

POLICY AND PROCEDURES FOR REASONABLE ACCOMMODATIONS FOR QUALIFIED INDIVIDUALS WITH DISABILITIES

I. PURPOSE.

To establish the Appraisal Subcommittee's (ASC) policy and procedures (Policy) on providing effective and reasonable accommodations (Reasonable Accommodations) to qualified individuals with disabilities (Qualified Individuals with Disabilities) who are employees (Employees) and applicants for employment (Applicants). This Policy also describes the procedures the ASC should use for processing requests for accommodations (Requests), unless the ASC can demonstrate that a particular accommodation would impose an undue hardship (Undue Hardship) on the operation of its program. This Policy will be posted on the ASC's website, and be available to job applicants and employees in written and accessible formats that meet an individual's particular needs, including braille, large print, etc., upon request.

II. DEFINITIONS

- A. Applicant: An individual who has applied to a position or positions, including those who have been selected for an interview.
- B. Authorized Individual: A third-party individual acting on behalf of the Employee or Applicant with a Disability requesting an accommodation. Examples of an Authorized Individual may include a family member, friend, health care professional, or other representative acting on the individual's behalf. An Authorized Individual may make a Request on behalf of an Employee or Applicant, but the Deciding Official should confirm with the Employee or Applicant whether they want to continue proceeding with the Request. If this is not possible, the Deciding Official will process the Request as appropriate and will consult directly with the individual whose accommodation is being processed as soon as practicable.
- C. Authorizing Official: The individual with the final authority to determine whether a requested accommodation will be provided. The ASC's Authorizing Official is the EEO Director.
- D. Deciding Official: The supervisor or manager of the individual requesting the accommodation. The Deciding Official has the authority to make the initial determination whether a requested accommodation will be provided.
- E. Disability: With respect to an individual: (i) a physical or mental impairment that substantially limits one or more major life activities of such individual; (ii) a record of an impairment; or (iii) being regarded as having such an impairment¹.
- F. Employee: An individual employed by the Federal government, specifically the ASC. This term excludes contractors.
- G. Essential Job Functions: The fundamental job duties of the employment position the individual with a disability holds or desires. A function can be "essential" if, among other things, the position exists specifically to perform that function, there are a limited number of other

¹ Refers only to those impairments that meet the American with Disabilities Act (ADA) definition of Disability, as amended by the ADA Amendments Act of 2008 (ADAAA).

employees who could perform the function if it were assigned to them, or the function is specialized and the incumbent is hired based on his/her ability to perform it.

- H. Interactive Process: Exchange between the individual and the employer that starts with a Request and continues with a dialogue to understand all the relevant factors necessary to accommodate the Request. The interactive process may also include a request for medical information.
- I. Major Life Activities: generally include, but are not limited to, functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, standing, bending, lifting, and working. Major Life Activities also include the operation of a major bodily function, including functions of the immune system, special sense organs and skin; normal cell growth; and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system. In determining other examples of Major Life Activities, the term “major” shall not be interpreted strictly to create a demanding standard for disability.² Whether an activity is a “Major Life Activity” is not determined by reference to whether it is of “central importance to daily life.”
- J. Personal Assistance Services (PAS): Assistance needed by a person with a targeted disability (Targeted Disability) with performing activities of daily living that an individual would typically perform if he or she did not have a disability, and that is not otherwise required as a Reasonable Accommodation. PAS are personal in nature and require a high degree of confidence/trust on the part of the employee in the PAS provider’s ability to perform their assigned tasks effectively and safely.
- K. Physical or Mental Impairment: (a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic and lymphatic, skin, and endocrine. (b) Any mental or psychological disorder, such as an intellectual Disability, organic brain syndrome, emotional or mental illness, or specific learning disability.
- L. Qualified Individual with a Disability: An individual that satisfies the requisite skill, experience, education, or other requirements of an employment position that he or she holds or seeks, and who can perform the essential job functions, with or without a reasonable accommodation.
- M. Reasonable Accommodation: a change in the work environment or in the application process that would enable a Qualified Individual with a Disability who is an Employee or Applicant to enjoy equal employment opportunities. The removal of an essential job function is not considered to be a Reasonable Accommodation.

There are three categories of Reasonable Accommodations:

1. modifications or adjustments to a job application process that enable a Qualified Individual with a Disability who is an Applicant to be considered for employment/appointment with the Agency (such as providing application forms in alternative formats like large print or Braille); or

² ADAAA section 2(b)(4) (Findings and Purposes).

2. modifications or adjustments to the work environment that enable a Qualified Individual with a Disability who is an Employee to perform the Essential Job Functions of that position (such as providing sign language interpreters and making materials available in Braille or large print); or
3. modifications or adjustments that enable a Qualified Individual with a Disability who is an Employee to enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated employees without disabilities.

The removal of an Essential Job Function is not considered to be a Reasonable Accommodation.

- N. Reassignment: When it is determined that no other Reasonable Accommodation will permit an Employee who, because of a Disability, cannot perform the essential functions of his or her current position, Reassignment, to a vacant position, is a form of Reasonable Accommodation. It may be provided to an Employee who, because of a Disability, can no longer successfully perform the Essential Job Functions of their current job, with or without a Reasonable Accommodation. Where possible, Reassignment is to an equivalent position, but if no equivalent position is available, may be to a lower level position that is as close as possible to the Employee's current position. If the Employee is qualified for such a position, the Employee will be reassigned to the new job without competition. Reassignments are usually an accommodation of last resort.

Assistance will be provided to supervisors and other relevant Agency Employees to search for available vacancies when considering reassignment as a Reasonable Accommodation.

- O. Request: a statement by an individual with a Disability that he/she needs an adjustment or change at work for a reason related to a medical condition, whether oral or written. A Request may be made at any time when such an individual determines an accommodation is needed.
- P. Requestor: A Qualified Individual with a Disability who is an Applicant or Employee who needs a modification to participate in the hiring process, perform essential job functions, or enjoy equal benefits of employment.
- Q. Targeted Disability: a disability that is designated as a “targeted disability or health condition” on the Office of Personnel Management's Standard Form 256 or that falls under one of the first 12 categories of disability listed in Part A of question 5 of the Equal Employment Opportunity Commission's Demographic Information on Applicants form.³
- R. Undue Hardship: when a specific accommodation would require significant difficulty or expense for the Agency.

III. PROCESS AND PROCEDURES

A. Requests

Requests for Accommodations may be submitted by an Employee, Applicant, or Authorized Individual orally or in writing at any time when a need for such an accommodation arises. An individual does not need to have a particular accommodation in mind before making a Request. Written Requests using the appropriate form in Appendix I are encouraged, however Requests

³ These Targeted Disabilities include developmental disabilities; traumatic brain injuries; deafness or serious difficulty hearing; blindness or serious difficulty seeing even when wearing glasses; missing extremities; significant mobility impairments; partial or complete paralysis; epilepsy or other seizure disorders; intellectual disabilities; significant psychiatric disorders; dwarfism; and significant disfigurement.

need not include specific verbiage such as “Reasonable Accommodation,” “Rehabilitation Act,” or “Americans with Disabilities Act.”

1. Employees

Employees with Disabilities may submit their accommodation Requests to their Deciding Official, who is the Employee’s 1st level supervisor.

Employees who have recurring or on-going Requests for accommodation do not have to submit a new Request each time if it involves the same or similar accommodation, Request that was previously provided and if the original accommodation was approved with the knowledge that the accommodation would be recurring or on-going. Employees should give appropriate advance notice each time the recurring accommodation is needed, unless otherwise arranged with the Deciding Official. Where feasible, Employees should notify the Deciding Official at least 10 business days before the date the accommodation is needed to allow sufficient time to coordinate the accommodation. Examples of recurring or on-going Requests include, but are not limited to, sign language interpreter services and readers.

2. Applicants

Applicants may submit Requests for accommodation per the guidelines outlined in the job announcement. ASC is committed to providing reasonable accommodations to Qualified Applicants, particularly during the interview stage. Further guidance on requesting accommodations will be issued to candidates invited to interview.

Requests for accommodation from Employees should be submitted using the Employee Request for Accommodation form in Appendix I. Required information includes the Employee name and daytime telephone number; a description of the disability; appropriate medical information where the disability or need for accommodation is not obvious; description of the accommodation requested, if known, and an explanation of how it would enable the Employee to perform the Essential Job Functions, the date of the request and signature of the Requestor. Employees may track the processing of requests for Reasonable Accommodations by contacting their respective Deciding Official or the EEO Director at eeo@asc.gov.

B. Medical Information

The Deciding Official and/or Authorizing Official may request medical information that is sufficient to explain: (1) the nature, severity, and duration of the individual’s disability; (2) the activities that the disability limits; (3) the extent to which the disability limits the employee’s ability to perform the activities; (4) the need for Reasonable Accommodation; (5) any records of prior accommodation; and (6) how the requested accommodation, will assist the individual in applying for a job, perform the Essential Job Functions, and/or enjoy the benefits and privileges of the workplace.⁴ The medical letter should be dated and signed by the clearly identified doctor. The agency will not be expected to adhere to its usual timelines if an individual’s health professional fails to provide needed documentation in a timely manner. The ASC may toll the timeframes once it has requested medical documentation. However, the processing timeframe

⁴ Under the Rehabilitation Act, an agency is entitled to know that a requestor has a covered disability and needs an accommodation. Accordingly, when a disability and/or need for accommodation is not obvious or known to the agency, the agency may ask that the individual provide reasonable documentation about the disability and functional limitations. That said, under the Rehabilitation Act, the agency may not request documentation where: (a) the disability and need for accommodation is obvious; or, (b) where the individual has already provided the agency with sufficient information to document the existence of the disability and/or functional limitations. 29 C.F.R. § 1614.203(d)(3)(i)(I).

resumes as soon as medical documentation is received.

If the Employee does not provide sufficient documentation from their own health care provider or other appropriate professional to substantiate the existence of a Disability and the need for a Reasonable Accommodation, the Agency may request additional information or deny the Request. The ASC has the right to have medical information reviewed by a medical expert chosen by the Agency at the Agency's expense.

The ASC is obligated to keep medical information confidential, in accordance with applicable laws and regulations, as well as, the limited circumstances under which the ASC may disclose such information. Such limited circumstances of disclosures may include to managers and supervisors entitled to whatever information is necessary to implement restrictions on the work or duties of the employee or to provide a Reasonable Accommodation; to personnel for first aid and safety reasons if the disability might require emergency treatment; or to officials that investigate the agency's compliance with the Rehabilitation Act. The ASC will keep medical information separate from the individual's personnel files.

C. Personal Assistance Services

PAS are services that help Employees with Targeted Disabilities perform basic activities of daily living at work. PAS requests will be processed in a similar manner to Requests for accommodations. The ASC shall determine whether to provide a PAS during work hours and job-related travel if:

1. The Employee requires such services because of a Targeted Disability;
2. Provision of such services would, together with any Reasonable Accommodations required under the standards set forth in Chapter XIV part 1630 of Title 29, enable the Employee to perform the Essential Functions of his or her position; and
3. Provision of such services would not impose Undue Hardship on the agency.

Services provided are personal in nature and require a high degree of confidence/trust on the part of the employee in the PAS provider's ability to perform their assigned tasks effectively and safely. PAS must be provided by a PAS provider with extensive experience working with people with disabilities and providing direct and indirect assistance with activities of daily living. A PAS provider may be required to provide PAS to more than one individual and may be required to perform tasks unrelated to the PAS, if doing so does not result in a failure to provide PAS in a timely manner.

The process for requesting PAS, the process for determining whether such services are required, and the agency's right to deny such requests are the same as for Reasonable Accommodations. Employees with Targeted Disabilities may request PAS by contacting their supervisor, a more senior official in their chain of command, or the EEO Director. The ASC is prohibited from taking adverse actions against job applicants or employees based on their need for, or perceived need for, PAS.

D. Interactive Process

The primary goal of the Interactive Process is to respond to Requests for accommodations and to remove obstacles in the workplace that interfere with Applicants' and Employees' opportunity for equal employment in as short a time frame as reasonably possible. Toward this end, managers, supervisors, and Employees at all levels involved in the process must make good faith efforts to participate in the accommodation process and help to ensure expeditious consideration of requests and delivery of effective Reasonable Accommodations.

E. Time Limits

A Request, whether oral or written, triggers the time limits for processing and providing or denying an accommodation. Once a Request is received, absent extenuating circumstances, the maximum time limits for finalizing Requests for accommodation are:

For Applicant Requests. (i) No more than fifteen (15) business days from the date of receiving the Request for accommodation, if the Request relates to an Applicant's participation in the hiring process.

For Employee Requests. (i) No more than fifteen (15) business days from the date of receiving the Request for accommodation, when the Request is very simple, does not require medical documentation, and does not involve extenuating circumstances. (ii) No more than thirty (30) business days from the date of receiving the Request for accommodation, when the Request requires medical documentation. (iii) No more than sixty (60) business days from the date of receiving a Request for accommodation that requires considering reassignment to a vacant position as a possible accommodation. A complete Employee Request includes medical documentation, if applicable.

Where the accommodation can be provided in less than the maximum time frame, failure to provide a Reasonable Accommodation in a prompt manner may result in a violation of the Rehabilitation Act.

F. Expedited Processing

In certain circumstances, a Request may require expedited processing for Reasonable Accommodations that are needed sooner than the maximum time frame. Expedited processing for Requests may be required if the accommodation is needed, for example: (1) to enable a Qualified Individual with a Disability to apply for a job; or, (2) the accommodation is needed for a specific Agency activity that is scheduled to occur shortly.

G. Approval

Once the Deciding Official has reviewed an Employee's Request and determined that approving the Reasonable Accommodation is appropriate, the Request will be forwarded to the Authorizing Official for ultimate agency clearance. The Authorizing Official serves as the last agency approval authority to ensure the proposed accommodation aligns with budgetary and operational requirements.

Upon final clearance, the Authorizing Official will provide the formal written notification to the Employee (See Appendix II)

Applicants will be notified via email during the arrangement for interviews.

When an individual requests and is approved for a type of accommodation that will be needed on a repeated basis (e.g., a sign language interpreter, Communication Access Realtime Translation (CART) Services, or readers, the ASC approval notification will indicate that and the individual will not be required to submit subsequent Requests.

H. Delay

When all the facts and circumstances known to the Agency make it reasonably likely that the individual will be entitled to an accommodation, but the accommodation cannot be provided

immediately, the ASC must provide the individual with an interim accommodation that allows the individual to perform some or all of the Essential Job Functions, absent Undue Hardship.

Where there is a delay in either processing a Request for accommodation or providing an accommodation, the ASC will notify the individual of the reason for delay, including any extenuating circumstances that justify the delay.

I. Denial of a Request

The ASC will provide a Requestor who is denied a Reasonable Accommodation with a written notice at the time of denial (See Appendix III). The written notice will explain the reasons for the denial and notify the Requestor of any available internal appeal or informal dispute resolution processes. The written denial notice will be provided in an accessible format when requested.

Denials of Requests for accommodation must include information about individuals' rights to file an EEO complaint, pursuant to 29 C.F.R. § 1614.106, and other statutory processes, as appropriate. Written denials must also include instructions on how to file an EEO complaint and explain that the individual must initiate contact with an EEO Counselor within 45 calendar days of the denial, regardless of whether the applicant or employee participates in an informal dispute resolution process.

The Executive Director will determine when an accommodation Request would result in Undue Hardship. This determination will be made on a case-by-case basis, considering factors including but not limited to the nature and cost of the accommodation needed; and the impact of the accommodation on the operations of the Agency. Before denying a Request for accommodation based on Undue Hardship, the Executive Director must consider all resources available to the Agency as a whole, excluding those designated by statute for a specific purpose.

The Executive Director should ensure that reasonable Requests are not denied for reasons of cost alone, and that individuals with Disabilities are not excluded from employment due to the anticipated cost of a Reasonable Accommodation, if the resources available to the ASC would enable it to provide an effective Reasonable Accommodation without Undue Hardship.

J. Reconsideration

If a Request for an accommodation is denied, the Employee may request reconsideration (Reconsideration Request) of the decision to the ASC Executive Director. A Reconsideration Request does not toll the deadlines for filing an EEO complaint, a Merit Systems Protection Board (MSPB) appeal, an administrative grievance, or any other administrative process. If the Employee seeks Reconsideration Request, they must ask the Executive Director to reconsider the decision within 10 business days of notification about the decision.

The Employee should present additional information, if any, to support their Reconsideration Request at that time. The Executive Director will respond to the Reconsideration Request within 10 business days. The Executive Director should notify the Employee, in writing, of their decision on the Reconsideration Request.

K. Record Keeping

The ASC shall keep a record of each Request, which should include at a minimum: the specific accommodation requested and/or provided; the job (occupational series, grade level, and agency

component) sought by requesting Applicant or held by the Employee; whether the accommodation was needed to apply for a job, perform the Essential Job Functions, or enjoy the benefits and privileges of employment; whether the Request was granted or denied; the basis of the denial; and the number of days taken to process the Request. Such information will be used to determine whether it is complying with the nondiscrimination and affirmative action requirements imposed under Section 501, and to make such records available to the Equal Employment Opportunity Commission (EEOC) upon their Request.

L. The EEO Complaint Process

An Employee or Applicant who believes they were unlawfully denied an accommodation and have been discriminated against based on a Disability, may file a complaint of discrimination within 45 calendar-days after receiving the written response to their Request for accommodation. An Employee or Applicant may also file a complaint alleging retaliation as a result of requesting an accommodation or otherwise participating in the process to obtain one. Employees and Applicants may contact the EEO Director at eeo@asc.gov.

IV. POLICY ASSISTANCE.

Questions concerning this Policy should be addressed to the ASC's Office of General Counsel. Resource materials and guidance are available on the EEOC's public website.⁵

⁵ The following guides may be particularly helpful to supervisory and managerial employees: (1) Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees Under the Americans With Disabilities Act (July 27, 2000), <https://www.eeoc.gov/policy/docs/guidance-inquiries.html>; (2) EEOC Enforcement Guidance on Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act (October 17, 2002), <https://www.eeoc.gov/policy/docs/accommodation.html#reassignment>.

Appendix I



Employee Request for Accommodation Form

Information on Requestor

Name:

Office:

Telephone Number:

Email Address:

Information on Request

Date Accommodation Needed: _____

Time Sensitive: YES or NO Need (check one):

Description of the Disability (please attach any appropriate medical information where the disability or need for accommodation is not obvious):

Reason(s): (please include the description of the accommodation requested, if known, and an explanation of how it would enable the you to perform your Essential Job Functions, or how it would assist you enjoy equal benefits of employment):

Signature of Requestor:

Date:

Signature of Deciding Official:

Approval Date:

Appendix II



Letter Approving Employee Request for Accommodation

[Date]

[Employee's Name]

[Employee's Email Address]

Dear [Name]:

This letter is in response to your request for an accommodation to [perform the essential job functions of your position OR enjoy equal access to the work environment as enjoyed by other similarly situated employees].

We have approved the following accommodation(s): [list accommodations]. These accommodations are considered the most effective given your essential job functions and our operational necessities. These accommodations will be implemented and effective on [date].

[If submitted health care provider's note- The health care provider's note that you provided to us on [date] stated that you have the following work restriction(s): [list restrictions]. We met with you to discuss possible accommodations needed because of these restrictions on [date].]

Your records will be maintained confidentiality, in accordance with applicable laws and regulations. Please contact me at [phone number and email address] if you have any questions.

Sincerely,

[Authorizing

Official]

Appendix III



Letter Denying Employee or Applicant Request for Accommodation

[Date]

[Employee or Applicant's Name]

[Employee or Applicant's Email Address]

Dear [Name]:

This letter is in response to your request for an accommodation to [perform the essential job functions of your position OR enjoy equal access to the work environment as enjoyed by other similarly situated employees OR for modifications or adjustments to a job application process that would enable you to be considered for employment/appointment with the Agency].

The health care provider's note that you provided to us on [date] stated that you have the following restrictions: [list restrictions]. We met with you to discuss possible accommodations needed because of these limitations on [date].

After a careful review of your request, we have determined that we are unable to provide you with a reasonable accommodation at this time because of [reason].

[IF Reassigning- Since we are unable to reasonably accommodate you in your current job, we will attempt to accommodate you by reassigning you to [position and description] for which you are qualified. If you would like to discuss alternative accommodations, please contact me at [phone number].]

You have the right to request a reconsideration (Reconsideration Request) to the Executive Director of this decision within ten (10) business days of this decision. A Reconsideration Request should include additional information, if any, to support your request.

If you believe you were unlawfully denied an accommodation, have been discriminated against based on a Disability or another EEO protected class such as race, color, religion, sex, national origin, older age (beginning at age 40), disability, genetic information (including family medical history), or experienced an undue delay in processing and granting an accommodation, you may file a complaint of discrimination and/or failure to accommodate within 45 calendar-days after receiving this decision. You may contact the ASC Executive Director [Enter contact info of ED].

Your records related to this accommodation request will be maintained in accordance with all applicable laws and regulations. You may request a copy of this decision in writing, in an accessible format. Please contact me at [phone number] if you have questions.

Sincerely,

Authorizing

Official]