



# Procedures for Providing Reasonable Accommodation For Individuals with Disabilities

June 2020



# Reasonable Accommodation Procedures

## Introduction

The Smithsonian Institution is committed to the provision of reasonable accommodation for qualified employees and applicants with disabilities unless to do so would cause undue hardship. In addition, requests for personal assistance services (PAS) for individuals with targeted disabilities will be processed according to these procedures.

Reasonable accommodation will be provided in a prompt, fair, and efficient manner. The Smithsonian may take steps beyond those required by these reasonable accommodation procedures and grant an accommodation even though the Institution may not be legally required to do so, on a case-by-case basis. Therefore, the voluntary approval of an accommodation request does not necessarily constitute a determination by the Institution that an employee or applicant for employment is legally entitled to an accommodation under Section 501 of the Rehabilitation Act.

These procedures are intended to improve internal management and do not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the Smithsonian Institution, its officers, its employees, or any person. The procedures provide guidance and exceptions may occur based upon the circumstances of a particular case. These procedures and attachments will be provided to employees, affiliated persons, and applicants in written and accessible formats that meets the individual's particular need (e.g., braille, large print, etc.) upon request. An accessible format is a format, including **The policies and procedures in this document do not cover modifications for disabilities or medical conditions of family members who are not employees, affiliated persons, or applicants.**

## Scope

These procedures align with Smithsonian Directive 214, *Equal Employment Opportunity* (SD 214) and its associated *Equal Opportunity Handbook*. The provisions of this document apply to all federal and trust employees and applicants for employment at the Smithsonian Institution. In addition, the Smithsonian strives to provide reasonable accommodations to all affiliated persons (e.g., Interns, Research Associates, Fellows, and Volunteers). For the purposes of these procedures, affiliated persons should follow the procedures identified for employees (with the exception of reassignment guidelines).

## Authorities

The following laws, regulations, and directives prohibit discrimination based on disability:

- ⇒ [Sections 501 and 505 of the Rehabilitation Act of 1973, as amended](#): This law prohibits discrimination against a qualified person with a disability in the federal Government. It also requires the Smithsonian to provide reasonable accommodation to qualified employees and applicants with disabilities. This law also requires the Smithsonian to engage in affirmative action for the hiring and advancement of individuals with disabilities.
- ⇒ [Architectural Barriers Act of 1968, as amended](#): This law requires buildings and facilities designed, built, altered, or leased with federal funds to be accessible to and usable by individuals with disabilities.
- ⇒ [Title II of the Genetic Information Nondiscrimination Act of 2008](#): This law makes it illegal to discriminate against employees or applicants because of genetic information, which includes information about an individual's genetic tests and the genetic tests of an individual's family members, as well as information about any disease, disorder or condition of an individual's family members (i.e., an individual's family medical history).
- ⇒ [Section 29 of the Code of Federal Regulations \(CFR\), Part 1614](#): This regulation provides the framework for agencies' equal employment opportunity (EEO) programs, including the processing of complaints of employment discrimination. It also establishes the procedures for developing an EEO counseling system.
- ⇒ [29 CFR Part 1630](#): This regulation implements the provisions of the Americans with Disabilities Act and the nondiscrimination requirements of Section 501 of the Rehabilitation Act.
- ⇒ [EEOC Management Directive \(MD\) 110](#): This directive establishes procedures for processing federal-sector complaints of employment discrimination.

## Authorities (cont.)

- ⇒ [EEOC MD 715](#): This omnibus directive requires agencies to move toward Model EEO Program Status by establishing and reporting on criteria for six essential elements: Demonstrated Commitment; Integration of EEO in the Strategic Mission; Management/Program Accountability; Proactive Prevention of Unlawful Discrimination; Efficiency in EEO Complaints Administration; and Responsiveness/Legal Compliance.
- ⇒ [Smithsonian Directive 214 \(SD 214\), Equal Employment Opportunity](#): This document provides policies for complying with federal mandates and ensuring equal employment opportunity (EEO) for employees of the Smithsonian Institution as well as for affiliated persons who do work for the Smithsonian in a status other than that of employee.

## Definition of Key Terms

**Essential Functions:** The 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 or the function is cited as part of a critical element in the individual's Performance Plan. 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 they reflect the job as actually performed, and not simply the components of a generic position description.

**Individual with a Disability:** A person is considered to have a disability if they: (1) have a physical or mental impairment that substantially limits a major life activity; (2) have a record of a substantially limiting impairment; or (3) is regarded as having a substantially limiting impairment. A major life activity is a function that the average person in the general population can perform with little or no difficulty. Major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working. Major life activities may also include the operation of a major bodily function, such as functions of the immune system, special sense organs and skin, normal cell growth, and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system.

## Definition of Key Terms (cont.)

**Interactive Process:** To determine the appropriate reasonable accommodation it may be necessary for the Smithsonian to initiate an informal, interactive process with the individual with a disability in need of the accommodation. This process should identify the precise limitations resulting from the disability and potential reasonable accommodations that could overcome those limitations.

**Personal Assistance Services (PAS):** Assistance with performing activities of daily living that an individual would typically perform if they did not have a disability, and that is not otherwise required as a reasonable accommodation, including, for example, assistance with removing and putting on clothing, eating, and using the restroom. PAS may be provided during work hours and job-related travel for individuals with targeted disabilities. PAS must be performed by a personal assistance provider. Personal assistance providers may provide services to more than one individual and providers may perform tasks unrelated to PAS but only to the extent that doing so does not result in failure to provide PAS to individuals in a timely manner.

**Qualified Individual with a Disability:** An individual with a disability is qualified if (1) they satisfy the requisite skill, experience, education, and other job-related requirements of the position, and (2) they can perform the essential functions of the position, with or without reasonable accommodation.

**Reasonable Accommodation:** Any change in the work environment or in the way things are customarily done that enables a qualified individual with a disability to enjoy equal employment opportunities. Examples include, but are not limited to, making existing facilities used by employees readily accessible to and usable by individuals with disabilities, the acquisition or modification of equipment or devices, job restructuring, the provision of qualified readers or interpreters, reassignment, and other similar accommodations for individuals with disabilities.

**Undue Hardship:** The Smithsonian does not have to provide a particular accommodation if the specific accommodation causes significant difficulty or expense to the Institution. The determination of undue hardship is always made on a case-by-case basis, considering factors that include the nature and cost of the accommodation needed and the impact of the accommodation on the operations of the unit or program. See Section VIII for additional information.

## Responsible Offices and Staff

**Office of Equal Employment and Supplier Diversity (OEESD)** monitors the Smithsonian's efforts to ensure equal opportunity in hiring, advancement, and other personnel actions among employees and applicants with disabilities and oversees the implementation of these procedures. To this end, the Reasonable Accommodation Coordinator in OEESD assists managers, supervisors, and other Smithsonian staff to provide effective reasonable accommodations to individuals with disabilities. In addition, OEESD staff report on the Institution's provision of reasonable accommodations and work with all parties to process and attempt to resolve complaints of discrimination on the basis of disability.

**Office of Human Resources (OHR)** provides assistance to managers, supervisors, and applicants in coordination with OEESD to implement reasonable accommodations, including reassignment for individuals with disabilities in accordance with federal regulations. OHR also handles requests for accommodation from applicants with assistance from the Reasonable Accommodation Coordinator and/or the selecting official.

**Office of Safety, Health, and Environmental Management through its division of Occupational Health Services (OHS)** receives and maintains medical information that is pertinent to requests for accommodation. OHS reviews employees' medical information from employees' health care providers to identify the nature, severity, and duration of the individual's impairment, the activity or activities that the impairment limits, the extent to which the impairment limits the individual's ability to perform the activities, and how the requested accommodation may assist the employee. OHS communicates directly with medical providers to clarify information when information is inadequate or ambiguous when a written authorization for release of medical information is provided. Upon request by OEESD or OGC, OHS provides medical documentation (including diagnosis) provided by employees' medical providers to facilitate reviews of requests for accommodation. OHS does not make legal determinations, such as whether an employee is a qualified individual with a disability under the Rehabilitation Act and therefore entitled to reasonable accommodation.

## Responsible Offices and Staff (cont.)

**Office of Planning, Design and Construction** provides leadership for all Smithsonian facility programs as outlined in [SD 410, Facility Construction and Improvement Projects](#). This leadership includes planning, budgeting for, designing, constructing, and maintaining facilities that are accessible to people with disabilities.

**Office of the Chief Information Officer (OCIO)** is responsible for ensuring that electronic data and information technology are readily accessible to, and usable by, persons with disabilities.

**Access Smithsonian** monitors progress in achieving accessibility in Smithsonian public programs; and assists in the accommodation of employees when physical barriers to facilities exist. (**Note:** Guidelines for Access Smithsonian are contained in [SD 215, Accessibility for People with Disabilities](#).)

**Responsible Officials** are responsible for making reasonable accommodations to the known physical or mental limitations of a qualified person with a disability upon request. These officials also deny the accommodation and document undue hardship using the guidance in Section XIV when appropriate. **Requests for accommodation from employees will be decided by the requesting employee's immediate supervisor (unless management identifies another official in writing).** Responsible Officials are usually the supervisors of employees who request accommodations. To this end, they should communicate, early in the interactive process and periodically throughout the process, with individuals who have requested a reasonable accommodation. Responsible officials may coordinate requests for accommodations with OEESD, OHR, unit HR Liaisons, and/or OGC. They should send information to OEESD for tracking timeframes and outcomes when OEESD did not provide assistance during the process.

**Units** sponsoring a meeting, training, or program are responsible for providing and funding accommodations related to the unit's events.

## Requests for Accommodation

An individual may request a reasonable accommodation orally or in writing at any time. The individual does not need to have a particular accommodation in mind before making a request. A request does not have to include any special words, such as "reasonable accommodation," "disability," or "Rehabilitation Act."

### Requests for Accommodation (cont.)

An employee may make or submit a request to the first-line supervisor, another supervisor or manager in the immediate chain of command, or the Reasonable Accommodation Coordinator. An employee may also provide medical documentation to Occupational Health Services. An applicant may make or submit a request to the Human Resources Specialist responsible for the position, the selecting official of the position, or the Reasonable Accommodation Coordinator. If an approved accommodation is needed on a recurring basis, the employee needs only to provide notice when a subsequent need arises.

Though not a requirement to initiate the process, employees seeking an accommodation are asked to follow up requests with a written confirmation, such as email. Written confirmation enhances communication and facilitates record-keeping of requests for accommodation. The Smithsonian will begin processing the request as soon as it is made, whether or not written confirmation has been provided.

A family member, health professional, or other representative may request an accommodation on behalf of an employee or applicant (however the discussions about accommodation will always be with the employee unless they are incapacitated and cannot participate adequately). The request should be made to the same person(s) to whom the employee or applicant would make the request. Any Smithsonian employee or applicant may consult the Reasonable Accommodation Coordinator in OEESD for further information or assistance with requesting or processing a request for accommodation.

### Recognizing Requests for Reasonable Accommodations

An employee's request for reasonable accommodation may include a request for a change in policy, practice, work modification, or other assistance that relates to the employee's employment because of his or her medical condition. Supervisors are often the first people employees contact when making requests for accommodation. An applicant's request for reasonable accommodation may include a request for a change in the interview process or location, or other assistance because of their medical condition. To assist in recognizing a request for an accommodation, the Deciding Official should consider the following questions:

- ⇒ Is the employee talking about some type of medical condition that is impacting their work?
- ⇒ Has the employee mentioned some sort of physical/intellectual/psychiatric challenge that is impacting their work?

### Recognizing Requests for Reasonable Accommodations (cont.)

- ⇒ Is the employee requesting an adjustment or change to the workplace?
- ⇒ Has the employee openly disclosed a disability, medical condition, or medication?
- ⇒ Has the employee stated that they need assistance performing a job function?
- ⇒ Has a family member, friend, healthcare provider, or other representative requested an accommodation on their behalf?
- ⇒ Is the applicant talking about some type of medical condition that impacts their ability to attend the interview where it is currently held or how it is currently structured?
- ⇒ Has the applicant requested an adjustment or change to the interview location or situation?

### The Interactive Process: Selecting a Reasonable Accommodation

The individual requesting the accommodation and the Responsible Official should talk to each other about the request, the process for determining whether an accommodation will be provided, and potential accommodations. Communication is a priority throughout the entire process. The Responsible Official will have the principal responsibility for identifying possible accommodations. They will take a proactive approach in searching out and considering possible accommodations, including consulting appropriate resources for assistance. The employee (and/or the employee's representative) should also participate to the extent possible in helping to identify an effective accommodation. Resources that are available to help both the Responsible Official and the individual requesting the accommodation to identify possible accommodations are listed in the Appendix. The Reasonable Accommodation Coordinator is also available to provide assistance.

### The Interactive Process: Selecting a Reasonable Accommodation (cont.)

As an initial step, the Responsible Official should contact the Reasonable Accommodation Coordinator to receive guidance and assistance in the accommodations process. The Responsible Official should (1) explain to the applicant or employee that they will be making the decision on the request, and (2) describe what will happen in the processing of the request. This initial discussion should happen as soon as possible. When a request for accommodation is made by a third party, the Responsible Official should, if possible, confirm with the individual with a disability that they, in fact, want an accommodation before proceeding. It may not be possible to confirm the request if the employee has, for example, been hospitalized in an acute condition. In this situation, the Smithsonian will process the third party's request and will consult directly with the individual needing the accommodation as soon as it is practicable.

Ongoing communication is particularly important when the specific limitation, problem, or barrier is unclear, when an effective accommodation is not obvious, or when the parties are considering different possible accommodations. The Reasonable Accommodation Coordinator may facilitate these discussions. Any Smithsonian official who receives information in connection with a request for accommodation may share information connected with that request with other agency officials only when the agency officials need the information in order to make determinations on an accommodation request or provide advice on the handling of such requests. (See Section XI for specific guidelines governing the confidentiality of medical information.) The Responsible Official makes the final determination of a reasonable accommodation. The Smithsonian does not have to provide the accommodation that was initially requested; however, the accommodation must allow the employee to perform the essential functions of the job.

### Funding a Reasonable Accommodation

Units are responsible for funding reasonable accommodations for their employees. The unit sponsoring a meeting, training, or program is responsible for providing and funding accommodations related to its event. When internal funding is not available, the Smithsonian Central Accommodation Fund is available to provide assistance to units that are unable to budget in advance for the requested accommodation. Responsible Officials should contact the Reasonable Accommodations Coordinator to request assistance with this fund. Units may also submit a written request for additional funds to the Under Secretary's office to which the Unit reports.

### Funding a Reasonable Accommodation (cont.)

If a Responsible Official believes they are unable to accommodate, they must contact the OEESD before denying the employee's request for accommodation. All determinations of undue hardship will be reviewed by OEESD in consultation with OGC before notification is sent to the employee. If the requested accommodation constitutes an undue hardship, the Responsible Official and the individual with a disability must attempt to identify another alternative that would not impose such a hardship. In addition, if the cost of an accommodation would impose an undue hardship, the individual with a disability will be given the option of providing an accommodation or paying that portion of the costs that constitutes an undue hardship.

### Reassignment

Reassignment will only be considered for employees (not applicants) if no reasonable accommodations are available that will enable the individual to perform their current job, or if the only effective accommodation would cause undue hardship. The Smithsonian must consider reassignment to a vacant, funded position that is equivalent to the employee's current job in terms of pay, status, and other relevant factors for which the employee is qualified with or without reasonable accommodation. Reassignment means that an employee may be placed in a vacant, funded position for which the individual is qualified, without having to compete for that job. The Smithsonian is not obligated to create a position for the purpose of reassignment, and reassignment does not extend the probationary period or change the tenure status. Positions at a higher grade level or with a higher promotion potential than currently held will not be considered for non-competitive reassignment as a reasonable accommodation, although employees seeking reasonable accommodation may choose to apply for higher-graded positions through the competitive hiring process. *Note: The inability to work for a particular supervisor is not a disability.*

The Office of Human Resources manages the reassignment process. In considering whether there are positions available for reassignment without competition, OHR will work with the employing unit's Human Resources Liaison, the Responsible Official (e.g., supervisor), the employee needing reassignment, and the Reasonable Accommodation Coordinator as appropriate. Vacant, funded positions that have not yet been advertised, as well as positions that are no longer being advertised but for which no hiring decision has yet been made, should be reviewed as appropriate.

### Reassignment (cont.)

The process will include the following:

- ⇒ The unit that currently employs the employee (i.e., museum research institute, or office) should review all vacant, funded positions in coordination with OHR. If the employing unit identifies a position at a lower grade level, it must be kept vacant until the Office Human Resources conducts an Institution-wide search for positions at employee's current grade level.
- ⇒ If there is no vacant, grade-equivalent position in the employing unit, OHR conducts an Institution-wide search for positions for 60 days.
- ⇒ Federal employees are eligible for federal vacancies. To be reassigned to trust vacancies, federal employees must choose to resign or retire (if eligible) from their federal positions. Trust employees are eligible only for trust vacancies.
- ⇒ OHR will work with the Responsible Official to notify the employee of a reassignment offer. Once a reassignment offer has been made, the employee has **up to 5 business days** to accept or decline the offer.
- ⇒ If no vacant positions for which the employee is qualified are available, OHR will work with the Responsible Official to issue the employee a proposal letter explaining why reassignment as a reasonable accommodation could not be provided.
- ⇒ OHR will maintain a record of the vacancy search being conducted.

OHR may ask the employee to update their resume or provide a brief description of current skills and accomplishments. [Smithsonian Directive 212, Chapter 531, Pay Setting Under the General Schedule](#), provides pay retention if the employee is reassigned to lower-graded position pursuant to the Rehabilitation Act or pursuant to 5 CFR 353.301 due to a compensable injury." Reassignment may be made to a vacant position outside of the employee's commuting area if the employee is willing to relocate. As with other transfers not required by management, SI will not pay for the employee's relocation costs.

### Requests for Medical Information

The Smithsonian is entitled to know that an employee or applicant is an individual with a disability under the Rehabilitation Act. In some cases, the disability and need for accommodation will be obvious or the disability and need for accommodation may already be known. Otherwise, the Smithsonian, through the supervisor, may require that the individual provide documentation about his or her mental or physical impairment and how that impairment may limit major life activities. The Responsible Official, with assistance from their unit HR Liaison or OEESD, will request documentation regarding impairment(s) and any limitations on major life activities from the physician, psychiatrist, or other appropriate medical practitioner(s). This information must be provided at the individual's expense before the Institution considers providing an accommodation. The Smithsonian may also require that an examination be conducted by the Smithsonian's designated physician at the Institution's expense.

Requests for medical information describe the nature of the job, the essential functions the individual is expected to perform, and any other relevant information. A copy of the position description is attached to, and referenced in, the request. Medical documentation must be returned to OHS (not the supervisor). The Smithsonian has the right to request relevant supplemental medical information if the medical documentation submitted does not clearly explain the nature of the disability, or the need for reasonable accommodation, or does not otherwise clarify how the requested accommodation will assist the employee to perform the essential functions of the job or to enjoy the benefits and privileges of the workplace or, in the case of an applicant, assist them with the application process, then OHS may consult with the medical practitioner to clarify information. The Smithsonian has the right to have medical information reviewed by a medical expert of the Institution's choosing at the Institution's expense. When requested by OEESD or OGC, OHS will disclose the requested medical information and documentation (including diagnosis and prognosis) to facilitate the legal review of the request.

The Genetic Information Nondisclosure Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, employees and their medical providers should not provide any genetic information when responding to requests for medical information.

## Requests for Medical Information (cont.)

"Genetic Information," as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services. See 29 C.F.R. 1635.8(b)(1)(i)(B).

**The failure to provide appropriate documentation or to cooperate in the Smithsonian's efforts to obtain such documentation can result in the denial of a requested accommodation.**

## Confidentiality Requirements Regarding Medical Information Obtained in the Reasonable Accommodation Process

OHS maintains custody of all medical records and responds to all requests for disclosure of the records obtained during the processing of a request for accommodation. Any Smithsonian employee who receives or obtains medical information during the reasonable accommodation process must keep that information confidential. All medical information must be kept in files separate from the individual's personnel file. Other than to OEESD or OGC, this information may be disclosed only as follows:

- ⇒ Supervisors or selecting officials involved in the selection process or responsible for affirmative action may be informed that an applicant is eligible under special appointing authority for individuals with disabilities;
- ⇒ Supervisors, LER, and unit HR liaisons may be informed of restrictions on work or duties and accommodations as appropriate;
- ⇒ Emergency and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; an
- ⇒ Government officials investigating compliance with laws, regulations, and instructions relevant to equal employment opportunity and affirmative action for individuals with disabilities shall be provided information upon request.

Whenever medical information is disclosed, the recipients must be informed of the confidentiality requirements.

## Granting an Accommodation Request

When the Responsible Official determines that a reasonable accommodation will be provided, the final decision should be communicated to the individual in writing with a copy to the Reasonable Accommodation Coordinator. If the accommodation cannot be provided immediately, the Responsible Official must inform the individual of the projected time frame for providing the accommodation.

## Denial of Accommodation Request

When a determination has been made that a request for accommodation will be denied, the Responsible Official must inform the individual who requested the accommodation in writing using a memorandum, email, or the "Denial of Request" form. The explanation for the denial should be written in plain language, clearly stating the specific reasons for the denial. As appropriate, the denial should state the following:

- ⇒ The reasons the accommodation would not be effective.
- ⇒ The reason that providing the accommodation would result in undue hardship. **Before deciding that an accommodation request will be denied, the Responsible Official must consult with the OEESD and explore whether other effective accommodations exist that would not impose undue hardship.**
- ⇒ Medical documentation is inadequate to establish that the individual has a disability under the Rehabilitation Act and/or needs a reasonable accommodation.
- ⇒ The accommodation would require the removal of an essential function.
- ⇒ The requested accommodation would require the lowering of a performance or production standard.

The written notice of denial also informs the individual that they have the right to file an EEO complaint and may have rights to pursue a grievance. The notice also explains the Smithsonian's procedures for informal dispute resolution.

## Timeframes for Processing Requests and Providing Reasonable Accommodations

The Smithsonian will process requests for accommodation and provide reasonable accommodations in as short a time frame as possible. Timeframes begin to run from the date of a written or oral request. 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. The time frames below identify the maximum amounts of time to provide reasonable accommodation or deny the request. When reasonable accommodation can be provided in less than the maximum time frame, failure to provide accommodation in a prompt manner may result in a violation of the Rehabilitation Act. Responsible Officials should expedite the processing of requests for reasonable accommodation that are needed sooner than the maximum allowable time frames identified in these procedures. Smithsonian officials who receive written or oral requests for accommodation must refer the request to the designated Responsible Official as soon as possible, but no more 7 calendar days to allow timely processing of the request. Responsible Officials should try to make decisions sooner whenever possible. When all the facts and circumstances known to the Smithsonian make it reasonably likely that an individual will be entitled to a reasonable accommodation, but the accommodation cannot be provided immediately, the agency shall provide an interim accommodation that allows the individual to perform some or all of the essential functions of their job, if it is possible to do so without imposing undue hardship

All Responsible Officials must have designated back-ups to receive and process requests for accommodation and provide reasonable accommodations when the Responsible Official is unavailable. Responsible Officials should ensure that individuals know who have been designated as back-up. The time frames will not be suspended or extended because of the unavailability of a Responsible Official.

**Fewer than 30 Calendar Days:** In certain circumstances, Responsible Officials should move as quickly as possible to make decisions. Examples:

- ⇒ For applicants, depending on the timetable for receiving applications, conducting interviews, taking tests, and making hiring decisions, there may be a need to expedite a request for accommodation to ensure that an applicant with a disability has an equal opportunity to apply for a job.
- ⇒ To enable an employee to attend a meeting scheduled to occur shortly, such as when an employee may need a sign language interpreter for a meeting scheduled to take place in 3 days.

## Timeframes for Processing Requests and Providing Reasonable Accommodations (cont.)

**30 Calendar Days:** If a request for an accommodation can be processed without supporting medical information and there are no extenuating circumstances (see below), the request shall be processed within 30 calendar days from the date the Responsible Official receives the request (orally or in writing). Such processing includes the provision of the accommodation, the identification of another reasonable accommodation (as a result of the interactive process), or a written denial of the request (see Section XIV). These actions should be taken in consultation with the Reasonable Accommodation Coordinator and/or OGC. Since Responsible Officials may need the full 30 calendar days to engage in the interactive process and collect all relevant information about possible accommodations, they should not delay beginning this process. Failure to meet this time frame solely because a Responsible Official delayed processing the request is not an extenuating circumstance. This time frame includes requests using the Computer/Electronic Accommodations Program (CAP). Example:

- ⇒ A supervisor distributes detailed agendas at the beginning of each staff meeting. An employee with a learning disability asks that the agenda be distributed ahead of time because the disability makes it difficult to read and he needs more time to prepare.

**30 Calendar Days Plus Time for Medical Documentation:** If medical information is needed to determine whether the requesting applicant or employee is an individual with a disability under the Rehabilitation Act and/or to determine a reasonable accommodation, the Responsible Official will give the employee a "Request for Medical Information" and an "Authorization for Release of Medical Information" within 14 calendar days of the request for accommodation. (Copies are attached. Please contact your supervisor or the Reasonable Accommodations Coordinated for alternate formats.) The employee should ensure that the medical documentation is received by OHS within 15 calendar days.

Once medical documentation is requested by the Responsible Official, the time period is stayed until medical documentation is received in OHS. OHS forwards restrictions and recommendations for accommodations to the Responsible Official, who should make a decision as soon as possible but no more than 14 calendar days after receipt of this information.

## Timeframes for Processing Requests and Providing Reasonable Accommodations (cont.)

### 30 Calendar Days Plus Time for Medical Documentation

**(cont):** Examples of accommodation requests for which medical documentation may be necessary include:

- ⇒ An employee with diabetes who sits in an open area asks for four breaks a day to test her blood sugar levels so that she may do these tests in private.
- ⇒ An employee who takes anti-depressants which make it hard for her to arrive at the office by 9:00 AM requests an adjustment to her schedule.

**Extenuating Circumstances:** These are factors that could not reasonably have been anticipated or avoided in advance of the request for accommodation. When extenuating circumstances are present, the time for processing a request for accommodation and providing a reasonable accommodation will be extended as necessary. Extensions based on extenuating circumstances should be limited to situations in which they are strictly necessary and must be discussed with the Reasonable Accommodation Coordinator in advance. All Smithsonian staff are expected to act as quickly as reasonably possible in processing requests for accommodations and providing reasonable accommodations. The following are examples of extenuating circumstances:

- ⇒ The purchase of equipment may take longer than 30 calendar days because of contracting requirements under the Federal Acquisition Regulation.
- ⇒ Equipment is back-ordered or the vendor cannot promptly supply the needed goods or services and another vendor is not immediately available.
- ⇒ The employee with a disability needs to try working with equipment on a trial basis to ensure that it is effective.
- ⇒ Services must be contracted for an accommodation that involves the removal of architectural barriers.

## Timeframes for Processing Requests and Providing Reasonable Accommodations (cont.)

### Extenuating Circumstances (cont.):

Where extenuating circumstances are present, the Responsible Official must notify the individual of the reason for the delay and the approximate date on which a decision or provision of the reasonable accommodation is expected. Any further developments or changes should also be communicated promptly to the individual.

If there is a delay in providing an accommodation that has been approved, the Smithsonian will provide the individual with an interim accommodation that allows the individual to perform some or all of the essential functions of the job, absent undue hardship.

If a delay is attributable to the need to obtain or evaluate medical documentation and the Smithsonian has not yet determined that the individual is entitled to an accommodation, the Smithsonian may provide an accommodation on a temporary basis. In such a case, the Responsible Official will notify the individual in writing that the accommodation is being provided on a temporary basis pending a decision on the accommodation request.

Responsible Officials who approve such temporary measures are responsible for assuring that they do not take the place of a permanent reasonable accommodation and that all necessary steps to secure the permanent reasonable accommodation are being taken.

### Informal Dispute Resolution

Individuals with disabilities can request prompt reconsideration of a denial of accommodation by using the following informal dispute resolution process:

- ⇒ The employee or applicant should first ask the Responsible Official to reconsider the decision. The individual may present additional information in support of their request. The Responsible Official will respond in writing to the request for reconsideration within **seven calendar days**.
- ⇒ If the Responsible Official does not reverse the decision, the individual can ask the next-level supervisor to do so within five calendar days. The next-level supervisor will respond in writing to this request within **fourteen days**.

### Informal Dispute Resolution (cont.)

**Pursuing the informal dispute resolution procedures identified above does not satisfy the requirements of or stop the time limits for bringing a claim under the EEO complaint process and/or the MSPB or union grievance procedures. However, once one of these procedures is initiated, the informal dispute process cannot be used.**

### Formal Complaint Process

The informal dispute resolution process described above is in addition to the EEO complaint process, including mediation, and MSPB and grievance procedures available to Smithsonian employees and applicants. Denials of accommodation must be in writing and include notice that, if the individual wishes to pursue the EEO complaint process, they must do so within 45 calendar days of the receipt of the denial, even if they are also participating in the agency's informal dispute resolution process. To initiate the EEO complaint process, the individual must contact an EEO counselor in OEESD within 45 calendar days from the date of receipt of the written notice of denial.

### Information Tracking and Reporting

The Reasonable Accommodation Coordinator in OEESD will track and report information on the provision of reasonable accommodations throughout the Smithsonian in consultation with Responsible Officials. To track requests for accommodation, employees and applicants may contact the Responsible Official or the Reasonable Accommodations Coordinator.

The Reasonable Accommodation Coordinator will maintain these records for the longer of the employee's tenure with the Smithsonian or three years. The Reasonable Accommodation Coordinator will prepare an annual report to evaluate the Institution's performance in responding to requests for accommodation. The report will contain the following information:

- ⇒ the number of accommodations requested by employees and applicants;
- ⇒ whether those requests have been granted or denied;
- ⇒ the types of accommodations requested;
- ⇒ the reasons for denial of requests for accommodation;
- ⇒ the amount of time taken to process each request for accommodation; and
- ⇒ the sources of technical assistance consulted in trying to identify possible reasonable accommodations.

### Information Tracking and Reporting (cont.)

In addition, the report will provide a qualitative assessment of the Smithsonian's reasonable accommodation program, including any recommendations for improvement of the Institution's reasonable accommodation policies and procedures.

### Reasonable Accommodation Resources

#### Smithsonian Office of Equal Employment and Supplier Diversity

[www.si.edu/oeema](http://www.si.edu/oeema)

202-633-6430 (Voice)

- ⇒ Assistance with reasonable accommodations matters; [OEESD-Accommodations@si.edu](mailto:OEESD-Accommodations@si.edu)
- ⇒ Alternative Dispute Resolution for mediation assistance in dispute resolution; [ADRinfo@si.edu](mailto:ADRinfo@si.edu)
- ⇒ SI EEO Counselor and The EEO Complaint Process for initiating an EEO Complaint; [FEO-Complaint@si.edu](mailto:FEO-Complaint@si.edu)

#### U.S. Equal Employment Opportunity Commission (EEOC)

[www.eeoc.gov](http://www.eeoc.gov)

The EEOC provides resource materials on their website, including but not limited to [EEOC Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act](#) (July 27 2000), and [EEOC Enforcement Guidance: Reasonable Accommodation and Undue Hardship Under the Americans With Disabilities Act](#) (October 17, 2002). Both documents address frequently-asked questions regarding provision of reasonable accommodation and related issues, including when and what type of medical documentation may be solicited by an agency in support of an accommodation request, the confidentiality protections applicable to accommodation requests and medical information, and the circumstances in which undue delay in providing reasonable accommodation may violate the Rehabilitation Act.

### Reasonable Accommodation Resources (cont.)

#### Computer/Electronic Accommodations Program (CAP)

[www.cap.mil](http://www.cap.mil)

703-614-8416 (Voice)

571-384-5629 (Videophone)

Through an agreement with the Smithsonian Institution, the Department of Defense's Computer/Electronic Accommodations Program provides a wide variety of assistive technology devices and services for people with disabilities. Frequently requested accommodation solutions include videophones, captioning for training videos, print enlargers, screen readers, alternative keyboards, pointing devices, and speech recognition software. These accommodations are provided at no cost to the Smithsonian.

The *CAP Technology Evaluation Center* (CAPTEC) contains several computer workstations equipped with a wide variety of technology designed to accommodate persons with disabilities. CAPTEC is available to Smithsonian employees and their supervisors so that they can evaluate and become familiar with assistive technology and facilitate the process of choosing the appropriate equipment.

#### Job Accommodation Network (JAN)

<https://askjan.org/>

800-526-7234 (Voice)

The Job Accommodation Network (JAN) is the leading source of free, expert, and confidential guidance on workplace accommodations and disability employment issues.

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

(800) 949-4232 Voice/TTY

The DBTACs consist of 10 federally funded regional centers that provide information, training, and technical assistance on the ADA. Each center works with local businesses and disability, governmental, rehabilitation, and other professional networks to provide current ADA information and assistance. The DBTACs can provide information on reasonable accommodation and make referrals to local sources of expertise in reasonable accommodation.

#### Registry of Interpreters for the Deaf

(301) 608-0050 (Voice/TTY)

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

## Denial of Accommodation Request

Use additional sheet of paper, as necessary.

1. Name of individual requesting accommodation:

\_\_\_\_\_

2. Date accommodation was requested: \_\_\_\_\_

3. Accommodation(s) requested:

4. Request for accommodation denied because: (may check more than one):

\_\_\_\_\_ Individual not considered disabled under Rehabilitation Act

\_\_\_\_\_ Accommodation would Cause Undue Hardship

\_\_\_\_\_ Medical Documentation Inadequate

\_\_\_\_\_ Individual is Unable to Perform Essential Functions with or without Accommodation

\_\_\_\_\_ Accommodation would Require Lowering of Performance or Production standard

\_\_\_\_\_ Other (Please identify): \_\_\_\_\_

5. Detailed reason(s) for the denial of accommodation (e.g. why accommodation is ineffective or causes undue hardship):

6. To request reconsideration of this decision, an employee/applicant may take the following steps:

- ⇒ First, ask the Responsible Smithsonian Official to reconsider their denial. The Responsible Smithsonian Official should respond within 7 calendar days.
- ⇒ If individual disagrees with the reconsideration, they may ask the second level-supervisor to review the decision within 5 calendar days. A response should be provided within 14 days.

If the individual wishes to file an EEO complaint, an MSPB appeal, or a union grievance, they must take the following steps:

- ⇒ For an EEO complaint pursuant to 29 CFR 1614, contact an EEO Counselor in the Office of Equal Opportunity and Supplier Diversity within 45 calendar days from the date of this notice of denial of reasonable accommodation; or
- ⇒ A grievance may be filed in accordance with the provisions of the Collective Bargaining Agreement within 20 calendar days for AFGE or 15 working days for UFCWU.

Responsibility Smithsonian Official's Name:

\_\_\_\_\_

Responsible Smithsonian Official's Signature:

\_\_\_\_\_

Date: \_\_\_\_\_

Additional Space, if needed:

Assistance with accommodation matters contact: [OEESD-Accommodations@si.edu](mailto:OEESD-Accommodations@si.edu)

## Request for Medical Information Form from Physician

Use additional sheets of paper, as necessary.

The Genetic Information Nondisclosure Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, we are asking that you not provide any genetic information when responding to this request for medical information. 'Genetic Information' as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services. 29 C.F.R. 1635.8 (b)(1)(i)(B).

**Employee's Name:** \_\_\_\_\_

**Employee's Title:** \_\_\_\_\_

**Issued By:**  
**Supervisor's Name:** \_\_\_\_\_

**Supervisor's Name:** \_\_\_\_\_

1. What is the diagnosis and when did symptoms begin? (Please include current conditions and any impairments that are episodic or in remission if they substantially limit a major life activity when active as they relate to this request only.)

2. (a) Does the patient's condition affect major life activities (such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working)?

(b) If so, please assess the severity of the restrictions and explain how they compare to the ability of the average person in the general population to perform the activity.

3. What work restrictions or accommodations do you recommend, if any? For Security Guards, **please consider whether the employee is able to perform security and critical life-safety operations, including use of force and weapons (i.e. firearms and CPR).**

4. If you are recommending work restrictions or accommodations, are they permanent? If not, please indicate the date that you expect a return to full duty.

5. Comments:

\_\_\_\_\_  
Physician's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Physician's Typed Name

\_\_\_\_\_  
Physician's Typed Address

Smithsonian Institution  
Office of Safety and Environmental Management  
Occupational Health Services

**Authorization for Release of Medical Information for  
Requests for Accommodation to Smithsonian  
Occupational Health Services (OHS)**

I, \_\_\_\_\_ (Employee's Name),  
hereby authorize my health care providers listed below to  
provide medical documentation and information, including  
diagnosis and prognosis, related to the attached "Request  
for Medical Information" form. I understand that this  
information will be used by the Smithsonian, as necessary,  
for the purpose of determining whether I am entitled to a  
reasonable accommodation under the Rehabilitation Act of  
1973, as amended. I further authorize officials from OHS to  
contact the identified health care providers as necessary for  
this purpose. I understand that medical information will be  
maintained in accordance with the Rehabilitation Act.

My health care providers (please list name, address and  
phone number):

1.

2.

3.

4.

5.

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

Identity of individual authorizing release witnessed by:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Smithsonian Institution  
Office of Safety and Environmental Management  
Occupational Health Services

To contact OHS call the main line at  
202-633-WELL (3-9355) or  
email [OHS-MedicalReview@si.edu](mailto:OHS-MedicalReview@si.edu).