



FEDERAL DEPOSIT INSURANCE CORPORATION

DIRECTIVE SYSTEM

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CONTACT

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TO: All Employees

FROM: Segundo Pereira, Director
Office of Minority and Women Inclusion

SUBJECT: Accessibility to FDIC Programs and Activities

1. Purpose To provide guidance on the Federal Deposit Insurance Corporation's (FDIC) comprehensive approach to ensure individuals with disabilities will not, solely by reason of their disabilities, be excluded from participation in, denied the benefits of, or subjected to discrimination in any program or activity conducted by the FDIC.

2. Scope The provisions of this Circular apply to all FDIC programs and activities, including employment related programs, facilities and activities where the FDIC conducts business activities, and electronic information and technology. Further, this Circular applies to the conduct of FDIC personnel in their interaction with employees of insured institutions and employees of other Federal or state agencies while discharging the FDIC's statutory obligations as insurer and/or receiver of financial institutions.

3. Background The FDIC is committed to the principles of equal opportunity in all of its programs, policies and practices and promoting diversity and inclusion in its workforce as well as in its programs and activities. The Director, Office of Minority and Women Inclusion (OMWI), has the delegated responsibility for the FDIC diversity and inclusion, civil rights, accessibility, and minority and women outreach programs. These programs ensure that the FDIC workplace is inclusive, free from unlawful discrimination and providing equal opportunity and access to all its employment and business activities.

4. Authority The principal authorities for the requirements outlined in this Circular are:

- a. Section 504 of the Rehabilitation Act of 1973, was amended, in 1978, to prohibit discrimination on the basis of disability in federally conducted programs and activities.
 - b. Americans with Disabilities Act Amendments Act of 2008, expands the definition of a disability by reinstating a broad scope of protection to be available under the Americans with Disabilities Act, 42 U.S.C. §12101.
 - c. 12 C.F.R. Part 352 is the FDIC issued regulation on Nondiscrimination on the Basis of Disability.
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5. Policy

The FDIC encourages and relies on participation in its programs and activities that involve the direct provision of benefits and services to members of the public, and considers accessibility to those programs and activities a priority. Therefore, it is the FDIC's policy that all of its programs and activities are as accessible to qualified individuals with a disability, including employees and members of the public, as they are to individuals without disabilities.

The FDIC will make available to employees, applicants for employment, participants, beneficiaries, and other interested persons such information regarding the provisions of this Circular and its applicability to the programs or activities conducted by the FDIC, and make such information available to them in such manner as the Chairman or designee finds necessary to apprise such persons of the protections against discrimination under Section 504 and implementing regulations.

6. Definitions

For purposes of this Circular, the term—

- a. **Aggrieved Person** – A person who believes he/she has been discriminated against and participates in the informal process.
- b. **Auxiliary aids** – Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, the FDIC programs or activities.
- c. **Complainant** – A person who files a complete complaint.
- d. **Complete Complaint** – A written, signed document which includes a statement containing the complainant's name, address and telephone number, must identify whether the complainant is a federal employee and whether the complainant's involvement in the relevant education program was related to his or her employment, and must describe the alleged discriminatory

conduct in sufficient detail to inform the agency as to the nature and approximate date of the alleged violation. A complete complaint also must be signed by the complainant or by someone authorized by the complainant to sign on his or her behalf.

e. **Facility** – All or any portion of buildings, structures, equipment, roads, walks, parking lots and other real or personal property.

f. **Individual with a disability** – Any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

g. **Mediation** – A process by which a neutral person helps individuals involved in a dispute reach a mutual agreeable resolution.

h. **Qualified individual with a disability** means—

(1) With respect to any FDIC program or activity in which a person is required to perform services or to achieve a level of accomplishment, an individual with a disability who meets the essential eligibility requirements and can achieve the purpose of the program or activity with or without modifications in the program or activity and that the FDIC can determine on the basis of a written record would not result in a fundamental alteration in its nature;

(2) With respect to any other program or activity, an individual with a disability who meets the essential eligibility requirements for participation in, or receipt of benefits from, that program or activity;

(3) With respect to employment, an individual with a disability as defined in 29 CFR 1630.2(g), which is made applicable to this part by reference.

7. Responsibilities

a. The FDIC through coordination with OMWI and the Division of Administration (DOA), and managers and supervisors will take appropriate steps to ensure effective communication with participants in FDIC programs and activities.

(1) The FDIC will furnish appropriate auxiliary aids where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, FDIC programs or activities.

(a) In determining what type of auxiliary aid is necessary, the FDIC will give primary consideration to any

reasonable requests of the individual with a disability.

(b) The FDIC need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature.

(2) Where the FDIC communicates by telephone, it will use telecommunications devices for deaf persons (TDD's) or equally effective telecommunication systems with participants and beneficiaries who are deaf or hard of hearing.

b. The FDIC will ensure that interested persons, including individuals with disabilities, can obtain information as to the existence and location of accessible services, activities, and facilities.

Interested persons may obtain such information by calling, writing, or visiting the

FDIC Office of Minority and Women Inclusion
3501 Fairfax Drive, Arlington, VA 22226.

Telephone Number: (877) 275-3342 or (703) 562-2473 (TTY)

c. The FDIC will provide information at a primary entrance to each of its facilities where programs or activities are conducted, directing users to a location at which they can obtain information about accessible facilities. The international symbol for accessibility is used at each primary entrance of an accessible facility.

d. The **Section 504 Coordinator**, located in OMWI, coordinates the development of policies to ensure that individuals with disabilities have access to the benefits of any FDIC program or activity. Specifically, the 504 Coordinator will:

(1) Ensure that FDIC regulations, policies, procedures and practices are consistent with Section 504 of the Rehabilitation Act of 1973, as amended, and this Circular;

(2) Provide consultation to, and participate in, FDIC programs, human resources and facilities planning with DOA and other Divisions and Offices with respect to the requirements that enhance accessibility;

(3) Coordinate the training and program communication efforts to raise awareness of the FDIC employees and the public regarding their rights under Section 504 and this Circular;

(4) Conduct and coordinate the inspection of new construction and existing facilities to determine the level of compliance with the Uniform Federal Accessibility Standards

as published by the U.S. Access Board;

(5) Coordinate the FDIC's efforts to fulfill reasonable requests for accommodation from employees and applicants for employment, as well as members of the public with disabilities, seeking to participate in FDIC programs and activities;

(6) Stay abreast of trends, innovations and external resources in the field of accessibility, reasonable accommodations, and disability management; and,

(7) Report on the implementation of disability programs to FDIC senior management and mandated external entities.

8. Program Accessibility

The following outlines the FDIC's actions to ensure program accessibility.

a. **Existing Facilities.** The FDIC will operate all programs or activities so that, when viewed in its entirety, the program or activity is readily accessible to and usable by individuals with disabilities.

b. **New Construction and Alterations.** Each building or part of a building, whether newly constructed, or substantially altered, in which FDIC programs or activities will be conducted, will be designed, constructed or altered so as to be readily accessible to, and usable by, individuals with disabilities. For a determination of what is a substantial alteration see e.g., the Uniform Federal Accessibility Standards, 4.1.6 – Accessible Building: Alterations.

9. Compliance Procedures

a. **Applicability.** An individual with a disability raising claims of discrimination based on disability in an employment related program, including applicants for employment, may file a complaint using Circular 2710.2, EEOC Discrimination Complaint Procedures. The remaining sections below relate to complaints alleging disability discrimination in FDIC programs or activities brought by members of the public.

b. **Informal process.** A complaint must first exhaust informal administrative procedures before filing a formal complaint alleging disability discrimination in FDIC programs or activities. The following describes the informal process to file a complaint:

(1) An aggrieved person initiates the complaint process by filing an informal complaint with OMWI within 180 calendar days from the date of the alleged disability discrimination.

(2) An informal complaint with respect to any FDIC program or activity must include a written statement containing the individual's name and address, and which describes the FDIC's action in sufficient detail to inform the FDIC of the nature and date of the alleged violation of this Circular.

(3) All informal complaints must be signed by the aggrieved or one authorized to do so on his or her behalf. Informal complaints filed on behalf of third parties must describe or identify (by name, if possible) the alleged victim of discrimination or denial of technology access.

(4) During the informal process, OMWI has 30 calendar days to attempt a resolution of the matter. If the aggrieved person elects to participate in mediation, the period for attempting informal resolution will be extended for an additional 60 calendar days. If the matter is not resolved informally, the individual will be provided written notice of the right to file a formal complaint.

(5) All complaints should be sent to the FDIC's Office of Minority and Women Inclusion, 3501 Fairfax Drive, Arlington, VA 22226.

c. If the FDIC receives a complaint over which it does not have jurisdiction, it will promptly notify the complainant and make reasonable efforts to refer the complainant to the appropriate government entity.

d. **Formal complaints.** The individual must file a written formal complaint within 15 calendar days after receiving the notice of a right to file a formal complaint. Formal complaints must be filed with the FDIC Chairman or the Director, OMWI. Within 120 calendar days of the receipt of such a complaint for which it has jurisdiction, the FDIC shall notify the complainant of the results of the investigation in a letter containing—

(1) A finding regarding the alleged violations;

(2) A description of a remedy for each violation found; and

(3) A notice of the right to appeal.

e. Appeals of the findings or remedies must be filed by the complainant within 30 calendar days of receipt from the FDIC of the letter required by subsection (d). The FDIC may extend this time for good cause.

f. Timely appeals will be accepted and processed by the FDIC Chairman or Director, OMWI.

- g. The FDIC Chairman or Director, OMWI will notify the complainant of the results of the appeal within 60 calendar days of the receipt of the request. If the FDIC Chairman or Director, OMWI determines that additional information is needed from the complainant, he or she will have 60 calendar days from the date of receipt of the additional information to make a determination on the appeal.
- h. The time limits set forth in subsections (d) and (g) above may be extended for an individual case when the FDIC Chairman or Director, OMWI determines that there is good cause, based on the particular circumstances of that case.
- i. The FDIC may delegate its authority for conducting complaint investigations to other federal agencies or independent contractors, except that the authority for making the final determination may not be delegated.

10. Record Keeping Requirements

Records shall be maintained in accordance with FDIC Circular 1210.1, FDIC Records and Information Management (RIM) Policy Manual.

11. Contact Information

For additional information contact the Office of Minority and Women Inclusion, Complaints Processing Branch, at (877) 275-3342, or for TTY (703) 562-2473.

12. Effective Date

The provisions outlined in this Circular are effective immediately.