



FEMA

# Fact Sheet

## Guide for Employees on FEMA's Reasonable Accommodation Process

This fact sheet is provided as a quick reference guide for employees regarding the provision of reasonable accommodations. This document **does not** replace FEMA's reasonable accommodation policy (see Resources at end of this document), nor does it address all questions or situations. For specific information not covered herein, please consult the reasonable accommodation policy or contact the Office of Equal Rights (OER) Disability Division – [FEMA-Reasonable-Accommodation@fema.dhs.gov](mailto:FEMA-Reasonable-Accommodation@fema.dhs.gov).

### Introduction

The Rehabilitation Act of 1973 (Rehab Act), as amended, protects qualified employees and applicants for employment with disabilities from employment discrimination based on a disability, in the federal government. The law also requires that FEMA provide a reasonable accommodation for the *known* physical or mental limitations of an otherwise qualified individual with a disability, unless doing so causes an undue hardship. Additionally, the Rehab Act also makes it illegal to retaliate against a person because the person requests an accommodation.

### What is a Reasonable Accommodation?

A reasonable accommodation is a change or modification to the work environment or the way things are customarily done, including a change or modification to a particular office policy and/or procedures, which would enable a qualified individual with a disability to apply for a position, perform the *essential functions* of a position, and/or, enjoy the benefits and privileges of employment equal to those enjoyed by employees without disabilities. Reasonable accommodations do not allow an employee to be excused from the *essential functions* of their position.

### Who is a person with a disability?

A person with a disability is an individual who has a [physical or mental impairment that substantially limits one or more major life activities](#); a record of such an impairment; or is regarded as having such an impairment. Only individuals with a physical or mental impairment are entitled to a reasonable accommodation; individuals who have a record of an impairment that is no longer limiting them in a major life activity are not entitled to an accommodation.

A detailed explanation of the above definition can be found by following the link to a fact sheet produced by the U.S. Equal Employment Opportunity Commission (EEOC). Additionally, OER has an informative [webinar](#) available on this topic, for employees.

Briefly, major life activities include but are not limited to breathing, walking, learning, seeing, and hearing. An impairment is considered substantially limiting if it significantly restricts – or prevents altogether – an individual's ability to perform the activity as compared with the average person.

A *qualified* individual with a disability is defined as one who: (1) satisfies the requisite skill, experience, education, and other job-related requirements of the position; and (2) can perform the essential functions of the position, with or without reasonable accommodation.

### **How does an employee request a reasonable accommodation?**

An employee may request a reasonable accommodation multiple ways. An employee can do so orally or in writing from his/her supervisor of record (SOR), by contacting OER, or by initiating the process through the DHS [Accessibility Compliance Reporting System \(ACMS\)](#). Though not required to use any specific words or format for the request, the requestor is responsible for notifying his/her SOR of the need for an accommodation, providing sufficient information to establish that they are an individual with a disability, and describing the limitations they encounter that require accommodating. This is true in a steady state, as well as at the time of deployment to a disaster.

### **How is a decision reached regarding a request for a reasonable accommodation?**

Once an employee or applicant for employment requests a reasonable accommodation, FEMA is required to initiate an interactive discussion with the individual. During discussions, the SOR/decision maker and the employee should meet to identify the precise limitations and types of accommodations which would be the most effective and efficient for both parties and enable the employee to perform the essential functions of his/her job. The SOR may consult with OER, if assistance is needed. The final decision rests with the SOR.

### **When should medical documentation be provided?**

If the disability and/or limitations are not obvious, FEMA may require medical information to substantiate that the individual has a disability and clarify the relevant limitations that require accommodation. Medical documentation will be considered **sufficient** if it meets the following criteria:

- Describes the nature, severity, and duration of the individual's impairment,
- The activity or activities that the impairment limits,

- The extent to which the impairment limits the individual's ability to perform said activity or activities; and,
- Substantiates why the requested reasonable accommodation is needed.

Medical documentation about the individual's disability and functional limitations must come from a qualified health care provider. Depending on the disability and the type of functional limitation it imposes, qualified professionals could include doctors, psychiatrists, psychologists, nurses, physical therapists, occupational therapists, speech therapists, vocational rehabilitation specialists, or licensed mental health professionals.

### **Can an employee refuse to provide medical documentation?**

If the disability requiring an accommodation is not obvious, no. Failure to provide requested documentation will render an employee ineligible for a reasonable accommodation. However, if an employee is uncomfortable sharing their medical information directly with their first-line supervisor, s/he may choose to provide the documentation to OER instead. OER will then work with the supervisor to come to a decision on the request.

### **Does the agency have to provide the accommodation requested?**

No, the SOR may choose among all potential options, as long as the chosen accommodation is *effective*. Thus, as part of the interactive process, the SOR may offer alternative suggestions for reasonable accommodations and discuss their effectiveness in removing the workplace barrier that is impeding the individual with a disability.

If there are two or more possible accommodations, all of which are effective, and one costs more or is more burdensome than the other, the SOR may choose the less expensive or less burdensome accommodation. The SOR has the ultimate discretion to choose between effective accommodations.

### **What does undue hardship mean?**

FEMA has a legal duty to provide an effective accommodation, unless doing so will result in an undue hardship to the agency. An undue hardship means that the accommodation would be too difficult or too expensive to provide, in light of the employer's size, financial resources, and the needs of the business. An employer may not refuse to provide an accommodation just because it involves some cost. Importantly, OER must be consulted on all denials prior to issuing the final decision.

### **What are the applicable processing timeframes?**

The time required to process a request for an accommodation depends on many factors, such as the need to clarify requests, obtain the necessary supporting documentation, and the availability of all parties involved. FEMA processes all reasonable accommodation requests as

expeditiously as possible. Generally, requests for reasonable accommodation are to be processed within 15 calendar days. Where it is necessary to purchase equipment or furniture, it may take longer to fully process the request.

### **When is a decision reached?**

Upon evaluating all recommendations, considering available resources, and engaging in the interactive process with the requestor, the SOR will make a final determination of approval or denial on the request. **In the event of a denial, the Office of Equal Rights must be consulted.** Once a decision is reached, the SOR is required to meet with the employee and discuss the decision. The supervisor must document their decision in writing. Once issued, a copy of the decision must be forwarded to OER at [FEMA-reasonable-accommodation@fema.dhs.gov](mailto:FEMA-reasonable-accommodation@fema.dhs.gov) or uploaded to [ACMS](#).

### **What is the appeal process?**

An individual who has requested reasonable accommodation may request prompt reconsideration of a denial of reasonable accommodation.

- If an employee is denied his/her request for reasonable accommodation, he/she may appeal directly to his/her second level supervisor. The employee may present additional information in support of his/her request. The second level supervisor will respond to this request within ten (10) business days of receipt of the request.
- If an applicant for employment is denied his/her request for reasonable accommodation, he/she may appeal directly to the Director, OER. The applicant may present additional information in support of his/her request. The Director will respond to this request within ten (10) business days of receipt of the request.
- In an effort to resolve disputes arising out of a request for reasonable accommodation, employees or applicants for employment can also request to participate in the OER Alternative Dispute Resolution process.

### **What are some common types of accommodations?**

Common types of accommodations include, but are not limited to the following:

- Making facilities accessible and acquiring assistive devices;
- Modifying work schedules;
- Restructuring of job (reallocating or redistributing *marginal* job functions that an employee is unable to perform because of a disability, or altering when and/or how a function, essential or marginal, is performed). An employer never has to reallocate essential functions as a reasonable accommodation.

- Making an exception to a policy or procedure;
- Permitting the use of leave, including unpaid leave;
- Modifying exam or training materials;
- Providing readers or interpreters; and
- Reassigning to another vacant, funded position. This is the accommodation of last resort.

### **What is the role of the Office of Equal Rights in the reasonable accommodation process?**

OER's role is to assist managers with the timely processing of reasonable accommodation requests, consistent with all relevant statutes, regulations, EEOC guidance, case law, and the FEMA Reasonable Accommodation Policy. In that regard, OER provides neutral, authoritative guidance to managers/supervisors and employees on the reasonable accommodation process. When applicable, OER may forward a request for reasonable accommodation to Federal Occupational (FOH) Health to obtain a medical review of the employee's request for an accommodation. OER is a neutral party in the reasonable accommodation process and FOH is a medical reviewing authority. Neither OER nor FOH approves or denies initial accommodation requests.

In OER, a Reasonable Accommodation Specialist may conduct an analysis on whether an employee is an individual with a disability. The SOR, in consult with the OER, determines whether to provide an accommodation. The final decision rests with the SOR.

FEMA components may designate a qualified management official to facilitate the reasonable accommodation process (i.e., a Regional point of contact). The designation of such a facilitator does not replace OER's role in the reasonable accommodation process or preclude employees from communicating with OER directly on reasonable accommodation matters.

For guidance and/or assistance with any reasonable accommodation inquiry, please contact the Disability Division within OER at [FEMA-Reasonable-Accommodation@fema.dhs.gov](mailto:FEMA-Reasonable-Accommodation@fema.dhs.gov).

### **Resources:**

- [FEMA Reasonable Accommodation Policy](#)
- [FEMA Form 256-0-1, Request for Reasonable Accommodation Form](#)
- [Job Accommodation Network \(JAN\)](#) – provides general guidance on the Rehabilitation Act and A-Z disabilities and accommodations.
- [Office of Equal Rights Reasonable Accommodation intranet site](#)
- [EEOC Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act](#)
- [The Rehabilitation Act of 1973](#)