

# **EEO: QUESTIONS AND ANSWERS ABOUT THE DISABILITY PROGRAM**

*By the Department of Commerce, Office of Civil Rights*

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# INTRODUCTION

## POLICY STATEMENT ON EQUAL EMPLOYMENT OPPORTUNITY

The Department of Commerce does not tolerate discrimination based on race, color, religion, sex (including sexual harassment and pregnancy discrimination), sexual orientation, gender identity, national origin, age (40 years of age and over), genetic information or disability (physical or mental), including the provision of reasonable accommodations for applicants and employees with disabilities. Retaliation against those who initiate discrimination complaints, serve as witnesses, or otherwise oppose discrimination and harassment is strictly prohibited.

## FOREWORD

Approximately 57 million Americans live with a disability as of 2010. The Federal Government has an important role in reducing discrimination, eliminating the stigma associated with disability, and encouraging Americans with disabilities to seek employment in the Federal workforce. Yet Americans with disabilities are underrepresented in the Federal workforce showing an employment rate that is far lower than the general American population. FY 2009 was the first year in which the percentage of Federal employees with targeted disabilities remained the same as the previous year. That percentage is currently .88%. The Department of Labor's (DOL) Bureau of Labor Statistics began reporting the unemployment rate for people with disabilities for the first time in FY 2009. The unemployment rate for people with disabilities in January 2011 was 13.6%. However, this number refers only to those who are currently seeking employment. Only 27% of working age (16-64) people with disabilities are employed and there are currently 10 million working-age people with disabilities who are not working and are not currently looking for work. The U.S Census Bureau plans to release the 2008-2010 Disability Employment Tabulation (from three years of American Community Survey data) in the spring of 2013. This will allow federal agencies to use a Civilian Labor Force benchmark for persons with disabilities for the first time, which will result in more accurate statistical comparisons.

As the Nation's largest employer, the Federal Government must become a model for the employment of individuals with disabilities. On July 26, 2010, President Obama issued Executive Order 13548 which aims to increase the employment of Americans with disabilities in the federal sector by 100,000 over the next five years. With this mandate, executive departments and agencies can improve efforts to employ workers with disabilities through increased recruitment, hiring, and retention efforts.

# DEPARTMENT OF COMMERCE'S GOAL

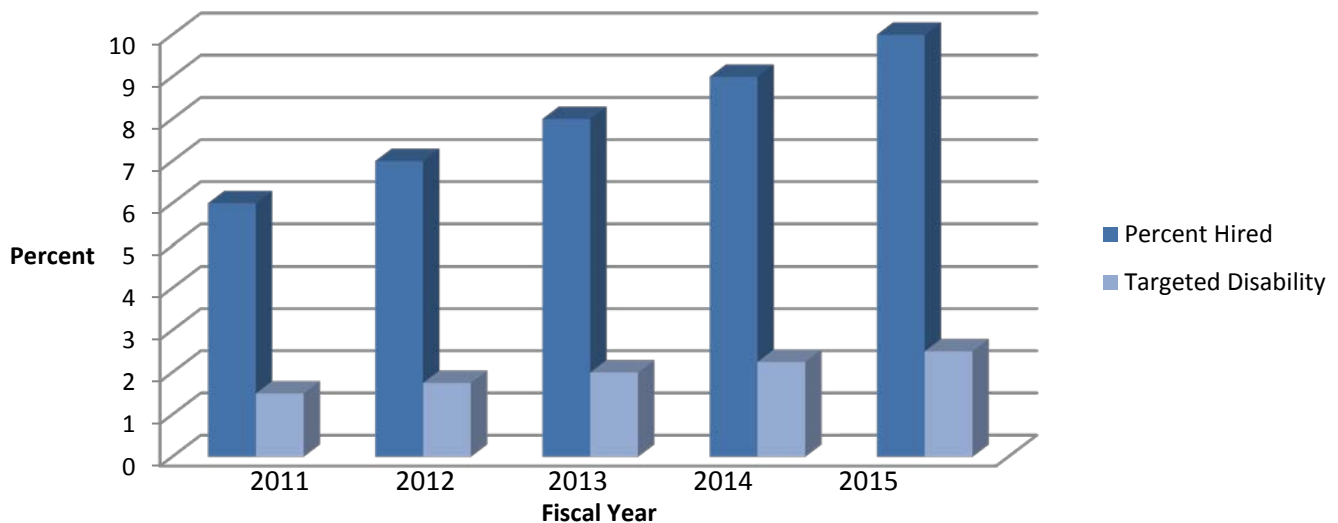
Currently, as of Fiscal Year (FY) 2012, Commerce's percentage of employees with disabilities is 6.98% and targeted disabilities is 0.6 %. Commerce is dedicated to increasing the number of new hires with disabilities and targeted disabilities. Commerce's goal is to increase the number of new hires with disabilities to 10% and to increase the number of employees with targeted disabilities to 2.5% by 2015. Below are Commerce's five year hiring goals submitted to the Office of Personnel Management in 2011:

**TABLE 1.1<sup>1</sup>**

Department of Commerce 5 Year Plan		
Fiscal Year	% Hired In Workforce	Targeted Disability
2011	6	1.5
2012	7	1.75
2013	8	2.00
2014	9	2.25
2015	10	2.50

**FIGURE 1.1<sup>2</sup>**

## Percentage Increases of Disabled Persons



<sup>1</sup> Table 1.1 represents the effort by the Federal Government to increase the percentage of persons with a disability and targeted disabilities over the next five years.

<sup>2</sup> Figure 1.1 illustrates the percentage increase of disabled persons hired and targeted disability over the next five years. The number of disabled persons will increase from 5.77 percent to 6% in 2011 to 10% in 2015. This booklet provides general information about discrimination, reasonable accommodation, accessibility and other issues that may be of interest to all Commerce employees.

# THE LAW

## WHAT LAWS PROTECT EMPLOYEES AND APPLICANTS WITH DISABILITIES?

### I. THE REHABILITATION ACT OF 1973, AS AMENDED:

- ✓ Protects employees and applicants with disabilities in the executive branch of the Federal Government from employment discrimination;
- ✓ Requires agencies to provide reasonable accommodation for known disabilities of employees and applicants;
- ✓ Prohibits retaliation for filing an EEO complaint, participating in the EEO complaint process, or opposing unlawful discrimination;
- ✓ Requires affirmative employment for hiring, placing, and promoting people with targeted disabilities; and
- ✓ Ensures equal access to programs, activities, and facilities to people with disabilities.
- ✓ For more information, go to <http://www.access-board.gov/enforcement/rehab-act-text/intro.htm>.

### II. THE ARCHITECTURAL BARRIERS ACT (ABA) OF 1968

- ✓ Enforced by the Access Board.
- ✓ Requires access to facilities designed, built or altered with Federal dollars or leased by Federal agencies.
- ✓ When individuals with disabilities are unable to use a building because there are not any accessible parking spaces, curb ramps, entrance ramps, accessible rest rooms, accessible drinking fountains, no raised lettering on signs, or other barriers exist, they may file a complaint with the Access Board
- ✓ For more information, go to <http://www.access-board.gov/about/laws/ABA.htm>

### III. AMERICANS WITH DISABILITIES ACT (ADA) OF 1990

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 on the basis of disability in regard to job application procedures, hiring, advancement or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment. The ADA's nondiscrimination standards also apply to Federal Government sector employees under section 501 of the Rehabilitation Act.

### IV. AMERICANS WITH DISABILITIES AMENDMENTS ACT (ADAAA) OF 2008

The ADAAA was enacted in response to several court cases which narrowed the broad scope of protection the Americans with Disabilities Act was meant to afford. The Act provides that "the definition of disability shall be construed in favor of broad coverage of individuals under this Act." Specifically the Act provides the following:



- ✓ An impairment that substantially limits one major life activity does not have to limit other major life activities to be considered a disability.
- ✓ An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.
- ✓ The determination of whether an impairment substantially limits a major life activity should be made without considering the ameliorative effects of mitigating measures. This does not include the use of ordinary eyeglasses or contact lenses.

For more information go to: [http://www.eeoc.gov/laws/statutes/adaaa\\_info.cfm](http://www.eeoc.gov/laws/statutes/adaaa_info.cfm).

## **V. THE GENETIC INFORMATION NONDISCRIMINATION ACT OF 2008 (GINA)**

- ✓ Title II became effective on November 21, 2009.  
<http://www.eeoc.gov/laws/statutes/gina.cfm>
- ✓ Title II makes it illegal for an employer to discriminate against employees or applicants because of genetic information. It also prohibits an employer from requesting, requiring or purchasing the genetic information of an employee or the family member of an employee.
- ✓ Genetic information includes information about an individual's genetic tests, the genetic tests of an individual's family members, and the manifestation of a disease or disorder in the family members of such individual.
- ✓ If an employer possesses genetic information about an employee, that information should be maintained on separate forms and in separate medical files. The information should be treated as a confidential medical record of the employee.

# **WHO IS COVERED?**

## **WHO IS PROTECTED BY THE REHABILITATION ACT OF 1973, AS AMENDED?**

The Rehabilitation Act protects qualified employees and applicants on the basis of a disability.

## **HOW IS DISABILITY DEFINED?**

An individual is considered to have a “disability” if the individual:

1. has a physical or mental impairment that substantially limits one or more major life activity;
2. has a record of such impairment; or
3. is regarded as having such an impairment.

Having physical characteristics such as eye color, hair color, left-handedness, or height, weight, or muscle tone that are within the normal range and are not the result of physiological disorder are not considered an impairment. Environmental, cultural, or economic disadvantages such as poverty, lack of education, or a prison record also are not impairments. Advanced age, in and of itself, also is not considered an impairment.

The definition of disability is to be construed broadly in favor of expansive coverage to the maximum extent permitted by the Act.

An individual has a record of a disability if the individual has a history of, or has been classified as having a mental or physical impairment that substantially limits one or more major life activities.

An individual is regarded as having such an impairment if the individual is subjected to a prohibited action because of an actual or perceived physical or mental impairment, whether or not that impairment substantially limits, or is perceived to substantially limit, a major life activity.

Q. If I have been classified as “disabled” with regard to veteran’s preferences, supplemental social security or some other statute or regulation, am I covered by the Rehabilitation Act?

A. Not necessarily. The word disability is used in other situations, but may not have the same meaning as it does under the Rehabilitation Act. To be protected under this statute, you must meet the standards outlined below.

## **WHAT IS A PHYSICAL OR MENTAL IMPAIRMENT?**

A physical impairment includes any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin and endocrine.

A mental impairment includes any mental or psychological disorder, such as an intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

## **WHAT IS A MAJOR LIFE ACTIVITY AND WHEN IS IT CONSIDERED SUBSTANTIALLY LIMITED?**

Generally, 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.

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.

To determine whether an individual is "substantially limited" in any major life activity, the Equal Employment Opportunity Commission (EEOC) provides the following rules of construction: 1) the term "substantially limits" shall be construed broadly in favor of expansive coverage to the maximum extent permitted by the ADA; 2) an impairment is a disability if it substantially limits (rather than significantly restricts, as in the past) the ability of an individual to perform a major life activity as compared to most people in the general population; 3)

whether an impairment substantially limits a major life activity should not demand extensive analysis; 4) to make the determination of whether an impairment substantially limits a major life activity requires an individualized assessment; 5) the comparison of an individual's performance of a major life activity to the performance of the same major life activity by most people in the general population usually will not require the presentation of scientific, medical, or statistical evidence, though the presentation of such evidence is not prohibited; 6) except in the cases of ordinary eyeglasses or contact lenses, the determination of whether an impairment substantially limits a major life activity is to be made without regard to the ameliorative (beneficial) effects of mitigating measures; 7) an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active; 8) an impairment that substantially limits one major life activity need not substantially limit other major life activities in order to be considered a substantially limiting impairment; and 9) although impairments that last for only a short period of time generally are not covered, they may be covered if they are sufficiently severe and the effects of an impairment lasting or expected to last fewer than six months could be substantially limiting.

Demonstrating a substantial limitation in performing the unique aspects of a single specific job is not sufficient to establish that a person is substantially limited in the major life activity of working. To show a substantial limitation on working, the individual must show that the impairment substantially limits his or her ability to perform a class of jobs or broad range of jobs in various classes as compared to most people having comparable training, skills, and abilities.

## **WHEN IS AN EMPLOYEE OR APPLICANT WITH A DISABILITY CONSIDERED “QUALIFIED”?**

An individual with a disability is considered a “qualified individual” if the individual satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such individual holds or desires and, with or without reasonable accommodation, can perform the essential functions of such position. This inquiry should take place at the time of the employment decision. A supervisor should not speculate nor predict whether the employee or applicant will be able to perform the essential functions in the future based on a worsening or improvement of the individual's current disability or medical condition. Requiring the ability to perform “essential” functions assures that an individual will not be considered unqualified simply because of inability to perform marginal or incidental job functions. If the individual is qualified to perform essential job functions the employer must consider whether the individual could perform these functions with a reasonable accommodation.

## **WHAT ARE ESSENTIAL JOB FUNCTIONS?**

The essential functions of a job are the occupational duties that are fundamental to the position such that an individual could not do the job without being able to perform them. A job function may be considered “essential” if, among other things: the reason the position exists is to perform that function; there are a limited number of employees available among whom the performance of that function could be distributed; and/or the function is specialized and the incumbent is hired based on his or her expertise or ability to perform it.

## **ARE THERE ANY EXCEPTIONS TO THE DEFINITION OF “DISABILITY”?**

Yes. The term disability does not include individuals currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

However, the term disability may not exclude an individual who:

- ✓ Has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use; or
- ✓ Is participating in a supervised rehabilitation program and is no longer engaging in such use; or
- ✓ Is erroneously regarded as engaging in such use, but is not engaging in such use.

Also, employees whose current use of alcohol prevents them from performing the essential duties of their jobs, or whose use of alcohol constitutes a threat to property or to the safety of others are not protected under the Rehabilitation Act.

A Department/Bureau may discipline, discharge, or deny employment to a person with alcoholism whose use of alcohol adversely affects job performance or conduct. A Department/Bureau may also prohibit the use of alcohol in the workplace and can require that employees not be under the influence of alcohol while on duty.

The term disability does not include the following: 1) transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders; 2) compulsive gambling, kleptomania, or pyromania; or 3) psychoactive substance use disorders resulting from current illegal use of drugs.

## **REASONABLE ACCOMMODATION**

### **WHAT IS REASONABLE ACCOMMODATION?**

Reasonable accommodation is a change in the work environment or in the application and/or employment process that would enable a person with a disability to enjoy equal employment opportunities. There are three general categories of reasonable accommodations:

- ✓ Modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for the position the applicant desires;
  - ✓ 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 an individual with a disability who is qualified to perform the essential functions of that position; or,
  - ✓ Modifications or adjustments that enable a covered entity's employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by its other similarly situated employees without disabilities.
- Benefits and privileges of employment include, but are not limited to, employer sponsored: (1) training, (2) services (e.g., employee assistance programs, credit unions, cafeterias, lounges,

gymnasiums, auditoriums, transportation), and (3) parties or other social functions (e.g., parties to celebrate retirements and birthdays, and company outings.

## **WHAT ARE THE LEGAL REQUIREMENTS THAT GOVERN A DEPARTMENT/BUREAU'S OBLIGATION TO PROVIDE REASONABLE ACCOMMODATION?**

Agencies must provide a reasonable accommodation to an otherwise qualified individual who meets the definition of disability under the “actual disability” prong or “record of” prong unless the accommodation would create an undue hardship. An agency is under no obligation to accommodate an individual who meets the definition of “disabled” solely on the basis that he or she is regarded as disabled.

The definition of “disability” should be construed broadly in favor of expansive coverage. Although whether impairment is a disability is determined based on an individualized assessment, this determination should not demand extensive analysis. Although there is no “per se” disability, the individualized assessment of some types of impairments will, in virtually all cases, result in a determination of disability.

Note that nothing in this part shall provide the basis for a claim that an individual without a disability was subject to discrimination because of his lack of disability, including a claim that an individual with a disability was granted an accommodation that was denied to an individual without a disability.

For more guidance on the legal standards governing reasonable accommodation, agencies should consult the EEOC's Enforcement Guidance on Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act, on the web at <http://www.eeoc.gov/policy/docs/accommodation.html>

## **WHAT ARE SOME EXAMPLES OF REASONABLE ACCOMMODATION?**

Reasonable accommodation may include:

- ✓ providing or modifying equipment or devices;
- ✓ job restructuring;
- ✓ part-time or modified work schedules;
- ✓ adjusting or modifying examinations, training materials, or policies;
- ✓ providing qualified readers and interpreters; and
- ✓ making existing facilities readily accessible and usable by people with disabilities.

## **AM I REQUIRED TO TELL MY SUPERVISOR THAT I HAVE A DISABILITY?**

No. You are not required to tell your supervisor if you have a disability. If you need reasonable accommodation to perform one or more essential job functions, contact your bureau's Reasonable Accommodation Coordinator (RAC). A list of RACs can be found at:

<http://www.osec.doc.gov/ocr/2011/Disability/ReasonableAccommodation.html>

## **HOW SHOULD I REQUEST AN ACCOMMODATION?**

An employee may make a request for reasonable accommodation to his or her supervisor, another supervisor or manager in his/her immediate chain of command, his/her Office or Division Director, or the Reasonable Accommodation Coordinator (RAC). Applicants may request an accommodation from any Department

employee with whom the applicant has come in contact in connection with the application process. Accommodations will be provided in recurring situations without requiring a new request from the employee each time.

Employees are encouraged to complete the Request for Reasonable Accommodation form CD-575, Part A: Confirmation of Request. The RAC is responsible for initiating the CD-575 and will complete the requestor's section of the form for the requestor if, for example, the requestor requires assistance or otherwise does not complete the form. In the case of an applicant seeking a reasonable accommodation, the servicing human resources official should complete the form for the applicant. Requests for accommodation will be addressed promptly even if the requestor does not complete Form CD-575.

The Department's policy and guidance on reasonable accommodation is provided in Department Administrative Order 215-10, "Reasonable Accommodation for Employees or Applicants with Disabilities"

### **DOES A REQUEST FOR REASONABLE ACCOMMODATION HAVE TO COME SPECIFICALLY FROM THE EMPLOYEE?**

No. A request for an accommodation may be made by a family member, health professional, or other representative on the individual's behalf with the individual's consent. Whenever possible, the Department will confirm the request with the person with the disability.

### **AM I REQUIRED TO SUBMIT A WRITTEN REQUEST FOR REASONABLE ACCOMMODATION?**

No. An employee or applicant for employment is not required to submit a written request for reasonable accommodation. Requests for accommodation will be addressed promptly even if the requestor does not submit anything in writing. A written request, however, provides a record that the request was submitted which may be useful in resolving any difficulties that may arise.

### **WHO SHOULD RESPOND TO THE REQUEST FOR REASONABLE ACCOMMODATION?**

As the first step in processing a request for reasonable accommodation, the official who receives the request must determine who will be responsible for handling it and forward it, if necessary. The first person receiving the request may or may not be the person with authority for granting the accommodation; therefore, it must be referred to the deciding official in a timely manner. The person who receives the request for accommodation should use the following information to determine the appropriate deciding official:

- ✓ Requests for accommodation from applicants will be decided by the supervisor of the Human Resource Specialist responsible for the recruitment and/or selection process after consulting with the RAC.
- ✓ Requests for accommodation from employees will be decided by the immediate supervisor whenever possible.
- ✓ Requests by employees and applicants which involve personnel actions, large expenditures, or other high level determinations will be decided by the appropriate Office or Division Director.
- ✓ Requests for removal of architectural barriers, including reconfigured work spaces will be decided by the building management office of the employee's duty station.

- ✓ Requests for accessible parking will be decided through the organization handling parking issues in the employee's duty station (see DAO 217-8, "Employee Parking, Ridesharing and Mass Transit Benefit Programs").

The RAC will be available to provide advice and assistance to employees as well as decision makers in processing all requests for reasonable accommodation, including requests for reasonable accommodation involving travel arrangements. All deciding officials should consult with the RAC and the Office of the General Counsel.

## **DO I HAVE TO PROVIDE MEDICAL DOCUMENTATION OF MY DISABILITY?**

Medical information may be necessary in some cases in order to evaluate whether the requestor has a covered disability and whether the requestor needs an accommodation because of that disability. The Department shall not request medical information when the disability and need for accommodation are obvious and/or already on file with the Department/Bureau. However, when it is not obvious whether the requestor has a covered disability or whether the requestor needs an accommodation because of that disability, the RAC may request documentation describing:

- the impairment;
- the nature, severity, and duration of the impairment;
- the activity or activities the impairment limits;
- the extent to which the impairment limits the requestor's ability to perform the activity or activities;
- the accommodation needed; and
- whether the use of a mitigating measure eliminates the need for a reasonable accommodation.

The ADAAA's prohibition on assessing the positive effects of mitigating measures applies only to the determination of whether an individual meets the definition of "disability." All other determinations – including the need for a reasonable accommodation and whether an individual poses a direct threat – can take into account both the positive and negative effects of a mitigating measure. However, if an individual with a disability uses a mitigating measure that results in no negative effects and eliminates the need for a reasonable accommodation, a covered entity will have no obligation to provide one.

The RAC, not the supervisor, may request medical documentation pertaining only to job-related functions for which the accommodation is requested. Medical information may be necessary in some cases in order to evaluate whether the applicant or employee has a covered disability and whether the individual needs accommodation because of that disability. Ordinarily, individuals requesting accommodation should submit related medical documentation to the RAC, rather than to the employee's supervisor. Although an employee's supervisor may need to know the RAC's recommendations regarding whether the employee has a covered disability, what the restrictions are, and what accommodation(s), if any, would be effective, the supervisor will not ordinarily need to know what the underlying disability is or any details about employee's medical condition.

To ensure compliance with the Genetic Information Nondiscrimination Act of 2008 (GINA), all requests for medical information should include the following statement:



The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, we are asking that you not provide any genetic information when responding to this request for medical information. “Genetic information” as defined by GINA, includes an individual’s family medical history, the results of an individual’s or family member’s genetic tests, the fact that an individual or an individual’s family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual’s family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

### **WHY DOES THE DEPARTMENT/BUREAU NEED ADDITIONAL MEDICAL DOCUMENTATION, IF AN EMPLOYEE HAS SUBMITTED A MEDICAL CERTIFICATE FROM HIS/HER PHYSICIAN STATING A DIAGNOSIS?**

The determination of whether an individual has a disability is not necessarily based on the name or diagnosis of the impairment the person has, but rather on the effect of that impairment on the life of the individual. Some impairments may be disabling for particular individuals depending on the stage of the disease or disorder, the presence of other impairments that combine to make the impairments disabling or any number of other factors.

### **WHAT IS MEANT BY SUFFICIENT MEDICAL DOCUMENTATION?**

Medical documentation will suffice if it describes:

- the impairment;
- the nature, severity, and duration of the impairment;
- the activity or activities the impairment limits;
- the extent to which the impairment limits the requestor’s ability to perform the activity or activities;
- the accommodation needed; and
- whether the use of a mitigating measure eliminates the need for a reasonable accommodation.

If the information a requestor submits in response to the RAC’s initial request for medical documentation does not clearly describe the nature of the disability or the need for reasonable accommodation, the RAC may request reasonable supplemental documentation. In doing so, the RAC must explain why the documentation the requestor submitted was insufficient. If the requestor still does not provide sufficient information, the RAC may require the requestor to go to a health care provider of the agency’s choice at the agency’s expense. Failure to provide appropriate documentation or to cooperate with the Department’s efforts to obtain such documentation could result in denial of the reasonable accommodation request.

Where appropriate, the RAC may ask a requestor to sign a limited release allowing the RAC or a Department medical consultant to obtain specific information from the requestor’s health care provider directly. Such a release must be limited to information related to the disability at issue and the need for accommodation. If a requestor has signed a release, the RAC should not determine the information the requestor provided is insufficient without first attempting to obtain the necessary information from the requestor’s health care provider directly. Documentation might also be insufficient where, for example: (1) the health care professional does not have the expertise to give an opinion about the employee’s medical condition and the



limitations imposed by it; (2) the information does not specify the functional limitations due to the disability; or (3) other factors indicated that the information provided is not credible or fraudulent.

### **WHO SHOULD BE INVOLVED IN DECIDING WHAT ACCOMMODATIONS ARE NEEDED?**

The individual and Department/Bureau should engage in an “interactive process” to determine whether and what type of accommodation is appropriate. Of course, accommodations vary depending on the needs of the individual with a disability and the nature of a job. Sometimes the appropriate accommodation will be readily apparent. Where the appropriate accommodation is not obvious, the bureau should have a discussion with the requestor to determine a suitable accommodation. The main issues to be considered are the job tasks that must be accomplished and the functional limitations of the person doing the job. A team approach to providing an accommodation generally results in constructive and cost-effective solutions.

Once the RAC has the information needed to determine whether a requestor has a covered disability, whether the requestor needs an accommodation because of that disability, and what accommodation(s) would be effective, the RAC will advise the deciding official of the RAC’s determination and recommendations. Although the deciding official may need to know the RAC’s recommendations regarding whether the requestor has a covered disability, what the requestor’s restrictions are, and what accommodation(s), if any, would be effective, the deciding official will not ordinarily need to know what the underlying disability is or any details about employee’s medical condition.

### **IS IT USUALLY EXPENSIVE TO PROVIDE A REASONABLE ACCOMMODATION?**

A study conducted by the Job Accommodation Network (JAN), a service of the U.S. Department of Labor’s Office of Disability Employment Policy (ODEP), shows that not only are workplace accommodations low cost, but they also positively impact the workplace in many ways. The JAN study has been on-going since 2004. The study results consistently showed that the benefits employers receive from making workplace accommodations far outweigh the low cost. Employers reported that providing accommodations resulted in benefits such as retaining valuable employees, improving productivity and morale, reducing workers compensation and training costs, and improving company diversity. These benefits were obtained with little investment. The employers in the study reported that a high percentage (56%) of accommodations cost absolutely nothing to make, while the average cost for the remaining accommodations was only \$600.

### **AM I ENTITLED TO REASONABLE ACCOMMODATION IF I HAVE A TEMPORARY DISABILITY?**

An impairment does not have to last for more than six months in order to be considered substantially limiting under the first or the second prong of the definition of disability. For example, if an individual has a back impairment that results in a 20-pound lifting restriction that lasts for several months, he is substantially limited in the major life activity of lifting, and therefore covered under the first prong of the definition of disability. At the same time, the duration of an impairment is one factor that is relevant in determining whether the impairment substantially limits a major life activity. Impairments that last only for a short period of time are typically not covered, although they may be covered if sufficiently severe.

## **HOW ARE DETERMINATIONS FOR ELIGIBILITY TO RECEIVE A REASONABLE ACCOMMODATION MADE?**

In cases where the disability is obvious, the Department/Bureau focuses on the nexus between the employee's condition and the specific accommodation being requested to make sure that the accommodation requested would "effectively" meet the employee's needs. In cases where the disability is not obvious, a determination must be made as to whether the requestor is: (1) a individual with a disability, and (2) what accommodation would effectively meet the employee's needs.

## **UNDER THE REASONABLE ACCOMMODATION PROCESS, IS THE DISABLED EMPLOYEE ENTITLED TO ANYTHING THAT HE/SHE WANTS?**

No. The employee is only entitled to an "effective" accommodation and not the accommodation of choice. If there are two possible reasonable accommodations, and one costs more or is more burdensome than the other, the employer may choose the less expensive or burdensome accommodation as long as it is effective (i.e., it would remove a workplace barrier, thereby providing the individual with an equal opportunity to apply for a position, to perform the essential functions of a position, or to gain equal access to a benefit or privilege of employment). Similarly, when there are two or more effective accommodations, the employer may choose the one that is easier to provide. In either situation, the employer does not have to show that it is an undue hardship to provide the more expensive or more difficult accommodation. If more than one accommodation is effective, the preference of the individual with a disability should be given primary consideration. However, the employer providing the accommodation has the ultimate discretion to choose between effective accommodations.

## **IS THE INFORMATION REGARDING AN ACCOMMODATION REQUEST ALLOWED TO BE DISCLOSED TO COWORKERS?**

No. The employer may not disclose that an individual is receiving a reasonable accommodation. An employer may "explain that it is acting for legitimate business reasons or in compliance with federal law." An employer may certainly respond to a question from an employee about why a coworker is receiving what is perceived as "special" or "different" treatment by emphasizing "I am complying with the laws, regulations and the Department's policy to provide assistance to any employee who encounters challenges in the workplace." The employer may also find it helpful to point out that many of the workplace issues encountered by employees are personal, and that, in these circumstances, it is the employer's policy to respect employee privacy. Finally, an employee with a disability may voluntarily choose to disclose to coworkers his/her disability and/or the fact that s/he is receiving a reasonable accommodation, but the employer should not coerce or encourage the employee to do so.

## **CAN AN EMPLOYEE REQUEST A NEW SUPERVISOR AS A REASONABLE ACCOMMODATION?**

No. The ADA/Rehabilitation Act does not require the Department/Bureau to change an employee's supervisor as a reasonable accommodation.

## **WHEN CAN A REQUEST FOR A REASONABLE ACCOMMODATION BE DENIED?**

A request for reasonable accommodation can be denied if the individual requesting the accommodation is not an individual with a disability or if providing the requested accommodation would cause an undue hardship to the Department/Bureau or a direct threat. Other reasons for denial may include: inadequacy of medical documentation to support the request for accommodation; the requested accommodation not being effective; the requested accommodation requiring the removal of an essential function; or the requested accommodation requiring the lowering of a performance or production standard.

The notice of denial to the request shall include the specific reasons for the denial. If the deciding official has denied a specific requested accommodation, but offered an alternative which the requestor rejected, the denial notice must explain both the reason for the denial of the requested accommodation and the reasons that the deciding official believes that the alternative accommodation would be effective. The denial notice must also inform the individual that he/she has the right to seek redress in an appropriate forum, which depending on the nature of the action, may include the Equal Employment Opportunity (EEO) process, the Merit System Protection Board, the U.S. Office of Special Counsel, or a negotiated grievance procedure.

The deciding official, in collaboration with the RAC, shall consult with OGC before denying a request for accommodation.

## **HOW DOES ONE DETERMINE AN UNDUE HARDSHIP?**

Whether or not an accommodation poses an undue hardship is based on several factors including: 1) the nature and cost of the accommodation needed; (2) the overall financial resources of the facility involved in the provision of the reasonable accommodation, the number of persons employed at such a facility, and the effect on expenses and resources; (3) the overall financial resources of the covered entity, the overall size of the business of the covered entity with respect to the number of its employees, and the number, type and location of its facilities; (4) the type of operation or operations of the covered entity, including the composition, structure and functions of the workforce of such entity, the geographic separateness, and administrative or fiscal relationship of the facility or facilities in question to the covered entity; and (5) the impact of the accommodation upon the operation of the facility, including the impact on the ability of other employees to perform their duties and the impact on the facility's ability to conduct business.

A deciding official may not reach the conclusion that a reasonable accommodation would pose an undue hardship without consulting with the RAC and the Office of the General Counsel.

## **WHAT IS A DIRECT THREAT?**

Direct threat means a significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation. The determination that an individual poses a "direct threat" shall be based on an individualized assessment of the individual's present ability to safely perform the essential functions of the job. This assessment shall be based on a reasonable medical judgment that relies on the most current medical knowledge and/or on the best available objective evidence. In determining whether an individual would pose a direct threat, the factors to be considered include:

1. The duration of the risk;

2. The nature and severity of the potential harm;
3. The likelihood that the potential harm will occur; and
4. The imminence of the potential harm.

Generally, the Department will have the burden of demonstrating that an individual posed a direct threat.

### **CAN A REQUEST FOR AN ACCOMMODATION BE DENIED BECAUSE OF COWORKER'S REACTION?**

No, an employer cannot claim undue hardship based on employees (or customers) fears or prejudices toward the individual's disability. Nor can undue hardship be based on the fact that provision of reasonable accommodation might have a negative impact on the morale of other employees. Employers, however, may be able to show undue hardship where provision of reasonable accommodation would be unduly disruptive to other employee's ability to work.

### **WHAT CAN I DO IF I DO NOT RECEIVE A RESPONSE TO MY REQUEST FOR ACCOMMODATION OR I AM NOT SATISFIED WITH THE RESPONSE?**

You may contact your supervisor, the Disability Program Manager or RAC, or an EEO Counselor at any time during the process. If the employee's supervisor does not know the status of the accommodation, the supervisor is encouraged to refer the employee to the RAC.

If an accommodation request is denied, an employee may, within 30 business days, appeal the decision. This appeal for reconsideration should be submitted in writing to the immediate supervisor or to a supervisor within the employee's chain of command, and must include the reason given for the denial. The supervisor must acknowledge receipt of the appeal for reconsideration within 5 business days. The employee will receive in writing the final decision regarding the appeal within 30 business days after the appeal was filed.

### **HOW DOES THE REHABILITATION ACT ADDRESS INQUIRIES ABOUT DISABILITIES AND MEDICAL EXAMINATIONS?**

A Department/Bureau cannot make any pre-employment inquiry about a disability, or the nature or severity of a disability. A Department/Bureau may, however, may make pre-employment inquiries into the ability of an applicant to perform job-related functions, and/or may ask an applicant to describe or demonstrate how, with or without reasonable accommodation, the applicant will be able to perform job-related functions.

A Department/Bureau may not ask or require a job applicant to take medical examination before making a job offer. However, the Department/Bureau may condition an offer of employment on the results of such examination (and/or inquiry), if all entering employees in the same job category are subjected to such an examination (and/or inquiry) regardless of disability. If certain criteria are used to screen out an employee or employees with disabilities as a result of such an examination or inquiry, the exclusionary criteria must be job-related and consistent with business necessity, and performance of the essential job functions cannot be accomplished with reasonable accommodation.

A Department/Bureau may require a medical examination (and/or inquiry) of an employee that is job-related and consistent with business necessity. A covered entity may make inquiries into the ability of an employee to perform job-related functions.

## **MUST A MANAGER WITHHOLD DISCIPLINE FOR AN EMPLOYEE WHO IS DISABLED OR HAS RAISED THE ISSUE OF DISABILITY TO MANAGEMENT?**

No. An employer never has to excuse a violation of a uniformly applied conduct rule.

## **WHAT IS JOB ACCOMMODATION NETWORK (JAN) AND COMPUTER/ ELECTRONIC ACCOMMODATIONS PROGRAM (CAP)?**

JAN provides free consultation services for employers with information on aspects of job accommodations, compliance assistance with section 501 of the Rehabilitation Act, facts about initiatives and hiring programs, even referrals to resources.

- ✓ Website: <http://askjan.org/>
- ✓ By Telephone
  - (800)526-7234 (V) in the United States
  - (877)781-9403 (TTY) in the United States
- ✓ E-Mail: [jan@askjan.org](mailto:jan@askjan.org)

The National Defense Authorization Act of October 2000 granted CAP the authority to provide technology, devices and support services free of charge to agencies that have a partnership agreement with CAP. CAP's mission is to ensure that people with disabilities and wounded Service members have equal access to the information environment and opportunities in the Department of Defense (DoD) and throughout the government. By fulfilling this mission of providing real solutions for real needs, CAP is helping to make the government the model employer for people with disabilities.

Website: <http://www.cap.mil/>

### **Computer/Electronic Accommodations Program (CAP) Main Office**

If you have general questions about CAP and how we can help you, please contact us at:

1700 N. Moore Street, Suite 1000  
Arlington, VA 22209  
(703) 614-8416 (Voice)  
(571) 384-5629 (Videophone)  
(703) 697-5851 (Fax)  
[cap@mail.mil](mailto:cap@mail.mil) (Email)

### **Computer/Electronic Accommodations Program Technology Evaluation Center (CAPTEC)**

If you'd like to speak to someone at CAPTEC to schedule an appointment, please contact us at:

The Pentagon  
Room 2D1049  
(703) 693-5160 (Voice)  
(703) 693-6189 (TTY)  
[cap.captec@mail.mil](mailto:cap.captec@mail.mil) (Email)

# EMPLOYMENT DISCRIMINATION

## WHAT PRACTICES AND ACTIVITIES MAY BE CHALLENGED AS EMPLOYMENT DISCRIMINATION?

It is unlawful to discriminate on the basis of disability against a qualified individual in regard to:

- ✓ Recruitment, advertising, and job application procedures;
- ✓ Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;
- ✓ Rates of pay or any other form of compensation and changes in compensation;
- ✓ Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
- ✓ Leaves of absence, sick leave, or any other leave;
- ✓ Fringe benefits available by virtue of employment, whether or not administered by the covered entity;
- ✓ Selection and financial support for training, including: apprenticeships, professional meetings, conferences and other related activities, and selection for leaves of absence to pursue training;
- ✓ Activities sponsored by a covered entity, including social and recreational programs; and
- ✓ Any other term, condition, or privilege of employment.

Failure to provide reasonable accommodation can also be a form of employment discrimination.

This does not provide the basis for a claim that an individual without a disability was subject to discrimination because of his lack of disability, including a claim that an individual with a disability was granted an accommodation that was denied to an individual without a disability.

## DOES THE REHABILITATION ACT PROTECT ME FROM DISCRIMINATION IF I ASSOCIATE WITH SOMEONE WHO HAS A DISABILITY?

Yes. The Rehabilitation Act prohibits discrimination against an individual because of a relationship or association with an individual with a disability. For example, discrimination against a care-giver of an individual known to be HIV- positive or to have AIDS is prohibited behavior.

## WHAT IS THE EEO COMPLAINT PROCESS?

The EEO complaint process is a legal process designed to resolve complaints of employment discrimination and retaliation. The Rehabilitation Act is one of the civil rights laws enforced through this process.

The Federal Government sector EEO complaint process has three parts:

1. EEO Counseling (the informal process), administered by the Department's EEO Offices;
2. The formal complaint process administered by the Department's Office of Civil Rights; and
3. The appeal process.

The Equal Employment Opportunity Commission (EEOC) is an independent Federal Government agency that oversees the EEO complaint process and hears appeals of the Department's Final Agency Decisions (FADs) in

the discrimination complaints. EEOC regulations located at 29 C.F.R. § 1614 govern the Federal Government sector EEO complaint process.

To preserve your right to file a formal EEO complaint, you must contact a counselor within 45 calendar days of the matter alleged to be discriminatory or, in the case of a personnel action, within 45 days of the effective date of the action.

To make the EEO complaint process work appropriately and effectively for you, you need to know what it can and cannot do. The EEO complaint process serves to correct management actions which are unlawful under Federal EEO Laws. It cannot resolve normal work day issues with your supervisor, other managers, and coworkers. Additionally, the process cannot correct management actions solely based on unfairness. It is your responsibility to decide whether the EEO process is the right function to report any issues. EEO Counselors and Investigators, EEO Office staff, and Office of Civil Rights (OCR) staff can give you information about EEO laws and procedures, but cannot act as representatives or advocates.

### **WHAT SHOULD I DO IF I THINK I HAVE BEEN DISCRIMINATED AGAINST BECAUSE OF MY DISABILITY?**

If you believe that you were discriminated against because of a disability, contact your EEO Officer within 45 days of the date the alleged discriminatory action occurred or in the case of a personnel action within 45 days of the effective date of the action. The EEO Counselor will attempt to informally resolve the situation. If these efforts are unsuccessful, the Counselor will notify you of a procedure for filing a formal complaint.

## **AFFIRMATIVE EMPLOYMENT**

Affirmative employment, also called affirmative action, is a positive action taken to increase the employment opportunities of certain groups and overcome the effects of past discrimination. The Rehabilitation Act specifically calls for affirmative action on behalf of people with disabilities.

## **SCHEDULE A**

### **WHAT IS SCHEDULE A?**

The Federal Government has special hiring authorities for people with disabilities. Schedule A is one example of the government's special hiring authorities. Schedule A helps individuals with disabilities to get, keep, and advance in Federal Government jobs that are matched to their skills and abilities. By utilizing Schedule A to fill a vacancy, a Department/Bureau can avoid using the traditional, and sometime lengthy, competitive hiring process. You are eligible for a Schedule A appointment if you are a person with a severe physical or mental disability.



## HOW DO I PROVE MY ELIGIBILITY FOR SCHEDULE A?

In order to receive a Schedule A appointment, you must:

1. Be qualified for the job you are applying for, i.e., have the necessary knowledge, skills, and abilities to perform the required duties;
2. Demonstrate “proof of disability.”

Proof of disability can be satisfied with a simple letter stating that you have a severe disability. You can get this letter from your doctor, a licensed medical professional, a licensed rehabilitation professional, or any entity that issues or provides disability benefits. The letter does NOT need to detail your medical history or your need for an accommodation.

## HOW CAN I USE SCHEDULE A?

Anyone can compete for a Federal Government job by applying through a job posting. Individuals with disabilities may use Schedule A to secure a job without going through the typical competitive process. As a person with a disability, you may apply for employment directly to a Department/Bureau where you would like to work. You will need to provide proof of a disability and job readiness to be eligible for employment under Schedule A.

## WHO CAN HELP ME APPLY FOR A JOB UNDER SCHEDULE A?

If you want to apply for a job under Schedule A, contact the Disability Program Manager or Selective Placement Coordinator at the Department/Bureau of your interest. You can also contact your career counselor or vocational rehabilitation counselor for information. If you are a veteran, you may want to contact a VA counselor.

# NATIONAL DISABILITY EMPLOYMENT AWARENESS MONTH

By joint resolution, Congress passed Resolution No. 176 in 1945, designating the first week in October of each year as National Employ the Physically Handicapped Week. This observance, now expanded to a month, was renamed National Disability Employment Awareness Month. October is the kick-off month for year-long activities and programs to ensure the intent of Resolution 176, to advance employment of persons with disabilities, becomes a reality.



# EQUAL ACCESS TO DEPARTMENT PROGRAMS AND ACTIVITIES

## WHAT DOES EQUAL ACCESS TO PROGRAMS, ACTIVITIES, AND FACILITIES MEAN?

Equal access simply means that departmental programs, activities and services are obtainable and readily usable by people with disabilities. Accessibility may take the form of providing ramps for people who use wheel chairs, providing sign language interpreters for people who are deaf or hard of hearing, or providing personal readers or Braille documents for people who are blind.

## ARE SPONSORS OF PROGRAMS AND EVENTS RESPONSIBLE FOR MAKING THE ACTIVITIES ACCESSIBLE?

Yes. Section 504 of the Rehabilitation Act of 1973, as amended, requires, in part, that federally-sponsored or facilitated meetings, conferences, presentations and programs to which members of the public are invited or admitted shall be accessible to people with disabilities. It is the Department's policy to provide qualified individuals with disabilities full access to Departmental programs, information and services.

Departmental meetings and public meetings which are open to attendees without prior registration shall:

1. Be conducted in physically accessible locations;
2. Provide qualified, professional sign language interpreters; and
3. Provide other auxiliary aids upon advance request.

Event announcements should state that sign language interpretation will be provided, or that sign language interpretation will be provided upon request, and the event will be held in a location that is physically accessible. When applicable, the following language is recommended:

*This program is physically accessible to people with disabilities and sign language interpretation is provided. Requests for other auxiliary aids should be directed to (name) (voice and email address).*

For more information on accessibility, see Department Administrative Order 209-8, or contact the Office of Civil Rights at (202) 482-5691.

## HOW MAY I REQUEST ACCESS TO DEPARTMENTAL PROGRAMS, ACTIVITIES AND FACILITIES?

You should submit your specific request to the sponsor of the program or the Reasonable Accommodation Coordinator (RAC) as soon as you become aware of the event. The earlier you submit your request, the more time the sponsor or RAC will have to provide the access you need.

# DIVERSITY

## ARE INDIVIDUALS WITH DISABILITIES INCLUDED IN THE DEPARTMENT'S DIVERSITY INITIATIVE?

Of course! Individuals with disabilities are as much a part of the Department's diversity initiative as any other employees.

## HOW CAN I OVERCOME DISCOMFORT IN INTERACTING WITH AN INDIVIDUAL WHO HAS A DISABILITY?

Many of us feel uneasy when we first interact with someone who is different from ourselves. This experience is not unusual. Becoming comfortable in interacting with individuals who have disabilities is accomplished incrementally through associations on the job and elsewhere. One way to increase your comfort level would be to participate in disability sensitivity and awareness training. However, a good rule to follow is to treat everyone with dignity.

# TELECOMMUNICATIONS RELAY SERVICE/TRS (FED RELAY)

## WHAT IS THE FEDERAL RELAY SERVICE?

Telecommunications Relay Service (TRS) was established by Congress under Public Law 100-542, the Telecommunications Accessibility Act of 1988. The law provides an intermediary telecommunications service for individuals who are deaf, hard of hearing, and/or have speech disabilities for communications with and within the Federal Government.

Federal Government agencies may meet their telecommunication obligation under Section 504 of Rehabilitation Act by providing RelayTRS as a reasonable accommodation to employees with disabilities in the workplace.

Effective January 1, 2008, Relay usage became "direct-billed" (task order) to agencies individually. To ensure that your disabled employees and the general public avoid interruption of service, your Agency's Designated Agency Representative (DAR) and/or Contracting Officer (CO) needs to submit a task order with Sprint (GSA contract holder).

The services available with FedRelay include:

### Internet-Based Services

- ✓ [Video Relay Service](#)
- ✓ [IP Relay](#)
- ✓ [Relay Conference Captioning](#)

### Telephonically-Based Services

- ✓ [Speech to Speech \(STS\)](#)

- ✓ [Captioned Telephone \(CapTel\)](#)

For more information on FedRelay:

- ✓ Relay Customer Service: 1-800-877-0996 (Voice, TTY, ASCII or Spanish)
- ✓ eFax: 913-523-9070
- ✓ Email: [federalrelay@sprint.com](mailto:federalrelay@sprint.com)
- ✓ Website: <http://www.federalrelay.us/>

## EMERGENCY EVACUATION PLAN

The Office of Security has developed an emergency evacuation plan for personnel and visitors in the Herbert C. Hoover Building. This plan is posted in various locations throughout the building. Office directors and immediate supervisors are responsible for ensuring that assistance is provided for their subordinate employees and that visitors with disabilities are escorted to "emergency assist rooms," as needed. In the Hoover Building, certain rooms on each floor have been designated as emergency assist rooms. The elevators are usually "off limits" during an emergency evacuation. If you know you will need help in getting to an emergency assist room during these times, please inform your supervisor or office director of your particular need now. In many instances, they may not know you will need to be accommodated during these occasions.

If you need additional assistance while a fire drill or an emergency evacuation is in process, you may call 202-482-5100. For additional information about the Department's emergency plan, you may contact the Office of Security at 202-482-8115.

If your workplace is not located in the Hoover Building, we advise you to check with your immediate supervisors about the availability of such a plan for your location.

## DISABILITY ETIQUETTE

### PEOPLE WITH DISABILITIES

People with disabilities are not conditions or diseases. They are individual human beings.

*Example: A person is not an epileptic but rather a person who has epilepsy.*

First and foremost they are people. Only secondarily do they have one or more disabling conditions. Hence, it is appropriate to refer to such individuals, in print or broadcast media, as people with disabilities.

In any story, article, announcement, or advertisement, "people with disabilities" should be used either exclusively or, at a minimum, as the initial reference. Subsequent references can use the terms "person with a disability" or "individuals with disabilities" for grammatical or narrative reasons. In conclusion, the appropriate and preferred initial reference is "people with disabilities."

For more Tips On Interacting With People With Disabilities, go to <http://www.unitedspinal.org/pdf/DisabilityEtiquette.pdf>

## **DISTINCTION BETWEEN DISABILITY AND HANDICAP**

A **disability** is a condition caused by an accident, trauma, genetics or disease which may limit a person's mobility, hearing, vision, speech or mental function. Some people with disabilities have one or more disabilities.

A **handicap** is a physical or attitudinal constraint that is imposed upon a person, regardless of whether that person has a disability. Webster's Ninth New Collegiate Dictionary defines handicap as to put at a disadvantage.

*Example: Some people with disabilities use wheelchairs. Stairs, narrow doorways, and curbs are handicaps imposed upon people with disabilities who use wheelchairs.*

People with disabilities may have a variety disabling conditions including:

- Mobility impairments;
- Blindness and vision impairments;
- Deafness and hearing impairments;
- Speech and language impairments; and
- Mental and learning disabilities.

## **RECEPTION ETIQUETTE WITH PERSONS WITH DISABILITIES**

- a) Know where accessible restrooms, drinking fountains, and telephones are located. If such facilities are not available, be ready to offer alternatives, such as the private or employee restroom, a glass of water, or your desk phone.
- b) Use a normal tone of voice when extending a verbal welcome. Do not raise your voice unless requested.
- c) When introduced to a person with a disability, it is appropriate to offer shaking hands. People with limited hand use or who wear an artificial limb can usually shake hands.
- d) Shaking hands with the left hand is acceptable. For those who cannot shake hands, touching the person on the shoulder or arm to welcome and acknowledge their presence may be acceptable.

- e) Treat adults in a manner befitting adults.
- f) Call a person by his or her first name only when extending that familiarity to all others present.
- g) Never patronize people using wheelchairs by patting them on the head or shoulder.
- h) When addressing a person who uses a wheelchair, never lean on the person's wheelchair. The chair is part of the space that belongs to the person who uses it.
- i) When talking with a person with a disability, look at and speak directly to that person rather than through a companion who may be along.
- j) If an interpreter is present, speak to the person who has scheduled the appointment, not to the interpreter.
- k) Always maintain eye contact with the applicant, not the interpreter.
- l) Offer assistance in a dignified manner with sensitivity and respect. Be prepared to have the offer declined. Do not proceed to assist if your offer to assist is declined. If the offer is accepted, listen to or accept instructions.
- m) Allow a person with a visual impairment to take your arm (at or about the elbow.) This will enable you to guide rather than propel or lead the person.
- n) Offer to hold or carry packages in a welcoming manner.  
  
*Example: May I help you with your packages?*
- o) When offering to hand a coat or umbrella, do not offer to hand a cane or crutches unless the individual requests otherwise.

## SERVICE ANIMALS

### BACKGROUND

Over 12,000 people with disabilities use the aid of service animals. Although the most familiar types of service animals are guide dogs used by people who are blind, service animals assist persons who have other disabilities as well. Many disabling conditions are invisible. Therefore, every person who is accompanied by a service animal may not "look" disabled. A service animal is NOT required to have any special certification.

### WHAT IS A SERVICE ANIMAL?

**A service animal is NOT a pet!**

According to the Americans with Disabilities Act (ADA) of 1990, a service animal is any animal that has been individually trained to provide assistance or perform tasks for the benefit of a person with a physical or mental disability which substantially limits one or more major life functions.

## **SERVICE ANIMAL ACCESS**

The civil rights of persons with disabilities to be accompanied by their service animals in all places of public and housing accommodations is protected by the following laws:

- ✓ Americans with Disabilities Act (ADA) (1990);
- ✓ Air Carrier Access Act (1986);
- ✓ Fair Housing Amendments Act (1988); and
- ✓ Rehabilitation Act (1973).

## **SERVICE DOG ETIQUETTE**

Do not touch the service animal, or the person it assists, without permission.

Do not make noises at the service animal, as it may distract the animal from doing its job.

Do not feed the service animal, as it may disrupt his/her schedule.

Do not be offended if the person does not feel like discussing his/her disability or the assistance the service animal provides. Not everyone wants to be a walking-talking "show and tell" exhibit.

# **PREPARING FOR SIGN LANGUAGE INTERPRETERS**

## **BASICS**

The professional interpreter is always considered as an extension of the event. Interpreters are part of the team and are meant to deliver accurate and intended messages given by the presenters or performers.

The further in advance notice is provided to the interpreter, the more prepared they will be. This process will allow the interpreter to have the proper time needed for an event and prevent "cold" interpreting. Time for preparation is essential to allow accurate dissemination of the intended messages to the audience. For instance, an interpreter needs to spend an average of 15-20 hours of practice for a 2 hour musical concert. With this in mind, the following information given to the interpreter will enhance the quality of the interpreted performance/event.

- ✓ Name and type of event.
- ✓ Name of event contact person with a phone number.
- ✓ Correct billing address.
- ✓ Clear address and directions to the event and the location where the interpreter is to check-in.
- ✓ Parking passes or information on any kind of special arrangements for parking.
- ✓ Correct spellings of all names of those speaking or performing.
- ✓ A summary of subjects that will be presented by each speaker.
- ✓ A list of any musical lyrics in advance, ideally at the time of request.
- ✓ Communication and shared information to all persons directly involved with the event regarding the arrangements for the interpreter.

If any information to be presented is other than English, a written interpretation in English will be needed in advance, "OR" an advance notice of at least 3 weeks will be needed to allow adequate time to secure an appropriate interpreter.

## STAGING

Ideally, the interpreter should be on stage, to the side of the presenter to enhance visibility for the deaf audience.

If the interpreter cannot be on stage, they should be placed off the side of the stage on an elevated surface at chest level above the heads of the audience with a speaker placed in front of and facing the interpreter. "OR" the host may choose to provide at least 2 direct in-line headsets to microphone.

## LIGHTING

Any time you have lights on the presenters, you will also need to plan on lights for the interpreters, especially if the event is inside of an auditorium or in any area of darkness. A soft light staged to encompass the interpreter is essential for the deaf viewer. Effective colors are soft blue, light purple, or any other soft color except BOLD white.

## SECURITY

When security is present for the event, it is advisable to include securing the safety of the interpreter or to have security placed close to the interpreter.

# CONVERSATION ETIQUETTE WITH PERSONS WITH DISABILITIES

- a) When talking to a person with a disability, look at and speak directly to that person, rather than at or through a companion who may be along.

- b) Relax. Don't be embarrassed if you happen to use accepted common expressions, such as see you later or got to be running along, which seem to relate to the person's disability.
- c) To get the attention of a person with a hearing impairment, tap the person on the shoulder or wave your hand. Look directly at the person and speak clearly, naturally, and slowly to establish if the person can read lips. Not all persons with hearing impairments can lip-read. Those who can will rely on facial expression and other body language to help in understanding. Show consideration by placing yourself facing the light source and keeping your hands, cigarettes, and food away from your mouth when speaking. Shouting won't help the person with a hearing impairment hear you more clearly; however, a written note may be useful in certain circumstances.
- d) If you will be talking with a person in a wheelchair for more than a few minutes, sit down, whenever possible. This places you at the person's eye level and facilitates conversation.
- e) When greeting a person with a severe loss of vision, always identify yourself and others who may be with you.

*Example: On my right is Penelope Potts.*

- f) When conversing in a group and there are person present with visual impairments, give a vocal cue by announcing the name of the person to whom you are speaking. Speak in a normal tone of voice, indicate in advance when you will be moving from one place to another and let it be known when the conversation is at an end.
- g) Listen attentively when you're talking to a person who has speech impairment. Keep your manner encouraging rather than correcting. Exercise patience rather than attempting to speak for a person with speech difficulty.
- h) When necessary, ask short questions that require short answers or a nod or a shake of the head. Never pretend to understand if you are having difficulty doing so. Repeat what you understand or incorporate the interviewee's statements into each of the following questions. The person's reactions will clue you in and guide you to an understanding.
- i) If you have difficulty communicating, be willing to repeat or rephrase a question. Open-ended questions are more appropriate than closed-ended questions.

*Examples:*

*Closed-ended question: You were a tax accountant in XYZ Company in the corporate planning department for 7 years. What did you do there?*

*Open-ended question: Tell me about your recent position as a tax accountant.*



# INTERVIEWS

## SCHEDULING

- a) Some interviewees with visual or mobility impairments will phone in prior to the appointment date, specifically for travel information. The scheduler should be very familiar with the travel path in order to provide interviewees with detailed information.
- b) Make sure the place where you plan to conduct the interview is accessible by checking the following:
  - ✓ Are there handicap parking spaces available and nearby?
  - ✓ Is there a ramp or step-free entrance?
  - ✓ Are there accessible restrooms?
  - ✓ If the interview is not on the first floor, does the building have an elevator?
  - ✓ Are there any water fountains and telephones at the proper height for a person in a wheelchair to use?
- c) If an interview site is inaccessible (e.g., steps without a ramp or a building without an elevator), inform the person about the barrier prior to the interview and offer to make arrangements for an alternative interview site.
- d) When scheduling interviews for persons with disabilities, consider their needs ahead of time.
- e) When giving directions to a person in a wheelchair, consider distance, weather conditions, and physical obstacles, such as stairs, curbs and steep hills.
- f) Use specifics, such as left a hundred feet or right two yards, when directing a person with a visual impairment.
- g) Be considerate of the additional travel time that may be required by a person with a disability.
- h) Familiarize the interviewee in advance with the names of all persons he or she will be meeting during the visit. This courtesy allows persons with disabilities to be aware of the names and faces that will be met.
- i) When scheduling an interview, be aware that the person may be required to make a reservation 24 hours in advance, plus travel time. Provide the interviewee with an estimated time to schedule the return trip when arranging the interview appointment.
- j) Expect the same measure of punctuality and performance from people with disabilities that is required of every potential or actual employee.

## ETIQUETTE WITH PERSONS WITH DISABILITIES

- a) Conduct interviews in a manner that emphasizes abilities, achievements, and individual qualities.
- b) Conduct your interview as you would with anyone. Be considerate without being patronizing.
- c) When interviewing a person with a speech impediment, stifle any urge to complete a sentence of an interviewee.
- d) If it appears that a person's disability inhibits performance of a job, ask: How would you perform this job?

*Examples:*

*Inappropriate: I notice that you are in a wheelchair, and I wonder how you get around. Tell me about your disability.*

*Appropriate: This position requires digging and using a wheelbarrow, as you can see from the job description. Do you foresee any difficulty in performing the required tasks? If so, do you have any suggestions how these tasks can be performed?*

This link to an EEOC website covers what can or cannot be discussed during an interview with a person who has a disability: <http://www.eeoc.gov/facts/jobapplicant.html>.

## COURTESIES FOR PERSON WITH DISABILITIES

- a) Interviewers need to know whether or not the job site is accessible and should be prepared to answer accessibility-related questions.
  - ✓ Interviewing a person using mobility aids.
  - ✓ Interviewing a person with vision impairments.
  - ✓ Interviewing a person with speech impairments.
  - ✓ Interviewing a person who is deaf or hearing impaired.
- b) Enable people who use crutches, canes or wheelchairs to keep them within reach.
- c) Be aware that some wheelchair users may choose to transfer themselves out of their wheelchairs (into an office chair, for example) for the duration of the interview.
- d) Place yourself at that person's eye level to facilitate conversation. As previously mentioned, sit in a chair when speaking to a person in a wheelchair for more than a few minutes.

## INTERVIEWING A PERSON WITH VISION IMPAIRMENT

- a) When greeting a person with vision impairment, always identify yourself and introduce anyone else who might be present.
- b) If the person does not extend his or her hand to shake hands, verbally extend a welcome.

*Example: Welcome to the City of San Antonio, Planning Department, Disability Access Office.*

- c) When offering seating, it may be appropriate to place the person's hand on the back or arm of the seat. A verbal cue is helpful as well.
- d) Let the person know if you move or need to end the conversation.
- e) Allow people who use crutches, canes, or wheelchairs to keep them within reach.

## **INTERVIEWING A PERSON WITH SPEECH IMPAIRMENT**

- a) Give your whole attention when talking to a person who has speech impairment.
- b) Ask short questions that require short answers or a nod of the head.
- c) Do not pretend to understand if you do not. Try rephrasing what you wish to communicate, or ask the person to repeat what you do not understand.
- d) Do not raise your voice. Most speech impaired persons can hear and understand.

## **INTERVIEWING A PERSON WHO IS DEAF OR HARD OF HEARING**

- a) If you need to attract the attention of a person who is deaf or hearing impaired, you may wave your hand or touch him or her lightly on the shoulder.
- b) If the interviewee lip-reads, look directly at him or her. Speak clearly at a normal pace. Do not exaggerate your lip movements or shout. Speak expressively because the person may rely on your facial expressions, gestures, and eye contact. (Note: It is estimated that only 4 out of 10 spoken words are visible on the lips.)
- c) Place yourself in the light source and keep your hands, cigarettes, and food away from your mouth when speaking.
- d) Shouting does not help and can be detrimental. Only raise your voice when requested. Brief, concise written notes may be helpful.

- e) In the United States most deaf people use American Sign Language (ASL). ASL is not a universal language. ASL is a language with its own syntax and grammatical structure. When scheduling an interpreter for a non-English speaking person, be certain to retain an interpreter that speaks and interprets in the language of the person.
- f) If an interpreter is present, it is commonplace for the interpreter to be seated beside the interviewer and across from the interviewee.
- g) Interpreters facilitate communication. They should not be consulted or regarded as a reference for the interview.

## **DOS AND DON'TS**

**NOTE:** Below is merely an example and should only be used as a preliminary guide. Not all persons with disabilities should be treated the same as each person is unique. Always ask first how the person would like to communicate.

<b>DOS</b>	<b>DON'Ts</b>
<b>Do learn where to find and recruit people with disabilities.</b>	<b>Don't assume that persons with disabilities do not want to work.</b>
<b>Do learn how to communicate with people who have disabilities</b>	<b>Don't assume that persons with disabilities do not want to work.</b>
<b>Do ensure that your applications and other company forms do not ask disability-related questions and that they are in formats that are accessible to all persons with disabilities.</b>	<b>Don't ask if a person has a disability during an employment interview.</b>
<b>Do consider having written job descriptions that identify the essential functions of each job.</b>	<b>Don't assume that your work place is accessible.</b>
<b>Do ensure that requirements for medical examinations comply with the ADA.</b>	<b>Don't assume that certain jobs are more suited to persons with disabilities.</b>
<b>Do relax and make the applicant feel comfortable</b>	<b>Don't assume that the work environment will be unsafe if an employee has a disability.</b>

<b>Do provide reasonable accommodations that the qualified applicant will need to compete for the job.</b>	<b>Don't speculate or try to imagine how you would perform a specific job if you had the applicant's disability</b>
<b>Do treat an individual with a disability the same way you would treat any applicant or employee—with dignity and respect.</b>	<b>Don't assume that you have to retain an unqualified employee with a disability..</b>

<b>DO's</b>	<b>DON'T's</b>
<b>Do understand that access includes not only environmental access but also making forms accessible to people with visual or cognitive disabilities and making alarms and signals accessible to people with hearing disabilities.</b>	<b>Don't assume that the cost of accident insurance will increase as a result of hiring a person with a disability.</b>
<b>Do develop procedures for maintaining and protecting confidential medical records.</b>	<b>Don't make medical judgments.</b>
<b>Do train supervisors on making reasonable accommodations.</b>	<b>Don't assume that reasonable accommodations are expensive.</b>
<b>Do consult with the Reasonable Accommodation Coordinator when you receive a request for a reasonable accommodation.</b>	<b>Don't assume that alcoholism and drug abuse are not real disabilities, or that recovering drug abusers are not covered by the Americans with Disability Act (ADA).</b>

# GLOSSARY OF TERMS

## ACCEPTABLE TERMS

Term	Definition
<b>Person with a disability.</b>	Disability, a general term used for functional limitation that interferes with a person's ability; for example, to walk, hear, or lift. It may refer to a physical, mental, or sensory condition.
People with cerebral palsy and/or people with spinal cord injuries.	Person who had a spinal cord injury, polio, a stroke, etc., or a person who has multiple sclerosis, muscular dystrophy, arthritis, etc.
Deafness	Deafness refers to a total loss of hearing.
Hard of hearing	A hard of hearing person may communicate through speaking and speech-reading and may have listening and hearing abilities adequate for ordinary telephone communication. Many hard of hearing individuals use a hearing aid.

<b>Deaf</b>	<b>A full or partial loss of hearing within a range from slight to severe.</b>
<b>Able-bodied</b>	<b>Able to walk, see, hear, etc.; people who are not disabled.</b>

## UNACCEPTABLE TERMS

Term	Definition
Cripple, cripples	The image conveyed is of a twisted, deformed, useless body.
Victim	People with disabilities should not be treated as victims.
Defective, defect, deformed, vegetable	These words are offensive, dehumanizing, degrading, and stigmatizing.
Retarded, moron, imbecile, idiot	These are offensive to people who bear the label.
Confined/restricted to a wheelchair; wheelchair bound.	Wheelchairs should not be referred to as confining. They are liberating; a means of getting around.
Deaf and dumb	The inability to hear or speak does not indicate intelligence.
Cerebral palsied, spinal cord injured, etc.	Never identify people solely by their disability.
Handicap, handicapped person or handicapped	Never identify people individuals by handicap.
Healthy, when used to contrast with "disabled."	Healthy implies that the person with a disability is unhealthy. Many people with disabilities have excellent health.
Normal	When used as the opposite of disabled, this implies that the person is abnormal. No one wants to be labeled as abnormal.



**Afflicted with, suffers from**

**Most people with disabilities do not regard themselves as afflicted or suffering continually.**

**Afflicted**

**A disability is not an affliction.**