



NATIONAL MEDIATION BOARD
Washington, DC 20572

Policy #1450 Reasonable Accommodation and Personal Assistance Services for Individuals with Disabilities

Effective Date: January 12, 2022

For the Board:

A handwritten signature in black ink, appearing to read "Richard H. ..." with a stylized flourish at the end.

Chairman

1/12/2022
Date

This revision supersedes all other policies on the subject.



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I. Purpose

This Policy establishes the National Mediation Board's (NMB) policy and procedures concerning requests for Reasonable Accommodation and Personal Assistance Services for individuals with Disabilities.

II. Authorities

The procedures in this Policy are governed by the authorities listed below, and to the extent there is a difference between what is outlined in this Policy and the authorities, the authorities' control.

A. Statutes

1. 29 U.S.C. § 791: Rehabilitation Act of 1973, as amended.
2. Privacy Act of 1974
3. 29 CFR part 1614: Federal Sector Equal Employment Opportunity.
4. Title I of the Americans with Disabilities Act of 1990
5. Americans with Disabilities Act Amendments of 2008
6. Management Directive 715 (EEO MD-715): Equal Employment Opportunity (EEO) Reporting Requirements.

B. EEOC Guidance and Technical Assistance Documents

1. EEOC Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans With Disabilities Act (revised October 17, 2002)
 2. Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees Under the American With Disabilities Act (July 27, 2000)
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3. EEOC Technical Assistance Manual on the Employment Provisions (Title I) of the American With Disabilities Act (January 1992)

III. Applicability

- A. Reasonable Accommodation: This Policy applies to requests for Reasonable Accommodation by Qualified Individuals with Disabilities who require accommodation to complete the job application and hiring process, to perform the Essential Functions of their current position, and/or to enjoy equal benefits and privileges of employment as those enjoyed by Employees and job applicants without Disabilities.
- B. Personal Assistance Services: This Policy applies to requests for Personal Assistance Services by Employees with Targeted Disabilities.
- C. Bargaining Unit Employees: The Collective Bargaining Agreement (CBA) between the NMB and the American Federation of Government Employees, Local 1923, the CBA shall also apply to the extent it is consistent with applicable law.

IV. Policy

- A. The NMB provides Reasonable Accommodation and Personal Assistance Services to eligible Employees and job applicants, unless doing so would impose an Undue Hardship on the NMB. This policy is intended to be a resource for both managers and employees including applicants for employment. Contractors are excluded from coverage under this policy.
- B. The agency will make the procedures in this policy available to both applicants and employees in both written and accessible formats. An accessible format is a format that meets an individual's particular need, including braille, large print and audio files.

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V. Definitions

- A. Applicant: An individual who is seeking employment with the NMB and is qualified to perform the essential functions for that position with or without reasonable accommodation.
- B. Bargaining Unit: Employees in a non-professional unit in accordance with the Certification of Representation WA-RP 80049, approved by the Federal Labor Relations Authority (FLRA) on May 17, 2000.
- C. Deciding Official: The NMB official responsible for determining eligibility for Reasonable Accommodation and Personal Assistance Services, and for granting or denying a request for Reasonable Accommodation or Personal Assistance Services. The Deciding Official is Michael Jerger, Acting Director, Office of Administration. He can be reached at (202) 692-5047.
 - 1. For Employees: An Employee's Department Manager.
 - 2. For Job Applicants: Director, Office of Administration.
- D. Disability: A person has a Disability if the person –
 - 1. Has a physical or mental impairment that substantially limits one or more Major Life Activities;
 - 2. Has a record of such an impairment; or
 - 3. Is regarded as having a physical or mental impairment that is not transitory and minor, even if the person does not actually have such an impairment.
- E. Employee: A current Federal employee, including permanent and temporary, full-time and part-time employees; fellows; and paid interns. Unpaid interns, and contractors are not Employees.
- F. Essential Function: A fundamental job duty of the employment position that the individual with a Disability holds or desires; it does not include a marginal function of a position. A function may be essential if, among other things, the position exists specifically to perform that function, there is a limited number of Employees available to perform the function, or the function is highly specialized and the Employee was hired based on his or her expertise or ability to perform that function.

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- G. Genetic Information: Includes, as defined in the Genetic Information Nondiscrimination Act of 2008 (GINA), (i) an individual's genetic tests; (ii) the genetic tests of that individual's family members; (iii) the manifestation of disease or disorder in family members of the individual (family medical history); (iv) an individual's request for, or receipt of, genetic services, or the participation in clinical research that includes genetic services by the individual or a family member of the individual; or (v) the genetic information of a fetus carried by an individual or by a pregnant woman who is a family member of the individual and the genetic information of any embryo legally held by the individual or family member using an assisted reproductive technology.
- H. Interactive Process: The process through which the Deciding Official and/or Reasonable Accommodation Coordinator and the individual requesting a Reasonable Accommodation or Personal Assistance Services discuss possible accommodation or services with the goal of reaching a reasonable, fair, and appropriate resolution. The process includes communicating about the precise nature of the individual's limitations that prompt the request for accommodation or services, and alternative accommodation or services that may be effective in meeting the individual's needs.
- I. Light Duty Assignment: A temporary assignment that eliminates certain physically demanding duties that are Essential Functions of an Employee's position.
- J. Major Life Activities: Include but are not limited to –
1. 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, and working.
 2. The operation of major bodily functions including functions of the immune special sense organs and skin; normal cell growth; and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, hemic, lymphatic, musculoskeletal and reproductive functions.

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- K. Personal Assistance Services (PAS): Services that provide assistance with performing activities of daily living that an individual would typically perform if the individual did not have a Targeted Disability, and that is not otherwise required as a Reasonable Accommodation, including for example, assistance with removing and putting on clothing, eating, and using the restroom.
- L. Qualified Individual: An individual who satisfies the skill, experience, education, and other job-related requirements related to the position that the individual currently holds or is applying for, and who can perform the position's Essential Functions with or without a Reasonable Accommodation.
- M. Reasonable Accommodation: Any modification or adjustment in the work environment, the way a job is customarily performed, or the job application process that would enable a Qualified Individual with a Disability to perform the Essential Functions of a position, to apply for a position, or to enjoy the benefits and privileges of working at the NMB in the same manner as an individual without a Disability.
- N. Reasonable Accommodation Coordinator (RAC): Director, Office of Administration, or designated official in the Office of Administration, who is responsible for, among other things, determining whether or not an individual has a Disability or Targeted Disability, and assisting Deciding Officials in processing Reasonable Accommodation and PAS requests.
- O. Requestor: An NMB employee, including supervisors, managers, Presidential Appointees; an applicant for employment with the NMB, or any person designated by the employee/applicant seeking an accommodation.
- P. Representative or Advocate: An individual other than the employee or applicant who represents the requestor's interests. A representative or advocate may include a family member, health care provider, a union representative or any other designated by the requestor.
- Q. Reassignment: A form of Reasonable Accommodation whereby an Employee who can no longer perform the Essential Functions of the Employee's current position is

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reassigned to a vacant position for which the Employee is qualified and can perform the Essential Functions with or without a Reasonable Accommodation.

- R. Rehabilitation Act of 1973: Federal law that prohibits Federal employers from discriminating against job applicants or Employees on the basis of Disability. The Rehabilitation Act incorporates the standards applied under Title I of the Americans with Disabilities Act of 1990 (ADA) for determining whether an accommodation must be provided.
- S. Targeted Disability: Any Disability that is listed in attachment B, which list is identified on the Office of Personnel Management's (OPM) Standard Form 256. The Federal Government identifies Targeted Disabilities for special emphasis in affirmative employment.
- T. Undue Hardship: Significant difficulty or expense that would be incurred by the NMB in providing an accommodation, after considering such factors as the nature and net cost of the accommodation, and the NMB's overall financial resources and operations, including the impact on the NMB's ability to conduct business and the ability of other employees to perform their duties.

VI. Responsibilities

- A. Employees and Job Applicants: Employees and job applicants initiate the Interactive Process by requesting a Reasonable Accommodation or Personal Assistance Services. Employees and job applicants are responsible for providing information about their Disability and need for accommodation or services, and for working cooperatively with the Deciding Official to arrive at a suitable accommodation or services.
- B. Reasonable Accommodation Coordinator: Requests and evaluates medical documentation and determines whether a requesting individual has a Disability or a Targeted Disability. Facilitates the Interactive Process by assisting Employees, job applicants, supervisors, managers, and Deciding Officials in processing Reasonable Accommodation and PAS requests and reaching appropriate resolutions. Assists the Deciding Official in understanding the requesting individual's limitations and determining what, if any, accommodations are appropriate. Maintains Reasonable

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Accommodation and PAS records. Provides training on Reasonable Accommodation and PAS procedures and the rights and responsibilities of Employees, job applicants, and managers with respect to the procedures. Serves as a Deciding Official in the event that the regular Deciding Official has a conflict of interest or is unavailable.

- C. Department Directors: Serve as the Deciding Officials with respect to Reasonable Accommodation and PAS requests by Employees within their Departments. Responsible for engaging in the Interactive Process, ensuring the prompt handling of requests, and participating in training concerning the rights of Employees with Disabilities and the Reasonable Accommodation and PAS processes. Responsible for ensuring that staff are familiar with the provisions of this Policy. Consults with the Director, Office of Administration when accommodation requests involve leave, reallocation of tasks, reassignment, telework or other scheduling adjustments.
- D. Director, Office of Administration: Serves as the Deciding Official with respect to Reasonable Accommodation requests by job applicants. Has the responsibility for determining whether an applicant for employment is a qualified individual with a disability and deciding whether to grant or deny the applicant's request for a reasonable accommodation. Also responsible for advising and training staff who are involved in the job application process to recognize and handle requests for Reasonable Accommodation. Serves as the agency liaison with the Department of Health and Human Services Program Support Center (PSC) which can provide medical review and accommodation suggestions.

VII. Procedures: Requesting Reasonable Accommodation or Personal Assistance Services

- A. Employees: An Employee may request a Reasonable Accommodation or Personal Assistance Services orally or in writing from the Employee's supervisor, another supervisor or manager in the immediate supervisory chain, or the Reasonable Accommodation Coordinator. A family member, health professional, or other representative of an Employee may make such a request on behalf of the Employee.
- B. Job Applicants: A job applicant may request a Reasonable Accommodation orally or in writing from the Office of Administration or any Employee who is involved in the application and hiring process, such as interviewers or hiring officials. A family

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member, health professional, or other representative of a job applicant may make such a request on behalf of the job applicant.

- C. Referral to the Reasonable Accommodation Coordinator: If a request for Reasonable Accommodation or PAS is made to the Employee's supervisor, another supervisor or manager in the immediate supervisory chain, or, in the case of a job application, a Human Resources Specialist of the NMB's service provider's office, the recipient must forward the request promptly to the Reasonable Accommodation Coordinator.
- D. Content of Request: A request for Reasonable Accommodation or Personal Assistance Services does not have to include specific terms such as Reasonable Accommodation, Personal Assistance Services, Disability, or Rehabilitation Act. Any request for change or modification to the workplace, the manner in which assigned duties are performed, or job application procedures, or for assistance with performing daily activities at the workplace, that is related to a medical condition, may be considered a request for a Reasonable Accommodation or PAS. An employee or applicant need not have a particular accommodation in mind before making a request.
1. Examples of requests for Reasonable Accommodation:
 - a. An Employee tells his or her supervisor that he has difficulty seeing his computer screen because of significant vision loss.
 - b. An Employee has exhausted his or her FMLA leave and requests additional unpaid leave when their multiple sclerosis flares.
 - c. An Employee has difficulty sitting at his or her desk for long periods of time following a car accident and requests a different type of chair.
 - d. An Employee with a job-related injury seeks to return to work with restrictions that prevent her from performing all of their job duties.
 2. Examples of requests for Personal Assistance Services for Employees with Targeted Disabilities:
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- a. An Employee informs his or her supervisor that they will have difficulty traveling for work because of their partial paralysis.
 - b. An Employee with a significant mobility impairment informs their supervisor that they require assistance getting in and out of their vehicle at the worksite.
- E. When an individual makes a request for an accommodation that will be needed on a repeated basis (e.g., assistance from sign language interpreters, CART Services or readers), the agency will not require the individual to submit a written request each time the accommodation is needed.
- F. Acknowledgment of Request: The Deciding Official or the Reasonable Accommodation Coordinator must –
- 1. Promptly reply to a request for Reasonable Accommodation or PAS in writing to notify the requesting individual that the request was received and to explain the decision-making process, including the fact that the individual may be required to provide relevant medical information.
 - 2. Document each request on a Confirmation of Request for Reasonable Accommodation or Personal Assistance Services form (attachment C), and provide a copy to the requester.

VIII. Procedures: Medical Information and Disability Determination

- A. Required Medical Information: If the nature of a requesting individual's Disability and the need for accommodation or services is not obvious or previously documented by the individual, the Reasonable Accommodation Coordinator may require the individual to provide medical information to substantiate the nature of the Disability, functional limitations associated with the Disability, and the need for accommodation or services.
 - B. The Reasonable Accommodation Coordinator, in consultation with the Deciding Official, if necessary, determines what medical information is required.
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- C. Only the Reasonable Accommodation Coordinator – not the Deciding Official or any other supervisor or manager – may request medical information concerning an individual who has requested accommodation or services.
- D. If a requesting individual provides medical documentation to the individual’s supervisor, another supervisor or manager in the immediate supervisory chain, or, in the case of a job application, a Human Resources Specialist from the NMB’s service provider’s office, the recipient must deliver such documentation promptly to the Reasonable Accommodation Coordinator.
- E. Medical information must be prepared by an appropriate health care professional, such as a doctor; psychologist; nurse; physical, occupational, or speech therapist; vocational rehabilitation specialist; or licensed mental health professional.
- F. If medical information provided by the requesting individual or a health care professional is not sufficient to enable the NMB to make a decision concerning the request for accommodation or services, the Reasonable Accommodation Coordinator may request additional medical information.
- G. The Reasonable Accommodation Coordinator may ask a requesting individual to sign a limited release that will allow the NMB to seek specific information relating to the individual’s Disability and functional limitations.
- H. The Reasonable Accommodation Coordinator must limit requests for medical documentation to the Disability at issue, its functional limitations, or the need for accommodation or services.
- I. The NMB retains the right to have a requesting individual’s medical information reviewed by a medical expert of the NMB’s choosing and at the NMB’s expense.
- J. Genetic Information: The Reasonable Accommodation Coordinator may not seek Genetic Information from the requesting individual or his or her family members, and individuals requesting accommodation or services may not provide Genetic Information when responding to requests for medical information.
- K. Confidentiality: The NMB must keep medical information obtained in connection with a request for Reasonable Accommodation or Personal Assistance Services confidential.

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NMB staff who obtain or receive such medical information are bound by the following confidentiality requirements –

1. All medical information, including information about functional limitations that the NMB obtains in connection with a request for Reasonable Accommodation or PAS must be kept only in the requesting individual's Reasonable Accommodation folder in the Office of Administration. Records will be maintained and managed in accordance with the Privacy Act of 1974 and shall be separate from the individual's official personnel file. These records will be maintained for three (3) years after the employee's separation from the NMB or all appeals are concluded, whichever is later.
2. All medical information obtained or created during the processing of a Reasonable Accommodation or PAS request will be maintained by the Reasonable Accommodation Coordinator except –
 - a. Supervisors and managers may be informed about any necessary accommodations or restrictions on the work or duties of a requesting Employee. This information should be limited in scope and should not contain diagnosis, symptoms, or other medical information not relevant to the accommodation request.
 - b. First-aid and safety personnel may be informed of relevant medical information, when appropriate, if the Employee or job applicant requires emergency treatment.
 - c. Relevant medical information shall be provided upon request to authorized Government officials and designees who are investigating the NMB's compliance with the Rehabilitation Act.
 - d. Medical information may be released when required by lawful order from a court of competent jurisdiction.
 - e. Medical information may in certain circumstances be disclosed to workers' compensation offices, insurance carriers, and EEO officials charged with maintaining records.

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- L. Disability Determination: Based on the medical information provided by the requesting individual, the Reasonable Accommodation Coordinator will determine whether or not the individual has a Disability or Targeted Disability.

IX. Procedures: Interactive Process

- A. A request for Reasonable Accommodation or Personal Assistance Services begins the Interactive Process. When appropriate, the Reasonable Accommodation Coordinator will facilitate the Interactive Process.
- B. In consultation with the requesting individual and the Reasonable Accommodation Coordinator, the Deciding Official determines the requesting individual's eligibility for a Reasonable Accommodation or PAS and identifies possible accommodations or services.
- C. The Deciding Official contacts the requesting individual as soon as possible after the request is received, and communicates with the individual frequently throughout the decision-making process, orally and/or in writing.
- D. The Deciding Official must be proactive in researching and considering possible accommodations, including consulting the resources listed in attachment A as needed.
- E. In considering whether or not an accommodation would impose an Undue Hardship on the NMB, the Deciding Official considers the resources available to the NMB as a whole.
- F. As needed, the Reasonable Accommodation Coordinator assists requesting individuals and Deciding Officials in identifying resources and information concerning possible accommodations or services, determining appropriate accommodations, and seeking possible alternatives to the requested accommodation, as appropriate.
- G. In providing a Reasonable Accommodation, the NMB is required only to provide an effective accommodation, not necessarily the accommodation that the Employee or job applicant requested.

X. Procedures: Examples of Reasonable Accommodation

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A. Reasonable Accommodation may include, but is not limited to –

1. Leave: A supervisor may approve leave as an accommodation consistent with NMB Policy #4150 - Family Medical Leave. An Employee who requests leave under the Family Medical Leave Act (FMLA) may also be entitled to leave as an accommodation.
2. Adjusted work schedule or location: A Deciding Official may adjust an Employee's work schedule or location as a Reasonable Accommodation. The ability to adjust a work schedule depends on Department operations, the need for the Employee's duties to be performed at a certain time of day, and the nature of the Employee's duties. The NMB may accommodate an Employee by granting a request for an alternative work schedule, consistent with NMB Policy #2000 - Alternative Work Schedules. The NMB may also accommodate an Employee by granting a request for an alternative work location, consistent with NMB Policy #2001 - Telework.
3. Modified duties: An Employee may request modified duties as a Reasonable Accommodation, provided that such modifications do not affect the Essential Functions of the position. In considering modified duties, the Deciding Official must examine the nature of the duties in question, whether anyone else is available to perform the duties, and the impact of the modified duties on the work required to be performed by the Employee's position.
4. The NMB is not required to create a Light Duty Assignment or to otherwise eliminate the Essential Functions of an Employee's position in order to accommodate an individual with a Disability.
5. The NMB may assign an Employee to a Light Duty assignment only on a temporary basis when the Employee has a temporary impairment and a Light Duty Assignment is available. This temporary assignment is not a Reasonable Accommodation.
6. Assistive devices: The NMB may provide assistive devices as a Reasonable Accommodation. Requests for ergonomic furniture or devices will be coordinated with the Reasonable Accommodation Coordinator.

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7. Reassignment: The NMB must consider reassignment as a form of Reasonable Accommodation when a Deciding Official determines that no other Reasonable Accommodation will enable an Employee to perform the Essential Functions of the Employee's current position.
8. The NMB may reassign an Employee only to a NMB position that is vacant and authorized to be filled, and for which the Employee meets the minimum qualification requirements. The NMB is not required to create a vacant position for the purpose of accommodating an Employee through reassignment.
9. Reassignment to a vacant position for which the employee is qualified, and not just permission to compete for such position, is a reasonable accommodation. The agency 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.
 - a. The NMB will first consider all vacant positions at the same grade level and rate of pay for which the Employee is qualified. If no such position is available, the NMB may consider vacant lower-graded positions for which the Employee is qualified.
 - b. The Reasonable Accommodation Coordinator will work with the Supervisory Human Resources Specialist (Staffing and Classification) to search for available vacant positions. To facilitate a search for suitable available vacant positions, the Employee must furnish the Reasonable Accommodation Coordinator with a current resume.
 - c. Supervisors should contact the Director, Office of Administration for guidance on available vacancies when considering reasonable accommodation.

XI. Procedures: Notice of Decision

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- A. The Deciding Official must consult with the Reasonable Accommodation Coordinator in deciding whether to grant or deny a request for Reasonable Accommodation or Personal Assistance Services.
- B. Timing
1. The Deciding Official must notify a requesting individual in writing of the projected time frame for processing the Employee's request for Reasonable Accommodation or Personal Assistance Services. If processing a request or providing an accommodation or services is delayed, the Deciding Official must notify the requesting individual in writing of the reason(s) for the delay including any extenuating circumstances that justify the delay. ***The time limit begins to run when the accommodation is first request.***
 2. To the extent possible, the agency will keep the individual informed of the date on which the agency expects to complete the process.
- C. The Deciding Official must provide or deny a request for Reasonable Accommodation or Personal Assistance Services as soon as practicable and no later than 20 workdays after receiving the request, except as follows –
1. The Deciding Official shall make every effort to expedite the processing of a Reasonable Accommodation request when an accommodation is needed sooner than 20 workdays.
 2. When a particular Reasonable Accommodation can be provided in less than 20 workdays, a Deciding Official's failure to promptly provide the Reasonable Accommodation may result in a violation of the Rehabilitation Act.
 3. The Deciding Official is not expected to adhere to the 20-workday requirement in the following circumstances:
 - a. When a request for Reasonable Accommodation or Personal Assistance Services cannot be completed because the requesting individual's health care professional fails to provide necessary medical documentation in a timely manner; or

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- b. Delivery of a necessary piece of equipment is delayed.

- D. An Employee or job applicant may monitor the processing of their Reasonable Accommodation request by contacting the Reasonable Accommodation Coordinator or the Deciding Official.

- E. If the Deciding Official, in consultation with the Reasonable Accommodation Coordinator, determines that an Employee or job applicant is entitled to a Reasonable Accommodation that cannot be provided immediately, the Deciding Official will provide an interim Reasonable Accommodation if it is possible to do so without the NMB's incurring Undue Hardship.

- F. Request Granted: If a request for Reasonable Accommodation or Personal Assistance Services is granted, the Deciding Official must notify the requesting individual in writing, in an accessible format when requested. The Deciding Official should use the Approval of Reasonable Accommodation or Personal Assistance Services (PAS) Request form (attachment D). The notice must contain –
 - 1. A description of the approved accommodation or service;
 - 2. A statement of the need for periodic evaluations/reassessments of the necessity and effectiveness of the accommodation or services; and
 - 3. If an alternative accommodation or service is provided, a description of the alternative accommodation or service and an explanation of the reasons for the alternative.

- G. Request Denied: Reasons for which the NMB may deny a request for Reasonable Accommodation or Personal Assistance Services include but are not limited to –
 - 1. The requesting individual is not eligible for Reasonable Accommodation or Personal Assistance Services.
 - 2. Undue Hardship: The requested accommodation or services would impose Undue Hardship on the NMB. In making this determination, the Deciding Official must consider all resources that are available to the NMB, excluding

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those that are designated by statute for a specific purpose that does not include Reasonable Accommodation.

3. The requesting individual is unable to perform an Essential Function of the position, even with the proposed Reasonable Accommodation.
4. The requesting individual would create a direct threat to safety on the job, even with the proposed Reasonable Accommodation.
5. The Deciding Official must provide the requesting individual with a written notice of denial, in an accessible format, when requested. The Deciding Official should use the Denial of Reasonable Accommodation or Personal Assistance Services Request form (attachment E). The notice must explain –
 - a. Reasons for the denial;
 - b. Any alternative accommodation that is being offered; and
 - c. The right of the Employee or Job Applicant to appeal the denial, and provide instructions on how to file such a complaint.

XII. Request for Reconsideration

- A. Upon resolution of a reasonable accommodation request, individuals who are dissatisfied with a denied request for accommodation may seek in writing that the agency reconsider the decision within ten (10) business days after receiving such decision. These requests should be provided to the Reasonable Accommodation Coordinator (RAC) who will forward it to the designated individual. The Board will designate a high level official to review such requests for reconsideration.
- B. When a request for reconsideration is made, the individual may present additional information in writing in support of the request, and the agency designated official may consider that and any other information at the official's discretion. The agency's designated official will provide a written response to the request for reconsideration within fifteen (15) business days after receiving the written request for reconsideration.

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This response shall be provided to the individual requesting the accommodation, the Deciding Official, and Reasonable Accommodation Coordinator.

- C. Employees are encouraged to use the alternative dispute resolution process as outlined in the NMB Policy #2150 – Conflict Prevention and Resolution, to facilitate a prompt reconsideration of denials of accommodation requests.

XIII. Costs and Resources

- A. The agency must take specific steps to ensure that requests for accommodation are not denied for reasons of cost, and that individuals with disabilities are not excluded from employment due to the anticipated cost of a reasonable accommodation, if the resources are available to the agency as a whole, excluding those designated by statute for a specific purpose that does not include reasonable accommodation, would enable it to provide an effective reasonable accommodation without undue hardship.
- B. Officials who decide requests for accommodation or make hiring decisions are aware that 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.
- C. Officials who grant or deny requests for accommodation or who make hiring decisions should contact the NMB's Chief Financial Officer (CFO) to arrange for the use of agency resources to provide the accommodation, including any centralized fund the agency may have for that purpose.

XIV. Procedures: Appeal

- A. If an Employee, former employee, or job applicant wishes to appeal a decision denying a request for a Reasonable Accommodation or Personal Assistance Services, they may take one of the following actions. Note that each action has a different time frame.
- B. Contact the NMB's Equal Employment Opportunity (EEO) Office: The Employee or job applicant may contact the NMB's EEO Office within 45 calendar days following the date of a notice of decision or failure to provide an accommodation or services to

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begin the EEO process pursuant to 29 CFR part 1614 and NMB Policy #1000 - Equal Employment Opportunity.

1. If an Employee or job applicant does not initiate contact with the EEO Office within the 45-day time limit, their right to file an EEO complaint may be lost.
 2. If an Employee or job applicant files a formal EEO complaint, they may not file a grievance on the same matter under the negotiated grievance procedure.
- C. File a grievance under the negotiated grievance procedure: Employees in the Bargaining Unit may file a grievance within 15 working days following the date of the decision under the negotiated grievance procedures in Article 24 of the CBA - Grievance Procedure. If an Employee files a grievance under the negotiated grievance procedure, the Employee may not file an EEO complaint on the same matter.
- D. File a grievance under the administrative grievance procedure: Employees who are not in the Bargaining Unit may file an administrative grievance if they believe the denial of their request is based on a reason other than discrimination. Such a grievance must be filed within 15 calendar days following the date of the decision, in accordance with the procedures in NMB Policy #2151- NMB Employee Grievance Process under the NMB's Administrative Grievance Procedure.

XV. Information Tracking

- A. The agency is required to maintain records to determine compliance with the nondiscrimination and affirmative action requirements imposed under Section 501, and to make such records available to EEOC upon the EEOC's request.
- B. The agency's records must contain details about each request for reasonable accommodation including, but not limited to:
 1. The specific reasonable accommodation requested, if any;
 2. The job (occupational series, grade level, and agency component) sought by the requesting applicant or held by the requesting employee;

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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 (which may include an accommodation different from the one requested) or denied;
5. The identity of the deciding official;
6. If denied, the basis for such denial; and
7. The number of days taken to process the request.

XVI. Penalty

Employees who violate the provisions of this Policy – including Employees who provide false or fraudulent information in connection with a request for a Reasonable Accommodation or Personal Assistance Services – may be subject to disciplinary action, up to and including removal from employment.

Attachments:

Attachment A – Resources

Attachment B – Targeted Disabilities

Attachment C – Confirmation of Request for Reasonable Accommodation or Personal Assistance Services (PAS)

Attachment D – Approval of Reasonable Accommodation or Personal Assistance Services (PAS) Request

Attachment E – Denial of Reasonable Accommodation or Personal Assistance Services Request

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Attachment A

Resources

1. Additional Information: For more information and guidance concerning the procedures for requesting a Reasonable Accommodation or Personal Assistance Services, please contact the Reasonable Accommodation Coordinator in the Office of Administration Services at (202) 692-5010 or via e-mail at OAS@nmb.gov.
2. Equal Employment Opportunity Commission, (800) 669-4000 (voice), (800) 669-6820 (TTY), (844) 234-5122 (ASL video phone): EEOC's publication center has free documents that can be obtained on request or online at www.eeoc.gov. EEOC publishes guidance and regulations on a wide range of Disability and job discrimination topics.
3. Job Accommodation Network (JAN), (800) 526-7234 (voice), (877) 781-9403 (TTY), www.jan.wvu.edu: JAN is a service of the President's Committee on Employment of People with Disabilities. JAN provides information, free of charge, about many types of Reasonable Accommodation.
4. Office of Disability Employment Policy (ODEP), US Department of Labor, (866) 633-7365 (voice), (877) 889-5627, www.dol.gov/odep: ODEP promotes policies and coordinates with employers and all levels of government to increase workplace success for people with Disabilities.
5. Disability.gov, the Federal Government's website for people with disabilities, www.disability.gov: The website contains Disability-related resources on programs, services, laws, and regulations to help people with Disabilities lead full, independent lives. This website offers information on a variety of topics, including benefits, civil rights, community life, education, emergency preparedness, employment, housing, health, technology, and transportation.
6. US Department of Justice, Civil Rights Division, (800) 514-0301 (voice), (800) 514-0383 (TTY), www.ada.gov: The Americans with Disabilities Act website and information line offer information, resources, and answers to technical questions concerning the ADA.

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Attachment B

Targeted Disabilities

1. Developmental disability, for example, autism spectrum disorder.
2. Traumatic brain injury.
3. Deafness or serious difficulty hearing, benefiting from, for example, American Sign Language, CART, hearing aids, cochlear implant and/or other supports.
4. Blindness or serious difficulty seeing even when wearing glasses.
5. Missing extremities (arm, leg, hand, and/or foot).
6. Significant mobility impairment, benefiting from the use of a wheelchair, scooter, walker, leg brace and/or other supports.
7. Partial or complete paralysis.
8. Epilepsy or other seizure disorders.
9. Intellectual disability.
10. Significant psychiatric disorder, for example, bipolar disorder, schizophrenia, PTSD, or major depression.
11. Dwarfism.
12. Significant disfigurement, for example, as caused by burns, wounds, accidents or congenital disorders.

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Attachment C

Confirmation of Request for Reasonable Accommodation or Personal Assistance Services (PAS)

(To be completed by the Deciding Official or Reasonable Accommodation Coordinator)

Name of Employee/Applicant		Employee		Applicant	
Division or Department					
Date of Request		Phone			
Name of Third-Party Requester (if applicable)				Phone	
Relationship of Third-Party Requester to Employee/Applicant:					
Accommodation requested: Check type and explain in the space below.					
Adaptive equipment	<input type="checkbox"/>	Schedule change	<input type="checkbox"/>	Interpreter	<input type="checkbox"/>
Workspace modification	<input type="checkbox"/>	Leave	<input type="checkbox"/>	Reassignment	<input type="checkbox"/>
Restructure job duties	<input type="checkbox"/>	Work at home	<input type="checkbox"/>	Light/limited duty	<input type="checkbox"/>
Breaks	<input type="checkbox"/>	Other (describe in space below)			<input type="checkbox"/>
Personal Assistance Services (PAS) requested: Check box and describe in the space below.					
Explanation/Description of Accommodation or PAS requested					
Reason for the request: Please describe in the space below; if requesting modified duties, please describe restrictions.					
If the accommodation is time-sensitive, provide the date by which a response is needed:					
Please attach to this form any relevant medical documentation provided by the employee/applicant. Is medical documentation attached?				Yes	<input type="checkbox"/>
				No	<input type="checkbox"/>

Send completed form to Reasonable Accommodation Coordinator (RAC)

If an alternative format of this document is required, contact the RAC
at (202) 692-5010 or via e-mail at OAS@nmb.gov

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Attachment D

Approval of Reasonable Accommodation or Personal Assistance Services Request

Name of Employee/Applicant		Phone	
Division or Department		Date of Request	
Accommodation approved: Check type and describe in the space below.			
Adaptive equipment	<input type="checkbox"/>	Schedule change	<input type="checkbox"/>
Workspace modification	<input type="checkbox"/>	Leave	<input type="checkbox"/>
Restructure job duties	<input type="checkbox"/>	Work at home	<input type="checkbox"/>
Breaks	<input type="checkbox"/>	Other: Please describe in the space below.	<input type="checkbox"/>
Personal Assistance Services approved: Check box and describe in the space below.			
If accommodation/services approved are different from the accommodation/services requested, explain why in the space below.			
Periodic review is necessary to ensure the ongoing necessity and effectiveness of accommodation or services. The Reasonable Accommodation Coordinator and supervisor must establish a schedule for periodic review of the accommodation.			Review Schedule:
Was medical documentation required?*			Yes <input type="checkbox"/> No <input type="checkbox"/>
Was medical documentation received?			Yes <input type="checkbox"/> No <input type="checkbox"/>
Name of Deciding Official			
Signature of Deciding Official			
Date Reasonable Accommodation/PAS approved			
Date Reasonable Accommodation/PAS provided			

*** Medical documentation is required if the employee/applicant's functional limitation and need for accommodation or services is not obvious.**

If an alternative format of this document is required, contact the Reasonable Accommodation Coordinator at (202) 692-5010 or via e-mail at OAS@nmb.gov

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Attachment E

Denial of Reasonable Accommodation or Personal Assistance Services Request

Name of Employee/Applicant		Phone number	
Division or Department		Date of Request	
Type(s) of accommodation or services requested: Describe in the space below.			
Basis for denial of accommodation or services: Check all that apply.			
<input type="checkbox"/>	Requester not eligible for accommodation or services.		
<input type="checkbox"/>	Accommodation or services would be ineffective.		
<input type="checkbox"/>	Accommodation or services would cause Undue Hardship to the Gallery.		
<input type="checkbox"/>	Medical documentation does not support the need for accommodation or services.		
<input type="checkbox"/>	The requester would be unable to perform an essential job function, even with accommodation.		
<input type="checkbox"/>	The requester would create a direct threat to safety on the job, even with accommodation.		
<input type="checkbox"/>	Other (describe below)		
State the specific reason(s) for the denial of the requested accommodation or services. Explain why the requested accommodation or services are ineffective or causes Undue Hardship.			
Was a different accommodation or service offered?		Yes	No
If yes, describe the offered accommodation/services in the space below.			

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NOTICE: If you wish to appeal this decision, you may –

1. **Contact the NMB’s Equal Employment Opportunity (EEO) Office:** You may contact the EEO Office within 45 calendar days from the date of this decision to begin the EEO process pursuant to 29 CFR part 1614 and Policy #1000 - Equal Employment Opportunity. The telephone number for the EEO Office is (202) 692-5069.

Note –

- If you do not initiate contact with the EEO Office within the 45-day time limit, your right to file an EEO complaint may be lost.
- If you file a formal EEO complaint, you may not file a grievance on the same matter under the negotiated grievance procedure.

2. **File a Grievance under Negotiated Grievance Procedure:** If you are within the bargaining unit defined in the collective bargaining agreement (CBA) between the NMB and AFGE Local 1924, you may file a grievance within 15 working days under the negotiated grievance procedure established by the CBA.

Note: If you file a grievance under the negotiated grievance procedure, you may not file an EEO complaint on the same matter.

3. **Administrative Grievance Procedure:** If you are not a bargaining unit employee and you believe that your request was denied for a reason other than discrimination, you may file an administrative grievance within 15 calendar days following the date of this decision in accordance with Policy #2151 – NMB Employee Grievance Process.

Name of Deciding Official	Signature of Deciding Official	Date
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If an alternative format of this document is required, contact the Reasonable Accommodation Coordinator at (202) 692-5010 or via e-mail at OAS@nmb.gov