



Rural Development Disability Employment FAQs

Federal agencies are charged with being model employers of individuals with disabilities. Regulations, special hiring authorities, hiring initiatives, and executive orders have all been aimed at encouraging agencies to hire and retain employees with disabilities in increasing numbers. The Rehabilitation Act protects federal employees from disability discrimination. The law's goal is to allow qualified applicants and employees who have disabilities a fair opportunity to compete for and retain jobs. The following are frequently asked questions and answers about employing individuals with disabilities.

What is the executive order on hiring people with disabilities? How does it apply to me, in my agency?

Executive Order 13163, which became effective in July 2000, calls for Federal agencies to increase employment opportunities for individuals with disabilities employed at all levels and occupations in the Federal Government. It focuses attention on the need to hire and advance qualified individuals with disabilities within the Federal Government. Executive Order 13163 also requires each Federal agency to have a plan as to how it will increase the opportunities for individuals to be hired in the agency.

What are the advantages of hiring a person with a disability?

It is good business to hire from a potentially underutilized source of outstanding workers. People with disabilities represent one such resource. The practice of looking to qualified people with disabilities as a hiring resource applies equally to private and to public sector employment.

Many organizations are learning that workers with disabilities are not only meeting expectations in the workforce, but also exceed them. Employees with disabilities are helping organizations learn how to most effectively relate to customers with disabilities and their families and friends. As a bonus, both workers with and without disabilities benefit equally from a diverse work setting.

By working alongside employees with disabilities, individuals who are not disabled will become more aware about how to make the workplace and other settings more inclusive and accessible to everyone. They might consider things they had never thought of before, such as the accessibility challenges faced by people with disabilities. Employees with disabilities can also teach their coworkers about creativity and other ways to solve problems or accomplish different tasks.

Who is an individual with a disability?

An individual with a disability:

- has a physical or mental impairment that substantially limits one or more of the person's major life activities;
- has a record of such an impairment; or
- is regarded as having such impairment.



Who is a qualified individual with a disability?

A qualified individual with a disability has the skills, experience, education, and other requirements of the job the individual holds or desires and can perform the essential functions of the position with or without reasonable accommodation.

Who may certify a disability?

OPM expanded the types of entities from which an agency may accept proof of disability and certification of an applicant's job readiness. Agencies may accept proof and certification from a licensed medical professional (e.g., a physician or other medical professional duly certified by a State, the District of Columbia, or a U.S. territory, to practice medicine); a licensed vocational rehabilitation specialist (i.e., state or private); or any Federal agency; State agency, or agency of the District of Columbia or a U.S. territory that issues or provides disability benefits.

In order to be hired, must people with disabilities meet all the qualifications requirements for the job?

Yes, people with disabilities must meet all basic qualification requirements for the job in order to be hired, as is true for non-disabled candidates who are hired. Qualified individuals with disabilities must be able to perform the essential functions of the job with or without reasonable accommodation. For more information, please refer to the [Rehabilitation Act of 1973, as amended](#).

How are people with disabilities appointed?

People with disabilities are appointed through a number of hiring authorities for temporary (one year or less), term (more than one year up to four years), and permanent appointments. The majority of people with disabilities working for the Federal government are in the civil service and were appointed competitively. For example:

- **Competitive Appointments:** Means that the applicant applied for a vacancy announcement published by either OPM or an agency. Typically, they were then rated and ranked in comparison to the other applicants for the vacancy and referred to the selecting supervisor for consideration. The selecting supervisor then interviewed and identified which candidate he/she would hire.
- **Federal Career Intern Program.** This program is designed to help agencies recruit and attract exceptional individuals into a variety of occupations. It was created under Executive Order 13162 and is intended for positions at grade levels GS-5, 7, and 9. In general, individuals are appointed to a 2-year internship. Upon successful completion of the internships, the interns may be eligible for permanent placement within an agency. (www.opm.gov/careerintern/)
- **Veterans Appointments.** There are a number of authorities available to assist veterans who are seeking, or wish to change, Federal employment including, Veterans Recruitment Appointment (VRA), 30% or More Disabled Veterans Program, and Veterans Employment Opportunity Act (VEOA) appointments. See OPM's [FEDSHIREVETS](#)



However, there are a number of **excepted hiring authorities**, meaning competition is not required, that apply to individuals with disabilities. These hiring authorities cover: people with intellectual disabilities; people with severe physical disabilities; people with psychiatric disabilities; disabled veterans enrolled in a VA training program; and veterans determined to be 30 percent or more disabled. Consult with your human resources office to ensure that you use the best hiring strategy for your specific vacancy.

What is the appointment authority for people with disabilities?

People with disabilities are appointed under 5 CFR 213.3102(u).

What are the eligibility requirements for an applicant to be appointed under 5 CFR 213.3102(u)?

Applicants with disabilities must have an intellectual disability, a severe physical disability or a psychiatric disability; have proof of the disability; and meet all required qualifications for the position.

Is there a comprehensive list of the specific disabilities that are included (or excluded) under the new rules?

This regulation covers individuals with intellectual disabilities, severe physical disabilities, or psychiatric disabilities. The new rules do not specifically include or exclude any one particular type of disability under these three classes of disability. Different Federal programs use different operational definitions of disability, as do researchers, advocacy groups, and other interested parties. Variations occur because many groups define disability for different purposes. Hiring agencies may also consult the Americans with Disabilities Act, the Rehabilitation Act of 1973, agencies such as the Department of Veterans Affairs, and State Vocational Rehabilitative Services offices for additional guidance regarding particular medical conditions.

How does a person with an intellectual disability, severe physical disability or psychiatric disability apply for Federal jobs under the new regulations?

Individuals with disabilities may be considered for excepted service positions under the 213.3102(u) appointment authority by reviewing vacancy announcements posted on www.usajobs.gov and submitting resumes for positions that are of interest to the applicant, or they may contact agency Special Placement Coordinator(s) in the agency for which they wish to work. Special Placement Coordinators are involved with the hiring, placement, and advancement of individuals with disabilities at their agency; a list of these coordinators can be found at http://apps.opm.gov/sppc_directory/. Because appointments under 5 CFR 213.3102(u) are excepted service appointments, agencies may accept resumes without posting job notices. Applicants should indicate "5 CFR 213.3102(u)" on their resumes for both application methods.

Why should agencies consider using the 5 CFR 213.3102(u) hiring authority?

Agencies should use this hiring authority for a number of good reasons:

- Individuals with disabilities are a source of excellent applicants.
- No public notice is required. This may shorten the time to hire a well-qualified candidate
- It can support an agency's Career Patterns initiative. Technological advances and growing emphasis on telework may dovetail with the needs of many applicants with disabilities.
- Agencies don't have to clear surplus employees lists prior to using the appointing authority.



What are the temporary appointment options under this regulation?

Under the new 5 CFR 213.3102(u) appointing authority, a hiring agency may make:

- Under the [5 CFR 213.3102\(u\) Schedule A appointing authority regulations](#), an agency may make a temporary appointment when:
 - The agency determines that it is necessary to observe the applicant on the job to determine whether the applicant is able or ready to perform the duties of the position. When an agency uses this option to determine an individual's job readiness, the hiring agency may convert the individual to a permanent appointment in the excepted service whenever the agency determines the individual is able to perform the duties of the position; or
 - The work is of a temporary nature.
- A temporary appointment of an individual who provides proof of a disability and certification of job readiness, when the duties of the position do not require it to be filled on a permanent basis. (Refer to 5 CFR 213.104 for the definition of temporary appointment)

What are other appointment options under the appointing authority?

Under the new 5 CFR 213.3102(u) appointing authority, a hiring agency may also, in addition to the temporary appointments identified in the question above, make:

- A time-limited appointment of an individual who provides proof of disability, when the duties of the position do not require it to be filled on a permanent basis. (Refer to 5 CFR 213.104 for the definition of time-limited appointment.)
- A permanent appointment of an individual who provides proof of disability. Note to hiring agencies: the intent of Executive Orders 12125 and 13124 is to permit these deserving individuals (upon meeting the requirements) to obtain civil service competitive status which is obtained through conversion to the competitive service rather than remaining in the excepted service.

Where can the new Excepted Service -Appointment of Persons With Disabilities And Career And Career-Conditional Employment regulation be found?

- The Office of Personnel Management (OPM) has posted it on its website at www.opm.gov/fedregis and www.opm.gov/disability.
- The Federal Register has posted the regulation on the Federal Register website at <http://origin.www.gpoaccess.gov/fr/>.
- OPM provided notification to Federal agencies through the Chief Human Capital Officer Council.



What kind of accommodations would my staff and I have to make if I did hire an individual with a disability?

Initially, start by discussing the accommodation needs with the person who has the disability. Accommodations are determined on a case-by-case basis, considering the specific needs and the existing limitations of the person you hire who has a disability.

Accommodations are also determined based on the essential functions of the job, the work environment, the effectiveness of the proposed accommodation, and any alternative means of accommodation. Some of the most common types of accommodations include, but are not limited to:

- TTYs for use with telephones by people who are deaf; hardware and software that make computers accessible to people with vision impairments or who have difficulty using their hands;
- Sign language interpreters for people who are deaf or hard of hearing or readers for people who are blind;
- Providing training and other written materials in an accessible format, such as in Braille, on audio tape, or on computer disk; and
- Physical changes, such as installing a ramp or modifying a workspace.

For more information refer to the agency's reasonable accommodation policy.

How do I find qualified people with disabilities, so that I can consider them for permanent employment opportunities?

First, contact the human resources office and your agency Disability Employment Program Manager (or equivalent). The agency may already have established recruiting and referral relationships with organizations serving people with disabilities, such as:

- State vocational rehabilitation agencies,
- [Centers for Independent Living \(CILs\)](#),
- [Department of Veterans Affairs \(VA\), Vocational Rehabilitation and Employment Service](#) website.
- Local Veterans Affairs (VA) offices,
- [EARN, the Employer Assistance Referral Network](#),
- Educational institutions serving blind or deaf individuals, and
- National disability organizations.

Federal agencies often work directly with these organizations to refer candidates for employment opportunities using the excepted appointing authorities for hiring people with disabilities. Your agency's Plan for Employment of People with Disabilities may also include good sources of qualified candidates with disabilities for your vacancies.



What is reasonable accommodation?

Reasonable accommodation is any change to a job, the work environment, or the way things are usually done that allows an individual with a disability to apply for a job, perform job functions, or enjoy equal access to benefits available to other individuals in the workplace.

Agencies are required by law to provide reasonable accommodation to qualified individuals with disabilities, unless doing so would impose an undue hardship to the agencies. In addition, Executive Order 13164 requires Federal agencies to develop written procedures for providing reasonable accommodation. For more information on reasonable accommodation, refer to the reasonable accommodation policy for the Rural Development agency and the [EEOC](#).

What are examples of a reasonable accommodation?

Reasonable accommodations that can be requested include, but are not limited to, the following:

- making existing facilities accessible;
- restructuring the job;
- utilizing part-time or modified work schedules;
- adjusting or modifying tests, training materials, or policies;
- providing qualified readers and interpreters;
- acquiring or modifying equipment; and
- reassigning an individual to a vacant position for which the employee must be qualified.

How can an individual request a reasonable accommodation?

An individual can make either an oral or written request for accommodation. To request an accommodation, an individual may use "plain English" and does not need to mention the Rehabilitation Act or "reasonable accommodation." A family member, friend, health professional, or other representative may request a reasonable accommodation on behalf of an individual with a disability. An individual with a disability may request a reasonable accommodation at any time during the application process or during the period of employment. The request for a reasonable accommodation must be made for a reason related to a medical condition.

What about alternative accommodations?

An individual who is granted a reasonable accommodation might not receive the exact form of accommodation requested. The deciding official has the discretion to identify reasonable and appropriate alternatives.

What are an individual's responsibilities?

Employees or applicants with disabilities who need reasonable accommodation are responsible for making their needs known to the appropriate official. Supervisors are responsible for properly responding to requests for accommodation from their employees. When an individual decides to request accommodation, the individual or his/her representative must let the employer know that s/he needs an adjustment or change at work for a reason related to a medical condition. The employer and the individual with a disability should engage in an informal process to clarify what the individual needs and identify the appropriate reasonable accommodation.



What happens if the disability is not obvious? When the disability and/or the need for accommodation is not obvious, the employer may ask the individual for reasonable documentation about his/her disability and functional limitations. An employer should respond expeditiously to a request for reasonable accommodation.

What is proof of disability documentation?

The following is a list of some examples of documents agencies may accept as proof of an intellectual disability, severe physical disability or psychiatric disability. Ultimately, it is the agency's choice what type(s) of documentation will be acceptable:

- Statements or letters on a physician's/medical professional's letterhead stationary.
- Statements, records or letters from a Federal Government agency that issues or provides disability benefits.
- Statements, records or letters from a State Vocational Rehabilitation Agency counselor.
- Certification from a private Vocational Rehabilitation or other Counselor that issues or provides disability benefits.

As the regulation is implemented and used by agencies, this list may grow to include other types of certification. OPM will issue additional guidance to agencies on what constitutes "appropriate documentation" on an "as needed" basis.

What if the request is denied?

All denials of reasonable accommodation requests must be made in writing, and the decision must specify the reason for the denial. The denial should be written in plain language, clearly stating the specific reasons for the denial. After denying a request, the individual must be informed that s/he has the right to file an EEO complaint, has the right to pursue any applicable union grievance and informal alternative dispute resolution.

What is an undue hardship?

An agency is not required to make an accommodation if it can demonstrate that providing the accommodation would impose an undue hardship on its everyday operations. An undue hardship is an action that requires "significant difficulty or expense" in relation to:

- overall size of the agency's program with respect to the number of employees, number and type of facilities and size of budget;
- type of operation, including the composition and structure of the agency's workforce; and
- nature and cost of the accommodation.

How is a reasonable accommodation decision made?

Decisions on making accommodations are made on a case-by-case basis. Executive Order 16134, however, requires each Federal agency to establish effective written procedures to facilitate the provision of reasonable accommodation for applicants and employees. Contact human resources for information on the decision-making process.



Where can I obtain a needs assessment to respond to a request for accommodation and what resources are available for such an assessment?

A needs assessment may be obtained from several sources. A few are:

- your own agency, in conjunction with its reasonable accommodation policy created in compliance with Executive Order 13164,
- the Computer/Electronic Accommodations Program (CAP) in the Department of Defense,
- State vocational rehabilitation agencies,
- the Vocational Rehabilitation and Employment Service of the Department of Veterans Affairs,
- the Job Accommodation Network (JAN), sponsored by the U.S. Department of Labor or
- the Centers for Independent Living (CILs).

Other sources of needs assessment depend on the organization that refers or places an applicant with a disability. For example, if the applicant is referred to you by the Workforce Recruitment Program (WRP), it is likely that someone from that program will arrange the needs assessment with the Computer/Electronic Accommodations Program (CAP) in the Department of Defense.

If you are hiring a client of the Vocational Rehabilitation and Employment Service of the Department of Veterans Affairs, those offices may perform needs assessments. Centers for Independent Living (CILs) offer information about needs assessment and accommodation services. CILs also often maintain rosters of persons available to serve as personal care attendants, interpreters for individuals who are hearing impaired, or readers for people with visual impairments. State vocational rehabilitation agencies funded under the Rehabilitation Act, private vocational rehabilitation companies, and nonprofit organizations also provide needs assessments.

Federal employers also may obtain additional guidance on providing reasonable accommodation from the Equal Employment Opportunity Commission (EEOC). Free copies of the EEOC's published guidance on reasonable accommodation and other issues pertaining to non-discrimination against people with disabilities may be reviewed at EEOC's website and obtained by calling (800) 669-3362 (voice), and (800) 800-3302 (TTY).

Other resources for technology-related technical assistance and accommodation assessment are:

- The Center for Information Technology Accommodation at the Office of Government-Wide Policy at the General Services Administration,
- U.S. Architectural and Transportation Barriers Compliance Board ("Access Board");
- The Assistive Technology Program at the U.S. Department of Education,
- The TARGET Center at the U.S. Department of Agriculture, and
- The Computer/Electronic Accommodations Program (CAP) at the Department of Defense.



Who will pay for this expense (accommodation)?

Generally, the agency must bear the costs of accommodations. Some agencies are organized to provide central funding of the costs of accommodations. Central funding assures that funding is available for accommodations. Check with your personnel office, disability coordinator, or EEO office or your agency's reasonable accommodation policy to see how funding for accommodations is handled in your agency.

How do I interview a person with a disability? Specifically, are there questions I should not ask?

As with all interviews, the interviewer should have a full understanding of the job requirements before interviewing any candidate. The interviewer should be familiar with his/her agency's own policies and practices. The interview must focus on abilities and how the applicant will accomplish tasks and meet the goals and objectives of the position. Ask all applicants the same questions including whether or not they have any needs that will require reasonable accommodation. Do not ask specific questions about an applicant's disability even if the disability is obvious. Some applicants will voluntarily explain how their disability relates to their ability to do the job, but others will not. Even if the applicant does discuss a disability, do not ask any questions about the disability that are not relevant to the actual position. It is important not to speculate about how you would perform a specific job if you had the applicant's disability. For more tips on interviewing people with disabilities, visit the [Job Accommodation Network \(JAN\)](#) website.

Are there special tips for dealing with someone who has a disability? For instance, should I offer assistance to a person with a disability?

Common courtesy should prevail when interacting with individuals with disabilities, as with all other employees. If questions arise as to whether assistance should be offered or whether a particular accommodation is necessary, the best course of action is simply to ask the person with a disability his or her preference. Most people with disabilities will not become offended if asked their preferences and would, in fact, welcome the opportunity to share information that would create a more pleasant work environment for everyone.

How does the attendance of people with disabilities compare with that of non-disabled employees?

Employers have found that people with disabilities and people without disabilities are about the same in terms of attendance and job performance. Perhaps the longest recurring study of employment issues concerning people with disabilities was done by DuPont, a private corporation. For over 35 years, this DuPont study has shown that employees with disabilities are equivalent to other DuPont employees in job performance, attendance and safety.

When doing an employee's annual performance appraisal, must I take into consideration the person's disability?

Once any necessary accommodations are made to help the employee with a disability function on the job, no other special consideration need be made. As with a non-disabled employee, an employee with a disability must be evaluated according to the items in his/her annual performance plan or agreement. As with any other employee, direct and honest feedback aimed at improving performance is always appropriate.



How do I address performance or conduct problems of an employee with a disability?

An employee with a disability who fails to meet performance standards or whose conduct on the job is inappropriate should receive the same treatment as an employee without a disability. In most cases, documentation of poor performance or misconduct should be collected, and the employee should be advised that there are issues of concern. As with any employee, the disabled employee's failure to address performance or conduct issues may result in letters of counseling, suspension, and even termination. The disabled employee has the same rights as the non-disabled employee to appeal these personnel actions. For additional information, contact your human resources office.

Whom should I contact for advice and assistance?

Contact your human resources office for advice and assistance on hiring people with disabilities. Your personnel specialist will be able to advise supervisors and managers on the different avenues available to recruit and hire qualified candidates, including individuals with disabilities. If your organization has designated a Disability Employment Program Manager or a Selective Placement Coordinator, these individuals can serve to connect you and your HR specialist with interested candidates. Take advantage of all the resources in your agency.