



Making a Request for Reasonable Accommodation Updated September, 2018

What is OPIC's policy regarding assistance to employees and job applicants with disabilities?

OPIC's policy is to fully comply with the reasonable accommodation requirements of the Rehabilitation Act of 1973, as amended, 29 U.S.C § 791, and the Americans with Disabilities Act, including the Americans with Disabilities Act Amendments of 2008 (29 CFR, Part 1630) and its expanded definition of a person with a disability. Under the law, OPIC must provide reasonable accommodation to qualified employees or applicants with disabilities, unless to do so would cause undue hardship on the agency. An accommodation is a change involving the workplace that enables a person with a disability to enjoy equal employment opportunities, and can include any change or adjustment that is effective to eliminate workplace barriers (see definition of "reasonable accommodation" below for more information). OPIC has a commitment to ensure that people have equal access to its workplace environment and to enhance its ability to hire and advance individuals with disabilities. OPIC has a long-standing practice of promoting a healthy work environment for all employees.

What is a "disability?"

A "disability" is a physical or mental impairment that substantially limits one or more of the major life activities of an individual. The Americans with Disabilities Act (29 CFR, Part 1630.2) further defines a disability as 1) 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 (2) Any mental or psychological disorder, such as an intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

What is "reasonable accommodation?"

"Reasonable accommodation" is a change in the work environment or in the application process that would enable a qualified individual with a disability to enjoy equal employment opportunities. Federal agencies must provide "reasonable accommodation" to qualified employees or applicants with disabilities (as defined under the law), unless to do so would cause undue hardship. There are three general categories of reasonable accommodations: (1) modifications or adjustments to a job application process to permit a qualified individual with a disability to be considered for a job (such as providing application forms in alternative formats like large print or Braille); (2) modifications or adjustments necessary to enable a qualified individual with a disability to perform the essential functions of the job (such as providing sign language interpreters); and (3) modifications or adjustments that enable employees with disabilities to enjoy equal benefits and privileges of employment (such as removing physical barriers in an office). A request is "reasonable" if it is effective in accomplishing any of the

above purposes. Accommodations are not limited to adjustments to a physical work environment. They may involve changes to the way a job is done or structured, modified workplace policies and procedures, adjusted work schedules or eliminating marginal functions or perhaps even changes to Agency culture. Or, they may entail procuring assistive technology or services such as readers or interpreters.

What is the definition of a qualified employee or applicant?

A "qualified individual" is an individual with a disability that substantially limits a major life activity or who has a "record of" such disability: 1) who meets the qualification and other job-related requirements of the position; and 2) who can perform the essential functions of the position, either with or without reasonable accommodation.

What is "undue hardship?"

If an accommodation would cause a significant difficulty or expense, OPIC is not required to provide the accommodation. In making determinations, the nature and cost of the accommodation needed and the impact of the accommodation on the operations of the agency will be considered on a case-by-case basis.

How do I submit a request for accommodation?

Employees and job applicants may initiate requests for accommodation orally or in writing. If you present your request orally, OPIC will immediately begin the process of considering your request. However, to ensure that OPIC has a formal record of your request, you must ultimately present your request in writing. If the disability and/or the need for accommodation are not obvious or already known to OPIC, you may be asked to present a medical statement in support of your request (see below for more information on medical statements). In your written request, you must include the reason for your request and explain any time-sensitive needs you may have. Your request does not have to include any special words such as "reasonable accommodation" or "disability," and you may request an accommodation even if you have not previously disclosed the existence of a disability.

Once you request and are granted a type of accommodation that you are likely to need on a repeated basis, you do not need to submit a written request for record-keeping purposes each time the accommodation is needed.

To whom do I present my request?

Depending on who is making the request and the nature of the request, there are a number of individuals who may initially receive the request and who may be the ultimate decision-makers.

Employees

OPIC encourages employees to discuss their needs with their immediate supervisors. Employees may also present their requests to their second line supervisor or department head, directly to the Department of Human Resources Management (HRM), or to the Director of Equal Employment Opportunity. In some cases, the supervisor may be able to provide the requested assistance directly (e.g., allow the employee to vary his or her assigned duties to avoid repetitive motion that aggravates carpal tunnel syndrome; coordinate with the facilities manager to relocate copiers, printers or faxes to

accommodate an employee with a mobility disability, modify a work schedule, or receive assistive equipment).

Supervisors receiving requests should coordinate their action with and/or refer requests for additional action to the Human Resources Specialist overseeing reasonable accommodation (HRS) in HRM. In all cases supervisors should notify HRM of the accommodation request. Employees and supervisors may seek advice and assistance directly from HRM. As appropriate, HRM will request assistance from other OPIC offices, arrange for ergonomic evaluations and, if needed, request additional information from the employee. HRM also serves as a point of contact with CAP (Computer/Electronic Accommodation Program) representatives with whom OPIC has an agreement to provide assistive technology accommodations and services.

A request for modestly priced ergonomic items may be made directly to the Director of Facilities and Administrative Services, who may respond without further documentation or approval when the request is not a part of a more extensive request. Significant architectural or work space configuration, requests for specially designed furniture (including chairs), and requests for accessible parking must be coordinated with the HRS.

Applicants

Applicants for OPIC positions (or selecting officials on behalf of applicants) will make their requests to the staffing specialist identified in the job opportunity announcement, the staffing manager, the Intern Program Coordinator, or any other agency employee with whom the applicant has contact. The HRM staff member will make appropriate arrangements (e.g., employ the services of a sign language interpreter) or, as necessary, coordinate accommodation arrangements with HRM or other OPIC staff.

If the employee or applicant is prevented from making the request personally, a family member, health professional or other authorized representative may make the request on his/her behalf.

How much medical information do I need to provide?

If you request an accommodation, OPIC has a right to know you have a covered disability that requires an accommodation. When a disability and/or need for accommodation are not obvious or known to your supervisor, OPIC may require you to provide reasonable documentation about the disability and/or your functional limitations. Consistent with the foregoing standard, OPIC will make an individualized determination, based on the accommodation request, whether supporting medical documentation is needed, and if so, tailor an appropriate inquiry.

If your disability and/or need for reasonable accommodation is not obvious or known to your supervisor or other decision-maker, he or she will make a request to HRM to obtain medical information necessary to evaluate your request for reasonable accommodation. HRM will work with you to request the necessary medical information. It is your responsibility to provide appropriate medical information related to the request. You must obtain such information from an appropriate professional such as a doctor, social worker, or rehabilitation counselor. The types of information OPIC may request include documentation regarding:

- the nature, severity, and duration of your impairment;
- the activity or activities that the impairment limits;

- the extent to which the impairment limits your ability to perform the activity or activities; and/or
- why you require reasonable accommodation or the particular reasonable accommodation requested, as well as how the reasonable accommodation will assist you in applying for a job, performing the essential functions of the job, or enjoying a benefit of the workplace.

Depending on the nature of the disability, OPIC may request supplemental documentation when the information already submitted is insufficient to document the disability and/or the functional limitations it causes. This additional information may be needed so that the appropriate assistive technology, device or reasonable accommodation can be identified and purchased. As necessary, OPIC will work with an outside vendor, qualified to make ergonomic evaluations, to identify the appropriate technology. A trained OPIC employee may make basic ergonomic evaluations.

It has been OPIC's practice to consider requests without requiring medical documentation for items of modest expense that are ergonomically accepted "staples" in the workplace. These items include under-the-counter keyboard and mouse trays, wrist rests, glare screens, footrests, and similar devices when they do not constitute a part of a more extensive request.

HRM will evaluate all medical documentation that is required and received. OPIC has the right to have medical information reviewed by a medical expert of its own choosing at its own expense. If the information provided by the health professional (or the information volunteered by the individual requesting the accommodation) is insufficient to enable OPIC to determine whether an accommodation is appropriate, HRM may ask for further information. First, however, it will be explained to the individual seeking the accommodation why the information that has been provided is insufficient, what additional information is needed, and why it is necessary for a determination of the reasonable accommodation request. The individual may then ask the health care or other appropriate professional to provide the missing information. If, after a reasonable period of time, there is still not sufficient information to demonstrate that the individual has a disability and needs a reasonable accommodation, HRM may request that the individual be examined by a physician chosen by OPIC.

While OPIC may request supplemental medical documentation to determine an appropriate accommodation, any such request will be consistent with the requirements of the Genetic Information Nondiscrimination Act (GINA) of 2008 (29 C.F.R. §1601.2), prohibiting discrimination, retaliation or harassment because of an individual's genetic information, inadvertently acquired through broadly-worded requests for medical documentation.

HRM will let the decision maker know whether the documentation demonstrates that a reasonable accommodation is appropriate and provide, if necessary, any additional relevant information about the individual's functional limitations. **The employee or applicant's failure to provide appropriate documentation or to cooperate in OPIC's efforts to obtain such documentation can result in a denial of the reasonable accommodation.**

How does the decision process work?

Requesting, processing, and providing reasonable accommodation relies on an **interactive process** in which the parties communicate with one another to determine what, if any, accommodation should be provided. The employee is responsible to participate in helping identify an effective solution.

Supervisors may be required to provide information about the work and the performance requirements. Medical authorities provide diagnoses and, as appropriate, provide additional accommodation information in order to identify solutions. Individuals qualified to perform ergonomic evaluation may be included in the process. OPIC's Facilities and Administrative Services (FAS) will be consulted, as appropriate (e.g., to expeditiously purchase or lease equipment needed for reasonable accommodation). CAP and OPIC Information Resource Management (IRM) representatives will be included when the solution involves assistive technology and related devices. HRM will also be available to provide assistance. Relevant resources are listed below for individuals with disabilities and agency decision makers to consult in order to identify and evaluate possible accommodations.

There are specific considerations in the interactive process when responding to a request for reassignment. Reassignment will be considered only if no accommodations are available to enable the individual to perform his or her current job, or if the only effective accommodation would cause undue hardship.

The appropriate decision-maker (i.e., the supervisor, HRM, Manager of Contract Administration, or OPIC Employment Program Manager) will notify the individual of the final decision regarding the reasonable accommodation request.

If the employee or applicant's request is denied, the reasons for the denial will be provided to the employee in writing. The denial will identify the employee or office that made the decision, and will include information about the requestor's right to file an EEO complaint and to invoke other statutory processes, as appropriate, as well as the availability of an informal dispute resolution process (see next paragraph for more information). Typically, a reason for a denial might include (but is not limited to) the following: 1) the requested solution would not be effective; 2) providing the requested solution would result in an undue hardship; 3) medical documentation is inadequate to establish that the individual has a medical condition and/or needs a reasonable accommodation; 4) the request would require the removal of an essential function of the position; 5) the request would require the lowering of a performance or production standard; and/or 6) the request would invoke other significant difficulty or negative impact on agency operations. If OPIC denies a specific requested reasonable accommodation but offers to make a different one in its place, OPIC's notice will explain both the reasons for the denial of the requested accommodation and the reasons it believes the chosen accommodation will be effective.

Is a decision appealable?

The employee or applicant may seek informal reconsideration by making a written request for reconsideration to the Vice President, HRM (or to the Chief Financial Officer if the Director, HRM is the decision-maker). The request must be made within five business days, and may present additional information in support of the request. The employee or applicant has the right to file an EEO complaint and may have rights to pursue an MSPB appeal or file a grievance. Seeking reconsideration does not affect the time limits for initiating statutory claims (e.g., EEO, MSPB) or grievance procedures. **If an individual wishes to file an EEO complaint, or pursue MSPB or union grievance procedures, s/he must take the following steps:**

- For an EEO complaint pursuant to 29 C.F.R. § 1614, contact OPIC's EEO Counselor *within 45 calendar days from the date of the notice of denial of reasonable accommodation*; or

- For a collective bargaining claim, file a written grievance *within 15 work days* in accordance with the provisions of the Collective Bargaining Agreement; or
- For an administrative grievance of a non-bargaining unit employee or applicant, file a written grievance *within 10 calendar days* in accordance with the provisions of the Administrative Grievance Procedure (OPIC Management Directive 94-24); or
- Initiate an appeal to the Merit Systems Protection Board *within 30 calendar days of an appealable adverse action* as defined in 5 C.F.R. § 1201.3.

What is "reassignment?"

Reassignment is 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. Reassignments are made only to vacant positions and to employees who are qualified for the new position. If the employee is qualified for the position, s/he will be reassigned to the job and will not have to compete for it. A promotion is not a form of reasonable accommodation.

How long does the decision-making process take?

Once a request is made, OPIC will process the request for reasonable accommodation and provide accommodation, where appropriate, in as short a time frame as reasonably possible. OPIC will expedite processing of reasonable accommodation requests in appropriate cases (e.g., to enable an individual to apply for a job or to participate in a specific agency activity that is scheduled to occur shortly). The time necessary to process a request will depend on the nature of the accommodation requested and whether it is necessary to obtain supporting information.

Unless there are extenuating circumstances, requests for accommodations will be processed and the accommodation, if granted, provided in no more than 15 business days from the date the decision-maker receives the request. If it is necessary to obtain medical information regarding the request, the 15-day period is frozen until OPIC receives the relevant information. Upon receipt of the medical information, a decision will be made and the accommodation, if granted, will be provided within 15 business days. Extenuating circumstances are those that could not reasonably have been anticipated or avoided in advance of the request for accommodation (e.g., the purchase of equipment will take longer than 15 business days). Where extenuating circumstances are present, the decision-maker will notify the individual of the reason for the delay and the approximate date by which a decision, or provision of the reasonable accommodation, is expected. If there is a delay in providing an accommodation that has been approved, OPIC may take temporary measures to provide assistance.

Can you tell me more about CAP?

CAP is a Defense Department program that receives funding to provide **assistive technology accommodations** and services to persons with disabilities who are employed in small Federal agencies. There is no cost to OPIC or to the employee for the services or the purchase of technology. Frequently requested accommodation solutions include (but are not limited to):

Dexterity Disabilities: Alternative keyboards, word prediction software, speech recognition systems, pointing devices, hands-free computer interface systems and keyguards.

Blind/Low Vision: Magnification systems, speech and Braille output systems, scanner/reader systems, Braille embossers, and Braille notetakers.

Deaf/Hard of Hearing: Teletypewriters (TTYs), PC-TTY modems, telephone amplifiers, assistive listening systems, and visual signaling devices.

Cognitive/Learning Disabilities: Talking dictionaries and scanner/reader systems.

Communication Disabilities: Electronic communication aids and speech output systems to augment communications.

CAPTEC - CAP's Technology Evaluation Center - is available to employees and managers to help them choose appropriate technology to create accessible work environments. The Center will demonstrate various solutions so that employees and managers can evaluate what best meets their needs. The HRS will make all arrangements for CAPTEC visits.

What can't OPIC and CAP provide?

Government funds cannot be used for personal devices (such as hearing aids) and technology or other items used in your home. The only exception to the home use prohibition is for a qualified employee whose medical condition requires that they work from home and when the accommodation is considered "reasonable."

Hardware, software, devices, furniture and other items purchased by OPIC or CAP are the property of OPIC. The employee or applicant may not use the accommodation for a purpose or in a manner for which it was not originally intended without the expressed approval of OPIC.

What information does OPIC track with regard to reasonable accommodation?

OPIC's system of recordkeeping tracks the processing of requests for reasonable accommodation. OPIC is able to identify the following information, the:

- number and types of reasonable accommodations that have been requested in the application process and whether those requests have been granted or denied;
- jobs (occupational series, grade level, and agency component) for which reasonable accommodations have been requested;
- types of reasonable accommodations that have been requested for each of those jobs;
- 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;
- 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;
- reasons for denial of requests for reasonable accommodation;
- amount of time taken to process each request for reasonable accommodation; and
- sources of technical assistance that have been consulted in trying to identify possible reasonable accommodations.

OPIC maintains records related to a particular individual who has requested a reasonable accommodation for the duration of that individual's employment. OPIC maintains cumulative records used to track its performance with regard to reasonable accommodation for at least three years.

Who will see medical information about me?

Under the Rehabilitation Act, and Americans with Disabilities Act medical information obtained in connection with the reasonable accommodation process must be kept confidential. OPIC is entitled to know that an employee or applicant has a covered disability that requires reasonable accommodation. If the medical information is not already provided, HRM will request medical information in order to process the request and will maintain a confidential file in order to track and report information. Unless required under the law or by regulation, reports will not include the name of the individual requesting accommodation.

Medical information will be disclosed to the decision-maker and to supervisors and managers who need to know (often disclosed information to supervisors and managers does not include medical diagnosis and history - rather, it describes necessary restrictions on the work or duties of the employee and the necessary accommodations). The information also may be disclosed to first-aid and safety personnel, when appropriate (e.g., if the disability might require emergency treatment or special evacuation procedures), to government officials investigating OPIC's compliance with the Rehabilitation Act, and to workers' compensation offices or insurance carriers under certain circumstances.

Where do I get more information?

Additional information is available in HRM or can be found below.

Selected Reasonable Accommodation Resources
U.S. Equal Employment Opportunity Commission
1-800-669-3362 (Voice)
1-800-800-3302 (TT)

The EEOC's Publication Center has many free documents on the Title I employment provisions of the ADA, including the statute, 42 U.S.C. § 12101 et seq., and the regulations, 29 C.F.R. § 1630. In addition, the EEOC has published a great deal of basic information about reasonable accommodation and undue hardship. The three 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;
- (2) *Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disability Act*, 8 FEP Manual 405:7601 (1999); and
- (3) *A Technical Assistance Manual on the Employment Provisions (Title I) of the Americans with Disabilities Act*, 8 FEP Manual (BNA) 405:6981, 6998-7018 (1992) (*Technical Assistance Manual*). The *Technical Assistance Manual* includes a 200-page Resource Directory, including Federal and state agencies, and disability organizations that can provide assistance in identifying and locating reasonable accommodations.

The EEOC also has discussed issues involving reasonable accommodation in the following guidance and documents:

(1) *Enforcement Guidance: Preemployment Disability-Related Questions and Medical Examinations* at 5, 6-8, 20, 21-22, 8 FEP Manual (BNA) 405:7191, 7192-94, 7201 (1995);

(2) *Enforcement Guidance: Workers' Compensations and the ADA* at 15-20, 8 FEP Manual (BNA) 405:7391, 7398-7401 (1996);

(3) *Enforcement Guidance: The Americans with Disabilities Act and Psychiatric Disabilities* at 19-28, 8 FEP Manual (BNA) 405:7461, 7470-76 (1997);

(4) *Fact Sheet on the Family and Medical Leave Act, the Americans with Disabilities Act, and Title VII of the Civil Rights Act of 1964* at 6-9, 8 FEP Manual (BNA) 405:7371, 7374-76 (1996); and

(5) *Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act* at 20, 22, 23, 24-5, 8 FEP Manual (BNA) 405:7701, 7711, 7712-14, 7715-16 (2000).

Finally, the EEOC has a poster that employers and labor unions may use to fulfill the ADA's posting requirement.

All of the above-listed documents, with the exception of the *Technical Assistance Manual* and the poster, are also available through the Internet at EEOC's web site/www.eeoc.gov. All of these documents provide guidance that applies to Federal agencies through the Rehabilitation Act of 1973, 29 U.S.C. § 791.

Job Accommodation Network (JAN)

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

A service of the President's Committee on Employment of People with Disabilities. JAN can provide information, free-of-charge, about many types of reasonable accommodations.

ADA Disability and Business Technical Assistance Centers (DBTACs)

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

The DBTACs consist of 10 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 reasonable accommodations.

Registry of Interpreters for the Deaf

(301) 608-0050 (Voice/TT)

The Registry offers information on locating and using interpreters and transliteration services.

RESNA Technical Assistance Project

(703) 524-6686 (Voice) (703) 524-6639 (TT)

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 data bases 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.