

National Science Foundation
Office of Equity and Civil Rights
NSF Policy on Religious Accommodation
Date Issued: 3-29-2023
Date Modified: 4-12-2023

Material transmitted:

National Science Foundation (NSF) Religious Accommodation Policy and Procedures

Material superseded:

National Science Foundation (NSF) Religious Accommodation Policy and Procedures
dated 3-29-2023

Background:

This document establishes and implements NSF's policy and procedures for processing religious accommodations for NSF staff and applicants. This policy meets the requirements of the Title VII of the Civil Rights Act of 1964 (Title VII) and was developed in compliance with the Equal Employment Opportunity Commission (EEOC) guidance and the National Science Foundation (NSF) policy and procedures on religious accommodations. Minor changes were made to correct font and/or spacing and to update the website address for the Religious Accommodation Request Form.

Recommendation:

Recommend approval and distribution to staff on/about April 14, 2023

Filing Instructions:

Post on NSF's internal and external website

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National Science Foundation
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I. PURPOSE AND SCOPE

The purpose of this manual is to implement the requirements of Title VII of the Civil Rights Act of 1964 (Title VII) by establishing NSF's policy and procedures on processing religious accommodations for employees and applicants. NSF developed this set of policy and procedures on processing religious accommodations in compliance with the Equal Employment Opportunity Commission (EEOC) guidance and the National Science Foundation (NSF) policy and procedures on religious accommodations.

This foregoing applies to all NSF employees. For those employees who are members of the bargaining unit, the terms of the collective bargaining agreement(s) shall control.

II. DEFINITIONS

1. Religion: Title VII defines "religion" to include all aspects of religious observance and practice as well as belief. Title VII includes not only traditional, organized religions such as Christianity, Judaism, Islam, Hinduism, Buddhism, and Sikhism, but also religious beliefs that are new, uncommon, not part of a formal church or sect, and only subscribed to by a small number of people, or that seem illogical or unreasonable to others. In addition, a person's religious beliefs "need not be confined in either source or content to traditional or parochial concepts of religion. These protections also include those who are discriminated against or need accommodations because they proclaim no religious beliefs.
2. Religious Harassment: Harassment in violation of Title VII occurs when employees, applicants, contractors, Intergovernmental Personnel Act assignees, AAAS Fellows, advisory committee members, participants in workshops held at NSF, speakers, and visitors with appointments with NSF staff, applicants, panelists, are: (1) required to be coerced to abandon, alter, or adopt a religious practice as a condition of employment; or (2) subjected to unwelcome statements or conduct that is based on religion and is so severe or pervasive that the individual being harassed reasonably finds the work environment to be hostile or abusive, and there is a basis for holding the

employer liable.

3. Religious Accommodations: Any modification or adjustment to the work environment that will allow an employee, applicant, contractor, panelist, or others conducting business at NSF. Examples of some common religious accommodations include flexible scheduling, telework, private place to pray, and religious comp time.
4. "Sincerely Held" Belief: Title VII requires employers to accommodate only those religious beliefs that are religious and "sincerely held". Under federal law, sincerely held religious beliefs include moral or ethical beliefs as to what is right and wrong which are sincerely held with the strength of traditional religious views.

III. NSF PROCEDURES ON PROCESSING RELIGIOUS ACCOMMODATIONS

A. REQUESTING A RELIGIOUS ACCOMMODATION

The religious accommodation process begins as soon as an employee, applicant, or other individual conducting business at NSF requests a religious accommodation.

A request for a religious accommodation is a statement by a person that they need an adjustment at work, in the application process, or in a benefit or privilege of employment for a reason related to their religion or religious belief.

- 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 Equity and Civil Rights (OECR).
- For all others: requests may be made through an NSF Human Resources Specialist or any other NSF employee with whom the individual has a contact in connection with the application process or through the DPM.

Although a request for a religious accommodation may be made orally or in

writing, for accurate recordkeeping and tracking purposes, NSF employees should complete the ["Request for a Religious Accommodation"](#) form when submitting a request to a supervisor, management official, or the DPM. Requests sent to the DPM can be submitted to rarequest@nsf.gov.

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 by email. This does not affect the supervisor's responsibility to act immediately on an employee's religious accommodation request, whether made orally or in writing.

When an NSF management official receives a request for a religious accommodation, they must refer it to the appropriate deciding official as set forth below, if necessary, ***as soon as possible, but in no more than three (3) business days from receiving the request for RA.*** ***When the DPM is the Deciding Official:***

The EEOC requires agencies to take steps to anticipate and limit impediments that may cause unnecessary delays in providing religious accommodations. This includes evaluating and implementing practices that reduce barriers that make it difficult to provide effective accommodations. Accordingly, the DPM will make decisions on the following requests:

- a. Requests from applicants.
- b. Requests for the use of a work facility for religious observance.
- c. Requests for accommodating prayer and other forms of religious expression.
- d. Requests for flexible scheduling.

When the Supervisor or other Management Official is the Deciding Official:

For all accommodation request not listed above, the employee's immediate supervisor or other Management Official in that chain of command will serve as the Deciding Official.

C. TIMEFRAME FOR PROCESSING REQUESTS

All NSF staff members are expected to 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 a religious accommodation, or an unnecessary delay when implementing a religious accommodation, may result in a violation of the Title VII of the Civil Rights Act of 1964.

If 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.
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*).

“Expedited Processing” of a RA is required:

1. In order to ensure that an applicant 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 religious accommodation.
2. To enable an employee to attend a meeting or event scheduled to occur shortly.

“Extenuating Circumstances” cover limited situations in which unforeseen or unavoidable events occurring beyond the control of NSF personnel prevent the processing of an accommodation within the time frames listed above.

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 alternate accommodation temporarily when possible while a permanent religious accommodation is being sought. ***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 religious accommodation is expected.*** Any further developments or changes should also be communicated promptly in writing to the employee.

D. THE INTERACTIVE PROCESS

Communication is a priority throughout the entire process, and to the extent possible, employees should participate in identifying effective accommodations. If the need for an accommodation is not immediately obvious or if there are several options for providing accommodations, the DPM will enter into an interactive process. 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.

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

Once a decision has been made, the DPM or deciding official will communicate the decision immediately 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.

E. DENIAL OF A RELIGIOUS ACCOMMODATION

Where 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 decision maker 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 case file.

4. The justification will then be used in the “Religious 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 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 decision maker believes that the chosen accommodation will be effective for the requester.

F. ISSUING THE RELIGIOUS 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 “Religious Accommodation Decision” on behalf of the Agency. Upon request from the employee or job applicant, the decision will be provided in an alternative format.

1. If alternative accommodation(s) to those requested by the employee are selected:
 - a. the reasons for denying the requested accommodation; and
 - b. the reason(s) that the decision maker believes that the alternative accommodation(s) will be effective.
2. 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.).
3. A statement informing the individual that they have the right to file an EEO complaint and may have rights to pursue negotiated grievance procedures in accordance with provisions in the Collective Bargaining Agreement. The statement shall also explain the NSF procedures for appeal of a denial of religious accommodation available for informal dispute resolution.

G. RECONSIDERATION PROCESS FOR RELIGIOUS ACCOMMODATION

Individuals whose religious accommodation request has been denied can request prompt reconsideration of that request.

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 "Religious 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 Equity and Civil Rights (OECR) 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 process, the individual may contact the EEO Complaints Manager and initiate the early conflict resolution process or contact the Head of OECR. 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 or negotiated grievances under the Collective Bargaining Agreement. 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, negotiated grievance procedures under the Collective Bargaining Agreement, nor does it toll the filing deadlines.

H. RELATION OF PROCEDURES TO STATUTORY AND COLLECTIVE BARGAINING CLAIMS

1. This policy is in addition to statutory and collective bargaining protections for individuals with personal religious beliefs and the remedies they provide for the denial of requests for religious accommodation and does not replace these provisions. Requirements governing the initiation of statutory and collective bargaining claims, including time frames for filing such claims, remain unchanged.
2. An individual who chooses to pursue statutory or collective bargaining remedies for denial of a religious accommodation must:

- a. For an EEO complaint: contact the EEO Complaints Manager in NSF's OECR within **forty-five (45) days** from the date of receipt of the written "Religious Accommodation Decision" or reconsidered denial; or
- b. For a Negotiated Grievance: file a written grievance in accordance with the provisions of the Collective Bargaining Agreement:
 - a. For employees represented by **AFGE Local 3403**, the grievance must be submitted in writing to **the Labor Relations Office (LRO) within twenty (20) days** after the matter, issue, or incident out of which the grievance arose, or within twenty (20) days after the date the aggrieved employee became aware or should have become aware of the matter, issue, or incident giving rise to the grievance.

3. If a member of OECR has had any involvement in processing the request for religious accommodation, that staff member shall recuse themselves from any involvement in processing an EEO counseling inquiry or complaint in connection with that request.

IV. APPENDICES

APPENDIX A: Examples of Religious Accommodations

The types of actions that can be taken in connection with religious accommodations can best be determined on a case-by-case basis, taking into consideration the employee. Religious accommodations may include, but are not limited to, the following:

1. Flexible Leave Policies
NSF has the authority to adopt flexible leave policies, subject to appropriate laws and regulations that will accommodate employees. Religious compensatory time off is defined as compensatory time off, as defined by 5 U.S.C. 5550a, in which an employee whose personal religious

beliefs require them to be away from work for certain periods of time may elect to work additional hours during the workday or take available leave. A religious group to which the employee belongs does not have to formally mandate those criteria. It is necessary that the employee's personal religious views make him or her feel obligated to miss work for religious reasons. Employees who are approved to work overtime under this subpart will be given an equal amount of compensatory time off from their regular schedule.

2. 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 religion. Use of NSF's telework program is also encouraged when employees require the use of alternative work locations.

3. Accommodating prayer, proselytizing, and other forms of religious expression.

Some employees may seek to display religious icons or messages at their workstations. Others might seek to proselytize by engaging in one-on-one discussions regarding religious beliefs. The employer will not be called upon to consider any action unless it receives complaints about the religious expression.

Employers should not try to suppress all religious expression in the workplace. Title VII requires that employers accommodate an employee's sincerely held religious belief. Employers should decide whether permitting an employee to pray, proselytize, or engage in other forms of religiously oriented expression would pose an undue hardship.

An employer can restrict religious expression where it would cause customers or co-workers reasonably to perceive the materials to express the employer's own message. An employer is more likely to be able to demonstrate that it would constitute an undue hardship to accommodate an employee's religious expression, regardless of the length or nature of the business interaction.

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Date Modified: 4-12-2023

APPENDIX B: NSF Religious Accommodation Resource Persons

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