



UNITED STATES GOVERNMENT  
**OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION**

**Office of Navajo and Hopi Indian Relocation  
Policy on Reasonable Accommodation**

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Executive Director**

Policy

This policy is designed to describe the procedures to be followed when an accommodation is requested by an applicant to, or employee of, The Navajo and Hopi Indian Relocation in accordance with Executive Order 13164 established on July 26, 2000. Executive Order 13164 directs all federal agencies to establish effective written procedures to facilitate the provision of reasonable accommodation to employees and job applicants with disabilities. Pursuant to this Executive Order, and our continuing obligations under the Rehabilitation Act of 1973, the Office has issued these guidelines. The ONHIR provides the following accommodations: a) for the application process; b) to enable an employee with a disability to better perform essential job functions; and c) to provide equal benefits and privileges of employment.

Definitions

*Reasonable Accommodation:* Any change in the work environment or the way things are customarily done, to enable a qualified individual with a disability to enjoy equal employment opportunities.

*Qualified Individual:* An individual with a disability is qualified if (1) s/he meets the required skill, experience, education, and other job-related requirements of the position; and (2) s/he can perform the essential functions of the position, with or without reasonable accommodation.

*Essential Functions:* Job duties that are so fundamental to the position that the individual holds or desires that s/he cannot do the job without performing them. A function can be "essential" if, among other things: the position exists specifically to perform that function; there are a limited number of others who could perform the function; or the function is specialized and the individual is hired based on her/his ability to perform it. Determination of the essential functions of a position is done on a case-by-case basis to reflect the job as actually performed.

*Reassignment:* Reassignment is a form of reasonable accommodation that, absent undue hardship, is provided to employees (not applicants) who, because of a disability, can no longer perform the essential functions of their position, with or without reasonable accommodation. Reassignments are made only when employees are qualified for the position, and are made without competition.

*Undue Hardship:* If a specific type of reasonable accommodation requested causes significant difficulty or expense, the ONHIR is not required to provide that particular accommodation. A determination of undue hardship is made on a case-by-case basis, considering the nature and cost of the accommodation needed and the impact on the operations of the agency and/or work of others in the unit.

***Individual with a disability:*** Someone who has a physical or mental impairment that substantially limits one or more of that individual's major life activities; has a record of such impairment; or is regarded as having such an impairment.

### **Requests For Reasonable Accommodation**

An initial request for reasonable accommodation is a statement made by an employee or an applicant that an individual needs a change in the workplace or in the way things are done due to a medical condition. The statement can be made either orally or in writing. In most instances, it is the obligation of the employee to request the reasonable accommodation. However, there may be situations where the known disability of the employee impairs that employee's ability to effectively communicate a need for an accommodation that is obvious to the supervisor, a family member, health professional, or other representative. An employee request may be made either to their supervisor, other supervisor or manager in the chain of command or the Disability Program Manager, who is designated to oversee the reasonable accommodation process.

An applicant must make a request to the Disability Program Manager who will be identified in the vacancy announcement as the point of contact. At this point, the employee or applicant will be provided a copy of the agency's reasonable accommodation policy.

### **Time Frame for Reasonable Accommodation Request**

The reasonable accommodation process begins as soon as the request for accommodation is made whether it is made orally or in writing. The ONHIR will begin the process to address a reasonable accommodation as soon as it is made whether or not written confirmation has been provided. The request does not have to specifically state "reasonable accommodation" or disability" or any other such term.

### **Written Requests**

**Employees:** Employees seeking an accommodation must follow up any oral request by completing the attached "Confirmation of Request" form and submitting it to the Human Resources Officer. The Human Resources Officer will offer assistance in filling out the form, if needed. Employees should make the written confirmation requests as soon as possible following an oral request.

**Applicants:** Applicants seeking an accommodation will complete the "Confirmation of Request" form and submit to the Human Resources Officer. This must be completed and received prior to beginning the process.

A decision on any request will not be finalized until written confirmation is provided.

### Processing the Request Time Frames

**Employees:** ONHIR will process requests for reasonable accommodation, and provide accommodations where appropriate, within a 15 day timeframe from date of request to process the request. In cases where a disability is obvious and can be accommodated with little or no disruption to the ONHIR, accommodation will be made immediately to permit the most expeditious consideration and delivery of reasonable accommodation.

**Applicants:** Applications seeking an accommodation will need to provide information to the Disability Program Manager regarding their disability prior to the hiring process before the accommodation be addressed and/or approved or denied. If approved, the agency will provide accommodation within 15 days of the start date of the applicant.

Any supervisor that receives a request for accommodation must forward the request to the Disability Program Manager no later than five working days following receipt. When the Disability Program Manager receives a request for reasonable accommodation, the supervisor is informed in writing and has an opportunity to respond to and recommend a decision on the request. The Disability Program Manager will forward a recommended decision to the Executive Director within five working days following receipt of sufficient information on which to base a decision.

### Medical Paperwork/Supporting Documentation

Opinions of a rehabilitation specialist or other medical professionals and supporting documentation or medical paperwork may be required from the employee at their expense in order that a medical opinion can be derived as the basis for the reasonable accommodation request. If the supporting documentation or medical paperwork cannot be obtained or does not reach the ONHIR in a timely manner, it may result in a delay beyond the five day period specified above. The requester will be kept informed of the status of the request and the reason(s) for delay.

### Supervisor Recommendation/Temporary Accommodation

To eliminate unnecessary levels of review, first line supervisors can approve a request for reasonable accommodation for their staff in consultation with the Disability Program Manager. A supervisor will make his/her recommendation to the Disability Program Manager no later than five working days following receipt of the request regarding a reasonable accommodation. The Disability Program Manager in consultation with the supervisor will investigate whether the temporary accommodation for accommodation is feasible and the employee will be informed the accommodation is temporary pending receipt of additional information on which to base a final decision.

### Repeated/Recurring Reasonable Accommodation

Where an employee has requested a type of reasonable accommodation that s/he is likely to need on a repeated basis - for example, the assistance of sign language interpreters or readers – the agency may not require that the individual submit a written request for recordkeeping purposes each time the accommodation is needed. Agency procedures provide that once the reasonable accommodation is approved the first time, the employee may obtain the accommodation by notice to an appropriate individual or office (e.g., his/her supervisor or a centralized accommodation office).

### Delays to Reasonable Accommodation Request

If the reasonable accommodation request cannot be provided immediately, due to extenuating circumstances that are those factors that could not reasonably have been anticipated or avoided in advance of the request for the accommodation, for example, equipment must be back-ordered or a new vendor must be found, it will result in a delay of the reasonable accommodation request. Also, the agency will not be expected to adhere to its usual time frames which would result in a delay in processing a request if an individual's health professional fails to provide the needed documentation needed to process the reasonable accommodation.

Where there is a delay in either processing a request for, or delivering, a reasonable accommodation, the agency will notify the individual of the reason for the delay. To the extent possible, the agency will also keep the individual informed of the date on which the agency expects to complete the process. If there is a delay, the agency will investigate whether there are temporary measures that could be taken to assist the individual with a disability.

### Reassignment

Reassignment is a form of reasonable accommodation that, absent undue hardship, is provided to employees (not applicants) who, because of a disability, can no longer perform the essential functions of their position, with or without reasonable accommodation. Reassignments are made only when employees are qualified for the position, and are made without competition. The reassignment process will begin after the reasonable accommodation request has been made and reviewed by the supervisor, the Disability Program Manager and the Executive Director. Upon review of the initial request, a determination for reassignment can be made when agency decision makers consult and determine that the employee can no longer perform the essential functions of their position. When this determination has been made, the Disability Program Manager will identify and evaluate other possible accommodations including reassignment. The agency will consider for example, temporary job restructuring or the use of equipment that might permit the individual to perform *some* of the functions of his/her job or reassignment.

### Determining When Accommodation is Appropriate

The Disability Program Manager is responsible for gathering sufficient information to enable the Executive Director to make a fair and legally sufficient decision on accommodation requests. At a minimum, the Disability Program Manager will: 1) explain to the applicant, employee, or third party that s/he will recommend a decision on the request; 2) explain the processing of the request and time frames involved; and 3) clarify the specific disability, limitation, problem or barrier for which accommodation is sought.

Before making a recommendation to the Executive Director, the Disability Program Manager will:

1) Where needed, consult with a health professional (rehabilitation specialist, counselor, etc.) to obtain an opinion whether an accommodation sought is reasonable and can be expected to sufficiently mitigate barriers to allow the requester to perform the essential functions of the position. 2) Where needed to adequately evaluate a request for accommodation, require the requester to provide medical information to substantiate the individual has a disability and needs the reasonable accommodation requested. Requests for medical information will follow the requirements of EEOC's "Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act" (available at [www.eeoc.gov](http://www.eeoc.gov)).

### Denial of Reasonable Accommodation Request

A denial of a reasonable accommodation request will be provided in writing to the requester on the "Denial of Request" form. The form will be completed and will specifically state the reason(s) the accommodation is being denied, and if possible should offer an alternative accommodation. The same written denial process as stated above will apply to applicants as well.

### Final Approval

The Executive Director's decision on the reasonable accommodation request will be provided within five working days following consultation with the Disability Program Manager and will be provided in writing to employee requesting the accommodation. If the accommodation is approved, that decision will be immediately communicated to the individual on the "Confirmation of Request" form. The same written approval process will apply to applicants as well.

### Informal Dispute Resolution

If the requesting individual wishes reconsideration of their request, s/he should ask the Executive Director, in writing, to reconsider the denial. A request for reconsideration must be made within five working days of

receipt of the initial decision. The individual may submit additional information in support of his/her request at this time, or may propose an alternative accommodation to the original request. The Executive Director will issue a final decision, in writing, no later than five working days after receipt of the request for reconsideration.

### Information Tracking and Reporting

The Disability Program Manager will maintain a file of requests for reasonable accommodation, to include the written request, response and analysis, decision and appellate activity, if any. The Executive Director and Disability Program Manager, in consultation will annually review reasonable accommodation request activity to determine whether the policy is adequate for ONHIR and employee needs, or if changes can improve the program.

### Confidentiality of Reasonable Accommodation Requests

The Disability Program Manager will keep all requests for accommodations, along with any medical or other documentation provided, in files separate from the employee's personnel file to ensure confidentiality of information. Access to this information is strictly limited to those employees with an identifiable need to review the information and will otherwise remain confidential in accordance with the Privacy Act procedures

### Relationship of Procedures to Statutory Claims

This policy is in addition to statutory protections for persons with disabilities and the remedies they provide for denial of requests for reasonable accommodation. An individual who chooses to pursue a statutory remedy for denial of reasonable accommodation must:

For an EEO complaint, contact the Human Resources Official for the name of number of the Agency's EO Counselor within 45 days from the date of receipt of the written notice of denial.

Initiate an appeal to the Merit Systems Protection Board within 30 days of an appealable adverse action as defined in 5 CFR 1201.3.

### Inquiries

Any person wanting further information concerning this policy may contact Teresa Slater, Human Resources Officer, 928-779-2727, ext. 122 or via e-mail at [tslater@onhir.gov](mailto:tslater@onhir.gov).

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