

§ 101-8.306

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§ 101-8.306 Reasonable accommodation.

(a) A recipient shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped applicant or employee unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program.

(b) Reasonable accommodation may include:

(1) Making facilities used by employees readily accessible to and usable by handicapped persons; and

(2) Job restructuring; part-time or modified work schedules; acquisition or modification of equipment or devices, such as telecommunications devices or other telephonic devices for hearing impaired persons; provision of reader or qualified sign language interpreters; and other similar actions. These actions are to be taken either upon request of the handicapped employee or, if not so requested, upon the recipient's own initiative, after consultation with and approval by the handicapped person.

(c) In determining, under paragraph (a) of this section, whether an accommodation would impose an undue hardship on the operation of a recipient's program, factors to be considered include:

(1) The overall size of the recipient's program with respect to number of employees, number and type of facilities, and size of budget;

(2) The type of the recipient's operation, including the composition and structure of the recipient's work force; and

(3) The nature and cost of the accommodation needed.

(d) A recipient may not deny an employment opportunity to a qualified handicapped employee or applicant if the basis for the denial is the need to make reasonable accommodation to the physical or mental limitations of the employee or applicant.

§ 101-8.307 Employment criteria.

(a) A recipient may not use an employment test or other selection criterion that screens out or tends to screen out handicapped persons unless the test score or other selection cri-

terion, as used by the recipient, is shown to be job-related for the position in question.

(b) A recipient shall ensure that employment tests are adapted for use by persons who have handicaps that impair sensory, manual, or speaking skills except where those skills are the factors that the test purports to measure.

§ 101-8.308 Preemployment inquiries.

(a) Except as provided in paragraphs (b) and (c) of this section, a recipient may not conduct a preemployment medical examination or may not make preemployment inquiries of an applicant as to whether the applicant is a handicapped person or as to the nature or severity of a handicap. A recipient may, however, make preemployment inquiries into an applicant's ability to perform job-related functions.

(b) When a recipient is taking remedial action to correct the effects of past discrimination, or is taking voluntary action to overcome the effects of conditions that resulted in limited participation in its federally assisted program or activity, or when a recipient is taking affirmative action under section 503 of the Rehabilitation Act of 1973, as amended, the recipient may invite applicants for employment to indicate whether, and to what extent, they are handicapped provided that:

(1) The recipient states clearly on any written questionnaire used for this purpose or makes clear orally, if no written questionnaire is used, that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary or affirmative action efforts; and

(2) The recipient states clearly that the information is requested on a voluntary basis, that it will be kept confidential as provided in paragraph (d) of this section, that refusal to provide it will not subject the applicant or employee to any adverse treatment, and that it will be used only in accordance with this subpart.

(c) This section does not prohibit a recipient from conditioning an offer of employment on the results of a medical examination conducted prior to the employee's entrance on duty provided that all entering employees are