

# IDAHO STATE POLICE PROCEDURE

## 03.11 REASONABLE ACCOMMODATIONS

### A. General

The Americans with Disabilities Act ([ADA](#)) was signed into law on July 26, 1990. The Idaho State Police (ISP) provides reasonable accommodations for qualified individuals with disabilities who are employees or applicants for employment. Reasonable accommodations are provided in a timely and cost-effective manner.

### B. Definitions

“Essential job functions” means those functions that the individual who holds or desires the position must be able to perform with or without reasonable accommodation. If one or more of the following factors exist, the job function may be considered essential:

1. The position exists to perform that function;
2. There is a limited number of employees among whom the performance of that job can be distributed; and/or
3. The function is so highly specialized that an individual is hired for his or her expertise to perform the particular function.

Whether a particular job function is essential is a factual determination that must be made on a case-by-case basis. Evidence of whether a particular function is essential includes consideration of the employer’s judgment to what functions are essential, and if an employer has prepared a written description before advertising or interviewing applicants for the job. This description shall be considered evidence of the essential functions of the job.

“Facility” means all or any portion of buildings, structures, vehicles, equipment, roads, walks, parking lots, or other real or personal property.

“Individual with disability” means a person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment.

“Major life activities” means those basic activities that the average person in the general population can perform with little or no difficulty. Major life activities include caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, sitting, standing, lifting, and reaching.

“Physical impairment” means 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.

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“Mental impairment” means any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

“Qualified individual with a disability” means an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the position that such an individual holds or desires. This requires an individualized assessment of the individual’s capabilities.

“Reasonable accommodations” means the effort to make adjustments for the disability of an employee or applicant by structuring the job or the work environment in a manner that will enable the individual with a disability to perform the essential functions of the job. There are three categories of reasonable accommodation:

1. accommodations that are required to ensure equal opportunity in the application process;
2. accommodations that enable employees with disabilities to perform the essential functions for the position held or desired; and
3. accommodations that enable employees with disabilities to enjoy equal benefits and privileges of employment that are enjoyed by employees without disabilities.

“Record of such impairment” means having a history of, or being classified or misclassified as having a mental or physical impairment that substantially limits one or more major life activities.

“Regarded as having an impairment” means an employee or applicant who:

1. has a physical or mental impairment that does not substantially limit major life activities but that is treated by the Department as constituting such a limitation;
2. has a physical or mental impairment that substantially limits major life activity only as a result of the attitudes of others toward such an impairment; or
3. has none of the impairments set forth above but is treated by the Department as having such an impairment. (This definition looks to the perception of the observer, not the self-perception of the person with the perceived disability.)

“Substantially limits” means that an employee is unable to perform a major life activity that the average person in the general population can perform. As the term applies to the activity of “working,” the EEOC has stated that the term means “significantly restricted in the ability to perform either a class of jobs or a broad range of jobs in various classes as compared to the average person having comparable training, skills, and abilities.”

“Undue hardship” means accommodations that would be excessively costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of the

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business. Such hardship is to be determined by evaluating potential accommodations against the Department's structure, operations, and financial resources.

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, but not for others, depending on the stage of the disease or disorder, the presence of other impairments that combine to make the impairment disabling, or any number of other factors.

### C. Exclusions

It is important to distinguish between conditions that are impairments and physical, psychological, environmental, cultural, and economic characteristics that are not impairments. "Impairment" does not include physical characteristics such as 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 nor does it include characteristic predisposition to illness or disease. "Impairment" does not include 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 are not impairments. While advanced age, in and of itself, is not an impairment, various medical conditions commonly associated with age such as hearing loss, osteoporosis, or arthritis constitute impairments.

The following are also excluded from the definition of physical and mental impairments: homosexuality, bisexuality, pedophilia, exhibitionism, voyeurism, compulsive gambling, kleptomania, pyromania, transvestitism, transsexuals, gender identity disorders not resulting from physical impairments or other sexual behavior disorders, and psychoactive substance use disorders resulting from current illegal use of drugs.

Although an applicant or employee who is currently engaging in the illegal use of drugs is not considered disabled, the following people are:

1. a person who has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs;
2. a person who has otherwise been rehabilitated and is no longer engaging in such use;
3. a person who is participating in a supervised rehabilitation program and is no longer engaging in such use; and
4. a person who is erroneously regarded as engaging in such use, but is not engaging in such use.

### D. Application Process

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All applicants for employment and employees are informed that they may request any reasonable accommodations required for them to participate in the application or interview process.

The ISP discusses the most appropriate accommodation with the affected employee.

Managers and supervisors must analyze jobs within their units to define the essential functions of the position, as well as the environment in which such activities occur. Such documentation shall be developed with the assistance of the Human Resource office and shall be reviewed periodically. Documents prepared or utilized for this purpose must be on file in the Human Resource office before a Division of Human Resource hiring list is requested and before the interview process begins. Such documents may be used for other personnel actions.

Employment opportunities shall not be denied to anyone because of the need to make reasonable accommodation to the individual's disability. Throughout the application and interview process for employment or for promotion, interviewers must ask only those questions that determine whether an applicant can perform specific job functions and that focus on an applicant's ability to perform the job, not on disability. In considering an individual with a disability, it is appropriate to determine the ability of the person to perform the essential functions of the job with or without reasonable accommodation. A request for medical verification of the disability of the person requesting the accommodation may be appropriate.

The Deputy Director shall have the authority to approve reasonable accommodations for applicants or employees (see Accommodation Review Process).

Department employees involved in the reasonable accommodation review process may meet as needed to review other proposals or requests for accommodations.

If the applicant or employee wishes to challenge a decision of the Deputy Director, he/she shall have access to the appropriate problem solving or complaint procedure.

The employee and his/her supervisor should periodically monitor the effectiveness of the accommodation.

Individuals with disabilities shall be afforded the opportunity to suggest reasonable accommodations and/or provide accommodations for themselves if it is determined that the Department cannot provide them. However, the individual with a disability shall not be afforded the opportunity to make accommodations that affect a temporary or permanent change to any facility or that involve restructuring of the job in question without the written consent of the Director.

### E. Accommodation Review Process

The Idaho State Police (ISP) reviews and monitors requests for reasonable accommodation ([EHF 03 11-01 Request for Reasonable Accommodation](#)) for employees or applicants. The Director, Deputy Director, ADA Compliance Officer, and a member of management appointed by the

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Director review requests for reasonable accommodation. Medical and legal advisors and individuals with disabilities also participate in an advisory capacity when required and when available.

A decision regarding a “qualified individual with a disability” is a case-by-case process, depending on the circumstances of the particular employment situation. Consultation with the Human Resource Officer/Affirmative Action Officer, and the legal staff is required where there is a question.

When a qualified individual with a disability requests an accommodation, reasonable effort must be made to provide an accommodation that is effective for that individual. When considering accommodation requests for employees or job applicants, the following process will be used:

1. Look at the particular job involved and its essential functions.
2. Consult with the individual with a disability to find out his or her specific physical or mental abilities and limitations as they relate to the essential job functions. Identify the barriers to job performance and assess how these barriers could be overcome with an accommodation.
3. In consultation with the individual, identify potential accommodations and assess how effective each would be in enabling the individual to perform essential job functions. If this consultation does not identify an appropriate accommodation, technical assistance is available from a number of sources.
4. If there are several effective accommodations that would provide an equal employment opportunity, consider the preference of the individual with a disability and select the accommodations that best serve the needs of the individual and the employer.
5. If more than one accommodation would be effective for the individual with a disability, or if the individual would prefer to provide his own accommodation, the individual's preference should be given first consideration. However, management is free to choose among effective accommodations and may choose one that is less expensive or easier to provide.
6. The fact that an individual is willing to provide his own accommodations does not relieve management of the duty to provide this or another reasonable accommodation should this individual for any reason be unable or unwilling to continue to provide the accommodations.

ISP may provide reasonable accommodations after consultation with the individual and others concerned, and shall make a good faith effort to implement the most effective accommodation unless it would cause an undue hardship on the operations of the ISP.

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Reasonable accommodation requests that are denied, or with which the individual with a disability is dissatisfied, may be appealed through ISP procedure [03.10 Problem Solving](#).