



Disability Accommodation Policy

ADOPTED: November 17, 2003

LAST AMENDED:
April 27, 2020

APPROVED:

A handwritten signature in blue ink that reads "Celia R. Gould".

I. Purpose

This policy outlines the rights and obligations of employees and the Idaho State Department of Agriculture (“ISDA”) under federal and state law with respect to disability accommodation. In accordance with all pertinent federal regulations and state laws and regulations, ISDA prohibits discrimination against qualified individuals with disabilities in all employment practices, including but not limited to: job application procedures, hiring, firing, advancement, compensation, training, and other terms, conditions, and privileges of employment. ISDA prohibits discrimination based on documented disabilities both in the application process and during the employment relationship.

II. Scope

This policy applies to all ISDA employees and applicants for ISDA employment. Individuals using illegal drugs are excluded from coverage under ISDA’s Disability Accommodation Policy.

III. Definitions

Applicant: An individual pursuing an employment opportunity with the ISDA by submitting appropriate application materials for a specific, vacant position.

Employee: Any ISDA employee including hourly, salaried, part-time, and full-time employees.

Essential Function(s): The fundamental, unmodifiable duties of the position or the primary reasons the position exists. ISDA is not required to eliminate an essential function of a position, or to lower quality or performance standards to make an accommodation, as long as those standards are applied uniformly to employees with or without a disability. ISDA is not required to create a new position to accommodate an employee. ISDA, as the employer, determines whether a job function is “essential” on a case-by-case basis. Some but not all of the factors used in determining whether a job function is essential are:

- Whether the reason the position exists is to perform that function;
- The number of other employees available to perform the function and whether they could perform the function if assigned to them; and
- The degree of expertise or skill required to perform the function.

Direct Threat: A significant risk to the health and safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation.

Disability: A physical or mental impairment that substantially limits one or more major life activities of such individual, a record of such an impairment, or being regarded as having such an impairment.

Major Life Activities: Major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. Major life activities also include the operation of major bodily functions, including, but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

Qualified Individual with a Disability: An employee or applicant is qualified if he or she possesses the requisite skills, education, experience, and training for a position and is able to complete the essential functions of his or her job with or without reasonable accommodation; an applicant must also satisfy the minimum qualifications for the job for which he or she is applying in order to be considered qualified.

Reasonable Accommodation: A modification or adjustment to the job application process or the work environment that will enable a qualified applicant or employee with a disability to participate in the application process or to perform essential job functions. The decision as to the appropriate (reasonable) accommodation is made on a case-by-case basis. Reasonable accommodations do not have to be the best or the most expensive, but rather are based on effectiveness.

Substantial Limitation (substantially limiting): Having a medical condition alone is not enough to make one eligible for accommodation under the ADA. Under the ADA, an individual's impairment must also be substantially limiting. Whether or not a limitation is substantial is generally determined by the ability of the individual with the impairment to perform a major life activity compared to most people in the general population. The determination of whether an impairment substantially limits a major life activity requires an individualized assessment, and an impairment that is episodic or in remission may also meet the definition of disability if it would substantially limit a major life activity when active.

Undue Hardship: An action requiring significant difficulty or expense. When considering whether an accommodation would cause an undue hardship, the following factors may be contemplated amongst other considerations:

- The nature and cost of the accommodation.
- 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, the effect on expenses and resources, or the impact of such accommodation on the operation of the facility.
- The overall financial resources of the entity; the size, number, type and location of facilities.
- The type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness,

administrative, or fiscal relationship of the facility or facilities in question to the covered entity.

IV. Responsibilities and procedures

A. Applicants with Disabilities

Applicants with disabilities may request accommodations in the hiring process or application itself. Applicants are responsible for making specific requests so that ISDA can determine if reasonable accommodations can be provided. Applicants must make these requests in advance; the ISDA will not make retroactive accommodations. Applicant requests for reasonable accommodation in the hiring process may be made by contacting Human Resources. Applicants may be asked to provide supportive documentation.

Applicants with disabilities can request accommodations for a scheduled interview. Applicants are responsible for making specific requests so that ISDA can determine if reasonable accommodation can be provided in advance of interviews. Applicants can make this request orally or in writing by contacting Human Resources.

B. Employees with Disabilities

Employees with disabilities seeking reasonable accommodations should initiate contact with ISDA. Human Resources is the most efficient source of information to go to with questions regarding or requests for accommodation. Requests for reasonable accommodation may be made orally or in writing to the ISDA's Human Resources Team. ISDA may request that oral requests be submitted in writing by completing [A Request for Disability Accommodation Form](#). Accommodations need not be requested at the beginning of employment. However, reasonable accommodations requests will not nullify prior performance issues or disciplinary actions.

Following this request, authorized ISDA personnel (in most cases a member of Human Resources, but Administrators and Supervisors may be appropriate as well) may meet with the individual to conduct an informal, interactive discussion.

An employee's preference will be considered, but the employee must be capable of performing the essential functions of the job with or without a reasonable accommodation. A reasonable accommodation is not necessarily the best or most expensive accommodation, but is one that will help allow the employee to perform the essential functions of the job. ISDA retains the right to determine the most appropriate accommodation. ISDA is not obligated to and will not provide personal use items needed in accomplishing daily activities (e.g. eyeglasses, hearing aids, prosthetic limbs, or a wheelchair). Nor will ISDA lower production or performance standards; excuse violations of conduct rules; remove an essential function; or restructure working hours so they fall far outside the obligations of an employee's unit and/or position.

V. Implementing an Accommodation

Human Resources will determine whether the employee is a qualified individual with a disability and whether the requested accommodation(s) is reasonable and does not create an undue hardship. If so determined, a letter of accommodation will be drafted and will:

- List restrictions;
- Outline the accommodation(s) being provided;
- List expectations related to the implementation of the accommodation(s);

- Provide a timeframe for when the accommodations will be reviewed to determine their effectiveness; and
- List the names of those who were party to the accommodation process and are involved in the implementation of the approved accommodations (including supervisors, Human Resource personnel and Administration Personnel).

VI. Confidentiality

ISDA will require the employee to provide medical documentation from a physician or other medical professional concerning the existence and extent of the disability. Should the ISDA wish to contact the medical provider for further clarification, a Health Insurance Portability and Accountability Act (“HIPAA”) waiver form must be completed and signed by the applicant or employee. Failure to provide necessary documentation, where it has been properly requested, may result in a denial of reasonable accommodation. Medical information will be maintained in the employee’s separate confidential file. Any records or information obtained by ISDA as part of the accommodation process that reflect diagnosis, evaluation, or treatment of an employee’s medical or mental health condition are kept private.

VII. Independent Medical Opinion

ISDA has authority to obtain, at ISDA’s expense, an independent medical opinion concerning the impairment for which an employee seeks an accommodation. The failure of an employee to cooperate in obtaining such an opinion will result in the cancelation of the request for accommodation.

VIII. Accommodations that cannot be made

There may be circumstances where employees who pose a direct threat to the health and safety of themselves and others in the work place may be removed from ISDA locations or placed on temporary leave until the threat is resolved.

There may also be instances where there is no reasonable accommodation that enables the employee to perform the essential functions of the employee’s job. Although there is a requirement to facilitate the interactive process and explore whether or not there is a reasonable accommodation, there is no requirement to provide the exact accommodation requested by the individual, or to remove an essential function of the position. If an employee cannot be accommodated, the employee may be separated from ISDA employment after the employee’s entitlements, if any, are exhausted.

IX. Discrimination Complaints

Any applicant or employee who believes he or she had a request for a reasonable accommodation denied; was discriminated against based on disability; or was retaliated against due to an accommodation request is encouraged to make a complaint to Human Resources at the contact listed below.

X. Other Information

- Human Resources may be contacted at jobs@isda.idaho.gov.

- The following statutes are provided to grant employees and applicants information regarding Federal and State disability accommodation laws and regulations.
 - Americans with Disabilities Act (ADA) of 1990
 - The Americans with Disabilities Act Amendments Act (ADAAA) of 2008
 - Section 503 of the Rehabilitation Act of 1973, as amended
 - Section 504 of the Rehabilitation Act of 1973, as amended
 - U.S. Equal Employment Opportunity Commission
 - The Idaho Human Rights Act (Idaho Code § 67-5901 *et seq.*)
 - Discrimination and Harassment Policy
 - Idaho Human Rights Commission