistance from the state. Notwithstanding Section 11000, this section applies to the California State University.

(b) With respect to discrimination on the basis of disability, programs and activities subject to subdivision (a) shall meet the protections and prohibitions contained in Section 202 of the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, except that if the laws of this state prescribe stronger protections and prohibitions, the programs and activities subject to subdivision

(a) shall be subject to the stronger protections and prohibitions.

(c) (1) As used in this section, "disability" means any mental or physical disability, as defined in Section 12926.

(2) The Legislature finds and declares that the amendments made to this act are declarative of existing law. The Legislature further finds and declares that in enacting Senate Bill 105 of the 2001-02 Regular Session (Chapter 1102 of the Statutes of 2002), it was the intention of the Legislature to apply subdivision (d) to the California State University in the same manner that subdivisions (a), (b), and (c) already applied to the

California State University, notwithstanding Section 11000. In clarifying that the California State University is subject to paragraph (2) of subdivision (d), it is not the intention of the Legislature to increase the cost of developing or procuring electronic and information technology. The California State University shall, however, in determining the cost of developing or procuring electronic or information technology, consider whether technology that meets the standards applicable pursuant to paragraph (2) of subdivision (d) will reduce the long-term cost incurred by the California State University in

providing access or accommodations to future users of this technology who are persons with disabilities, as required by existing law, including this section, Title II of the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 and following), and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Sec. 794).

(d) (1) The Legislature finds and declares that the ability to utilize electronic or information technology is often an essential function for successful employment in the current work world.

(2) In order to improve accessibility of existing technology, and therefore increase the successful employment of individuals with disabilities, particularly blind and visually impaired and deaf and hard-of-hearing persons, state governmental entities, in developing, procuring, maintaining, or using electronic or information technology, either indirectly or through the use of state funds by other entities, shall comply with the accessibility requirements of

Section 508 of the federal Rehabilitation Act of 1973, as amended (29 U.S.C. Sec. 794d), and regulations implementing that act as set forth in Part 1194 of Title 36 of the Federal Code of Regulations.

(3) Any entity that contracts with a state or local entity subject to this section for the provision of electronic or information technology or for the provision of related services shall agree to

respond to, and resolve any complaint regarding accessibility of its products or services that is brought to the attention of the entity.

14. Title 2, Div. 3, Gov. Code § 12926.1 (FEHA):

“Although the federal act provides a floor of protection, this state’s law has always, even prior to passage of the federal act, afforded additional protections.”

15. Gov. Code § 12927(c)(1):

(c) (1) "Discrimination" includes refusal to sell, rent, or lease housing accommodations; includes refusal to negotiate for the sale, rental, or lease of housing accommodations; includes representation that a housing accommodation is not available for inspection, sale, or rental when that housing accommodation is in fact so available; includes any other denial or withholding of housing accommodations; includes provision of inferior terms, conditions, privileges, facilities, or services in connection with those housing accommodations; includes harassment in connection with those housing accommodations; includes the cancellation or termination of a sale or rental agreement;

includes the provision of segregated or separated housing accommodations; includes the refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by the disabled person, if the modifications may be necessary to afford the disabled person full enjoyment of the premises, except that, in the case of a rental, the landlord may, where it is reasonable to do so condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification (other than for reasonable wear and tear), and includes refusal to make reasonable accommodations in rules, policies, practices, or services when these accommodations may be necessary to afford a disabled person equal opportunity to use and enjoy a dwelling.

16. Gov. Code § 12930:

The department shall have the following functions, powers, and duties:

(h) To bring civil actions pursuant to Section 12965 or 12981 and to prosecute those civil actions before state and federal trial courts.

(i) To issue those publications and those results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination in employment on the bases enumerated in this part and discrimination in housing because of race, religious creed, color, sex, gender, gender identity, gender expression, marital status, national origin, ancestry, familial status, disability, genetic information, or sexual orientation.

17. Gov. Code § 12940:

It is an unlawful employment practice, unless based upon a bona fide occupational qualification, or, except where based upon applicable security regulations established by the United States or the State of California:

(a) For an employer, because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status of any person, to refuse to hire or employ the person or to refuse to select the person for a training program leading to employment, or to bar or to discharge the person from employment or from a training program leading to employment, or to discriminate against the person in compensation or in terms, conditions, or privileges of employment.

(1) This part does not prohibit an employer from refusing to hire or discharging an employee with a physical or mental disability, or subject an employer to any legal liability resulting from the refusal to employ or the discharge of an employee with a physical or mental disability, where the employee, because of his or her physical or mental disability, is unable to perform his or her essential duties even with reasonable accommodations, or cannot perform those duties

in a manner that would not endanger his or her health or safety or the health or safety of others even with reasonable accommodations.

(2) This part does not prohibit an employer from refusing to hire or discharging an employee who, because of the employee's medical condition, is unable to perform his or her essential duties even with reasonable accommodations, or cannot perform those duties in a manner that would not endanger the employee's health or safety or the health or safety of others even with reasonable accommodations. Nothing in this part shall subject an employer to any legal liability resulting from the refusal to employ or the discharge of an employee who, because of the employee's medical condition, is unable to perform his or her essential duties, or cannot perform those duties in a manner that would not endanger the employee's health or safety or the health or safety of others even with reasonable accommodations.

(3) Nothing in this part relating to discrimination on account of marital status shall do either of the following:

(A) Affect the right of an employer to reasonably regulate, for reasons of supervision, safety, security, or morale, the working of spouses in the same department, division, or facility, consistent with the rules and regulations adopted by the commission.

(B) Prohibit bona fide health plans from providing additional or greater benefits to employees with dependents than to those employees without or with fewer dependents.

(4) Nothing in this part relating to discrimination on account of sex shall affect the right of an employer to use veteran status as a factor in employee selection or to give special consideration to Vietnam-era veterans.

(5) (A) This part does not prohibit an employer from refusing to employ an individual because of his or her age if the law compels or provides for that refusal. Promotions within the existing staff, hiring or promotion on the basis of experience and training, rehiring on the basis of seniority and prior service with the employer, or hiring under an established recruiting program from high schools, colleges, universities, or trade schools do not, in and of themselves, constitute unlawful employment practices.

(B) The provisions of this part relating to discrimination on the basis of age do not prohibit an employer from providing health benefits or health care reimbursement plans to retired persons that are altered, reduced, or eliminated when the person becomes eligible for Medicare health benefits. This subparagraph applies to all retiree health benefit plans and contractual provisions or practices concerning retiree health benefits and health care reimbursement plans in effect on or after January 1, 2011.

(b) For a labor organization, because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status of any person, to exclude, expel, or restrict from its membership the person, or to

provide only second-class or segregated membership or to discriminate against any person because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex,

gender, gender identity, gender expression, age, sexual orientation, or military and veteran status of the person in the election of officers of the labor organization or in the selection of the labor organization's staff or to discriminate in any way against any of its members or against any employer or against any person employed by an employer.

(c) For any person to discriminate against any person in the selection, termination, training, or other terms or treatment of that person in any apprenticeship training program, any other training program leading to employment, an unpaid internship, or another limited duration program to provide unpaid work experience for that person because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status of the person discriminated against.

(d) For any employer or employment agency to print or circulate or cause to be printed or circulated any publication, or to make any nonjob-related inquiry of an employee or applicant, either verbal or through use of an application form, that expresses, directly or indirectly, any limitation, specification, or discrimination as to race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, or any intent to make any such limitation, specification, or discrimination. This part does not prohibit an employer or employment agency from inquiring into the age of an applicant, or from specifying age limitations, where the law compels or provides for that action.

(e) (1) Except as provided in paragraph (2) or (3), for any employer or employment agency to require any medical or psychological examination of an applicant, to make any medical or psychological inquiry of an applicant, to make any inquiry whether an applicant has a mental disability or physical disability or medical condition, or to make any inquiry regarding the nature or severity of a physical disability, mental disability, or medical condition.

(2) Notwithstanding paragraph (1), an employer or employment agency may inquire into the ability of an applicant to perform job-related functions and may respond to an applicant's request for reasonable accommodation.

(3) Notwithstanding paragraph (1), an employer or employment agency may require a medical or psychological examination or make a medical or psychological inquiry of a job applicant after an employment offer has been made but prior to the commencement of employment duties, provided that the examination or inquiry is job related and consistent with business necessity and that all entering employees in the same job classification are subject to the same examination or inquiry.

(f) (1) Except as provided in paragraph (2), for any employer or employment agency to require any medical or psychological examination of an employee, to make any medical or psychological inquiry of an employee, to make any inquiry whether an employee has a mental disability, physical disability, or medical condition, or to make any inquiry

regarding the nature or severity of a physical disability, mental disability, or medical condition.

(2) Notwithstanding paragraph (1), an employer or employment agency may require any examinations or inquiries that it can show to be job related and consistent with business necessity. An employer or employment agency may conduct voluntary medical examinations,

including voluntary medical histories, which are part of an employee health program available to employees at that worksite.

(g) For any employer, labor organization, or employment agency to harass, discharge, expel, or otherwise discriminate against any person because the person has made a report pursuant to Section 11161.8 of the Penal Code that prohibits retaliation against hospital employees who report suspected patient abuse by health facilities or community care facilities.

(h) For any employer, labor organization, employment agency, or person to discharge, expel, or otherwise discriminate against any person because the person has opposed any practices forbidden under this part or because the person has filed a complaint, testified, or

assisted in any proceeding under this part.

(i) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts forbidden under this part, or to attempt to do so.

(j) (1) For an employer, labor organization, employment agency, apprenticeship training program or any training program leading to employment, or any other person, because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, to harass an employee, an applicant, an unpaid intern or volunteer, or a person providing services pursuant to a contract. Harassment of an employee, an applicant, an unpaid intern or volunteer, or a person providing services pursuant to a contract by an employee, other than an agent or supervisor, shall be unlawful if the entity, or its agents or supervisors, knows or should have known of this conduct and fails to

take immediate and appropriate corrective action. An employer may also be responsible for the acts of nonemployees, with respect to sexual harassment of employees, applicants, unpaid interns or volunteers, or persons providing services pursuant to a contract in the workplace, where the employer, or its agents or supervisors, knows or should have known of the conduct and fails to take immediate and appropriate corrective action. In reviewing cases involving the acts of nonemployees, the extent of the employer's control and any other legal responsibility that the employer may have with respect to the conduct of those nonemployees shall be considered. An entity shall take all reasonable steps to prevent harassment from occurring.

Loss of tangible job benefits shall not be necessary in order to establish harassment.

(2) The provisions of this subdivision are declaratory of existing law, except for the new duties imposed on employers with regard to harassment.

(3) An employee of an entity subject to this subdivision is personally liable for any harassment prohibited by this section that is perpetrated by the employee, regardless of whether the employer or covered entity knows or should have known of the conduct and fails

to take immediate and appropriate corrective action.

(4) (A) For purposes of this subdivision only, "employer" means any person regularly employing one or more persons or regularly receiving the services of one or more persons providing services pursuant to a contract, or any person acting as an agent of an employer, directly or indirectly, the state, or any political or civil subdivision of the state, and cities. The definition of "employer" in subdivision (d) of Section 12926 applies to all provisions of this section other than this subdivision.

(B) Notwithstanding subparagraph (A), for purposes of this subdivision, "employer" does not include a religious association or corporation not organized for private profit, except as provided in Section 12926.2.

(C) For purposes of this subdivision, "harassment" because of sex includes sexual harassment, gender harassment, and harassment based on pregnancy, childbirth, or related medical conditions. Sexually harassing conduct need not be motivated by sexual desire.

(5) For purposes of this subdivision, "a person providing services pursuant to a contract" means a person who meets all of the following criteria:

(A) The person has the right to control the performance of the contract for services and discretion as to the manner of performance.

(B) The person is customarily engaged in an independently established business.

(C) The person has control over the time and place the work is performed, supplies the tools and instruments used in the work, and performs work that requires a particular skill not ordinarily used in the course of the employer's work.

(k) For an employer, labor organization, employment agency, apprenticeship training program, or any training program leading to employment, to fail to take all reasonable steps necessary to prevent discrimination and harassment from occurring.

(l) (1) For an employer or other entity covered by this part to refuse to hire or employ a person or to refuse to select a person for a training program leading to employment or to bar or to discharge a person from employment or from a training program leading to employment, or to discriminate against a person in compensation or in terms, conditions, or privileges of employment because of a conflict between the person's religious belief or observance and any

employment requirement, unless the employer or other entity covered by this part demonstrates that it has explored any available reasonable alternative means of accommodating the religious belief or observance, including the possibilities of excusing the person from those duties that conflict with his or her religious belief or observance or permitting those duties to be performed at another time or by another person, but is unable to reasonably accommodate the religious belief or observance without undue hardship, as defined in subdivision (u) of Section 12926, on the conduct of the business of the employer or other entity covered by this part. Religious belief or observance, as

used in this section, includes, but is not limited to, observance of a Sabbath or other religious holy day or days, reasonable time necessary for travel prior and subsequent to a religious observance, and religious dress practice and religious grooming practice as described in subdivision (q) of Section 12926. This subdivision shall also apply to an apprenticeship training program, an unpaid internship, and any other program to provide unpaid experience for a person in the workplace or industry.

(2) An accommodation of an individual's religious dress practice or religious grooming practice is not reasonable if the accommodation requires segregation of the individual from other employees or the public.

(3) An accommodation is not required under this subdivision if it would result in a violation of this part or any other law prohibiting discrimination or protecting civil rights, including subdivision (b) of Section 51 of the Civil Code and Section 11135 of this code.

(m) For an employer or other entity covered by this part to fail to make reasonable accommodation for the known physical or mental disability of an applicant or employee. Nothing in this subdivision or in paragraph (1) or (2) of subdivision (a) shall be construed to require an accommodation that is demonstrated by the employer or other covered entity to produce undue hardship, as defined in subdivision (u) of Section 12926, to its operation.

(n) For an employer or other entity covered by this part to fail to engage in a timely, good faith, interactive process with the employee or applicant to determine effective reasonable accommodations, if any, in response to a request for reasonable accommodation by an employee or applicant with a known physical or mental disability or known medical condition.

(o) For an employer or other entity covered by this part, to subject, directly or indirectly, any employee, applicant, or other person to a test for the presence of a genetic characteristic.

(p) Nothing in this section shall be interpreted as preventing the ability of employers to identify members of the military or veterans for purposes of awarding a veteran's preference as permitted by law.

18. Gov. Code § 12955:

It shall be unlawful:

(l) To discriminate through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, genetic information, national origin, source of income, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law (Title 7 (commencing with Section 65000)), that make housing opportunities unavailable.

19. Gov. Code § 19253.5:

(a) An appointing power may require an employee to submit to a medical examination by a physician or physicians designated by the appointing power to evaluate the capacity of the employee to perform the work of his or her position.

(b) Fees for the examination and for the services of medical specialists or technicians, if necessary, shall be paid by the state agency. The employee may submit medical or other evidence to the examining physician or to the appointing power. The examining physician shall make a written report of the examination to the appointing power. The appointing power shall provide a copy to the physician designated by the employee.

(c) When the appointing power, after considering the conclusions of the medical examination and other pertinent information, concludes that the employee is unable to perform the work of his or her present position, but is able to perform the work of another position including one of less than full time, the appointing power may demote or transfer the employee to such a position.

20. Gov. Code § 19702

(a) A person shall not be discriminated against in the terms, conditions, and privileges of his or her employment with the state under this section based on his or her medical condition, mental disability, or physical disability as those terms are defined in subdivisions (i), (j), and (l) of Section 12926. A person shall not be retaliated against because he or she has opposed any practice made an unlawful employment practice, or made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this section.

21. Gvt. Code § 19230(a):

The Legislature hereby declares that (a) It is the policy of this state to encourage and enable individuals with a disability to participate fully in the social and economic life of the state and to engage in remunerative employment.

22. Gvt. Code § 19230(b):

It is the policy of this state that qualified individuals with a disability shall be employed in the state service, the service of the political subdivisions of the state, in public schools, and in all other employment supported in whole or in part by public funds on the same terms and conditions as the nondisabled, unless it is shown that the particular disability is job related.

23. Gvt. Code § 19230(c):

It is the policy of this state that a department, agency, or commission shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified applicant or employee who is an individual with a disability, unless the hiring authority can demonstrate that the accommodation would impose an undue hardship on the operation of its program. A department shall not deny any employment opportunity to a qualified applicant or employee who is an individual with a disability if the basis for the denial is the

need to make Reasonable Accommodation to the physical or mental limitations of the applicant or employee.

24. California Building Code (CBC) 2013 (Cal. Code Regs., tit.24, Parts 1 through 12):

“The Division of the State Architect (DSA) promulgates California Building Code (CBC) provisions to address accessibility for persons with disabilities. These provisions are applicable to State and local government buildings and facilities, public accommodations and commercial facilities, and public housing.

The accessibility provisions of the 2013 CBC have been revised and reformatted to conform to the requirements of the 2010 Americans with Disabilities Act (ADA) Standards for Accessible Design and maintain enhanced California accessibility provisions from the previous building code. The 2013 CBC is effective as of January 1, 2014.”

25. Cal. Penal Code §2807:

(a) The authority is hereby authorized and empowered to operate industrial, agricultural, and service enterprises which will provide products and services needed by the state, or any political subdivision thereof, or by the federal government, or any department, agency, or corporation thereof, or for any other public use. Products may be purchased by state agencies to be offered for sale to inmates of the department and to any other person under the care of the state who resides in state-operated institutional facilities. Fresh meat may be purchased by food service operations in state-owned facilities and sold for onsite consumption.

(b) All things authorized to be produced under subdivision (a) shall be purchased by the state, or any agency thereof, and may be purchased by any county, city, district, or political subdivision, or any agency thereof, or by any state agency to offer for sale to persons residing in state-operated institutions, at the prices fixed by the Prison Industry Authority. State agencies shall make maximum utilization of these products, and shall consult with the staff of the authority to develop new products and adapt existing products to meet their needs.

26. Cal. Pub. Cont. code § 12100, et seq. (a portion herein):

The Legislature finds that the unique aspects of information technology, as defined in Section 11702 of the Government Code, and its importance to state programs warrant a separate acquisition authority. The Legislature further finds that this separate authority should enable the timely acquisition of information technology goods and services in order to meet the state’s needs in the most value-effective manner.

All contracts for the acquisition of information technology goods or services, whether by lease or purchase, shall be made by or under the supervision of the Department of General Services.

27. Pub. Contract Code, §10295, et seq. (a portion herein):

(a) All contracts entered into by any state agency for (1) the acquisition of goods or elementary school textbooks, (2) services, whether or not the services involve the furnishing or use of goods or are performed by an independent contractor, (3) the construction, alteration, improvement, repair, or maintenance of property, real or personal, or (4) the performance of work or services by the state agency for or in cooperation with any person, or public body, are void unless and until approved by the department. Every contract shall be transmitted with all papers, estimates, and recommendations concerning it to the department and, if approved by the department, shall be effective from the date of the approval.

(b) This section applies to any state agency that by general or specific statute is expressly or impliedly authorized to enter into transactions referred to in this section.

28. 45 CFR Part 164.502(b)(1):

(b) Standard: Minimum necessary

(1) **Minimum necessary applies.** When using or disclosing protected health information or when requesting protected health information from another covered entity or business associate, a covered entity or business associate must make reasonable efforts to limit protected health information to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request.

29. 45 CFR Part 164.502(i):

(i) **Standard: Uses and disclosures consistent with notice.** A covered entity that is required by §164.520 to have a notice may not use or disclose protected health information in a manner inconsistent with such notice. A covered entity that is required by §164.520(b)(1)(iii) to include a specific statement in its notice if it intends to engage in an activity listed in §164.520(b)(1)(iii)(A)–(C), may not use or disclose protected health information for such activities, unless the required statement is included in the notice.

**30. SAM - PURCHASES FROM PRISON INDUSTRY AUTHORITY §3505
(Revised 5/94)**

In preparing purchase estimates, an agency will first consider if its needs can be met by Prison Industry Authority (PIA) commodities and services. Agencies are mandated by California Penal Code 2807 to purchase from and consult with PIA to develop new products and adapt existing products to meet their needs. They shall consult with PIA for commodities and services, or like commodities and services, even though not specified in the PIA catalog.

The Procurement Division (PD), Department of General Services, will examine all submitted purchase estimates to determine whether PIA products would meet all

reasonable requirements. If this appears to be the case, the Procurement Division will notify the ordering agency that the items should be purchased from PIA.

The Procurement Division will not purchase these items from commercial vendors without written authorization to do so from PIA. A waiver must be obtained from PIA prior to purchasing items from commercial vendors.

31. SAM - UTILIZATION OF SURPLUS PROPERTY §3671

(Revised 3/89)

A review procedure will be established within each agency or institution to determine that the expenditure is necessary and that all possible sources of surplus office equipment, including the Office of Procurement, Surplus Property Section, Department of General Services, have been considered. See SAM Section 3520, 3521.1.

The Office of Procurement will not process any purchase estimate for office equipment which does not include signed statements by the officer responsible for equipment requests that: (a) the expenditure is necessary, and (b) there is no current surplus property available to meet the agency or institution's need.

32. Uniformed Services Employment and Re-Employment Rights Act (USERRA)

US Dept. of Labor: www.dol.gov/vets/programs 20 CFR Part 1002; Federal Regulations §1002.225, et seq.:

§ 1002.225: Is the employee entitled to any specific reemployment benefits if he or she has a disability that was incurred in, or aggravated during, the period of service?

Yes. A disabled service member is entitled, to the same extent as any other individual, to the escalator position he or she would have attained but for uniformed service. If the employee has a disability incurred in, or aggravated during, the period of service in the uniformed services, the employer must make reasonable efforts to accommodate that disability and to help the employee become qualified to perform the duties of his or her reemployment position. If the employee is not qualified for reemployment in the escalator position because of a disability after reasonable efforts by the employer to accommodate the disability and to help the employee to become qualified, the employee must be reemployed in a position according to the following priority. The employer must make reasonable efforts to accommodate the employee's disability and to help him or her to become qualified to perform the duties of one of these positions:

- (a)** A position that is equivalent in seniority, status, and pay to the escalator position; or,
- (b)** A position that is the nearest approximation to the equivalent position, consistent with the circumstances of the employee's case, in terms of seniority, status, and pay. A position that is the nearest approximation to the equivalent position may be a higher or lower position, depending on the circumstances.

§ 1002.226: If the employee has a disability that was incurred in, or aggravated during, the period of service, what efforts must the employer make to help him or her become qualified for the reemployment position?

(a) USERRA requires that the employee be qualified for the reemployment position regardless of any disability. The employer must make reasonable efforts to help the employee to become qualified to perform the duties of this position. The employer is not required to reemploy the employee on his or her return from service if he or she cannot, after reasonable efforts by the employer, qualify for the appropriate reemployment position.

33. SPB 1991 policy memo explained the need to provide sign language interpreters for meetings, hearings or training courses, upon request by the deaf employee and those with hearing loss to ensure compliance with the provisions of GC 19230, and noted that “the availability of an interpreter is critical to communication for the deaf or hearing [loss] employees whose ability to comprehend the full context of such activities depend on such an accommodation.

34. The California Department of Human Resources Memorandum dated 9/27/13 on the Role and Major Responsibilities of the Equal Employment Opportunity (EEO) Officer has the following key provisions related to not only an EEO Officer but also includes disability advisory committees, reasonable accommodation requests and RA Coordinators:

Government Code Section 19795, subdivision (a), states in part:

“The appointing power of each state agency and the director of each state department shall appoint, at the managerial level, and equal employment opportunity officer, who shall report directly to, and be under the supervision of, the director of the department, to develop, implement, coordinate, and monitor the agency’s equal employment opportunity program...”

“Monitors department’s compliance in having active disability advisory committee and provides guidance on disability employment issues including but not limited to underrepresentation of persons with disabilities.” {Gov. Code 19795, Sub. (b)}

Assists employees, managers, and supervisors by monitoring and coordinating reasonable accommodation requests. {Gov. Code, 19230, 19232, and 19795. Sub. (a)}

The EEO Officer works with the RA Coordinator in the following manner:

1. Advises on confidentiality issues
2. Serves in a consultative role on reasonable accommodation
3. Works with the RA Coordinator to ensure reasonable accommodation requests are addressed in a timely manner and that the department maintains proper documentation.

35. California Code of Regulations, Title 2 , Division 4 Chapter 1, subchapter 9 Section 7293.5 (b) states that the “primary focus in cases brought under the FEHA should be whether employers... have provided reasonable accommodations to applicants and employees with disabilities, whether all parties have complied with their obligations to engage in the interactive process and whether discrimination has occurred, ...”

ADDENDUM B: RA# 1 (expanded discussion)

The reasonable accommodation policy to be adopted by each state agency needs to include all of the following provisions or elements:

A. Timelines.

The policy must identify the point at which a reasonable accommodation is considered received and establish required progress benchmarks to be achieved. The policy may include considerations of tolling a timeline in certain circumstances, such as waiting for clarification from a physician or response from the requestee.

It is recommended that the timeline include the following:

1. Each appointing authority shall process reasonable accommodation requests and provide accommodations in as short a period as reasonably possible.
2. Appointing authorities shall provide an initial response to a completed reasonable accommodation request within thirty (30) calendar days. However, the response must be made sooner if necessary to provide a timely accommodation. For instance, a response may be required in less than thirty (30) calendar days when an applicant requests an accommodation for an exam or hiring process.
3. The initial response may be to approve the request, deny the request, or indicate additional time is needed for up to thirty (30) calendar days.
4. The final decision to approve or deny a request should be made within the additional thirty (30) calendar days, unless the parties mutually agree to an extension.
5. If further extensions are granted by mutual agreement of the parties, a monthly update on the status of the request should be provided upon the employee’s request.
6. If an appointing authority denies a request, or fails to timely respond to a request, the employee may initiate the discrimination complaint proceedings.

B. Streamlining.

State agencies must each put into place by stated procedure methods to streamline their response and procurement of reasonable accommodation solutions.

It is recommended the streamlining methods implemented include the following:

Departments shall plan and prepare for RA’s in their strategic, budgetary, and operational planning processes, to ensure standard supports are available for persons with disabilities in the f

ollowing RA related areas/components:

1. Computers and Assistive Technology
 - (a) Purchase licenses for AT software (DNS, Screen reading software, etc.)
 - (b) Procure equipment (Magnifiers; screen magnifiers, etc.)
2. Service or Assistance
 - (a) Interpreters; Qualified Readers; Drivers; note takers;
 - (b) Contracts in place as necessary (For Interpreters; etc.)
 - (c) Hire Support Service Assistants (General/Interpreters)
 - (d) Job Coaches (contracts in place for such services)
3. Allow service animals in workplace
4. Communications
 - (a) Closed Caption
 - (b) Real Time caption
 - (c) Telephone amplifiers
 - (d) Accessible Forms; etc.
5. Workplace Modifications
 - (a) Ergonomic supports
 - (b) Ergonomic workstations

C. Transparency and Accessibility.

Agencies must implement an awareness program for applicants and employees which identifies the existence of reasonable accommodation opportunities and broadcast those opportunities in fully accessible formats. (See W3C guidelines for accessibility formatting.)

It is recommended the awareness program implemented include the following:

1. The State as a whole and State agencies individually, should stress their dedication to the principle of non-discrimination on the basis of disability, including any point at which a disability rises to a level requiring accommodation.
2. Further expression of dedication to employment of and providing career opportunities to persons with disabilities in State government should be clearly and prominently stated rather than relegated to a footnote in State and agency web sites, Intranets, hiring materials, career bulletins, etc.
3. The State and its various agencies need to exhibit in deeds their dedication to these tenets by making their entire infrastructure fully accessible to persons with disabilities, including work sites, facilities, web sites and tools.
4. Basic accessibility-based accommodations should be available at all times to all agencies Testing and Examination Units. These basic accessibility-based accommodations should include computers with Ease of Access software and visibility adjustable screens, sign language interpreters, wheelchair accessible testing and interview rooms, and fully accessible and flexible testing and interview methods.
5. Basic accessibility-based accommodations/tools should be available at all times within each agency. These basic accessibility-based accommodations

should include computers with Ease of Access software, Dragon Naturally Speaking software, visibility adjustable screens, phone headsets, ergonomic keyboards and ergonomic mouse units. A set number of these software licenses, tools and devices should be kept in stock and available for immediate implementation.

6. Multiple methods of delivering testing materials and performing interviews need to be developed to provide a more accessible hiring process.

D. Interactive Process.

Agencies must incorporate in their policy a statement of how the interactive process is to be addressed and the responsibilities of both parties in respect to the interactive process.

It is recommended the interactive process statement include the following:

1. An explanation that the interactive process means: Timely, good faith communication between employer’s representative and applicant/employee to explore whether or not the applicant/employee needs reasonable accommodation to perform the essential functions of the job, and how the person can be reasonable accommodated without undue hardship. The agency should express/designate which employer representative(s) is/are appropriate to assist the applicant/ employee.
2. Agencies should only consider the defense of “undue hardship” in extraordinary circumstances.
3. The obligation to initiate the interactive process is triggered if: an applicant/employee requests accommodation or states/he needs assistance to perform the essential functions of their job duties due to a physical or mental disability or medical condition; the employer becomes aware of the need through a third party or by observation; or the employer becomes aware of the need because an employee with a disability has exhausted WC, FMLA, or CFRA leave.
4. The intent of the interactive process is to explore and provide an accommodation that will allow the employee to perform the essential functions of their position. The employee’s specified request(s) will be considered, but may not be determined to be the most effective solution.
5. Continuing interactive process is necessary after the provision of an accommodation to assure it is an effective and sufficient solution to the individual’s needs and to determine if additional accommodations may be necessary in conjunction with those initially placed.

E. Career Progression.

Agencies must create their reasonable accommodation policies and procedures with all facets of career progression in mind. They must identify what portion of the agency will provide RA assistance to applicants and how that may be requested.

They must further identify what portion of the agency will provide RA assistance to existing employees and how that may be requested.

It is recommended the following be considered regarding RA throughout career progression:

1. Develop a guide to employment for persons with disabilities:
 - a. LEAP
 - b. Job Accommodations available for recruitment, job examinations, hiring process, on the job;
 - c. How to request reasonable accommodations;
 - d. Browse various reasonable accommodation solutions;
 - e. Veteran benefits – under the Uniformed Services Employment and Re-Employment Rights Act (USERRA).
2. Develop a guide to effective RA Policy and Procedure for Departments:
 - a. Agency RA Policies should contain a statement regarding RA being available throughout the career progression
 - b. RA Policy and Procedure should be available in all announcements, websites, etc. in the following areas:
 - i. Recruitment and outreach;
 - ii. Examinations
 - iii. Hiring Process
 - iv. On the job
3. Publish guides on ECOS, CalHR Recruitment/Jobs site; SOC Department websites. Those guides must be fully accessible and compliant with W3C Guidelines.

F. Medical information.

Agencies must specify by written policy how they will handle medical information which they receive on a reasonable accommodation basis. This policy must conform with state and federal regulation, especially as related to HIPAA.

It is recommended agency written policies regarding medical information include the following:

1. Each department statewide should adopt standard language in their RA request form to include:
 - a. Instructions in filling out the RA Request form.
 - b. A Request (Notation on the form) not to divulge the individual's diagnosis and only the limitations and assistance thereof.
 - c. There should be a personal information notice explaining Civil Code Sections (CIVIL CODE SECTION 1798.21) 1798.21: That Each agency shall establish appropriate and reasonable administrative, technical, and physical safeguards to ensure compliance with the provisions of this chapter, to ensure the security and confidentiality of records, and to protect against anticipated threats or hazards to their security or integrity which could result in any injury.

2. The RA Policy and Procedure should have a Medical Information section and Confidentiality Requirements section: to make the individual aware of and assured of protection of future discrimination as their information is secured
3. The EEOC RA policy in regards to Confidentiality Requirements should be mirrored in each departments RA policy, or referenced to another portion of the policy. There should be a process of confidentiality and statements implemented on keeping medical files separate from personnel files and a process to inform the individual if there is a confidentiality breach.
4. The EEO Office/RTWC should be responsible for reviewing the RA request form to establish a need for the Manager/Supervisor to request additional information or clarification from the physician. The individual should have the option of seeking the information needed or clarification addressed with his or her physician prior to the employer seeking more information – while staying interactive in the process and communicating.

G. Procurement.

Agencies must put into place policies and procedures to procure reasonable accommodation solutions in a timely manner. Development of contracts and waiver procedures should be considered in this regard.

It is recommended that agency RA policies include the following provisions regarding procurement:

1. The timeline for responding to an RA request shall be extended if the department determines that a medical evaluation or an assessment of the employee’s assistive technology needs would be appropriate.
2. If an assistive technology assessment is needed, the department may use the State Price Schedule for Purchase of Assistive Technology (SPS-AT) www.dor.ca.gov/sps-at to identify a vendor qualified to perform such an assessment and purchase this service. Absent circumstances beyond the department’s control, this assessment should be completed within 30 days after the decision is made to obtain it.
3. Once a decision has been made to provide an accommodation which will require purchase of equipment or services from outside sources, the department should place orders to obtain those products or services within 15 days unless circumstances beyond the department’s control require additional time. The department may use the SPS-AT www.dor.ca.gov/sps-at or other appropriate resources to identify and place orders with vendors who are qualified to provide the needed products or services.
4. Each department should enter into contracts or make other advance arrangements for providing accommodations which may be needed with little advance notice, such as sign language interpreter services or production of documents in braille or other alternate formats for exams or hiring interviews.

5. In the event that an employee with a disability will be transferring to another department, he or she should be advised that they may request that any assistive technology they are using be transferred to their new department. If such a request is made, the department should determine whether the equipment in question is needed or will likely be needed in the near future to accommodate another employee and, if not, the department should work with the employee and their new department to complete form Std. 158 and facilitate the transfer of the equipment.

H. Avenues of Redress:

All agencies must state within their reasonable accommodation policy and on any correspondence in which they deny a reasonable accommodation all avenues of redress of which the applicant or employee may avail themselves.

It is recommended that the following items be considered by agencies when developing policy regarding avenues of redress:

1. A clear avenue for redress should be provided to all responsible parties (as shown in USD-HHS). This should include a definitions area, or a brief description of language used in each policy; to include the government code citations at the top of the policy to support each policy section. For example, inserting Cal. Code Regs. § 64.1 - Discrimination; Harassment; Retaliation; Denial of Reasonable Accommodation, that state in part the individual's right to file a complaint.
2. The avenues of redress for the employee after an RA denial should include their right to file concurrent complaints to all avenues (SPB/DFEH/EEO) in addition to the EEO Office with clear direction on the avenues and time frames. In addition, many employees are unaware of their avenues of redress after being denied an RA.
3. Abbreviations, Acronyms, and Definitions should be defined to assist the employee in the RA process (what is a Reasonable Accommodation).
4. *The written procedures may allow different components of an agency to tailor their procedures **as necessary to ensure the expeditious processing of requests.***

APPENDIX D:

INFORMATION TECHNOLOGY SUB-WORKGROUP

BARRIERS/ISSUES:

IT #1: Accessibility compliance and usability of documents, applications, websites, and processes for all aspects of the employment process are inconsistent.

Discussion:

According to a 2013 report by the Public Policy Institute of California, 47 percent of Californians report they use the Internet to access government services. Recent estimates place the percentage of State websites that are inaccessible to certain people with disabilities at more than 80%. While estimates for the accessibility of other State technology products are harder to come by, most agree that accessibility is a significant barrier to people with disabilities who wish to become employed or peruse a career within California government. Information about obtaining employment with the State, and for existing or returning employees, is difficult to locate for everyone, not just people with disabilities.

Contact “Contact us” information is inconsistent on department websites, and the jobs.ca.gov site. Only some phone numbers have 711 CA Relay Service and not all indicate “Voice” and provide TTY or 711 CA relay service information. Contact information for questions about testing and examination processes is not easily found on the CalHR or jobs.ca.gov websites. Site visitors must locate the “contact us” link at the bottom of the page. Finally, the Accessibility information page is not easily found the CalHR and jobs.ca.gov websites. To obtain LEAP or Disability information CalHR’s website, visitors must navigate to the Job Seekers, Persons with Disabilities links, which may create barriers for potential applicants and current State employees looking for State jobs.

IT #2: The State’s Disability Survey reporting system and processes are based on outdated technology and ineffective processes that result in data that is inaccurate and incomplete. System functionality and reporting are limited due to its inflexible and undocumented design.

IT #3: Statutory compliance, business requirements, communication of Equal Employment Opportunity guidelines and employment goals, are not well known or widely communicated. As evidenced by disparate parity rates and varying practices around the employment of people with disabilities in State government, there is a need for clear, factual, and timely communication of laws, policies, standards, and procedures pertaining to EEO. There is no easy way to keep abreast of new laws, policies, and procedures. This situation is especially challenging for people with disabilities, when combined with the inaccessibility of many State technology products.

1. There is no centralized or collaborative online workspace for mentors, Subject Matter Experts (SMEs), and self-service options. While there are organizations with State government that employ effective practices for providing equal employment opportunities to job seekers and employees with disabilities, there is no comprehensive and robust way for them to collaborate with one another. This is a problem, because it means that this much-needed information is trapped in the minds of just a few individuals, when it should be shared with a much wider audience.

Lack of coordination exists between Departmental LEAP Coordinators, Reasonable Accommodation Coordinators, Return to Work Coordinators, Classification and Pay Analysts, Equal Employment Opportunity Offices, and LEAP participants. As a result, recruitment, hiring, promotion and retention of people with disabilities is negatively impacted. A lack of consistency results when each of these parties does not collaborate and, the person with a disability receives inadequate information that may lead to uninformed decisions.

2. The State does not leverage existing data to best support current processes and statistics or to track information accurately to provide adequate transparency of information on disability employment in State government. There is no centralized tracking of the effectiveness of processes for providing reasonable accommodations, nor is there centralized tracking of the reasonable accommodations request and approval processes, itself.

There may be innovative ways to collect, process, store, and report information about people with disabilities who seek jobs with, and are employed by the State. Unfortunately, the State does not employ modern practices for collecting and tracking this data, nor has it fully explored options for improving the quality and increasing the amount of information available.

3. Limited Examination and Appointment Program certification is currently a manual paper-based process that has the potential for a security risk because certification documents contain sensitive and personally identifying information that, if lost or misdirected, can lead to unauthorized disclosure and identity theft. The current process is inherently can, at times, take up to two weeks to complete.

RECOMMENDED SOLUTIONS:

1. IT #1: It is recommended that the relevant state departments(CalTech, CalHR,DGS, DOR) and GOVOPS, who are responsible for coordinating the implementation of section 508 of the Federal Rehabilitation Act and the ADA, shall develop policies, procedures and practices to ensure compliance. These agencies shall provide leadership to all state departments for compliance with the law as it relates to hiring, promotion and retention

of state employees and providing reasonable accommodation for all applicants and employees as well as the people of the state of California, whom we serve.

#2: The responsible agencies shall develop and implement appropriate monitoring enforcement and compliance mechanisms. Review the State’s hiring process to ensure they are fully accessible to and usable by everyone, and that they meet accessibility compliance requirements specified in Government Code Section 11135, Section 508 of the Federal Rehabilitation Act, and the Americans with Disabilities Act (ADA), Title II. This includes not only web pages, documents, training materials, examinations, applications, and other media such as audio and video, but also the people-based processes, such as phone calls, interviews, in-person examinations, and onboarding.

Departments should comply with applicable statutes, policies, and best practices for accessibility of technology products used, developed, and procured by State government. State organizations should standardize information pertaining to employment of people with disabilities on their public and intranet websites, to promote usability.

- Appropriate use of assistive technology during the hiring process, such as video relay services and screen reader availability as standard options for phone calls, examinations, interviews, and, respectively.
- Ensure that the “Contact us” information consistently provides both 711 CA Relay Service and indication of “Voice” for live chat.
- Add to the jobs.ca.gov home page from the CalHR Webpage or Job Seekers page an additional link under other employment opportunities saying for Employment Persons with Disabilities.
- Change the CalHR Persons with Disabilities Page to include a “contact us” link in a more central area.
- Accessibility information (link) should be more prominent on the Persons with Disabilities Page and every page, similar to the “Contact Us” link. This information should be centrally maintained, as recently discussed by DOR and OTech staff.
- CalHR should lead and model further use of video conferencing, telephone, and recorded methods for appropriate aspects of the hiring process, to allow maximum accessibility to examinations and hiring interviews for everyone.
- Add to the <https://jobs.ca.gov/> home page from the CalHR Webpage or Job Seekers page an additional link for “Employment Information for Persons with Disabilities” under “other employment opportunities”.

In cases where departments do not possess the technical resources to determine the tools and effort needed to make their IT assets accessible, they should consult with DOR accessible technology staff for assistance.

IT #2: Replace existing mainframe-based survey system with modern system to include full collection of data and meet reporting requirements .

Discussion:

Objectives for the new system include, but may not be limited to:

- Improved reporting functionality that could support open data and include better metrics.
- Technology platform maintainable by full-time Cal HR IT staff.
- Verify business rules, such as adjusted totals and record reporting criteria.
- Apply data best practices to all stored data (uniquely identify records, etc.)
- As appropriate, leverage statewide enterprise IT initiatives such as Cal Cloud and the open data initiative.
- Use information from Page 5 of the State Application 678 to track job seekers if doing so would be consistent with statute.
- Review the business processes for capturing and storing data to ensure that they are valid and correct.
- Implement data best practices as appropriate.

The State needs to do more to disseminate information about statutory and regulatory compliance, business requirements, communication of EEO guidelines and employment goals.

- Develop a system to manage and market the EEO guidelines and employment goals for people with disabilities
2. Create a centralized or collaborative online workspace for mentors, SMEs, and self-service options.
- Use online tools, such as self-service training and online discussion forums to share best practices for reasonable accommodations.
 - Develop an online resource to match employees and mentors based on mutually beneficial criteria such as shared professional interests and related job experiences/disciplines.
 - Develop tools to coordinate and centralize information regarding LEAP for Departmental LEAP Coordinators, Reasonable Accommodation Coordinators, Return to Work Coordinators, Classification and Pay Analysts, Equal Employment Opportunity Offices, and LEAP participants.

Design and build a single secure system which has a repository for internal collaboration to house:

- Shared information
- Templates and Standards
- Forums

- Best Practices
- Training information
- Current documentation
- RA Tracking

External web enabled/password protected secure location for:

- Applicant information
- Customer training options
- State hiring practices and policies
- Mentor and peer communication and collaboration

3. Leverage existing data to best support current processes and statistics to provide better transparency.
 - Develop the ability to monitor and track all RA requests, approvals, and complaints.
 - Develop centralized tracking of the effectiveness of processes for providing reasonable accommodations.
 - Implement a process for converting scanned documents uploaded by job seekers to text.
 - Make sure ECOS is fully accessible on both the applicant side as well as the business side.
4. Automate the LEAP process such that that DOR staff are able to electronically certify job seekers with disabilities. The goal would be to eliminate the risk of identity theft and to speed up the current manual process.

AUTHORITIES:

- Government Code Section 11135
 - In order to improve accessibility of existing technology, and therefore increase the successful employment of individuals with disabilities, particularly blind and visually impaired and deaf and hard-of-hearing persons, state governmental entities, in developing, procuring, maintaining, or using electronic or information technology, either indirectly or through the use of state funds by other entities, shall comply with the accessibility requirements of Section 508 of the federal Rehabilitation Act of 1973, as amended (29 U.S.C. Sec. 794d), and regulations implementing that act as set forth in Part 1194 of Title 36 of the Federal Code of Regulations.
- Section 508 of the Rehabilitation Act:
 - “In 1998, Congress amended the Rehabilitation Act of 1973 to require Federal agencies to make their electronic and information technology (EIT) accessible to people with disabilities. Inaccessible technology interferes with an ability to obtain and use information quickly and easily. Section 508 was enacted to eliminate barriers in information technology, open new opportunities for people with

disabilities, and encourage development of technologies that will help achieve these goals. The law applies to all Federal agencies when they develop, procure, maintain, or use electronic and information technology. Under Section 508 (29 U.S.C. 794 d), agencies must give disabled employees and members of the public access to information that is comparable to access available to others.”

- Government Code Section 19240-19233 (sic: 19240–19243)
 - Required by Government Code Sections 19240-19233 (sic), the Limited Examination and Appointment Program (LEAP) is an alternate examination and appointment process designed to facilitate the recruitment and hiring of persons with disabilities into California civil service employment. LEAP provides an alternative way to demonstrate qualifications for employment than the transitional state civil service examination process. LEAP candidates must be certified by the Department of Rehabilitation and have their LEAP certificate information entered into CalHR's database by the Examination Services Program prior to admittance into the LEAP exam process. Once a candidate is approved for LEAP exams, he/she may take LEAP exams as well as traditional civil service exams to obtain list eligibility. List eligibility allows for the candidate to apply for any LEAP exams. LEAP exams are available at: www.jobs.ca.gov. The information below provides more detail about the program.
- Americans with Disabilities Act, Title II
 - The title II regulation covers "public entities." "Public entities" include any State or local government and any of its departments, agencies, or other instrumentalities. All activities, services, and programs of public entities are covered, including activities of State legislatures and courts, town meetings, police and fire departments, motor vehicle licensing, and employment. Unlike section 504 of the Rehabilitation Act of 1973, which only covers programs receiving Federal financial assistance, title II extends to all the activities of State and local governments whether or not they receive Federal funds.
 - Public transportation services operated by State and local governments are covered by regulations of the Department of Transportation.
 - DOT's regulations establish specific requirements for transportation vehicles and facilities, including a requirement that all new busses must be equipped to provide services to people who use wheelchairs.
- Executive Orders S-04-05 and S-11-10
 - S-04-05-Challenged all State Agencies to end discrimination, remove barriers and utilize the Limited Examination and Appointment Program (LEAP) lists to fill various vacancies
- Executive Order S-11-10
 - S-11-10-After the Americans with Disabilities Act 1990, the Executive Order S-11-10 mandates that each State Agency have a Disability Advisory Committee (DAC) and that Reasonable Accommodations shall be made available.

- SAM 4833 Information Technology Accessibility
 - It is the policy of the State of California that information and services within California State Government, and provided via electronic and information technology (IT), be accessible to people with disabilities.
 - Agencies/state entities must comply with federal and state laws forbidding discrimination against persons with disabilities, including accessibility of their electronic and IT. Under existing federal and state laws and policies, Agencies/state entities, as well as any contractors working for them, are responsible for ensuring that their Agency/state entity public Web sites are accessible to both the general public and that their internal Agency/state entity electronic and IT systems are accessible by state employees, including persons with disabilities.
- SAM 5300 TMS, IT Systems Consolidation
 - All Agencies shall consolidate the systems at the various designated locations under Tenant Managed Services (TMS)
 - All Agencies shall use the Data Center Consolidation Survey and Assessment (S&A) included in SIMM Section 67, and will be reporting to the Department of Technology, Information Technology Project Oversight and Consulting (ITPOC) in accordance with the timeframes and submittal instructions included in SIMM Section 05A.

TABLE OF AUTHORITIES:

Presidential Executive Orders

Presidential Executive Order 13164 of July 26, 2000	70, 83, 84
---	------------

Federal Regulations

Code of Federal Regulations (C.F.R.)

20 C.F.R. §1002.225, et seq.....	70, 98
20 C.F.R. §1002.226	99
29 C.F.R. §1630	81
36 C.F.R. §1194	88, 110
45 C.F.R. Part 164.502(b)(1).....	97
45 C.F.R. Part 164.502(i)	97

United States Codes (U.S.C.)

29 U.S.C. §794d (1973 Federal Rehabilitation Act, §508).....	10, 70, 82, 88, 107, 108, 110, 111
42 U.S.C, Ch. 126, §12101, et seq.	88

Public Law (Pub.L.)

(Privacy Act of 1974, Pub.L. No. 93-579 (Dec 31, 1974) 88 Stat. 1896).....	37, 38, 55
--	------------

Federal Guideline Case Law

U.S. Dillman, et. al., 2014, Guideline 7.3	37, 53
--	--------

California Constitutional Provisions

California Constitution Article 7, Section 4.....	3, 44, 54
---	-----------

California Gubernatorial Executive Orders

Executive Order D-48-85.....	81
Executive Order S-04-05	111
Executive Order S-11-10	70, 74, 85, 111

California Regulations

Assembly Bills (AB)

AB 1397, 2014.....	40
AB 1825, 2003-2004	20, 64, 76

California Building Code 2013 (Cal. Code Regs., tit. 24, Parts 1 through 12)	70, 96
--	--------

Codes of Civil Procedure (Code Civ. Proc.)

Code Civ. Proc. §1798.14	70, 86
Code Civ. Proc. §1798.21	86, 103
Code Civ. Proc. §1985.3.....	70, 87
Code Civ. Proc. §1985.6	70
Code Civ. Proc. §2020.410	70

Code Civ. Proc. §6253	70
Code Civ. Proc. §6254(c)	70
California Codes of Regulation (Cal. Code Regs.)	
Cal. Code Regs., tit. 2, div 1, ch. 1, subch. 1.3, §547.56.....	27
Cal. Code Regs., tit. 2, div 1, ch. 3, subch. 1, §599.761.....	80
Cal. Code Regs., tit. 2, div 4, ch. 1, subch. 2.....	81
Cal. Code Regs., tit. 2, div 4, ch. 1, subch. 9, §7293.5.....	82, 100
Cal. Code Regs., tit. 2, div 4, ch. 1, subch. 9, §7294.6.....	82
Cal. Code Regs., tit. 2, div 10, §§64.1 - 64.6.....	84, 105
California Penal Code §2807.....	75, 96, 97
California Government Codes (Gov. Code)	
Gov. Code §11135.....	70, 80, 87, 94, 108, 110
Gov. Code §12900-12996.....	80
Gov. Code §12926.1	33, 48, 70, 88
Gov. Code §12940.....	70, 77, 80, 89
Gov. Code §12940, et seq.....	84
Gov. Code §12955.....	70, 94
Gov. Code §12980(a) and (c)	70
Gov. Code §18675.....	70, 84
Gov. Code §19130.....	74
Gov. Code §19170.....	80
Gov. Code §§19230-19237.....	80
Gov. Code §19230.....	17, 66, 70, 77, 79, 80, 82, 95, 99
Gov. Code §19231.....	49
Gov. Code §19232.....	32, 49, 50, 53, 99
Gov. Code §§19232-19233.....	43
Gov. Code §19233.....	33, 34, 35, 49, 53
Gov. Code §19233(b).....	10, 32, 34
Gov. Code §§19240-19243.....	26, 111
Gov. Code §19253.5	70, 95
Gov. Code §19702.....	70, 81, 84, 95
Gov. Code §19790.....	77
Gov. Code §19791.....	77
Gov. Code §19792.....	77, 81
Gov. Code §19792(h).....	10, 44, 53
Gov. Code §19792.5	77
Gov. Code §19793.....	77
Gov. Code §19794.....	77
Gov. Code §19795.....	77, 80, 99
Gov. Code §19796.....	77
Gov. Code §19797.....	77
Gov. Code §19798.....	77

Gov. Code §19799.....	77
Gov. Code §19995.4.....	81, 86
California Public Contract Codes (Pub. Contract Code)	
Pub. Contract Code, §10295, et seq.....	75, 97
Pub. Contract Code, §10335, et seq.....	75
Pub. Contract Code, §10365.5.....	75
Pub. Contract Code, §12100, et seq.....	75, 96
Pub. Contract Code, §12102.....	47, 81
Pub. Contract Code, §12111.....	81
Pub. Contract Code, §12112.....	81

Rules

State Administrative Manual (SAM)

SAM - PURCHASES FROM PRISON INDUSTRY AUTHORITY §3505.....	75, 97
SAM - UTILIZATION OF SURPLUS PROPERTY §3671.....	75, 98
SAM - INFORMATION TECHNOLOGY §4833.....	112
SAM - IT SYSTEMS CONSOLIDATION §5300.....	112

Cases

<i>Board of Trustees v. Superior Court</i> (1981) 119 Cal. App. 3d 516, 174 Cal. Rptr. 160.....	70
---	----

Treatises

Master Agreement for Workers’ Compensation Claims Administration between State Compensation Insurance Fund and the California Department of Human Resources (July 1, 2014 through June 30, 2019) (7.Services/7.1 Claims – Section #28):.....	86
--	----

Other Authorities

California Department of Human Resources Memorandum dated 9/27/13.....	77, 99
--	--------