



United States Department of Agriculture  
Natural Resources Conservation Service

## Civil Rights Division

### Guide to Understanding the Rehabilitation Act of 1973 and Reasonable Accommodations

1. **What is a disability?**

A Disability is described using a three prong approach. (1) A physical or mental impairment that substantially limits one or more major life activities; or (2) There is a record of a physical or mental impairment that substantially limits a major life activity ("record of"), or (3) When a prohibited action is taken because of an actual or perceived impairment that is not both transitory and minor ("regarded as").

Claims for denial of reasonable accommodation must be brought under one or both of the first two prongs of the definition of disability, not necessarily all three. If an allegation such as termination, harassment, failure to hire, are raised, it can be brought under ANY of the three, only ONE of the three prongs has to be met.

2. **What is considered a reasonable accommodation?**

A reasonable accommodation may include, but is not limited to: Making existing facilities used by employees readily accessible to, and usable by persons with disabilities; job restructuring, modifying work schedules, reassignment to a vacant position; or acquiring or modifying equipment or devices, adjusting or modifying examinations, training materials, or policies, and providing qualified readers or interpreters.

3. **Is the Agency required to make a reasonable accommodation to a qualified employee/applicant with a disability?**

The Agency does not have to provide a reasonable accommodation if it would impose an "undue hardship." Undue hardship is defined as an action requiring significant difficulty or expense to the Agency when considered in light of factors such as Agency

size, financial resources, and the nature and structure of its operation. The Agency is not required to lower quality or production standards to make an accommodation; nor is an employer obligated to provide personal use items such as Eyeglasses or contact lenses.

4. **Does having a disability automatically make you qualified for an accommodation?**

No, A qualified employee or applicant with a disability is an individual who, with or without reasonable accommodation, can perform the essential functions of the job in question. If the individual is unable to perform the job, they do not meet the definition of qualified; therefore you do not have to accommodate them. Essential functions may not be removed from a position as an accommodation.

5. **What is my responsibility as a Manager if an employee requests an accommodation?**

Once a reasonable accommodation is requested, the manager must engage the individual in the process by allowing the individual an opportunity to discuss their needs and identify the appropriate reasonable accommodation. Where more than one accommodation would work, the Agency may choose the one that is less costly or that is easier to provide.

6. **Does the Agency have to provide a reasonable accommodation to any person requesting it?**

No, generally the Agency does not have to provide a reasonable accommodation unless an individual with a disability has asked for one. The request for an accommodation may be made orally or in writing. The request may be presented to someone other than the employee's immediate supervisor. It can be made to another supervisor in the area, the Human Resources Office, Civil Rights Office, or anyone in a position to pass on the message that a request has been made and should be addressed. Once a reasonable accommodation is requested, the employer and the individual should discuss the individual's needs and identify the appropriate reasonable accommodation.

7. **Can impairments that are episodic or in remission be considered disabilities?**

Yes, chronic impairments with symptoms or effects that are episodic rather than present all the time, can be a disability even if the symptoms or effects would only substantially limit a major life activity when the impairment is active. Examples of impairments that may be episodic includes, epilepsy, hypertension, asthma, diabetes, major depressive disorder, bipolar disorder, and schizophrenia. Cancer that is in remission that may possibly return in a substantially limiting form will also be a disability