

Title: Reasonable Accommodation

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Topic: CNCS policies and procedures for Reasonable Accommodation

Summary: This provides guidance on the procedures for processing requests for reasonable accommodation by employees and job applicants with disabilities.

The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

Corporation for National and Community Service

Policy Number: 201

Effective Date: April 17, 2012

Revision Number: 2

Subject: Reasonable Accommodation

Purpose: To provide guidance on the procedures for processing requests for reasonable accommodation by employees and job applicants with disabilities.

Who is Covered: All Corporation employees and job applicants

Policy Updated: Corporation Policy No. 201, *Reasonable Accommodation*, July 10, 2009

Originating Office: Office of Human Capital

1.

2. The policy incorporates the following from the U.S. Equal Employment Opportunity Commission:

- a. Reiterate that an employee who wants to request an accommodation is not required to fill out a form (Section A.4.a.(3));
- b. State that an individual currently engaging in the illegal use of drugs is not considered an individual with a disability and is not protected by the Rehabilitation Act (Section A.5.b);
- c. State that if the Corporation wants to consult with a physician of its choosing about an employee's medical documentation, the Corporation will pay for the consultation (Section E.4); and
- d. Clarify circumstances regarding the time frame for processing a request for reasonable accommodation (Section G.7).

Approved By:



Asim Mishra
Chief of Staff

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A. OVERVIEW

1. What does this document do?

This document outlines the procedures for processing requests for reasonable accommodation by employees and job applicants with disabilities.

2. In general, what is reasonable accommodation and what are its benefits in the workplace?

An accommodation is a change involving the workplace that enables an individual with a disability to enjoy equal employment opportunities. Many individuals with disabilities can apply for and perform jobs without the need for an accommodation. However, where workplace barriers exist, such as physical obstacles or rules about how a job is to be performed, reasonable accommodation serves two fundamental purposes. First, reasonable accommodations remove barriers that prevent individuals with disabilities from applying for, and performing, jobs for which they are qualified. Second, reasonable accommodations enable the Corporation to expand the pool of qualified workers, thus allowing the Corporation to benefit from the talents of individuals who might otherwise be arbitrarily barred from employment.

3. What is the Corporation's policy on reasonable accommodation?

The Corporation's policy is to fully comply with the reasonable accommodation requirements of the Rehabilitation Act of 1973. Under the law, federal agencies must provide reasonable accommodation to qualified employees or applicants with disabilities, unless to do so would cause undue hardship. The Corporation is committed to providing reasonable accommodations to its employees and applicants for employment in order to assure that individuals with disabilities enjoy full access to equal employment opportunity at the Corporation. The Corporation provides reasonable accommodations:

- a. when an applicant with a disability needs an accommodation in order to be considered for a job;
- b. when an employee with a disability needs an accommodation to enable him or her to perform the essential functions of the job or to gain access to the workplace; and
- c. when an employee with a disability needs an accommodation to enjoy equal benefits and privileges of employment.

The Corporation will process requests for reasonable accommodation and, where appropriate, provide reasonable accommodations in a prompt, fair and efficient manner. In order to implement this policy, the Corporation has designated a Disability Program Manager in the Office of Human Resources who has direct administrative responsibility for the program, agency-wide.

4. How do the Corporation's reasonable accommodation procedures work?

- a. First, an individual makes a request for reasonable accommodation (see pages 8-9):

- (1) An employee can request reasonable accommodation from his/her supervisor; another supervisor or manager in the immediate chain of command; the Office Director; or the Disability Program Manager.
 - (2) An applicant can request reasonable accommodation from any Corporation employee with whom s/he has contact in connection with the application process.
 - (3) For record keeping purposes, individuals must follow up an oral request either by completing a "Confirmation of Request" form (at [Appendix A](#)) or by confirming their request in writing (including by e-mail) to the Disability Program Manager. The confirmation request form is not a requirement of the request itself. (See Section B.4.)
- b. The staff member receiving the request must determine who will be responsible for handling it and forward it, if necessary, to that person as soon as possible but in no more than five business days, and as quickly as possible for applicants. The individuals designated to process requests for reasonable accommodation are: an Office of Human Resources staff person (for applicants); an employee's supervisor; the Office Director; or the Disability Program Manager. (See pages 9-11).
 - c. Time frames for processing requests and providing reasonable accommodation (see pages 16-19):
 - (1) If a request can be processed by the employee's supervisor or Office Director, no supporting medical information is required, and no extenuating circumstances apply, the request shall be processed and the accommodation, if approved, shall be provided in no more than 20 business days from the date the supervisor or Office Director receives the request, and sooner, if possible.
 - (2) To ensure that an applicant with a disability has an equal opportunity to apply for a job, the Office of Human Capital must move as quickly as possible. (See page 16).
 - (3) If the Disability Program Manager is the decision maker, s/he will make a decision on the request and provide the accommodation within 25 business days from the date the request was initially made.
 - (4) If medical documentation is required, time frames may be longer. (See page 17).
 - (5) Certain "extenuating circumstances" may delay providing reasonable accommodations. (See page 18).
 - d. Denial of reasonable accommodation must be recorded by the decision maker on the "Denial of Request" form (at [Appendix B](#)). The form explains about the individual's right to ask for reconsideration, first from the decision maker and then from another designated individual. (See page 20).
 - e. The decision maker must complete the "Information Reporting" form (at [Appendix C](#)) within ten business days of the decision and give it to the Disability Program Manager. (See page 21).

5. Definitions of key terms

- a. Reasonable Accommodation: Any change in the work environment or in the way things are customarily done that would enable a qualified individual with a disability to enjoy equal employment opportunities.

- b. Individual with a Disability: An individual must satisfy at least one of three conditions in order to be considered an individual with a disability. An individual is considered to have a "disability" if that individual either (1) has a physical or mental impairment which substantially limits one or more of that person's major life activities, (2) has a record of such an impairment, or, (3) is regarded as having such an impairment. To understand the meaning of the term "disability," it is necessary to understand, as a preliminary matter, what is meant by the terms "physical or mental impairment," "major life activity," and "substantially limits." Each of these terms is discussed below. An individual currently engaging in the illegal use of drugs is not considered an individual with a disability, and is not protected by the Rehabilitation Act.
- c. Physical or mental impairment: Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of several body systems, or any mental or psychological disorder.
- d. Major life activities: Those basic activities that the average person in the general population can perform with little or no difficulty. Major life activities include caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. This list is not exhaustive. For example, other major life activities include, but are not limited to, sitting, standing, lifting, and reaching.
- e. Substantially limits: This term relates to restrictions that result from an impairment. The determination of whether an individual has a disability is not necessarily based on the name or diagnosis of the individual's impairment, but rather on the effect that impairment has on the individual's life. Some impairments may be disabling for particular individuals but not for others, depending on the state of the disease or disorder, the presence of other impairments, or any number of other factors. In determining whether an impairment is substantially limiting, one should consider (1) the nature and severity of the impairment; (2) the duration of the impairment; and (3) the permanent or long-term impact of, or resulting from, the impairment. This determination must be made on a case-by-case basis. However, the definition of "substantially limited" should be construed broadly to the maximum extent allowable under the ADA.
- f. Regarded as substantially limited in a major life activity: Although an individual may have an impairment that does not in fact substantially limit a major life activity, the reaction of others may prove just as disabling.
- g. Qualified Individual with a Disability: An individual with a disability is qualified if (1) s/he satisfies the requisite skill, experience, education, and other job-related requirements of the position; and (2) s/he can perform the essential functions of the position, with or without reasonable accommodation.
- h. Essential Functions: Those 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. 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 it reflects the job as actually performed, and not simply the components of a generic position description.

- i. Reassignment: Reassignment is a form of reasonable accommodation that, absent undue hardship, may be provided to an employee (not an applicant) who, because of a disability, can no longer perform the essential functions of his or her job, with or without reasonable accommodation. The Corporation will only make a reassignment to a vacant position and only for an employee who is qualified for the new position. If the employee is qualified for the position, the Corporation may reassign him or her and the employee will not have to compete for it.
- j. Undue Hardship: If a specific type of reasonable accommodation causes significant difficulty or expense, then the Corporation does not have to provide that particular accommodation. Determination of undue hardship is always made by the decision maker on a case-by-case basis, considering factors that include the nature and cost of the reasonable accommodation needed and the impact of the reasonable accommodation on the operations of the agency.

NOTE: These definitions and underlying concepts are authoritatively explained in the EEOC's Interpretive Guidance on Title I of the Americans with Disabilities Act (also known as the "Appendix" to section 1630), 29 C.F.R. Part 1630 app. 1630.2(o), (p), 1630.9 (2008) available on the internet at http://www.access.gpo.gov/nara/cfr/waisidx_08/29cfr1630_08.html

B. REQUESTS FOR REASONABLE ACCOMMODATION

1. What is a request for reasonable accommodation and when does the process begin?

A request for reasonable accommodation is a statement that an individual needs an adjustment or change at work, in the application process, or in a benefit or privilege of employment for a reason related to a medical condition. The reasonable accommodation process begins as soon as the request for accommodation is made.

2. How does an individual make a request for reasonable accommodation?

A request does not have to be in writing and does not have to use any special words, such as "reasonable accommodation," "disability," or "Rehabilitation Act." An individual with a disability may request a reasonable accommodation whenever s/he chooses, even if s/he has not previously disclosed the existence of a disability. Any Corporation employee or applicant may consult the Disability Program Manager for further information or assistance in connection with requesting or processing a request for reasonable accommodation.

- a. **An employee** may request a reasonable accommodation orally or in writing from his/her supervisor; another supervisor or manager in his/her immediate chain of command; the Office Director; or the Disability Program Manager.
- b. **An applicant** may request a reasonable accommodation orally or in writing from any Corporation employee with whom the applicant has contact in connection with the application process. The Office of Human Capital is responsible for training staff that is involved in the application process to recognize requests for reasonable accommodation and to handle them appropriately. Field office supervisors also should ensure that all staff

having contact with applicants know how to recognize and handle requests for reasonable accommodation.

3. May an individual's doctor or other representative request a reasonable accommodation?

A family member, health professional, or other representative may request an accommodation on behalf of a Corporation employee or applicant. The request should go to one of the same persons to whom the employee or applicant would make the request.

4. When is a written request for reasonable accommodation required?

To enable the Corporation to keep accurate records regarding requests for accommodation, an employee seeking a reasonable accommodation must follow up an oral request either by completing the "Confirmation of Request" form (at [Appendix A](#)) or otherwise confirming the request in writing (including by e-mail) to the Disability Program Manager. For an applicant seeking a reasonable accommodation, the Office of Human Capital staff person handling the request must give the individual the "Confirmation of Request" form to fill out. If an individual with a disability requires assistance with this requirement, the staff member receiving the request will provide that assistance.

While the written confirmation should be made as soon as possible following the request, it is not a requirement for the request itself. The Corporation will begin processing the request as soon as it is made, whether or not the confirmation has been provided.

A written confirmation is not required when an individual needs a reasonable accommodation on a repeated basis (e.g., the assistance of sign language interpreters or readers). The written form is required only for the first request. The individual should provide adequate notice about when specifically the accommodation is needed.

C. DETERMINING WHICH CORPORATION OFFICIAL WILL HANDLE THE REQUEST

1. What's the first thing a Corporation staff member who receives a request for reasonable accommodation should do?

As the first step in processing a request for reasonable accommodation, the Corporation staff member who receives the request must determine who will be responsible for handling it and forward it, if necessary. The person who handles the request for accommodation will be referred to as the "decision maker." There are four possible decision makers: an Office of Human Capital staff person, an employee's supervisor, an employee's office head, and the Disability Program Manager. A staff member receiving a request for accommodation should follow the instructions below to determine which of these individuals should receive the request.

2. How quickly should a Corporation staff person forward a request for reasonable accommodation to a decision maker?

The request should be forwarded to the appropriate person as soon as possible but in no more than five business days. A request from a job applicant should be forwarded to the appropriate Human Resources staff person as soon as possible.

3. Who else must be notified?

All referrals must be copied to the Office Director of the employee requesting the accommodation. If the person receiving the request, including the Disability Program Manager, is also the decision maker, s/he should promptly notify the employee's Office Director that the request has been made.

4. How do I know which decision maker should handle a particular request for reasonable accommodation?

- a. Requests for accommodation from an applicant will be handled by the Office of Human Capital staff person responsible for the recruitment and/or selection process.
- b. Requests for accommodation from an employee will be handled by the requesting employee's immediate supervisor unless the request is one which should be handled by the Office Director or the Disability Program Manager, as explained below.
- c. Requests involving personnel actions (other than reassignment) requiring completion of a Standard Form 50 will be handled by the Office Director or his or her designee.
- d. The Disability Program Manager will handle the following:
 - (1) Requests for adaptive equipment, including information technology and communications equipment, or specially designed furniture. The Disability Program Manager will coordinate adaptive equipment requests with the Office of Information Technology and furniture requests with the Office of Administrative Services.
 - (2) Initial requests for a reader or sign language interpreter, or other staff assistant to enable employees to perform their job functions, where the accommodation cannot be provided by current staff.
 - (3) Requests for the removal of an architectural barrier(s), including reconfigured work spaces. The Disability Program Manager will coordinate these requests with the Office of Administrative Services who will, as necessary, coordinate with the General Services Administration or the building manager.
 - (4) Requests for materials in alternative formats (e.g., braille, large print) which cannot be handled by the supervisor or Office Director.
 - (5) Requests for reassignment to another job.

5. Other than making decisions on certain types of requests for reasonable accommodation, what role does the Disability Program Manager have?

The Disability Program Manager also provides assistance to employees and decision makers in processing requests. This includes processing certain requests, providing authoritative guidance to decision makers on (1) the need for medical information, (2) whether an individual has sufficiently demonstrated a disability, and (3) the appropriateness of a particular accommodation. The Disability Program Manager also maintains custody of all records, including medical records, relating to requests for reasonable accommodation, and prepares annual reports on the Corporation's reasonable accommodation process.

6. What if a particular decision maker is on leave or otherwise unavailable to act on a request for reasonable accommodation?

All decision makers must have designated back-ups to continue receiving, processing, and providing reasonable accommodations when the decision maker is unavailable. Decision makers should ensure that individuals know who has been designated as back-up. The time frames discussed in Section G, below, will not be suspended or extended because of the unavailability of a decision maker.

- The back-up for a supervisor is his/her Office Director.
- The Office of Human Capital will designate a back-up for the Disability Program Manager and for staff responsible for recruitment and/or selection of job applicants.

D. THE INTERACTIVE PROCESS

1. What happens after a decision maker receives a request for reasonable accommodation?

After a decision maker receives a request for reasonable accommodation, the next step is to begin an interactive process to determine what, if any, accommodation should be provided. This means that the individual requesting the accommodation and the Corporation decision maker must talk to each other about the request, the process for determining whether an accommodation will be provided, and potential accommodations.

2. What are the key elements of the interactive process?

Communication is a priority throughout the entire process. The Corporation decision maker will have the principal responsibility for identifying possible accommodations. S/he will take a proactive approach in searching out and considering possible accommodations, including consulting appropriate resources for assistance. The employee requesting the accommodation should also participate to the extent possible in helping to identify an effective accommodation. Resources that are available to help both the decision maker and the individual requesting the accommodation to identify possible accommodations are listed in Section N. The Disability Program Manager is also available to provide assistance.

On-going communication is particularly important where the specific limitation, problem, or barrier is unclear; where an effective accommodation is not obvious; or where the parties are considering different possible reasonable accommodations. In those cases where the disability, the need for accommodation, and the type of accommodation that should be provided are clear, extensive discussions are not necessary. Even so, the decision maker and requesting individual should talk to each other to make sure that there is a full exchange of relevant information.

3. What are the first steps in the interactive process?

As the first step, the Corporation decision maker will: (1) explain to the applicant or employee that s/he 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 decision maker should, if possible, confirm with the applicant or employee with a disability that s/he, in fact, wants a reasonable 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 Corporation will process the third party's request and will consult directly with the individual needing the accommodation as soon as it is practicable.

4. With whom may a decision maker share information about a request for reasonable accommodation?

The decision maker or any other Corporation official who receives information in connection with a request for reasonable accommodation may share information connected with that request with other agency officials only when the agency official(s) need to know the information in order to make determinations on a reasonable accommodation request. See Section F for specific rules governing the confidentiality of medical information.

For example, a decision maker will typically consult with the Office of Information Technology (OIT) in connection with requests for adaptive equipment for computers. However, OIT has no need to know any information about the medical condition of the person seeking the accommodation. It only needs to know the employee's functional limitations insofar as these limitations affect technology needs.

5. What special considerations are involved in the interactive process when a request for reasonable accommodation includes a request for reassignment?

Reassignment will only be considered if no accommodations are available to enable the individual to perform his or her current job, or if the only effective accommodation would cause undue hardship.

In considering whether there are positions available for reassignment, the Disability Program Manager will work with the Office of Human Capital and the individual requesting the accommodation to identify: (1) all vacant positions within the agency for which the employee may be qualified, with or without reasonable accommodation; and (2) all positions which the Office of Human Capital has reason to believe will become vacant over the next 60 business days and for

which the employee may be qualified. The Corporation will first focus on positions that are equivalent to the employee's current job in terms of pay, status, and other relevant factors. If there is no vacant equivalent position, the Corporation will consider vacant lower level positions for which the individual is qualified.

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, the Corporation will not pay for the employee's relocation costs.

E. DETERMINING WHETHER AN INDIVIDUAL HAS A DISABILITY

1. When may the Corporation require an individual to provide documentation about his or her disability in connection with a request for reasonable accommodation?

The Corporation is entitled to know that an employee or applicant has a covered disability that requires a reasonable accommodation. In some cases the disability and need for accommodation will be obvious or otherwise already known to the decision maker. In these cases, the Corporation will not seek any further medical information. However, when a disability or need for reasonable accommodation is not obvious or otherwise already known to the decision maker, the Corporation may require, if it chooses, that the individual provide reasonable documentation about the disability and his or her functional limitations.

The failure to provide appropriate documentation or to cooperate in the Corporation's efforts to obtain such documentation can result in a denial of the request for reasonable accommodation.

2. How should a decision maker go about obtaining medical information?

If a supervisor or other decision maker believes that medical information is necessary in order to evaluate a request for reasonable accommodation, s/he will make a request to the Disability Program Manager to obtain such information.

The Disability Program Manager will make a determination as to whether medical documentation is necessary. If it is, s/he will request the necessary medical information. If it is not necessary, the Disability Program Manager will promptly return the request for accommodation to the decision maker to complete the processing.

3. Are there limits on the medical information that the Corporation may request?

If a determination is made to seek medical information, the Corporation will request information sufficient to substantiate that the individual has a Rehabilitation Act disability and needs the reasonable accommodation requested, but will not ask for unrelated documentation. Corporation requests for medical information will follow the requirements set forth in the EEOC's Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act, available at <http://www.eeoc.gov/policy/docs/guidance-inquiries.html>.

The Disability Program Manager will seek information or documentation about the disability and/or functional limitations from the individual, and/or ask the individual to obtain such information from an appropriate professional, such as a doctor, social worker, or rehabilitation counselor. In order to get the most helpful possible information, all requests for information should describe the nature of the job, the essential functions the individual is expected to perform, and any other relevant information. The Disability Program Manager may work with the supervisor and/or Office Director in seeking appropriate information.

4. What happens once the medical documentation is received?

Once the medical documentation is received, the Disability Program Manager will evaluate it, in consultation with a physician chosen by the Corporation, if necessary. The Corporation will pay for the consultation.

If the information provided by the health professional (or the information volunteered by the individual requesting the accommodation) is insufficient to enable the Corporation to determine whether an accommodation is appropriate, the Disability Program Manager may ask for further information. First, however, s/he will explain to the individual seeking the accommodation, in specific terms, why the information that has been provided is insufficient, what additional information is needed, and why it is necessary for a determination of the reasonable accommodation request. The individual may then ask the health care or other appropriate professional to provide the missing information.

Alternatively, the Disability Program Manager and the individual requesting the accommodation may agree that the individual will sign a limited release, and that the Corporation may thereafter submit a list of specific questions to the individual's health care professional or may otherwise contact the individual's health care professional.

5. What if the documentation provided by the individual and his or her health professional is insufficient to make a determination?

If, after a reasonable period of time, there is still not sufficient information to demonstrate that the individual has a disability and needs a reasonable accommodation, the Disability Program Manager may request that the individual be examined by a physician chosen by the Corporation. The Corporation will pay for the examination.

6. What does the Disability Program Manager do once there is enough documentation to make a decision?

The Disability Program Manager will let the decision maker know whether the documentation demonstrates that a reasonable accommodation is appropriate and provide, if necessary, any additional relevant information about the individual's functional limitations.

7. What happens if an individual provides documentation directly to the decision maker?

In some cases, the individual requesting the accommodation will supply medical information directly to the decision maker without being asked. In these cases, the decision maker will consider such documentation and if additional information is needed, the decision maker will work with the Disability Program Manager as described in this section. (See Section F for instructions on storage of this information.)

F. CONFIDENTIALITY OF MEDICAL INFORMATION OBTAINED IN THE REASONABLE ACCOMMODATION PROCESS

1. What are the requirements relating to the confidentiality of medical records in the reasonable accommodation process?

Under the Rehabilitation Act, medical information obtained in connection with the reasonable accommodation process must be kept confidential. This means that all medical information, including information about functional limitations and reasonable accommodation needs, that the Corporation obtains in connection with a request for reasonable accommodation must be kept in files separate from the individual's personnel file. It also means that any Corporation employee who obtains or receives such information is strictly bound by these confidentiality requirements.

2. Who is responsible for maintaining medical records relating to reasonable accommodation requests?

The Disability Program Manager will maintain custody of all records obtained or created during the processing of a request for reasonable accommodation, including medical records, and will respond to all requests for disclosure of the records. All records will be maintained in accordance with the Privacy Act.

3. To whom may medical information be disclosed?

Medical information may be disclosed only as follows:

- a. Supervisors and managers who need to know (including the decision maker who requested that the Disability Program Manager obtain medical information) may be told about necessary restrictions on the work or duties of the employee and about the necessary accommodation(s), but medical information should only be disclosed if strictly necessary.
- b. First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment.
- c. Government officials may be given information necessary to investigate the Corporation's compliance with the Rehabilitation Act.
- d. The information may in certain circumstances be disclosed to workers' compensation offices or insurance carriers.
- e. Office of General Counsel staff, who provide managers legal advice on requirements under the Rehabilitation Act.

4. What safeguards are necessary when disclosing information?

Whenever medical information is disclosed, the individual disclosing the information must inform the recipients of the information about the confidentiality requirements that attach to it.

G. TIME FRAMES FOR PROCESSING REQUESTS AND PROVIDING REASONABLE ACCOMMODATIONS

1. What is the time frame for completing action on a request for reasonable accommodation?

The Corporation will process requests for reasonable accommodation and provide accommodations, where they are appropriate, in as short a time frame as reasonably possible. The Corporation recognizes, however, that 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.

2. If a request for reasonable accommodation can be processed without any supporting medical documentation, how much time does a decision maker have to process a request and, if warranted, provide an accommodation?

If the requesting employee's supervisor or Office Director can process the request and if no supporting medical information is required, and no extenuating circumstances as described in Section G.7 apply, the decision maker has 20 business days from the date s/he receives the request to process it, and if it is approved, provide the accommodation, and sooner, if possible.

Since decision makers may need the full 20 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 decision maker delayed in processing the request is not an extenuating circumstance. (See Section G.7 for information on "extenuating circumstances.")

3. Under what circumstances should a decision maker make a decision in less than 20 days?

In certain circumstances, a request for reasonable accommodation requires an expedited review and decision in a time frame that is shorter than the usual time frame. This includes where a reasonable accommodation is needed:

- a. to enable an applicant to apply for a job. 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 reasonable accommodation in order to ensure that an applicant with a disability has an equal opportunity to apply for a job. Therefore, the Office of Human Capital needs to move as quickly as possible to make a decision and, if appropriate, work with the office conducting the interviews to provide the accommodation.

- b. to enable an employee to attend a meeting scheduled to occur shortly. For example, an employee may need a sign language interpreter for a meeting scheduled to take place in five days.

4. What happens to the time frames if it is necessary to obtain medical information to act on a request for reasonable accommodation?

If the decision maker believes that it is necessary to obtain medical information to determine whether the requesting individual has a disability and/or to identify the functional limitations, the decision maker will make such request to the Disability Program Manager as soon as possible after his or her receipt of the request for accommodation, but before the expiration of the 20-day period. The Corporation recognizes that the need for documentation may not become apparent until after the interactive process has begun.

If the decision maker requests that the Disability Program Manager obtain medical information, the 20-day period is frozen. If the Disability Program Manager determines that medical information is not needed, the 20-day time period resumes as soon as the Disability Program Manager notifies the decision maker that s/he can continue processing the request.

If the Disability Program Manager determines that medical documentation is needed, the decision shall be made and the accommodation, if granted, provided within 20 business days from the date the decision maker receives the relevant information from the Disability Program Manager.

5. What are some examples of requests for reasonable accommodation that might be readily provided within the 20-day time frame?

Examples of accommodations which can easily be provided within this 20-day time frame include:

- a. 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.
- b. An employee, who takes anti-depressants that make it hard for her to get up in time to get to the office at 9:00, requests that s/he be allowed to start work at 10:00 and still put in an eight-hour day.
- c. 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.

6. What time frames apply when the Disability Program Manager is the decision maker?

If the Disability Program Manager is the decision maker, s/he will make a decision on the request and the accommodation, if granted, will be provided within 25 business days from the date the request was initially made, absent extenuating circumstances. If medical documentation is necessary, the decision will be made within 25 business days from the receipt of the documentation, absent additional extenuating circumstances.

7. What type of extenuating circumstances might extend the time frames?

The time frames may be extended if there are circumstances 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 reasonable accommodation and providing the accommodation will be extended as reasonably necessary. It is the Corporation's policy that extensions based on extenuating circumstances should be limited to circumstances where they are strictly necessary. All Corporation staff are expected to act as quickly as reasonably possible in processing requests and providing accommodations. The following are examples of extenuating circumstances:

- a. There is an outstanding initial or follow-up request for medical information, or the Disability Program Manager is evaluating medical information that has been provided.
- b. The purchase of equipment may take longer than 20 or 25 business days because of requirements under the Federal Acquisition Regulation and Corporation procurement rules.
- c. Equipment must be back-ordered, the vendor typically used by the Corporation for goods or services has unexpectedly gone out of business, or the vendor cannot promptly supply the needed goods or services and another vendor is not immediately available.
- d. The employee with a disability needs to try working with equipment on a trial basis to ensure that it is effective before the Corporation buys it.
- e. New staff needs to be hired or contracted for, or an accommodation involves the removal of substantial architectural barriers.

"Extenuating circumstances" cover limited situations in which unforeseen or unavoidable events prevent prompt processing and delivery of an accommodation; they do not include delays caused by the unavailability of a particular staff member. (See Section C.6 on designating back-ups to handle requests when the decision maker is unavailable.)

8. What type of notice should the decision maker provide to the individual about delays caused by extenuating circumstances?

Where extenuating circumstances are present, the decision maker 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. The decision maker should also promptly communicate any further developments or changes.

9. Is there anything the decision maker can do during the delay to assist the individual?

If there is a delay in providing an accommodation that has been approved, the decision maker must investigate whether temporary measures can be taken to assist the employee. This could include providing the requested accommodation on a temporary basis or providing a less effective form of accommodation. In addition, the decision maker may consider providing measures that are not reasonable accommodations within the meaning of the law (e.g., temporary removal of an

essential function) if: (1) they do not interfere with the operations of the Corporation; and (2) the employee is clearly informed that they are being provided only on a temporary, interim basis.

- a. For example, there may be a delay in receiving adaptive equipment for an employee with a vision disability. During the delay, the supervisor might arrange for other employees to act as readers. This temporary measure may not be as effective as the adaptive equipment, but it will allow the employee to perform as much of the job as possible until the equipment arrives.
- b. If a delay is attributable to the need to obtain or evaluate medical documentation and the Corporation has not yet determined that the individual is entitled to an accommodation, the Corporation may also provide an accommodation on a temporary basis. In such a case, the decision maker will notify the individual in writing that the accommodation is being provided on a temporary basis pending a decision on the accommodation request.
- c. Corporation decision makers who approve such temporary measures are responsible for assuring that they do not take the place of a permanent accommodation and that all necessary steps to secure the permanent accommodation are being taken.

H. CONSIDERATIONS FOR DECISION MAKERS

1. How will the Corporation pay for reasonable accommodations?

Most reasonable accommodations require little or no outlays of funds. When funds are required, decision makers should consult with the Disability Program Manager to determine the availability and source of funds to be used.

2. Is it a reasonable accommodation for an employee to work at home?

It might be but, like any accommodation, it must be effective and must not create an undue hardship for the Corporation. Whether this accommodation meets this standard will depend on whether the essential functions of the position can be performed at home. For more information, see Corporation Policy Number 200, *Telecommuting*.

I. GRANTING OR DENYING A REASONABLE ACCOMMODATION REQUEST

1. If a request for reasonable accommodation is approved, how should this be communicated to the individual?

As soon as the decision maker determines that a reasonable accommodation will be provided, s/he should immediately notify the individual. If the accommodation cannot be provided immediately, the decision maker must inform the individual of the projected time frame for providing the accommodation. This notice does not need to be in writing. The decision maker is responsible for submitting the Confirmation of Request and Reasonable Accommodation Reporting Form to the Disability Program Manager. The decision maker is also responsible for notifying the employee's Office Director.

2. If a request for reasonable accommodation is denied, how should this be communicated to the individual?

As soon as the decision maker determines that a request for reasonable accommodation will be denied, s/he must fill out the "Denial of Request" form (at [Appendix B](#)) and give it to the individual who requested the accommodation. The explanation for the denial should be written in plain language, clearly stating the specific reasons for the denial. Where the decision maker has denied a specific requested accommodation, but offered to make a different one in its place which was not agreed to during the interactive process, the denial notice should explain both the reasons for the denial of the requested accommodation and the reasons that the decision maker believes that the chosen accommodation will be effective. Reasons for the denial of a request for reasonable accommodation may include the following:

- a. The requested accommodation would not be effective.
- b. Providing the requested accommodation would result in undue hardship. Before reaching this determination, the decision maker must have explored whether other effective accommodations exist which would not impose undue hardship and therefore can be provided. A determination of undue hardship means that the Corporation finds that a specific accommodation would result in significant difficulty or expense, or would fundamentally alter the nature of the Corporation's operations. When evaluating budgetary or administrative concerns to determine if undue hardship exists, the Corporation will follow the standards enunciated in the EEOC's "Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act."
- c. Medical documentation is inadequate to establish that the individual has a disability and/or needs a reasonable accommodation.
- d. The requested accommodation would require the removal of an essential function of the job.
- e. The requested accommodation would require the lowering of a performance or production standard.

NOTE: The written notice of denial also informs the individual that s/he has the right to file an EO complaint and may have rights under the Merit Systems Protection Board (MSPB) and union grievance procedures. The notice also explains the availability of procedures available for informal dispute resolution.

J. INFORMAL DISPUTE RESOLUTION

1. How can an individual whose request for reasonable accommodation has been denied seek reconsideration or otherwise appeal the decision within the Corporation?

- a. If an individual wishes reconsideration, s/he should first ask the decision maker to reconsider the decision. The individual may present additional information in support of his/her request. The decision maker will respond in writing to the request for reconsideration within five business days.

- b. If the decision maker was the supervisor, and s/he does not reverse the decision, the individual can ask the Office Director to do so. The Office Director will respond in writing to this request within ten business days.
- c. If the decision maker was the Office Director, and s/he does not reverse the decision, the individual can ask the Disability Program Manager to do so. The Disability Program Manager will respond in writing to this request within ten business days.
- d. If the decision maker was the Disability Program Manager, and s/he does not reverse the decision, the individual can ask an official designated by the Chief Operating Officer to do so. This official will respond in writing to this request within ten business days.

2. Does pursuing these informal dispute resolution procedures extend the deadlines for initiating statutory or collective bargaining unit claims?

No. Pursuing any of the informal dispute resolution procedures identified above, including seeking reconsideration from the decision maker and appealing to the next person in the decision maker's chain of command, does not extend or otherwise affect the time limits for initiating statutory and collective bargaining claims. An individual's participation in any or all of these informal dispute resolution processes does not satisfy the requirements for bringing a claim under EO, MSPB, or union grievance procedures.

3. May an employee seek resolution through the Corporation's Alternative Dispute Resolution Program?

Yes, but because a claim of failure to provide reasonable accommodation is a disability claim, the individual should be aware that requesting Alternative Dispute Resolution does not extend EO or other filing deadlines.

K. INFORMATION TRACKING AND REPORTING

1. What record of decision must the decision maker submit to the Disability Program Manager?

The decision maker must complete the "Information Reporting" form ([Appendix C](#)) and submit it to the Disability Program Manager within 10 business days of the decision. The decision maker should attach to the form all information, including medical information, s/he received as part of processing the request. This includes originals and any existing copies of all documents. The Office of Human Capital will maintain the records on each matter.

2. What records and reports are the responsibility of the Disability Program Manager?

The Disability Program Manager will:

- a. maintain reasonable accommodation decision records for the longer of the employee's tenure with the Corporation or five years;

- b. prepare annually a report, to be made available to all employees. The report will contain the following information, presented in the aggregate:
 - (1) the number of reasonable accommodations, by type, that have been requested in the application process and whether those requests have been granted or denied;
 - (2) the jobs (position classification, and agency component -- unless this would present undue risk of identifying a specific individual) for which reasonable accommodations have been requested;
 - (3) the types of reasonable accommodations that have been requested for each of those jobs;
 - (4) the number of reasonable accommodations, by type, for each job that have been approved, and the number of accommodations, by type, that have been denied;
 - (5) the number of requests for reasonable accommodations, by type, that relate to the benefits or privileges of employment, and whether those requests have been granted or denied;
 - (6) the reasons for denial of requests for reasonable accommodation;
 - (7) the amount of time taken to process each request for reasonable accommodation; and
 - (8) the sources of technical assistance that have been consulted in trying to identify possible reasonable accommodations.

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

3. May a supervisor or decision maker tell other employees that a reasonable accommodation has been provided to an individual?

No, because to do so would amount to a disclosure that the individual has a disability. A response to an inquiry about a change in the workplace benefiting a co-worker should emphasize that the Corporation is committed to assisting any employee who might encounter difficulties in the workplace but that such matters are personal and therefore subject to privacy protection.

L. RELATION BETWEEN PROCEDURES AND CLAIMS UNDER ANTI-DISCRIMINATION STATUTES AND COLLECTIVE BARGAINING AGREEMENT PROVISIONS

1. What is the relationship between this policy and dispute resolution avenues available to an individual under anti-discrimination statutes or collective bargaining agreement provisions?

This policy is in addition to statutory and collective bargaining protections for individuals with disabilities and the remedies they provide for the denial of requests for reasonable accommodation.

Requirements governing the initiation of statutory and collective bargaining claims, including time frames for filing such claims, remain unchanged.

An individual who chooses to pursue statutory or collective bargaining remedies for denial of reasonable accommodation must:

- a. For an EO complaint: contact an EO counselor in the Office of Equal Opportunity (EO) within 45 days from the date of receipt of the written notice of denial;
- b. For a collective bargaining claim, file a written grievance in accordance with the provisions of the Collective Bargaining Agreement; or
- c. Initiate an appeal to the Merit Systems Protection Board within 30 days of an appealable adverse action as defined in 5 C.F.R. 1201.3.

If a member of the EO staff has had any involvement in the processing of the request for reasonable accommodation, that staff member shall recuse him or herself from any involvement in the processing of an EO counseling contact or complaint in connection with that request.

N. RESOURCES

1. What resources are available within the Corporation for additional information?

If you want further information on these procedures you may contact your supervisor or the Disability Program Manager in the Office of Human Capital.

In addition, you may contact the Corporation's EO office at (202) 606-7503, TDD (202) 606-3472, or via e-mail at eo@cns.gov.

2. What other resources are available for individuals seeking more information?

a. U.S. Equal Employment Opportunity Commission

1-800-669-4000 (Voice) 1-800-669-6820 (TT).

The EEOC's Publication Center has many free documents on the Title I employment provisions of the ADA, which may be applicable to reasonable accommodation requests governed by the Rehabilitation Act. This includes both the statute, 42 U.S.C. 12101 et seq. (1994), and the regulations, 29 C.F.R. 1630 (1997).

In addition, the EEOC has published a great deal of basic information about reasonable accommodation and undue hardship. The two main sources of interpretive information are:

- (1) the Interpretive Guidance on Title I of the Americans with Disabilities Act (also known as the "Appendix" to part 1630), 29 C.F.R. Part 1630 app. 1630.2(o), (p), 1630.9 (2008); and
- (2) A Technical Assistance Manual on the Employment Provisions (Title I) of the Americans with Disabilities Act III, 8 FEP Manual (BNA) 405:6981, 6998-7018 (1992). The Manual includes a 200-page Resource Directory, including federal and state

agencies, and disability organizations that can provide assistance in identifying and locating reasonable accommodations.

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

- (3) Enforcement Guidance: Preemployment Disability-Related Questions and Medical Examinations at 5, 6-8, 20, 21-22, 8 FEP Manual (BNA) 405:7191, 7192-94, 7201 (1995);
- (4) Enforcement Guidance: Workers' Compensation and the ADA at 15-20, 8 FEP Manual (BNA) 405:7391, 7398-7401 (1996);
- (5) Enforcement Guidance: The Americans with Disabilities Act and Psychiatric Disabilities at 19-28, 8 FEP Manual (BNA) 405:7461, 7470-76 (1997);
- (6) Fact Sheet on the Family and Medical Leave Act, the Americans with Disabilities Act, and Title VII of the Civil Rights Act of 1964 at 6-9, 8 FEP Manual (BNA) 405:7371, 7374-76 (1995); and
- (7) Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act at 20, 22, 23, 24-5, 8 FEP Manual (BNA) 405:7701, 7711, 7712-14, 7715-16 (2000).

You may refer to the EEOC's "Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act" for additional information on the rights and responsibilities of applicants and employees requesting reasonable accommodation, and the responsibilities of Corporation personnel involved in responding to those requests

All of the above-listed documents, with the exception of the ADA Technical Assistance Manual and Resource Directory, are also available through the Internet at <http://www.eeoc.gov>.

b. Job Accommodation Network (JAN)

(800) 526-7234, Voice; (877) 781-9403, (TT) <http://janweb.icdi.wvu.edu/>

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

c. www.disAbility.gov

d. U.S. Department of Labor, Office of Disability Employment Policy

(202) 376-6200 (voice); (202) 376-6205 (TDD); www.dol.gov/odep

e. Registry of Interpreters for the Deaf

(703) 838-0030 Voice (703) 838-0459 (TT); <http://rid.org/>

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

f. RESNA Technical Assistance Project

(703) 524-6686 (Voice) (703) 524-6639 (TT); <http://www.resna.org/>

RESNA, the Rehabilitation Engineering and Assistive Technology Society of North America, can refer individuals to projects in all 50 states and the six territories offering technical assistance on technology-related services for individuals with disabilities. Services may include: information and referral centers to help determine what devices may assist a person with a disability (including access to large data bases containing information on thousands of commercially available assistive technology products), centers where individuals can try out devices and equipment, assistance in obtaining funding for and repairing devices, and equipment exchange and recycling programs.



**CONFIRMATION OF REQUEST
FOR REASONABLE ACCOMMODATION**

[Employee or applicant completes Parts 1-3. Disability Program Manager completes Part 4.]

PART 1.

Name: _____ Phone: _____

Today's Date: _____ Date of Request (*if different*): _____

Position/Office: _____ Email address: _____

PART 2. Type of Accommodation You Are Requesting (Be as specific as possible, e.g., adaptive equipment, readers, interpreter)

PART 3. Reason for Request:

If accommodation is time sensitive, please explain:

Return this completed form to the Corporation's Disability Program Manager, Office of Human Capital.

Disability Program Manager will assign tracking number.

PART 4. Tracking No.: _____

6. **If an individual wishes to request reconsideration of this decision, he or she may take the following steps:**

- First, ask the decision maker to reconsider the denial. Additional information may be presented to support this request for reconsideration.

- Second, if the decision maker does not reverse the denial,
 - and the decision maker was the individual's supervisor, the individual may ask the Office Director to do so.

 - and the decision maker was the Office Director, the individual may ask the Disability Program Manager to do so.

 - and the decision maker was the Disability Program Manager, the individual may ask the official designated by the Chief Operating Officer to do so.

7. **If an individual wishes to file an EO complaint, or pursue MSPB or union grievance procedures, he or she must take the following steps:**

For an EO complaint pursuant to 29 C.F.R. § 1614, contact an EO counselor in the Corporation's Office of Equal Opportunity *within 45 days from the date of this notice of denial of reasonable accommodation; or*

For a collective bargaining claim, file a written grievance in accordance with the provisions of the Collective Bargaining Agreement; or

Initiate an appeal to the Merit Systems Protection Board *within 30 days of an appealable adverse action* as defined in 5 C.F.R. §1201.3.

Name of Deciding Official

Signature of Deciding Official

Date reasonable accommodation denied _____



**REASONABLE ACCOMMODATION
INFORMATION REPORTING FORM**

[to be completed by the deciding official]

Name of individual requesting reasonable accommodation: _____

Office of requesting individual: _____

1. Reasonable accommodation: (check one)

_____ Approved

_____ Denied (If denied, attach copy of the written denial letter/memo -- See Section I, pages 19-20, of the Reasonable Accommodation Policy.)

2. Date reasonable accommodation requested: _____

Who received request: _____

3. Date reasonable accommodation request referred to decision maker (i.e., supervisor, office head, Disability Program Manager, Office of Human Capital staff person handling application process):

Name and title of decision maker: _____

4. Job held or desired by individual requesting reasonable accommodation, if applicable (including position title, pay band/grade, and office):

5. Reasonable accommodation needed for: (check one)

_____ Application Process (give job title and announcement number)

_____ Performing Job Functions or Accessing the Work Environment (give job title and office)

_____ Accessing a Benefit or Privilege of Employment (e.g., attending a training program or social event)

6. **Type(s) of reasonable accommodation requested** (e.g., adaptive equipment, interpreter, removal of architectural barrier):

7. **Type(s) of reasonable accommodation provided** (if different from what was requested)

8. **Was medical information required to process this request? If yes, explain why.**

9. **Sources of technical assistance, if any, consulted in trying to identify possible reasonable accommodations** (e.g., Job Accommodation Network, disability organization, Disability Program Manager):

10. **Date reasonable accommodation ___ approved or ___ denied:**_____

11. **Date reasonable accommodation provided** (if different from date approved):

12. **If time frames outlined in the Reasonable Accommodation Policy were not met, please explain why.**

13. **Comments:**

Submitted by: _____

Phone: _____

IMPORTANT: ATTACH all documents (originals and copies) obtained or developed in processing this request. The Office of Human Capital will maintain the records.