



Reasonable Accommodation Policy for Customers

PURPOSE: The Board of Industrial Insurance Appeals (BIIA) is committed to providing equal access to services and facilities for persons with disabilities and ensuring the right of persons with disabilities to request and receive reasonable accommodation, without discrimination because of the disability. This policy sets forth the guidelines and policies for accommodating customers of the BIIA in compliance with state and federal law. This policy should not be construed as providing rights or imposing obligations not provided under applicable laws.

This policy is based on the provisions of the Americans with Disabilities Act of 1990 as amended by the Americans with Disabilities Amendment Act; the Rehabilitation Act of 1973; Chapter 49.60 of the Revised Code of Washington; and Executive Order 96-04.

SCOPE: This policy applies to all non-employees who interact with the agency. Persons with disabilities have the right to request and receive reasonable accommodation in accessing and participating in the agency's services.

DEFINITIONS: "Customer" means any individual, other than those employed by or applying for employment with the BIIA, who conducts business with or uses the services of the BIIA. The term includes, but is not limited to, parties, representatives, vendors, and suppliers.

"Person with disability" means (1) Under 42 USC 12102, a person with a physical or mental impairment that substantially limits one or more major life activities or (2) under chapter 49.60 RCW, a person who has an abnormal condition that is medically cognizable or diagnosable; exists as a record or history; or is perceived to exist, whether or not it exists in fact.

"Reasonable accommodation" refers to provisions for assistance or other services that do not impose an undue hardship¹ on the agency. It includes;

- a. Making reasonable modifications in policies, practices, and procedures.
- b. Furnishing at no charge, auxiliary aids and services, including but not limited to equipment, devices, materials in alternative formats, sign language interpreters, readers or notetakers.

POLICY: The goal of the BIIA and its employees is to provide reasonable accommodations to the known physical, mental, or sensory limitations of an individual with a disability in order to enable a customer to access and participate in the services of the BIIA in a manner equivalent to the ability of similarly situated non-disabled customers, unless doing so would impose an undue hardship on the agency.

GENERAL PROVISIONS: It is the obligation of an individual with a disability to request a reasonable accommodation. It is also the responsibility of the individual with a disability to cooperate with the agency in the identification and evaluation of accommodations.

¹ "Undue hardship" means an accommodation that: (1) would require significant difficulty or expense to implement; (2) would be unduly disruptive to the agency's operations; or (3) would fundamentally alter the nature of the services, the proceedings, or the operation of the agency.

Requests for Continuances or Stays of Proceedings

This policy is not intended to cover requests for continuances or stays of proceedings, even if the request is based upon a condition that qualifies as a disability. With regard to requests for continuances, those requests should be referred to the judge presiding over the matter and ruled upon in the same manner as other requests for continuances.

If a party requests a Stay for any reason, including disability, the Board (through the judge receiving the request) will refer the request to the Assistant Chief delegated the responsibility of granting or denying stays of proceedings. On the rare occasion that the request cannot be adequately addressed through the normal process, the Assistant Chief will refer the matter to the Accommodations Coordinator.

Medical Information

All identifiable medical records submitted directly to the accommodations coordinator will be treated as a confidential medical record and will be maintained in a secure manner, separate and apart from any applicable appeal file.

If medical information is submitted through the electronic portal or by mail addressed to someone other than the Accommodations Coordinator, it will become part of the appeal record.

If a request for information is made under the Public Records Act, the Board may be required to disclose medical records in the Board's files. Individuals named in the records will be notified of the records request in accordance with the BIIA public disclosure policy.

Accommodations

Reasonable accommodations will be made only after careful consideration. When deciding whether the BIIA can provide accommodation and if so, what accommodation will be provided, the following principles apply.

- The Chief Judge or designee will consult with the customer about the specific needs of the customer with the disability and the options available for accommodating the disability in an effective and reasonable manner.
- In addition, advice may be requested from appropriate state and federal entities to determine the extent of the BIIA's obligation to accommodate a customer and explore optional accommodations.
- Even if the customer identifies a specific form of accommodation, the BIIA need not provide the specific form of accommodation if it is not reasonable or if another method of providing reasonable accommodation is available and the BIIA deems the alternative to be both effective and preferable.
- If there are two or more effective accommodations that would allow the individual with a disability to access or participate in the services or proceedings of the agency, the agency will determine what form of accommodation will be provided. The customer's request will be considered but is not controlling.
- If the only reasonable accommodation poses an undue hardship on the agency, and there is no alternative available, the agency is not required to provide the accommodation.

In attempting to accommodate a customer's disability, the agency is not required to take measures that would impose an undue hardship on the agency. In determining undue hard-

ship, the BIIA will consider the nature and cost of the accommodation, the overall financial resources of the agency, and the impact of the accommodation on the operation of the agency, including the impact on the ability of employees to perform their duties and the agency's ability to conduct business. If a particular accommodation would impose an undue hardship, the agency shall consider whether there are alternative accommodations which would not impose such hardship. If an alternative accommodation is identified, the BIIA will provide the alternative accommodation if the agency finds it to be effective and feasible. If no reasonable alternative accommodation is identified, the accommodation request will be denied. If the request is denied, the BIIA will issue a written decision explaining the reason for the denial.

Customers will be notified of their right to reasonable accommodation through a statement on all notices of proceedings, by signs posted in conspicuous areas in BIIA facilities, and by a statement posted on the front page of the BIIA website.

PROCEDURES:

1. Requests for reasonable accommodation must be submitted in writing (including electronic mail). BIIA employees will, upon request, assist customers in completing the form used for this purpose.
2. The request will be forwarded to the Chief Judge for action.
 - a. The Chief Judge or designee will review the accommodation request and take the appropriate action.
 - b. If the Chief Judge elects to designate another individual to act on accommodation requests, the designee should be one person who will act on all requests received over a period of time.
3. After reviewing the request, the Chief Judge or designee may request additional information from the customer about the nature of the disability and the accommodation requested. If the requested information is not provided, or if the customer refuses to cooperate in the process, the Chief Judge or designee may elect not to take further action on the accommodation request and the customer will be advised.
4. When the Chief Judge or designee decides on the action to be taken on the request, a letter will be sent to the customer stating the action to be taken.
 - If accommodation is provided, the letter will provide details about how, when, and where accommodation will be provided and/or explain why the accommodation provided is different than the accommodation the customer requested.
 - If the request is denied, the letter shall state the reasons for denying the request including any undue hardship that would arise from granting the request.
5. If the customer is dissatisfied with the response, an appeal of the accommodation decision may be filed with the three-member Board. The appeal should be in writing and sent or delivered to the following address:

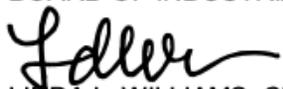
Chief Legal Officer
Board of Industrial Insurance Appeals
PO Box 42401
2430 Chandler Court SW
Olympia, WA 98504

An appeal of an accommodation decision must be filed within 10 days of the date the denial

is communicated to the customer. The Board will make a decision on the appeal within 30 days of receipt of the appeal unless the customer is notified prior to the 30-day deadline that additional time is required for investigation and/or hearings on the matter.

Adopted this 1st day of May, 2020.

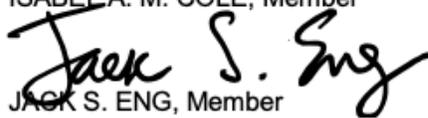
BOARD OF INDUSTRIAL INSURANCE APPEALS



LINDA L. WILLIAMS, Chairperson



ISABEL A. M. COLE, Member



JACK S. ENG, Member