



FEDERAL ELECTION COMMISSION
Washington, DC 20463

Reasonable Accommodation Policy

PURPOSE

This policy is designed to describe the Federal Election Commission's (FEC) Reasonable Accommodation policy and the procedures to be followed when an accommodation is requested.

I. Introduction

It is the policy of the Federal Election Commission (FEC or Commission or Agency) to provide equal employment opportunity to all employees and applicants for employment, including qualified individuals with disabilities. In carrying out its goal to be a model employer of persons with disabilities, the Commission promotes full access, consideration, integration, promotion and retention of persons with disabilities across the broad range of its workforce. The Commission is committed to providing necessary reasonable accommodation to qualified employees and applicants with disabilities, consistent with all applicable laws, Executive Orders, regulations and Equal Employment Opportunity Commission (EEOC) guidelines. Managers and supervisors actively participate in achieving these goals. This document sets forth the requirements, procedures and other information that guides the FEC in responding to the reasonable accommodation requirements of its workforce.

II. Authorities

A. Section 501 of the Rehabilitation Act of 1973, as amended,

1. Prohibits discrimination on the basis of disability in Federal employment.
2. Requires Federal employers to ensure that their employment policies do not unnecessarily exclude or limit individuals with disabilities because of a job's structure or because of architectural, transportation, communication, procedural or attitudinal barriers.
3. Requires employers to make "reasonable accommodation" to the known physical or mental limitations of qualified applicants and employees unless the agency can demonstrate that the accommodation would impose an undue hardship on the operation of its program.

4. Prohibits use of selection criteria and standards which tend to screen out people with disabilities, unless such criteria have been determined through job analysis to be job-related and consistent with business necessity and an appropriate individualized assessment indicates that the job applicant cannot perform the essential functions of the job, with or without reasonable accommodation.

B. Executive Order 13164 dated July 26, 2000, “Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation,” mandates Federal agencies, among other things, to establish written procedures to facilitate the provision of reasonable accommodation.

C. The Americans with Disabilities Act of 1990 (ADA) amended Section 501 of the Rehabilitation Act by applying the employment nondiscrimination standards of the ADA (Title I) to Federal government employees and applicants for employment. It also stated that it is the obligation of the Federal government to be the “model employer of individuals with disabilities.”

III. Definitions

-“**Reasonable accommodation**” means modification or adjustment to a job application process, work environment, manner or circumstances under which a position is held or customarily performed, policies, practices or procedures that enables a qualified individual with a disability to enjoy equal employment opportunity without creating undue hardship upon the agency.

-“**Equal employment opportunity**” means an opportunity to be considered for a position a qualified applicant desires, to perform the essential job functions of a position or to enjoy the same benefits and privileges of employment as are available to a similarly situated applicant or employee without a disability.

-“**Person with a disability**” generally means a person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment.

-“**Substantially limits one or more major life activities**” means prevents a person from being able to perform a major life activity that the average person in the general population can perform; or significantly restricts the condition, manner, or duration under which an individual can perform a particular major life activity as compared to the condition, manner, or duration under which the average person in the general population can perform that same major life activity.

-“**Major life activities**” are functions such as, but not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, thinking, sitting, standing, reaching, interacting with others, concentrating, lifting, sleeping, reproduction, running and working.

-A **“physical impairment”** is 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, hemic and lymphatic, skin and endocrine.

-A **“mental impairment”** is any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

-**“Qualified individual with a disability”** generally means a person with a disability who meets the skill, experience, education and other job-related requirements of the position held or sought, and who, with or without reasonable accommodation, can perform the essential functions of the job. Although many individuals with disabilities can apply for and perform jobs without any reasonable accommodations, there are workplace barriers that keep others from performing jobs which they could do with some form of accommodation. Hence, the definition of “qualified individual with a disability” includes the terms “with or without reasonable accommodation” to account for all covered circumstances.

-**“Undue hardship”** is a condition imposed upon an agency that prevents it from providing an accommodation that would require significant difficulty or expense. It is determined by considering cost, financial resources, safety, security, and the impact on the operations of the Agency. Other considerations include number of employees, size of budget, the nature of the accommodation needed and the type of operation of the agency including the composition and structure of the workforce and.

-**“Essential functions”** mean the fundamental job duties of the position that the individual with the disability holds or seeks. The term “essential functions” does not include marginal functions of the position. A job function may be considered essential for any of several reasons, including but not limited to the following:

- The duties are so fundamental that removing the function would fundamentally change the job;
- The position exists specifically to perform that function;
- The function is specialized and the person is hired based on his or her specific ability to perform the particular function; or
- The FEC has only a limited number of employees who can perform the function.

-**“Health care professional”** means a person who has completed a course of study and is licensed to practice in a field of health care, which includes the diagnosis and assessment of the particular disability or disabilities in question.

IV. Reasonable Accommodation in General

A. What is Reasonable Accommodation?

Reasonable accommodation is any change or adjustment to a job, the work environment or the way things are customarily done that enables a qualified individual with a disability to perform the essential functions of the position, in order to enjoy equal opportunity. It also means a modification or adjustment that enables an applicant or employee with a disability to enjoy benefits and privileges of employment as are enjoyed by other similarly situated employees without disabilities. Where appropriate, reasonable accommodation may include, but is not limited to:

- Making facilities readily accessible to and usable by persons with disabilities;
- Job restructuring;
- Part-time or modified work schedules;
- Acquiring or modifying equipment or devices such as Telecommunication Device for the Deaf (TDD);
- Adjusting or modifying examinations by changing tests, training materials or policies;
- Providing qualified readers or interpreters; and
- Reassignments to a suitable, vacant position, and other similar actions.

B. What are the Agency Requirements?

When an employee or job applicant initiates a request for reasonable accommodation, the Agency will engage in an interactive process to determine if the requester is a qualified individual with a disability. A person with a disability who is unable to perform the essential functions of the position, with or without reasonable accommodation, is not a “qualified” individual within the meaning of the Rehabilitation Act. If the employee or applicant is a qualified individual with a disability, the Agency will continue the interactive process with the employee or job applicant to find an effective accommodation, if possible.

An effective accommodation is one that allows equal opportunity for the qualified employee or applicant with a disability to be considered for positions and enjoy the benefits and privileges that are available to employees without disabilities. When the supervisor or Commission management has provided an effective accommodation, the reasonable accommodation obligation is satisfied.

Reasonable accommodation will be provided to all qualified individuals with disabilities, including part-time, full-time and “probationary” employees and applicants for employment unless providing such an accommodation will place an undue hardship on the agency. In providing an accommodation to a person with a disability, management considers the work-related needs of all employees.

Managers and supervisors are not required to eliminate essential functions of a position. Similarly, managers and supervisors are not required to lower production standards—whether qualitative or quantitative—that are applied uniformly to all employees. However, management may be required to provide reasonable accommodation to enable an employee with a disability to meet the production standards.

Personal items, such as a wheelchair, eyeglasses or a hearing aid needed by the individual for daily activities both on and off the job, are not the responsibility of the agency.

Note- Accommodation requests shall only be approved under these procedures if the individual requesting an accommodation is a “qualified” individual with a disability within the meaning of the Rehabilitation Act. Managers and supervisors may work with employees or applicants that are not “qualified” to come to a mutually acceptable arrangement. However, such arrangements are not “reasonable accommodations” nor are they entitlements. Employees or applicants operating under such arrangements are not considered “disabled” within the meaning of the Rehabilitation Act.

V. Roles and Responsibilities

A. Staff Director

The Staff Director of the FEC has agency-wide responsibility for implementing and administering the reasonable accommodation policies and requirements set forth in this document. Specifically, the Staff Director is responsible for delegating authority to the EEO Director to maintain centralized control over processing of accommodation requests, and for tracking efforts and results, for purposes of required data reporting to the EEOC. In performing these responsibilities, the Staff Director will designate a Reasonable Accommodation Coordinator (RAC), and ensure the provision of resources for required accommodations when necessary.

B. EEO Director

The FEC EEO Director is responsible for assuring that the Commission fulfills the obligations set forth in this document by establishing and monitoring an effective mechanism for processing and responding to reasonable accommodation requests. The EEO Director coordinates and monitors administrative functions such as training, tracking, and reporting reasonable accommodation requests via a reasonable accommodation tracking system. The EEO Director will prepare agency policies and procedures, consult with the RAC and the Office of General Counsel on the obligations of the Commission, prepare necessary reports on reasonable accommodation efforts and process EEO complaints where discrimination on the basis of a disability are alleged.

C. Office of Human Resources

The FEC's Office of Human Resources (HR) is responsible for accepting requests for accommodation made by applicants for employment. HR shall immediately forward all applicant requests for accommodation to the RAC for processing.

D. Reasonable Accommodation Coordinator (RAC)

The RAC is designated by the Staff Director and serves as the agency's liaison with supervisors, managers, applicants and employees regarding the provision of reasonable accommodation. The RAC works with requesting applicants, employees and relevant supervisors and managers in seeking sufficient information about the limitations of the disability and the essential functions of the position to determine the feasibility of the request or whether an alternative is possible. The RAC may consult with the EEO Director and/or the Office of General Counsel to seek guidance on the requirements of the law and whether alternatives are available. The RAC is responsible for tracking and providing information to the EEO Director about the agency's response to reasonable accommodation requests.

E. Managers and Supervisors (Including Selecting Officials)

FEC managers and supervisors are responsible for making reasonable accommodation to the known physical or mental limitations of qualified employees or job applicants with disabilities unless it can be shown the accommodation would impose an undue hardship on the Commission. Managers and supervisors should consult with the RAC to seek guidance on the requirements of the law and whether alternatives are available. Managers and supervisors also should report any request for accommodation not made directly to the RAC, to the RAC for appropriate monitoring and record keeping.

F. Individual Requesting Accommodation

The employee may initiate a request for reasonable accommodation orally, in writing or via any other mode of communication to his/her supervisor, any supervisor or manager in his/her chain of command or to the RAC. A job applicant requiring accommodation in the application process must make a request orally, in writing or via any other mode of communication to HR or the RAC.

The individual with a disability should describe the problem posed by the workplace barrier that affects his/her ability to perform the essential functions of the position. If the need for accommodation is not obvious, the individual with a disability should provide appropriate documentation to support the request. The employee or applicant's request should include a description of an accommodation that would allow equal participation in the FEC workforce or application process.

VI. Reasonable Accommodation Request Process

A. Key Points

A request for reasonable accommodation is 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 disability. A request for reasonable accommodation does not have to include any special words such as, “reasonable accommodation,” “disability,” or “Rehabilitation Act.” The request may be made orally, in writing, or via any other means of communication.

It is the responsibility of the requesting employee to provide appropriate medical documentation related to the functional impairment at issue and the requested accommodation where the disability and/or need for accommodation is not obvious. Medical documentation is generally not necessary when both the disability and the need for reasonable accommodation are obvious or when the individual has already provided sufficient information to substantiate the disability and the need for the requested accommodation.

A family member, health care professional or other representative may request an accommodation on behalf of an employee or applicant.

Upon receipt of a request for reasonable accommodation, the FEC should acknowledge receipt and begin immediate evaluation of the request. The FEC should endeavor to complete consideration and provide accommodation within a reasonable time frame. If consideration of the request for an accommodation requires more than **30 days**, the requesting individual should be informed of the delay, the reason(s) additional time is required, and what additional documentation or information, if any, is required.

B. Making a Request

Employees

Employees in need of reasonable accommodation initiate a request by making the request orally, in writing or by any other means of communication. The request may be made to a first or second line supervisor, any other supervisor in the individual’s chain of command or directly to the FEC RAC.

Applicant for employment

Requests for reasonable accommodation made by an applicant may be made orally, in writing or by any other means of communication to HR or the RAC. The request should identify the accommodation needed, if known. Although an applicant with a disability may request a reasonable accommodation at any time during the application process, the applicant should, to the greatest extent possible, make the request as soon as he/she is aware of a barrier in the process.

Third Party Request

A family member, health care professional or other representative may also initiate requests for accommodation. Before acting on a third party request, the FEC will consult

with the employee or applicant for employment to confirm that the employee or applicant wishes the request to be acted upon.

Record Keeping

For monitoring and record keeping purposes, either the requesting individual or the receiving management official shall notify the RAC of all requests, who will also notify the EEO Director.

C. Expedited processing

Certain requests require expedited processing, for example, to enable an applicant to apply for a job or to participate in a specific Commission activity that is scheduled to occur shortly. In those instances, the supervisor or RAC will strive to expedite the processing of the request before the deadline or activity.

D. Interactive Communication Process

1. An interactive communication process shall begin within **(5) five calendar days** after the reasonable accommodation request is received. The purpose of the interactive process is to determine what, if any, accommodation should be provided. This process is necessary to clarify what the requesting individual needs, the nature of the disability and its impact on the employee's job performance, and what would be an effective accommodation that would enable the employee to perform the essential job functions.
2. If an **employee** makes a request for accommodation to a supervisor or manager, as the subject matter experts on the essential job functions, the immediate supervisor and/or second-line supervisor shall begin the review of a request for accommodation and initiate an interactive communication process with the requesting individual.

If an **applicant** makes a request for accommodation, the RAC, with the assistance of the selecting official, shall begin the review of a request for accommodation and initiate an interactive communication process with the requesting individual.

If a request for accommodation is made initially to the RAC, the RAC shall review the request and engage in interactive communication with the applicant or employee, the supervisor(s) and/or the Division or Office head in order to assist the parties in reaching an appropriate determination.

3. Questions to be asked during the initial interactive process can include, but are not limited to the following:
 - Is the accommodation necessary to perform the duties of the position?
 - What effect will the accommodation have on the agency's operations and on the employee's performance?

- To what extent does the accommodation compensate for the employee or applicant's limitations?
- Will the accommodation give the person the opportunity to function, participate, or compete on a more equal basis with co-workers?
- Are there other accommodations that would accomplish the same purpose?

4. Interactive communication is a priority throughout the consideration of a request. It is particularly important where a specific problem or barrier is unclear; where an effective accommodation is not obvious; or where there may be more than one way to accommodate a barrier. The employee and the manager must actively exchange information in order to reach a resolution within the appropriate timeframe, normally within 30 calendar days absent extenuating circumstances.

E. Medical documentation

1. Where the disability and/or the need for accommodation are not obvious, the Commission may ask for reasonable medical documentation related to the individual's disability and functional impairment. The medical documentation is necessary so that the Commission can determine whether the employee or applicant has a covered disability that requires reasonable accommodation. Specifically, medical documentation may be requested in order to:

- Substantiate that the individual is a qualified individual with a disability within the meaning of the Rehabilitation Act;
- Determine whether an accommodation is needed and can be effective; and,
- Assess what kind of accommodation is necessary.

2. **Reasonable medical documentation** means that the FEC will require only the documentation that is needed to establish that a person has a covered disability, that the disability necessitates a reasonable accommodation and that the requested accommodation is appropriate, that it should satisfy the need of the requesting employee. The types of medical documentation that may be necessary could include, but are not limited to, information related to:

- The nature, severity and duration of the person's impairment;
- The activity or activities the impairment limits and the extent of the limitation;
- Why the person requires accommodation or the particular accommodation requested; and,
- How the requested accommodation will assist the individual to perform the essential job functions, enjoy a privilege or benefit of the workplace, or participate in the application process for consideration of job openings.

To facilitate effective answers to the above, the supervisor or manager should provide the employee or health care professional with copies of a current position description with essential functions, performance standards and any other information that clearly explains the duties of the position.

3. The requesting individual **may** supply documentation at the time of the initial request. This documentation shall be considered in the review process.
4. The agency may request additional documentation if what is submitted is insufficient for the agency to make a determination about the accommodation. If the information provided by the requesting individual is not sufficient for management to complete a review of the request, the RAC should explain the request for additional information to the employee or applicant, including, what medical documentation is required, and encourage the employee to obtain the information.
5. The requesting individual may seek the assistance of the agency in obtaining the necessary documentation by signing a limited medical release of information authorizing the RAC to submit specific questions to or otherwise contact the medical professional or health care provider.
6. The FEC will consider the requesting individual's failure or inability to submit requested medical documentation in determining whether to approve the request. Failure to provide sufficient documentation or to cooperate in efforts to obtain reasonable documentation may result in a denial of the request.
7. If the employee or applicant provided insufficient documentation to substantiate the existence of a disability and the need for reasonable accommodation, the Commission may request that the employee or applicant undergo a job-related medical examination at the Commission's expense. Failure to comply with the Commission's request that the employee or applicant undergo a medical examination at Commission expense may result in the denial of a reasonable accommodation.
8. The Commission may also have a medical expert, chosen by the agency at its expense, review any medical documentation submitted.
9. The requesting individual may request that only the RAC and a medical expert review his/her medical documentation. If the RAC, in consultation with the medical expert, determines that a reasonable accommodation is justified, s/he will inform the supervisor or managers of the necessary restrictions on the work or duties of the requesting individual and the necessary accommodation(s) without sharing the medical information.

F. Confidentiality Requirements Regarding Reasonable Accommodation

Under the Rehabilitation Act, medical information obtained in connection with the reasonable accommodation process must be kept confidential. This means that all medical information, including information about functional limitations and accommodation needs obtained by the FEC in connection with a request for reasonable accommodation, must be kept in files separated from the individual's Official Personnel File. It also means that any FEC employee who obtains or receives such information is strictly bound by these confidentiality requirements. Confidentiality applies to all aspects of the reasonable accommodation process.

The RAC will maintain custody of all medical records obtained or created during the processing of a request for reasonable accommodation and will respond to all requests for disclosure of the records. The medical records will likely include any documentation of the individual's disability or need for reasonable accommodation, as well as information about the disposition of that individual's accommodation request.

All records will be maintained and disclosed in accordance with the Rehabilitation and Privacy Acts.

G. Approval Process of Requests for Accommodation

The employee's immediate supervisor, in consultation with the RAC and next level supervisor, is responsible for approving accommodation requests and determining whether the request results in an undue hardship. If the immediate supervisor approves the request or approves an alternate accommodation, a record of the approved accommodation should be forwarded to the RAC for record keeping purposes. The next level supervisor should consult up his or her supervisory chain, as appropriate, before approving accommodations that would entail a budget impact exceeding \$500.00.

Reviewing personnel are encouraged to approve reasonable accommodation requests that will not result in an undue hardship as defined in these procedures. Types of requests that may not cause an undue hardship include requests where:

- No cost is involved; and,
- The supervisor and the employee are in agreement as to the accommodation (e.g., rearrangement of office furniture, approval of a schedule change, etc.).

The selecting official, with guidance from the RAC and others in the chain of command, are responsible for approving accommodation requests made by applicants. If management approves the request or approves an alternate accommodation, a record of the approved accommodation should be forwarded to the RAC for record keeping purposes.

If the supervisor or selecting official recommends approval of an accommodation and it involves the procurement of an assistive device or item of furniture, the management

official should obtain appropriate budgetary approval for the purchase. The RAC should be consulted for guidance on the appropriateness of accommodations.

In the event the employee's immediate supervisor and the next supervisor in the chain of command and/or the Division or Office Head are not able to reach a consensus regarding an accommodation request, the RAC may, at his or her discretion, convene a Reasonable Accommodation Committee (the Committee) consisting of the RAC, a representative of the Office of General Counsel and the Deputy Staff Director for Management and Administration or his/her designee. The Committee will consider all of the information available and make a recommendation to the employing office regarding what, if any, accommodation should be offered. The ultimate responsibility for approving or denying an accommodation request that has been vetted by the Committee remains with the employee's immediate supervisor or the selecting official.

A copy of the accommodation request, supporting medical or other documentation, approval, and any implementation documents, must remain on file in the RAC's records of accommodation requests for the duration of the requestor's employment.

H. Interim Measures

If there is a delay in providing an accommodation that has been approved, the employee's supervisor or the selecting official must explore, in consultation with the RAC and the employee with a disability, whether temporary measures can be taken to assist the employee. These measures should be taken while waiting for necessary adaptive equipment or other necessary measures. Consultation with the employee with the disability also keeps the employee informed about the delay and when the FEC expects to provide the requested accommodation.

I. Reassignment

The Commission may offer to reassign a non-probationary employee if it determines that no other reasonable accommodation will permit the employee with a qualified disability to perform the essential functions of his or her current position, even with reasonable accommodation. However, such an offer is not required if the FEC can demonstrate that the reassignment would impose an undue hardship on the operation of its program.

If reassignment as an accommodation is determined to be appropriate, the FEC is required to offer to reassign the individual to a funded vacant position for which the individual is qualified, located in the same commuting area, serviced by the same appointing authority, and at the same grade level, the essential functions of which the individual would be able to perform with reasonable accommodation if necessary.

In the absence of a position at the same grade or level, an offer of a reassignment to a vacant position, for which the individual is qualified, at the highest available grade or level below the employee's current grade or level is required. The availability of such a vacancy does not affect the employee's entitlement, if any, to disability retirement.

If the FEC has already posted a notice or announcement seeking applications for a specific vacant position at the time it is determined that an employee has a qualified disability, the Commission does not have an obligation to offer such reassignment, but the individual must be considered on an equal basis with other applicants for the position. The RAC should liaise between HR and the rating /selecting officials for the posted position to ensure that the employee eligible for the reassignment is added to the pool.

J. Denial of Request for Reasonable Accommodation

Denial of a request for reasonable accommodation must be in writing and specifically explain the reason(s) the request was denied. The denial notice could include, for example:

- Why the medical documentation is inadequate to establish that the individual has a qualified disability or needs reasonable accommodation;
- Why the requested accommodation would not be effective; or,
- Why the accommodation would pose an undue hardship.

All denials of requests for reasonable accommodation must include information regarding appeal rights.

A copy of the accommodation request and response, and any related documents, must remain on file in the RAC's records of accommodation requests for the duration of the requester's employment.

K. Appeal Rights

An employee or applicant may file an EEO complaint with the FEC's EEO Office if he or she is not satisfied with the accommodation decision or if the accommodation is not implemented. The applicant must contact the EEO Office within **45 days** of when they become aware of the accommodation decision or the failure to implement the accommodation decision. Voluntary, informal dispute resolution may be appropriate to allow the parties to resolve disagreements and to obtain prompt reconsideration of denials.

The Reasonable Accommodation Committee is not empowered to review denials or alternate accommodation decisions. The employee or applicant's only appeal rights are to the FEC's EEO Office.

L. Tracking Reasonable Accommodation Requests

The Commission is required to track the processing of requests for reasonable accommodation. The RAC maintains a system of records to track the processing of

requests for reasonable accommodation and to maintain the confidentiality of medical information received in accordance with applicable laws and regulations. Supporting documentation, specifically relating to medical information, must not become part of an Official Personnel File. The decision maker must forward all records involving reasonable accommodation requests to the RAC for storage and maintenance. The tracking system contains the following data:

- The number of reasonable accommodations, by type, that were requested in the application process and whether those request were granted or denied;
- The jobs (occupational series, grade level, and Agency component) for which reasonable accommodations were requested;
- The types of reasonable accommodations that were requested for each of those jobs;
- The number of reasonable accommodations, by type, for each job, that were approved, and the number of accommodations, by type, that were denied;
- The number of reasonable accommodations, by type, that related to the benefit or privileges of employment, and whether those requests were granted or denied;
- The reasons for denial of requests for reasonable accommodation;
- The amount of time taken to process each request for reasonable accommodation; and,
- The sources of technical assistance that have been consulted in trying to identify possible reasonable accommodations.

VII. Resources

- www.eeoc.gov
- Management Directive 715 (October 1, 2003)
- [Revised Enforcement Guidance: Reasonable Accommodation and Undue Hardship Under the Americans With Disabilities Act](#) (October 17, 2002)
- EEOC Enforcement Guidance: Disability Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act (July 27, 2000)
- Executive Order 13164 Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodations (July 26, 2000)
- [EEOC Policy Guidance on Executive Order 13164: Establishing Procedures to Facilitate the Provision of Reasonable Accommodation](#) (October 20, 2000)