



# Policy on Reasonable Accommodation for Individuals With Disabilities

March 29, 2021

## 1. Purpose

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This policy establishes the practices and procedures, including the allocation of responsibilities, for providing reasonable accommodation for qualified individuals with disabilities at the Administrative Conference of the United States (ACUS).

## 2. Scope

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This policy applies to all ACUS employees and any applicants with disabilities for positions at ACUS.

## 3. Authorities

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### 3.1. Acts and Executive Orders

- a. [Executive Order 13164](#), Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation (July 26, 2000).
- b. [Rehabilitation Act of 1973](#), 29 U.S.C. § 701 et seq.
- c. [Title I of the Americans with Disabilities Act of 1990](#) (ADA), as amended.
- d. [American's with Disabilities Amendments Act](#) (ADAAA) of 2008, Public Law 110-325 ADAAA, effective 2009.
- e. [Genetic Information Nondiscrimination Act of 2008](#), 42 U.S.C., Chapter 21F.
- f. [Title VII of the Civil Rights Act of 1964](#), et seq.
- g. [Privacy Act of 1974](#), 5 U.S.C. 552a.
- h. [Architectural Barriers Act of 1968](#), as amended, 42 U.S.C. §§ 4151-4156.

### 3.2. Federal Regulations and Guidance

- a. [U.S. Equal Employment Opportunity Commission \(EEOC\) Management Directive 715](#) providing policy guidance and standards for establishing and maintaining effective affirmative programs of equal employment opportunity under Section 717 of Title VII (Part A) and effective affirmative action programs under Section 501 of the Rehabilitation Act (Part B).
- b. [EEOC Policy Guidance on Executive Order 13164](#), Establishing Procedures to Facilitate Provision of Reasonable Accommodation (October 20, 2000).
- c. [EEOC Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act](#) (March 1, 1999).
- d. [EEOC Enforcement Guidance on Disability-Related Inquiries and Medical Examinations of Employees under the Americans with Disabilities Act](#) (July 27, 2000).
- e. [Title 5 of the Code of Federal Regulations, Part 339](#), Medical Qualification Determinations.
- f. [Title 29 of the Code of Federal Regulations, Part 1614](#), Federal Sector Equal Employment Opportunity.
- g. [Title 29 of the Code of Federal Regulations, Part 1630](#), Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act.
- h. [Title 29, Code of Federal Regulations, Part 1635](#), Genetic Information Nondiscrimination Act of 2008.

## 4. Definitions

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As used in this policy, the following terms shall have the definitions provided below in this Section.

| <b>Term</b>                        | <b>Definition</b>   |
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| <b>Accessible</b>                  | Enter, operate, participate in, or use safely, independently by a person with a disability (i.e., site, facility, work environment, service or program).  |
| <b>Auxiliary Aids and Services</b> | Accommodation that may include qualified interpreters and other effective methods or making aurally delivered materials available to individuals with hearing impairments, qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments, acquisition or modification of equipment or devices, and other similar services and actions. |

| <b>Term</b>                         | <b>Definition</b>   |
|-------------------------------------|---|
| <b>Business Days</b>                | Every official work day of the week (Monday through Friday), and does not include federal holidays and weekends. If a deadline falls on a weekend or holiday, then the next business day that immediately follows the holiday or weekend will be applicable for purposes of calculating the deadline. |
| <b>Denial</b>                       | The Reasonable Accommodation Coordinator makes an informed decision to deny the individual's specific reasonable accommodation and does not offer an alternative in its place, or an alternative accommodation is offered and is declined by the individual.  |
| <b>Disability</b>                   | For purposes of providing a reasonable accommodation, "disability" is defined as a physical or mental impairment that substantially limits one or more of the major life activities (defined below) of any individual, and a record of such impairment, or being regarded as having such impairment.  |
| <b>EEO</b>                          | Equal Employment Opportunity  |
| <b>EEOC</b>                         | Equal Employment Opportunity Commission   |
| <b>Essential Function</b>           | The fundamental duties of a position or the basic job duties that an employee or applicant must be able to perform, with or without a reasonable accommodation.   |
| <b>Episodic or Remission</b>        | A disability that would substantially limit major life activities when active. Examples of impairments that may be episodic or in remission include epilepsy, hypertension, multiple sclerosis, asthma, diabetes, major depression, bipolar disorder, schizophrenia, and cancer.                      |
| <b>Extenuating Circumstances</b>    | Factors that could not reasonably have been anticipated or avoided in advance of the request for accommodation or situations in which unforeseen or unavoidable events prevent prompt processing and delivery of an accommodation.  |
| <b>Grant or Granted</b>             | The Reasonable Accommodation Coordinator makes an informed decision to approve the individual's specific accommodation request or an alternative accommodation which the employee (or applicant) and his/her manager believe will be effective.   |
| <b>Individual with a Disability</b> | A person who has a physical or mental impairment that substantially limits one or more of that person's major life activities or who has a record of such an impairment.  |

| <b>Term</b>                           | <b>Definition</b>  |
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| <b>Interactive Process</b>            | The process by which the individual requesting an accommodation and the Reasonable Accommodation Coordinator discuss the request for accommodation, determine whether an accommodation will be provided, and examine the potential of alternative accommodation.   |
| <b>Major Life Activity</b>            | In general, a major life activity includes, but is not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communication, and working. A major life activity, also includes 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.   |
| <b>Physical or Mental Impairments</b> | Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin, and endocrine; or any mental or psychological disorder, such as an intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.  |
| <b>Qualified Individual</b>           | An individual who satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such individual holds or seeks, and how, with or without reasonable accommodation, can perform the essential functions of such position.   |
| <b>Reasonable Accommodation</b>       | A change or adjustment that enables a qualified individual with a disability to apply for a job, perform job duties, or enjoy benefits and privileges of employment. There are three (3) categories of reasonable accommodation: (1) modifications or adjustments to a job application process to permit an individual with a disability to be considered for a job; (2) modifications or adjustments to enable a qualified individual with a disability to perform the essential functions of the job; and (3) modifications or adjustments that enable individuals with disabilities to enjoy the benefits and privileges of employment. |
| <b>Reassignment</b>                   | Reasonable accommodation of last resort, that, absent undue hardship, is provided to employees (not applicants) who, because of a disability can no longer perform the essential functions of their job, with or without a reasonable accommodation. Reassignments are made only to funded vacant positions for employees who are qualified to fill the  |

| <b>Term</b>  | <b>Definition</b>  |
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|  | vacant position. If the employee is qualified for the position, he/she will be reassigned to the job and will not have to compete.   |
| <b>Reasonable Accommodation Coordinator or RAC</b> | The ACUS employee (or employees) designated by ACUS to fulfill the identified responsibilities set forth in this policy.   |
| <b>Reconsideration</b>                             | A voluntary mechanism through which an individual can request reconsideration of denial of reasonable accommodation, regardless of whether the person has started the EEO complaint process.   |
| <b>Requester</b>                                   | An individual with a disability, or an individual acting on his/her behalf, who requests an accommodation.   |
| <b>Reviewing Official</b>                          | The ACUS employee designated by ACUS to fulfill the identified responsibilities set forth in this policy.  |
| <b>Undue Hardship</b>                              | An action requiring significant difficulty or expense. A determination of undue hardship is based on several factors, including but not limited to: the nature and cost of the accommodation needed, the overall financial resources of the facility making the reasonable accommodation; the number of persons employed at the facility; the effect on expenses and resources of the facility, the type of facility, the type of operation of the employer, including the structure and functions of the workforce, and the impact of the accommodation on the operation of the facility. |
| <b>Vacant Position</b>                             | A position that is available when an individual asks for reassignment as a reasonable accommodation.   |

## 5. Responsibilities

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- a. Office of the Chairman through the Executive Director:
  - i. Shall take appropriate steps to ensure adequate funding and staff to carry out this policy.
  - ii. Shall designate an ACUS employee to serve as a Reviewing Official for purposes of reviewing accommodation requests that are denied and for which the requester (or an individual acting on the requester’s behalf) is seeking reconsideration.
  
- b. Chief Financial and Operations Officer (CFOO):

- i. Shall serve as a Reasonable Accommodation Coordinator(s) (RAC). The RAC responsibilities shall include (as further elaborated in this policy):
  - A. Acknowledge receipt of an accommodation request in writing as soon as possible, so that requestor is aware that request has been received by the RAC;
  - B. Initiate the interactive process (as described below) with the requester and ensure compliance with all applicable timelines and requirements as set forth in this policy and in compliance with applicable laws and regulations;
  - C. Advise requesters, immediate supervisors, and other members of ACUS management, as appropriate, on the progress of the request, and coordinate as appropriate with supervisors; and
  - D. Issue a written decision on whether an accommodation request is granted or denied, or an alternative accommodation is proposed.
- ii. Shall ensure that job vacancy announcements contain a notice to applicants regarding the process for making reasonable accommodation requests and the point of contact responsible for processing such requests, including appropriate contact information for accommodation related matters.
- iii. Shall identify vacant positions for which an employee is qualified in cases where reassignment to a vacant position is being considered as a reasonable accommodation.

Contact: [202-480-2085](tel:202-480-2085)

c. General Counsel (OGC):

- i. Shall advise the RAC, management officials, supervisors, and others as needed regarding laws and regulations pertaining to reasonable accommodation.

Contact: [202-480-2088](tel:202-480-2088)

d. Equal Employment Opportunity Director (EEO Director):

- i. Shall provide materials regarding reasonable accommodation procedures and policies.
- ii. Shall conduct periodic review of this policy to ensure compliance with laws, regulations, and other ACUS policies.
- iii. Shall otherwise oversee and maintain ACUS’s EEO Program.

Contact: [202-480-2088](tel:202-480-2088)

e. CFOO and EEO Director jointly:

- i. Shall approve interpretations, directives, and other materials outlining ACUS's Reasonable Accommodation Policy.
- ii. Shall ensure that ACUS's systems of records keep track of requests for reasonable accommodation and the following information:
  - A. the number of reasonable accommodations, by type, that have been requested for the application process and whether those requests have been granted or denied;
  - B. the jobs (occupational series, grade level, and agency component) for which reasonable accommodation has been requested;
  - C. the types of reasonable accommodation that have been requested for each of those jobs;
  - D. 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;
  - E. the number of requests for reasonable accommodation, by type, that relate 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 for reasonable accommodation; and
  - H. the sources of technical assistance that have been consulted in trying to identify possible reasonable accommodation.

## 6. Policies and Procedures

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- a. **ACUS Policy:** ACUS will provide reasonable accommodation for employees and applicants to permit a qualified individual with a disability to be considered for a job, enable a qualified individual with a disability to perform the essential functions of the job, and enable a qualified individual with disability to enjoy the benefits and privileges of employment, unless the accommodation is an undue hardship to the agency. The employee or applicant need not have in mind or request a particular accommodation before making the request.
- b. **Accommodation Request Procedures for ACUS Employees and Applicants for Employment:**
  - i. An ACUS employee, or an individual acting on his or her behalf, should make the accommodation request orally or in writing to (1) a supervisor or manager in the individual's chain of command or (2) the RAC. If the employee makes a request to any

manager or individual, including his/her immediate supervisor, in lieu of the RAC, then such person must notify the RAC immediately.

- ii. An applicant for a vacancy at ACUS, or an individual acting on his or her behalf, must make the accommodation request orally or in writing to the RAC listed on the vacancy announcement. If the request is made to an ACUS employee other than the RAC in the vacancy announcement, that person must promptly notify the RAC.
  - A. ACUS will not require medication documentation except where needed to fully evaluate the request, such as where the disability and/or need for accommodation is not obvious or already known.
  - B. ACUS has a right to request relevant supplemental medical information (see Section 6(e) below for additional information about such medical documentation) if the information submitted by a requestor does not clearly explain (1) the nature of the disability or (2) the need for the reasonable accommodation (i.e., demonstrate how the requested accommodation will assist the employee to perform the essential functions of the job, to enjoy the benefits and privileges of the workplace, or to assist an applicant with the application process).
  - C. ACUS reserves the right to have medical information reviewed by its own medical expert at ACUS's expense.
  - D. The RAC will promptly respond to a requestor who may have provided insufficient documentation as to what additional information still is needed.
  - E. ACUS will respond to requests promptly:
    1. The RAC shall promptly acknowledge the request in writing and begin discussing the accommodation request. The RAC will continue to communicate as needed with the requestor and other concerned individuals throughout the request process until the decision has been reached.
    2. As soon as practical under the circumstances but no later than thirty (30) business days after receiving the initial request for an accommodation, the RAC will issue a decision on the request that will (1) grant the request and provide a reasonable accommodation to the qualified individual, (2) deny the request, or (3) propose an alternative reasonable accommodation. If a decision can be provided in less than the maximum amount of time, failure to provide the accommodation in that case may result in a violation of the Rehabilitation Act. The deadline to respond to the requester may be extended in limited situations due to extenuating circumstances, in which case the RAC must notify the requester in writing as to why the time frame needs extension. Extenuating circumstances are factors that could not reasonably have been anticipated or avoided in advance of the request for the accommodation or the granting of such request. Examples include

circumstances such as where special equipment or furniture must be back-ordered or the vendor typically used by ACUS is unable to provide the accommodation.

3. When it is reasonably likely that a requester will be entitled to a reasonable accommodation but the accommodation is not immediately available, the RAC may provide an interim accommodation, subject to the requester's approval, which allows the requester to perform some or all of the essential functions of the job in the interim, or assist an applicant with the application process if that alternative accommodation does not impose an undue hardship to the agency.
  4. In certain circumstances, a request for reasonable accommodation may require an expedited review by the RAC.
  5. The agency will not be expected to adhere to its usual timelines if an individual's health professional fails to provide needed documentation in a timely manner.
  6. Applicants and employees may track the processing of their requests for reasonable accommodation by contacting the CFOO identified above in Section 5.
- c. **How Supervisors Recognize Requests for Reasonable Accommodation:** A barrier may be a physical obstacle or a procedure/policy that prevents an individual from performing essential functions of a job, participating in the job application process, or enjoying the benefits/privileges of employment equal to the those enjoyed by non-disabled employees. If, for example, an employee tells her supervisor that she is having trouble getting to work on time because of medical treatments, that might put a supervisor on notice that that individual is requesting a reasonable accommodation. However, if an employee merely complains that his chair is uncomfortable, that would not be considered a request.
- d. **Denial of a Request for Reasonable Accommodation:** Any denial of a request for a reasonable accommodation shall be in writing. Such denial shall specifically state the reasons for the denial and be in an accessible format, if requested. If a specific requested reasonable accommodation is denied, but a different accommodation is offered in its place, the denial will explain the reasons for the denial and the reasons that the chosen accommodation will be effective. All denials shall notify the individual that he or she has a right to file an EEO complaint and explain the availability of any informal dispute resolution procedures. Consistent with ACUS's EEO Policies, an EEO complaint can be filed with an EEO Counselor at the General Services Administration EEO Office within 45 days of denial, regardless of whether the applicant or employee opts to participate in an informal dispute process. Individuals are encouraged to seek informal dispute resolution processes to obtain prompt reconsideration of denials when possible.

- e. **Request for Reconsideration:** An applicant for a reasonable accommodation can seek reconsideration of a decision by the RAC denying a request for reasonable accommodation or a proposal for an alternative accommodation. The Request should specifically state the reasons the applicant believes the decision is wrong, inappropriate, or otherwise inconsistent with this Policy and should be reconsidered. Any such request for reconsideration of the RAC's decision must be submitted in writing to the Reviewing Official appointed by the Executive Director under this Policy within ten (10) business days of receiving a denial or proposal for an alternative accommodation.
- f. **Medical Documentation:**
  - i. The RAC may request supporting medical documentation needed to process and evaluate a reasonable accommodation.
  - ii. The RAC may only request information pertaining to the disability that requires a reasonable accommodation. ACUS will specify what type of information is being sought regarding the disability, which may include how the disability impairs a major life function of the individual, as well as information necessary to determine what type of accommodation is appropriate under the circumstances.
  - iii. ACUS may require that the documentation regarding the disability and functional limitations come from an appropriate health care or vocational care professional. Medical or vocational professionals include, but are not limited to, medical doctors, psychiatrist, psychologists, nurses, physical therapists, physical therapists, speech therapists, and vocational rehabilitation specialists. ACUS may have such documentation reviewed by an appropriate third-party health care or vocational care professional at its own expense, if determined necessary and appropriate.
  - iv. All medical information shall be kept confidential. In addition, individuals who have access to information necessary to make a decision about whether to grant a requested accommodation shall not disclose this information except as follows:
    - A. Supervisors and managers who need to know may be told about necessary restrictions on the work or duties of the employee and about the necessary accommodation;
    - B. First aid and safety personnel may be told if the disability might require emergency treatment;
    - C. Appropriate officials may be given information necessary to investigate the agency's compliance with the Rehabilitation Act;
    - D. The information may in certain circumstances be disclosed to workers' compensation offices;
    - E. ACUS EEO officials may be given the information to maintain records and evaluate and report on ACUS's performance in processing reasonable accommodation requests; and

- F. Where medical information is disclosed to any of the foregoing officials, ACUS must inform those individuals about the confidentiality requirements that attach to the information.
- g. **Reasonable Accommodation:** The following types of accommodation may be available:
- i. **Provision of Auxiliary Aids and Services.** ACUS may provide auxiliary aids and services, as necessary.
  - Job restructuring.** ACUS is not required to reallocate *essential functions* of a job as a reasonable accommodation. However, restructuring of a job may include modifications such as: (A) reallocating or redistributing marginal job functions that an employee or applicant is or would be unable to perform because of a disability; and (B) altering when and/or how a function, essential or marginal, is performed.
  - ii. **Leave.** ACUS may permit the use of sick leave, annual leave, administrative leave, or leave without pay, in accordance with applicable laws and OPM guidance, as well as related ACUS policies.
  - iii. **Temporary Transfer.** ACUS may provide an accommodation that requires the individual to remain on the job with a temporary transfer of responsibilities.
  - iv. **Modified or Part-Time Schedule.** ACUS may permit an employee to work a modified or part-time schedule as a reasonable accommodation, absent undue hardship to the agency. A modified schedule may involve adjusting arrival or departure times, providing periodic breaks, providing for telework arrangements, alternating when certain functions are performed, or allowing an employee to use paid leave, leave without pay, or administrative leave.
  - v. **Reassignment.** ACUS will exhaust all other reasonable accommodation options prior to considering reassignment. Reassignment is required only after it is determined either that

1. There is no effective accommodation that will enable the employee to perform the essential functions of his/her current position; or
2. Other types of accommodation would impose an undue hardship.

Reassignment is an accommodation that applies only to ACUS employees, not applicants.

ACUS may reassign the individual to a vacant position that is equivalent in terms of pay, status, promotion potential, or other relevant factors (e.g., benefits) if the employee is qualified for the position.

If there is no vacant equivalent position, ACUS may reassign the employee to a vacant lower level position for which the individual is qualified, subject to the employee's approval. If there is more than one vacancy for which the employee is qualified, ACUS

will place the individual in the position that comes closest to the employee's current position in terms of responsibilities, pay, status, etc.

The RAC will coordinate with the employee's supervisor in the processing of reassignments.

- h. **Confidentiality:** Except as may be necessary to make a determination on a request for reasonable accommodation, or to implement a reasonable accommodation, the RAC will maintain the confidentiality of any personal information (including medical documentation whose proper handling is further described in subsection (e) above) obtained in connection with the reasonable accommodation process.

## 7. Effective Date

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This policy is effective as of the approval date referenced above. For the avoidance of doubt, this policy will remain in effect with respect to any successor position until this policy is modified, revoked, or superseded. In addition, this policy supersedes any prior policy, guidance, and/or delegation of authority with respect to the subject matter hereof.

## 8. Amendments to this Policy

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This policy may be modified or amended at any time in writing with the approval of the Executive Director. However, non-substantive, administrative updates may be made at any time without formally modifying or amending this policy. Such edits include updates to hyperlinks, changes to agency acronyms, names, or titles, or similar types of administrative updates.