

**OFFICE OF GOVERNMENT ETHICS
REASONABLE ACCOMMODATION POLICY
AND PROCEDURES FOR INDIVIDUALS WITH
DISABILITIES**

I. General Provisions

A. Introduction

In accordance with the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.), as amended by the Americans with Disabilities Act Amendments Act of 2008 (ADAAA), the U.S. Office of Government Ethics (OGE) is committed to providing reasonable accommodation to its qualified employees or applicants with disabilities. Reasonable accommodation is any change in the work environment (or the way things are usually done) to help a person with a disability apply for a job, perform the duties of a job, or enjoy the benefits or privileges of employment.

OGE will process requests for reasonable accommodation submitted by employees or applicants for OGE employment and will provide reasonable accommodation, where appropriate, in accordance with the time frames set forth in these procedures. OGE will make available to job applicants and employees a copy of these procedures in written and accessible formats that meet an individual's particular need.

B. Scope

These procedures apply to any OGE employee with a disability who seeks accommodation to perform the essential functions of his or her current position or who needs accommodation in order to enjoy the benefits and privileges of employment at OGE. The procedures also apply to an OGE employment applicant who needs assistance in the application process (applicant).

II. Definitions

Decision Maker

An individual who is responsible for determining whether to grant or deny a request for reasonable accommodation. This person is typically the requesting individual's supervisor/manager. However, sometimes, for example, when a request is related to building accessibility or is made by a job applicant, other parties may have the final say in the decision.

Disability

A physical or mental impairment which substantially limits one or more of an employee's or applicant's major life activities; or having a record or history of such an impairment; or being regarded as having such an impairment. Generally, a transitory condition (expected to last 6 months or less) is not considered to be a disability.

A disability may include 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, or any mental psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities (such as dyslexia or dyspraxia).

Non-visible/non-obvious disabilities

In some circumstances, a disability may not be visible or apparent to other people. Such non-visible/non-obvious disabilities include partial sensory impairments such as low vision or hearing loss; chronic health conditions like arthritis, asthma or diabetes; mental health conditions; learning disabilities; and serious illness, such as cancer.

Targeted disabilities

A subset of the larger disability category. The federal government has recognized that qualified individuals with certain disabilities face significant barriers to employment, above and beyond the barriers faced by people with the broader range of disabilities. These barriers are often due to myths, fears, and stereotypes about such disabilities. Examples of targeted disabilities include deafness, blindness, paralysis, and missing extremities.

Essential Function

A fundamental duty or task that is integral to the position in question or job to be performed by the employee or applicant seeking reasonable accommodation. Determination of the essential job functions of a position must be done on a case-by-case basis so that it reflects the job as actually performed, and not simply the components of a generic position description. A function can be essential if, among other things: the position exists specifically to perform that function, there are a limited number of other employees who could perform the function, or the function is specialized and the individual was hired based on his or her ability to perform it.

Extenuating Circumstances

Factors that could not reasonably have been anticipated or avoided in advance of the request for accommodation or limited situations in which unforeseen or unavoidable events prevent prompt processing and delivery of an accommodation. For example, a delay caused by a supplier's inability to deliver a product in a timely manner because of manufacturing delays could be considered an extenuating circumstance.

Interactive Process

The process by which the individual requesting a reasonable accommodation, the employee's supervisor or manager, and any other appropriate parties communicate with each other about the request for reasonable accommodation and related issues, including, the need for medical documentation to support a requested accommodation, potential alternative accommodations and timeframes for providing an accommodation.

Major Life Activities

Major life activities under the Rehabilitation Act/ADAAA include caring for oneself, performing manual tasks, walking, seeing, hearing, eating, sleeping, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, working, and the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. Whether an activity is considered a major life activity is not determined by reference to whether it is of central importance to daily life. The term “major” is not to be interpreted strictly to create a demanding standard for disability.

Personal Assistance Services

Services that help someone perform basic activities like removing and putting on clothing, eating and using the restroom. Personal assistant services are not the same as services that help the individual perform job-related tasks, such as sign language interpreters for individuals who are deaf or readers for individuals who are blind or have learning disabilities. Job-related task services are already required as reasonable accommodations under the part of Section 501 of the Rehabilitation Act as long as the provision of such services does not impose an undue hardship on the employer.

Personal Assistance Service Provider

An employee or independent contractor whose primary job functions include provision of personal assistance services.

Qualified Individual with a Disability

An employee or applicant with a disability who satisfies the skill, experience, education and other job-related requirements for the position held or desired, and who, with or without reasonable accommodation, can perform the essential functions of that position.

Reasonable Accommodation

Any change in the work environment or the way things are usually done to help a person with a disability apply for a job, perform the duties of a job or enjoy the benefits and privileges of employment. The law requires an employer to provide reasonable accommodation to an employee or job applicant with a disability unless doing so would cause an undue hardship to the employer.

Reassignment

A form of reasonable accommodation that, absent undue hardship, may be provided to non-probationary employees who, because of a disability are unable to perform the essential functions of their job, with or without a reasonable accommodation. Reassignments are made only to vacant positions and to employees who are qualified for the positions.

Undue Hardship

Significant difficulty or expense to the agency that would result or is likely to result, from a proposed reasonable accommodation. If a requested accommodation would cause undue hardship, OGE is not required to provide that particular accommodation. Determination of undue hardship must always be made on a case-by-case basis, considering factors that include the nature and cost of the accommodation, the impact of the accommodation on the operation of the agency, and other relevant considerations.

III. Delegation of Authority

The Director of OGE shall ensure that an effective process for handling a request for reasonable accommodation is established. The Director shall designate the Director of Equal Employment Opportunity to oversee the reasonable accommodation program agency-wide.

A. Director of Equal Employment Opportunity will:

- (1) Establish procedures to facilitate the provision of reasonable accommodation to qualified employees or applicants with disabilities.
- (2) Analyze and evaluate the effectiveness of the process for responding to requests for accommodation.
- (3) Coordinate as necessary with OGE's Budget Officer and/or Chief of Staff to ensure that sufficient resources are provided by OGE for effective implementation and management of a process for responding to requests for reasonable accommodation.
- (4) Ensure supervisors and managers receive reasonable accommodation training as designated by OGE in accordance with Executive Order 13164 and EEOC Management Directive-715.
- (5) Provide guidance to and coordinate with supervisors and managers in processing requests, and in facilitating and ensuring accurate tracking and reporting of reasonable accommodation provisions to employees with disabilities at OGE.
- (6) Provide an annual report on all reasonable accommodation and disability program activities to the Director of OGE and the Chair of the EEOC in accordance with MD-715 on or before February 28, annually.
- (7) Manage employment matters affecting people with disabilities and serve as technical advisor to OGE workforce on all disability issues. Responsibilities include providing general guidance on disability employment, developing and/or delivering disability related training, and

approving and assisting with the processing of reasonable accommodation requests.

- (8) Engage in an interactive process with supervisors, managers, applicants, and employees on determinations of reasonable accommodation requests, whether the accommodation requests are received from agency officials or directly from the employee.
- (9) Answer questions from the requester regarding the process, and the rules and regulations governing reasonable accommodation.
- (10) Provide guidance to managers and supervisors on statutory and regulatory requirements of reasonable accommodation and related issues.
- (11) Provide guidance on effective accommodations, such as whether additional information is needed from requester, whether a disability is a covered disability, whether the requester is a qualified individual with a disability requiring reasonable accommodation, and whether a request for reasonable accommodation presents an undue hardship to the agency.
- (12) Provide guidance to employees with disabilities and their supervisors to assist with identifying internal and external resources available to help facilitate the selection of an effective accommodation.

IV. Requesting a Reasonable Accommodation

- (1) A request for reasonable accommodation is a statement that an individual seeks 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. The reasonable accommodation process begins when the request for accommodation is made.
- (2) A request for reasonable accommodation can be made not just by the individual with a disability, but also by a family member, health professional, or other representative who is acting on the individual's behalf.
- (3) An applicant or an employee may request a reasonable accommodation orally or in writing. In the case of an employee, requests should be made to the employee's supervisor or manager. An applicant may make a request for a reasonable accommodation to the hiring manager.
- (4) An individual does not need to fill out any specific form for the interactive process to begin.

- (5) A request for reasonable accommodation does not have to use any special words such as “reasonable accommodation,” “disability” or “Rehabilitation Act” and an individual need not have a particular accommodation in mind before making a request.
- (6) When an individual makes a request for a type of accommodation that will be needed on a repeated basis – such as, a sign language interpreter, CART Services, or readers – the individual is not required to submit a written request each time the accommodation is needed. Once the accommodation is approved for the first time, the employee may obtain the accommodation by notifying their supervisor or manager.

A. Evaluating the Request and the Interactive Process

- (1) The supervisor or manager will contact the applicant or employee who has made the request within 7 business days after the initial oral or written accommodation request is received to begin discussing the request.
- (2) The supervisor or manager is responsible for processing the request, engaging early in the interactive process and periodically throughout the process, and making the decision to grant or deny the requested accommodation or offer some alternative accommodation. Contact information for all OGE supervisors and managers can be found on OGE’s intranet site for employees making a request. In the case of applicants, the EEO Director, Dale Christopher, will make the final decision and can be reached at 202-482-9224 or at dachrist@oge.gov.
- (3) The procedure for processing the request involves a dialogue between the supervisor or manager and the employee or applicant, and may include consultation with other OGE officials, such as the EEO Director. After a request for accommodation has been made, the next step is for the parties to begin the interactive process to determine what, if any, accommodation should be provided. Communication is a priority throughout the reasonable accommodation process. While the employee or applicant seeking a reasonable accommodation is expected to communicate about his or her needs in identifying and requesting a reasonable accommodation, the supervisor or manager involved in the reasonable accommodation process should take a proactive approach in considering possible accommodations, including consulting appropriate resources for assistance. The supervisor or manager and the employee may utilize reasonable accommodation resources to determine the appropriate, effective accommodation, such as the Computer/Electronic Accommodations Program (“CAP”), to provide needs assessment and assistive computer/electronic technology, devices and services. OGE’s EEO Director will serve as the point of contact with CAP.

- (4) The following are examples of reasonable accommodations and are provided as guidance for supervisors and managers in recognizing reasonable accommodation requests:
 - a. Modifications or adjustments to a job application or contract solicitation process to permit an individual with a disability to be considered for a position (i.e. providing forms in alternative formats like large print or Braille and/or providing a sign language interpreter);
 - b. modifications or adjustments necessary to enable a qualified individual with a disability to perform the essential functions of the job (i.e. providing sign language interpreters; making existing facilities accessible; job restructuring or part-time or modified work schedules; acquiring or modifying equipment; changing tests, training materials, or policies; providing qualified readers or interpreters; and/or reassignment to a vacant position); and
 - c. modifications or adjustments that enable employees with disabilities to enjoy equal benefits and privileges of employment.

V. Requests for Medical Information

- (1) When a disability and/or need for accommodation is not obvious, the supervisor or manager may require that the individual provide reasonable documentation about the disability and their functional limitations. The information provided by the individual should be sufficient to explain: (1) the nature of the individual's disability; (2) the need for reasonable accommodation; and (3) how the requested accommodation, if any, will assist the individual to apply for a job, perform the essential functions of a job, or enjoy the benefits and privileges of the workplace.
- (2) The supervisor or manager may also request supplemental documentation when the information already submitted is insufficient to document the disability and/or the functional limitations it causes.
- (3) OGE has the right to have medical information reviewed by a medical expert chosen by the agency at the agency's expense.
- (4) The supervisor or manager *may not* request medical information where: (a) both the disability and the need for reasonable accommodation are obvious; or (b) the individual has already provided sufficient information to document the existence of the disability and the individual's functional limitations.
- (5) In making the request for medical documentation, the supervisor or manager will be guided by principles set forth in the ADA Amendments Act of 2008 and EEOC's Final Rules implementing the ADAAA of March 2011. Specifically, the ADA Amendments Act directs that the definition of disability be construed broadly and that the determination of whether an

individual has a “disability” generally should not require extensive analysis.

- (6) In some instances, the supervisor or manager may need to request additional medical information to determine if an individual’s impairment is a disability, or to determine what would be an effective accommodation. If additional medical information is required, the supervisor or manager may give the individual a list of questions to give the health care provider to answer.
- (7) Requesting additional medical information will stay the time for processing the reasonable accommodation request until sufficient medical information is provided. If an individual fails or refuses to provide medical information that has been requested, the interactive process will be deemed concluded. The failure or refusal of an employee or applicant to provide medical information that has been requested will be grounds for denial of a reasonable accommodation request.
- (8) If a delay in processing a reasonable accommodation request is attributable to the need to obtain or evaluate medical documentation and OGE has not yet determined that the individual is entitled to an accommodation, OGE may provide an accommodation on a temporary basis. In such a case, the supervisor or manager will notify the individual in writing that an accommodation is being provided on a temporary basis pending a decision on the accommodation request.

VI. Confidentiality of Medical Information Submitted to OGE

- (1) Under the Rehabilitation Act, medical information obtained in connection with the reasonable accommodation process must be kept confidential and may only be disclosed to individuals who have a need to know of the medical information. All medical information including information about functional limitations and reasonable accommodation needs that OGE obtains in connection with a request for reasonable accommodation, must be kept by the supervisor or manager in a Medical Folder, separate from the individual’s Official Personnel or Applicant File. The same requirements apply to electronic files. An OGE employee who obtains or relies on such medical information is strictly bound by these confidentiality requirements.
- (2) The supervisor or manager may share certain information with other OGE officials only to the degree necessary to make appropriate determinations on a reasonable accommodation request. Under these circumstances, the supervisor or manager will inform the recipients of the information about the confidentiality requirements. In most situations, OGE will need to reveal the name of the requester and/or the division in which the requester

works, and reveal the employee's or applicants functional limitations.

- (3) In addition to disclosures of information needed to process a request for accommodation, other disclosures of medical information are permitted as follows: (1) supervisors and managers who need to know may be told about necessary restrictions and about the necessary accommodation(s); (2) first aid and safety personnel may be told if the disability might require emergency treatment; (3) government officials to investigate the agency's compliance with the Rehabilitation Act; (4) workers' compensation offices or insurance carriers; and (5) agency EEO officials may be given the information to maintain records.

VII. Time Frames for Decision on a Request for Reasonable Accommodation

- (1) The reasonable accommodation process begins as soon as the oral or written request for the accommodation is received by the requester's supervisor or manager. Contact with the employee or applicant who has made the request should generally take place within 7 business days after the initial oral or written request is received to begin discussing the accommodation request.
- (2) Absent extenuating circumstances, a request for reasonable accommodation will be granted or denied within 30 business days from when the oral or written request is received. It is the policy of OGE to process requests for reasonable accommodation and provide accommodation, where appropriate, in as short a time as is practicable. Where an accommodation can be provided in less than the maximum time frame, failure to provide an accommodation in a prompt manner may result in a violation of the Rehabilitation Act. However, the time necessary to process a request will depend upon the nature of the accommodation requested and whether it is necessary to obtain supporting information, or support from other entities, such as CAP. When extenuating circumstances are present, the time for processing a request for reasonable accommodation and providing the accommodation will be extended as reasonably necessary.
- (3) OGE will work to expedite the processing of requests for reasonable accommodations that are needed sooner than the 30-day time frame. Expedited processing for reasonable accommodation requests may be required if the accommodation is needed, for example: (1) to enable an individual with a disability to apply for a job; or (2) the accommodation is needed for a specific agency activity that is scheduled to occur shortly.
- (4) Failure to meet this deadline solely because the supervisor or manager did not timely begin the interactive process when the request was received is

not ordinarily an extenuating circumstance that would extend the time limit.

- (5) Where the supervisor or manager believes that it is necessary to obtain medical information to determine whether the requesting individual has a disability, to identify functional limitations, or to determine whether a requested or alternative accommodation will enable the employee to perform the essential functions of the position in question, the 30-day period may be extended provided that the request for medical information is made within the 30-day period. If medical documentation is needed, the decision shall be made and accommodation (if granted) shall be provided within 30 business days from the date the decision maker receives the relevant information.
- (6) When all the known facts and circumstances make it is reasonably likely that the individual will be entitled to an accommodation, but the accommodation cannot be provided immediately, OGE will provide the individual with an interim accommodation that allows the individual to perform some or all of the essential functions of the job, absent undue hardship.
- (7) Where there is a delay in either processing a request for accommodation or providing an accommodation, the individual will be notified of the reason for delay, including any extenuating circumstances that justify the delay.

VIII. Resolution of the Reasonable Accommodation Request

- (1) All decisions regarding a request for reasonable accommodation (including a decision to provide an alternate reasonable accommodation) will be communicated to an individual applicant or employee in writing. If the request for accommodation is granted, the supervisor or manager should communicate about implementation of the accommodation with the individual. If the request is approved, but the accommodation cannot be provided immediately, the supervisor or manager will inform the individual in writing of the projected time for providing the accommodation.
- (2) If OGE offers an alternative accommodation than the one requested, the supervisory or manager should explain in writing both the reasons for the denial of the individual's specific requested accommodation and why the agency believes that the alternative accommodation will be effective.
- (3) Reassignment to a vacant position for which an employee is qualified, and not just permission to compete for such position, is a reasonable

accommodation. OGE must consider providing reassignment to a vacant position as a reasonable accommodation, when it determines that no other reasonable accommodation will permit an employee with a disability to perform the essential functions of his or her current position. Supervisors should coordinate with OGE executive leadership and other supervisors/hiring managers, as well as conduct a search using USAJobs.gov, in order to identify potential available vacancies when considering reassignment as a reasonable accommodation.

- (4) If the supervisor or manager denies a request for accommodation, the supervisor or manager must provide, in writing, the specific reasons for the denial; notify the individual of their right to file an EEO complaint; instruct them how to file such a complaint; and explain that the individual must initiate contact with an EEO counselor within 45 days of denial, regardless of whether the individual participates in an informal dispute resolution process. OGE encourages the use of the voluntary informal dispute resolution process to allow individuals to obtain prompt reconsideration of denials of accommodation requests.
- (5) Where the supervisor has denied a specific requested accommodation, but has offered an alternative accommodation which was not agreed to during the interactive process, the supervisor or manager should explain both the reasons for the denial of the requested accommodation and the reasons that the alternative accommodation should be effective.

IX. Personal Assistance Services

- (1) Personal assistance services are services that help employees with “targeted disabilities” perform basic activities such as eating, removing and putting on a coat, and using the restroom. These services only include assistance with basic human functions, and are only required if they enable the employee to do his or her job up to normal standards. They are not the same as services that help the individual perform job-related tasks, such as sign language interpreters for individuals who are deaf, or readers for individuals who are blind or have learning disabilities. These job-related tasks services are already required as reasonable accommodations under the part of Section 501 of the Rehabilitation Act, as long as the provision of such services does not impose an undue hardship.
- (2) Personal assistance services differ from medical services and services that are typically performed by someone who often has the job title of “personal assistant.” Personal assistance services are non-medical services. These services are needed by individuals whose specific disabilities make it difficult to perform such activities on their own.

- (3) Although distinguishable from requests for reasonable accommodation, requests for personal assistance services will be initiated, processed and otherwise addressed in the same manner as described in this document.
- (4) OGE may deny a request for personal assistance services if the difficulty or cost of providing the service would cause an undue hardship for the agency. To determine whether providing personal assistance services would cause an undue hardship, OGE will use the same process used in determining whether a reasonable accommodation poses an undue hardship.

X. Monitoring the Accommodation

- (1) Once a request for a reasonable accommodation has been granted, the supervisor or manager should evaluate whether the accommodation is working and effective 30 days after it becomes operational. If the employee or supervisor/manager believes that any accommodation needs modification, the employee or the supervisor/manager may request to revisit the accommodation at any time.

XI. Appeal Rights

- (1) If an individual wishes to file an EEO complaint upon receipt of a final decision regarding his or her request for accommodation, the individual must contact an EEO counselor.
- (2) OGE has entered into a contract with the United States Postal Service (USPS) for the provision of EEO services. To get in touch with an EEO counselor, an individual should contact:

Gail M. Leary, EEO Services Analyst, USPS
Phone – 813-739-2037
Email – gail.m.leary@usps.gov

XII. Tracking, Reporting and Training

- (1) Upon completion of the accommodation process, the supervisor or manager involved must provide all information, including medical information that was received as part of processing the request to the Attorney-Advisor (Human Resources) of OGE's Agency Operations Branch, who will maintain the information separate from the individual's Official Personnel or Applicant Folder.

- (2) OGE will record the following information with regard to each request for reasonable accommodation: (1) the specific reasonable accommodation; (2) the job (occupational series, grade level, and agency component) sought by requesting applicant or held by the employee; (3) whether the accommodation was needed to apply for a job, perform the essential functions of a job, or enjoy the benefits and privileges of employment; (4) whether the request was granted or denied; (5) the identity of the deciding official; (6) the basis of the denial; and (7) the number of days taken to process the request.
- (3) OGE will keep records that it may use to determine whether it is complying with the nondiscrimination and affirmative action requirements imposed under Section 501, and to make such records available to EEOC upon EEOC's request.
- (4) Individuals may contact their supervisor or manager or the EEO Director, as appropriate, to track the processing of requests for reasonable accommodation.
- (5) **Electronic Tracking Application: HOLD**
- (6) Appropriate training on this policy must be provided to all managers, supervisors and employees. At a minimum, supervisors and managers should take advantage of the resource materials available on EEOC's public website, including EEOC *Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees Under the Americans With Disabilities Act* (July 27, 2000), and EEOC *Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans With Disabilities Act* (revised October 17, 2002).
- (7) Officials who decide requests for accommodation or make hiring decisions should be aware that in order to deny an accommodation based on cost, they must consider all resources available to the agency as a whole, excluding those designated by statute for a specific purpose that does not include reasonable accommodation. These officials should contact the EEO Director with any questions related to arranging for the use of agency resources to provide an accommodation.

XIII. Inquiries and Distribution

- (1) Any employee wanting further information concerning these procedures may contact Dale Christopher, OGE's EEO Director at

202-482-9224 or dachrist@oge.gov.

- (2) These procedures and the contact information shall be distributed to all employees upon issuance and will be available on the OGE's website and intranet. They will also be distributed to all new employees as part of their orientation.

XIV. Effective Date

These procedures replace OGE's Reasonable Accommodation Procedures for Individuals with Disabilities dated May 4, 2021. These revised procedures are effective as of July 23, 2021.