

**PROCEDURES FOR PROCESSING REQUESTS
FOR REASONABLE ACCOMMODATION**

APPENDIX E

REASONABLE ACCOMMODATION - SUPREME COURT DECISIONS

I. WHETHER A PERSON HAS A DISABILITY AS DEFINED BY THE
ADA

A. Supreme Court decisions:

1. Bragdon v. Abbott, 524 U.S. 624 (1998). The Supreme Court broadly interpreted the terms "impairment", "major life activity" and "substantial limitation" in Bragdon, holding that a woman with asymptomatic HIV infection had an ADA "disability".

2. Sutton v. United Airlines, Inc., 527 U.S. 471, 119 S. Ct. 2139 (June 22, 1999). The Supreme Court held in Sutton and Murphy that the determination of whether a person has an ADA "disability" must take into consideration whether the person is substantially limited in a major life activity when using a mitigating measure, such as medication, a prosthesis, or a hearing aid. A person who experiences no substantial limitation in any major life activity when using a mitigating measure does not meet the ADA's definition of "disability".

3. Murphy v. United Parcel Service, Inc., 527 U.S. 516, 119 S. Ct. 2133(1999). In Murphy, the Supreme Court followed Sutton to find that a person whose high blood pressure was controlled through medication did not have an impairment that substantially limited a major life activity.

4. Albertsons, Inc. v. Kirkingburg, 527 U.S. 555, 119 S. Ct. 2162 (1999). In Albertsons, the Supreme Court extended the analysis in Sutton and Murphy to include individuals who specifically develop compensating behaviors to mitigate the effects of an impairment. In this case, the Court found that individuals with monocular vision could develop compensating behaviors that would prevent the impairment from substantially limiting the major life activity of seeing.

B. Application of Supreme Court decisions:

1. The Supreme Court has emphasized that, consistent with EEOC's position, the determination of whether a person has a "disability" must be made on a case-by-case basis.

2. The Supreme Court also emphasized that the disability determination must be based on a person's actual condition at the time of the alleged discrimination.

II. WHETHER A PERSON WITH A DISABILITY IS QUALIFIED

A. Supreme Court decisions:

1. Cleveland v. Policy Management Systems Corp., 119 S. Ct. 1597 (1999). In Cleveland, the Supreme Court held that claims for Social Security Disability Insurance (SSDI) benefits and for damages under ADA do not inherently conflict to the point where courts should apply a special negative presumption that receipt of SSDI benefits estops the recipient from pursuing an ADA claim. SSDU does not take into account the possibility of reasonable accommodation in assessing claims.

2. Albertsons, Inc., v. Kirkingburg, 527 U.S. 555, 119 S. Ct. 2162 (1999). In Albertsons, the Supreme Court determined that an employer does not have to follow an experimental waiver program designed to permit persons with monocular vision to qualify for DOT certification to operate commercial motor vehicles. This type of waiver program did not modify the general safety standard that precludes persons with monocular vision from obtaining certification. Rather, the waiver program was designed to obtain data to determine if changes could be made in the general safety standard.

B. Application of Supreme Court decisions:

1. The Supreme Court has determined that an employer can require a person to meet an applicable federal safety standard, even if the standard can be waived under an experimental program.

III. SUBSTANTIALLY LIMITS A MAJOR LIFE ACTIVITY DETERMINATIONS (WORKING)

A. Supreme Court decisions:

1. Sutton v. United Airlines, Inc., 527 U.S. 471, 119 S. Ct. 2139 (June 22, 1999). In Sutton, the Supreme Court determined that a global airline pilot is only one job and not a class of jobs. Since United Airlines only viewed Sutton as unable to work as a global pilot, it did not regard her as unable to work in the class of pilot jobs, which would include other types of positions such as regional pilots, pilot instructors, and freight pilots.

2. Murphy v. United Parcel Service, Inc., 527 U.S. 516, 119 S. Ct. 2133(1999). In Murphy, the Supreme Court determined that UPS's mechanics job, which required the ability to drive commercial vehicles, was a single job and not representative of the class of mechanics jobs. Thus, according to the Court, UPS only viewed Murphy as unable to perform its unique job requiring a mechanic to drive a commercial vehicle, and not as unable to work in the class of mechanics jobs, which would include diesel mechanics, automotive mechanics, gas-engine repairers, and gas-welding equipment mechanics - none of which require an individual to drive commercial vehicles.

B. Application of Supreme Court decisions: If working is the major life activity at issue, the activity must determine that a person is substantially limited in working, i.e., unable to work in a class of jobs or broad range of jobs in various classes.

IV. SUBSTANTIALLY LIMITS A MAJOR LIFE ACTIVITY DETERMINATIONS (PERFORMING MANUAL TASKS)

A. Supreme Court decision: In Toyota Motor Manufacturing v. Williams, 534 US 184 (2002), the Supreme Court constricted the definition of disabled employees further, finding that an employee's inability to do repetitive work with her hands and arms above shoulder levels because of diagnosed carpal tunnel syndrome did not constitute a substantial limitation to the major life activity of performing manual tasks. The Court went on to state that household chores, brushing one's teeth, and bathing are the types of manual tasks that are of "central importance to people's daily lives." It ruled that Williams was not substantially limited in the major life activity of performing manual tasks as she was able to wash her face, bathe, tend to her flower garden, fix breakfast, and do laundry.

B. Application of Supreme Court decision: The Toyota decision strictly limited protection only to those employees severely, permanently (or long-term) restricted, to a large degree, in activities of central importance to their daily lives.

V. REASSIGNMENTS

A. Supreme Court decision: In US Airways, Inc. v. Barnett, 535 U.S., 122 S. Ct. 1516, 1523 (2002), the Supreme Court held that it was unreasonable, absent "special circumstances" for an employer to provide a reassignment that conflicts with the terms of a seniority system.

B. Application of Supreme Court decision: If an activity routinely makes exceptions for deviating from the terms of its seniority system, then it wouldn't be unreasonable also to make an exception for an employee with a disability.

VI. DIRECT THREAT

A. Supreme Court decision: In Echazabal v. Chevron, 532 U.S., 925 (2002), the Supreme Court held that employers may refuse to hire employees if hiring them would pose a direct threat to their own health and safety.

B. Application of Supreme Court decision: The court found that the direct threat defense must be "based on a reasonable medical judgment that relies on the most current medical knowledge and/or best available objective evidence," and upon an "individualized assessment of the individual's present ability to safely perform the essential functions of the job," reached after considering, among other things, the imminence and likelihood of the risk and the severity of the harm.