

REASONABLE ACCOMMODATION AND MODIFICATION FOR INDIVIDUALS WITH DISABILITIES POLICY AND GUIDANCE

EXECUTIVE SUMMARY

The following information provides direction in the processing of reasonable accommodation requests and outlines the definition of disability and procedures for the provision of accommodation to qualified individuals with disabilities who are applicants, registrants, eligible applicants/registrants, participants, employees, or applicants for employment, unless providing the accommodation would cause undue hardship.

REFERENCES

Americans with Disability Act of 1990 (ADA) (Public Law 101-336), WIOA (Public Law 113-128) Section 188, and 29 Code of Federal Regulations (CFR), Part 38

BACKGROUND

The nondiscrimination and equal opportunity provisions found in Section 188 of WIOA and 29 CFR Part 38 prohibit discrimination on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medication conditions, transgender status, and gender identity), national origin (including LEP), age, disability, or political affiliation or belief, or, for beneficiaries, applicants, and participants only, on the basis of citizenship status or participation in a WIOA Title I-financially assisted program or activity.

PROCEDURAL GUIDANCE

Definition:

Recipient is any entity, contractor, service provider that receives WIOA Title I financial assistance.

Reasonable Accommodation

With regard to any aid, benefit, service, training, and employment, a recipient must provide reasonable accommodations to qualified individuals with disabilities who are applicants, registrants, eligible applicants/registrants, participants, employees, or applicants for employment, unless providing the accommodation would cause undue hardship. For more information on what would constitute undue hardship as it relates to a reasonable accommodation of individuals with disabilities, please see the definition of “undue burden or undue hardship” found in 29 CFR Section 38.4(rrr) (1).

Reasonable Modification

With regard to any aid, benefit, service, training, and employment, a recipient must also make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless making the modifications would fundamentally alter the nature of the service, program, or activity, which would constitute a fundamental alteration. For more information, see the definition of “fundamental alteration” found in 29 CFR Section 38.4(z).

The Monterey County Workforce Development Board is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities

In those circumstances where a recipient believes that the proposed accommodation would cause undue hardship, or the proposed modification would fundamentally alter the program, the recipient has the burden of proving that compliance with this section would result in such hardship and alteration. The recipient must make the decision that the accommodation would cause such hardship or result in such alteration only after considering all factors listed in the definitions of "undue hardship" and "fundamental alteration." The decision must be accompanied by a written statement of the recipient's reasons for reaching the conclusion. The recipient must provide a copy of the statement of reasons to the individual(s) who requested the accommodation or modification. If a requested accommodation would result in undue hardship or a modification would result in a fundamental alteration, the recipient must take any other action that would not result in such hardship or such alteration but would nevertheless ensure that individuals with disabilities receive the aid, benefits, services, training or employment provided by the recipient.

Communications with Individuals with Disabilities

In addition, a recipient must take appropriate steps to ensure that communications with individuals with disabilities, such as beneficiaries, registrants, applicants, eligible applicants/registrants, participants, applicants for employment, employees, members of the public, and their companions are as effective as communications with others.

Reasonable Accommodation Policy and Procedure Guide

A Reasonable Accommodation Policy and Procedure Guide (Attachment 1) should be used when processing reasonable accommodation requests. This document contains two sections: (1) provides general guidance and definitions for use when processing reasonable accommodation requests, and (2) provides step-by-step instructions on how to process these requests. Recipients that are Monterey County agencies would use the Monterey County Reasonable Accommodation Policy, which may be found at: <http://www.co.monterey.ca.us/government/departments-a-h/equal-opportunity-office/reasonable-accommodation>

Service Animals

Generally, a recipient shall modify its policies, practices, or procedures to permit the use of a service animal by an individual with a disability.

Mobile Aids and Devices

A recipient must permit individuals with mobility disabilities to use wheelchairs and manually powered mobility aids, such as walkers, crutches, canes, braces, or other similar devices designed for use by individuals with mobility disabilities, in any areas open to pedestrian use.

A recipient must make reasonable modifications in its policies, practices, or procedures to permit the use of other power-driven mobility devices by individuals with mobility disabilities, unless the recipient can demonstrate that the class of other power-driven mobility devices cannot be operated in accordance with legitimate safety requirements that the recipient has adopted. be developed by an appropriate entity, such as the local Workforce Development Board, economic development agency, a qualified consultant/educational entity, or other valid public use quality source of labor market information.

ATTACHMENTS:

1. Reasonable Accommodation Procedures
2. Reasonable Accommodation Request form

INQUIRIES

If you have questions please contact staff at (831) 796-6434. This policy is posted on the WDB website located at: www.montereycountywdb.org/policies/

CHRIS DONNELLY, Executive Director
Monterey County Workforce Development Board