

1 **13-2307J. "Otherwise qualified" defined.**

2 A person is "otherwise qualified" if ~~[[he] [she]]~~ the person is able to do the job in spite of  
3 ~~[[his] [her]]~~ that person's \_\_\_\_\_ (*insert illegal consideration, i.e., race, age,*  
4 *religion, color, national origin, ancestry, sex, serious medical condition or physical or mental*  
5 *handicap, sexual orientation, gender identity, or spousal affiliation).*

6 [Approved by Supreme Court Order No. 10-8300-024, effective September 27, 2010; as amended  
7 by Supreme Court Order No. S-1-RCR-2025-00126, effective for all cases pending or filed on or  
8 after December 31, 2025.]

9 **Committee commentary.** — *See Kitchell v. [~~Public Service Co.~~] Pub. Serv. Co., 1998-NMSC-*  
10 *051, ¶ 6, 126 N.M. 525, 972 P.2d 344 (quoting [~~Southeastern Community College] Se. Cmty. Coll.~~*  
11 *v. Davis*, 442 U.S. 397, 406-07 (1979), for the definition of an otherwise qualified person as "one  
12 who is able to meet all of the program's requirements in spite of ~~[[his]]~~ [that person's] handicap"  
13 (internal quotation marks omitted)).

14 [Approved by Supreme Court Order No. 10-8300-024~~[, effective September 27, 2010]~~; as  
15 amended by Supreme Court Order No. S-1-RCR-2025-00126.]