

University of Massachusetts Amherst

November 1, 2025

Affirmative Action Program for Individuals with Disabilities

This affirmative action program is effective from November 1, 2025 to October 31, 2026



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The material set forth in this program is deemed to be confidential commercial and financial data, the public disclosure of which could cause substantial competitive harm to University of Massachusetts Amherst. All components of this program are deemed to constitute trade secrets, operations information, confidential statistical data and other confidential commercial and financial data within the meaning of the Freedom of Information Act (FOIA), 5 U.S.C. §552 *et. seq.*, Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e *et. seq.*, the Trade Secrets Act, 18 U.S.C. §1905, and 44 U.S.C. §3508, the disclosure of which is prohibited by law and would subject the individual making the disclosure to criminal and/or civil sanctions. This material has not been disclosed to the public, and should not be, since such disclosure could cause substantial competitive harm to University of Massachusetts Amherst. Therefore, in accordance with 29 C.F.R. §70.26(c) – (e), we expect that University of Massachusetts Amherst will be notified in writing by any agency prior to disclosure of any request for information pertaining to all or any part of this program, and that University of Massachusetts Amherst shall be given an opportunity to present its objection to disclosure.

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I. Introduction: Affirmative Action Program for Individuals with Disabilities

This Affirmative Action Program (AAP) is designed to satisfy University of Massachusetts Amherst's equal employment opportunity and affirmative action responsibilities under Section 503 of the Rehabilitation Act of 1973, as amended, which requires that government contractors not discriminate against and take affirmative action to employ and advance in employment qualified individuals with disabilities (IWDs).

University of Massachusetts Amherst has prepared this AAP to cover all applicants and employees. As described in detail in the program that follows, University of Massachusetts Amherst has a continuing commitment to the practice and implemented action of this AAP.

II. Applicability of the Affirmative Action Program

Pursuant to the requirements under 41 C.F.R. §60-741.40-42, the AAP will be reviewed and updated on an annual basis.

Pursuant to Section 503, University of Massachusetts Amherst solicits voluntary self-identification of disability status pre and post offer and has also invited current employees to identify his or her disability status. In addition, the contractor will invite employees to participate in the self-identification process every five years thereafter, with at least one reminder during the intervening years. University of Massachusetts Amherst maintains separation between self-identification data and other employee records, and the self-identification information is used only in accordance with Section 503, as amended, and its implementing regulations. Please reference *Appendix A* for a copy of the voluntary disability self-identification form.

The AAP, absent data metrics, is available for inspection by any employee or applicant for employment Monday through Friday during normal business hours at each establishment.

III. Affirmative Action Policy

Pursuant to the requirements under 41 C.F.R. §60-741.43(a), University of Massachusetts Amherst is reaffirming commitment to affirmative action and equal employment opportunity (AA/EEO), for all of its applicants and employees. Specifically, University of Massachusetts Amherst does not discriminate because of physical or mental disability and takes affirmative action to employ and advance in employment qualified IWDs at all levels of employment, including the executive level. Dr. Javier A. Reyes, Chancellor, fully supports University of Massachusetts Amherst's AA/EEO policies. Sheri Neshiem, Vice Chancellor & CHRO, is responsible for implementing the AA/EEO activities.

IV. Contents of the Affirmative Action Program

Policy Statement

It is the policy of University of Massachusetts Amherst to provide equal employment opportunities without regard to race, color, religion, sex, national origin, age, protected veteran, disabled status, gender identity, or sexual orientation. This policy relates to all phases of employment, including, but not limited to, recruiting, employment, placement, upgrading, demotion or transfer, reduction of workforce and termination, rates of pay or other form of compensation, selection for training, the use of all facilities, and participation in all University of Massachusetts Amherst-sponsored employee activities. Provisions in applicable laws providing for bona fide occupational qualifications, business necessity, or age limitations will be adhered to by University of Massachusetts Amherst where appropriate.

As part of University of Massachusetts Amherst's equal employment opportunity policy, University of Massachusetts Amherst will also take affirmative action as called for by applicable laws to ensure that qualified disabled persons are introduced into our workforce and considered as promotional opportunities arise. Dr. Javier A. Reyes, Chancellor, fully supports University of Massachusetts Amherst's equal opportunity and affirmative action policies.

Employees and applicants shall not be subjected to harassment or intimidation because they have: (1) filed a complaint; (2) assisted or participated in an investigation, compliance review, hearing or any other activity related to the administration of any federal, state, or local law requiring equal employment opportunity; (3) opposed any act or practice made unlawful by any federal, state, or local law requiring equal opportunity; or (4) exercised any other legal right protected by federal, state, or local law requiring equal opportunity.

The above-mentioned policies shall be periodically brought to the attention of supervisors. It is the responsibility of each supervisor of University of Massachusetts Amherst to ensure affirmative implementation of these policies to avoid any discrimination in employment. All employees are expected to recognize these policies and cooperate with their implementation. Violation of these policies is a disciplinary offense.

Sheri Neshiem, Vice Chancellor & CHRO, has been assigned to direct the establishment of and to monitor the implementation of personnel procedures to guide our affirmative action program throughout University of Massachusetts Amherst. Sheri Neshiem, Vice Chancellor & CHRO will have responsibility to review and update University of Massachusetts Amherst's affirmative action plan annually, including responsibility for the audit and reporting system. A notice explaining University of Massachusetts Amherst's policy will remain posted.

The IWD Narrative Affirmative Action Plan is available for inspection by any employee or applicant for employment Monday through Friday during normal business hours at each establishment.

Review of Personnel Processes

University of Massachusetts Amherst has reviewed its personnel processes to ensure the careful, thorough, and systematic consideration of the job qualifications of applicants and employees who are known to be IWDs for job vacancies filled either by hiring or promotion, and for all training opportunities offered or available. University of Massachusetts Amherst has reviewed its personnel processes to ensure these processes do not stereotype IWDs in a manner that limits their access to all jobs for which they are qualified. University of Massachusetts Amherst periodically reviews its personnel processes and makes any necessary modifications to ensure that the obligations set forth in this paragraph will be carried out on an ongoing basis.

Physical and Mental Qualifications

University of Massachusetts Amherst conducts a periodic review of its physical and mental job qualification standards to ensure that these qualifications are job-related and consistent with business necessity for the position(s) in question to the extent that qualifications tend to screen out IWDs.

Job requirements are periodically reviewed to ensure they are job-related and consistent with business necessity and the safe performance of the job. In the event that University of Massachusetts Amherst inquires into an applicant's or employee's physical or mental condition, or conducts a medical examination of an employee or applicant prior to employment, information obtained as a result will be collected and maintained on separate forms and in separate medical files apart from general personnel files, and will be kept confidential except as otherwise provided by applicable regulations and the Americans with Disabilities Act (ADA), as amended. Medical information obtained through medical inquiries or examinations of employees or applicants shall not be used to discriminate against IWDs.

The contractor may use as a qualification standard the requirement that an individual be able to perform the essential functions of the position held or desired without posing a direct threat to the health or safety of the individual or others in the workplace. The contractor may use as a defense to an allegation of a violation that an individual poses a direct threat to the health or safety of the individual or others in the workplace.

Reasonable Accommodation to Physical and Mental Limitations

University of Massachusetts Amherst will consider requests for reasonable accommodation to the known physical and mental limitations of an otherwise qualified

IWD employee or applicant, provided such accommodation does not result in an undue hardship to the operation of University of Massachusetts Amherst's business. If an employee who is known to be an IWD is having significant difficulty performing his or her job and it is reasonable to conclude that the performance problem may be related to the known disability, University of Massachusetts Amherst will confidentially notify the employee of the performance problem and inquire whether the problem is related to the employee's disability. If the employee responds that it is indeed related, University of Massachusetts Amherst will confidentially inquire as to whether the employee is in need of a reasonable accommodation.

Nothing shall relieve the contractor of its obligation to provide a reasonable accommodation for an individual when such an accommodation will enable the individual to perform the essential functions of the employment position such individual holds or desires, or when the accommodation will eliminate or reduce the direct threat to the health or safety of the individual or others posed by such individual, provided that such individual satisfies the requisite skill, experience, education, and other job-related requirements of such position.

Harassment

University of Massachusetts Amherst has developed and implemented policies and procedures to ensure that its employees are not harassed because of their status as an IWD.

External Dissemination of Policy, Outreach, and Positive Recruitment

University of Massachusetts Amherst has reviewed its employment practices to determine whether its personnel programs provide the required affirmative action for employment and advancement of IWDs. University of Massachusetts Amherst has undertaken appropriate outreach and positive recruitment activities which may include, but may not necessarily be limited to:

- (1) Enlisting the assistance and support of recruiting sources (e.g., State vocational rehabilitation agencies or facilities, sheltered workshops, college placement officers, State education agencies, labor organizations and organizations of or for IWDs) for the contractor's commitment to provide meaningful employment opportunities to qualified individuals with disabilities.

- (2) Conducting periodic audits to ensure that the AAP is being fully implemented. On an annual basis, University of Massachusetts Amherst conducts a review of the outreach and recruitment efforts undertaken during the 12-month period prior to the review date in order to evaluate the effectiveness of those efforts in identifying and recruiting qualified IWDs. University of Massachusetts Amherst documents the criteria through which the effectiveness of each outreach and recruitment effort is evaluated. Criteria used for the evaluation of effectiveness

of outreach and recruitment efforts include but may not be limited to the data collected pursuant to 41 C.F.R. §60-741.44(k) for the prior three-year affirmative action plan cycles. It has been concluded that the totality of good faith efforts were effective.

(3) Disseminating AA/EEO policy information to all present employees, new hires, and job seekers for employment.

(4) Where appropriate, maintaining a viable program of positive outreach and recruitment activities with recruiting sources and educational institutions that participate in training of IWDs.

(5) Where appropriate, maintaining meaningful contacts with social service organizations in order to obtain advice, technical assistance, and referral of potential employees.

(6) Indicating that University of Massachusetts Amherst is an equal opportunity employer in help wanted and promotional advertising.

(7) Sending written notifications of relevant obligations under Section 503, as amended, to all subcontractors, including subcontracting vendors and suppliers.

Internal Dissemination of Policy

University of Massachusetts Amherst endeavors to promote understanding, acceptance and support for AA/EEO policies amongst employees (including executive, management, supervisory, and other employees). In order to ensure cooperation and participation of all employees in carrying out required AA/EEO obligations relating to IWDs, University of Massachusetts Amherst undertakes internal dissemination actions that may include but may not necessarily be limited to:

(1) Including the AA/EEO policy in the company manual or otherwise makes available to employees.

(2) Reviewing the AA/EEO policy with new employees during new employee orientation.

(3) Where appropriate, including highlights of University of Massachusetts Amherst's AA/EEO policy and practice in publications.

(4) If appropriate, notifying union officials and/or employee representatives of University of Massachusetts Amherst's AA/EEO policy and requesting cooperation to increase employment opportunities for IWDs.

(5) Holding meetings with management groups, as well as other employees, to achieve awareness and understanding of University of Massachusetts Amherst's AA/EEO obligations.

(6) Including University of Massachusetts Amherst's AA/EEO policy in management training programs.

(7) Posting a statement of University of Massachusetts Amherst's AA/EEO policy on bulletin boards and providing the AA/EEO Policy in a manner accessible and understandable to IWDs.

Auditing and Reporting System

University of Massachusetts Amherst has designed and implemented an audit and reporting system, monitored by Sheri Neshiem, Vice Chancellor & CHRO, which will accomplish the following:

- (1) Measure the effectiveness of University of Massachusetts Amherst's AAP.
- (2) Indicate any need for remedial action.
- (3) Determine the degree to which University of Massachusetts Amherst's objectives have been obtained.
- (4) Determine whether known IWDs have received the opportunity to participate in all University of Massachusetts Amherst-sponsored educational, training, recreational, and social activities.
- (5) Measure University of Massachusetts Amherst's compliance with specific AA/EEO obligations.

Responsibility for Implementation

Sheri Neshiem, Vice Chancellor & CHRO shall, among other things:

- (1) Identify problem areas in conjunction with the line management and known IWDs;
- (2) Monitor the effectiveness of the AAP;
- (3) Act as a liaison between University of Massachusetts Amherst and organizations of and for IWDs;
- (4) Inform management of the latest developments in the affirmative action area on an ongoing basis;

(5) Act as an internal adviser for any employees who are IWDs who feel as though they have been denied equal opportunity; and

(6) Ensure that IWDs are offered equal opportunity to participate in all University of Massachusetts Amherst-sponsored educational, training, and social activities.

University of Massachusetts Amherst will provide Sheri Neshiem, Vice Chancellor & CHRO, with necessary top management support and staff, to manage the implementation of the AAP.

Training

University of Massachusetts Amherst has trained personnel involved in the recruitment, screening, selection, promotion, disciplinary, and related processes on University of Massachusetts Amherst's policies, practices, and procedures under this AAP to ensure that the program is fully implemented.

Data Collection Analysis

Pursuant to section 41 C.F.R. §60-741.44(k), University of Massachusetts Amherst will annually document and maintain for 3 years the following data points pertaining to applicants and hires:

- (1) The number of applicants who self-identified as IWDs pursuant to 41 C.F.R. §60-741.42(a) or who are otherwise known to be IWDs;
- (2) The total number of job openings and total number of jobs filled;
- (3) The total number of applicants for all jobs;
- (4) The number of applicants with disabilities hired; and,
- (5) The total number of applicants hired.

Pursuant to section 41 C.F.R. §60-741.44(k), University of Massachusetts Amherst has undertaken this data collection requirement.

Utilization Goals (503)

In order to obtain a benchmark serving as an equal employment opportunity objective, University of Massachusetts Amherst has established a 7% utilization goal within each job group for the employment of qualified IWD. University of Massachusetts Amherst

conducts an annual evaluation of the representation of employees within each job group who have identified as IWD pursuant to 41 C.F.R. §60-741.42(c).

In the event that the percentage of IWDs in one or more job groups is less than the 7% utilization goal, University of Massachusetts Amherst will develop and execute action-oriented programs for the purpose of addressing these areas. Additionally, University of Massachusetts Amherst will take the necessary steps to determine whether and where barriers to equal employment opportunity may exist. Steps to take include, but are not necessarily limited to: personnel processes, the effectiveness of outreach and recruitment efforts and the results of the audit.

Pursuant to section 41 C.F.R. §60-741.45, University of Massachusetts Amherst will conduct this utilization analysis requirement in the affirmative action plan.

V. Equal Opportunity Clause

Pursuant to the requirements under 41 C.F.R. §60-741.5, University of Massachusetts Amherst has included the equal opportunity clauses for IWDs in each of its covered contracts, subcontracts and purchase orders. The equal opportunity clauses will also be included in modifications, renewals or extensions, if not included in the original. As per the revised requirements effective March 24, 2014, where the equal opportunity clauses are incorporated by reference, the citation and associated required language appear in bold text. An example of this reference can be found in *Appendix B*.

VI. Record Keeping

Pursuant to the requirements under 41 C.F.R. §60-741.80, University of Massachusetts Amherst maintains all personnel or employment records made or kept by University of Massachusetts Amherst, for a period of two years from the date of the making of the record or the date of the personnel action involved, whichever occurs later. These records include the following:

- (1) Records relating to requests for reasonable accommodation;
- (2) Results of any physical examination;
- (3) Job advertisements and postings;
- (4) Applications and resumes;
- (5) Tests and test results;
- (6) Interview notes; and
- (7) Other records having to do with hiring, assignment, promotion, demotion, transfer, lay-off, termination, rates of pay or other terms of compensation, and selection for training or apprenticeship.

If University of Massachusetts Amherst receives notice that a complaint of discrimination based on status as an IWD has been filed, that a compliance review under Section 503, as amended, has been undertaken, or that an enforcement action under the law has been initiated, University of Massachusetts Amherst shall preserve all personnel records relevant to the complaint, compliance review, or enforcement action until final disposition of the complaint, compliance review, or enforcement action has been enacted.

Pursuant to Section 503 regulations, the following records will be maintained for three years:

- (1) Evaluation of outreach and recruitment efforts required by 41 C.F.R. 60-741.44(f)(4); and,
- (2) Data collection analysis required by 41 C.F.R. 60-741.44(k).

VII. Appendices

Appendix A – Voluntary Disability Self-Identification Form

Form CC-305
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Voluntary Self-Identification of Disability

OMB Control Number 1250-0005
Expires 04/30/2026

Name: _____
Employee ID: _____
(if applicable)

Date: _____

Why are you being asked to complete this form?

We are a federal contractor or subcontractor. The law requires us to provide equal employment opportunity to qualified people with disabilities. We have a goal of having at least 7% of our workers as people with disabilities. The law says we must measure our progress towards this goal. To do this, we must ask applicants and employees if they have a disability or have ever had one. People can become disabled, so we need to ask this question at least every five years.

Completing this form is voluntary, and we hope that you will choose to do so. Your answer is confidential. No one who makes hiring decisions will see it. Your decision to complete the form and your answer will not harm you in any way. If you want to learn more about the law or this form, visit the U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) website at www.dol.gov/ofccp.

How do you know if you have a disability?

A disability is a condition that substantially limits one or more of your "major life activities." If you have or have ever had such a condition, you are a person with a disability. **Disabilities include, but are not limited to:**

- Alcohol or other substance use disorder (not currently using drugs illegally)
- Autoimmune disorder, for example, lupus, fibromyalgia, rheumatoid arthritis, HIV/AIDS
- Blind or low vision
- Cancer (past or present)
- Cardiovascular or heart disease
- Celiac disease
- Cerebral palsy
- Deaf or serious difficulty hearing
- Diabetes
- Disfigurement, for example, disfigurement caused by burns, wounds, accidents, or congenital disorders
- Epilepsy or other seizure disorder
- Gastrointestinal disorders, for example, Crohn's Disease, irritable bowel syndrome
- Intellectual or developmental disability
- Mental health conditions, for example, depression, bipolar disorder, anxiety disorder, schizophrenia, PTSD
- Missing limbs or partially missing limbs
- Mobility impairment, benefiting from the use of a wheelchair, scooter, walker, leg brace(s) and/or other supports
- Nervous system condition, for example, migraine headaches, Parkinson's disease, multiple sclerosis (MS)
- Neurodivergence, for example, attention-deficit/hyperactivity disorder (ADHD), autism spectrum disorder, dyslexia, dyspraxia, other learning disabilities
- Partial or complete paralysis (any cause)
- Pulmonary or respiratory conditions, for example, tuberculosis, asthma, emphysema
- Short stature (dwarfism)
- Traumatic brain injury

Please check one of the boxes below:

- ☐ Yes, I have a disability, or have had one in the past
- ☐ No, I do not have a disability and have not had one in the past
- ☐ I do not want to answer

PUBLIC BURDEN STATEMENT: According to the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. This survey should take about 5 minutes to complete.

For Employer Use Only

Employers may modify this section of the form as needed for recordkeeping purposes.

For example:

Job Title: _____ Date of Hire: _____

Appendix B – Example Subcontract and Purchase Clause

The parties shall comply with all Federal equal employment opportunity obligations under 41 CFR 60-741.5(a) and federal labor law obligations under 29 CFR part 471, appendix A to subpart A.

This contractor and subcontractor shall abide by the requirements of 41 CFR 60–741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

Appendix C – Definitions

DIRECT THREAT means a significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation. The determination that an individual with a disability poses a direct threat shall be based on an individualized assessment of the individual's present ability to perform safely the essential functions of the job. This assessment shall be based on a reasonable medical judgment that relies on the most current medical knowledge and/or on the best available objective evidence. In determining whether an individual would pose a direct threat, the factors to be considered include:

- (1) The duration of the risk;
- (2) The nature and severity of the potential harm;
- (3) The likelihood that the potential harm will occur; and
- (4) The imminence of the potential harm.

DISABILITY, with respect to an individual, means:

- (1) A physical or mental impairment that substantially limits one or more major life activities of such individual;
- (2) A record of such an impairment; or
- (3) Being regarded as having such an impairment.

The definition of "disability" must be construed in favor of broad coverage of individuals, to the maximum extent permitted by law. The question of whether an individual meets the definition under this part should not demand extensive analysis. An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

DISABLED VETERAN under the Rehabilitation Act of 1973, as amended, and 41 C.F.R. §60-300.2, is defined as (1) a veteran of the U.S. military, ground, naval or air service who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Secretary of Veterans Affairs, or (2) a person who was discharged or released from active duty because of a service-connected disability.

ESSENTIAL FUNCTIONS means fundamental job duties of the employment position the individual with a disability holds or desires. The term essential functions does not include the marginal functions of the position. A job function may be considered essential for any of several reasons, including but not limited to the following:

(1) The function may be essential because the reason the position exists is to perform that function;

(2) The function may be essential because of the limited number of employees available among whom the performance of that job function can be distributed; and/or

(3) The function may be highly specialized so that the incumbent in the position is hired for his or her expertise or ability to perform the particular function.

Evidence of whether a particular function is essential includes, but is not limited to:

(1) The contractor's judgment as to which functions are essential;

(2) Written job descriptions prepared before advertising or interviewing applicants for the job;

(3) The amount of time spent on the job performing the function;

(4) The consequences of not requiring the incumbent to perform the function;

(5) The terms of a collective bargaining agreement;

(6) The work experience of past incumbents in the job; and/or

(7) The current work experience of incumbents in similar jobs.

MAJOR LIFE ACTIVITIES include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working. A major life activity also includes the operation of a major bodily function, including, but not limited to, functions of the immune system, special sense organs and skin, normal cell growth, digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system. In determining other examples of major life activities, the term "major" shall not be interpreted strictly to create a demanding standard for disability. Whether an activity is a "major life activity" is not determined by reference to whether it is of "central importance to daily life."

PHYSICAL OR MENTAL IMPAIRMENT means: Any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory,

hemic, lymphatic, skin, and endocrine; or any mental or psychological disorder, such as an intellectual disability (formerly termed mental retardation), organic brain syndrome, emotional or mental illness, and specific learning disabilities.

QUALIFIED DISABLED VETERAN means a disabled veteran who has the ability to perform the essential functions of the employment position with or without reasonable accommodation.

QUALIFIED INDIVIDUAL means an individual 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.

REASONABLE ACCOMMODATION means modifications or adjustments: to a job application process that enable a qualified applicant with a disability to be considered for the position such applicant desires;¹ or to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified individual with a disability to perform the essential functions of that position; or that enable the contractor's employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by the contractor's other similarly situated employees without disabilities. Reasonable accommodation may include but is not limited to: making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and job restructuring; part-time or modified work schedules; reassignment to a vacant position; acquisition or modifications of equipment or devices; appropriate adjustments or modifications of examinations, training materials, or policies; the provision of qualified readers or interpreters; and other similar accommodations for individuals with disabilities.

To determine the appropriate reasonable accommodation, it may be necessary for the contractor to initiate an informal, interactive process with the qualified individual with a disability in need of the accommodation.² This process should identify the precise limitations resulting from the disability and potential reasonable accommodations that could overcome those limitations. Individuals who meet the definition of "disability" solely under the "regarded as" prong of the definition of "disability" are not entitled to receive reasonable accommodation.

¹ A contractor's duty to provide a reasonable accommodation with respect to applicants with disabilities is not limited to those who ultimately demonstrate that they are qualified to perform the job in issue. Applicants with disabilities must be provided a reasonable accommodation with respect to the application process if they are qualified with respect to that process (e.g., if they present themselves at the correct location and time to fill out an application).

² Before providing a reasonable accommodation, the contractor is strongly encouraged to verify with the IWD that the accommodation will effectively meet the individual's needs.

RECORD OF SUCH IMPAIRMENT means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities. An individual shall be considered to have a record of a disability if the individual has a history of an impairment that substantially limited one or more major life activities when compared to most people in the general population or was misclassified as having had such an impairment.

REGARDED AS HAVING SUCH AN IMPAIRMENT An individual is regarded as having such an impairment if the individual is subjected to an action prohibited under subpart B (Discrimination Prohibited) of Section 503 because of an actual or perceived physical or mental impairment, whether or not the impairment substantially limits or is perceived to substantially limit a major life activity. Prohibited actions include but are not limited to refusal to hire, demotion, placement on involuntary leave, termination, exclusion for failure to meet a qualification standard, harassment, or denial of any other term, condition, or privilege of employment. An individual is regarded as having such an impairment any time a contractor takes a prohibited action against the individual because of an actual or perceived impairment, even if the contractor asserts, or may or does ultimately establish a defense to such action. Establishing that an individual is regarded as having such an impairment does not, by itself, establish liability for unlawful discrimination in violation of this part. Such liability is established only when an individual proves that a contractor discriminated on the basis of disability as prohibited by this part. This section shall not apply to an impairment that is shown by the contractor to be transitory and minor. The contractor must demonstrate that the impairment is both “transitory” and “minor.” Whether the impairment at issue is or would be “transitory and “minor” is to be determined objectively. An impairment is transitory if it has an actual or expected duration of six months or less.

SUBSTANTIALLY LIMITS shall be construed broadly in favor of expansive coverage, to the maximum extent permitted by law. “Substantially limits” is not meant to be a demanding standard and should not demand extensive analysis.

(1) An impairment is substantially limiting if it substantially limits the ability of an individual to perform a major life activity as compared to most people in the general population. An impairment need not prevent, or significantly or severely restrict, the individual from performing a major life activity in order to be considered “substantially limiting.” Nonetheless, not every impairment will constitute a disability.

(2) The comparison of an individual’s performance of a major life activity to the performance of the same major life activity by most people in the general population usually will not require scientific, medical, or statistical analysis. However, nothing in this section is intended to prohibit the presentation of scientific, medical, or statistical evidence to make such a comparison where appropriate.

(3) In determining whether an individual is substantially limited in a major life activity, it may be useful in appropriate cases to consider, as compared to most people in the general population, the condition under which the individual performs the major life activity; the manner in which the individual performs the major life activity; and/or the duration of time it takes the individual to perform the major life activity, or for which the individual can perform the major life activity. This may include consideration of facts such as the difficulty, effort, or time required to perform a major life activity; pain experienced when performing a major life activity; the length of time a major life activity can be performed; and/or the way an impairment affects the operation of a major bodily function.

The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures as defined in 41 C.F.R. §60-741.2(n), except that the ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered when determining whether an impairment substantially limits a major life activity. The non-ameliorative effects of mitigating measures, such as negative side effects of medication or burdens associated with following a particular treatment regimen, may be considered when determining whether an individual's impairment substantially limits a major life activity.

In determining whether an individual is substantially limited the focus is on how a major life activity is substantially limited, and not on the outcomes an individual can achieve. For example, someone with a learning disability may achieve a high level of academic success but may nevertheless be substantially limited in the major life activity of learning because of the additional time or effort he or she must spend to read, write, or learn compared to most people in the general population.

The determination of whether an impairment substantially limits a major life activity requires an individualized assessment. However, the principles set forth in this section are intended to provide for generous coverage through a framework that is predictable, consistent, and workable for all individuals and contractors with rights and responsibilities under this part. Therefore, the individualized assessment of some types of impairments will, in virtually all cases, result in a determination of coverage under 41 C.F.R. § 60-741.2(g)(1)(i) or (ii). Given their inherent nature, these types of impairments will, as a factual matter, virtually always be found to impose a substantial limitation on a major life activity. With respect to these types of impairments, the necessary individualized assessment should be particularly simple and straightforward. Applying the principles set forth in this section it should easily be concluded that the following types of impairments will, at a minimum, substantially limit the major life activities indicated: deafness substantially limits hearing; blindness substantially limits seeing; an intellectual disability (formerly termed mental retardation) substantially limits brain function; partially or completely missing limbs or mobility impairments requiring the use of a wheelchair substantially limit musculoskeletal function; autism substantially limits brain function; cancer substantially limits normal cell growth; cerebral palsy substantially limits brain function; diabetes substantially limits endocrine function; epilepsy substantially limits neurological function; Human Immunodeficiency Virus (HIV) infection substantially limits

immune function; multiple sclerosis (MS) substantially limits neurological function; muscular dystrophy substantially limits neurological function; and major depressive disorder, bipolar disorder, post-traumatic stress disorder (PTSD), obsessive compulsive disorder, and schizophrenia substantially limit brain function. The types of impairments described in this section may also substantially limit additional major life activities not explicitly listed above.

UNDUE HARDSHIP means, with respect to the provision of an accommodation, significant difficulty or expense incurred by the contractor, when considered in light of the factors set forth below. In determining whether an accommodation would impose an undue hardship on the contractor, factors to be considered include:

- (1) The nature and net cost of the accommodation needed, taking into consideration the availability of tax credits and deductions, and/or outside funding;
- (2) The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, the number of persons employed at such facility, and the effect on expenses and resources;
- (3) The overall financial resources of the contractor, the overall size of the business of the contractor with respect to the number of its employees, and the number, type and location of its facilities;
- (4) The type of operation or operations of the contractor, including the composition, structure and functions of the work force of such contractor, and the geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the contractor; and
- (5) The 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.