

SEC Accommodation Procedures

Office of Human Resources

SEC Disability Accommodation Process

Accommodations enable people with physical or mental disabilities to have access to employment opportunities and public programs equivalent to that of non-disabled people. Accommodations include equipment and services, modified work environments, locations and schedules and restructured jobs. Reassignment to a suitable vacant position is the accommodation of last resort, available only when no other accommodations will work.

Federal Law Requires Employers to Provide Reasonable Accommodations to Qualified Persons with Disabilities

The Rehabilitation Act of 1973, as amended by the Americans with Disabilities Act Amendments Act, requires federal agencies to reasonably accommodate qualified individuals with covered disabilities. Reasonable accommodations do not include accommodations that would cause undue hardship to the employer. Individuals have covered disabilities if they have physical or mental conditions that substantially impair their ability to perform major life activities (such as seeing, hearing, walking and speaking). Individuals are not disabled if their conditions do not substantially impair their ability to perform major life activities when they are compared to most other people in the general population. Individuals are not disabled if their condition is likely to last less than three months regardless of how severely it impacts their ability to perform major life activities. Individuals are “qualified when they meet the education, experience and licensing requirements of the position and can perform the essential functions of the position with--or without--reasonable accommodations.

SEC’s Policy and Procedures Regarding Accommodations Requests

SEC’s policy is to reasonably accommodate qualified persons with disabilities covered by the Rehabilitation Act of 1973 when they request accommodations and accommodations will not cause the SEC undue hardship. This document, “Requesting Accommodations at SEC” is a comprehensive resource guide for everyone involved in the accommodations process. It explains how persons with disabilities should request accommodations, how requests are processed and how Requestors may seek review of decisions denying requests.

Employees with short-term medical conditions are not entitled to accommodations under the law because they do not have covered disabilities. Nevertheless, SEC provides temporary accommodations to employees with short-term medical conditions when supervisory officials and the DPO decide that it is appropriate to do so.

Answers to questions about accommodations at SEC are available from:

- Office of Human Resources: DisabilityAccommodation@SEC.gov
- Office of Equal Employment Opportunity: 202-551-6040

Part 1: How to Request Accommodations

Requests for accommodations are statements made to SEC officials by employees or applicants for employment asking for services or equipment or for changes in work or in the employment application process for reasons related to medical conditions.

1 A - Requestors and Responsible Officials in the Process

Requests may be made by:

- Individuals with disabilities or temporary medical conditions who are
- SEC employees
- Applicants for employment
- Members of the public
- Individuals acting on behalf of Individuals with disabilities

Request may be made to:

- Disability Program Manager (DPM) or Officer (DPO) in OHR DisabilityAccommodation@SEC.gov
- SEC supervisory officials:
 - o Requestor's supervisor or management official in Requestor's chain of command
 - o SEC Officials involved in employment application process
 - o SEC Officials responsible for public program or information

1 B - Recommended Methods for Making Requests

- Employees making requests to perform work or enjoy workplace benefits send email to the Office of Human Resources designated Disability Program mailbox.
- Applicants making requests to participate in employment application process use form available on www.SEC.gov
- Members of public making requests to access SEC program use form available on www.SEC.gov

1 C - Acceptable Methods For Making and Transmitting Requests

Written requests

- In any format (email preferred)
- To any responsible official listed in Part I A

Unwritten requests may be made during conversations with any responsible official listed in Part 1 A in person or by telephone.

Documenting unwritten requests

- Requestors who make unwritten requests must follow up as soon as possible by confirming requests in email to DisabilityAccommodation@SEC.gov
- Assistance is available from the DPM and SEC officials if employee needs help to confirm request
- SEC officials should immediately record unwritten requests they receive from employees by sending email describing request to DisabilityAccommodation@SEC.gov

Time limit for providing accommodations to Requestor

Time limit begins to run from day request is first made regardless of form of request, so long as employee or applicant asks an SEC supervisory official for a change or adjustment in work or the application process because of a medical condition.

1 D - When Accommodations will be Provided on Recurring Basis Without Requiring Repeated Requests

Requests are not necessary if employee has both:

- 1. Disability known to SEC - obvious or previously-documented disability and
- 2. Regular known recurring need for accommodations

Examples of recurring needs where repeated request not necessary:

- Sign language interpreting at weekly or occasional staff meetings and for training attended by Deaf or Hard-of-Hearing employee fluent in sign language
- Captioned training material, large print, etc.
- Reader services
- Upgrade of adaptive computer programs to make the programs compatible with new programs in general use within SEC
- Assistance during building evacuation, shelter-in-place or other emergency or drill
- Medical or disability accommodations for business travel

Part 2: Information Usually Required to Process Request

Do not submit documentation of disability or medical condition with request - This not part of minimum information required to make request for accommodations. Requestors should be prepared to submit medical information related to medical condition or disability if requested to do so by DPM.

2 A - Information from Requestors

- Contact information: Requestor's name, email, telephone or other contact information if Requestor cannot be contacted at SEC at time of making request
- Common name or non-technical description of disability or medical condition related to request – should be provided only when making request to <mailto:DisabilityAccommodation@SEC.gov> – not when making request to supervisor.
- Essential employment tasks or other employment activities – including benefits of employment that are adversely affected by functional limitations of condition
- Description of accommodations or type of accommodations requested – this may include request that DPM perform workplace assessment to identify reasonable accommodations
- Brief explanation of how requested accommodations would enable employee to perform essential job functions, and /or enjoy employment benefits

2 B - From Applicants to Participate in Employment Application Process

- Contact Information: Requestor's name and Email, telephone or other means SEC may use to quickly contact applicant about request
- Accommodations Requested For Application Process
- Description of accommodations requested
- When accommodations are needed: Dates and times
- Where accommodations are needed: office address and room number

2 C - From Members of Public or SEC Officials For Accommodations at SEC Public Programs

- Contact Information: Requestor's name Email, telephone or other means SEC's DPM may use to quickly contact Requestor
- Description of accommodations requested
- When accommodations needed (date and time)
- Where accommodations need (exact location including address and room number)

Part 3: Additional Information for Processing Requests

Minimum information listed in Part 2 is the only information required to notify SEC that an accommodation is being requested and to begin the process. Additional information described in Part 3

may be required by DPM to evaluate the request. SEC has the right to request additional information, including medical information from employees. If Requestors do not provide requested information to the DPM, their requests may be denied.

Delay in providing requested information may delay decision on request; Requestors should be prepared to provide this information promptly if DPM requests it.

3 A - Information about Employee and Employment

- Employee Name
- Job Title
- Office
- Name of immediate supervisor
- Office room number
- Other location(s) where accommodations may be needed (including telework location)
- Preferred communication or contact method
 - o TTY or text cell number
 - o Email address at SEC
 - o Email address at home
 - o SEC Phone
 - o Personal phones: cell and / or landline
 - o Home mailing address

3 B - Medical Information May Be Required to Process Request

SEC has right to request medical information from employees who request accommodations. SEC DPM will determine whether medical information will be requested on a case-by-case basis. SEC will follow the requirements of EEOC Guidance on Disability-Related Inquiries and Medical Examinations of Employees. See also Part 5 F describing procedures used by DPM if requesting Medical Information during the Interactive Process. Requestors should be prepared to provide information promptly to avoid a delay in DPO's decision on request.

- Failure to provide requested medical information may result in denial of requests.

When medical information will not be required:

No medical information will be requested if disability or medical condition identified in employee's request is obvious or has already been sufficiently documented and effect of disability or medical condition on Requestor's employment is clear.

When medical information will be required:

Medical information will be required if DPM or DPO need it to evaluate current medical condition or disability status of Requestor and/or the effectiveness of requested accommodations.

Medical information or documentation that may be required:

- Information related to request but not complete medical records or information unrelated to request
- Nature, severity, and duration of Requestor's impairment
- Activity or activities that impairment limits
- Extent of limitation
- Why accommodations are required: what essential job functions are affected by limitation
- How requested accommodations will assist Requestor to apply for a job, perform a job or enjoy a benefit of employment
- Basis for health professional's medical conclusion

First request for medical information will contain:

- Description of medical information needed
- Clear explanation for why it is needed
- Explanation of potential consequences if Requestor does not provide requested information

Subsequent requests:

If information provided in response to request is inadequate to establish that Requestor has disability and needs requested accommodations, then DPM will:

- Explain why submitted documentation is insufficient
- Identify information that is needed
- Explain potential consequences if Requestor does not provide requested information
- Give Requestor opportunity to provide information

Requestor's Delay or Failure to Provide Requested Information

Requestor's delay in providing requested medical information will delay DPO's decision and may delay providing accommodations.

Requestor's failure to provide requested medical information or to sign medical release may result in denial of request after employee has been given sufficient opportunity to comply with DPM's requests for medical documents or access to related medical information but has not complied with requests.

Medical Release

SEC has the right to ask Requestors to sign a limited release to authorize their physicians or health care professionals to provide relevant medical information and or records to medical experts chosen and paid for by SEC.

Medical examination of Requestor at option of SEC.

If Requestor is still unable to provide sufficient information after DPM has provided required notice and opportunity to supplement deficient information, then DPO may ask Requestor to agree to be examined by a health care professional chosen by SEC at SEC's expense. DPM will explain to Requestor that requests for accommodations could be denied if Requestor does not agree to medical examination. Any medical examination will be limited to determining existence of a disability and/or functional limitations that require a reasonable accommodation. Any report of examination results will be made only to DPM. Examined employee will receive a copy of any report of examination results. SEC will bear expense of such examinations.

Confidentiality and Security of Medical Information

All medical information is kept strictly confidential by DPM and DPO. Only government officials with a legitimate need to know about Requestor's medical status have access to medical information about Requestor and any such official given access will be informed of the confidentiality requirements that apply to the information. Medical records are kept in locked files and on secure computer systems with access limited to DPM and DPO and other officials with a need to have access to provide accommodations, prepare reports to the EEOC or provide emergency treatment

Medical records are not kept in employee's official personnel files.

3 C - Optional Information about Request Provided by Requestor

Any information that could assist in acquisition or installation of requested accommodations in the form of equipment may be submitted to DPM at time request made, during interactive process or after decision is made. Equipment provided may differ from equipment requested. Optional information may be requested but will not be required.

Optional information provided does not limit SEC to acquiring any particular equipment or using any particular vendor for services.

Equipment

- Description of equipment requested
- Model number or version
- Name of vendors with contact information such as url, email or phone

Services

- Detailed description of services requested
- Dates on which intermittent services needed
- Names of vendors with contact information

Furnishings or workspace modifications

- Dimensions required for accessibility
- Turning radius of wheelchair or scooter
- Height of work surfaces
- Door opening hardware or mechanisms

Other: Alternative sources of accommodations

- Names of vendors with available stock and contact information

Part 4: Providing Timely Accommodations

Duty to provide accommodations on time

All SEC officials involved in processing requests and providing accommodations will abide by time limits specified in these procedures and will strive to provide accommodations in shortest possible time.

Time limits start to run on first day that any SEC official identified in Part 1 A receives request for accommodation (whether or not information is written down) from Requestor or person acting on behalf of Requestor. Date request made is not affected by Requestor subsequently: documenting unwritten request or providing optional or additional information during interactive process.

Date accommodations provided

For each request, the accommodation is provided on the date Requestor receives equipment or services or supervisor has implemented modifications to terms and conditions of employment. Examples include date on which: equipment is delivered, installed and operable, structural changes are completed, first day training is approved or provided, job modification takes effect, services are available to Requestor (even if Requestor does not use services immediately).

4 A - Standard Practice: Accommodations are provided as soon as practicable and within twenty (20) business days from date request is made unless exceptions described in Part 4 B apply

- Accommodations are provided as soon as practicable and within maximum time limit for applicable circumstances as determined by DPM or DPO.

- DPM and other SEC officials with responsibilities for processing accommodation requests and providing accommodations will take reasonable steps to ensure that their temporary absence will not delay providing accommodations.

4 B - Exceptions Affecting Time to Provide Accommodations

1. *Special Circumstances: Accommodations Expedited*

Provided within four business days if requested for:

- Applicants to apply for employment
- Employees to attend meetings or training for which employees had less than twenty days notice
- Employees to receive medical attention or other assistance during an emergency

2. *Extenuating Circumstances: more than twenty (20) days needed*

Extenuating circumstances are limited situations in which unforeseen or unavoidable events prevent SEC from providing accommodations within twenty business days. Temporary accommodations will be provided if possible until requested accommodations can be provided.

Examples of extenuating circumstances affecting decision on request:

- Required information has been requested by DPM during the interactive process and either has not been promptly provided by Requestor or is incomplete or not what was requested.
- Medical information requires extensive review by medical professional chosen by SEC.

Examples of extenuating circumstances affecting provision of accommodations after request is granted because accommodations involve

- Purchasing equipment or contracting for new services where satisfying requirements under Federal Acquisition Regulation may take longer than 15 business days
- Back-ordering equipment that is not currently available in stock
- Locating a new vendor when vendor SEC has used for equipment or services has unexpectedly gone out of business, or cannot promptly supply needed goods or services and another vendor is not immediately available
- Working with equipment or computer programs or services on a trial basis to determine whether they meet needs of Requestor and requirements of SEC before they are purchased or leased
- Hiring new staff to provide services
- Making significant changes in configuration of space within a building to remove architectural barriers or otherwise accommodate Requestor

Part 5: Interactive Accommodation Process

5 A. First Step

If recipient is supervisory official recipient will:

- Send notice acknowledging receipt
- Record date of request
- Consult DPM
- Notify next level supervisor
- Inform Requestor that if medical information is necessary to support request, DPM will contact Requestor directly

Supervisory officials should send any medical documents employee Requestors do give them to DPM - without reading or copying them – paper records should be transmitted in a sealed envelope marked CONFIDENTIAL “To Be Opened Only by Disability Program Manager”

If recipient is DPM or DPO recipient will:

- Send notice acknowledging receipt
- Record date of request in applicable database
- Consult with supervisory official involved in request
- Inform supervisory officials of their responsibilities.

If employee makes request recipient will send acknowledgment notices and take actions described above.

If anyone other than person to be accommodated makes request recipient will:

- Attempt to contact Requestor or applicant directly to confirm that he or she has authorized the request for accommodations before proceeding
- Proceed to process request if emergency situations prevent contact with Requestor (for example, employee is hospitalized in acute condition at time of request), and consult with employee as soon as possible.

Other circumstances

- If applicant for employment makes request recipient will provide accommodations without requesting medical information.

- If member of public makes request recipient will notify DPM. DPM will approve accommodations unless request would cause undue hardship to SEC. DPO has authority to determine whether member of public should provide medical information.
- If Request is made by SEC Official to make SEC program accessible to disabled members of public recipient will consult DPM for any information needed to provide accommodations.

5 B - General Information about Notices and Other Communications

Notices may be sent by email or other effective method to Requestor or person who made request on behalf of Requestor and Supervisor or other responsible officials. If Requestor notifies SEC of need for accessible format, notices will be sent in an accessible format. Electronic notices will comply with Section 508 of the Rehabilitation Act.

Ensuring Confidentiality

All SEC Officials involved in accommodations request process will take reasonable steps to ensure that notices will not be delivered to, nor read by, persons who do not have a need to know about information in notices in order to evaluate requests or provide accommodations.

5 C - Notices to Requestors at Beginning of Process

If notice is sent to acknowledge receipt of request it will contain:

- Date request made
- Date by which accommodations will be provided unless extenuating circumstances exist
- Reference or link to Accommodations Procedures on SEC Intranet

If notice is sent to inform applicants for employment of status of request it will confirm that accommodations will be provided for application process on date requested.

If notice is sent to inform Requestor of extenuating circumstances it will contain:

- Description of extenuating circumstances
- Approximate date by which accommodations will be provided if approved
- Developments or changes in status of pending request (if any) affecting date by which DPM expects accommodations to be provided.

5 D - Deciding Official for Employee Requests Is Identified

1. General Authorities

Disability Program Officer (DPO) has authority to:

- Determine Requestor's medical or disability status
- Decide what accommodations should be provided under the circumstances

- Recommend temporary accommodations
- Delegate responsibilities to DPM
- Direct SEC officials to provide approved accommodations

Disability Program Manager (DPM) is delegated authority by the DPO to:

- Request and evaluate sufficiency of confidential medical information
- Conduct interactive process with identified participants
- Grant extensions
- Approve routine requests
- Make referrals to other OHR programs
- Make recommendations to DPO related to decisions granting or denying requests

Supervisory officials have authority to:

- Provide temporary accommodations after consulting with DPM
- Participate in the interactive process

Supervisory officials do NOT have authority to:

- Request or receive medical information
- Disclose protected confidential information
- Determine employee's medical or disability status
- Deny accommodation requests

2. Deciding Official Depends on Requested Accommodations

Leave - Generally

Employees may request leave as accommodations for their own disabilities or medical conditions when they expect to return to work and be able to perform essential functions of current positions. In appropriate cases, leave in excess of the leave available under the Family Medical Leave Act may be provided as reasonable accommodations for employees' disabilities.

Leave provided may be paid or unpaid depending on whether employees have paid leave available.

Supervisory officials may agree to provide requested leave as accommodations after consulting with DPM. If supervisory officials do not agree to provide leave as accommodation, DPO will decide request after consulting with supervisory official and Requestor.

Leave requested under the Family Medical Leave Act (FMLA)

Employees may request leave under Family Medical Leave Act for their own serious health condition or for the covered conditions of family members. Requests for leave should be handled in accordance with SEC's FMLA procedures when Requestor:

- Is eligible for FMLA-protected leave and has not exhausted FMLA-protected balance
- Has a serious health condition that is not a covered disability
- Does not have medical condition or disability and is requesting leave to care for family member with disability or serious health condition
- Has specifically requested leave under Family Medical Leave Act and not as an accommodation for disability

Modifying Terms and Conditions of Employment

Accommodations related to terms and conditions of employment should help Requestor meet existing standards for performance and conduct.

- Accommodations do not include lowering performance standards or excusing misconduct

Examples of terms and conditions accommodations include modification of duties or assignments, change in schedule and/or work location (telework).

Supervisory officials may agree to requested accommodations after consulting with DPM or Officer. If supervisory officials do not agree to provide accommodations, then request for accommodations will be evaluated and decided by DPO.

DPM or DPO will discuss requests with supervisory officials and with Requestors before making decisions.

Requiring Acquisitions

Acquisitions include purchase or lease of equipment, furnishings or services and structural alteration of leased facilities. Supervisory officials do not have authority to decide these requests, but they may make recommendations to DPM. DPM will evaluate and decide most of these requests in consultation with offices responsible for providing the equipment or services.

Accommodation Services include Sign Language Interpreting, Disability Support Services, Assistive Information Technology equipment and training.

Noncompetitive Reassignment of Qualified Employee

Reassignment is available only if the DPO determines that no reasonable accommodations will enable employee to perform essential functions of current position.

DPO will evaluate and decide request, including availability of other accommodations that would enable employee to perform essential functions of current position.

If DPO determines that noncompetitive reassignment will be offered as an accommodation, then procedures in Part 15 will be followed to identify any suitable available vacant funded positions Requestor is qualified to perform with or without accommodations.

Temporary Accommodations

Supervisory officials have discretion to provide temporary accommodations for up to three months after consulting with DPM. Requestor may be required to provide medical information about condition to DPM.

5 E - Procedures for Decision by DPO

Evaluating request is an interactive process involving DPM, Requestor and Supervisory officials.

DPM should talk to Requestor and supervisory officials to make sure that there is a full exchange of information and clear communications. Extensive discussions are not necessary when disability, need for accommodations and type of accommodations that should be provided are clear. DPM determines whether additional information is required. DPM will review all information provided by employee, including any relevant information already on file with the DPM to determine whether additional information is required and if so what additional information is required.

5 F - Medical information

DPM will determine whether medical information is necessary

1. Medical information will NOT be Necessary When

- Requestor has obvious disabilities and clear needs for requested accommodation or previously provided DPM sufficient information to document existence of ongoing disability and associated functional limitations.

2. Medical information WILL be Necessary When:

- Requestor does not have an obvious disability and has not previously documented disability status at SEC;
- Nature of Requestor's disability or medical condition suggests that it may have changed substantially since Requestor most recently documented it; or
- Relationship between disability or medical condition and requested accommodations is not clear.

3. If More Medical Information is Necessary DPM will:

- Inform employee of SEC's right to request the information (including medical information) and the consequences of failing to provide it
- Explain to Requestor why it is needed
- Ask Requestor or other appropriate individuals to provide it

- Follow procedures to protect Requestor’s privacy interests when medical information is requested

4. Limited Access to Medical Information

- DPM will notify Requestor’s supervisory officials of Requestor’s disability status, but not the disability or medical condition supporting the designation.
- DPM will provide information about functional limitation(s) to Requestor’s supervisor and other individuals who need to know it so that they can provide accommodations or assist Requestor during an emergency.
- Information about Requestor’s disability status or medical condition may be provided to medical experts chosen by SEC with a valid signed limited release from Requestor.
- Medical information will not be conveyed to anyone other than those with “need to know” and all who have access will be informed in writing of the confidentiality requirements that apply to medical information.

Part 6: DPO Decides Request

6 A - Decisions Granting Requests for Accommodations

DPM Notifies Requestor and supervisory official that Accommodations will be provided

Content of Notice Based on Outcome

1. Requested Accommodations Granted

DPO or DPM decides to grant accommodations initially requested or Requestor agrees to accept alternatives to requested accommodations proposed during the interactive process

Notice of Employee’s Responsibilities

Requestor must notify DPM of

- Date accommodations received (except for recurring accommodations)
- Any changed circumstances that require change in accommodations

Requestor must follow specified procedures for resolving problems with accommodations

2. Alternative to Requested Accommodations Granted

If Requestor does not agree to alternative accommodations during interactive process, employee may pursue rights listed in Notice of Rights.

If Requestor agrees to alternative accommodations during interactive process, then decision is one to grant requested accommodations.

Content of Notice Concerning Alternative Reasonable Accommodations

- Finding that Requestor is individual covered by Rehabilitation Act

- Description of alternative reasonable accommodations to be provided
- Specific reasons why alternative accommodations will be provided instead of requested accommodations
- Expected date by which alternative accommodations will be provided (based on circumstances known at time of decision)
- Identify who will be responsible for providing accommodations
- Requestor's responsibility for notifying DPM that accommodations have been provided
- Instructions about what to do if problems are encountered with accommodations after they have been provided

3. Noncompetitive Reassignment to Suitable Available Vacancy

This is the accommodation of last resort available only when DPO finds that no other reasonable accommodation is available and a suitable funded vacancy is available.

Content of Notice Concerning Noncompetitive Reassignment

- Finding that Requestor is covered under Rehabilitation Act
- Finding that no reasonable accommodation is available to permit Requestor to perform essential functions of his or her present position without undue hardship to SEC
- Copy of Noncompetitive Reassignment of an Employee as Reasonable Accommodation
- Request for information from employee about current qualifications and any limitations employee would like placed on search for suitable vacancy
- Description of temporary accommodations to remain in place while SEC searches for appropriate available vacant position to which employee may be noncompetitively reassigned
- Explanation of adverse consequences, including separation from employment, that could result if employee declines offer of reassignment and remains unable to perform essential functions of current position with or without accommodation

4. Temporary Accommodations

Temporary accommodations may be provided until reasonable accommodations are provided where extenuating circumstances exist. When appropriate, temporary accommodations may be provided to employees who do not have disabilities covered by Rehabilitation Act of 1973, as amended by the Americans with Disabilities Act Amendments of 2008.

Employees must adequately document medical conditions related to requested accommodations. Supervisory officials in Requestor's chain of command after consultation with OHR must agree that temporary accommodations should be provided.

Providing temporary accommodations does not mean that employee has a disability or is entitled to reasonable accommodations as a matter of law.

Content of Notice Concerning Temporary Accommodations Provided to Requestors who do not have Disabilities

- Finding that Requestor does not have disability under Rehabilitation Act of 1973 and is not entitled to reasonable accommodations
- Explanation that SEC has decided to provide temporary accommodations based on medical condition
- Description of temporary accommodations
- Notice that temporary accommodations are subject to change at the option of supervisory officials or DPO
- Notice that Requestor may make new request for reasonable accommodations under Rehabilitation Act if circumstances change so that Requestor's medical condition becomes a covered disability

6 B - Decisions Denying Requests for Accommodations

DPM Notifies Requestor and supervisory official that accommodation will not be provided

1. Content of Final Decision Denying Request

- Notice that accommodations will not be provided
- Notice of Rights
- DPO's reasons for decision to deny accommodations request must be clearly explained

Reasons for denial may include one or more of following

- Requestor has not established that
 - o Employee's medical condition is a covered disability,
 - o Employee is qualified for current position and
 - o Requested accommodations will enable employee to perform essential functions of current position
- Requested accommodations would require lowering production standards or removing an essential job function
- Requested accommodations would cause undue hardship to SEC and no other reasonable accommodations are available that would not cause undue hardship to SEC

2. Notice of Rights Concerning Final Decision Denying Request

Requestors dissatisfied with decision denying accommodations request have the right to:

- Ask DPO to reconsider final decision
 - o Reconsideration request must be received by DPM within five business days after Requestor receives final decision
 - o In reconsidering request, DPO will consult with DPO's immediate supervisor
 - o Requestor will receive written decision on request for reconsideration will be sent to Requestor within fifteen (15) business days from date reconsideration request was received
 - o Requesting reconsideration does not affect any time limits for pursuing other available administrative remedies
- Contact an EEO Counselor or EEO Office to seek modification of DPO's decision by pursuing the EEO administrative complaint process http://intranet.sec.gov/divisions_offices/hqo/eo/rights.html
 - o Contact must be made within 45 calendar days of receiving DPO's final decision whether or not request for reconsideration is made to DPM
- Access applicable SEC Grievance Procedure
 - o Bargaining unit employees may file a grievance in accordance with article 32 of the Collective Bargaining Agreement
 - o Information about how to access procedure and applicable time limits
- File an appeal with the Merit System Protections Board within thirty days of an appealable adverse action as defined in 5 CFR 1201.3 (if available)

Part 7: Providing Accommodations

Officials responsible for providing accommodations

- DPM
- Supervisory officials in Requestor's chain of command
- SEC technical employees or contractors responsible for providing or installing equipment and services

Time limits for providing accommodations - See Part 4 Timely Accommodations

Part 8: Maintaining Accommodations

8 A - Requestor or Requestor's Supervisor must notify DPM promptly if problems are encountered with accommodations provided such as:

- Delay in delivery of equipment or services
- Unsatisfactory services provided by vendor
- Employee needs training to use equipment
- Upgrade or replacement of equipment needed
- Modification of services required
- A significant change occurs that affects need for accommodations
- Changes in disability status or medical condition of Requestor
- Changes in essential job functions

8 B - Persons who should notify DPM depend on the problem encountered

- Requestor (employee receiving accommodations)
- Requestor's supervisory officials
- SEC technical employees or contractors responsible for providing or installing accommodations

8 C - DPM will attempt to resolve problems immediately by discussing problems with Requestors and supervisors and then working with responsible officials to do any of the following depending on the circumstance:

- Provide temporary alternate accommodations until problems are resolved
- Acquire different equipment
- Repair or replace equipment
- Upgrade software
- Reconfigure space
- Find new vendor where services are unsatisfactory
- Contract for evaluations of accommodations provided

Part 9: Statutory and Collective Bargaining Rights

These accommodations procedures are in addition to any applicable statutory and collective bargaining protections for persons with covered disabilities and the remedies they provide for the denial of requests for reasonable accommodation. Requirements for initiating such claims remain the same.

Part 10: Rights and Responsibilities of Requestors

During Request Process

- Requestors have right to assistance from DPO or supervisory officials if assistance is needed to make a request. When Requestor's need for assistance to make request is not apparent, Requestor must ask supervisory official or DPO for assistance
- Requestors must promptly notify DPO of any changes in disability status or medical condition affecting pending request

After accommodations are received:

Requestors must notify DPO when accommodations are received

Exceptions: Notice is not required for recurring accommodations such as sign language interpreters, captioning, large print, etc.

Resolving problems:

Employees must follow procedures established for resolving problems with accommodations they have received. DPM will notify employees receiving accommodations of any such procedures.

Changed circumstances affecting accommodations provided:

Requestors who have received accommodations must notify DPM promptly of any changed circumstances that require a change in accommodations.

Requestors who no longer need accommodations due to changed circumstances, must promptly notify their supervisors and DPM.

Part 11: Overview For Supervisory and Other Responsible Officials

SEC officials play a critical role in the Commission's program to accommodate persons with disabilities and temporary medical conditions. This section contains the basic information SEC officials should know about their responsibilities. It contains references to reliable sources of information about accommodating people with disabilities.

Recommended resource materials and legal information available on the web:

- Equal Employment Opportunity Commission <http://www.eeoc.gov/policy/guidance.html>
- U.S. Department of Labor's Office of Disability Employment Policy <http://www.dol.gov/odep/>

- JAN - Job Accommodation Network <http://www.jan.wvu.edu/>
- 1-800-526-7234 (V/TTY)

SEC officials who have any questions about these guidelines or who are not sure whether they apply to an employee's request, should immediately contact DisabilityAccommodation@SEC.gov.

11 A - Responsible Officials at SEC

- If Requestor is an employee then responsible officials include Requestor's immediate supervisor and other supervisors in the same chain of command, including the Office Head or Division Director.
- If Requestor is an applicant for employment, responsible officials include selecting officials, officials involved in interviews and officials in OHR with responsibility for the application process.

11 B - Resources at SEC for Responsible Officials

DPM OHR has extensive expertise in evaluating accommodations requests and providing a broad range of accommodations to persons with disabilities. DPM is available as a source of information and guidance on these procedures. The SEC Office of Equal Employment Opportunity accepts complaints of failure to provide reasonable accommodation and failure to comply with non-discrimination provisions of the Rehabilitation Act of 1973, as amended.

11 C - Basic Information SEC Officials Should Know about Accommodations

Accommodations enable Requestors with disabilities or medical conditions to:

- Perform the essential functions of their jobs
- Enjoy benefits of employment, such as training programs, recreation facilities and office social functions
- Apply for SEC employment
- Access public programs

Accommodations include:

- Equipment and services
- Modified work environments, locations and schedules
- Restructured jobs
- Reassignment when no other accommodation will work

Accommodations do NOT include:

- Lowering performance standards

- Excusing misconduct
- Removing any essential function of Requestor’s current job

Requests for accommodation are not always easy to recognize:

- Requests for accommodation can be made in a conversation.
- Requestors are not required to fill out an SEC form or use the words “reasonable accommodation” or “disability” to start accommodations request process.
- Requests may be made on behalf of an employee or applicant by a third person, including but not limited to a family member, vocational counselor or representative.

Under some circumstances requests are not required:

Employees with known disabilities and regular recurring needs for accommodation, such as sign language interpreter services or captioned material, should be accommodated as a matter of course whether or not they have specifically requested the accommodation. Supervisors are responsible for arranging for these accommodations without waiting for a request.

Initial steps to take when accommodations are requested

- Explain that Requestor should not provide medical information to supervisor
- Send an E-Mail describing request to <mailto:DisabilityAccommodation@SEC.gov> with a copy to Requestor or Requestor’s representative (such as a family member or union steward).
- Know the time limits for providing accommodations
- Accommodations should be provided as soon as needed or as soon as practicable and within a maximum of:
 - ✓ Four (4) business days from date of initial request in special circumstances
 - ✓ Twenty (20) business days from date of initial request unless limited extenuating circumstances are identified by DPM – See Part 4B.

If accommodations are requested by third party

- Contact employee or applicant (as soon as possible)
- Confirm that employee or applicant is aware of request and wants requested accommodations
- Provide information about how to request accommodations to person acting on behalf of employee or applicant and to employee or applicant – tell them to send requests to <mailto:DisabilityAccommodation@SEC.gov>

Accommodations related to terms and conditions of employment

Accommodations related to terms and conditions of employment should help employee meet existing standards for performance and conduct applied to other employees in Requestor’s position. Supervisory officials may agree to provide certain kinds of accommodations related to terms and conditions of employment after consulting with DPM or DPO.

Examples of terms and conditions accommodations include:

- Modification of duties or assignments
- Change in Requestor's schedule or work location, and leave
- Temporary Accommodations (see below)

Temporary Accommodations

Offer temporary accommodations after consulting with DPO or DPM if:

- Requestor asks for them and you agree or
- You think it is appropriate to provide them even if not requested

Temporary accommodations include:

- Accommodations or workplace flexibilities for up to three (3) months for temporary medical conditions
- Reasonable accommodations provided from date of request for accommodations for disability to date of final decision on request when interactive process will exceed twenty business days
- Alternative reasonable accommodations to be used temporarily when extenuating circumstances will delay availability of equipment or services DPO or DPM has approved

Reporting on accommodations provided

Notify DPM at <mailto:DisabilityAccommodation@SEC.gov> of

- Temporary accommodations you have provided or plan to provide
- Changes in essential job functions affecting an employee's need for accommodations
- Difficulties with accommodations, such as unsatisfactory services or defective equipment

Part 12 - Accommodations Information Tracking Form

This form section is retired pending transition to automated tracking system.

Part 13 - Terms Defined and Organizations Identified

A. Disability Laws: Americans with Disabilities Act (ADA) and the Rehabilitation Act of 1973, as amended by the ADA Amendments Act of 2008.

Titles I and V of the Americans with Disabilities Act (ADA), as amended by the ADA Amendments Act of 2008, prohibit discrimination by private employers on the basis of disability in all employment practices.

The federal government is covered by the Rehabilitation Act of 1973, as amended, which incorporates the definitions, legal standards and non-discrimination requirements of the ADA, including the requirement to reasonably accommodate qualified individuals with disabilities.

B. EEOC

U.S. Equal Employment Opportunity Commission is the federal agency responsible for interpreting this and other federal EEO laws.

These procedures were developed in accordance with EEOC guidelines (www.EEOC.gov)

C. Essential Functions

Job duties so fundamental to position at issue that one cannot do that job without performing them are “essential functions.”

- A function can be "essential" if:
- Position held by Requestor exists specifically to perform that function;
- There are a limited number of other employees who could perform function; or
- Function is specialized and individuals are hired based on their ability to perform it.

Determination of essential functions of a position must be made by the DPO on a case-by-case basis so that determination reflects job as actually performed, not simply components of a generic position description.

D. Functional Limitations

Limits on an individual’s ability to perform functions, such as ability to walk, see, hear, lift, grasp, stand, speak, concentrate, activities of daily life, etc.

Note: describing an individual’s functional limitation is not same as identifying underlying cause of limitation or providing medical information. Information about functional limitations will be available to SEC officials when needed to provide accommodations or assistance during emergencies.

E. Qualified Individuals

Individuals are qualified for positions if they:

- Satisfy requisite skill, experience, education, and other job-related requirements of positions; and
- Can perform essential functions of positions, with or without reasonable accommodations.

F. Reasonable Accommodations

Reasonable Accommodations (“accommodations”) are changes in work environments or in the way work and other activities are customarily done that:

- Enable qualified individuals with disabilities to enjoy employment opportunities equal to those of qualified individuals without disabilities and
- Do not create an undue hardship on employer

G. Reassignment (Non-competitive Placement)

See Procedures for Noncompetitive Reassignment in Part 15.

Reassignment is a form of reasonable accommodation that, absent undue hardship, is provided to employees (not applicants) who, because of covered disabilities, can no longer perform essential functions of their current jobs, with or without reasonable accommodations.

- Noncompetitive reassignments are made only to suitable and available vacant positions for which disabled employees are qualified.
- If employees are qualified for positions, they will be reassigned and will not have to compete for positions.
- If employees decline appropriate offers of reassignment made in accordance with Part 15 of these procedures, SEC has satisfied its duty to accommodate them.

H. Undue Hardship

If requested accommodations would cause undue hardship to the agency, then SEC does not have to provide them, but SEC may be required to provide alternate reasonable accommodations such as leave or reassignment. Determination of undue hardship is made by DPO in consultation with DPM and supervisory officials.

Undue hardship factors considered include:

- Adverse impact accommodations will have on operations of agency
- Adverse impact accommodations will have on seniority rights under the collective bargaining agreement
- Applicable laws prohibiting requested accommodation

I. Undue Hardship and monetary cost of providing equipment or services

The cost or expense of a requested accommodation rarely if ever creates an “undue hardship” given the overall budget of the agency. Relative cost is a legitimate reason for providing different reasonable accommodations from those requested.

Part 14: Requesting Equipment or Services

14 A – To Request Computer / Electronic Accommodations send request to <mailto:DisabilityAccommodation@SEC.gov>

14 B - To Request Sign Language Interpreter Services send request to SECInterpreter@SEC.gov

Part 15: Noncompetitive Reassignment of Employee to Available Vacant Position as Reasonable Accommodation of Last Resort

Noncompetitive reassignment is offered only when DPO determines that no reasonable accommodation will enable Requestor with covered disability to perform essential functions of current position and SEC has a suitable available vacant position.

SEC is not required to create new position for noncompetitive reassignment

First notice to employee and supervisory officials from DPM:

- DPO has found that:
 - o Employee has covered disability and
 - o No reasonable accommodation will enable employee to perform essential functions of current position
- SEC will search to identify a suitable available vacant position in accordance with these procedures.
- Noncompetitive reassignment will be offered only if a suitable available vacant position is identified
- Copy of these procedures will be attached.

Criteria for suitable position – Employee:

- Currently satisfies requisite skill, experience, education and or job-related requirements of identified vacant position
- Is able to perform essential functions of identified position with or without reasonable accommodations
- Holds position at or above grade level of position

Criteria for available position – SEC:

- Has decided to fill and fund vacant position
- Has not made unconditional offer of employment in that position to an individual who has not yet accepted offer

Initiating search

DPM will notify OHR staffing group that search for suitable available vacant position to accommodate employee with a disability is required. OHR Director or designee will appoint OHR official to conduct search.

Conducting search

OHR official conducting search will:

- Ask employee to provide information about:
 - o Current qualifications
 - o Any limits employee may want placed on the search in terms of areas or grade levels
- Ask employee's supervisor to provide information about employee's current position
- Begin search within four business days of receiving information from employee
- Search for positions meeting established criteria and as equivalent to employee's current position as possible
- Use due diligence in conducting search
- Document search efforts and results

Search parameters and order to find equivalent position based on grade level and location

OHR official conducting search will search first for positions meeting established criteria:

- At employee's current grade level
- In employee's current office or division
- In employee's current commuting area
- Within areas specified by employee (if any)
- Commission-wide (unless employee has informed official conducting search in writing that employee will not relocate or will relocate only to certain identified areas)

If no position identified at employee's grade level, OHR official will search next for positions meeting established criteria and at next grade level below employee's current grade level in order listed above.

If no position is identified at next lower grade level, search will continue as above including lower grade levels in descending order.

Search will terminate when:

A suitable available vacant position is identified or no suitable available vacant position is identified after diligent search has been conducted for four full pay periods whichever first occurs. See below for required report describing search.

When vacancies meeting search criteria identified

OHR Official conducting search will immediately:

- Inform SEC officials responsible for filling identified positions that they must be held open for fifteen (15) business days to comply with requirements of federal law
- Provide information about identified positions to DPM

Evaluation of identified vacancies

DPO will determine whether identified positions are suitable based on:

- ✓ Written information about positions and discussion with SEC selecting officials
- ✓ Unsuitable identified positions

DPO will notify OHR official conducting search and OHR official will notify selecting officials that identified position need not be held open and may be filled competitively

Suitable identified positions

- DPO will notify OHR official conducting search, employee, employee's current supervisor and SEC selecting officials that position will be offered non-competitively to employee with disability.
- If more than one identified position is suitable, DPO will decide which position will be offered noncompetitively to employee and give notice as above
- OHR staffing will prepare offer of non-competitive reassignment

Offer of noncompetitive reassignment

Offer to employee will include:

- Information about position
- Location
- Pay
- Essential functions to be performed
- Other significant information about position such as whether it requires frequent or occasional travel, involves strenuous physical activity or is sedentary, etc.
- Information about SEC selecting official who can be contacted by employee if employee wants to discuss position with them before making decision

- Description of search efforts if position is outside employee's current commuting area and/or at lower grade level

Terms and conditions of offers generally

- Requestor must notify DPM of Requestor's unconditional acceptance of offer within ten (10) business days of date it is received or Requestor will be deemed to have declined offer and it will be withdrawn.
- No other or additional offers of noncompetitive reassignment will be made and Requestor must apply and compete for any other vacant position.
- SEC will not reimburse relocation costs for Requestor accepting offer of reassignment to position outside employee's current commuting area.

Offer declined

If Requestor declines offer SEC will notify Requestor that reasonable accommodation has been offered and SEC has no further duty to accommodate Requestor. The SEC will take any appropriate action, including separation of Requestor from SEC employment, if Requestor is unable to perform essential functions of current position (with or without accommodation)

Offer accepted

If Requestor accepts offer, DPM will ensure that any reasonable accommodations needed will be in place when reassignment occurs or provided as soon as possible after requested.

OHR and offices or divisions affected by Requestor's reassignment will process reassignment.

Office to which employee is reassigned will provide employee same training other employees are given when they begin duties.

Report when no suitable position is identified

When no position is identified after search has been conducted for four full pay periods, OHR official conducting search will provide detailed written report of search efforts to DPM.

- If DPO concludes that search efforts were insufficient, then DPO will notify OHR Official that search must continue and explain what is required for search efforts to be sufficient.
- If DPO concludes that search efforts were sufficient, then DPO will notify Requestor, Requestor's supervisor and Requestor's division or office head that:
 - o Diligent search was conducted for four full pay periods;
 - o No suitable available vacancy was identified;
 - o Search has concluded and
 - o Noncompetitive reassignment cannot be offered to Requestor.

Final DPO decision if no offer is made

DPO will issue final decision stating that no reasonable accommodation can be provided without causing undue hardship to SEC because no suitable available vacant position exists.

DPO decision will include:

- Report of OHR efforts to identify suitable position
- Notice of Rights with respect to final decision

Part 16: Accommodating Job Applicants

Accommodations to apply for employment

Vacancy announcements

Vacancy announcements and all materials used to recruit applicants will contain:

- Statement that SEC is Equal Employment Opportunity Employer and provides reasonable accommodations so that qualified persons with disabilities may participate in application process
- Instructions for requesting accommodations will include link to web-based form for sending contact information to DPM or other persons responsible for providing accommodations to applicant for employment during the application process.

Interviews

Interviewing officials who know an applicant will need accommodations for interview should offer to provide them.

If applicant accepts offer of interview, interviewing official should request accommodations from DPM on behalf of applicant.

Examples of accommodations for application process:

- Sign language interpreting services
- Reader
- Accessible interview location
- Accessible parking
- Application materials in accessible formats, such as large print, digital, Braille, audio

Part 17: Accessible Public Programs

Accommodations for members of public

SEC will provide reasonable accommodations to members of public who request them to attend public programs in accordance with section 504 of the Rehabilitation Act of 1973.

Examples of reasonable accommodations include:

- Sign language interpreters
- Captioning
- Enhanced audio systems
- Special seating and
- Information in alternative formats (electronic, large print, audio, etc.)

In providing reasonable accommodations, SEC may consider relative cost of alternative accommodations

When accommodations are to be provided without request:

- ✓ Where need for such accommodations is recurring and predictable, accommodations will be provided whether or not a member of public requests them.

To extent practicable, SEC will inform public of accommodations that will be available at programs.

Notice to public concerning accommodations

In all announcements of SEC public programs information about requesting accommodations will be included. The information will explain how members of public requiring such accommodations may request them and date by which request must be received.

- ✓ Instructions for requesting accommodations will include link to web-based form for sending contact information to DPM or other persons responsible for providing accommodations.
- ✓ Complaints of failure to accommodate members of public at SEC programs
- ✓ Members of the public who request accommodations to participate in SEC-sponsored programs or events and who are not granted accommodations or are dissatisfied with accommodations provided may file complaints with the SEC Office of Equal Employment Opportunity Commission, Washington DC 20549.

NOTE: This section does not apply to SEC employees requesting accommodations related to employment.

Part 18: Disability Program Database

The DPM will maintain database for accommodation requests and accommodations provided.

Uses of database:

- Reports to Disability Program Coordinator, EEO for inclusion in reports to EEOC.
- Planning by DPO

Records in database will be maintained for three years from the date of creation or longer if required by applicable record retention schedules.

Source of information: Requests submitted and related records

Database Reports

- Will not identify Requestors (whether or not Requestors received accommodations).
- Content of any reports will be presented in aggregate without reference to identity of

Requestors

- Database will be capable of reporting
 - o Number of accommodations, by type, that have been requested to participate in application process and whether those requests have been granted or denied;
 - o Jobs (occupational series, grade level, and agency component) for which accommodations have been requested and for each job
 - o Number of accommodations requested, by type of accommodation and
 - o Whether those requests have been granted or denied
 - o Number of accommodations requested to permit an employee to enjoy, benefits or privileges of employment, by type
 - o Whether those requests have been granted or denied
 - o Reasons for denial of requests
 - o Amount of time taken to process each request; and
 - o Sources of technical assistance consulted.

Retention of records pertaining to individual Requestors

Records reflecting actions with respect to requests for accommodations will be maintained in accordance with the applicable General Records Schedule.

Part 19: Notices Provided to Requestors

19 A. When information is required to evaluate accommodation request:

PRIVACY ACT NOTICE

Solicitation of this information by Securities and Exchange Commission is authorized by Rehabilitation Act of 1973, as amended, 29 USC sec. 701 et seq. Information may also be disclosed to appropriate

Federal, State or local agencies responsible for investigating, prosecuting, enforcing or implementing a statute, rule, regulation or order.

19 B. When medical information is required to evaluate accommodation request:

GINA Notice to Health Care Provider from the SEC Office of Human Resources

The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law.

To comply with this law, we are asking that you not provide any genetic information when responding to this request for medical information. "Genetic information," as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

<http://www.hhs.gov/ocr/privacy/hipaa/understanding/special/genetic/ginafinalrule.pdf>.

Do not include medical information about any conditions examinations or treatments unrelated to the medical condition on which the request is based.

Please provide information requested below to your patient or a person your patient has authorized in accordance with the Health Insurance Portability and Accountability Act (HIPAA).