



## Reasonable Accommodation

When the OIG knows of physical/mental limitations/disabilities of employees and job applicants, it will provide reasonable accommodation to ensure individuals enjoy equal employment opportunity (EEO), except in situations where doing so would cause an undue hardship on the operation of OIG programs.

### **Federal laws and statutes pertaining to Reasonable Accommodations and individuals with disabilities:**

[Title I and Title V of the Americans with Disabilities Act of 1990](#) (ADA), which prohibit employment discrimination against qualified individuals with disabilities in the private sector, and in state and local governments;

[Sections 501 and 505 of the Rehabilitation Act of 1973](#), which prohibit discrimination against qualified individuals with disabilities who work in the federal government; and

[EEOC Questions and Answers](#): promoting individuals with disabilities in the Federal Workforce.

### **Is the Office of Inspector General (OIG) required to have written reasonable accommodation procedures?**

Yes. Executive Order (E.O.) 13164 requires that all executive branch federal agencies have written procedures for processing disability accommodation requests, providing employees as well as supervisors and managers with an easy-to-understand, step-by-step explanation of the reasonable accommodation process. Each agency must make these procedures readily available to all applicants and employees and accessible to individuals with disabilities, with timely notice given of any revisions. The procedures can be posted on the agency's website or intranet service and included in employee handbooks. They should also be available in designated locations such as agency libraries, EEO offices, and/or personnel offices.

### **What is reasonable accommodation?**

An adjustment or alteration that enables a person with a disability to apply for a job, perform job duties, or enjoy the benefits and privileges of employment, including:

- Changing a job application process so an individual with a disability can be considered for a job (such as accepting oral applications)
- Enabling an individual with a disability to perform the essential functions of the job (such as providing sign language interpreters)
- Ensuring that employees with disabilities enjoy equal benefits and privileges of employment (such as removing physical barriers in an organization's cafeteria)
- Modified work schedule (Such as flexi-time for individuals on medications that make it hard to get to work at a specific time)

### **How do I request reasonable accommodation?**

1. Notify (orally or in writing) your immediate supervisor/manager, yourself; or

2. Have a family member, friend, health care professional, or other representative notify (orally or in writing) your immediate supervisor/manager, on your behalf. (In this case, the supervisor/manager or their designee may contact the employee/applicant to ensure that the employee/applicant needs and wants an accommodation.)

**Please note:** While your supervisor/manager will accept oral requests, the OIG recommends and prefers written requests to prevent confusion and simplify record-keeping. The supervisor/manager will document in writing all oral requests as it is a requirement for each agency to document types of requests, approval/disapproval, accommodations provided, number of days it takes to provide the accommodation, etc.

### **Who handles and makes the decision on my request for reasonable accommodation?**

Upon completion of the interactive process (see [definitions](#)), your supervisor/manager will make a recommendation to your Assistant Inspector General (AIG) who serves as the deciding official with input from the OIG EEO Manager, Human Resources (HR) Officer, and Counsel.

The OIG EEO Manager acts as an advisor to requesters, the supervisor/manager, the AIG, HR Officer, Counsel, and the Deputy Assistant Inspector General for Management (DAIGM) as needed.

The DAIGM will handle any appeals of the AIG's decisions in the event that the request for reconsideration by the AIG has been denied.

### **Do I have to submit medical documentation to make a request?**

1. When the disability and/or need for accommodation is obvious or already known to the supervisor/manager, AIG, EEO Manager, HR Officer, Counsel, and/or the DAIGM, the OIG will not ask you to submit medical documentation.
2. When the disability and/or need for accommodation is not obvious or known to the supervisor/manager, AIG, HR Officer, Counsel, and/or DAIGM, the OIG may ask you to submit medical documentation in order to better evaluate a request only after consulting with the EEO Manager.
3. If the EEO Manager concurs with the request for medical documentation, the request will follow the requirements set forth in the Equal Employment Opportunity Commission's Enforcement Guidance: "*Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act*," available at <http://www.eeoc.gov/policy/docs/guidance-inquiries.html>.

**NOTE:** Documentation only needs to substantiate a limitation/disability and will be in writing.

The type of medical information the OIG most often will need is:

- The past, present, and expected future nature, severity and duration of the impairment (e.g., functional limitations, symptoms, side effects of any treatments, etc.);
- The activities the impairment limits;
- The extent of the limitations; and

- Why the individual requires reasonable accommodation or the particular reasonable accommodation requested, and how the reasonable accommodation will assist the individual to apply for a job, perform the essential functions of the job, or enjoy a benefit of the workplace. The OIG is entitled only to information sufficient to show that the applicant or employee has a disability and needs a reasonable accommodation. The OIG may not request documentation unrelated to the claimed limitation/disability.

The supervisor/manager or other management official will ask the requester to obtain documentation from an appropriate certified professional, such as a doctor, social worker, or rehabilitation counselor. The OIG will provide, for the certified professional, information on the nature of the job, the essential functions the individual is expected to perform, and any other relevant information.

4. Once documentation is received the supervisor/manager will consult with EEO Manager, HR Officer and Counsel before making a recommendation to the AIG. If the documentation is insufficient for determining whether an accommodation is appropriate, he/she may ask for more documentation. The supervisor/manager will explain to the requester specifically why the information isn't sufficient, what additional information is needed, and the reason the information is necessary for a determination of the reasonable accommodation request. The individual will then need to obtain the needed information. Alternatively, the individual requesting the accommodation may agree to sign a limited release, giving the supervisor/manager or other agency official or his/her designee the authority to submit a list of specific questions to the requestor's appropriate certified professional.
5. If the supervisor/manager does not have sufficient information after 30-business-days from the last request, he/she may require the requester be examined by a Public Health Service physician scheduled by the OIG at OIG expense, after consultation with the EEO Manager, Counsel and HR Officer.
6. All submitted documentation, whether requested or not, will be considered.
7. If the requester does not provide or cooperate in the effort to obtain adequate medical documentation, the request will be denied.

### **How do we (employee and agency) determine what is the appropriate Reasonable Accommodation?**

#### **The Interactive Process –**

1. Communication is a priority throughout the entire process. OIG management, EEO, HR and Counsel Officials involved in the provision of reasonable accommodation will take a proactive approach in searching out and considering possible accommodations, including consulting appropriate resources for assistance. The employee requesting the accommodation will also participate, to the extent possible, in helping to identify an effective accommodation.
2. On-going communication is particularly important where the specific limitation, problem, or barrier is unclear, an effective accommodation is not obvious, or the parties are considering a number of reasonable accommodations. In cases where the disability, the need for accommodation, and type of accommodation that will be provided are clear, extensive discussions are not necessary. Even so, the supervisor/manager and requester should talk to each other to make sure that there is a full exchange of relevant information before forwarding a recommendation to your deciding AIG.

**NOTE:** If providing a particular reasonable accommodation would result in undue hardship but another effective accommodation is available that would not, the agency must provide the other accommodation.

### **What are the time frames for processing requests for Reasonable Accommodation?**

As soon as your AIG determines a reasonable accommodation will be provided, the decision will be immediately communicated to the individual. If the accommodation cannot be provided immediately, the AIG must inform the individual of the projected time frame for providing the accommodation.

1. The time necessary to process a request will depend on the nature of the accommodation requested and whether it is necessary to obtain supporting information. At a minimum, however, OIG will process all approved requests as soon as possible, but not to exceed 30 business days unless extenuating circumstances are present.

**If the request requires obtaining supporting medical information** to determine whether the requesting individual has a disability and/or to identify the functional limitations, the following will apply:

The supervisor/manager will request documentation as soon as possible after his/her receipt of the request for accommodation, but before the expiration of the 30-business-day period. Thereafter, the 30-day period timeframe is frozen until sufficient medical documentation is received. The OIG recognizes the need for documentation may not become apparent until after the interactive process has begun.

### **What kind of accommodations can be easily and routinely provided within the 30-day time period?**

Accommodations that may be provided easily and routinely, provided there are no unforeseen extenuating circumstances, include:

- (a) An employee with diabetes who sits in an open area asks for four breaks a day to test his/her blood sugar levels so that he/she may do these tests in private.
- (b) An employee who takes medication(s) that make it hard for him/her to get up in time to get to the office at 9:00 a.m., requests he/she be allowed to start work at 10:00 a.m. and still put in an 8-hour day.
- (c) A supervisor distributes detailed agendas at the beginning of each staff meeting. An employee with a learning disability asks the agenda be distributed ahead of time because the disability makes it difficult to read and he/she needs more time to prepare.

NOTE: There will still be a need to ensure the accommodation does not create an undue hardship on the OIG or its operations.

### **What if my request for accommodation does involve extenuating or mitigating circumstances?**

- a. When extenuating circumstances are present, the time for processing a request for reasonable accommodation and providing the accommodation will be extended as deemed necessary. The OIG will act as quickly as reasonably possible in processing requests and providing accommodations. Some examples of extenuating circumstances are as follows:

- (1) The purchase of equipment including furniture items may take longer than 30 business days because of requirements under the Federal Acquisition Regulations and EEOC Order 360.001, Acquisition Policies and Procedures.
  - (2) Any of the items needed are on back-order; the vendor typically used by the OIG for goods or services has unexpectedly gone out of business; or the vendor cannot promptly supply the needed goods or services, and another vendor is not immediately available.
  - (3) The employee with a disability needs to try working with equipment on a trial basis to ensure it is effective before the bureau buys the equipment.
  - (4) New staff needs to be hired or contracted for, or an accommodation involves the removal of architectural barriers.
  - (5) There is an outstanding initial or follow-up request for medical information.
- b. When extenuating circumstances are present, the supervisor/manager will notify the individual, in writing, of the reason for the delay, and the approximate date on which a decision, or provision of the reasonable accommodation, is expected.
- c. If there is a delay in providing an accommodation that has been approved, the supervisor/manager in consultation with the EEO Manager, HR Officer and Counsel will determine whether **temporary measures** can be taken to assist the employee, provided the temporary measures:
- (1) do not unreasonably interfere with the operations of the OIG; and
  - (2) the employee is informed that the relief/alternative being provided is temporary.

### **Can my request be denied?**

There are times where an employee or applicant for employment may have their request for reasonable accommodation denied by the OIG. The request will only be denied after having exhausted all opportunities to provide the accommodations in good faith.

When the AIG determines a request for reasonable accommodation will be denied, a written decision will be provided to the individual who requested the accommodation. The decision will be written in plain language, clearly stating the specific reasons for the denial. The denial notice should include any alternatives offered during the interactive process, and the reasons the alternatives were refused. The written notice of denial must also inform the individual that he/she has the right to file an EEO complaint and may have rights to pursue Merit Systems Protection Board and/or grievance procedures. In addition, the notice should also explain OIG procedures available for dispute resolution.

Possible reasons for the denial (e.g., why **the accommodation would not be effective** or why **it would result in undue hardship**) may include:

1. The requested accommodation would not be effective.
2. Providing the requested accommodation would result in undue hardship. A determination of undue hardship means the OIG finds that a specific accommodation would result in significant difficulty or expense, or would fundamentally alter the nature of the OIG's operations.

3. Medical documentation is inadequate to establish the individual has a disability and/or needs a reasonable accommodation.
4. The requested accommodation would require the removal of an essential function.
5. The requested accommodation would require the lowering of a performance or production standard.

### **What can I do if my request is denied?**

If you have received a letter of denial from your AIG and wish for reconsideration, you should first ask the AIG to reconsider the decision. You can present additional information in support of your request. The supervisor/manager should respond to the request for reconsideration as soon as feasibly possible but no longer than **10 business days**.

If the supervisor/manager does not reverse the decision, the individual may appeal the decision to the next level supervisor in their chain of command. The next level supervisor should respond to the request for reconsideration as soon as feasibly possible but no longer than **10 business days**. The next level supervisor will consult with the EEO Manager, Counsel and/or HR Officer before making a final decision and responding to the requester.

**If I think I need an ergonomic evaluation of my office workspace, what do I do?** (Ergonomic evaluations are not necessarily limited as a “reasonable accommodation” for an individual with a disability.)

If you are experiencing pain or difficulty at your workspace, the OIG will arrange for an ergonomics specialist to evaluate the situation and recommend any improvements. This is an effort to ensure that any potential impact to an employee’s person is avoided both in the short and long term. To arrange for an ergonomic evaluation:

1. First:
  - a. Ask (orally or in writing) your immediate supervisor/manager; or
  - b. Have a family member, friend, health care professional, or other representative ask (orally or in writing) your supervisor/manager, on your behalf. (In this case, the supervisor/manager or their designee may contact the employee to ensure that the employee needs and/or wants an accommodation.
2. The supervisor/manager will request via email to [oig-om@treas.gov](mailto:oig-om@treas.gov) for the Office of Management to contact Departmental Offices to assign a specialist to evaluate your workspace situation and determine (within 3 work days) what steps the OIG and you can take to resolve any problems.

The OIG will seek to resolve all identified problems within 30 days, barring unforeseen mitigating circumstances, unless doing so would cause an undue hardship on the OIG. The supervisor/manager or other agency official will discuss all potential undue hardships with the EEO Manager, HR Officer, and Counsel.

### **Expedited Processing.**

In certain circumstances, a request for reasonable accommodation requires an expedited review and decision in a time frame that is shorter than the 30 business days discussed above. Examples include:

1. **An applicant applying for a job vacancy.** Depending on the timetable for receiving applications, conducting interviews, taking tests, and making hiring decisions, there may be a need to expedite a request for reasonable accommodation to ensure an applicant with a disability has an equal opportunity to apply for a job.
2. **An employee to attend a meeting scheduled to occur shortly.** For example, an employee may need a sign language interpreter for a meeting scheduled to take place in 5 days.

## **Relationship of Procedures to Statutory and Collective Bargaining Claims**

- A. Executive Order 13164 does not create new rights for applicants or employees; nor does it limit an individual's rights under the Rehabilitation Act. The policy and requirements described herein are in addition to statutory protections for persons with disabilities and the remedies they provide for the denial of requests for reasonable accommodation. Requirements governing the initiation of statutory claims, including time frames for filing such claims, remain unchanged.
- B. An individual who chooses to pursue remedies available under the EEO complaint process described in 29 CFR part 1614 for denial of reasonable accommodation must comply with the following:
  1. **EEO Complaint.** Contact an EEO counselor within 45 calendar days from the date of receipt of the written notice of denial;
  2. **MSPB Appeal.** Initiate an appeal within 30 days of an appealable adverse action as defined in 5 C.F.R. §1201.3.

## **Definitions**

**Disability.** An impairment that substantially limits one or more of the major life activities.

**Dispute Resolution Process.** Any voluntary mechanism through which an individual can request reconsideration of denial of reasonable accommodation, regardless of whether the person has started the EEO complaint process.

**Essential Function.** Those job duties that are so fundamental to the position the individual holds or desires he/she cannot do the job without performing them.

**Extenuating Circumstances.** Factors that could not reasonably have been anticipated or avoided in advance of the request for accommodation or limited situations in which unforeseen or unavoidable events prevent prompt processing and delivery of an accommodation. (e.g., identified software (Screen Reader) is not compatible with existing equipment.)

**Individual with a Disability.** A person who has a physical or mental impairment that substantially limits one or more of that person's major life activities, has a record of such impairment, or is regarded as having such an impairment.

**Interactive Process.** The process by which the individual requesting an accommodation and the supervisor/manager discuss the request for accommodation, determine whether an accommodation will be recommended for approval, and examine potential alternative accommodations.

**Major Life Activities.** Basic activities that the average person in the general population can perform with little or no difficulty, such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

**Qualified Individual with a Disability.** An individual with a disability who satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position.

**Reasonable Accommodation.** An adjustment or alteration that enables a qualified person with a disability to apply for a job, perform job duties, or enjoy benefits and privileges of employment. There are three categories of reasonable accommodations:

- modifications or adjustments to a job application process to permit an individual with a disability to be considered for a job (such as providing application forms in alternative formats like large print or Braille);
- modifications or adjustments to enable a qualified individual with a disability to perform the essential functions of the job (such as providing sign language interpreters); and
- modifications or adjustments that enable employees with disabilities to enjoy equal benefits and privileges of employment (such as removing physical barriers in an organization's cafeteria).

**Reassignment.** Reasonable accommodation of last resort, that, absent undue hardship, is provided to employees (not applicants) who, because of a disability, can no longer perform the essential functions of their job, with or without reasonable accommodation. Reassignments are made only to funded vacant positions and for employees who are qualified to fill the vacant position.

**Request for Reasonable Accommodation.** A statement that an individual needs an adjustment or change at work, in the application process, or in a benefit or privilege of employment for a reason related to a medical condition.

**Requester.** A qualified employee, applicant with a disability, or an individual acting on his/her behalf, who requests reasonable accommodation.

**Undue Hardship.** An action requiring significant difficulty or expense when considered in light of factors such as the agency's size, financial resources, and the nature and structure of the position. Determination of undue hardship is always made on a case-by-case basis, considering factors such as the nature and cost of the reasonable accommodation needed and the impact of the reasonable accommodation on the operations of the agency.

If you have any questions concerning Reasonable Accommodations and your rights and/or responsibilities please feel free to contact the EEO Manager, *Raymond F. Campbell* at 202.927.5023 or e-mail [campbellr@oig.treas.gov](mailto:campbellr@oig.treas.gov).