

Procedures for Providing Reasonable Accommodation for Individuals with Disabilities

CHAPTER 1 . INTRODUCTION/PURPOSE/DEFINITIONS

1-1. INTRODUCTION AND PURPOSE

This document establishes the Department of Housing and Urban Development's procedures for providing reasonable accommodation for qualified individuals with disabilities who are employees or applicants for employment. It also designates responsibility and describes procedures for submitting and responding to requests for reasonable accommodation.

These procedures explain what "reasonable accommodation" means, who is entitled to receive it, what constitutes a request for reasonable accommodation, the form and substance of the request, the Department's ability to ask questions and seek medical documentation after a request is made, and designate a "Disability Program Manager (DPM)" who is responsible for ensuring that the Department meets its obligations under Section 501 of the Rehabilitation Act of 1973, as amended, Executive Order 13164, and the Americans with Disabilities Act of 1990 (ADA).

1-2. DEFINITIONS

A. Person with a Disability

The Rehabilitation Act of 1973, as amended, defines a person with a disability as an individual who:

- 1. Has a physical or mental impairment** that substantially limits one or more of such person's major life activities (substantial limitations are evaluated in terms of the severity of the limitation and the length of time it restricts a major life activity. Major life activities include, among other activities: caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, concentrating, interacting with others, and working); or
- 2. Has a record of such an impairment** (has a history of or has been classified or misclassified as having a mental or physical impairment that substantially limits one or more major life activities); or
- 3. Is regarded as having such an impairment** - has a physical or mental impairment that does not substantially limit major life activities, but is treated by an employer as constituting such a limitation; has a physical or mental impairment that substantially limits major life activities only as a result of the attitude of an employer; or is treated by an employer as having such an impairment.

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B. Qualified Person with a Disability

With respect to employment, a qualified person with a disability is one who, with or without reasonable accommodation, can perform the essential functions (grade controlling duties) of the position in question without endangering the health and safety of themselves or others and who, depending upon the appointing authority being used: (a) meet the experience and/or education requirements (which may include passing a test) of the position in question, or (b) meet the criteria for appointment under one of the special appointing authorities for the employment of individuals with disabilities.

C. Physical or Mental Impairment

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the body systems such as: neurological, musculoskeletal, special sense organs, cardiovascular, reproductive, digestive, respiratory, genito-urinary, hemic and lymphatic, skin, and endocrine; or
2. Any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness (major depression, bipolar disorder, anxiety disorders), schizophrenia, and specific learning disabilities.

D. Targeted Disabilities

These are disabilities that are designated by the Office of Personnel Management (OPM) and the Equal Employment Opportunity Commission (EEOC), that manifest themselves as severely restrictive physical and mental impairments that require assistance/emphasis. The targeted disabilities are: deafness, blindness, missing extremities, partial paralysis, complete paralysis, convulsive disorders, mental retardation, mental illness, and distortion of limbs and/or spine.

E. Invisible/Hidden Disabilities

These are disabilities that are not readily apparent such as asthma, arthritis, chronic fatigue syndrome, epilepsy, kidney disease, diabetes, cancer, HIV, AIDS, chronic depression, learning disabilities, and mild mental retardation.

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Essential functions are the fundamental or grade-controlling duties that an employee must be able to perform, with or without reasonable accommodation.

Job functions are considered “essential” for various reasons, including but are not limited to:

- Is the employee in that position actually required to perform the function(s)?
- How many other employees are available to perform the function(s) or among whom can function(s) be distributed?
- Would removing the function(s) fundamentally change the job?
- What degree of expertise or skill is required to perform the function(s)?

When answering these questions, managers and supervisors should focus on the purpose of the job, not on how the purpose is to be accomplished. A determination of the essential functions of a position must be done on a case-by-case basis so that it reflects the job as actually performed, and not simply the components of a generic position description.

G. Reasonable Accommodation

Reasonable accommodation is any change or adjustment to a job or the work environment or in the way things are customarily done that permits a qualified individual with a disability to perform the essential functions of the position, thereby enjoying equal employment opportunities. There are three categories of reasonable accommodations:

1. modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for the position such qualified applicant desires;
2. modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified individual with a disability to perform the essential functions of that position; or
3. modifications or adjustments that enable an employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated employees without disabilities.

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H. Undue Hardship

Undue hardship means a significant difficulty or expense and focuses on the resources and circumstances of the particular employer in relationship to the cost or difficulty of providing a specific accommodation. Undue hardship refers not only to financial difficulty, but also to accommodations that are unduly extensive, substantial, or disruptive, or those that would fundamentally alter the nature or operations of an agency program. Undue hardship must be assessed on a case-by-case basis of whether a specific reasonable accommodation would cause significant difficulty or expense. Determinations of undue hardship should be based on several factors, including:

- the nature and cost of the accommodation needed;
- the overall financial resources of the agency making the reasonable accommodation;
- the number of employees;
- the type of operation, including structure and functions of the workforce;
- the effect on expenses and resources; and
- the impact of the accommodation on the operations of the agency.