

161—8.27 (216) Assessment and placement.

8.27(1) If examinations or other assessments are required, they should be directed toward determining whether an applicant for a job:

a. Has the physical and mental ability to perform the duties of the position. An individual applicant would have to identify the position for which the applicant has applied.

b. Is physically and mentally qualified to do the work without adverse consequences such as creating a danger to life or health of coemployees.

c. Is professionally competent or has the necessary skills or ability to become professionally competent to perform the duties and responsibilities which are required by the job.

8.27(2) Examinations or other assessments should consider the degree to which the person has compensated for the person's limitations and the rehabilitation service that person has received.

8.27(3) Physical standards for employment should be fair, reasonable, and adapted to the actual requirements of the employment. They shall be based on complete factual information concerning working conditions, hazards, and essential physical requirements of each job. Physical standards will not be used to arbitrarily eliminate the disabled person from consideration.

8.27(4) Where preemployment tests are used, the opportunity will be provided applicants with disabilities to demonstrate pertinent knowledge, skills and abilities by testing methods adapted to their special circumstances.

8.27(5) Probationary trial periods in employment for entry-level positions which meet the criteria of business necessity may be instituted by the employer to prevent arbitrary elimination of the disabled.

8.27(6) Reasonable accommodation. An employer shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped applicant or employee unless the employer can demonstrate that the accommodation would impose an undue hardship on the operation of its program.

a. Reasonable accommodation may include:

(1) Making facilities used by employees readily accessible to and usable by handicapped persons, and

¹(2) Job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, the provision of readers or interpreters, and other similar actions.

¹*b.* In determining pursuant to the first paragraph of this subrule whether an accommodation would impose an undue hardship on the operation of an employer's program, factors to be considered include:

(1) The overall size of the employer's program with respect to number of employees, number and type of facilities, and size of budget;

(2) The type of the employer's operation, including the composition and structure of the employer's workforce; and

(3) The nature and cost of the accommodation needed.

c. An employer may not deny any employment opportunity to a qualified handicapped employee or applicant if the basis for the denial is the need to make reasonable accommodation to the physical or mental limitations of the employee or applicant.

8.27(7) Occupational training and retraining programs, including but not limited to guidance programs, apprentice training programs, on-the-job training programs and executive training programs, shall not be conducted in a manner to discriminate against persons with physical or mental disabilities.

¹ Objection to 8.27(6) "a"(2) and 8.27(6) "b" [prior to 1/13/88 numbered as 6.2(6) "a"(2) and 6.2(6) "b," respectively,] reimposed 4/20/88, republished 5/4/88; see full text of objection at end of chapter.