



TITLE: REASONABLE ACCOMMODATIONS POLICY

1. PURPOSE

To prescribe U.S. AbilityOne Commission policy that promotes a workplace that provides reasonable accommodations for individuals with disabilities during the application process for Federal employment, as well as for current employees to perform the essential functions of a position and to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities.

2. APPLICABILITY

This policy is applicable to the U.S. AbilityOne Commission and Commission staff.

3. AUTHORITY.

- (a) Executive Order 13164, “Requiring Federal Agencies To Establish Procedures To Facilitate the Provision of Reasonable Accommodation” dated July 26, 2000.
- (b) Americans with Disabilities Act (ADA), as amended.
- (c) Rehabilitation Act of 1973 (29 U.S.C. Section 791), as amended.
- (d) Rehabilitation Act (29 C.F.R. § 1614)
- (e) Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act (rev. Oct. 17, 2002).
- (f) Equal Employment Opportunity Commission (EEOC) Compliance Manual 915.003, EEOC Policy Guidance on Executive Order 13164.
- (g) Privacy Act of 1974, as amended.

4. DEFINITIONS AND ACRONYMS

Definitions, abbreviations, and acronyms frequently used throughout this policy system are provided in Policy 51.102, Definitions. Terms unique to this policy are defined below.

TERM/ACRONYM	DEFINITION
Decision Maker (DM)	The DM is the agency official who grants or denies the request for reasonable accommodations. The Commission’s DM is the Chief of Staff.



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Disability	A disability, for purposes of the Rehabilitation Act, is a physical or mental impairment that substantially limits a major life activity.
Disability Program Manager (DPM)	Person and alternate designated in writing by the Executive Director to oversee the Agency's reasonable accommodations policy, procedures, and practices.
Essential Function	Job duty(ies) that define the position, that the position exists to perform. Essential functions are not marginal or infrequently performed tasks that could be eliminated without altering the fundamental nature of the position.
Major Life Activity	Major life activities include such functions as hearing, seeing, walking, speaking, breathing, caring for oneself, performing manual tasks, and working. Generally, a major life activity is something of fundamental significance within the meaning of the Rehabilitation Act and not simply an activity important to a particular individual.
Reasonable Accommodation	Any change in the workplace or the way things are customarily done, which provides an equal employment opportunity to an individual with a disability.
Substantially Limits	An impairment substantially limits a major life activity if that impairment renders the individual either unable to perform a major life activity or significantly restricts the performance of that activity as compared to the average person's performance of the activity.
Undue Hardship	A significant difficulty or expense, based on the resources and circumstances of the employer, with respect to a specific accommodation. "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 business.

5. RESPONSIBILITY

a. The U.S. AbilityOne Commission Executive Director is responsible for designating the Disability Program Manager (DPM) and Alternate DPM and making revisions to any annual reporting on this policy as specified herein.

b. The DPM is responsible for the day-to-day oversight and execution of this policy.

c. The Alternate DPM (ADPM) is responsible for the execution of this policy in the absence of the DPM.

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6. POLICY

a. Introduction. The Commission is committed to providing reasonable accommodations to its employees and applicants for employment to ensure individuals with disabilities enjoy equal access to all employment opportunities.

Under the law, the Commission must provide reasonable accommodation to qualified employees or applicants with disabilities, unless doing so would cause undue hardship. The Commission's procedures fully comply with the requirements of all applicable statutes and regulations.

b. Applicability. The Commission provides reasonable accommodations if any of the following apply:

- (1) An applicant with a disability needs an accommodation to have an equal opportunity to compete for a job.
- (2) An employee with a disability needs an accommodation to perform the essential functions of the job or to gain access to the workplace.
- (3) An employee with a disability needs an accommodation to enjoy equal access to benefits and privileges of employment (e.g., details, trainings, office-sponsored events).

c. The Commission will process a reasonable accommodation request and, where appropriate, provide reasonable accommodation in a prompt, fair, and efficient manner. The Commission is also dedicated to improving the recruitment, promotion, and retention of qualified persons with disabilities by providing information and resources necessary to support the applicant/employee and to accomplish the agency's mission.

7. PROCEDURE

a. Requester. A qualified employee or applicant, including a representative acting on the employee's or applicant's behalf, who requests a reasonable accommodation(s). The requester should:

- (1) In the case of an employee, inform the DPM of the need for an accommodation. In the case of an applicant, inform the servicing HR staffing specialist for the vacancy. If making an oral request, confirm the request for reasonable accommodation in writing, as soon as possible.
- (2) Cooperate fully and in good faith engage in the interactive process;
- (3) Respond to the DPM's request for relevant information in a timely manner; and
- (4) Notify the designated DPM in writing if representation is obtained, and provide representative's contact information. However, nothing in this section precludes an

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applicant or employee from obtaining representation and not disclosing the representative to the Commission.

b. Decision Maker (DM). The DM is the agency official who grants or denies the request for reasonable accommodations. The Commission's DM is the Chief of Staff. The DM will:

- (1) Be knowledgeable about the procedures for processing requests for reasonable accommodation and contact the DPM for guidance;
- (2) Contact the DPM for assistance with explaining the Commission's process for requesting accommodation and who will issue the decision to the requester;
- (3) Upon receiving an oral request for accommodation, advise the requester to submit the request in writing;
- (4) Provide the DPM any relevant information that might assist with determining the essential duties of the position, determining whether the employee or applicant is an "individual with a disability," and determining whether the requested accommodation would be effective;
- (5) Engage in the interactive process in good faith. Communicate throughout the process with the requester to determine what, if any, accommodations are available. Effective communication is particularly important in cases where the specific limitation or barrier is unclear, where an effective accommodation is not obvious, or where the parties involved are considering different possible reasonable accommodations;
- (6) Consult with the DPM to determine if medical documentation is needed;
- (7) Make the decision regarding a request for reasonable accommodation in consultation with the DPM in accordance with the guidance outlined in this policy in addition to all applicable laws and regulations. **Consult with Office of General Counsel (OGC) before issuing a partial or complete denial of a reasonable accommodation(s);**
- (8) Work with the DPM to prepare and issue the final decision letter or to grant or deny the reasonable accommodation request;
- (9) If any part of a request is denied, notify the requester of the right to seek informal resolution and reconsideration of that decision by the next higher-level supervisor as appropriate;
- (10) Ensure that the appropriate accommodations are provided in accordance with the timeframes outlined in this policy;

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- (11) Maintain confidentiality of information received during the reasonable accommodation process; and
- (12) Comply with records management and reporting requirements.

c. The Shared Services Provider in accordance with the interagency Service Level Agreement will:

- (1) Assist HR POC in drafting denial or approval of requested accommodation;
- (2) Help management implement accommodations when they are granted.
- (3) Provide advice on managing workplace issues that may affect the reasonable accommodations efforts and consult on how to manage employee's granted accommodations and future needs.
- (4) Provide advice and consultation to support the Privacy Act, to include record keeping of confidential information.
- (5) Provide support to assist management in the development and review of an agency policy; standard operating procedures; and resource materials, to include, but not limited to, Frequently Asked Questions, Supervisory Toolkit, Fact Sheet, and Contact List.
- (6) Share best practices of Federal agencies through resource materials.
- (7) Provide training to educate management on the Americans with Disabilities Act Amendments Act (ADAAA), EEOC Enforcement Guidance on Reasonable Accommodation, Job Accommodation Network, Computer/Electronic Accessibility Program (CAP), and other relevant laws, guidance, and resources.

d. Disability Program Manager (DPM). The DPM is a Commission staff member with the appropriate knowledge, skills, and abilities, who is designated by the Executive Director, either on a full-time or collateral-duty basis, and is responsible for providing advice and assistance to employees, DMs, and other agency officials on processing reasonable accommodation requests. The DPM will:

- (1) Work with the DM to gather sufficient information to make an informed decision on the request, including determining whether the employee or applicant is a "qualified individual with a disability," whether the requested accommodation would be effective, and/or whether alternative accommodations would be effective;
- (2) Assist the requester and DM with processing requests for accommodation by engaging in the interactive process, including completing the appropriate forms;
- (3) Ensure that all requests for accommodation outside the control of the DM, such as requests for assistive technology, facility renovations, and parking, are routed to the appropriate individual and coordinated with appropriate organizations;

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- (4) Consult with the DM and Commission IT professionals to ensure proper procurement, inventory, and implementation of assistive technologies and/or information technology and/or communication equipment for use by employees as accommodations;
- (5) Work with the DM and/or others, such as the OGC, to determine if medical documentation is needed. For obvious disabilities, no medical documentation is typically required, but the DM and DPM need to understand the specific limitations and barriers the disability presents;
 - i. For requests from applicants, the DPM will issue the request for medical documentation and/or exams related to appropriate accommodations; and
 - ii. For requests from employees, the DPM, in consultation with the DM, will issue the request for medical documentation and/or exams. The DPM will advise the DM on restrictions and limitations, and recommend appropriate accommodations.
- (6) Coordinate with OGC on prospective and partial denials of requests for accommodation, including consideration of alternate solutions, prior to a proposed final decision;
- (7) Work with DM and requester to identify positions for potential reassignment;
- (8) Work with the DM and OGC to obtain legal review for legal sufficiency of a proposed final decision that results in a partial or complete denial of the requested accommodation(s);
- (9) Maintain confidentiality of medical information received during processing of reasonable accommodation requests;
- (10) Track and report all requests for reasonable accommodation and the disposition of those requests;
- (11) Maintain a reasonable accommodation case file separate from the employee's official personnel folder;
- (12) Assist with completing the "Agency Certification of Reassignment and Accommodation Efforts," SF-3112D, when required for employees applying for disability retirement to certify efforts made by the agency to provide reasonable accommodation, including job searches, if any, for reassignments;
- (13) Work with, or provide supporting information to, OGC in addressing responses to litigation, informal and formal complaints, grievances, and other inquiries involving reasonable accommodation requests; and

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- (14) Provide training on reasonable accommodation to employees and supervisors, as needed.

e. Request for Reasonable Accommodation. A request for reasonable accommodation is an oral or written statement that an individual needs a modification or adjustment to the work environment, to the application process, or to access to a benefit or privilege of employment because of limitations imposed on the individual by a medical condition. A request does not have to use any special words, such as "reasonable accommodation," "disability," or "Rehabilitation Act." The reasonable accommodation process begins as soon as the oral or written request is made as defined below. A requester may seek a reasonable accommodation whenever the requester chooses, even if the requestor has not previously disclosed the existence of a disability.

- (1) An individual's request must be considered if it is made either orally or in writing to the individual's immediate supervisor, or the next level supervisor in the immediate supervisory chain, or the local reasonable accommodation coordinator (LRAC).
- (2) An applicant for employment at the Commission may request a reasonable accommodation orally or in writing from the staffing specialist, or any agency employee with whom the applicant has contact in connection with the application process.
- (3) A family member, friend, health care professional or other representative may request a reasonable accommodation on behalf of a Commission employee or applicant either orally or in writing. The request should be forwarded to the same Commission official to whom the employee or applicant would make the request. To the extent possible, an individual with a disability should be contacted to confirm that a reasonable accommodation is in fact wanted.

f. Written Confirmation of Oral Requests. To enable the Commission to keep accurate records regarding requests for accommodation, applicants and employees seeking a reasonable accommodation should follow up an oral request in writing.

- (1) If the requester requires assistance in providing a written request, the DM or DPM will assist the requester.
- (2) While the written confirmation should be made as soon as possible following an oral request, an oral request is itself considered full and sufficient.
- (3) When an employee has need of a reasonable accommodation on a repeated basis, such as in the case of a need for a sign language interpreter or reader, the written confirmation is required only for the first request. However, the requester must give appropriate advance notice to their immediate supervisor in writing (e.g., email or memo) of the pertinent details of the request for each subsequent time the accommodation is needed. If an accommodation is needed on a regular basis (e.g., for a weekly staff meeting), the

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supervisor should make the appropriate arrangements without requiring repeated requests in advance of the occasion.

g. The Interactive Process.

- (1) Upon receiving notice of an oral or written request for reasonable accommodation, the manager should ordinarily begin to engage in the interactive process with the individual. The interactive process is the communication between the DM and the requester, in consultation with the DPM, to determine how best to respond to the employee's request. During this process, an individualized assessment will be conducted to review essential and collateral job functions, the employee's limitations, and possible accommodations. The interactive process may require more than one discussion and may involve trying and evaluating the effectiveness of more than one accommodation. The DPM will also explain the reasonable accommodation process to the employee at this time.
- (2) Ongoing communication and cooperation are important, especially when a specific limitation, problem, or barrier is unclear or when the disability or an effective accommodation is not fully understood. Thus, it is recommended that substantive interactive discussions be documented, with at least the date, time, participants, and key points noted by the DM and/or DPM.
- (3) In the case of an applicant for employment, the servicing HR staffing specialist and/or DPM will engage in the interactive process with the applicant.
- (4) Once a job offer has been made, if an accommodation is requested, the interactive process with the new employee with a known disability (post-offer but pre-onboarding) should be conducted by the new supervisor, in consultation with the DPM, to discuss and identify possible accommodations and ensure that the agreed-to accommodation is in place when the new employee starts.
- (5) In some instances, the requester will suggest a specific type of reasonable accommodation that the requestor thinks will be effective. However, both the DM and the requester should work together in good faith to explore available and effective reasonable accommodation options throughout this process.

h. Timeframes for Processing Requests.

- (1) The Commission will process requests for reasonable accommodation and provide accommodations, if granted, in as short a time frame as reasonably possible. The Commission recognizes, however, that 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.

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- (2) If an employee or applicant requests reasonable accommodation from a Commission official other than the appropriate DM, the official will:
 - i. Forward the request to the appropriate Commission official, if known, or the DPM; and
 - ii. Notify the employee or applicant that the request was forwarded to the appropriate Commission official, or the DPM for processing.
- (3) Upon receiving a communication containing a request for accommodation originally transmitted to another official:
 - i. The DM or the DPM will acknowledge the request within three (3) calendar days of receipt; and
 - ii. The DM will begin the interactive process within five (5) calendar days of receipt of a request for reasonable accommodation from the requester or the DPM.
- (4) Requests that do not require medical documentation or involve extenuating circumstances: The DM will decide these requests, in consultation with the DPM, as appropriate, and should provide the reasonable accommodation as soon as possible but not to exceed thirty (30) calendar days from receipt of the request, unless extenuating circumstances exist.
- (5) Decisions on requests that require medical information: The DM's 30-calendar-day window begins the day following receipt of the reasonable accommodation request. The DM's 30-calendar-day time limit is subject to extension. The Commission recognizes that the need for documentation may not become apparent until after the interactive process has begun. The agency will not be expected to adhere to its usual timelines if sufficient medical documentation is not provided in a timely manner.
- (6) Notification of delays and temporary measures: It is the Commission's policy that extensions of time to decide accommodation requests should only be relied on in instances when extenuating circumstances render it infeasible to complete the request within the original timeframe. The DM, in consultation with the LRAC, must notify the requester, in writing, as soon as possible of the reason for the delay and the approximate date on which a decision, or provision of the reasonable accommodation, is expected. Any further developments or changes should also be communicated promptly, in writing, to the requester.
 - i. If there is a delay in deciding whether to grant a reasonable accommodation, or a delay in providing an accommodation that has been approved, the DM and DPM must investigate whether temporary measures can be taken to assist the requester, if they do not interfere with Commission operations. Such measures could also

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include providing the requested accommodation on a temporary basis or providing an alternate accommodation.

- ii. Where a temporary measure is provided, the DM must inform the requester in writing that the measure or accommodation is being provided on a temporary, provisional basis.
- iii. When a particular reasonable accommodation can be provided in less than the maximum amount of time, failure to provide the accommodation in a prompt manner may be a violation of the Rehabilitation Act.

i. Final Decision Granting a Reasonable Accommodation Request. As soon as the DM determines that a reasonable accommodation will be provided, the DM will work with the DPM to complete the Final Decision Letter and immediately advise the requester. If the accommodation cannot be provided immediately, the DM will inform the individual in writing of the reason(s) for the delay and the projected time frame for providing the accommodation.

j. Final Decision Denying a Reasonable Accommodation Request. As soon as the DM determines that a request for reasonable accommodation will be denied, including any partial denials, the DM must consult the DPM and OGC before issuing the final decision. The DPM and OGC will only serve as consultants and concurrence is not required. Once the final determination is made, the DM will work with the DPM to complete the Final Decision Letter and provide the document to the requester. The final decision must explain in detail the reason for the denial, for example, why accommodation would be ineffective or why it would result in undue hardship to the Commission. The final decision will also advise the requester that they may seek reconsideration as provided below. The written decision shall state in plain language the specific reason(s) for the denial, such as but not limited to:

- (1) Undue hardship: A determination of undue hardship means that the agency finds that a specific accommodation would be significantly difficult or expensive to provide or would fundamentally alter the nature of Commission operations. Before reaching this determination, the DM must explore whether other effective accommodations are available and can be provided. The Commission will, when evaluating undue hardship, follow the standards enunciated in the EEOC final regulations and in the EEOC “Enforcement Guidance on Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act,” both of which are available at: <https://www.eeoc.gov>.
- (2) Insufficient medical documentation: The employee or applicant, when requested, did not provide sufficient medical documentation to establish that they have a covered disability, that the disability imposes limitations that require accommodation, or that the requested accommodation addresses the limitations. It is the responsibility of the applicant/employee to provide appropriate medical information requested by the Commission when the disability and/or the need for accommodation are not obvious or already known to the Commission.

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- (3) Removes essential function(s): The requested accommodation would require the removal of an essential function from the position occupied by the employee or from the position for which the applicant applied.
- (4) Lowers standards: The requested accommodation would require lowering a performance or production standard.
- (5) Not deemed a qualified individual with a disability: The Commission has determined the applicant or employee is unable to perform the essential functions of the position, even with an accommodation. In this case, the individual is not a qualified individual with a disability, as defined by the Rehabilitation Act.

k. Reconsideration of the Final Decision.

- (1) If the employee disagrees with the final decision, the employee has seven (7) calendar days from receipt of the final decision to request in writing reconsideration from the Reconsideration Official, who is the appropriate next level supervisor in the immediate supervisory chain, or the designee. A designee must be superior in grade and/or position to the initial DM to reconsider the decision.
- (2) If an applicant requesting reasonable accommodation disagrees with the final decision, the applicant has seven (7) calendar days from receipt of the final decision to request in writing that the LRAC reconsider the final decision.
- (3) The requester seeking reconsideration should provide the Reconsideration Official with a copy of the original DM's final decision.
- (4) The requester seeking reconsideration may submit additional information or documentation with the request to support the request.
- (5) The Reconsideration Official shall consult with the DPM on the reconsideration decision. A reconsideration decision will be issued within fourteen (14) calendar days of receipt of the request unless additional medical documentation is needed and/or extenuating circumstances exist. In those instances, the reconsideration decision will be issued as soon as possible, after all information is obtained.

l. Avenues for Redress of Reconsideration Decision. The Commission's reasonable accommodation policy does not modify or replace statutory, regulatory, or collective bargaining protections and procedures for individuals with disabilities who wish to challenge the denial of a request for reasonable accommodation. If the Reconsideration Official sustains the initial decision, the requester may seek redress as follows:

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- (1) Equal Employment Opportunity (EEO) complaint: To file an EEO complaint pursuant to 29 C.F.R. Part 1614, applicants for employment or employees must contact an EEO counselor within forty-five (45) calendar days of receiving the notice of denial of reasonable accommodation.
 - (2) Union grievance: Bargaining Unit employees may file a grievance in accordance with the grievance procedure negotiated in the applicable Collective Bargaining Agreement after receiving a notice of denial of reasonable accommodation. The employee should also inform the Commission Chief of Staff of the filing of a grievance.
 - (3) Administrative grievance: Non-Bargaining Unit employees may file an administrative grievance with a higher-level management official in their supervisory chain within fifteen (15) calendar days of receiving the notice of denial of reasonable accommodation. The employee should also inform the Commission Chief of Staff of the filing of a grievance.
- m. Personal Assistance Services (PAS). PAS is a reasonable accommodation that provides employees with targeted disabilities assistance with performing activities of daily living they typically would perform themselves if they did not have a disability, including, for example, assistance with removing and putting on clothing, eating, and using the restroom.
- (1) An employee may request PAS if the individual has a targeted disability. For a list of qualifying target disabilities see EEOC Guidance, Questions & Answers: The EEOC's Final Rule on Affirmative Action for People with Disabilities in Federal Employment (EEOC NVTA-2017-4).
 - (2) PAS will be provided to employees who request and need these services due to a targeted disability, unless doing so would impose an undue hardship on the Commission.
 - (3) Eligible employees may receive PAS during work hours, for job-related travel, and to participate in employer-sponsored events. Work hours include time that an employee is teleworking, whether the telework is part of an agency telework program available to all employees or is being provided as a reasonable accommodation.
 - (4) A PAS provider may not perform or help with the employee's specific job functions or essential job duties. The PAS provider may only provide access to otherwise inaccessible aspects of the job or personal care. Employees who receive PAS may not direct the provider to perform tasks unrelated to personal assistance services. Any change in services must be approved in advance by the DM.
- n. Annual Data.
- (1) The DPM will prepare an annual report containing the following aggregate information:

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

(2) This report will provide a qualitative assessment of the Commission’s reasonable accommodation program, including any recommendations for improvement of Commission’s reasonable accommodation policies and procedures.

8. EXCEPTIONS

The Commission *may* take steps, solely at the agency’s discretion, beyond those required by section 501 of the Rehabilitation Act of 1973.

9. SUPERSESSION

None.



APPROVED: Kimberly M. Zeich Date: 5/30/2023
Kimberly M. Z
Executive Director