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Unlawful Employment Practices

§13.76 d. Reasonable Accommodation

“Reasonable accommodation” may include either (Govt C §12926(p)):

- (1) Making existing facilities used by employees readily accessible to, and usable by, individuals with disabilities; or
- (2) Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

Under the FEHA, like the ADA, the employer is required to engage, in good faith, in timely interactive process with the applicant or employee to find a reasonable accommodation. Govt C §§12926.1(e), 12940(n).

In *Ross v RagingWire Telecommunications, Inc.* (2008) 42 C4th 920, the California Supreme Court held that the FEHA does not require employers to accommodate employees who use medical marijuana. The court also held that the plaintiff could not maintain a common law cause of action for wrongful termination in violation of public policy based on his former employer’s failure to accommodate marijuana use permitted by California’s Compassionate Use Act (Health & S C §11362.5). In doing so, the court reaffirmed its drug testing decision in *Loder v City of Glendale* (1997) 14 C4th 846, holding that under California law, “an employer may require pre-employment drug tests and take illegal drug use into consideration in making employment decisions.” The *Ross* court noted that by passing Proposition 215, the electorate did not confer on marijuana the same status as prescription drugs because “[n]o State law could completely legalize marijuana for medical purposes because the drug remains illegal under federal law, even for medical users.” *Ross*, 42 C4th at 926.



For further discussion, see [California Business Litigation: Unlawful Employment Practices](#), chapter 13 (Cal CEB). Available in print and through [OnLAW](#). This manual contains essential information that you’ll need on substantive law, preventive law, and litigation at both the federal and state levels for business law practitioners and litigators, including:

- Unfair competition: remedies, litigation
- Trade secrets and trademarks: governing law, litigation
- Copyright: sources of law, preliminary relief, defenses, trial strategies
- Other claims: intellectual property on the internet, right of publicity, bad faith insurance, unlawful employment