

## REASONABLE ACCOMMODATION AND UNDUE HARDSHIP

For purposes of the ADA Amendments Act (ADAAA), a reasonable accommodation is any change in the work environment or in the way things are customarily done that enables an individual with a disability to enjoy equal employment opportunities. Absent undue hardship, an employer is required to provide a reasonable accommodation to an otherwise qualified individual who meets the definition of disability under the ADAAA. A "qualified" individual means that the individual satisfies the requirements of the position the individual holds or desires and can perform the position's essential functions with or without a reasonable accommodation.

An undue hardship (disability) refers to significant difficulty or expense which, when taken into account with the resources and mission of the agency, may excuse the agency from providing accommodation to an individual with a disability, such that the individual could perform the essential functions of a position.

Undue hardship (religion) refers to the financial burden on the operations of the employer when arrangements are made to allow an employee observe her religious beliefs and restrictions.

## WHAT ARE THE TYPES OF MEDICAL ACCOMMODATIONS?

### On a Case by Case Basis:

- Modifying a work site.
- Adjusting work schedules.
- Restructuring jobs.
- Acquiring or modifying equipment or devices.
- Obtaining accessible technology or other workplace adaptive equipment.
- Providing interpreters, assistive devices or readers.
- Reassigning employees to a vacant position based upon qualifications. (last resort)

## WHAT ARE THE TYPES OF RELIGION ACCOMMODATIONS?

- Flexible scheduling
- Voluntary substitutes or swaps of shifts and assignments
- Legal transfer and/or change of job assignment
- Designating place to pray

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## BUREAU OF INDIAN AFFAIRS AND BUREAU OF INDIAN EDUCATION

### DISABILITY AND REASONABLE ACCOMMODATION

- MEDICAL AND RELIGION ACCOMMODATIONS
- REASONABLE ACCOMMODATION PROCESS



Office of Equal  
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Rights Program

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**DISABILITY**  
**INTERACTIVE PROCESS**  
**REASONABLE ACCOMMODATIONS**  
**ESSENTIAL FUNCTIONS**  
**UNDUE HARDSHIP**

## REASONABLE ACCOMMODATION

- Employee or someone on his/her behalf requests an accommodation either verbal or non-verbal to their Supervisor.
- Management determines the essential functions of the employee's job.
- Interactive process begins between the supervisor/manager and the employee.
- If the disability is not apparent and limitations are not clear, management request medical documentation. Upon receipt of the medical documentation, management or DOI's Medical Officer reviews the medical documentation, and then forward the case to be assessed in consultation with HR, Solicitor, and the Disability Program Manager to explore potential accommodation solutions with employee. If the disability is apparent, and limitations are clear, it will be solely assessed in consultation with HR, Solicitor, and the Disability Program Manager.
- If there is an agreed upon accommodation, the agreement is documented in writing, and signatures are obtained.
- Selection of appropriate accommodation is based upon both the employee and the Agency's need.
- Appropriate notification letter is issued.

## WHO IS A PERSON WITH A DISABILITY?

According to the Americans With Disabilities Act Amendments Act (ADAAA), a person with a disability is an individual:

- who has a physical or mental impairment that substantially limits one or more of their major life activities;
- who has a record of such impairment; or
- Who has been regarded as having such an impairment.

## WHAT IS A PHYSICAL OR MENTAL IMPAIRMENT?

A psychological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, mental or psychological disorders.

## WHAT ARE MAJOR LIFE ACTIVITIES?

Basic activities that most people in the general population can perform with little or no difficulty. Examples of major life activities

include: caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working.

## WHAT DOES IT MEAN WHEN ONE HAS A RECORD OF A DISABILITY?

An individual who was once misclassified as having a substantially limiting I impairment, like a learning disability, but did not.

## WHAT DOES IT MEAN TO REGARD AN INDIVIDUAL AS HAVING A DISABILITY?

If one takes actions prohibited by the ADA (e.g., failure to hire, termination, or demotion) based on an individual's impairment or on an impairment that the covered entity believes the individual has, unless an impairment is transitory (last 6 months or less).

*This brochure is not intended to be a full guide to the reasonable accommodation process.*

## MEDICAL CONFIDENTIALITY

The Health Insurance Portability and Accountability Act (HIPAA) of 1996 protects the privacy of health information. In the workplace, HIPAA ensures that employee health information is not provided to parties, such as employers, without the consent of the employee. Medical and benefit records should be kept separate from personnel files and may be revealed with employees' written permission only to certain individuals on a legitimate "need-to-know" basis.

