

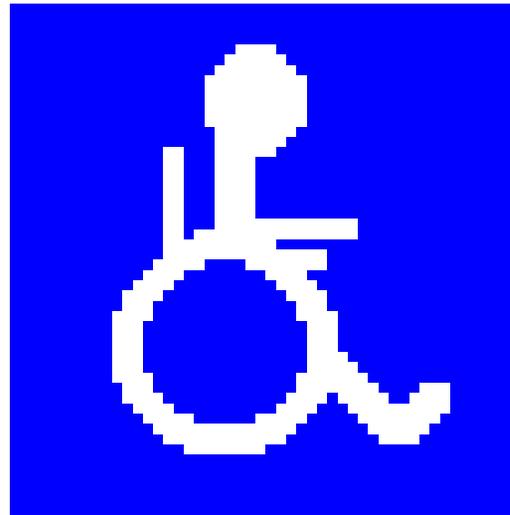


USAG BAUMHOLDER



Welcome

Reasonable Accommodation Training





Introduction



Course Title: Reasonable Accommodation

Targeted Audience: Supervisors

Course Minutes: 20 Minutes

This course will help supervisors understand reasonable accommodation of disabilities.

Chapters

Chapter 1: Individual with a Disability

Chapter 2: Qualified Individual with a Disability

Chapter 3: Interactive Process

Chapter 4: Undue Hardship



Learning Objectives



After successfully completing the training you will:

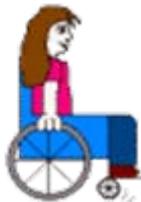
- Understand what is an accommodation request.
- Determine if a request comes from a qualified individual.
- Describe the interactive process.
- Explain the role of medical information.
- List the types of accommodation.
- Understand undue hardship.



Authority



- Federal employees are protected by the Rehabilitation Act of 1973, the standards applied are the same as those applied under the American with Disabilities Act of 1990.
- A supervisor must reasonably accommodate a known physical or mental limitation of a qualified applicant or employee with a disability, unless the supervisor can show the accommodation would impose an undue hardship on its operation.





Who is an individual with a disability?



An individual with a disability is one who:

- Has a physical or mental impairment that substantially limits one or more of such person's major life activities.
- Has a record of such impairment that substantially limits one or more of the person's major life activities.
- Or is regarded as having such an impairment that substantially limits one or more of the person's major life activities.

“Substantially limits” and “major life activities” are art terms defined by regulation and case law, don't make assumptions.



What is an impairment?



An impairment is:

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



What is not an impairment?



The following examples are not impairments:

- Physical characteristics: eye color, hair color, left-handedness, or height, weight, or muscle tone that are within normal range and are not the result of a physiological disorder.
- Characteristic predisposition to illness or disease.
- Pregnancy conditions that are not the result of a physiological disorder.





What is not an impairment?



The following illustrations are not impairments:

- Common personality traits such as poor judgment or a quick temper where these are not symptoms of a mental or psychological disorder.
- Environmental, cultural, or economic disadvantages such as poverty, lack of education or a prison record.
- Advanced age, in and of itself is not an impairment. However, age medical conditions, such as hearing loss, osteoporosis, or arthritis would constitute impairments.





What is not an impairment?



The following illustrations are not impairments:

- Temporary, non-chronic impairments of short duration, with little or no long term or permanent impact, are usually not disabilities.
- However, an impairment does not have to be permanent in order to be considered a disability for the purpose of Rehabilitation Act protection.
- Conditions that are long-term, or of an indefinite duration, can constitute disabilities if they are so severe that they substantially limit a major life activity.



Is the impairment substantially limiting to a major life activity?



The supervisor must determine if the impairment substantially limits a major life activity.

- The answer to this question requires consideration of relevant regulations and case law, as well as documentation concerning the person's specific condition.
- General knowledge about a condition is insufficient for making an appropriate judgment about the abilities and limitations of an individual seeking accommodation because symptoms and limitations from an impairment can vary widely.



Is the impairment substantially limiting to a major life activity?



Substantially limits is the inability to perform a major life activity, or significant restriction as to condition, manner, or duration with which a person performs a major life activity compared to the average person.

- Factors to consider when assessing if someone is substantially limited are the nature, severity and duration of the impairment, as well as the long-term or permanent impact of the impairment.
- An individual must be presently disabled, the disability must substantially limit a major life activity, and an individual inquiry of the specifics of the current situation is required.



What is a major life activity?



Major life activities include, but not limited to:

- Caring for one's self.
- Performing manual tasks.
- Walking.
- Seeing.
- Hearing.
- Speaking.
- Breathing.
- Learning.
- Working.





What is a major life activity?



Major life activities are those basic activities that the average person in the general population can perform with little or no difficulty. Some more examples are:

- Sitting.
- Standing.
- Lifting.
- Reaching.
- Concentrating.
- Interacting with others.
- Reading.





What is a major life activity?



When addressing the major life activity of performing manual tasks, the central inquiry must be if the claimant is unable to perform the variety of tasks central to most people's daily lives, not whether the claimant is unable to perform the tasks associated with her specific job.

- To determine if an individual is substantially limited in a major life activity, it is crucial that a supervisor consider specific medical documentation. A supervisor may ask for reasonable documentation when the disability or the need for accommodation is not obvious.



What is a major life activity?



Individuals who have a record of having an impairment that substantially limits one or more of the person's major life activities and individuals who are regarded as having such impairments are also considered individuals with disabilities for the purpose of the Rehabilitation Act.

- Having a record of a substantially limiting impairment means having a history of, or having been misclassified as having, a mental or physical impairment that substantially limits a major life activity.



What is a major life activity?



Is regarded as having an impairment that substantially limits a major life activity means:

- Has a physical or mental impairment that does not substantially limit major life activities but is treated by a covered entity as constituting such limitation.
- Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment.
- Has none of the impairments defined in (the regulations) but is treated by a covered entity as having a substantially limiting impairment.



What is a major life activity?



While individuals with a record of a substantially limiting impairment may be entitled to reasonable accommodation under certain circumstances, individuals who are only regarded as substantially limited in a major life activity are not entitled to a reasonable accommodation.





Who is a qualified individual with a disability?



Qualified individual with a disability means an individual with a disability who satisfies the requisite skill, experience, education and other job-related requirements of the employment position such individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position.



Who is a qualified individual with a disability?



- Direct Threat. A supervisor can require that the individual not pose a direct threat to health and safety in the workplace.
- Direct threat is defined as a significant risk of substantial harm to the health and safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation.
 - To determine if an individual poses a threat, the supervisor must conduct an individualized assessment of the individual's present ability to safely perform the essential functions of the job.



Who is a qualified individual with a disability?



Essential functions of the position. This term means the fundamental job duties of the position the individual holds or desires. Essential functions does not include the marginal functions. A function may be essential for a number of reasons, including, but not limited to:

- The reason the position exists is to perform that function.
- The limited number of employees available among whom the performance of that job function can be distributed.
- A highly specialized incumbent in the position is hired for the expertise or ability to perform the particular function.



Who is a qualified individual with a disability?



The type of evidence to consider in making the essential function decision includes:

- Employer's judgment as to which functions are essential.
- Written job descriptions prepared before advertising or interviewing applicants for the job.
- Amount of time spent on doing the function.
- Consequences of not requiring the incumbent to do the function.
- Terms of collective bargaining agreement.
- Work experience of past incumbents in the job.
- Current work experience of incumbents in same jobs.



Who is a qualified individual with a disability?



Reassignment as an accommodation. The supervisor must take into account if reasonable accommodation would allow the individual to perform the essential functions of the position. If other accommodations explored are unworkable, reassignment is a last resort adjustment.

- The supervisor is required to place the complainant in an equivalent position in terms of pay, status, etc., if the individual is qualified, and if the position is vacant within a reasonable amount of time. The individual may be placed in a lower graded position if there is no change that can enable the person to stay in the current position and there are no vacant equivalent positions.



What happens in the interactive process?



The parties should engage in an informal and flexible interactive process to identify the precise limitations of the individuals and what accommodations could overcome those limitations.

- The process may be more or less intense depending on whether appropriate accommodations are obvious or more difficult to determine.





What happens in the interactive process?



The interactive process is as follows:

- Analyze the particular job involved and decide its purpose and essential functions.
- Consult with the individual with a disability to ascertain the precise job-related limitations imposed by the individual's disability and how those limitations could be overcome with a reasonable accommodation.





What happens in the interactive process?



The interactive process is as follows:

- In consultation with the individual to be accommodated, identify potential accommodations and assess the effectiveness each would have in enabling the individual to perform the essential functions of the position.
- Consider the preference of the individual to be accommodated and select and implement the accommodation that is most appropriate for both the employee and the employer.





What happens in the interactive process?



The interactive process requires the supervisor to assess both the particular job at issue, including its actual duties and purpose, and the specific abilities and limitations of the individual in need of the reasonable accommodation.

- If the assessment and a consultation with the individual do not reveal potential accommodation, the supervisor should seek assistance from the EEO Manager.
- Although, the process is a key component in achieving reasonable accommodation, the supervisor will not incur liability simply by failing to engage in the process. The complainant has the burden to show more likely than not, an accommodation would have been found.



What happens in the interactive process?



Types of reasonable accommodation. The term means 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.
- To the work environment, or to the manner or situation under which the position held or desired is customarily performed, that enable a qualified individual to perform the essential functions of that position.
- That enable a covered employee to enjoy equal benefits and privileges of employment as enjoyed by those without disabilities.



What happens in the interactive process?



Most cases involving reasonable accommodation are centered on making adjustments to the work environment to enable an individual to do the essential functions of a position.

- However, supervisors should be careful to remember there are two other areas where reasonable accommodation maybe necessary:
- During the application process and in connection with the benefits and privileges of employment.





What happens in the interactive process?



Because the needs of individuals with disabilities vary, a supervisor should be open to a broad variety of accommodations possibilities. Reasonable changes may include, but not limited to:

- Making existing facilities used by employees readily accessible to and usable by individual with disabilities.
- Job restructuring.
- Part-time or modified work schedules.
- Reassignment to a vacant position.





What happens in the interactive process?



Reasonable changes may include, but not limited to:

- Acquisition or modifications of equipment or devices.
- Appropriate adjustment or modifications of examinations, training materials or policies.
- Provision of qualified readers or interpreters.

Other accommodations could include:

- Permitting use of leave for necessary treatment.
- Making employer transportation accessible.
- Providing reserved parking spaces.
- Providing personal assistants, a page turner or travel attendant.



What happens in the interactive process?



Job restructuring means reallocating or redistributing non-essential, marginal functions that an employee cannot perform due to a disability, or altering how and when work is performed.

- The supervisor should work with the individual in finding an accommodation, and the individual's preference should be given primary consideration, it is important to note the supervisor has the final say.
- If there is more than one effective accommodation, the supervisor can make a choice, even if the choice is not the one favored by the complainant.
- The key is that the accommodation chosen is effective.



What is undue hardship?



A supervisor is excused from providing an accommodation in situations where a proposed accommodation would result in an unduly extensive, substantial or disruptive change or a fundamental alternation to the work nature.

Factors to consider include:

- Size of the agency's program and number of employees.
- Type and number of facilities.
- Size of the budget.
- Type of agency operation.
- Composition and structure of the agency's workforce.
- Nature and cost of the accommodation.



What is undue hardship?



If an undue hardship would result, the accommodation is not required.

- The complainant has the initial burden to show an accommodation seems reasonable on its' face.
- Once the complainant shows the accommodation is reasonable, the burden shifts to the supervisor to provide specific evidence establishing the accommodation would cause an undue hardship under the particular situation.





What is undue hardship?



To prove undue hardship, a supervisor must show the accommodation causes significant difficulty or expense.

Undue hardship assessment factors are:

- Nature and cost of the accommodation, consideration of tax credits and deduction or outside funding.
- Financial resources of the facility or facilities involved.
- Number of persons employed at the facility.
- Effect on expenses and resources.
- Financial resources of the covered entity.
- Size of business of the entity and numbers of employees and the number, type and location of facilities.



What is undue hardship?



Undue hardship assessment factors are:

- Type of operation or operations of the covered entity.
- 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.

With undue hardship, the supervisor should keep in mind it can require the individual not to pose a direct threat to health and safety in the workplace.



If it is not undue hardship implement the accommodation?



Once an accommodation has been agreed upon, it should be implemented as quickly as possible.

- Although an accommodation cannot be forced upon an individual, if an individual rejects an effective reasonable accommodation and cannot perform the essential functions of the position in question, the individual may be terminated.





Determine if the accommodation chosen is effective?



Depending on the individual involved and the complexity of the accommodation provided, reasonable accommodation can be an ongoing process.

- The accommodation agreed upon may ultimately prove unworkable or the individual's condition may change. In any case, the supervisor remains responsible to reasonably accommodate a qualified individual with a disability, absent a showing of undue hardship. If an accommodation proves ineffective, for whatever reason, the supervisor should work promptly and diligently to make the changes necessary to achieve an effective accommodation.



Questions and Answers



Are there any questions about the course information?

- One final note, Managers please insure you notify the USAG Baumholder EEO Office when a request for a reasonable accommodation is made.
- Please encourage your subordinates to self identify on My Biz if they are an individual with disabilities. This can only be done voluntarily.
- More important, please contact the EEO office and let us know how to improve the work environment for disabled individuals.
- Thank you for your attention.



Certificate of Completion

This is to certify that

Name: _____

of

Installation Management Command – Europe

USAG Baumholder

successfully completed the EEO Supervisory

Reasonable Accommodation Training

DIRECTORATE: _____

DATE: _____