

**March 28, 2025**

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**To:** All Udall Foundation Employees  
**From:** David Brown, Executive Director  
**Subject:** Reasonable Accommodation Policy

This policy sets out the Udall Foundation's process and procedures for requesting reasonable accommodation. Specifically, this policy addresses accommodations for employees or prospective employees with disabilities under Section 501 of the Rehabilitation Act of 1973, as amended; for the religious practices of employees or prospective employees under Section 701(j) Title VII of the Civil Rights Act of 1964, as amended; and to accommodate a qualified employee's or applicant's known limitations related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions under the Pregnant Workers Fairness Act (PWFA). This policy also adheres to the Equal Employment Opportunity Commission implementing regulations at 29 CFR Parts 1605, 1614, and 1636. This policy supersedes any previous Udall Foundation reasonable accommodation policies and guidance and is in effect at the time of issuance.

## **Background**

The Udall Foundation, like all Federal agencies, must reasonably accommodate qualified employees and applicants for known disabilities, religious practices, and known limitations related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions. The Udall Foundation is committed to providing reasonable accommodation to ensure that qualified employees and applicants enjoy full access to equal employment opportunities, unless doing so would cause undue hardship to the agency as defined in the relevant law and regulation.

This policy applies to all Udall Foundation employees and applicants for employment requiring reasonable accommodation of their disability, religious practices, or known limitations related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions, including employees sustaining job-related injuries and employees with temporary disabilities requiring reasonable accommodation. This policy does not apply to Contractors. The Udall Foundation makes its reasonable accommodation procedures available to all employees and job applicants in written and accessible formats as appropriate.

Relevant laws, regulations, and other legal authorities govern how an accommodation may be requested and when or how an accommodation is provided. Federal agencies must also adhere to related requirements including the adoption of employment goals for individuals with disabilities, the provision of personal assistance services (PAS) to certain employees with targeted disabilities, and other measures designed to improve recruitment, hiring, retention, and advancement of individuals with disabilities. For the Udall Foundation, the process for requesting PAS, determining whether PAS services are required, and the agency's right to deny PAS requests when posing an undue hardship are the same as for a disability-related reasonable accommodation.

The Udall Foundation does not designate its own Disability Program Manager or Specialist; instead the agency has entered into a service level agreement (SLA) with the General Services Administration (GSA) that includes legal (General Counsel), Equal Employment Opportunity (EEO), and Reasonable Accommodation services. It is the policy of the Udall Foundation that all requests for reasonable accommodation covered by this policy will be coordinated with GSA personnel in accordance with the SLA, and that documentation of such coordination shall be maintained in appropriate agency files related to such requests. Any deviations from the advice given by GSA personnel must also be documented in the appropriate agency files.

Although distinguishable from requests for accommodation, requests for PAS will be initiated, processed, and otherwise addressed in the same manner as reasonable accommodations as described below.

## **Definitions**

### Covered entity

A covered entity is an employer, employment agency, labor organization, or joint labor management committee. The Udall Foundation is a covered entity.

### Qualified

The term "qualified," with respect to an individual with a disability, means that the individual satisfies the requisite skill, expertise, education, and other job-related requirements of the employment position

such individual holds or desires and, with or without reasonable accommodation, can perform the essential functions of such position. Exceptions to this definition are defined in [29 C.F.R. § 1630.3](#).

The term “qualified,” with respect to an employee with a known limitation under the PWFA means:

- 1) An employee who, with or without reasonable accommodation, can perform the essential functions of the employment position. With respect to leave as an accommodation, the relevant inquiry is whether the employee is reasonably expected to be able to perform the essential functions, with or without a reasonable accommodation, at the end of the leave, if time off is granted, or if the employee is qualified as set out in [paragraph \(2\)](#) after returning from leave.
- 2) Additionally, an employee is considered qualified if they cannot perform one or more essential functions if:
  - a. Any inability to perform an essential function(s) is for a temporary period, where “temporary” means lasting for a limited time, not permanent, and may extend beyond “in the near future”;
  - b. The essential function(s) could be performed in the near future; and
  - c. The inability to perform the essential function(s) can be reasonably accommodated.

#### Essential Functions

The term *essential functions* means the fundamental job duties of the employment position the individual with a disability holds or desires. The term “essential functions” does not include the marginal functions of the position. A job function may be considered essential for any of several reasons including, but not limited to, (i) the reason the position exists is to perform that function; (ii) the limited number of employees available among whom the performance of that job function can be distributed; or (iii) the function may be highly specialized so that the incumbent in the position is hired for their expertise or ability to perform the particular function.

#### Disability

Disability (as it relates to implementation of the Rehabilitation Act of 1973, as amended) means, with respect to an individual: (i) a physical or mental impairment that substantially limits one or more of the major life activities of such individual; (ii) a record of such impairment; or (iii) being regarded as having such an impairment as described in [29 C.F.R. § 1630.2\(g\) through \(l\)](#). To be regarded as having such an impairment means that the individual has an actual or perceived impairment that is not both “transitory and minor.” Disabilities may include but are not limited to: (i) any physiological disorder or conditions, 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 (ii) any mental or psychological disorder, such as an intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

#### Personal Assistance Services (PAS)

PAS are defined as, “assistance with performing activities of daily living that an individual would typically perform if he or she 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.” The regulations do not attempt to list every activity that might constitute PAS. For example, someone providing PAS might push a wheelchair or assist someone with getting into or out of a vehicle at the worksite. If an employee is entitled to PAS pursuant to the standards set forth in 29 CFR 1614.203(d)(5), the required PAS must be performed by a Personal Assistance Service Provider.

### Personal Assistance Service Provider

A Personal Assistance Service Provider means an employee or independent contractor whose primary job functions include provision of personal assistance services.

### Reasonable Accommodation

Reasonable accommodations are changes in the work environment or in the way things are usually done at work. Reasonable accommodation means: (i) modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for the position such applicant desires; (ii) modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performance, that enable a qualified employee to perform the essential functions of that position; or (iii) modifications or adjustments that enable a covered entity's employee with a disability (or employee with a known limitation under the PWFA) to enjoy equal benefits and privileges of employment as are enjoyed by its other similarly situated employees without disabilities. For employees with a known limitation under the PWFA, a reasonable accommodation may include temporary suspension of essential function(s) and/or modifications or adjustments that permit the temporary suspension of essential function(s). Reasonable accommodation may include but is not limited to: (i) making existing facilities used by employees and applicants readily accessible to and usable by individuals with disabilities; and (ii) job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modifications of equipment or devices, appropriated adjustment or modifications of examinations, training materials, or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities. Additional examples of possible reasonable accommodations under the PWFA can be found at [29 CFR 1636.3\(i\)](#).

Additional context for reasonable accommodations for religious practices can be found at [29 CFR 1605.2](#).

### Undue hardship:

Undue hardship is defined differently depending on the basis for the requested accommodation. For accommodations requested based on disability or under the PWFA, undue hardship means significant difficulty or expense incurred by a covered entity when considering factors such as: (i) the nature and net cost of the accommodation; (ii) the overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; (iii) the overall financial resources of the covered entity and the number, type, and location of its employees and facilities; (iv) the type of operation or operations of the covered entity including the composition, structure, and functions of the workforce and the geographic separateness and administrative or fiscal relationship to the facility or facilities in question to the covered entity; or (v) the impact of the accommodation upon the operation of the facility including the impact on the ability of other employees to perform their duties and on the facility's ability to conduct business.

For accommodations requested for religious practices, an undue hardship is shown when a burden is substantial in the overall context of an agency's operations considering relevant factors including, but not limited to, the particular accommodation(s) requested and their practical impact on the agency's operations in light of the nature, size, and operating cost of the agency.

### Interactive Process

Interactive process means an informal, interactive process between the agency and the employee or applicant seeking an accommodation.

## Initiating the Reasonable Accommodation Process – Employee or Applicant

An employee or job applicant may initiate a request for reasonable accommodation orally or in writing at any time. The employee or applicant requesting the accommodation need not have a particular accommodation in mind before making a request and may consult appropriate resources such as EEOC guidance and technical assistance documents to identify and evaluate possible accommodations. Furthermore, the request may be made not just by the employee or applicant with a disability but also by a family member, health professional, or other representative acting on the individual's behalf. Employees or applicants requesting accommodation will act fully, interactively, and in good faith throughout the reasonable accommodation process; failure to do so may result in denial of the reasonable accommodation request.

Current employees should begin by orally requesting reasonable accommodation from their supervisor. Supervisors should recognize requests for reasonable accommodation consistent with the criteria outlined in [29 C.F.R. § 1630.2\(o\)](#) and clarify with the employee whether a reasonable accommodation is requested if the nature of the initial communication is unclear. Prospective employees or job applicants should make their requests to the designated agency official facilitating the job application process. The time limit for processing reasonable accommodation requests starts at the time the oral or written request is made. The requesting employee or applicant should indicate at the time of the request whether or not expedited processing is required and on what basis, in accordance with the "Time Limits" section of this policy.

After receiving an oral request for reasonable accommodation related to a disability, the Udall Foundation supervisor or designated agency official will provide [GSA Form 3676](#) to the requesting employee or applicant. The employee or applicant shall complete GSA Form 3676 and submit it to the agency official to whom the original oral request for reasonable accommodation was made. The Udall Foundation will provide GSA Form 3676 in an accessible format upon request. For a request for reasonable accommodation related to religious practices or the PWFA, the supervisor will consult with GSA and appropriate Udall Foundation personnel to determine the most appropriate format for documenting the request and the resulting process.

An employee or applicant requesting reasonable accommodation may track the processing of the request through their supervisor or the GSA liaison, in the case of a current employee, or the designated agency official in the case of a job applicant. Requests for updates on the processing and status of the request may be made orally or in writing and should be documented by the supervisor or agency official at the time the request is received.

An employee or applicant requesting reasonable accommodation will receive notification of a final decision from their supervisor, in the case of a current employee, or the designated agency official in the case of a job applicant. Contact information for all Udall Foundation employees is available at [www.udall.gov](http://www.udall.gov) and available in accessible format upon request.

If an employee or applicant requests reasonable accommodation that will be needed on a repeated basis (e.g., sign language interpreter, qualified reader), the request need only be made once. Once the accommodation is approved the employee may obtain the accommodation in future instances by notifying the appropriate Udall Foundation official.

## **Medical Information**

The Udall Foundation may require an employee or applicant requesting reasonable accommodation based on a disability or pursuant to the PWFA to provide, or have the individual's health professional provide, medical information sufficient to explain the nature of the disability or known limitation(s) or, in the case of a PWFA request, their need for reasonable accommodation and how the requested accommodation if any will assist the employee or applicant to apply for a job, perform the essential functions of a job, or enjoy the benefits and privileges of the workplace. Generally speaking the Udall Foundation will not request medical information when the disability or known limitation and the need for reasonable accommodation are obvious, or when the employee or applicant has already provided the agency with sufficient information to document the existence of a disability and his or her functional limitations.

Any requirement for the provision of medical information shall be communicated to the requesting employee by their supervisor or the assigned GSA liaison, in the case of a current employee, or from the designated agency employee facilitating the job application process, in the case of a job applicant. The Udall Foundation has the right to request relevant supplemental medical information if the first submission was insufficient. The Udall Foundation also has the right to have the employee's or applicant's medical information reviewed by a medical expert of the agency's choosing, at the agency's expense.

The Udall Foundation and GSA have an obligation to keep medical information confidential, in accordance with applicable laws and regulations. There are limited situations under which an individual's medical information may be disclosed; in appropriate situations medical information may be disclosed to:

- Government attorneys who are acting in their official capacity and require the information to provide appropriate legal advice or services;
- Supervisors and managers who need to know or may need to be told about necessary restrictions and accommodation(s);
- First aid and safety personnel, if the disability might require emergency treatment;
- Government officials investigating the agency's compliance with the Rehabilitation Act;
- Workers' compensation offices or insurance carriers;
- Agency EEO officials for the purposes of maintaining information records.

Where medical information is appropriately disclosed, the Udall Foundation will inform the recipients of the medical information about the confidentiality requirements attached to the information.

## **Processing Requests for Reasonable Accommodation – Udall Foundation**

Upon receiving GSA Form 3676 for disability-related requests, or other appropriate documentation for all other requests, the Udall Foundation supervisor or designated agency official will forward the reasonable accommodation request to the appropriate GSA official within two (2) business days.

Subsequently the supervisor or designated agency official shall:

- Maintain confidentiality of information received during the reasonable accommodation process;
- Engage in the interactive process early and in good faith;
- Communicate throughout the process with the employee or applicant to determine what, if any, accommodations are available, especially in cases where the specific limitation or barrier is

unclear, where an effective accommodation is not obvious, or where the parties involved are considering different possible reasonable accommodations;

- Provide GSA personnel with any relevant information to determine the essential job functions of the applicant's or employee's job position, the effects the applicant's or employee's disability limitations have on the job requirements, if any accommodations are available, if the requested accommodation would be effective, and what alternative accommodations may be available and effective;
- Coordinate with the agency Executive Team as necessary to ensure this policy is being followed as required, and to keep senior leadership informed regarding the progress of the request;
- Work with or provide supporting information to agency senior leadership in response to litigation, informal and formal complaints, grievances, and other inquiries involving reasonable accommodation requests;
- Consult appropriate resources, such as EEOC guidance and technical assistance documents available on EEOC's public website, to identify and evaluate possible accommodations;
- Be the deciding official regarding the reasonable accommodation request;
- Work with GSA personnel to prepare and issue the final decision letter and the appropriate GSA form(s) to grant or deny the reasonable accommodation request;
- Maintain documentation of the process and comply with records management and reporting requirements, including by maintaining a reasonable accommodation case file separate from the employee's official personnel folder;
- Ensure that any approved and appropriate accommodations are provided in accordance with the required timeframes as reasonably possible;
- Assist with completion of the "Agency Certification of Reassignment and Accommodation Efforts", SF-3112D, when required for employees seeking disability retirement to certify efforts made by the Udall Foundation to provide reasonable accommodation including job searches, if any, for reassignments;
- Notify the employee or applicant of their right to seek informal resolution and reconsideration of that decision by the next higher-level supervisor as appropriate if any part of the request is denied.

### **Processing Requests for Reasonable Accommodation – GSA**

GSA will act as the primary party for processing all reasonable accommodation requests made to the Udall Foundation. In this capacity GSA will:

- Review requests from Udall Foundation employees and applicants for completeness;
- Provide advice and consultation to the Udall Foundation regarding requests and accommodation needs;
- Review medical information to determine the sufficiency for accommodation under the law and request medical documentation, if necessary;
- Obtain and evaluate documentation supporting an accommodation request, such as medical information, when the disability and/or need for accommodation is not obvious;
- Work with the employee's supervisor or applicant's contact to ensure that any accommodation, if appropriate, meets the employee's or applicant's disability-related needs;
- Work with the employee's supervisor or applicant's contact to ensure that any accommodation does not remove essential job functions of the position, except for limited time pursuant to the provisions of the PWFA;

- Work with the employee's supervisor or applicant's contact to ensure that any accommodation does not pose an undue hardship to the Udall Foundation;
- Assist the Udall Foundation in making the final decision on each request;
- Track and report all requests for reasonable accommodation and the disposition of those requests, and report relevant data as required.

## **Reassignment**

When appropriate the Udall Foundation will consider reassigning the employee requesting reasonable accommodation into a vacant position for which an employee is qualified, and not simply give permission to the individual to compete for such a position. This kind of reassignment is a qualifying reasonable accommodation when the agency determines that no other reasonable accommodation will permit an employee with a disability to perform the essential functions of their current position. Under such circumstances the Udall Foundation Executive Director will notify agency supervisors and other relevant employees how to conduct searches for available vacancies when considering reassignment as a possible reasonable accommodation. The Executive Director will identify the agency personnel who are responsible for conducting the searches and require these individuals to consult with the affected employee as necessary to determine whether there are limits on the search the employee would like the agency to conduct; whether the employee is qualified for a particular job; or whether the employee would need a reasonable accommodation to perform the essential functions of a new position.

## **Denials of Reasonable Accommodation**

An employee or job applicant whose request for reasonable accommodation is denied by the Udall Foundation will receive written notice of such denial from the agency. The written notice will be issued at the time of denial and will explain the reasons for the denial and notify the employee or job applicant of any available internal appeal or informal dispute resolution processes, including as outlined below. This policy does not modify or replace statutory, regulatory, or administrative protections and procedures for individuals with disabilities who wish to challenge the denial of a request for reasonable accommodation. The Udall Foundation encourages the use of voluntary informal dispute resolution processes that employees or applicants may use to obtain prompt reconsideration of denied requests for reasonable accommodation. Denials of requests for reasonable accommodation will also include information about the employee's or applicant's right to file a formal EEO complaint pursuant to 29 C.F.R. § 1614.106, and to invoke other statutory processes as appropriate. To file a formal EEO complaint, an employee or applicant must initiate contact with an EEO Counselor within 45 days of the denial, regardless of whether the employee or applicant participates in an informal dispute resolution process. The procedures for filing an EEO complaint are detailed in the Udall Foundation's EEO policies which are available on the agency Intranet and in accessible format upon request.

The employee or applicant may also opt to file a Merit Systems Protection Board (MSPB) appeal; employees or applicants should submit their appeal within 30 days of an appealable adverse action as defined by 5 C.F.R. § 1201.3 and in accordance with the instructions available at [www.mspb.gov](http://www.mspb.gov). Pursuant to receiving a notice of denial of reasonable accommodation, an employee or applicant may elect to file an EEO complaint or an MSPB appeal, but only one avenue of redress may be elected on the same matter.



## **Costs and Resources**

The Udall Foundation will not deny requests for reasonable accommodation strictly on the basis of cost. Employees or applicants with disabilities will not be excluded from employment at the Udall Foundation due to the anticipated cost of a reasonable accommodation if the resources available to the agency as a whole, excluding those designated by statute for a specific purpose that does not include reasonable accommodation, would enable it to provide an effective reasonable accommodation without undue hardship. Agency officials who decide requests for accommodation or make hiring decisions will consider all resources available to the agency as a whole, including any centralized funds the agency may maintain for the purposes of reasonable accommodation.

## **Time Limits**

The Udall Foundation shall either provide a reasonable accommodation or deny a reasonable accommodation request within sixty (60) days of receiving the initial oral or written request from the employee or applicant, absent any extenuating circumstances that preclude such timeline from being adhered to. The agency shall not be bound by this timeline if the requesting employee's or applicant's health professional fails to provide needed documentation in a timely manner. If there is a delay either in processing a request for reasonable accommodation or in providing such accommodation, the agency will communicate the reason for the delay to the employee or applicant including any extenuating circumstances and, to the extent known, the date on which the agency expects to complete the process.

The Udall Foundation shall provide reasonable accommodation in accordance with the maximum timeline articulated in 29 C.F.R. § 1614.203(d)(3)(i)(M). Whenever possible, the agency will provide reasonable accommodation in less than the maximum time permitted in order to avoid potential violations of the Rehabilitation Act of 1973, as amended. When all facts and circumstances known to the agency make it reasonably likely that the employee or applicant will be entitled to reasonable accommodation, but the accommodation cannot be provided immediately, the agency will make efforts to provide an interim accommodation that allows the employee to perform some or all of the essential functions of their job, if it is possible to do so without imposing undue hardship on the agency.

If the requesting employee or applicant indicates that the request requires expedited processing, the Udall Foundation official shall communicate this information to the appropriate GSA official at the time GSA Form 3676 is provided. The GSA official shall evaluate the basis for the expedited request and determine if it is appropriate and will not cause the agency undue hardship. Expedited processing for reasonable accommodation requests may be required if the accommodation is needed, for example: (1) to enable an employee or applicant with a disability to apply for a job; or (2) the accommodation is needed for a specific agency activity that is scheduled to occur shortly. The timeline for processing expedited requests for accommodation is thirty (30) days.

## **Information Tracking**

The Udall Foundation or GSA, as applicable, will be the official custodian of the official reasonable accommodation file. As soon as the reasonable accommodation process is completed, and if reconsideration is not sought or after the reconsideration decision is issued, if reconsideration is requested, GSA will submit the entire reasonable accommodation record to the Udall Foundation General Counsel. The record shall include, at a minimum:

- The specific reasonable accommodation requested, if any;
- The job (occupational series, grade level, and agency component) sought by the requesting applicant or held by the requesting employee;
- Whether the accommodation was needed to apply for a job, perform the essential functions of a job, or enjoy the benefits and privileges of employment;
- Whether the request was granted (which may include an accommodation different from the one requested) or denied;
- The identity of the deciding official;
- If denied, the basis for such denial;
- The number of days taken to process the request.

The supervisor or designated agency employee shall also provide to the General Counsel all records that may be needed to determine whether the agency is complying with the nondiscrimination and affirmative action requirements imposed under Section 501 of the Rehabilitation Act and 29 C.F.R. § 1614.203(d)(8). The General Counsel will make such records available upon request. All records will be maintained in accordance with the Privacy Act and the Udall Foundation records management requirements.

### **Training**

The Udall Foundation EEO Director or General Counsel, or GSA, will provide reasonable accommodation training to Udall Foundation employees and supervisors. If GSA is providing the training it will be provided as requested and agreed upon by the Udall Foundation and GSA and in accordance with the agency's SLA. Such training will provide a basic understanding of legal requirements for providing reasonable accommodation under the Pregnant Workers Fairness Act, the Americans with Disabilities Act and the Rehabilitation Act for individuals with disabilities, and other applicable law for those requesting religious accommodation.

### **Resources**

[Office of Personnel Management \(OPM\)](#)

[Equal Employment Opportunity Commission \(EEOC\) Enforcement Guidance on Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act](#)

[EEOC's Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees Under the Americans With Disabilities Act \(July 27, 2000\)](#)

[EEOC's What You Should Know About the Pregnant Workers Fairness Act](#)

[EEOC's What You Should Know: Workplace Religious Accommodation](#)

[GSA Form 3676, Confirmation of Reasonable Accommodation](#)