

**National Science Foundation (NSF) Reasonable Accommodation Policy and Procedures**

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## **I. PURPOSE AND SCOPE**

The purpose of this manual is to present the U.S. National Science Foundation (NSF) policy and procedures on processing reasonable accommodations for employees and applicants. NSF developed its reasonable accommodations processing and policy procedures in compliance with the Equal Employment Opportunity Commission (EEOC) guidance and NSF policy and procedures on reasonable accommodations.

This policy and procedures manual applies to all NSF employees.

## **II. NSF POLICY ON REASONABLE ACCOMMODATIONS**

In accordance with the Rehabilitation Act of 1973, as amended, and NSF's policy on reasonable accommodation, it is NSF's policy to provide reasonable accommodations (RA) for qualified individuals with disabilities who are NSF employees and applicants for employment, unless doing so would pose an undue hardship on the operations of the Agency. NSF's RA policy applies to:

1. The application/hiring process to provide a qualified NSF applicant with a disability an equal opportunity to be considered for a position.
2. The performance of the essential functions of a job to enable a qualified person with a disability to perform the essential duties of the job being sought or currently held.
3. The receipt of all benefits of employment to enable an employee with a disability to enjoy benefits and privileges of employment equal to those enjoyed by other similarly situated employees without disabilities.

The need for an RA is determined on a case-by-case basis, taking into consideration the applicant's or employee's specific disability and existing limitations to the performance of a particular job function, the essential duties of a job, the work environment, and whether the proposed accommodation would create an undue hardship to the Agency's operations.

It is important to note that relevant terms such as "reasonable accommodation," "disability," "interactive process," "qualified," and "undue hardship," are used throughout this document. The definition of these terms is intended to be consistent with applicable statutory and regulatory definitions. To create a common understanding of the terminology used during the reasonable accommodation

process, definitions are provided in the glossary at the end of this document (See Part IV, Appendix F).

### **III. NSF PROCEDURES ON PROCESSING REASONABLE ACCOMMODATIONS**

#### **A. REQUESTING A REASONABLE ACCOMMODATION**

The reasonable accommodation (RA) process begins as soon as an employee, applicant, or a representative on behalf of the employee requests a RA.

A request for a RA is a statement that an individual needs an adjustment at work, in the application process, or in a benefit or privilege of employment for a reason related to a disability. A request does not have to use any special words, such as "reasonable accommodation," "disability," or "Rehabilitation Act." An individual with a disability may request a RA whenever they choose, even if they have not previously disclosed the existence of a disability. A requesting individual need not have a particular accommodation in mind before making a request.

- For NSF employees: requests for accommodation may be submitted directly to the employee's immediate supervisor. However, the request may also be made to another management official in the employee's chain of command, or to the NSF Disability Program Manager (DPM) in the Office of Civil Rights (OCR). Employees are not required to disclose their disability to anyone other than the DPM.
- For qualified NSF applicants: requests may be made through an NSF Human Resources Specialist or any other NSF employee with whom the applicant has contact in connection with the application process or through the DPM.
- Third Party Requests: A family member, health professional, or other representative may request RA on behalf of an employee or applicant. The request should go to one of the same people to whom the employee or applicant would make the request. When a request for accommodation is made by a third party, the deciding official (supervisor, management official, or DPM) should, whenever possible, confirm with the applicant or employee with a disability that s/he, in fact, wants a RA before proceeding. If the employee is incapacitated or has, for example, been hospitalized due to an acute condition, NSF will process the third party's request and consult directly with the individual needing the accommodation as soon as it is practicable.

Although a request for a RA may be made orally or in writing, for accurate recordkeeping and tracking purposes, NSF employees should complete an online profile using the case management system of record Requests can also be sent via email to [rarequest@nsf.gov](mailto:rarequest@nsf.gov).

Assistance regarding obtaining medical documentation and identifying the employee's qualifying disability should be referred exclusively to the DPM. Supervisors and management officials may not request or receive any medical documentation identifying the employee's specific diagnosis, medical condition, or disability. If received, they must immediately forward it to the DPM or return it to the employee and direct them to give it to the DPM.

When an employee needs re-occurring accommodations (e.g., sign language interpreter, workplace assistant, alternative materials, or trainings, etc.) the employee is only required to utilize the full RA request process at the time of the initial request. If the employee is approved for a re-occurring RA, all subsequent requests simply require advanced notice (see Appendix A) to the appropriate point of contact. It is also important to note that NSF may be obligated to provide this type of accommodation as needed, whether or not an individual has requested it, so supervisors and managers must make themselves familiar with these services so as to anticipate such a need.

## **B. CONFIRMATION OF REQUEST**

The requesting employee's supervisor must acknowledge the request *as soon as it is received* to both the employee and the DPM via email to the [rarequest@nsf.gov](mailto:rarequest@nsf.gov). The case management system sends a confirmation of request after an initial submission to the requestor.

## **C. DETERMINING WHO WILL PROCESS THE REQUEST**

When an NSF management official receives a request for a RA, they must refer it to the appropriate deciding official as set forth below, if necessary, as soon as possible, but no more than three (3) business days after receiving the request for RA.

### ***Requests Decided by the DPM:***

The EEOC requires agencies to take steps to anticipate and limit impediments that may cause unnecessary delays in providing RA. This includes evaluating and implementing practices that reduce bureaucratic barriers that make it difficult to provide effective accommodations. For that reason, NSF is committed to implementing mechanisms, including funding mechanisms (e.g., a centralized accommodations fund), that streamline the RA process and remove the need for individual Directorates/Divisions/Offices to pay for approved accommodations. Accordingly, the DPM will make decisions on the following requests:

- a. Requests from applicants.
- b. Requests for adaptive equipment and assistive technology, including information technology and communications equipment or specially designed furniture.
- c. Requests for disability services (e.g., readers, sign language interpreters, or other workplace/personal assistants) that enable employees to perform their job functions.
- d. Request for removal of architectural barriers, including reconfigured workspaces.
- e. Requests for accessible parking.
- f. Requests for ergonomic assessments and ergonomic equipment.
- g. Requests for air quality testing and air purifiers.
- h. Requests relating to transportation (e.g., air).
- i. Requests for materials in alternative formats (e.g., Braille).
- j. Requests for reassignment to another job in coordination with the Division of Human Resources Management.

Requests decided by Immediate Supervisors or other Management Officials:

For those requests not required to be decided by the immediate supervisor (as listed above), it is the requesting employee's immediate supervisor or other Management Official in that chain of command who will serve as the deciding official on accommodation requests. Note that if the request requires supporting medical documentation, it should be immediately submitted to the DPM to ensure the protection of the employee's medical confidentiality.

Supervisors, the DPM, and any other individuals involved in the processing of RA requests must have designated back-ups to continue receiving and processing requests and providing RA. The employee must be notified in writing of the name and contact information for such an individual in advance of the back-up taking on this role within the RA process.

#### **D. TIMEFRAME FOR PROCESSING REQUESTS**

All NSF staff members are expected to properly refer and process requests and provide accommodations in as short of a time frame as possible. While the timelines outlined below are guidelines, it is important to note that some accommodations can be provided in less time, and the failure to respond promptly to a request for RA, or an unnecessary delay when implementing an RA, may result in a violation of the Rehabilitation Act of 1973.

##### **If no Medical Documentation is required:**

If a request can be processed by the employee's supervisor and does not require supporting medical information, and no extenuating circumstances apply:

1. The request shall be approved or denied as soon as possible but no more than fifteen (15) business days from the date the individual makes the request and provides all necessary documentation.
2. The accommodation, if approved, will be provided as soon as possible but no later than thirty (30) business days from the date the request was approved (*forty-five business days from the date of the request*).

##### **If Medical Documentation is required:**

1. The DPM shall request that the employee contact their healthcare provider to obtain medical documentation in support of their request.
2. Time frames are suspended until the requested medical documentation is submitted (For administrative purposes, if medical documentation has not been received within 60 days, the case will be administratively closed. The case will be reopened once the medical documentation has been received).
3. The request will resume and be processed in accordance with the aforementioned timeframes when the medical documentation is submitted.

**If “Expedited Processing” of a RA is required:**

1. In order to ensure that an applicant with a disability has an equal opportunity to apply for a job, contingent on the timetable for receiving applications, conducting interviews, taking tests, and making hiring decisions. Therefore, the point of contact in the hiring office will act as quickly as possible to notify the DPM, who will make a decision and, if appropriate, provide a RA.
2. To enable an employee to attend a meeting or event scheduled to occur shortly. For example, an employee may need a sign language interpreter for a meeting within a short time frame.

**If Extenuating Circumstances exist:**

“Extenuating Circumstances” cover limited situations in which unforeseen or unavoidable events occurring beyond the control of NSF personnel prevent the processing and delivery of an accommodation within the time frames listed above. The following are examples, not intended to be exhaustive, of extenuating circumstances:

1. There is an outstanding initial or follow-up request for medical information, or the designated official is evaluating medical information that has been provided.
2. A medical examination or additional medical documentation has been requested.
3. Purchase of equipment may take longer than thirty business days because of requirements under the Federal Acquisition Regulation.
4. Equipment must be backordered; the vendor typically used for goods or services has gone out of business or cannot promptly supply the needed goods or services, and another vendor is not immediately available.
5. New staff must be hired, or new contracts must be issued.
6. Architectural barriers must be removed.
7. Items must be ordered from non-local sources.

When extenuating circumstances are present, the time frame for processing a request and providing the accommodation may be extended as necessary; however, the employee may be afforded an interim accommodation where possible. The

supervisor or DPM must promptly notify the employee, in writing, of the reason for the extension and the approximate date on which a decision or provision of the RA is expected. Any further developments or changes should also be communicated promptly in writing to the employee.

If there is a delay in providing an accommodation which has been approved, the deciding official must determine if temporary measures (an interim accommodation) can assist the employee. This could include providing the requested accommodation on a temporary basis or temporarily providing a less effective form of accommodation. Deciding officials who approve temporary measures are responsible for assuring that they do not take the place of permanent accommodations and that all necessary steps to secure permanent accommodation are being taken.

NSF may not delay processing or providing an accommodation because a particular staff member is unavailable. Failure to meet this time frame solely because of staff delays in processing the request is not an extenuating circumstance.

If the employee needs to try various accommodations to find one that is suitable, the time frame for providing the accommodation will be expanded by mutual consent between the employee and deciding official.

## **E. THE INTERACTIVE PROCESS**

Communication between the individual requesting the accommodation and the supervisor, as well as with the DPM, is a priority throughout the entire process.

In cases where the disability, the need for accommodation, and the type of accommodation to be provided are clear, extensive discussions are not necessary. If the need for an accommodation is not immediately obvious or if there are several options for providing accommodations, the employee and the supervisor and, where appropriate or when acting as the deciding official, the DPM will enter into an interactive process through which they will arrive at a RA. Communication is a priority throughout the entire process, and, to the extent possible, employees should participate in identifying effective accommodations.

The DPM is available to provide technical assistance to both NSF employees and supervisors throughout this process, particularly when the specific limitation, problem, or barrier is unclear or where an effective accommodation is not obvious.

When engaging in an interactive process, consideration should be given to:

1. The essential functions and purpose of the employee's job;
2. The functional limitations imposed by the employee's disability or medical condition;
3. The factors in the work environment or job tasks that pose difficulties to the individual's performance of a particular job function;
4. Possible accommodations that have the potential to remove the difficulties, either in the work environment or job tasks, and which would allow the individual to perform the essential functions of the job; and
5. The effectiveness of possible accommodations and whether the various accommodations would pose an undue hardship on the Agency.

As part of the interactive process, the supervisor may consult with the DPM, who may offer alternative suggestions for RAs and discuss their effectiveness in removing the workplace barrier that is impeding the individual with the disability. The Agency may choose among effective accommodations and thus, is not required to provide the specific accommodation requested by the employee.

Resources available to help both the supervisor and the individual requesting the accommodation to identify possible accommodations are listed in Appendix C.

As soon as the deciding official determines that a RA will be provided, the decision should be immediately communicated to the employee or applicant. If the accommodation cannot be provided immediately, the supervisor, in collaboration with the DPM, must inform the individual, in writing, of the projected time frame for providing the accommodation. (See Section D on Timeframes)

## **F. WHEN MEDICAL INFORMATION OR DOCUMENTATION IS NECESSARY**

NSF is not required to obtain medical documentation and may not request it when the disability and need for accommodation are obvious or already on file at the agency. In these cases, NSF will not seek any further medical information.

The DPM will make a determination as to whether medical documentation is necessary.

- If necessary, the DPM may request relevant documentation about the disability, functional limitations, and/or the need for accommodation. The

request should be limited to the job-related functions for which the accommodation is requested and may only be used to substantiate that the individual has a disability covered by the Rehabilitation Act. Further, any such request will focus less on the disability and more on the requestor's need for accommodation.

- Temporary reasonable accommodations can be provided while the request is being processed.
- If it is not necessary, the request for medical documentation will not be made and the employee will be notified of any other documentation needed and the next steps to complete the process.

When requests for medical documentation are necessary, the information requested should be limited. Requests for medical information will follow the requirements set forth in EEOC's [\*Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees under the Americans with Disabilities Act\*](#). Examples of the requested information may include:

1. A short description of the disability;
2. How the disability or barrier limits or restricts the employee's ability to do the job or participate in NSF activities, or the applicant's ability to apply or interview for the job; and
3. How the requested accommodation is expected to improve the situation.

The DPM may seek information or documentation about the disability and/or functional limitations from the individual and/or ask the individual to obtain such information from an appropriate professional, such as a doctor, social worker, rehabilitation counselor, or other appropriate practitioner. In order to get the most helpful information, all requests for information from outside sources will include a description of the nature of the job, the essential functions the individual is expected to perform, and any other relevant information. The DPM will, as needed, work with the supervisor in identifying and providing appropriate information on the employee's job and functions.

Supervisors should work directly with the DPM regarding medical documentation. In specific:

- If a supervisor believes that the disability for which the individual is seeking

an accommodation is not obvious and that a request for medical documentation may be necessary, they will make a request to the DPM and the DPM will inform the supervisor if the medical is sufficient.

- If a supervisor is already aware of an employee's disability, the DPM must still ensure that the employee's disability is substantiated with appropriate documentation using the procedures described above.

Once the medical documentation is received, the DPM will review.

If the information provided by the health care provider (or the information volunteered by the individual requesting the accommodation) is insufficient to enable the DPM to determine whether an accommodation is appropriate, the Agency will provide an opportunity for documentation to be resubmitted. To that end:

- The DPM may request additional information by explaining to the individual seeking the accommodation, in specific terms, why the information provided is insufficient, what additional information is needed, and why it is necessary for a determination of the RA request.
- The individual requesting the accommodation may contact the health care provider or other appropriate professional to request the missing information.
- Alternatively, the individual requesting the accommodation and the DPM may agree on a list of specific questions to be sent to the individual's healthcare provider. With the agreement of the employee, the DPM may directly contact the individual's health care provider.
- As noted in Section D, the agency will suspend the processing of a case and will not be expected to adhere to its usual timelines if an individual or their health professional fails to provide needed documentation in a timely manner.

The DPM will let the supervisor know whether the documentation demonstrates that a RA is appropriate and will provide, as necessary, additional relevant information about the individual's functional limitations. Medical documentation will not be shared with the requester's supervisor, other management officials, or co-workers. Work products and communications created during the review of medical documentation, including but not limited to findings submitted by the Physician, are

confidentially maintained by the DPM and will not be shared with the requester, requester's supervisor, other management officials, co-workers, or third parties (except as required under Part III, Item G of this policy).

It is important to note that the failure of an employee or job applicant to provide appropriate documentation or to cooperate with NSF's efforts to obtain such documentation can result in a denial of the request for RA.

## **G. CONFIDENTIALITY REQUIREMENTS**

Under the Rehabilitation Act, medical information obtained in connection with the RA process must be kept confidential. Any NSF employee who obtains or receives such information is strictly bound by these confidentiality requirements. In addition, all requests for and provision of RA must be kept confidential pursuant to EEOC guidance, including [\*Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees under the Americans with Disabilities Act\*](#).

All records received in connection with the RA process will be maintained in accordance with EEOC, General Records Schedule, NSF records management policy, and NSF requirements.

All medical information that is obtained in connection with a request for RA, including information about functional limitations and RA needs, will be kept in a separate file record that is maintained by the DPM. Supervisors may not maintain any medical documentation pertaining to the request for RA.

The DPM will respond to all requests for disclosure of the records. This information may be disclosed *only* as follows:

1. Supervisors and managers with a need to know may be told about necessary restrictions on the work or duties of the employee and about the necessary accommodation;
2. First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment;
3. Government officials may be given the information necessary to investigate or provide technical assistance to ensure compliance with the Rehabilitation Act; or

4. In certain circumstances, medical information may be disclosed to Workers' Compensation offices or insurance carriers.

Whenever medical information is disclosed, the individual disclosing the information must inform the recipients of the information about the confidentiality requirements.

Any NSF official who receives information in connection with a request for RA may share information connected with that request with other Agency officials only when the officials need to know the information in order to make determinations on a RA request. Supervisors should notify the DPM to obtain guidance, as necessary, to ensure that the proper procedures are followed. Examples of need to know include but are not limited to:

- The DPM may consult the NSF Division of Information Services (DIS) in connection with requests for adaptive equipment for computers. However, DIS would not need to know the disability of the person seeking the accommodation. They only need to know the individual's functional limitations and how the limitations affect technology needs.

Any supervisor who has concerns about confidentiality, including how to respond to other employee's inquiries without violating confidentiality, should speak with a DPM. Supervisors may also find question 42 of the EEOC's [\*Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees under the Americans with Disabilities Act\*](#) to be useful as well.

## **H. REASSIGNMENT**

Reassignment is a form of RA that may be provided, absent undue hardship to the organization, to an employee who, because of a disability, can no longer perform the essential functions of the position, with or without RA. Reassignment may only be considered if there is no other effective accommodation that would enable the employee to perform the essential functions of the current job or if all other possible accommodations would pose an undue hardship on the organization. Accordingly, it is considered to be the "accommodation of last resort." Reassignment is only available to employees, not job applicants.

Reassignment is available only to a probationary employee if the employee adequately performed the essential elements of the position, with or without RA,

before the need for the accommodation arose. NSF is not required to create new positions or move employees from their jobs to create a vacancy. The DPM will evaluate the request and, if it meets the aforementioned criteria, will help to facilitate the reassignment process.

In considering whether there are positions available for reassignment, the DPM will work with the Office Head of the Office of Civil Rights and Division of Human Resource Management and/or Agency leadership, as well as the employee requesting the accommodation, to identify: (1) all vacant positions within NSF for which the employee may be qualified with or without the accommodation; and (2) all current vacancies identified, or projected vacancies (over the next 60 calendar days).

The vacancy search will focus on positions for which the employee may be qualified, focusing first on positions that are in the current commuting area and are equivalent to the employee's current job in terms of pay, status, and other relevant factors. If there is no vacant equivalent position, vacant lower-level positions for which the individual is qualified may be considered.

However, it should be noted that promotion to a higher grade will not be conducted through this process.

In addition, as part of the interactive process and if reassignment is contemplated, the individual shall be asked to identify qualifications, interests, and willingness to accept a downgrade if no vacant positions are identified at the same grade.

When reassignment is requested, the accommodation is actually to reassign the employee. Accordingly, if a funded vacant position for which the employee is qualified is identified, it shall be offered to the employee.

Requiring or giving permission to the employee to compete for such a vacancy does not fulfill the request. As stated in EEOC's [\*Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act\*](#), the employee does not need to be the best-qualified individual for the position in order to obtain it as a reassignment.

## **I. DENIAL OF A REASONABLE ACCOMMODATION**

When the supervisor is the deciding official, the supervisor must consult with the DPM before moving ahead with the decision to deny a request. In specific:

1. As soon as an agreement has been reached between the supervisor and

DPM that a request for RA should be denied, the deciding official must provide a written justification to the DPM.

2. The explanation for the denial should be written in plain language, clearly stating the specific reasons for the denial.
3. The DPM will keep a copy of this justification in the employee's RA case file.
4. The justification will then be used in the "Reasonable Accommodation Decision" issued to the employee at the time of the denial.

If the DPM is the deciding official, a statement regarding the reason for the denial will be detailed, in writing, in the employee's RA case file.

In all cases, when the deciding official has denied a specific requested accommodation but offered to make a different one in its place (i.e., alternative accommodation), the denial justification must explain both the reasons for the denial of the requested accommodation and the reasons that the deciding official believes that the chosen accommodation will be effective for the requester.

Reasons for the denial of a request for RA include the following:

- a. The requested accommodation would not be effective.
- b. The requested accommodation would result in undue hardship. Before reaching this determination, the supervisor and the DPM must have explored whether other effective accommodation options exist that would *not* pose undue hardship to the organization. A determination of undue hardship means that a specific accommodation would result in significant difficulty or expense or would fundamentally alter the nature of NSF's operations. When evaluating budgetary or administrative concerns to determine if undue hardship exists, NSF will follow the standards enunciated in the regulations and in the EEOC's [Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees under the Americans with Disabilities Act, Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act](#) or any superseding subsequent guidance.
- c. Medical documentation is inadequate to establish that the individual has a disability and/or needs a RA.

- d. The requested accommodation would require the removal of an essential function from the individual's position.
- e. The requested accommodation would require the lowering of a performance or production standard.
- f. The employee failed to provide appropriate documentation or cooperate with the management official's efforts to obtain necessary information to address the request for RA.
- g. An alternative effective accommodation was not accepted by the employee.

## **J. ISSUING THE REASONABLE ACCOMMODATION DECISION**

Following engagement in the interactive process, once a final decision regarding a requested accommodation has been reached by the deciding official, the DPM will issue a written "Reasonable Accommodation Decision" on behalf of the Agency. Upon request from the employee or job applicant, the decision will be provided in an alternative format, as appropriate.

At a minimum, the decision will contain the following elements:

1. A clear statement of the Agency's decision (i.e., approving or denying the employee's request for RA).
2. If the request for accommodation is approved:
  - a. a statement describing the approved accommodation(s);
  - b. the responsibilities and expectations of all parties; and
  - c. the need for periodic evaluations/reassessment. Reasons for such an evaluation include:
    - i. The accommodated employee's functional limitations might increase or decrease, thus requiring periodic reviews and adjustments to the approved accommodation(s). For example, some disabilities are degenerative in nature and may require additional accommodation(s).
    - ii. Conversely, a disability may improve to the point that an

approved accommodation can be discontinued or removed.

- iii. The employee's position may change, leading to the need to reassess the existing accommodation(s) and the nexus with the employee's new essential functions.
  - iv. The approved accommodation creates an unforeseen barrier for the employee or otherwise hinders the employee's performance, resulting in the need for adjustment to the approved accommodation(s).
  - v. The supervisor who approved the reasonable accommodation agreement may have changed positions or left the Agency.
3. If alternative accommodation(s) to those requested by the employee are selected:
- a. the reasons for the denial of the requested accommodation; and
  - b. the reason(s) that the decision maker believes that the alternative accommodation(s) will be effective.
4. If the request is denied, the specific reasons for the denial (i.e., *why* the accommodation would not be effective or *why* it would result in undue hardship as documented in the decision maker's justification. See Part III, Item I.).
5. A statement informing the individual that they have the right to file an EEO complaint. The statement shall also explain the NSF procedures for appeal of a denial of RA available for informal dispute resolution.

#### **K. RECONSIDERATION PROCESS FOR REASONABLE ACCOMMODATION**

Individuals whose RA request has been denied can request prompt reconsideration of a RA decision.

1. If the employee's supervisor denies the RA request, a request for reconsideration must be submitted to the second-line management official in the requesting employee's chain of command within *ten*

(10) *business days* from the date of receipt of the “Reasonable Accommodation Decision.” This management official will have ten (10) business days to provide a written response to the request.

2. If the second-line management official denies the request for reconsideration (i.e., does not reverse the original decision), the individual will have *ten (10) business days* to present the request to the Head Office of Civil Rights who will respond to the request in writing within *ten (10) business days*. This response is a final decision. After the issuance of this decision, the reconsideration process is complete.

At any point in this reconsideration process, the individual may contact the EEO Complaints Manager and initiate the early conflict resolution process or contact the Head of OCR. Pursuing any of the informal dispute resolution procedures identified above, including seeking reconsideration from the next person in the decision maker’s chain of command, does not affect the time limits for initiating EEO complaints. An individual’s participation in any or all of these informal dispute resolution processes does not satisfy the requirements for bringing a claim under EEO, nor does it toll the filing deadlines.

## **L. INFORMATION TRACKING**

NSF maintains a confidential system of records related to each individual who has requested RA for the duration of that individual’s employment or three years (whichever is longer) in accordance with applicable law and regulation. This information is used to ensure that approved accommodations are appropriately documented and implemented. This system of records also ensures that NSF is able to anticipate and limit impediments that may cause unnecessary delays in providing or modifying a RA requested by an employee.

Pursuant to EEOC guidance, the following information is collected and maintained in NSF’s system of records to track NSF’s performance with regard to RA:

1. the number and types of reasonable accommodations that have been requested in the application process and whether those requests have been granted or denied;
2. the jobs (occupational series, grade level, and agency component) for which

reasonable accommodations have been requested;

3. the types of reasonable accommodations that have been requested for each of those jobs;
4. the number and types of reasonable accommodations for each job, by agency component, that have been approved, and the number and types that have been denied;
5. the number and types of requests for reasonable accommodations that relate to the benefits or privileges of employment and whether those requests have been granted or denied;
6. the reasons for denial of requests for reasonable accommodation;
7. the amount of time taken to process each request for reasonable accommodation; and
8. the sources of technical assistance that have been consulted in trying to identify possible reasonable accommodations.

In regards to information tracking, NSF will follow the standards stated in the EEOC's [\*Policy Guidance on Executive Order 13164: Establishing Procedures to Facilitate the Provision of Reasonable Accommodation from October 20, 2000\*](#), or any superseding subsequent guidance.

NSF shall maintain the records related to each individual who has requested accommodation for the duration of the employee's tenure with the agency. NSF will also retain any cumulative records used to track the agency's performance with regard to reasonable accommodation for applicants and employees for at least three years.

## **M. POLICY REVIEW**

In accordance with the requirements of Management Directive 715 and EEOC guidance, NSF regularly reviews Agency policies and procedures that have the potential to impact equal employment opportunity. This review also takes into account potential impediments to the RA process, including:

- requests for RA,
- responses to such requests, and
- implementation of RAs.

Specific items which are to be reviewed include, but are not limited to: these policies and procedures; those policies and procedures that impact the purchase or lease of equipment; and those policies and procedures which relate to the contracting or hiring of service providers for the Disability Program.

Where a policy or procedure has any impact on equal employment opportunity, including impediments to the RA process, NSF will create action plans per MD-715 requirements that may result in the modifications to identified problems within the policy or procedure.

## **IV. APPENDICES**

### **APPENDIX A: Disability Program**

#### **A. Service Types**

NSF's Disability Program provides support services as an approved reasonable accommodation. Available services include:

- Sign Language Interpreting: Support provided to individuals who are deaf or hard of hearing.
- Workplace Assistance: Administrative support such as notetaking, escorts, and readers.
- Personal Assistance: Support with activities of daily living such as eating, dressing/undressing, and transferring.

#### **B. Initiating Services**

The DPM will meet with each employee to discuss functional limits and the scope of services which will be provided based on individualized needs. Approved services will be documented for Agency records.

#### **C. Employee Preference**

NSF utilizes vendor assigned contractors to provide services for all Disability Program service types. Accordingly, NSF cannot guarantee that any employee will be serviced by the same contractor on a regular or ongoing basis. To ensure that employees are

provided services in a consistent manner, the DPM will work with the employee to develop a profile of needs and preferences. The DPM will also work with the employee to develop and maintain additional documentation, as needed. This may include but is not limited to: a glossary of common terms, inventory of specialized equipment, and instructions for use of or assistance with specialized equipment. Any such profiles and documents will be provided to contractors before they begin working with an employee.

It is important to note that, due to the nature of the services provided, the DPM will work with employees needing Personal Assistant Services to ensure that primary consideration is given to the employee's preferences for assigned contractors.

#### **D. Scheduling Services**

The employee and/or supervisor should contact the DPM directly to request and schedule services by calling 703-292-8020 or emailing [rarequest@nsf.gov](mailto:rarequest@nsf.gov).

Advance scheduling - preferably one to two weeks - is strongly encouraged. Although it is not possible to foresee every occasion for which services may be required, failure to schedule services well in advance may result in the necessity to reschedule meetings until services are available. RA requests received with less than 72 hours advance notice cannot be guaranteed. If services cannot be procured, the DPM may speak with the employee and supervisor to make a request to reschedule and/or suggest other alternatives.

For impromptu meetings or events and those not scheduled in advance, employees and supervisors should contact the DPM to check service availability. Such requests will be honored whenever possible based on service availability.

Several factors influence scheduling of services. For example, any Sign Language Interpreting assignment longer than 1 hour, or is heavily technical, may require two interpreters. Similarly, back-to-back meetings, or meetings going over their scheduled time, may result in limited or no transfer time for a service provider to move between assignments, or no time for appropriate breaks. Accordingly, meetings or events should include sufficient rest periods and breaks to ensure appropriate provision of services.

It is important to note that services are not provided in lieu of employee attendance. Contractors are not scheduled for meetings when an employee is on leave or when the employee is otherwise unavailable.

## **E. Meeting Extensions**

Employees must follow the schedule of services carefully to ensure the assigned contractor is not asked to work outside of the approved schedule. Failure to do so may result in an unauthorized expenditure of government funds.

If a meeting or event is running past the approved service time, the employee must notify [NSF Interpreting Services](#) via [interpretingrequests@nsf.gov](mailto:interpretingrequests@nsf.gov) and request an extension. A member of the team will then determine whether the service can be extended. If the meeting can be extended, instructions to the vendor/assigned contractor.

## **F. Cancellations**

Employees and supervisors should provide advanced notice of cancellations whenever possible. This allows the DPM to make timely cancellations with the vendor and accommodate other clients.

Cancellations due to inclement weather will be determined on an as needed basis by the DPM.

## **G. Off-site Services**

Services are available for off-site meetings when requested in advance. The employee and/or supervisor must specify both that the services are needed off-site and the exact location of services at the time of the request. The DPM will then work with the vendor to coordinate services.

## **H. Travel Services**

Services are available for employees on travel when requested in advance. The employee and/or supervisor must, at a minimum, specify that the services are needed for travel, the exact travel location, and the specific duration of the travel at the time of the request. However, that request may only be submitted after the employee's travel request has been approved by his/her supervisor or other appropriate authority, with assurances that the employee's travel request is in accordance with NSF Travel Regulations. Requests for services submitted prior to

obtaining these approvals will not be processed. Requests which are submitted in accordance with these requirements will be processed by the DPM who will then work with the vendor to coordinate services.

With the exception of Personal Assistant Services, services provided during official travel are limited to assistance with job-related tasks when the employee is attending conferences, meetings, training, etc., including overnight stays. In order to provide services, NSF will pay the reasonable wages for a locally recruited contractor (i.e. a person residing in the location where the employee is travelling to). In the event that a locally recruited contractor cannot be secured, NSF will pay the travel expenses for a vendor assigned contractor to travel with the employee, if such a contractor is available.

For Personal Assistant Services, all approved support will be made available for official travel. If the employee's needs on travel are different than the employee's needs during the workday (e.g., bathing, dressing/undressing, etc.), the employee must specify the services needed to the DPM when making the request.

## **I. Sign Language Interpreting (SLI) Specifications**

The following items are unique to SLI services.

- Vendor assigned contractors hold national interpreter certification and are certified members, in good standing of Registry of Interpreters for the Deaf (RID) and/or the National Association of the Deaf (NAD), and strictly adhere to the RID-NAD Code of Professional Conduct (CPC).
- It is important to keep in mind that, generally, one interpreter can work 45-60 minutes of consecutive interpreting (i.e., speakers taking turns speaking at a normal pace) before needing a 15-minute break.
- Two interpreters are required for meetings over 1 hour long.
- Every effort should be made to include the deaf or hard of hearing employees in all necessary interactions/exchanges/meetings. The lack of an available sign language interpreter should not result in the exclusion of the deaf or hard of hearing employee as an alternative mode of communication should be utilized.

- Failure to schedule interpreting services may result in the use of alternative forms of interpreting (e.g., Captioning, or similar).
- If the employee attends a conference or training program sponsored by an outside organization, the sponsoring organization is principally responsible for providing interpreters. It is the responsibility of the employee and supervisor to check with the sponsoring organization to see if interpreting services will be provided. If not, a request containing all relevant information should be submitted to the DPM.
- To schedule interpreting or captioning services please send an email to [NSF Interpreting Services](#).

## **J. Workplace Assistant (WPA) Services Specifications**

The following items are unique to WPA services.

- Every effort should be made to include the employee using WPA in all necessary interactions/exchanges/meetings. The lack of an available WPA should not result in the exclusion of the employee as an alternative form of support should be utilized.
- If WPA services are not available the supervisor must make a determination whether to provide alternative assistance from among the members of their staff, or to reschedule the meeting/event/training request for a later date when a WPA is available.
- Readers, job coaches, and escorts are examples of workplace assistants.

## **K. Personal Assistant Services (PAS) Specifications**

Though specified in this RA Policy and Procedures Manual, under Section 501 of the Rehabilitation Act of 1973 provision of PAS is a required aspect of affirmative action for employees who need such services because of a targeted disability, unless doing so would impose an undue hardship on the agency. This is because PAS allows an

employee with a targeted disability to participate and/or be in the workplace whereas RA is job-related allowing an individual with a disability to apply for the job, perform job functions, or enjoy benefits and privileges of a job. However, like RA, employees requesting PAS will work with the DPM so that the Agency can conduct an individual assessment of the employee's needs.

NSF may only deny a request for PAS if the difficulty or cost of providing the service would be an undue hardship to the organization. The process of determining whether providing personal assistant services is an undue hardship is the same as the process the agency uses to determine whether a reasonable accommodation poses an undue hardship. For this and other reasons (e.g., confidentiality, tracking timeliness of responses), requests for PAS will be centrally recorded in the Agency's system of records for RA. It is important to note that under Section 501 of The Rehabilitation Act of 1973, NSF is prohibited from taking adverse actions against job applicants or employees based on their need for PAS, either perceived or real.

The following items are unique to PAS.

- Vendor assigned contractors are Certified Nursing Assistants (CNA) from an accredited Nurse Assistant Program, or equivalent, and are in good standing with the certifying organization.
- Services provided by an assigned contractor are non-medical meaning that services will not include medication delivery, wound care, or any other medical service. Personal assistant services are services that help someone perform basic activities like eating and using the restroom.
- As previously stated, due to the nature of the services provided, the DPM will work with employees needing Personal Assistant Services to ensure that primary consideration is given to the employee's preferences for assigned contractors.
- Employees may request to bring their own PAS provider into the workplace. In such situations, the employee should work with the DPM to ensure that all security requirements are met to allow the preferred PAS provider to accompany the employee into the workplace.
- If PAS is not available, the supervisor must consult with the DPM and the employee to determine if other options are available to provide the

necessary support.

## **L. Pregnant Workers Fairness Act (PWFA)**

Also known as the “PWFA” the Pregnant Workers Fairness Act is a federal law that went into effect on June 27, 2023. The PWFA requires employers to provide “reasonable accommodations” to a worker’s known limitations to pregnancy, childbirth, or related medical conditions, unless the accommodation will cause an “undue hardship.”

Limitations can be minor and do not need to be a serious condition. Some limitations include morning sickness, fatigue, migraines, swelling of the hands or feet, frequent need to use the restroom, and the need to sit or stand. Limitations can include maintaining your health or the health of your pregnancy by avoiding strenuous activities such as standing or walking for long periods of time or avoiding exposure to extreme heat or chemicals not safe for pregnancy.

Some examples of reasonable accommodations that can be provided to qualified workers who fall under the PWFA:

- Additional breaks to eat, rest, or use the bathroom
- Flexible work schedule
- Lifting restrictions or light duty
- Taking leave or time off after childbirth
- Telework
- Temporary suspension of essential job duties
- Temporary reassignment

Other federal employment laws that may apply to pregnant workers are “The Family and Medical Leave Act” which provides unpaid leave for workers and “The PUMP Act” which will provide nursing mothers with a private place to pump at work.

## **APPENDIX B: Examples of Reasonable Accommodations**

The types of actions that can be taken in connection with RA can best be determined on a case-by-case basis, taking into consideration the employee, their specific

disability and the resulting limitations, the essential duties of the particular job, the work environment, and the feasibility of the proposed accommodation. RA may include, but is not limited to, the following:

1. Modification of the Worksite

Facilities should be made readily accessible. Modifications may include but are not limited to: arranging files or shelves for accessibility; raising or lowering equipment and work surfaces to provide comfortable working heights; installing special holding devices on seats, desks, or machines; using Braille labels or other tactile cues for identification purposes; and installing special equipment such as telephone amplifiers.

2. Assistive Devices

NSF is authorized to purchase equipment or assistive devices if they are necessary to fulfill the official business of the agency. Equipment or assistive devices may not be provided if they are of a personal nature such as eyeglasses or hearing aids. In determining whether the purchase of equipment and assistive devices should be authorized, consideration should be given as to whether the device will enable the person with a disability to perform tasks they would otherwise be unable to carry out, and whether the major benefit would be an increase in the quantity, quality, or efficiency of the employee's work.

3. Captioning

The process of converting the audio portion of a video production or live event into text which is displayed on a television or film screen or computer monitor. The captions are typically white upper-case against a black background and, when pre-recorded, displayed live as the show is broadcast. They may also be permanently visible (open-caption) or viewable only through a decoder (closed-caption) attached to or built into the television.

4. Computer-Aided Real-time Translation (CART)

A form of captioning which provides a word-for-word transcription of what is being said. It may be read on a laptop computer or projected onto a television screen or, for a large audience, onto a full-size screen.

5. Flexible Leave Policies

NSF has authority to adopt flexible leave policies, subject to appropriate laws and regulations that will accommodate employees with disabilities.

## 6. Adjusting Work Schedules or Work Locations

NSF is encouraged to approve flexible or altered work schedules for employees who cannot meet the requirements of the regularly scheduled tour of duty for their position for reasons associated with their disability (examples include requirement for medical treatment, need for rest periods, or difficulty getting to work). Use of NSF's telework program is also encouraged when employees require use of alternative work locations.

## 7. Restructuring Jobs

Job restructuring is one of the major means by which an employee with a disability can be accommodated. Supervisors should consult with the DPM to discuss changes that can be made to enable the person with a disability to perform the job.

## 8. Training

NSF will accommodate and assume the costs incurred when an employee with a disability attends approved training. NSF will also arrange RA needs for approved courses, whether held at the Agency or other locations.

### **APPENDIX C: Reasonable Accommodation Resources**

#### **[U. S. Equal Employment Opportunity Commission](#)**

1-800-669-3362 (Voice)

1-800-800-3302 (TTY)

The EEOC's Publication Center has many free documents on the Title I employment provisions of the ADA, including both the statute, 42 U.S.C. § 12101 et seq. (1994), and the regulations, 29 C.F.R. § 1630 (1997). In addition, the EEOC has published a great deal of basic information about RA and undue hardship. The two main sources of interpretive information are:

(1) the Interpretive Guidance accompanying the Title I regulations (also known as the "Appendix" to the regulations), 29 C.F.R. pt. 1630 app. §§ 1630.2(o), (p), 1630.9 (1997); and (2) [A Technical Assistance Manual on the Employment Provisions \(Title I\) of the Americans with Disabilities Act III](#), 8 FEP Manual (BNA) 405:6981, 6998-7018 (1992). The Manual includes a 200-page Resource Directory, including federal and state agencies, and disability organizations that can provide assistance in identifying and locating RAs.

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

1-800-232-9675 (Voice/TTY)

A service of the Department of Labor's Office of Disability Employment Policy, JAN can provide information, free-of-charge, about many types of RA.

### **ADA Disability and Business Technical Assistance Centers (DBTACs)**

1-800-949-4232 (Voice/TTY)

The DBTACs consist of ten federally funded regional centers that provide information, training, and technical assistance on the ADA. Each center works with local business, disability, governmental, rehabilitation, and other professional networks to provide current ADA information and assistance, and places special emphasis on meeting the needs of small businesses. The DBTACs can make referrals to local sources of expertise in RAs.

### **Registry of Interpreters for the Deaf**

333 Commerce Street  
Alexandria, VA 22314

(703) 838-0030 (Voice)

(703) 838-0459 (TTY)

(703) 838-0454 (Fax)

The Registry of Interpreters for the Deaf, Inc. (RID), is a national membership organization of professionals who provide sign language interpreting/translation services for Deaf and Hard of Hearing persons. It is the goal of RID to promote the profession of interpreting and translation of both American Sign Language and English. RID's mission is to provide international, national, regional, state, and local forums by providing an organizational structure for the continued growth and development of the professions of interpretation and translation of American Sign Language and English.

The RID national office has at its disposal a vast array of informational resources on the field of interpreting, including papers on Interpreting Standards and Practices and How to Hire and Work with an Interpreter.

### **[RESNA Technical Assistance Project](#)**

(703) 524-6686 (Voice)

(703) 524-6639 (TTY)

RESNA, the Rehabilitation Engineering and Assistive Technology Society of North America, can refer individuals to projects in all 50 states and the six territories, offering technical assistance on technology-related services for individuals with disabilities. Services may include:

- information and referral centers to help determine what devices may assist a person with a disability (including access to large databases containing information on thousands of commercially available assistive technology products),
- centers where individuals can try out devices and equipment,
- assistance in obtaining funding for and repairing devices, and
- equipment exchange and recycling programs.

### **USDA TARGET Center**

1400 Independence Avenue Room  
1006-S  
Washington, DC 20250-9876  
(202) 720-2600 (Voice/TTY)  
(202) 720-2681 (Fax)

The Target Center has a wide variety of assistive devices available for Federal employees to examine and test.

### **Rehabilitation Services Agencies**

Rehabilitation Services Agencies are state agencies that provide support for the employment, economic self-sufficiency, and independence of individuals with disabilities. Local phone book should list them under state services. Sometimes they are listed by Vocational Rehabilitation Offices.

Some people who have minimal vision use Braille. This organization can convert documents to Braille. After arranging for payment, documents can be sent to the Services for the Visually Impaired as an e-mail attachment and the Braille copy will be mailed to the agency.

### **National Captioning Institute**

1900 Gallows Road, Suite 3000  
Vienna, VA 22182  
(703) 917-7600

Federal law requires that all videos include captions, preferably open captions. The National Captioning Institute can add captions to videos.

## **APPENDIX D: NSF Reasonable Accommodation Forms**

Employees are not required to use the forms mentioned in this RA Policy and Procedures Manual and as listed below. However, if an employee elects to complete one of the forms but finds that an alternative format is needed, they should speak with the DPM. As noted on all postings on USAJobs.gov, job applicants may contact [rarequest@nsf.gov](mailto:rarequest@nsf.gov) 703-292-8020 to make a request for RA and also track the status and outcome of such a request.

1. [Request for Reasonable Accommodation](#)
2. [Medical Documentation Request Form for Reasonable Accommodation](#)

## **APPENDIX E: Glossary**

### **Person with Disability**

A person who has physical and/or mental impairment that substantially limits one or more major life activities or major bodily functions; has a record of such impairment; or is regarded as having such impairment.

- A “physical and/or mental impairment” includes any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, (including speech organs); cardiovascular; reproductive; digestive; genitourinary; immune; circulatory; hemic; lymphatic; skin and endocrine. They also cover a mental or psychological disorder, such as intellectual disability; organic brain syndrome; emotional or mental illness; and specific learning disabilities.
- “Major life activities” are basic activities that an average person in the general population can perform with little or no difficulty. Examples include but are not limited to: walking; speaking; breathing; performing manual tasks; seeing; hearing; learning; caring for oneself, sitting, standing, lifting, reaching, reading, thinking, interacting with other people, communicating, concentrating, eating, sleeping, reproduction, or working.

- “Major bodily functions” include but are not limited to functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, or reproductive functions.
- A “record of impairment” means that an individual has a history of, or has been classified as having, a mental or physical impairment that substantially limits one or more major life activities.
- “Is regarded as having impairment,” means that individuals (e.g., supervisors, managers and/or other employees) believe that the individual has a disability, whether the individual has a disability or not. It is important to note that a person who currently uses illegal drugs is not covered by these procedures as an “individual with a disability.” However, a former drug user who is receiving treatment for a drug addiction or has been rehabilitated successfully is covered.

### **Qualified**

In respect to an individual with a disability, “qualified” means that the individual satisfies the requisite skill, experience, education and other job-related requirements of the employment position such individual holds or desires and, with or without reasonable accommodation, can perform the essential functions of such position.

### **Employee**

An individual who is employed by the agency who, with or without reasonable accommodations can perform the essential functions of the position that s/he holds, regardless of the type of appointment mechanism. Whether an employee is also a “person with a disability” for purposes of reasonable accommodation will be decided on a case-by-case basis.

### **Reasonable Accommodation**

A request for reasonable accommodation is a statement that an individual needs an adjustment or change at work, or during the job application process, for a reason related to a medical condition so that the individual may enjoy the same benefits and privileges of employment as are available to similarly situated individuals without a disability. If requested or identified, reasonable accommodations are addressed in three aspects of employment:

1. In the job application process: A reasonable accommodation is provided in the job application process to provide a qualified job applicant with a disability an equal opportunity to be considered for the position being sought.
2. In the performance of the essential functions of a job: a reasonable accommodation is provided to enable a qualified employee with a disability to perform the essential duties of the job currently held. This may include modification or adjustments to the work environment and to the way duties are customarily performed.
3. In receipt of all benefits of employment: A reasonable accommodation is provided to enable an employee with a disability to enjoy benefits and privileges of employment equal to those enjoyed by other similarly situated employees without disabilities. This would include equal access to buildings, conferences and meetings that are agency- sponsored services and events.

It is important to note that reasonable accommodation is not the creation of a new position or the intentional altering of the position of record beyond its grade controlling factors.

### **Medical Documentation**

The employer may require only the documentation that is needed to establish that a person has a disability that necessitates a reasonable accommodation. Thus, an employer, in response to a request for reasonable accommodation, cannot ask for documentation that is unrelated to determining the existence of a disability and the necessity for an accommodation. In addition, all medical documentation will be handled in a confidential manner and the Employer will observe all requirements of the Privacy Act and other appropriate legal authorities. Medical documentation will be maintained in accordance with applicable provisions of 5 CFR, Section 293 and 5 CFR 297.

### **Decision Maker**

For the purpose of this policy, the decision maker is that person (supervisor or manager) who has responsibility and authority to make certain determinations and decisions relative to an employee's request for reasonable accommodation. For the purposes of this policy, and depending on the type of request, either the supervisor, manager, or the DPM is the decision maker (See Part III, Section C.).

The decision maker is the individual who initiates the interactive process in a timely fashion to find an accommodation that balances the needs of both the employee and agency.

### **Interactive Process**

The process used to determine what, if any, accommodation will be provided after an individual has been determined to be an “individual with a disability.” This means that the individual requesting the accommodation, the decision maker (and in most cases the DPM) must communicate with each other about the request. This can include, but is not limited to:

- the precise nature of the disability or medical condition that is generating the request;
- how the individual’s functional limitations impact the ability to perform the essential functions of the position; and
- alternative accommodations that may be effective in meeting an individual’s needs.

### **Essential Functions**

Those job duties that are so fundamental to the position that the individual holds or desires that s/he cannot do the job without performing them. A function can be “essential” if, among other things: the position exists specifically to perform that function; there are a limited number of other employees who could perform the function; or the function is specialized, and the individual is hired based on his/her ability to perform it. Determination of the essential functions of a position must be done on a case-by-case basis so that it reflects the job as actually performed, and not simply the components of a generic position description.

### **Undue Hardship**

If a specific type of reasonable accommodation causes significant difficulty or expense, then the agency does not have to provide that particular accommodation. Determination of undue hardship is always made on a case-by-case basis, considering factors that include the nature and cost of the reasonable accommodation needed and the impact of the reasonable accommodation on the operations of the agency.

### **Reassignment**

A form of reasonable accommodation that, absent undue hardship, is provided to employees (not applicants) who, because of a disability, can no longer perform the essential functions of their job, with or without reasonable accommodation. Reassignment is considered to be the “accommodation of last resort.”