



## Reasonable Accommodation Policy and Procedures

### I. PURPOSE

The John F. Kennedy Center for the Performing Arts' (the "Center") Reasonable Accommodation Policy and Procedures (the "Policy") sets out the Center's policy of ensuring employees and applicants are offered the resources necessary to be successful and productive and enjoy equal access to all employment opportunities. The Policy also sets out the Center's procedures for providing Reasonable Accommodations (see Section IV. Definitions) to applicants and employees who are Qualified Individuals with Disabilities (see Section IV. Definitions), unless doing so would cause Undue Hardship (see Section IV. Definitions).

### II. SCOPE

This Policy applies to all Center employees (Trust and Federal) seeking Reasonable Accommodations (see Section IV. Definitions) based on a Qualifying Disability (see Section IV. Definitions). Employees who would like to request changes in work conditions (e.g., requests for additional monitors and schedule changes) that are not based on a Qualifying Disability (Section IV. Definitions) should be addressed directly with the employee's first level supervisor.

### III. AUTHORITIES

- A. Section 501 of Rehabilitation Act of 1973, as amended
- B. Americans with Disabilities Act of 1990, as amended
- C. Pregnant Workers Fairness Act
- D. 29 C.F.R. Part 1630
- E. Executive Order 13164
- F. Equal Employment Opportunity Commission (EEOC) Technical Assistance Document: Employer Provided Leave and the Americans with Disabilities Act (May 9, 2016)
- G. EEOC Questions and Answers: Federal Agencies' Obligation to Provide Personal Assistance Services (PAS) under Section 501 of the Rehabilitation Act (September 18, 2017)
- H. EEOC Policy Guidance on Executive Order 13164: Establishing Procedures to Facilitate the Provision of Reasonable Accommodation (October 20, 2000)
- I. EEOC Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act (July 27, 2000)

- J. EEOC Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act (revised October 17, 2002)

#### **IV. DEFINITIONS**

##### **A. Administrative Grievance**

A petition filed by a Requestor disputing the Deciding Official's Reasonable Accommodation determination.

##### **B. Alternative Dispute Resolution ("ADR")**

The process of using a third party neutral to facilitate a mutually agreeable resolution regarding a Request for Reasonable Accommodation between the Requestor and Deciding Official.

##### **C. Authorized Individual**

An individual designated to request a Reasonable Accommodation and engage in the Interactive Process on behalf of an employee or applicant seeking a Reasonable Accommodation. To serve as an Authorized Individual, the applicant or employee requesting a Reasonable Accommodation must provide written permission for such representation. The written permission must be submitted with the Reasonable Accommodation Request form (see [Appendix A](#)) or as soon as practicable.

##### **D. Deciding Official**

An employee authorized to make determinations regarding Requests for Reasonable Accommodation on behalf of the Center. The Deciding Official is the first or second level supervisor of the employee requesting a Reasonable Accommodation or the vacancy announcement point of contact when an applicant makes a request for Reasonable Accommodation. To the extent possible, the Deciding Official should not have direct involvement with any other ongoing employee relations matter related to the Requestor (e.g., disciplinary action or Family Medical Leave Act requests).

##### **E. Direct Threat**

A significant risk of substantial harm to the health or safety of the Requestor or other individual that cannot be eliminated or reduced by a Reasonable Accommodation. This determination is based on an individualized assessment of the Requestor's present ability to safely perform the Essential Job Functions of their position using reasonable medical judgment and relying on the most current medical knowledge and best available objective evidence. The factors to be considered include the duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the imminence of the potential harm. A scenario

that may be deemed a Direct Threat could be an employee who is required to operate a vehicle as an Essential Job Function Requesting a Reasonable Accommodation for a vision impairment.

#### **F. Disability**

A Physical or Mental Impairment that Substantially Limits one or more Major Life Activities, having a record of such impairment, or being regarded as having such an impairment by applicable law.

#### **G. Essential Job Functions**

Duties that are so fundamental to the position that an individual cannot do the job without being able to perform them. The duty may be essential if the position exists specifically to perform the function, there are a limited number of other employees who could perform the function if it were assigned to them, or the function is specialized and the incumbent is hired based on their ability to perform the specialized function.

#### **H. Federal Employee**

An employee of the Center whose position is fully funded through Federal appropriations.

#### **I. Interactive Process**

The exchange of information and collaboration between Requestor, Reasonable Accommodation Coordinator, and Deciding Official to clarify the Requestor's needs and identify potential Reasonable Accommodations.

#### **J. Major Life Activities**

Include, but are not limited to, functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, standing, bending, lifting, and working. Major life activities also include: the operation of a major bodily function, including functions of the immune system, special sense organs and skin, normal cell growth, and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system. Determining whether an activity is a Major Life Activity does not require assessing whether the activity is of central importance to daily life, nor does the term major create a strictly demanding standard for determining Disability.

#### **K. Management Official**

The Deciding Official's direct or second level supervisor.

**L. Medical Documentation**

Documentation prepared, signed, and dated by a healthcare provider or other appropriate professional which includes the Requestor’s name; the nature, severity, and duration of the Requestor’s Physical or Mental Impairments; the activities that the Physical or Mental Impairment limits; the extent to which the Physical or Mental Impairment limits the Requestor’s ability to perform the activities; and how the requested accommodation will assist the Requestor in performing the Essential Job Functions of the position, enjoy a benefit of the workplace, or in the case of an applicant requesting a Reasonable Accommodation, assist them with the application process.

**M. Personal Assistance Services (PAS)**

Assistance with performing non-medical and non-work task activities of daily living that an individual would typically perform if they did not have a Disability and that is not otherwise required as a Reasonable Accommodation (e.g., pushing a wheelchair or getting in and out of a vehicle at the worksite).

**N. Physical or Mental Impairment**

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; any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness; and specific learning disabilities.

**O. Qualified Individual with a Disability**

A Requestor who meets the requisite skill, experience, education, and other requirements of a position they hold or seek and can perform the Essential Job Functions of the position with or without Reasonable Accommodation.

**P. Qualified Applicant or Employee with a Known Limitation**

An applicant or employee with a physical or mental condition related to, affected by, or arising out of pregnancy, childbirth, or related medical condition who, with or without an accommodation, can perform their Essential Job Functions except that: (1) Any inability to perform an Essential Job Function is for a temporary period; (2) The Essential Job Function could be performed in the near future; and (3) The inability to perform the Essential Job Function can be Reasonably Accommodated.

**Q. Reasonable Accommodation**

A modification or adjustment in the work environment or application process that would enable a Requestor who is a Qualified Individual with a Disability to enjoy equal employment

opportunities. To be considered a Reasonable Accommodation, the modification or adjustment must appear to be feasible or plausible and be effective in meeting the needs of the Qualified Individual with a Disability.

There are three categories of Reasonable Accommodations: (1) Modifications or adjustments to a job application process that enable an applicant requesting a Reasonable Accommodation who is a Qualified Individual with a Disability to be considered for employment or appointment with the Center (e.g., providing application forms in alternative formats like large print or Braille); (2) Modifications or adjustments necessary for an employee requesting a Reasonable Accommodation who is a Qualified Individual with a Disability to perform their Essential Job Functions (e.g., providing sign language interpreters and personal assistance services); and (3) Modifications or adjustments that enable an employee requesting a Reasonable Accommodation who is a Qualified Individual with a Disability to enjoy equal benefits and privileges of employment as enjoyed by similarly situated employees (e.g., removing physical barriers in an office cafeteria).

#### **R. Reasonable Accommodation Coordinator**

A Center employee designated to serve as the point of contact and subject matter expert regarding Reasonable Accommodations. The Human Resource Specialist at the Interior Business Center is the designated Reasonable Accommodation Coordinator for Federal Employees and the Senior Director for Human Resource Operations is the designated Reasonable Accommodation Coordinator for Trust Employees. To the extent possible, should not have direct involvement with any other ongoing employee relations matter related to the Requestor (e.g., disciplinary action or Family Medical Leave Act requests).

#### **S. Reasonable Accommodation Request**

Verbal or written request by an applicant, employee, or Authorized Individual seeking a Reasonable Accommodation and confirmed through submission of the Reasonable Accommodation Form (see [Appendix A](#)).

#### **T. Reasonable Accommodation Request Form**

Document submitted by Requestor to confirm a Reasonable Accommodation Request. The document is also used to communicate whether the Reasonable Accommodation Request is time sensitive and should be expedited and whether the Requestor is seeking an interim accommodation. The Reasonable Accommodation Request Form is found at [Appendix A](#).

#### **U. Reassignment**

A form of Reasonable Accommodation where an employee requesting a Reasonable Accommodation is transferred from their current position to a new job without competition. A Reassignment may occur when an employee requesting a Reasonable Accommodation can no

longer successfully perform the Essential Job Functions of their current position, with or without a Reasonable Accommodation. The employee requesting a Reasonable Accommodation must be qualified for the new position. Where possible the Reassignment should be to an equivalent position but may be a lower level position that is as close as possible to the current position if an equivalent position is not possible. Reassignment is typically an accommodation of last resort.

#### **V. Request for Reconsideration**

A petition submitted by a Requestor who is dissatisfied with the outcome of their Request for Reasonable Accommodation seeking reassessment of the Reasonable Accommodation determination.

#### **W. Requestor**

An applicant, employee, or Authorized Individual acting on their behalf who is seeking a Reasonable Accommodation.

#### **X. Substantial Limitation**

A Physical or Mental Impairment that substantially limits performance of a Major Life Activity compared to most people in the general population. This determination should be based on an individualized assessment which considers factors including but not limited to, the difficulty, effort, or time required to perform the activity; pain experienced when performing the activity; length of time the activity can be performed; and how the Physical or Mental Impairment affects the operation of a major bodily function. A Physical or Mental Impairment that is episodic, lasts a short time, or in remission may nonetheless pose a Substantial Limitation if it substantially limits a Major Life Activity when active (e.g., epilepsy, cancer).

#### **Y. Targeted Disability**

Targeted Disabilities are a subset of Disabilities which the Federal government has identified as presenting significant barriers to employment and thus, identified for special emphasis in employment policies. Targeted employees include developmental disabilities, traumatic brain injuries, deafness or serious difficulty hearing, blindness or serious difficulty seeing even when wearing glasses, missing extremities, significant mobility impairments, partial or complete paralysis, epilepsy or other seizure disorders, intellectual disabilities, significant psychiatric disorders, dwarfism, and significant disfigurement.

#### **Z. Trust Employee**

An employee of the Center whose position is not fully funded through Federal appropriations.

#### **AA.Undue Hardship**

Significant difficulty, expense, or focus on the resources and circumstances of the Center that would result from implementation of a specific accommodation. This includes accommodations that are financially difficult, unduly extensive, substantial, disruptive, or that would fundamentally alter the nature or operations of the Center. Undue hardship is determined by the Deciding Official on a case-by-case basis and considers factors including, but not limited to, the nature and costs of the accommodation needed; overall size of the organizational unit (e.g., number of employees, size of budget); type of operation including composition and structure of the workforce; and impact of the accommodation on the Center’s operations.

## **V. REASONABLE ACCOMMODATION POLICY**

The Center provides Reasonable Accommodations to applicants and employees who are Qualified Individuals with Disabilities, unless doing so would cause Undue Hardship. When requested, the Center will provide applicants and employees the Reasonable Accommodation Policy and Procedures and all other guidance and forms related to the Reasonable Accommodation process in a format that meets their needs e.g., braille, large print.

A Reasonable Accommodation Request may be initiated by an applicant, employee, or an Authorized Individual acting on their behalf at any time. The Center will process Requests for Reasonable Accommodation in a prompt and efficient manner in accordance with the procedures outlined in Section VI. Reasonable Accommodation Procedures. All Reasonable Accommodation Requests must be confirmed using the Reasonable Accommodation Form (see Appendix A) submitted to the Reasonable Accommodation Coordinator. Once a Reasonable Accommodation Request Form is submitted, Reasonable Accommodation Coordinator will engage with the Deciding Official and Requestor to initiate the Interactive Process to determine whether the Requestor is a Qualified Individual with a Disability and therefore eligible for a Reasonable Accommodation and to identify potential accommodations.

The Requestor will be notified of the outcome of their Reasonable Accommodation Request in writing by the Reasonable Accommodation Coordinator. If a Requestor who is not satisfied with the outcome of their Request for Reasonable Accommodation, the Requestor can seek redress through informal dispute resolution i.e., Request for Reconsideration, Administrative Grievance or, Alternative Dispute Resolution (“ADR”). If the Requestor believes their statutory rights have been violated, they may also file a formal complaint through the Equal Employment Opportunity (“EEO”) or Merit System Protection Board (the “MSPB”) processes.

## **VI. REASONABLE ACCOMMODATION PROCEDURES**

### **A. ROLES AND RESPONSIBILITIES**

#### **1. Requestor**

- i. Initiates a Reasonable Accommodation Request,
- ii. Participates in the interactive process;

- iii. Provides Medical Documentation as requested; and
- iv. Initiates informal and formal dispute resolution as appropriate.

## **2. Reasonable Accommodation Coordinator**

- i. Accepts and responds to Reasonable Accommodation Requests;
- ii. Coordinates adjudication of Reasonable Accommodation Requests;
- iii. Provides advice and guidance and makes recommendations to the Deciding Official; and
- iv. Maintains the Center's Reasonable Accommodation records in compliance with applicable law.

## **3. Deciding Official**

- i. Participates in the Interactive Process in conjunction with the Reasonable Accommodation Coordinator;
- ii. Approves responses to Reasonable Accommodation Requests based on the advice, guidance, and recommendation of the Reasonable Accommodation Coordinator; and
- iii. Responds to Requests for Reconsideration and participates in ADR.

## **4. Management Official**

- i. Responds to Administrative Grievances.

### **B. ACCEPTING REQUESTS FOR REASONABLE ACCOMMODATION**

A request for changes or modifications due to medical condition(s) should be broadly construed as a Request for Reasonable Accommodation. If it is unclear whether an applicant or employee is seeking a Reasonable Accommodation, the Reasonable Accommodation Coordinator should consider the connection between the medical condition and its impact on the applicant's ability to participate in the application process or the employee's ability to perform Essential Job Functions or to access a privilege or benefit of employment and/or seek clarification from the employee or applicant.

The Requestor does not need to have a particular accommodation in mind before initiating the Request for Reasonable Accommodation. Requests for Reasonable Accommodation can be made verbally or in writing and do not require specific verbiage such as, "Reasonable Accommodation," "Disability," "Rehabilitation Act," or "Americans with Disabilities Act."

All Requests for Reasonable Accommodation should be confirmed in writing using the Reasonable Accommodation Request Form (see [Appendix A](#)) and submitted to the Reasonable Accommodation Coordinator. If a Reasonable Accommodation Request is submitted by the Requestor to an individual other than the Reasonable Accommodation Coordinator, the Request



should be forwarded to the Reasonable Accommodation Coordinator as soon as possible but no later than **three (3) business day** of receipt. The Reasonable Accommodation Coordinator should acknowledge the Request in writing as soon as possible but no later than **four (4) business days** of receipt.

### **C. ENGAGING IN THE INTERACTIVE PROCESS**

The Requestor's needs and identification of potential Reasonable Accommodations are determined through the Interactive Process which should begin as soon as possible but no later than **five (5) business days** from when the Request is initiated. This is a collaborative effort between the Requestor, Reasonable Accommodation Coordinator, and Deciding Official. Therefore, the parties should engage early and regularly throughout the Interactive Process. The Interactive Process continues until a Reasonable Accommodation is identified, the Request for Reasonable Accommodation is withdrawn, or the Deciding Official determines that granting a Reasonable Accommodation would pose an Undue Hardship to the Center.

### **D. REQUESTING MEDICAL DOCUMENTATION**

#### **1. Determining the Necessity for Medical Documentation**

During the Interactive Process, the Reasonable Accommodation Coordinator may request Medical Documentation when: the functional limitations caused by the claimed Disability and the need for a Reasonable Accommodation are not obvious or have not been previously disclosed; the information submitted by the Requestor is insufficient to document the claimed Disability, need for a Reasonable Accommodation, or the functional limitations the claimed Disability causes; and the extent, duration, or effectiveness of a requested accommodation is not clear. Requests for Medical Documentation must be limited to the extent possible.

#### **2. Requesting Additional Medical Documentation**

The Reasonable Accommodation Coordinator must notify the Requestor of the need for Medical Documentation in writing and include an explanation of why existing Medical Documentation is insufficient; what additional information is needed; and why it is necessary for responding to the Request.

#### **3. Responding to Requests for Medical Documentation**

A Requestor who receives a request for Medical Documentation from the Reasonable Accommodation Coordinator must provide the necessary information within **fifteen (15) business days**. If the Requestor needs additional time to provide the Medical Documentation, the Requestor should make a written request for an extension prior to the submission deadline. The Reasonable Accommodation Coordinator may grant an extension of up to **fifteen (15) business days**.

The Requestor must provide sufficient Medical Documentation from their healthcare provider or other appropriate professional to substantiate the existence of a Qualifying Disability and the need for a Reasonable Accommodation. The Medical Documentation must be signed and dated by the healthcare provider or other professional and include: (1) The Requestor's name; (2) The nature, severity, and duration of the Requestor's Physical or Mental Impairment; (3) The activities that the Physical or Mental Impairment limits; (4) The extent to which the Physical or Mental Impairment limits the Requestor's ability to perform the activities; and (5) How the requested accommodation will assist the Requestor in performing the Essential Job Functions of the position or enjoy a benefit of the workplace, or in the case of an applicant, assist them with the application process.

If the Requestor fails to provide necessary documentation in a timely manner, the Center will not be expected to adhere to the timelines set forth in this guidance document and the Request for Reasonable Accommodation may be denied.

The Center has the right to have Medical Documentation provided by the Requestor reviewed by a medical expert chosen and paid for by the Center.

## **E. EVALUATING REASONABLE ACCOMMODATION REQUESTS**

### **1. Confirming Ability to Perform Essential Job Functions**

Only Requestors who meet the definition of a Qualified Individual with a Disability are entitled to a Reasonable Accommodation. Therefore, the Reasonable Accommodation Coordinator and Deciding Official must begin the Interactive Process by assessing whether the Requestor meets the requisite skill, experience, education, and other requirements of the position they hold or seek and can perform the Essential Job Functions of the position with or without Reasonable Accommodation.

#### **i. Direct Threat Analysis**

Employees are not permitted to perform job functions that would pose a Direct Threat to their health and safety or the health and safety of others in the workplace unless a Reasonable Accommodation that does not pose Undue Hardship to the Center can eliminate or reduce the risk to an acceptable level. A Direct Threat is a significant risk of substantial harm, not merely a slightly increased, speculative, or remote risk. This determination should be based on objective, factual evidence regarding the Requestor's present abilities; the duration of the risk; the nature and severity of the potential harm; the likelihood that the potential harm will occur; and the imminence of the potential harm.

If the Deciding Official determines that the Requestor's impairment poses a Direct Threat, the Deciding Official should not approve a Reasonable Accommodation unless it would eliminate the risk of a Direct Threat or decrease the risk to an acceptable level and the accommodation would

not cause an Undue Hardship on the Center. The Reasonable Accommodation Coordinator must notify the Requestor in writing if they are no longer permitted to perform a particular job function because it would pose a Direct Threat that cannot be eliminated or decreased to an acceptable level due through a Reasonable Accommodation.

## **VII. Identifying Possible Accommodations**

During the Interactive Process, the Deciding Official and Reasonable Accommodation Coordinator will consider all possible modifications or adjustments that would enable the Requestor to participate in the application process, perform Essential Job Functions or, enjoy the benefits and privileges of employment. The Requestor is not entitled to a specific accommodation; the Deciding Official may grant an effective alternative accommodation. An alternative accommodation which was not specifically requested may be suggested if, for example, the requested accommodation would cause an Undue Hardship or, the alternative is more cost-effective. Reasonable Accommodations may include, but are not limited to making facilities readily accessible to and usable by individuals with Disabilities; job restructuring or modifying work schedules; granting breaks or providing liberal leave; altering how or when job duties are performed; providing liberal telework; moving to a different office space; providing materials in alternative formats; acquiring or modifying assistive technology; appropriate adjustment or modification of examinations and training materials; providing readers, interpreters, and other auxiliary aids to enable employees to perform Essential Job Functions, where the accommodation cannot be provided by current staff; and Reassignment to a vacant position for which an employee is qualified, without competition.

## **VIII. Reassignment as a Reasonable Accommodation**

Reassignment is accommodation of last resort that must be considered when there are no other effective accommodations available or where other accommodations would pose an Undue Hardship. Reassignment is subject to the availability of a vacant and funded position for which the employee requesting a Reasonable Accommodation is qualified and able to perform the Essential Job Functions with or without accommodation.

The Reasonable Accommodation Coordinator will consult with the employee requesting a Reasonable Accommodation to determine whether they are interested in Reassignment as an accommodation, obtain the employee's current resume, and determine whether the employee requesting a Reasonable Accommodation would need an accommodation for the potential Reassignment. The Reasonable Accommodation Coordinator will consider positions that become available within **thirty (30) calendar days** from when the search was initiated. The Reasonable Accommodation Coordinator will endeavor to identify possible Reassignments at the same grade, pay, and status. If no such positions are available, positions at a lower grade, pay, or status may be identified with approval of the employee requesting a Reasonable Accommodation. The Center will not consider potential Reassignments that would violate seniority rights or otherwise violate the terms of collective bargaining agreements to which the Center is a party.

The Reasonable Accommodation Coordinator will communicate offers of Reassignment in writing. An employee requesting a Reasonable Accommodation who is offered a Reassignment as a Reasonable Accommodation must respond within **ten (10) business days** of receiving the offer. If the employee requesting a Reasonable Accommodation declines the offer of Reassignment, any further consideration of Reassignment as a Reasonable Accommodation will be canceled.

#### **IX. Special Provisions for Federal Employees with Targeted Disabilities**

Federal Employees may request Personal Assistance Services (PAS) when: (1) such services are needed as the result of a Targeted Disability; (2) the Federal Employees is able to perform their Essential Job Functions without posing a Direct Threat once the PAS and any required Reasonable Accommodation are provided; and (3) the PAS would not impose an Undue Hardship. PAS may be provided by an existing employee who already performs a similar service as part of their regular duties or an individual retained to provide the service. Federal Employees should request PAS using the same procedures as Requests for Reasonable Accommodation.

#### **X. Special Provisions Under the Pregnant Workers Fairness Act (PWFA)**

Pursuant to the Pregnant Workers Fairness Act (PWFA), Qualified Applicants and Employees with Known Limitations related to pregnancy, childbirth, or related medical conditions may request a Reasonable Accommodation regardless of whether the condition meets the definition of Disability, absent Undue Hardship to the Center.

### **F. RESPONDING TO REASONABLE ACCOMMODATION REQUESTS**

#### **1. Granting Requests**

The Reasonable Accommodation Coordinator should notify the Requestor in writing of the approved accommodation and the timeframe for such approval, if applicable. If the approved accommodation differs from the accommodation specifically sought by the Requestor, the communication should also explain why the specific accommodation was not approved and why the approved accommodation will be effective. The Requestor must notify the Reasonable Accommodation Coordinator if they chose not to accept the approved accommodation.

Once a Reasonable Accommodation is granted, it should remain in place unless the accommodation is no longer effective (e.g., changes in the employee's limitations, changes in essential duties) or there is a material change in circumstances which would place an Undue Hardship on the Center if the accommodation were continued. When this occurs, the Deciding Official and employee should promptly reengage in the Interactive Process. Reengaging in the Interactive Process retriggers the timeframes and obligations outlined in this Policy and may necessitate additional documentation.

Employees who have recurring or on-going Reasonable Accommodation needs are not required to submit a new Request for each instance if it involves the same or similar request that was previously provided and if the original Reasonable Accommodation was approved with the knowledge that it would be recurring or on-going. However, employees should provide appropriate advance notice each time the recurring Reasonable Accommodation is needed, unless otherwise arranged with the Deciding Official. Where feasible, employees should notify the Deciding Official at least **seven (7) to ten (10) business days** before the date the Reasonable Accommodation is needed to allow sufficient time to coordinate. Examples of recurring or on-going Requests include, but are not limited to, sign language interpreter services, readers, providing printed handouts in large font, or ensuring access to assistive technologies at training sites.

## **2. Denying Requests**

Requests for Reasonable Accommodation should only be denied if the Requestor does not have a Qualifying Disability or providing a Reasonable Accommodation would cause Undue Hardship to the Center. Before an accommodation is denied based on cost that would cause an Undue Hardship, the Deciding Official must consider all resources available to the Center as a whole, excluding those designated by law for a specific purpose that does not include Reasonable Accommodation. The Reasonable Accommodation Coordinator and Deciding Official shall consult with the Office of General Counsel before denying Requests for Reasonable Accommodation. The Reasonable Accommodation Coordinator should notify the Requestor in writing and provide the denial in an accessible format upon request. The communication should explain why the Request for Reasonable Accommodation was denied and notify the Requestor of informal dispute resolution procedures including Request for Reconsideration, Administrative Grievance, Alternative Dispute Resolution (ADR) as well as, their right to file an EEO complaint or MSPB complaint or appeal (Federal Employees), as appropriate. Denials of Reasonable Accommodation Requests must include instructions on how to file an EEO complaint and explain that the Requestor must contact an EEO Counselor within **forty-five (45) calendar days** from receipt of the denial, regardless of the Requestor's participation in any informal dispute resolution process.

## **G. TIMEFRAMES FOR PROCESSING REQUESTS AND PROVIDING ACCOMMODATIONS**

The Center will endeavor to process Requests and provide Reasonable Accommodations in a prompt manner. The timeframe for processing Reasonable Accommodation Requests and providing Reasonable Accommodations begins when the Request for Reasonable Accommodation Form is received. If the Reasonable Accommodation Request requires additional Medical Documentation, the timeframe will be tolled from when the Reasonable Accommodation Coordinator requests additional Medical Documentation until the Medical Documentation is provided. Where a Reasonable Accommodation can be provided in less than the maximum timeframe, failure to provide the Reasonable Accommodation in a prompt manner may result in a violation of the Rehabilitation Act.

## 1. Interim Accommodations

Requestors should be granted interim accommodations to allow perform of some or all Essential Job Functions when the facts and circumstances known to the Reasonable Accommodation Coordinator and Deciding Official make it reasonably likely that the Requestor will be entitled to a Reasonable Accommodation, unless doing so would present an Undue Hardship on the Center.

## 2. Applicant Requests for Reasonable Accommodation

For applicant's requesting a Reasonable Accommodation, the maximum timeframe for finalizing a Request for Reasonable Accommodation is no more than **fifteen (15) business days** from the date the Request is received if Medical Documentation is not required and no more than **twenty (20) business days** where Medical Documentation is required.

## 3. Employee Requests for Reasonable Accommodation

For employee's requesting a Reasonable Accommodation, the maximum timeframe for finalizing a Request for Reasonable Accommodation is no more that **fifteen (15) business days** from the date the Request for Reasonable Accommodation is received if the Request is very simple and does not require Medical Documentation, no more than **twenty (20) business days** where Medial Documentation is required, and no more than **forty-five (45) business days** when the Request requires consideration of a Reassignment.

## 4. Extensions

The timeframe for processing Requests for Reasonable Accommodation and providing Reasonable Accommodations may be extended in extenuating circumstances that could not be reasonably anticipated, avoided, or are beyond the Center's control (e.g., backordered equipment). Where extensions are necessary, they should be limited to the extent possible.

## 5. Expedited Review

The Center will endeavor to expedite review of Requests for Reasonable Accommodation when the determination is time sensitive (e.g., when an accommodation is necessary for a scheduled interview or imminent meeting). The Requestor should inform the Reasonable Accommodation Coordinator of the time sensitive nature of the Request as soon as possible.

## 6. Redress

### i. Requests for Reconsideration

A Requestor who is dissatisfied with the outcome of their Request for Reasonable Accommodation may file a Request for Reconsideration with the Reasonable Accommodation Coordinator within **ten (10) business days** of receiving the decision. The Request for Reconsideration should present additional information, if any, for consideration. The Reasonable Accommodation Coordinator will issue a written response to the Request for Reconsideration which is approved by the Deciding Official within **ten (10) business days** of receipt. The response to the Request for Reconsideration must include instructions on filing an Administrative Grievance or requesting ADR and note that none of the informal dispute resolution processes toll deadlines for filing an EEO complaint or, for Federal Employees, an MSPB complaint or appeal.

ii. Administrative Grievance

A Requestor who is dissatisfied with the outcome of their Request for Reconsideration may file an Administrative Grievance. Employees represented by a bargaining unit should follow the procedures outlined in their respective collective bargaining agreement. Non-union employees can file an Administrative Grievance with their Management Official within **ten (10) business days**. The Management Official will respond to the Administrative Grievances within **ten (10) business days** of receipt. Filing an Administrative Grievance does not toll deadlines for filing an EEO complaint or MSPB complaint or appeal (Federal Employees).

iii. Alternative Dispute Resolution (ADR)

Alternative Dispute Resolution (ADR) may be requested to assist the Requestor and Deciding Official with reaching agreement regarding the Request for Reasonable Accommodation. Requestors who elect to participate in ADR should notify the Reasonable Accommodation Coordinator within **ten (10) business days** of receiving written notice that their Request for Reasonable Accommodation has been denied. Participating in ADR does not toll deadlines for filing an EEO complaint or MSPB complaint or appeal.

iv. EEO Complaint

A Requestor who believes they were unlawfully denied a Reasonable Accommodation, did not receive a Reasonable Accommodation, experienced undue delay in the processing or granting of a Reasonable Accommodation, or alleges retaliation for requesting a Reasonable Accommodation or otherwise participating in the Reasonable Accommodation process may file a complaint of discrimination and/or failure to accommodate with the Center's EEO Administer, Bashen Corporation. This includes claims alleging denial of a request for PAS. The EEO complaint must be filed within **forty-five (45) calendar days** of receiving a denial of the Reasonable Accommodation Request. The right to file a complaint will be lost unless the Requestor initiates contact with the Bashen Corporation within this prescribed timeframe, regardless of whether the Requestor pursues a Request for Reconsideration, Administrative Grievance, or ADR. Bashen Corporation can be contacted by email at [EEOHotline@kennedy-center.org](mailto:EEOHotline@kennedy-center.org) or (800) 944-1513.

v. Merit Systems Protection Board Appeal

A Requestor who is a Federal Employee may also file a mixed case complaint or appeal with MSPB within **thirty (30) calendar days** if they believe that the denial, delay, or lack of effective Reasonable Accommodation resulted in an adverse action appealable to the MSBP.

## **H. RECORDKEEPING AND CONFIDENTIALITY**

### **1. Recordkeeping Requirements**

The Reasonable Accommodation Coordinator is responsible for compiling an electronic file for Reasonable Accommodation records which shall be maintained separately from the Requestor's personnel file and in accordance with the Center's record retention schedule. At a minimum, the file should include records the following as applicable:

- i. Reasonable Accommodation Request Form;
- ii. Request for Reasonable Accommodation acknowledgement;
- iii. Medical Documentation request;
- iv. Medical Documentation;
- v. Independent medical examination;
- vi. Direct Threat Analysis;
- vii. Proposed accommodations (including Reassignment);
- viii. Reasonable Accommodation Request determination;
- ix. Response to proposed accommodations and Reasonable Accommodation Request determination;
- x. Request for Reconsideration, Administrative Grievance, or ADR;
- xi. Response to Request for Reconsideration, Administrative Grievance, or ADR;
- xii. Requests for extension of time; and
- xiii. Response to requests for extension of time.

### **2. Confidentiality Requirements**

All medical information, including information about the Requestor's claimed Disability and functional limitations, obtained in connection with a Request for Reasonable Accommodation must be kept confidential. Medical information should only be accessible to individuals who have an official need to know. This is typically limited to the Reasonable Accommodation Coordinator and Deciding Official. Individuals who are authorized to access Medical Documentation for the purpose of processing a Request for Reasonable Accommodation are strictly bound by the confidentiality requirement. Whenever medical information is disclosed, the individual disclosing the information must inform the recipient of the confidentiality requirement and the obligation to safeguard the medical information accordingly. However, disclosure may be required by law or court order; to prepare for medical or other emergencies; to comply with investigations regarding the ADA and Rehabilitation Act; for workers compensation and insurance policies



and/or claims; and to maintain records and to evaluate and report on the Center's performance in processing Reasonable Accommodation Requests.

**XI. APPENDICIES**

- A. Reasonable Accommodation Request Form**
- B. Reasonable Accommodation Flow Chart**

*Aswathi Zachariah*  
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Aswathi Zachariah  
General Counsel

February 5, 2024

# Reasonable Accommodation Request Form

**Instructions.** Submit the completed form along with supporting medical documentation to your supervisor (employees) or vacancy announcement point of contact (applicants) to confirm your reasonable accommodation request. Additional information (including medical documentation) reasonably needed to process the accommodation request may be requested during the interactive process.

## **I. REQUESTOR INFORMATION**

Full Name:

Telephone Number:

Email Address:

Job Title and Department:

Occupational Series and Grade (if applicable):

## **II. TYPE OF REQUEST**

- Application Process
- Performing Job Functions or Accessing Work Environment
- Accessing a Benefit or Privilege (e.g., attending training or social event)
- Personal Assistance Services

## **III. ACCOMMODATION REQUESTED**

Describe the specific accommodation that is needed. If you are unsure of what accommodation is needed, you can share potential options for consideration.

Are you requesting an accommodation needed for a specific duration or is this a recurring or ongoing need?

Is your request for reasonable accommodation time sensitive? If yes, please explain.

**IV. REASON FOR ACCOMMODATION**

Describe what, if any, job function you are having difficulty performing and/or what work benefit or privilege you are having difficulty accessing.

Describe the limitation interfering with your ability to perform a job function or access work benefits or privileges.

Describe how an accommodation will assist you in performing the job function or accessing work benefits or privileges.

**V. OTHER**

Please provide any additional information that could be helpful in processing your Reasonable Accommodation Request.

Signature:

Request Date:

## REASONABLE ACCOMMODATION FLOW CHART

Refer to the Reasonable Accommodation Policy and Procedures for detailed information on the Reasonable Accommodation process and associated timeframes.

