



National Transportation Safety Board

Operations Bulletin EEO-GEN-002 Reasonable Accommodations Program

1. Issuing Organization. Operations Bulletin EEO-GEN-002, developed by the Office of Equal Employment Opportunity, Diversity and Inclusion (EEODI), and issued on May 13, 2016. It was revised to incorporate feedback from the Equal Employment Opportunity Commission (EEOC) and reissued on October 17, 2016. It will be due for review by October 16, 2021.
2. Purpose. This bulletin implements Executive Order 13164 dated July 26, 2000, which requires each federal agency to establish written procedures to facilitate the provision of reasonable accommodation when requested by qualified individuals with disabilities in accordance with the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act (ADA) of 1990, as amended. This revision incorporates the requirements of the Americans with Disabilities Act Amendments Act (ADAAA) of 2008 and its implementing regulations published by the EEOC.
3. Policy. It is NTSB policy to—
 - A. Review requests and provide reasonable accommodation to qualified individuals (including employees, contractors, and applicants seeking employment) with disabilities, in accordance with law, regulations, and the procedures in this bulletin, in a fair and timely manner.
 - B. Ensure that accommodations do not pose an undue hardship on NTSB operations.
 - C. Consider reassignment as an accommodation, as required by EEOC regulations, if it is determined that (1) no accommodations will be effective in enabling the employee to perform the essential functions of his/her current position, or (2) all other accommodations would impose an undue hardship on the agency.
 - D. Consistent with the ADAAA, construe the definition of “disability” broadly in favor of expansive coverage to the maximum extent permitted by the terms of the ADA. Therefore, the question of whether an individual meets the definition of disability will not demand extensive analysis.
4. Cancellation. This policy supersedes Operations Bulletin EEO-GEN-002 issued on November 14, 2008.

5. References/Links.

- A. [Executive Order 13164 \(July 26, 2000\).](#)
- B. [The Rehabilitation Act of 1973, as amended.](#)
- C. [The Americans with Disabilities Act of 1990 \(Title I\), as amended.](#)
- D. [The Americans with Disabilities Act Amendments Act of 2008,](#) as amended (ADAAA).
- E. [29 CFR Part 1614, Federal Sector Equal Employment Opportunity.](#)
- F. [29 CFR Part 1630, Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act.](#)
- G. [EEOC Management Directive 715.](#)
- H. [EEOC Policy Guidance on Executive Order 13164, Establishing Procedures to Facilitate the Provision of Reasonable Accommodation \(October 20, 2000\).](#)
- I. [EEOC Enforcement Guidance: Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act, October 2002.](#)
- J. [EEOC Enforcement Guidance on the Americans with Disabilities and Psychiatric Disabilities, March 1997.](#)
- K. [EEOC Enforcement Guidance on Pre-employment Disability-Related Questions and Medical Examinations, October 1995.](#)
- L. [EEOC Enforcement Guidance on Disability-Related Inquiries and Medical Examinations of Employees Under the ADA, July 2000.](#)
- M. [The Privacy Act of 1974, as amended.](#)
- N. [5 CFR, Chapter I, Part 293, Subpart E, Employee Medical File System Records.](#)
- O. [Equal Employment Opportunity Management Directive 715 \(MD-715\) \(October 1, 2003\).](#)
- P. [Questions & Answers about Diabetes in the Workplace and the Americans with Disabilities Act \(ADA\)](#)
- Q. [National Archives and Records Administration, General Records Schedule 1](#)

6. Responsibilities.

A. The Managing Director, or designee, will—

- (1) Ensure overall direction and operational efficiency of this program.

- (2) Ensure that funding is made available for the provision of reasonable accommodation.
 - (3) Hold Office Directors accountable for compliance with the requirements and timelines established under this bulletin.
- B. The Director, Office of Equal Employment Opportunity, Diversity, and Inclusion (EEODI) will—
- (1) Plan, develop, and manage the reasonable accommodation program, policies, and procedures within the NTSB.
 - (2) Advise the Chairman and Managing Director on the plans, procedures, regulations, reports, and any other matters pertaining to the agency's reasonable accommodation program.
 - (3) Coordinate with the Chief Financial Officer (CFO), or designee, to ensure that sufficient resources are available to procure services, furniture, equipment, and anything else deemed necessary to provide reasonable accommodation, when approved in accordance with the procedures of this bulletin.
 - (4) Ensure that managers and supervisors receive training on their obligations and requirements under the applicable laws and regulations, and the procedures of this bulletin, to provide reasonable accommodation to qualified individuals with disabilities.
 - (5) Appoint a Disability Employment Program Manager (DEPM) to assist with the management of this program, including the review and processing of requests and the preparation of data and reports relating to this program.
 - (6) Establish a system for periodically evaluating and reporting to the Chairman and Managing Director on the effectiveness of the agency's reasonable accommodation program and procedures.
 - (7) Provide guidance to and coordinate with the DEPM on processing accommodation requests and ensuring accurate and complete tracking and reporting of program data.
 - (8) Ensure that known barriers and impediments in agency policies that may cause unnecessary delay in providing accommodations (for example, those related to purchasing or leasing of equipment; hiring or contracting for readers, interpreters, or other assistants; the flexibility to approve leave or to restructure work schedules; etc.) are reported to appropriate management officials for corrective action.
 - (9) Provide an annual report on all reasonable accommodations and disability program activities to the NTSB Chairman and Managing Director, and to the

Chair of the EEOC, as requested, in accordance with EEOC Management Directive 715, on or before December 31 of each year.

- (10) Ensure compliance with the provisions set forth in this bulletin.
- (11) Update this bulletin according to the schedule or earlier if there is an identified need.

C. The Disability Employment Program Manager (DEPM) will—

- (1) Assist the Director, EEODI, with the review and processing of requests for accommodation, and will consult and coordinate with other agency technical personnel and experts as necessary or required.
- (2) Develop and provide training as needed related to the provision of reasonable accommodation.
- (3) Answer questions from requesters and provide guidance to decisionmakers on the policy and procedures provided in this bulletin and the applicable laws and regulations governing reasonable accommodation.
- (4) Provide advice, guidance, and recommendations, in consultation with other agency technical personnel and experts, to assist decisionmakers in identifying the essential functions of a requester's position and in determining effective accommodations, including when additional information is needed from a requester or agency subject matter expert.
- (5) Provide guidance as appropriate to assist with identifying internal and external resources available to help facilitate the selection of an effective accommodation for requesters.
- (6) In consultation with other agency technical personnel and experts, discuss with the requester the need for obtaining medical documentation when a disability is not obvious, has not previously been documented, or requires updating, and/or a professional medical opinion is needed by the NTSB Medical Consultant to evaluate the medical information submitted by a requester.
- (7) Make recommendations to decisionmakers on the approval/denial of requests for accommodation, after consultation with appropriate agency technical personnel and experts, as needed.
- (8) Maintain confidentiality and security of all medical documentation received in support of accommodation requests, and after final processing of requests, ensure such documentation is provided promptly to the Human Resources Division (HRD) for filing and maintenance.
- (9) Ensure appropriate and complete written documentation throughout the processing of accommodation requests. Collect, prepare, and report on accommodation data to the Director, EEODI, on an annual basis, and identify

and eliminate barriers as required by EEOC Management Directive 715 (MD-715).

D. The Chief, HRD will—

- (1) Ensure that vacancy announcements (a) contain a statement that the NTSB provides reasonable accommodation to applicants with disabilities and (b) provide instructions and point of contact information so that applicants know how to make a request.
- (2) Ensure that vacancy announcements accurately reflect the essential functions of the announced position.
- (3) Ensure that applicant requests for accommodation are promptly forwarded to the DEPM and appropriate decisionmaker for processing under the procedures and time frames established by this bulletin.
- (4) Identify vacancies and anticipated vacancies when reassignment is being considered as a reasonable accommodation.
- (5) Identify an Employee and Labor Relations Specialist to provide technical advice and assistance to the DEPM and decisionmaker on matters of reasonable accommodation, including the sufficiency of submitted medical documentation, whether review by the NTSB Medical Consultant is needed, the development of essential functions, and other matters as needed.
- (6) Ensure the establishment, security and proper maintenance of Employee Medical Folders, in compliance with applicable regulations, for the filing of medical documentation and other materials submitted under the procedures of this bulletin.

E. Employee/Labor Relations Specialist (E/LRS), HRD, will—

- (1) Provide technical advice and guidance to supervisors and managers when working with them on employee or labor relations matters concerning an employee who subsequently requests an accommodation under the provisions of this bulletin.
- (2) Provide technical advice and guidance to supervisors and managers; the Director, EEODI; and the DEPM regarding reasonable accommodation regulations, policy, and procedures, including—
 - a. The need for medical documentation when a disability is not obvious or on record.
 - b. The need for the NTSB Medical Consultant to review submitted medical documentation and provide medical opinions to facilitate administrative decisions related to requests for accommodation.

- (3) Ensure, upon receipt, the confidentiality and proper filing in the Employee Medical Folder of reasonable accommodation materials, including medical documentation, submitted to HRD under the procedures of this bulletin.
 - (4) Facilitate, as necessary, the NTSB Medical Consultant's review of employee medical documentation to respond to requests for accommodation.
 - (5) Provide technical advice and guidance, as necessary, to supervisors and managers; the Director, EEODI; and the DEPM on the identification and documentation of essential functions of a position.
- F. The Office of the General Counsel (OGC) will conduct research and provide legal and technical advice and guidance to the Director, EEODI; the DEPM; HRD; and NTSB decisionmakers regarding reasonable accommodation law, regulations, policies, procedures, and requests involving complex or precedent-setting issues, as needed.
- G. Supervisors and Managers (Decisionmakers) will—
- (1) Upon receipt of a request for accommodation, notify and seek immediate consultation with the DEPM to discuss the request and determine the appropriate next steps in the process, including acknowledging receipt (see Attachment 2) of the request.
 - (2) Actively participate in the process to review and evaluate accommodation requests expeditiously in accordance with the procedures specified in this bulletin and, absent extenuating circumstances, provide written decisions to grant or deny an accommodation no later than 30 days from the agency's receipt of the request.
 - (3) In consultation with the DEPM, initiate and engage in an informal dialogue with the requester to discuss and clarify precise functional limitations, workplace restrictions or barriers, their impact on the employee's ability to perform the essential functions of his or her position, and the identification of possible and effective reasonable accommodations.
 - (4) In consultation with the DEPM and HRD, establish, in writing, the essential functions of the requester's job when needed for the purpose of requesting medical documentation or evaluating the potential effectiveness of proposed accommodations.
 - (5) Document oral requests for accommodation using Attachment 1 and forward the completed form to the DEPM for processing.
 - (6) When extenuating circumstances exist that will prevent a final decision and/or implementation of reasonable accommodation within 30 days after receipt of the request, notify the requester in writing of the circumstances for the delay and the estimated date of completion. (See Attachment 3.)

(7) Upon selecting an individual with a disability who requests an accommodation, consult with the DEPM to ensure appropriate documentation and processing of the request and to ensure that, if necessary, reasonable accommodation is in place before the individual reports to work in a duty status.

(8) Work with the DEPM, as necessary, to complete and issue Attachment 4 to promptly communicate the determination regarding the request for accommodation.

H. The NTSB Medical Consultant will—

(1) Provide medical opinions to the agency, as necessary, regarding the medical documentation submitted by requesters for the purpose of reasonable accommodation.

(2) When a medical release has been completed and submitted by the requester, consult with treating health care provider(s) to discuss medical conditions; functional limitations; restrictions; and appropriate, effective accommodations.

I. The Chief, Safety Division, Office of Administration will—

(1) Notify the DEPM promptly when an employee makes a request that could be interpreted as a request for accommodation under the procedures of this bulletin.

(2) Consult with the DEPM during the interactive process as requested or as needed.

(3) Conduct, as necessary, ergonomic assessments for the purpose of reasonable accommodation as soon as possible after receipt of the request and provide routine ergonomic equipment and accessories.

(4) Provide technical advice and guidance, as necessary, to the Director, EEODI; DEPM; HRD; and NTSB decisionmakers, to ensure that accommodation decisions consider occupational safety and health standards.

J. The Chief Financial Officer will—

(1) Ensure that funding is made available for the provision of reasonable accommodation.

(2) Ensure a mechanism for funding accommodations that avoids charging individual offices for the cost of accommodations provided to their employees or applicants for employment.

K. Requesters (Employees or Those Acting on their Behalf) will—

- (1) Submit requests for reasonable accommodation, either orally or in writing (See Attachment 1) to the appropriate decisionmaker in his or her chain of command, the DEPM, or the Director, EEODI.
- (2) Engage in an informal interactive process with the DEPM and other agency officials, as requested, to clarify the request and what is needed, to include explanation of the precise functional limitations resulting from the disability, any work restrictions and/or problems posed by a workplace barrier, and the identification of reasonable accommodation(s). (See paragraph 7D below.)
- (3) Where the disability or need for an accommodation is not obvious or previously recorded, provide sufficient medical documentation, or other relevant documentation, to support the request. (See paragraph 7E below.)
- (4) Participate in a needs assessment for assistive technology when recommended by the DEPM or other authorized agency officials.
- (5) Learn to use and maintain skills required for using any assistive technology provided as a reasonable accommodation, including upgraded versions of assistive technology, if applicable.

L. Applicant Requesters will—

- (1) Communicate requests for reasonable accommodation to any agency official involved in the application and hiring process or to the HRD representative designated in the vacancy announcement.
- (2) Participate in an informal interactive process with agency officials and the DEPM, as requested, to clarify the request and what is needed, to include the functional limitation(s) resulting from the disability, the problems posed by any workplace barrier, and the identification of an accommodation.
- (3) Upon receipt of a job offer, provide to agency officials sufficient medical documentation or other relevant documentation to support a request for reasonable accommodation.

7. Procedures.

A. Making a Request.

- (1) Employees or applicants requesting an accommodation may do so either orally or in writing (see Attachment 1, “Request for Reasonable Accommodation”¹). Employee requesters should make their request to their immediate supervisor, other supervisor or manager in their line of supervision, the DEPM, or the EEODI Director. Applicant requesters should make their request to any NTSB

¹ Attachment 1 is located on the EEODI Portal and the NTSB public website (for applicants and others). Attachment 1 is used for the purpose of tracking requests for accommodation and is not a prerequisite for considering or acting upon an oral the request.

official with whom the applicant has had contact during the application or hiring process, including a representative in the NTSB HRD.

- (2) In making a request for accommodation, the employee or applicant need not use any specific words (such as “reasonable accommodation” or “disability.”) Any request by an employee or applicant seeking assistance, an exception to standard procedures, or any other accommodation due to a medical condition or physical restriction should be regarded as a request for reasonable accommodation, and processed in accordance with this bulletin.
 - (3) Requests need not be made to the precise decisionmaker—it is up to the individual receiving the request to promptly notify the DEPM of the request so that it can be processed properly and a decisionmaker can be designated promptly. An individual may request accommodation whenever he or she chooses, even if the existence of a disability has not been previously disclosed to agency officials. The NTSB reasonable accommodation process begins as soon as the request for accommodation is submitted to an agency official.
 - (4) Routine requests for reasonable accommodation involving electronic adaptive equipment (including information technology and communications equipment) and accessories (such as rolling computer bags, and ergonomic keyboards, monitor stands, or footrests) will be coordinated as soon as possible with appropriate offices designated to issue such equipment and accessories; for example, the Office of the Chief Information Officer (OCIO) and the Office of Administration, Safety Division, as necessary. These types of requests may also be processed by the DEPM through the NTSB Interagency Agreement with the Department of Defense Computer/Electronic Accommodation Program (CAP), when appropriate. Attachment 1 should be used to document these types of routine requests.
 - (5) Requests for a reader, Communication Access Real-time Translation (CART) services, or a sign language interpreter to enable employees to perform their day-to-day job functions or enjoy equal benefits of employment are considered routine requests. Attachment 1 is required to document this type of request the first time a request is made. When the accommodation is needed subsequently, the requester need only provide appropriate notice to management of the need to ensure there is adequate time for arranging the accommodation.
 - (6) If authorized by the requester, another individual acting on the requester’s behalf may make a request for reasonable accommodation for an employee or applicant. A written request to the agency using Attachment 1 is preferred to ensure that the designated individual has the authority to act for the requester. However, such a request is not mandatory. Absent a written request, the agency may contact the request to ensure the individual has authority to act for the requester.
- B. Written Confirmation. Attachment 2 will be used to confirm the receipt of requests for reasonable accommodation. Employee requesters (including contractors) will

receive written confirmation from the DEPM, a decisionmaker, or a supervisor/manager in his or her chain of command, within 5 days of making a request. Applicant requesters will receive written confirmation from the DEPM or anyone involved in the recruitment and hiring process within 5 days of making a request, also.

C. Time Frames for Processing a Request.

- (1) 30-Day Timeframe. Absent extenuating circumstances, decisionmakers will have up to 30 days to complete the processing of an accommodation request. Completion of the request means implementation of an approved accommodation or notification to the requester that the request is denied. However, NTSB employees involved in processing requests are expected to avoid unnecessary delay and act as quickly as is reasonably possible in reviewing, evaluating, and deciding upon accommodation requests. Prompt action to process an accommodation request *as soon as possible* is necessary to avoid a violation of the Rehabilitation Act. If it is possible to provide a reasonable accommodation in advance of the 30-day deadline, the decisionmaker must implement the accommodation accordingly. It is understood that the length of time necessary to complete individual requests will vary depending upon such factors as the nature of the accommodation requested, whether it is necessary to obtain and evaluate supporting medical documentation, the length of time needed to purchase and order equipment and assistive devices or procure services, and any other extenuating circumstances.
- (2) Requests Not Involving Extenuating Circumstances. Requests that do not involve extenuating circumstances shall be processed and completed as soon as possible *without delay*, notwithstanding the general 30-day timeframe for processing requests.
- (3) Requests Involving Extenuating Circumstances and Response Delays. When there are extenuating circumstances, the time required to process requests may be extended beyond the 30-day timeframe for processing requests, as necessary. After consultation with the DEPM and agency technical personnel and experts, as necessary, decisionmakers will notify requesters in writing of any delay. (See Attachment 3.) Such notification will include the reason for the delay and, to the agency's best knowledge, the approximate date on which a decision will be provided or when the provision of an agreed upon accommodation is expected. The decisionmaker, in consultation with the DEPM, will continue to provide written feedback to the requester on any further developments or changes in the delay as they become known.
 - a. When a delay exists in providing an approved accommodation, the DEPM will work with involved agency personnel to identify whether temporary accommodations are available on an interim basis to assist the requester. Such temporary accommodations may not create an undue hardship on the

operations of the agency or unsafe conditions for the requester or other agency personnel.

- b. When a delay exists but the agency has not yet made a final decision about the provision of the requested accommodation, the DEPM will work with involved agency personnel to suggest interim accommodations that can be offered to the requester on a temporary basis, pending final decision on the request. In such cases, the decisionmaker, in consultation with the DEPM, will notify the requester in writing of any temporary accommodations that will be provided.
- c. When temporary accommodations are provided, the decisionmaker, in consultation with the DEPM, is responsible for ensuring that they are effective, that they do not take the place of final approved accommodations or the final notice on the accommodation, and that all necessary steps to issue a final decision on the request for reasonable accommodation are taken as quickly as possible.

(4) Expedited Process.

- a. In certain circumstances, a request for reasonable accommodation may require an expedited review and decision. This includes, for example, situations where a reasonable accommodation is needed—
 - (i) To enable an applicant to apply for a job. Depending on the timetable for receiving applications, conducting interviews, taking tests, and making hiring decisions, there may be a need to expedite a request for reasonable accommodation in order to ensure that an applicant with a disability has equal opportunity to apply for a job.
 - (ii) To enable an employee to participate in a specific agency activity that is scheduled to occur shortly, such as attending a meeting scheduled on short notice.
- b. When an expedited process is necessary, the decisionmaker should take necessary steps to render a final decision on the request as soon as practical. The decisionmaker is still required to notify the DEPM as soon as possible thereafter of the action(s) taken or proposed, and ensure that the request and final decision is documented.

D. Interactive Process.

- (1) Communication is a priority throughout the reasonable accommodation process. Each involved party must do his or her best to expedite completion of his or her related tasks and to participate and cooperate fully with the procedures described in this bulletin.

- (2) After review of the request and consultation with the DEPM, the decisionmaker must initiate an interactive dialogue with the requester as soon as possible, but normally no later than 10 days after receipt of the request, to clarify the request for accommodation. This discussion should focus on such issues as why accommodation is needed (unless the disability is known or obvious), the specific functional limitations of the requester, any work restrictions and/or barriers in the work environment, and the identity and feasibility of an effective and reasonable accommodation.
- (3) The DEPM and involved management officials must ensure that the interactive process is completed as described, including searching for and considering possible accommodations and consulting appropriate and available resources for assistance in determining effective reasonable accommodations .(See Attachment 7.)
- (4) The requester must participate and cooperate in the interactive process by explaining his or her precise functional limitation(s) in the work environment, any workplace restrictions or barriers preventing satisfactory performance of essential job functions or to the enjoyment of equal workplace benefits, and in identifying an effective and reasonable accommodation.
- (5) Ongoing communication is particularly important when—
 - a. The disability, specific limitation, problem or barrier is unclear.
 - b. An effective accommodation is not obvious.
 - c. The parties are considering different possible accommodations.
- (6) When the disability is known, it has been documented previously, or the need for accommodation is obvious, extensive discussions and a request for medical documentation, as discussed below, may not be necessary. Even so, the involved decisionmaker, with the assistance of the DEPM, will consult with the requester and applicable agency officials as necessary to ensure that there is a full exchange of relevant information.

E. Requests for Medical Documentation.

- (1) In cases where a disability or the need for accommodation is not known, previously documented, or obvious, the NTSB may require, depending on the requirements of the specific job and consistent with business necessity, that a requester submit reasonable medical documentation to support the request (for example, relevant and current information about the disability requiring accommodation). Such documentation will be used for the purpose of determining that the requester meets the requirements for accommodation and for developing an appropriate and effective offer of accommodation. The requester is responsible for obtaining medical documentation from an appropriate health care professional, such as a physician, physical therapist,

or other individual with recognized expertise regarding the requester's condition. The medical documentation and/or other relevant information must also be sufficient to enable the agency to make an informed decision on the request. Failure by the requester to provide appropriate and/or sufficient medical documentation (see paragraph 9T) or to cooperate with the NTSB's efforts to obtain such documentation may result in the denial of the request for accommodation.

- (2) Any medical documentation submitted under the procedures of this bulletin is considered confidential and will be disclosed only to agency personnel involved in evaluating and making a decision on the request for reasonable accommodation.
- (3) Requests for medical documentation will be limited to the specific disability requiring accommodation and the resulting functional limitations that necessitate accommodation. Documentation will include sufficient information to respond fully to the following:
 - a. The nature, severity, and duration of the individual's impairment.
 - b. The activity or activities that the impairment limits.
 - c. The extent to which the impairment limits the individual's ability to perform the activity or activities.
 - d. Why the individual requires accommodation or the particular accommodation requested and how the accommodation will assist the individual in applying for a job, performing the essential functions of the job held or desired, or enjoying equal benefits of the workplace.
- (4) The DEPM will consult with HRD to determine when requests for medical documentation are necessary and will prepare and issue written requests as needed. Requesters will normally be given 15 days to submit sufficient medical documentation to the DEPM substantiating a request for reasonable accommodation.
- (5) Medical Release Form. When the agency needs medical documentation in support of a request for accommodation, the requester may be asked to sign a standard Federal Occupational Health, Public Health Service, form allowing his or her health care provider to talk directly with the NTSB Medical Consultant. This authority is strictly limited to discussing information needed to evaluate the specific request for reasonable accommodation so that the NTSB Medical Consultant obtains a full understanding of the requester's reason for accommodation and may then provide the agency with his or her medical opinion on the request. Signing such a limited release for this purpose is voluntary; however, requesters should understand that the agency's inability to obtain clarification of an accommodation request or the submitted medical documentation in support of the request may result in the denial of the request.

- (6) Supervisors will work with the DEPM to ensure that sufficient information is provided about the requester's job duties, such as the nature of the work, the essential job functions required for successful performance in the job, and any other relevant data about how the work is accomplished, to assist the requester's health care provider to understand and respond to the agency's request for medical documentation.
- (7) Once the DEPM receives requested medical documentation, he or she will evaluate the documentation to determine its sufficiency, in consultation with the NTSB Medical Consultant and other appropriate agency technical personnel and/or experts, as necessary.
 - a. If the information is determined to be sufficient, a decision on the request for accommodation will be issued to the requester as soon as possible.
 - b. If the requested information is determined to be insufficient to enable the deciding official to make a final decision, the DEPM, in consultation with other agency technical personnel and/or experts, as necessary, will determine whether (1) the requester will be asked to supply additional information for review and consideration, (2) The requester will be asked to undergo a medical examination by an agency-designated physician, or (3) the agency will make a final decision based on the information it has been provided thus far. If the agency decides to ask the requester to provide additional information for review and consideration or to undergo a medical examination by an agency-designated physician, the DEPM will explain to the requester in writing why the information he or she submitted is insufficient and what additional information is needed.

F. Safeguarding Records to Prevent Unauthorized Access.

- (1) The confidentiality and adequate safeguarding to prevent unauthorized access of reasonable accommodation request records is of paramount importance. Agency personnel whose official duties require access to and the use of reasonable accommodation records will be responsible and accountable for the safe and secure processing of these materials and will ensure that they are properly stored whenever they are not in use or under the direct control of authorized individuals. Any agency personnel given access to these records will be sensitive to individual rights to personal privacy and will not disclose information without proper authorization to do so. The information will be kept in a file separate from the individual's Official Personnel File. Access to the records will be limited to agency personnel involved in the processing of the request; for example, the DEPM; the Director, EEODI; decisionmakers; and agency technical advisors and/or experts. Information regarding these records, or any aspect of the process, may be disclosed only as permissible under law, regulation and the procedures of this bulletin except as follows:
 - a. Supervisors and managers who need to know may be told about necessary restrictions on the work or duties of the employee and about the necessary

accommodation(s), but to the greatest extent possible, need not be given direct information about the specific disability or impairment of the requester

- b. First aid and safety personnel may be told if a disability might result in the need for emergency treatment or accommodation in the event of an emergency.
 - c. Government officials may be given information necessary to investigate the agency's compliance with the Rehabilitation Act and the ADA
 - d. The information may in certain circumstances be disclosed to workers' compensation offices or insurance carriers
 - e. Agency EEO officials may be given the information to maintain records and evaluate and report on the agency's performance in processing reasonable accommodation requests
- (2) Whenever medical information is disclosed, the individual disclosing the information must inform the recipients about the confidentiality responsibility attached to the disclosed information.

G. Granting Reasonable Accommodation.

- (1) When a request for reasonable accommodation is granted as requested, the decisionmaker will document his or her decision in writing using Attachment 4 and communicate the decision expeditiously to the requester. Issuance of Attachment 4 and implementation of the accommodation completes the reasonable accommodation request process.
- (2) When a different accommodation is granted from the one requested, the requester may accept or decline the accommodation. In either case, because the accommodation of choice was not granted as requested, the decisionmaker will use Attachment 6 to document the approved alternative accommodation, explain the reason(s) for approving an alternative accommodation, and provide the requester with reconsideration rights should he or she wish to pursue further review of the matter. Issuance of Attachment 6 and implementation of the accommodation, if the requester accepts it, will constitute completion of the reasonable accommodation process. If the requester declines the alternative accommodation offered by the agency, the DEPM will notify the agency personnel involved in processing the request.

H. Denying Requests for Accommodation.

- (1) A decision to deny a request for accommodation must take into consideration all possible alternatives, including reassignment, and may only be communicated to the requester after appropriate consultation with the DEPM, who will obtain reviews and evaluations from other agency technical personnel

and/or experts, including the HRD and OGC. Prior to issuing a denial decision, the supervisor or DEPM will consult with OGC.

- (2) Once a final decision to deny the request is agreed upon, the decisionmaker will document the decision in writing using Attachment 6, explaining the specific reason(s) for the denial, any approved alternative accommodation and why it was chosen as an effective alternative, and the requester's reconsideration rights to file a discrimination complaint, a grievance, or to pursue informal dispute resolution options.
- (3) Factors supporting a decision to deny a request for accommodation include, but are not limited to—
 - a. Determination that the requested accommodation would result in undue hardship. This requires the NTSB to find, based on an individualized assessment of current circumstances, that a specific accommodation would result in significant difficulty or expense; is unduly extensive, substantial, or disruptive; or would fundamentally alter the nature or operation of the NTSB's mission. Generalized conclusions will not be enough to support a claim of undue hardship. A denial on this basis is precedent-setting and should not be made by decisionmakers in isolation. When evaluating reasonable accommodation requests to determine whether undue hardship exists, decisionmakers must consult with the DEPM, who will in turn seek evaluation and opinion from other technical personnel and/or experts prior to issuance of the decision. Decisionmakers should also refer to the EEOC's Enforcement Guidance: Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act (Reference H) for specific information.
 - b. Medical documentation that is too vague or inadequate to establish that the individual is a qualified individual with a disability or needs a reasonable accommodation.
 - c. Determination that the requested accommodation would require the removal of an essential function of the job.
 - d. Determination that the requested accommodation would require the lowering of a performance or production standard.
 - e. Determination that the requested accommodation would not be effective, it is not the most appropriate accommodation under the circumstances, or there are no alternative reasonable accommodations.
 - f. Refusal of the requester to accept an effective alternate accommodation
- I. Reassignment as an Accommodation. Based on information provided by the employee on Attachment 5, reassignment will be considered as a reasonable accommodation only if the agency has determined that no other reasonable

accommodation is available to enable the employee to perform the essential job functions of his or her current job or if the only other effective accommodation would cause the agency undue hardship. In considering whether there are positions available for reassignment, the DEPM will consult with the requester and other appropriate agency technical personnel and experts, to include the Chief, HRD, or other designated HRD representative, to identify—

- (1) Existing vacant positions within the NTSB for which the employee may be qualified, with or without reasonable accommodation
- (2) Positions within the NTSB for which the employee qualifies that will become vacant within the next 60 days from determining that reassignment is the final alternative for accommodation

Note: The first focus will be to identify positions that are equivalent to the employee's current job in terms of pay, status, commuting area, and other relevant factors. If there is not an equivalent vacant position, the DEPM will consider vacant lower-level positions for which the individual is qualified. Reassignment cannot be made to a position with greater promotion potential than the current position held by the employee.

- (3) Reassignment may be made to a vacant position outside the employee's commuting area if the employee is willing to relocate. In such circumstances, the NTSB is not obligated to pay for the employee's relocation expenses unless the NTSB provides such payments for employees without disabilities who request reassignments to other locations for personal reasons.

J. Reconsideration Rights When Accommodation is Denied. Requesters who are denied accommodation may seek formal review of the decision in only one of the following ways:

- (1) To pursue a discrimination complaint under the regulations of the Equal Employment Opportunity Commission, contact the Director, EEODI, within 45 days of the date of receipt of the written notice of denial.
- (2) As a bargaining unit employee, to pursue a grievance under Article 25 of the Collective Bargaining Agreement between the American Federation of Government Employees, Local 2511 (AFGE-2511), file a written grievance with the deciding official within 14 days of the date of receipt of the written notice of denial.
- (3) As a non-bargaining employee, to pursue a grievance under the administrative procedures of Operations Bulletin HR-ELR-002, ¶7fC, file a written grievance with the deciding official within 15 days of the date of receipt of the written notice of denial.

K. Re-evaluation of an Approved Accommodation.

- (1) The re-evaluation process is intended to allow the agency to ensure that a previously approved accommodation remains effective and appropriate.
- (2) A supervisor, manager, or other agency official within the employee's immediate supervisory chain may request a re-evaluation of an existing accommodation if it is believed that the reasonable accommodation is no longer required and the employee has not responded to a request for updated information justifying the continuation of the accommodation. The request for a re-evaluation should be submitted in writing to the DEPM. Re-evaluation of an existing accommodation will not be initiated as a form of disciplinary action, retaliation, or reprisal.
- (3) The DEPM may initiate re-evaluation of an existing accommodation upon a change in the individual's disability, job assignment, work conditions, or after a reasonable period of time has passed from implementation of an accommodation, when improvement in the individual's condition is expected.
- (4) The DEPM is responsible for ensuring all re-evaluations are conducted in accordance with procedures established by this bulletin. Requesters and/or supervisors of requesters will be notified, as appropriate, in writing within 10 days of the decision that a re-evaluation will be conducted.
- (5) Re-evaluations will be conducted in consultation with the accommodated employee and his or her supervisor. The DEPM will seek advice and guidance as needed from agency technical personnel and experts, to include the NTSB Medical Consultant, when changes in accommodation appear necessary.
- (6) The DEPM will then notify the accommodated employee and his or her supervisor in writing of re-evaluation results and will advise both parties of any next steps and reconsideration rights, if any.

L. Maintenance of Reasonable Accommodation Files and Medical Records.

- (1) Upon the completion and final processing of requests for reasonable accommodation, the DEPM will purge the accommodation file of any unnecessary material and forward it to the HRD for filing and maintenance in the Employee Medical File (EMF). EMFs are located in a locked room that is restricted by individual access codes limited to only those persons whose official duties require such access. Any agency official who has received written materials during the reasonable accommodation process will ensure that the materials are forwarded to the DEPM for final processing and routing to the HRD.
- (2) The agency will maintain employee reasonable accommodation records, including associated medical documentation, for the duration of the employee's tenure with the NTSB. Such records are considered "temporary" in accordance with Reference M, and as such, are disposed of in accordance with NARA General Records Schedule 1 (Reference O) when the employee leaves the

agency and the EMF is purged for transfer to another agency, or when forwarding to the National Personnel Records Center for permanent storage.

- (3) All records will be maintained in accordance with the Privacy Act (Reference L) and 5 CFR Chapter I, Part 293, Subpart E (Reference L). Information regarding these records may be disclosed only as permissible under law and regulation.
- (4) Any agency employee who views, handles, files, or uses a requester's medical documentation in accordance with this bulletin will comply with the provisions of the Privacy Act including when responding to requests for disclosure of the records.

M. Information Tracking and Reporting.

- (1) The DEPM will provide an annual report to the Director, EEODI, on or about November 1 of each year encompassing reasonable accommodation requests data for the previous fiscal year in accordance with paragraph 6C(9) above.
- (2) The Director, EEODI, or designee, will provide an annual report to the NTSB Chairman and Managing Director for review and approval in accordance with MD-715 on or before December 31 of each year for the previous fiscal year. The report will be maintained for at least 3 years and will contain the following information:
 - a. The number, type, and cost of accommodations that have been requested in the application process and whether those requests have been granted or denied.
 - b. The number, type, and cost of accommodations that relate to the benefits or privileges of employment and whether those requests have been granted or denied.
 - c. The jobs (including occupational series and grade by organization) for which reasonable accommodations were requested.
 - d. The types of reasonable accommodation that have been requested for each of the jobs cited above.
 - e. The number and types of reasonable accommodation requests by employees, the number and types of accommodation that have been approved, and the number and types of accommodation that have been denied.
 - f. The reasons for denial of requests for reasonable accommodation.
 - g. The amount of time taken to process each request for reasonable accommodation.

- h. The sources of technical assistance that have been consulted in working to identify possible reasonable accommodations.
 - i. A qualitative assessment of the NTSB's reasonable accommodation program, including any recommendations for improvement of policies and procedures.
- 8. External Reporting Requirements. Revisions to this bulletin must be submitted to EEOC for review and, upon approval, posted on the NTSB's external website.
- 9. Definitions.
 - A. **Agency**: The National Transportation Safety Board, including headquarters and regional offices.
 - B. **Assistive Technology**: An item, piece of equipment, or system that is commonly used to increase, maintain, or improve the functional capabilities of individuals with disabilities, including ergonomic keyboards, screen-enlarging software, TTYs/TDDs (text telephones), split-screen reading software, and other items. The term "assistive technology" is used interchangeably with "computer adaptive equipment."
 - C. **Day**: A calendar day, unless otherwise specified.
 - D. **Decisionmaker**: An agency official who has the authority to grant or deny a request for reasonable accommodation. This person is typically the first line supervisor since most requests for accommodation involve requests related to job performance such as job restructuring, leave, or modified work schedules. More complex situations, for example, modifications to agency policies, building/equipment modifications, the expenditure of substantive funds, or reassignments, may require approval by a higher authority such as an Office Director or the Managing Director. In any case, decisionmakers work closely with the DEPM and other agency technical personnel and experts to review, evaluate, and make final decisions on requests for reasonable accommodation.
 - E. **Direct Threat**: A significant risk of substantial harm to the health or safety of the individual with a disability or others that cannot be eliminated or reduced by reasonable accommodation. The determination that an individual poses a direct threat will be based on an individualized assessment of the requester's present ability to safely perform the essential functions of the job. This assessment will be based on a reasonable medical judgment that relies on the most current medical knowledge and/or on the best available objective evidence. Factors to be considered include (1) the duration of the risk, (2) the nature and severity of the potential harm, (3) the likelihood that the potential harm will occur, and (4) the imminence of the potential harm.

- F. **Disability:** With respect to an individual, a physical or mental impairment that substantially limits one or more of the individual's major life activities; a record of such impairment; or regarded as having such impairment.²
- G. **Disability Employment Program Manager (DEPM):** Under the EEODI Special Emphasis Program, a collateral duty assigned by the Director, EEODI, to support the equal opportunity, employment, and advancement of individuals with disabilities. As it relates to reasonable accommodation, the DEPM is a management official who works under the guidance of the Director, EEODI, to assist supervisors/managers in the review, evaluation, processing, and recording of reasonable accommodation requests made by employees and applicants for employment with disabilities. The DEPM also serves as an advisor, fact-finder, trainer, and source of information on matters pertaining to disability employment and reasonable accommodation.
- H. **Essential Functions:** The fundamental job duties determined by a supervisor to be integral for successful performance in a position. This term does not include marginal functions of the position. Determination of the essential job functions of a position must be done on a case-by-case basis so that this determination reflects the job as actually performed, and not simply the components of a generic position description. A function can be considered essential for several reasons, including but not limited to the following factors: (1) the position exists specifically to perform that function, (2) there are a limited number of available employees who can perform the job function, or (3) the function is highly specialized, and the incumbent was hired based on his or her expertise or ability to perform the particular function.
- I. **Extenuating Circumstance:** Any unforeseen or unavoidable event that prevents the timely processing or implementation of a request for reasonable accommodation, such as, a delay caused by a supplier's inability to deliver a product in a timely manner because of manufacturing or procurement delays. The unavailability of a particular staff member to process a request for reasonable accommodation does not constitute an extenuating circumstance.
- J. **Interactive Process:** The process by which the individual requesting an accommodation and agency officials (for example, supervisors, managers, and the DEPM) talk to each other about the request and related issues including, but not limited to, the requester's precise functional limitations resulting from the disability, work restrictions, and potential alternative accommodations that could overcome the limitations and/or restrictions; the need for and/or submission of medical documentation; and processing time frames.
- K. **Major Life Activities:** Basic activities that the average person in the general population can perform with little or no difficulty. When analyzing whether an activity is a "major" life activity, the term "major" will not be interpreted strictly to

² Although an individual who is "regarded as" having a disability is protected under the Rehabilitation Act, absent a medical condition that substantially limits a major life activity, such individuals are not entitled to reasonable accommodation.

create a demanding standard for disability. Major life activities generally include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working. Major life activities also include the operation of major bodily functions, including but not limited to, functions of the immune system, special sense organs and skin, normal cell growth, as well as digestive, genitourinary, bowel, bladder, neurological, brain, circulatory, respiratory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within the body system.

- L. **NTSB Medical Consultant:** Medical professionals under contract from Federal Occupational Health, Public Health Service, US Department of Health and Human Services, who review medical documentation and provide medical opinions to NTSB officials, when necessary, to facilitate decisions on employment matters such as requests for reasonable accommodation, work-related injuries, absences under the Family Medical Leave Act, disability retirement, and other medically related issues.
- M. **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; or, generally, any mental or psychological disorder, such as an intellectual disability (for example, mental retardation), organic brain syndrome, emotional or mental illness, and specific learning disabilities.
- N. **Qualified Individual with a Disability:** An individual with a disability who satisfies the qualification standards and other job-related requirements of a position held or desired and, with or without reasonable accommodation, can perform the essential functions of such position without posing a direct threat to the health or safety of the individual or others. Some exceptions to this definition include individuals currently engaging in the illegal use of drugs, unless the individual has been rehabilitated or is participating in rehabilitation and is no longer engaging in the illegal use of drugs, compulsive gambling, kleptomania or pyromania, and other serious issues.
- O. **Qualification Standards:** As it relates to the provision of reasonable accommodation, the personal and professional attributes, including the skill, experience, education, physical, medical, safety, and other requirements established by the agency that an individual must meet to be eligible for the position held or desired.
- P. **Reasonable Accommodation:** An alteration or change in a work process, the work environment, or in the way things are customarily done, that enables a qualified individual with a disability an equal opportunity to apply for a job, to

perform job duties, or to enjoy the benefits and privileges of employment. There are three categories of reasonable accommodation:

- (1) Modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for a job. An example is providing application forms in alternative formats such as large print or Braille.
- (2) Modifications or adjustments to the work environment, or to the manner or circumstances under which a position is customarily performed, that enable a qualified individual with a disability to perform the essential functions of the position. An example is providing assistive technology to allow a sight-impaired employee to use a computer.
- (3) Modifications or adjustments that enable an employee with a disability to enjoy equal benefits and privileges of employment such as are enjoyed by other similarly situated employees without disabilities. An example is removing physical barriers in an organization's office space or facilities.

Q. Request for Reasonable Accommodation: An oral or written statement indicating that an individual needs an adjustment, modification, or change at work or in the application process due to a disability.

R. Requester: An employee, including federal contractors, an applicant for employment, or a representative acting on an employee's, contractor's or applicant's behalf, who seeks reasonable accommodation.

S. Substantially Limits: Pursuant to the ADAAA and consistent with EEOC regulations found at 29 C.F.R., § 1630.2(j)(1), there are rules of construction that apply when conducting the individualized assessment required to determine whether an impairment "substantially limits" an individual in a major life activity. Paramount is that the term "substantially limits" will be construed broadly in favor of expansive coverage. Further, the person's ability to perform a major life activity should be compared to the condition, manner, or duration under which the average person in the general population can perform the same major life activity, and will not require scientific, medical, or statistical analysis. An impairment need not prevent, or significantly or severely restrict, an individual from performing a major life activity in order to be considered "substantially limiting" and thus meet the definition of a covered disability under the ADA. Therefore, the threshold issue of whether the impairment "substantially limits" a major life activity should not demand extensive analysis. In addition, ameliorative effects of mitigating measures (except for ordinary eyeglasses or contact lenses) will not be considered when determining whether a major life activity is limiting. (See 29 C.F.R., § 1630.2(j)(1) for further information.)

T. Sufficient Medical Documentation: Relevant and current information that (1) describes the nature, severity, and duration of the employee's impairment, the activity or activities that the impairment limits, and the extent to which the

impairment limits the employee's ability to perform the activity or activities; and (2) substantiates why the requested reasonable accommodation is needed.

- U. **Undue Hardship:** As it relates to the provision of reasonable accommodation, undue hardship means a significant difficulty or expense incurred by the agency that would be created by the approval and implementation of a specific accommodation. If a requested accommodation would cause undue hardship, the NTSB is not required to provide that particular accommodation, but must consider any other available and effective accommodations. Claims of undue hardship may not be based on generalized conclusions or on the negative impact to the morale of other employees, but rather must be based on individualized assessments of current circumstances that show that a specific accommodation would cause significant difficulty or expense. Therefore, final determinations of undue hardship must be made in consultation with agency employees having technical expertise in reasonable accommodation matters and on a case-by-case basis, considering such factors as (1) the nature and cost of the accommodation, (2) the agency's overall financial resources; and (3) the impact of the accommodation on the operations of the agency, including the ability of others to perform their duties and the agency's ability to conduct business, as well as other relevant considerations.

10. Attachments.

- A. Attachment 1, Request for Reasonable Accommodation
- B. Attachment 2, Written Confirmation*
- C. Attachment 3, Delay in Processing*
- D. Attachment 4, Approval of Requested Reasonable Accommodation*
- E. Attachment 5, Reassignment Questionnaire*
- F. Attachment 6, Denial/Modification of Requested Reasonable Accommodation*
- G. Attachment 7, Resources List

**Internal Use Only*

NATIONAL TRANSPORTATION SAFETY BOARD
OFFICE OF EQUAL EMPLOYMENT OPPORTUNITY, DIVERSITY, AND INCLUSION
REQUEST FOR REASONABLE ACCOMMODATION

NAME (<i>Applicant or Employee</i>)	TELEPHONE NO.	DATE OF REQUEST
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NAME OF 3RD PARTY REQUESTOR Health Care Provider Family Member Representative (Check one)

EMPLOYEE'S OFFICE / DIVISION / REGION

EMPLOYEE'S JOB TITLE	EMPLOYEE'S SERIES AND GRADE
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NAME OF SUPERVISOR (<i>If Employee</i>)	TELEPHONE NO. OF SUPERVISOR
---	-----------------------------

ACCOMMODATION REQUESTED (*Be specific, e.g., adaptive equipment, work schedule modification, interpreter*)

REASON FOR REQUEST (*Explain disability, functional limitations and/or restrictions as a result of disability.*)

EXPLANATION OF ANY TIME-SENSITIVE ISSUES RELATING TO THE REQUEST

Form Received By: (typed name/title/telephone number)	Date Received:
---	----------------

FOR EEO/AAE USE ONLY

Decision-Maker

Tracking #

ATTACHMENT 7

RESOURCES LIST

[AbleData](#)

Sponsored by the US Department of Health and Human Services, National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR), AbleData is a searchable database of commercial products and accessories that may be used to address accommodation needs.

[ADA National Network](#)

The ADA National Network provides information, guidance, and training on how to implement the Americans with Disabilities Act (ADA). The ADA National Network and its regional affiliates are funded by the National Institute on Disability, Independent Living, and Rehabilitation Research.

[Department of Defense Computer/Electronic Accommodations Program \(CAP\)](#)

The DoD Computer/Electronic Accommodations Program is a centrally funded program that provides assistive technology, devices, and support free of charge to federal agencies that have a partnership agreement with CAP, including the NTSB. Requests for assessments or acquisition of accommodations must be coordinated with the Disability Employment Program Manager (DEPM).

[Information and Technical Assistance on the Americans with Disabilities Act](#)

Sponsored by the US Department of Justice, Civil Rights Division, the website provides information on the law and associated regulations, ADA design standards, technical assistance materials, and enforcement. It also includes publications and videos addressing a wide variety of topics related to the ADA.

[Job Accommodation Network \(JAN\)](#)

The Job Accommodation Network is a service provided by the US Department of Labor's Office of Disability Employment Policy, and provides information and resources to assist employers and individuals with disabilities in understanding functional limitations and potential accommodations for mitigating them.

[Mid-Atlantic ADA Center](#)

Our regional ADA National Network resource.

The DEPM is also a source of information and referrals for employees or supervisors seeking information on possible accommodations.