

Reasonable Accommodation Policy

I. Purpose

This document implements the requirements of the Rehabilitation Act of 1973 and Executive Order 13164 by establishing the U.S. Election Assistance Commission (EAC) policy on providing reasonable accommodation to individuals with disabilities.

II. Policy

It is the policy of EAC to ensure equal access and employment opportunities to qualified individuals with disabilities by providing reasonable accommodations unless doing so would cause undue hardship. EAC will provide reasonable accommodation when a qualified individual with a disability needs it to:

- perform essential functions of his or her job;
- equally appreciate the benefits and privileges of employment that are available to employees without disabilities; and
- successfully overcome issues raised in a disciplinary or performance-based action proposed or taken when the employee identifies mitigating circumstances and subsequently requests a reasonable accommodation to address the reasons supporting the disciplinary or performance-based action.

EAC is committed to providing reasonable accommodations to applicants for jobs at EAC. Such requests are processed under separate procedures. Applicant requests for accommodation are processed by the General Services Administration (GSA), a shared service provider. EAC vacancy announcements provide contact information for applicants requesting an accommodation. EAC also provides reasonable accommodations to members of the public when necessary to ensure equal access to EAC facilities, communications, programs and activities. An ergonomic request that is not associated with a disability should be directed to the Office of Human Resources. Routine requests from employees for ergonomic equipment are processed under separate procedures. A request for IT equipment that is not associated with a disability should be directed to the Office of Information Technology. Procedures and information about the enforcement of nondiscrimination on the basis of disability in programs and activities conducted by EAC, and denial of access to electronic and information technology, are governed by 12 C.F.R Part 1072.

EAC is committed to processing requests for reasonable accommodations in a timely, efficient, and fair manner and to maintaining open and continuous communication to ensure employees and supervisors are aware of accommodation options and the status of requests. EAC treats all specific requests for reasonable accommodation, and all information and accompanying medical documentation provided during the reasonable accommodation process, as confidential.

EAC will review the reasonable accommodation policy no later than 12 months after issuance.

III. Definitions

Alternative Dispute Resolution (ADR): Procedures for settling disputes by means other than litigation, which may include a discussion between the parties mediated by a neutral third-party.

Deciding Official (DO): The Director of Human Resources Services and Program Support Division has oversight program responsibilities for the reasonable accommodations policy. This individual has the authority to grant or deny requested reasonable accommodations and may seek input from the General Counsel and the Office of Equal Employment Opportunity at GSA when making such decisions.

Disability: (1) A physical or mental impairment that substantially limits one or more major life activities as defined by Equal Employment Opportunity Commission (EEOC) regulations (“actual disability”); (2) a record of such an impairment (“record of disability”); or (3) regarding someone as having an impairment that is not both transitory (i.e., will last fewer than six months) and minor (“regarded as disabled”).

Essential Functions of the Job: Those job duties that are so fundamental to the position that they must be performed to achieve the objectives of the job. A function can be “essential” if, among other things: (1) the position exists specifically to perform that function; (2) there are a limited number of other employees who could perform the function if assigned to them; or (3) the function is specialized and the incumbent is hired based on their ability to perform it.

Extenuating Circumstances: Factors that delay processing and that could not reasonably have been anticipated or avoided in advance of the request or processing of the request for accommodation. Examples include, but are not limited to, requests for an evaluation of medical documentation, purchase of equipment, architectural barrier removal, and job reassignment.

Individual with a Disability: A person who (1) has a physical or mental impairment that substantially limits one or more major life activities; (2) has a record of a physical or mental impairment that substantially limited a major life activity; or (3) is regarded as having an impairment that is not both transitory (i.e., will last fewer than six months) and minor.

Interactive Process: The next step following a request for accommodation. This means that the individual requesting the accommodation and the Director of Human Resources Services and Program Support Division must communicate with each other about the request, the precise nature of the problem that is generating the request, how a disability is prompting the need for an accommodation, and alternative accommodations that may be effective in meeting an individual’s needs.

Major Life Activity: Basic activities an average person in the general population can perform with little or no difficulty as defined by EEOC regulations. Examples include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, working, and major bodily 3 functions (e.g.,

normal cell growth, immune, digestive, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions).

Personal Assistance Services: Services that help individuals who, because of targeted disabilities, require assistance to perform basic activities of daily living, like eating and using the restroom.

Qualified Individual with a Disability: An individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the position without posing a direct threat (i.e., a significant risk of substantial harm to the health and safety of themselves and others); and (1) meets the experience or education requirements (which may include passing a written test) of the position in question; or (2) meets the appointment criteria under one of the special hiring authorities for individuals with disabilities.

Reassignment: The change of an employee from one position to another without promotion. The employee must meet the qualification requirements of the new position. Reassignment is a reasonable accommodation of last resort. Reassignments are made only to vacant, funded positions, and to employees who are qualified for and can perform the essential functions of the new position.

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. There are three broad categories of reasonable accommodations: (1) modifications or adjustments to a job application process that permit an individual with disability to be considered for a job; (2) modifications or adjustments to workplace rules regarding how the job is performed that will enable a qualified individual with a disability to perform the essential functions of the job; and (3) modifications or adjustments such as the removal of a physical barrier to enable a qualified individual with a disability to enjoy equal benefits and privileges of employment.

Request for Reasonable Accommodation: A statement made due to a reason related to a physical or mental impairment, an individual needs an adjustment or change at work, in the application process, or in a benefit or privilege of employment. An accommodation can be requested at any time and is not time-limited based on the point where a disability first affects work performance.

Requestor: An employee with a disability, or an individual acting on their behalf, who requests a reasonable accommodation.

Substantially Limited: To have an actual or record of disability, an individual must be (or have been) substantially limited in performing a major life activity as compared to most people in the general population. An impairment need not prevent or severely or significantly limit a major life activity to be considered substantially limiting. The determination requires an individualized assessment and will not usually require scientific, medical, or statistical evidence, but such evidence may be used, if appropriate.

Undue Hardship: If a specific accommodation would cause significant difficulty or expense, EAC is not required to provide that particular accommodation. This determination must be made

on a case-by-case basis in consultation with the EAC's General Counsel, considering the nature and cost of the reasonable accommodation in relation to the size, resources, nature, and structure of an employer's operation. Undue hardship refers not only to financial difficulty, but to reasonable accommodations that are unduly extensive, substantial, or disruptive, or those that would fundamentally alter the nature or operation of the bureau. EAC will assess on a case-by-case basis whether a particular reasonable accommodation would cause undue hardship.

IV. Information Tracking and Reporting

The Office of Human Resources will assist in tracking reasonable accommodation information and in providing this information for inclusion in the annual report (Management Directive 715) that is submitted to the EEOC with the following:

- a. The number and types of reasonable accommodation requests made in the application process and whether they have been granted or denied;
- b. The jobs (occupational series and pay band level) of the requesting individuals;
- c. The types of reasonable accommodations that have been requested for each of those jobs;
- d. The number and types of reasonable accommodations for each job that have been granted and denied;
- e. The number and types of requests related to the benefits or privileges of employment and whether those requests have been granted or denied;
- f. The reasons for denial of requests for reasonable accommodation;
- g. The amount of time taken to process each request; and
- h. The sources utilized for technical assistance in identifying possible reasonable accommodations.

Any report will not contain confidential information about specific requests for reasonable accommodations, such as the names of requestors or the accommodations requested by specific individuals.

V. Roles and Responsibilities

The Human Resources Services and Program Support Division will:

- Oversee the reasonable accommodation program and requests for reasonable accommodations.
- Act as the Reasonable Accommodation Coordinator (RAC) and process all requests.
- Act as the Deciding Official, determining whether a request for reasonable accommodation will be approved.
- Track requests and decisions on reasonable accommodations in a database.
- Research options for reasonable accommodations and make recommendations.
- Provide information on reasonable accommodation procedures and options to EAC employees and supervisors.
- Participate in ongoing communication with all parties involved in processing requests for reasonable accommodations.

- Ensure the confidentiality of medical information collected to support accommodation requests.
- Work with necessary offices within the EAC divisions (e.g., Administrative Services, Procurement, Information Technology) to obtain equipment and services needed as accommodations. Coordinate with EAC's General Counsel Division as needed, including before determining the essential functions of a position, requesting medical documentation, and granting or denying a request for reasonable accommodation.
- Complete annual reporting requirements.
- Consult with others on an as needed basis on reasonable accommodation issues.
- Make final determinations on reasonable accommodation requests.

The Office of Financial Management is responsible for:

- Providing needed funding for all approved reasonable accommodation requests.

Supervisors and managers will:

- Submitting all requests for accommodations, whether written or oral, received from their employees or persons acting on behalf of the employee to the Director of Human Resources Services and Program Support Division as soon as possible but no later than within two (2) business days of receipt.
- Participating in ongoing communication with the employee and other applicable parties regarding the reasonable accommodation request.
- Initiating discussions with employees about reasonable accommodations, in consultation with the Director of Human Resources, if they have identified performance or conduct concerns that the employee states may be due to a medical condition.

Employees will:

- Initiate a request for reasonable accommodation as needed. (A designated third party may also initiate a request.)
- Provide completed request form and any necessary medical documentation.
- Participate in ongoing communication with the Director of Human Resources Services and Program Support Division and other applicable parties regarding the reasonable accommodation request.

The Office of General Counsel will:

- Provide legal advice and consultation on reasonable accommodation matters related to the Rehabilitation Act and other applicable laws concerning reasonable accommodation requirement.

GSA's Office of Equal Employment Opportunity is responsible for:

- Providing technical assistance upon request about reasonable accommodation matters related to the Rehabilitation Act and other applicable laws and reasonable accommodation requirements.
- Collaborating with OHR to ensure employees are trained about the Rehabilitation Act, other applicable laws and reasonable accommodation requirements, and this policy.
- Reporting information about EAC's Reasonable Accommodation Program to the EEOC based on input from OHR.
- Monitoring EAC's compliance with the Rehabilitation Act and other applicable laws and reasonable accommodation requirements and make recommendations as needed under the circumstances to ensure compliance.

VI. References

- Rehabilitation Act of 1973, as amended (29 U.S.C. § 701 et seq.)
- Executive Order 13164, Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation (July 26, 2000)
- Equal Employment Opportunity Commission, Policy Guidance on Executive Order 13164: Establishing Procedures to Facilitate the Provision of Reasonable Accommodation (Oct. 20, 2000)
- Equal Employment Opportunity Commission, Procedures for Providing Reasonable Accommodation for Individuals with Disabilities (July 19, 2010)
- The Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12102, 12114)
- The Americans with Disabilities Act Amendments Act of 2008
- 29 C.F.R. Parts 1614 and 1630
- 12 C.F.R. Part 1072
- EAC - Standard Operating Procedure on Ergonomic Equipment Requests

VII. Procedures

Employees and Applicants

- As a person with a disability, you have the right to request a reasonable accommodation in order to be considered for a position, to perform the essential functions of a position, and to enjoy equal benefits and privileges of employment with the EAC. You may request a reasonable accommodation at any time, and may request additional reasonable accommodations if your needs change.
- You may request a reasonable accommodation orally or in writing from your supervisor or, if you are applying for a position, from the contact person identified on the vacancy announcement. You do not have to use any special words such as "reasonable accommodation" or "Rehabilitation Act" when making your request. However, it is helpful for you to describe your needs as specifically as possible. The more information you give your supervisor or the point of contact on the vacancy announcement (hiring POC), the better he or she will be able to meet your needs.

- Your supervisor or the Director of Human Resources Services and Program Support Division usually will have the authority to approve reasonable accommodation requests. Accommodations that require the purchase of equipment or services costing more than \$1000, reconfiguring work spaces, or reassignment, and accommodations that cannot be provided by current staff may be approved by the Executive Director.
- Your supervisor or the hiring POC will discuss your reasonable accommodation request with you. Where the need for an accommodation is unclear, your supervisor or the hiring coordinator may ask you for additional information. Where the specific accommodation needed is unclear, your supervisor or the hiring coordinator may call on expert resources to recommend possible accommodations. Where different possible accommodations are being considered, your supervisor or the Director of Human Resources Services and Program Support Division will discuss the effectiveness of the different accommodations with you.
- Your supervisor or the Director of Human Resources Services and Program Support Division will respond to your reasonable accommodation request as soon as possible, but no later than three business days from when your request was made, unless medical information is required. Medical information is further discussed below.
- If your reasonable accommodation request is approved, the accommodation will be provided as soon as possible, but no later than ten business days from when you made the request, unless expert resources need to be called on to recommend possible accommodations, equipment needs to be purchased, the work space needs to be reconfigured, new staff needs to be hired, or other extenuating circumstances apply. If additional time is required to provide an accommodation, you will be notified of the expected date that the accommodation will be provided, and your supervisor or the Director of Human Resources Services and Program Support Division will discuss with you whether there are any temporary measures that can assist you.

Employees

How to request Personal Assistance Services (PAS).

Personal Assistance Services are defined as "assistance 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; examples include, assistance with removing and putting on clothing, eating, using the restroom, and pushing a wheelchair or assistance with getting into or out of a vehicle at the worksite." These examples are non-exhaustive, and serve to identify self-care type activities for which a PAS may be employed.

- PAS do not include, performing medical procedures (e.g., administering shots) or medical monitoring (e.g., monitoring blood pressure).
- PAS do not help individuals with disabilities perform their specific job functions, such as reviewing documents or answering calls; and differ from services that assist an individual to perform job-related tasks, such as sign language interpreters. Employees or applicants

needing medically based reasonable accommodations (RA) to assist them in the workplace, or to apply for employment, may request reasonable accommodation through the Agency's RA procedures.

Qualifying factors to receive PAS

- The individual is an employee of the agency;
- The individual has a targeted disability; a list of targeted disabilities is located on OPM form 256.
- The individual requires the services because of his or her targeted disability;
- The individual will be able to perform the essential functions of the job, without posing a direct threat to safety once PAS and any required reasonable accommodations are provided; and
- Providing PAS will not impose undue hardship on the agency.

Making a Request for PAS

As with reasonable accommodation, an employee may request PAS by informing a supervisor, the Director of Human Resources, or other appropriate management official that he or she needs assistance with daily life activities because of a medical condition. The individual does not need to mention Section 501 or use specific terms such as "PAS", "affirmative action", or "Reasonable Accommodation" to trigger the agency's obligation to consider the request. Typically, the targeted disability and need for PAS will be obvious, such as with missing limbs or paralysis, and medical support may not be required. Where there is a requirement to clarify qualification of need and nature of PAS assistance, the reasonable accommodation interactive process should be engaged and a request for medically supporting information may be requested. For more information, contact the Office of Human Resources.

EAC PAS Delivery Options

- The agency may use an existing employee who already performs similar service as part of his or her regular job or hire federal employees, independent contractors, or a combination of employees and contractors to perform personal assistance services.
- If hiring PAS, and it is deemed reasonable, the agency may give an employee's PAS preference primary consideration to the extent permitted by law, provided PAS qualifications are met; and
- An employee who already uses a PAS provider in their personal non-work environment may request permission to bring his or her own PAS provider to work as a reasonable accommodation, if the employee does not request that the agency assume the cost of providing the services.

Medical Documentation

- In certain instances, when the nature of a disability or the need for a reasonable accommodation is not clear, your supervisor or the Director of Human Resources Services and Program Support Division may request you to provide medical information about your functional impairment and your need for a reasonable accommodation in order to evaluate your request. The medical information may be reviewed by a medical expert selected by the EAC. If the medical information does not clearly support the requested accommodation, your supervisor or the Director of Human Resources Services and Program Support Division may request relevant supplemental medical information. You have a responsibility to provide appropriate medical information when requested. Failure to provide appropriate medical information can result in the denial of your reasonable accommodation request.
- If medical information is requested, your supervisor or the Director of Human Resources Services and Program Support Division will respond to your reasonable accommodation request within three business days after the initial or supplemental medical information is received, whichever is later. If your reasonable accommodation request is approved, the accommodation will be provided within ten business days after the initial or supplemental medical information is received, whichever is later, unless extenuating circumstances described above apply.
- Medical information obtained in connection with a reasonable accommodation request will be placed in a file separate from your personnel file or job application, and will be kept confidential in accordance with the Privacy Act and 36 C.F.R. 1121. Medical information will be disclosed only to agency officials who participate in making decisions on reasonable accommodation, EAC's Director of Human Resources Services and Program Support Division and the General Counsel.

Reassignments

- Reassignment is a type of reasonable accommodation available to an employee who can no longer perform the essential functions of his or her current position, with or without reasonable accommodation. If there is a vacant position that you are qualified for, and you can perform the essential functions of the vacant position, with or without reasonable accommodation, you will be reassigned to the vacant position as a reasonable accommodation without having to compete for the position.

Denial of Reasonable Accommodation

- If your reasonable accommodation request is denied, you will receive a written notice explaining the specific reasons for the denial and your appeal rights.
- If you wish to initiate an EEO complaint, you must contact an EEO counselor within 45 days of receiving written notice of the denial of your reasonable accommodation request. Due to the Access Board's size, the agency contracts with the General Administrative Service's EEO Investigative Services Office for agency-wide EEO

services. To initiate the EEO process, contact GSA Services Analyst Kellyann Williams at 215-284-7341 or kellyann.williams@gsa.gov.

Supervisors and Director of Human Resources Services and Program Support Division

- Supervisors and the Director of Human Resources Services and Program Support Division have the authority to approve reasonable accommodation requests, unless the accommodation requires the purchase of equipment or services costing more than \$1000, reconfiguring work spaces, or reassignment, or the accommodation cannot be provided by current staff. When you do not have authority to approve an accommodation, you will forward the request along with any recommendation to the Executive Director.
- You will discuss reasonable accommodation requests with the employee or applicant. Where the need for an accommodation is unclear, you will ask the employee or applicant for additional information. Where the specific accommodation needed is unclear, you may call on expert resources to recommend possible accommodations. Where different possible accommodations are being considered, you will discuss the effectiveness of the different accommodations with the employee or applicant.
- You will respond to reasonable accommodation requests as soon as possible, but no later than three business days after the request is made, unless medical information is required. Medical information is further discussed below.
- If you approve a reasonable accommodation request, the accommodation will be provided as soon as possible, but no later than ten business days after the request is made, unless expert resources need to be called on to recommend possible accommodations, equipment needs to be purchased, the work space needs to be reconfigured, new staff needs to be hired, or other extenuating circumstances apply. If additional time is required to provide an accommodation, you will notify the employee or applicant of the expected date that the accommodation will be provided, and will discuss with the employee or applicant whether there are any temporary measures that can assist him or her.

Medical Documentation

- If the nature of a disability or the need for a reasonable accommodation is not clear, you may request the employee or applicant to provide medical information about his or her functional impairment and need for a reasonable accommodation in order to evaluate the request. You may request a medical expert selected by the Access Board to review the information. If the medical information does not clearly support the requested accommodation, you may request the employee or applicant to provide relevant supplemental medical information.
- If medical information is requested, you will respond to a reasonable accommodation request within three business days after the initial or supplemental medical information is received, whichever is later. If you approve a reasonable accommodation request, the accommodation will be provided within five business days after the initial or

supplemental medical information is received, whichever is later, unless extenuating circumstances described above apply.

- You will place medical information obtained in connection with a reasonable accommodation request in a file separate from the employee's personnel file or applicant's job application, and will keep the information confidential in accordance with the Privacy Act and 36 C.F.R. 1121.
- You will disclose medical information only to:
 - agency officials who participate in making decisions on reasonable accommodation requests;
 - supervisors and managers who need to know about necessary restrictions on the work or duties of the employee or about the necessary accommodations;
 - first aid and safety personnel if the disability might require emergency treatment;
 - government officials when necessary to investigate the agency's compliance with the Rehabilitation Act;
 - workmen's compensation offices or insurance carriers where permitted by 29 C.F.R. §1630.14(b) and §1630.16(f); and
 - agency officials to report on the agency's performance in handling reasonable accommodation requests. When medical information is disclosed to any of these officials, you will inform them about the confidentiality requirements that attach to the information.

Reassignments

- Reassignment is a type of reasonable accommodation available to an employee who can no longer perform the essential functions of his or her current position, with or without reasonable accommodation. If there is a vacant position that the employee is qualified for, and the employee can perform the essential functions of the vacant position, with or without reasonable accommodation, the employee will be reassigned to the vacant position as a reasonable accommodation without having to compete for the position. If an employee needs reassignment as a reasonable accommodation and you have the authority to select individuals for the vacant position, you will reassign the employee to the vacant position. If you do not have authority to select individuals for the vacant position, you will notify the Executive Director that the employee needs reassignment, and the Executive Director will reassign the employee.

Denial of Reasonable Accommodation

- If you decide to deny a reasonable accommodation request, you will review the specific reasons with the Executive Director. If the Executive Director agrees with the action,

you will give the employee or applicant a written notice explaining the specific reasons for the denial and his or her appeal rights.

Recordkeeping

- The Director of Human Resources Services and Program Support Division will keep a record of all reasonable accommodation requests received, including oral requests. The record will include the date the request was made, the position, the type of accommodation requested, the action taken on the request, the identity of the deciding official, if denied, the basis of the denial, the number of days taken to process the request, and the date the accommodation was provided. Records for an individual employee will be maintained for the duration of the individual's employment. Records tracking agency performance will be kept for three years.

Dissemination

- These procedures will be made available on the U.S. Election Assistance internet site, and copies will be provided in alternative formats upon request.