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SUBCHAPTER 1. GENERAL POLICY

1-1. General

- a. The Office of Personnel Management’s (OPM) policy on reasonable accommodation is to fully comply with the reasonable accommodation requirements of the Rehabilitation Act of 1973, 29 U.S.C. 701, *et seq*, as amended; Executive Order (E.O.) 13164, Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation; and E.O. 13548. Under the law, Federal agencies must provide reasonable accommodation to qualified employees or applicants with disabilities, unless to do so would cause undue hardship. OPM is committed to providing reasonable accommodation, as appropriate, to its employees and applicants for employment within OPM.
- b. OPM has designated the Director of OPM Office of the Chief Human Capital Officer (OCHCO) as the individual with direct administrative responsibility for the program, Agency-wide.
- c. The Director of OPM OCHCO may delegate the day-to-day responsibilities for reviewing and processing reasonable accommodation requests to staff members. One or more Reasonable Accommodation Managers (RAMs) will be designated within OPM OCHCO, which will serve as the resource office for OPM employees and supervisors.
- d. RAMs will advise a deciding official, as needed, as to how to arrange to use agency resources to provide an accommodation, including any centralized fund the Agency may have for that purpose.
- e. OPM will make available to employees and job applicants a copy of its procedures in accessible formats, upon request.
- f. OPM will process requests for reasonable accommodation and, where appropriate, provide reasonable accommodation in a prompt, fair, and efficient manner. If a determination is made that the accommodation is reasonable, OPM will be responsible for providing the funds consistent with law.

1-2. Eligibility for Reasonable Accommodation

- a. OPM provides reasonable accommodation when a qualified employee with a disability needs an accommodation to enable them to perform the essential functions of the job or to have access within the workplace.
- b. OPM provides reasonable accommodation when a qualified employee with a disability needs an accommodation to enjoy equal benefits and privileges of employment.

- c. OPM provides reasonable accommodation when an applicant with a disability needs an accommodation in order to be considered for a job within OPM.

1-3. Definitions of Key Terms

- a. **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. **Applicant:** An individual who has applied for a position within OPM. This includes selectees who have not yet onboarded to the Agency.
- c. **Employee:** An individual who currently works for OPM under a career, career-conditional, or excepted service appointment.
- d. **Days:** The term “days” means calendar days. If the deadline for a particular event to occur falls on a weekend or holiday or other government closure day(s), the deadline moves to the next business day.
- e. **Deciding Official:** The individual with management responsibilities who decides whether to grant a request for reasonable accommodation and, if so, the type of accommodation that is appropriate. Decisions regarding an employee’s accommodation are generally made by the employee’s immediate supervisor. At the employee’s request, the deciding official also can be another supervisor in the employee’s supervisory chain of command. For applicants, the deciding official is the OPM OCHCO Human Resources Specialist handling the job opportunity announcement (in collaboration with the office making the selection, where appropriate).
- f. **Essential Functions:** Those job duties that are fundamental to a position that the individual holds or desires such that an individual 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 employee was hired, or the applicant will be hired, based on the individual’s ability to perform it. Determination of the essential functions of a position must be made 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.
- g. **Extenuating Circumstances:** Limited situations in which unforeseen or unavoidable events prevent prompt processing and provision of an accommodation.
- h. **Individual with a Disability:** An individual who: (1) has a physical or mental impairment which substantially limits one or more of such individual’s major life activities; (2) has a record of such an impairment; or (3) is regarded as having such an impairment. *See* 29 U.S.C. 705.

- i. **Interactive Process:** An informal dialogue/exchange of information between an employer and an employee with a disability to obtain relevant information to make an informed decision as to whether an accommodation is warranted and, if so, the effective accommodation to be provided. The interactive process for an employer and an employee may take place via email, phone, virtual meetings, or in-person meetings, as appropriate. The interactive process for applicants with disabilities will involve communications (in most instances, via email) between the applicant and the designated staff in the hiring process to make a similar informed decision. The interactive process may not be needed, or may be limited, where the need for an accommodation and an effective accommodation are obvious.
- j. **Interim Accommodation:** When the available facts and circumstances known to OPM make it reasonably likely that the individual will be entitled to an accommodation, but the accommodation process remains in progress, OPM may provide the individual with an effective temporary or short-measure that allows the individual to perform some or all the essential functions of the job, absent undue hardship until a final decision on the reasonable accommodation request has been made.
- k. **Obvious Disability:** A disability is obvious or already known when it is clearly visible or where OPM already has information from the individual showing that the condition met the Rehabilitation Act definition. Examples include a person with visual impairment who requires the use of a cane or service animal, or a significant mobility impairment as evidenced by using a wheelchair.
- l. **Personal Assistance Services (PAS):** Staff who are retained to assist employees with disabilities, such as sign language interpreters, readers, and personal assistants who perform physical tasks that an employee cannot perform because of a disability. Staff retained to provide PAS as a reasonable accommodation for employees with disabilities may only be used for that purpose. For personal assistants, this may include accompanying the assigned employee on job-related travel in accordance with federal travel regulations. PAS may not be asked or expected to perform the essential duties of the position held by the employee with the disability.
- m. **Physical or Mental Impairment:** (1) Any physiological disorder or condition, 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 (2) Any mental or psychological disorder, such as an intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

- n. **Qualified Individual with a Disability:** An individual with a disability is qualified if: (1) they satisfy the requisite skills, experience, education, and other job-related requirements of the position; and (2) they can perform the essential functions of the position, with or without reasonable accommodation.
- o. **Reasonable Accommodation:** Any change made in the work environment or the way things are customarily done that provides equal employment opportunity for applicants and employees with disabilities. For applicants, accommodations are made to provide full access to the application process in a manner that does not undermine the security, reliability, and/or validity of the application and any assessment processes. For employees, accommodations are made to enable them to perform the essential functions of the job, to have access within the workplace, and to enjoy equal benefits and privileges of employment.
- p. **Reasonable Accommodation Manager (RAM):** The staff assigned by the Director of OPM OCHCO to manage day-to-day responsibilities for reviewing and processing reasonable accommodation requests. The RAMs will serve as the resource office for OPM employees and supervisors, including assisting applicants, employees, managers and supervisors as needed throughout the reasonable accommodation process. The RAMs will take the lead in handling requests for PAS but will work in collaboration with the program office leadership, the OPM contract physicians, and other parts of HR as needed to identify and implement the appropriate PAS.
- q. **Representative:** A family member, health professional, union representative, or other appropriate party who is authorized by an OPM employee or applicant to commence the reasonable accommodation process on their behalf.
- r. **Undue Hardship:** Significant difficulty or expense resulting from a provision of a specific accommodation. If a specific type of reasonable accommodation causes significant difficulty or expense, OPM is not required to provide that particular accommodation. Determination of undue hardship is always made on a case-by-case basis, considering factors that include the nature and cost of the reasonable accommodation requested, available Agency resources including any centralized fund the agency may have for that purpose (but excluding those designated by statute for a specific purpose that does not include reasonable accommodations), and the impact of the reasonable accommodation on the operations of the Agency.

SUBCHAPTER 2. PROCEDURES FOR REQUESTING REASONABLE ACCOMMODATION

2-1. Requesting Reasonable Accommodation

- a. An employee, applicant, or representative (e.g., an authorized family member or healthcare professional or other representative) can make an oral or written request for accommodation at any time (Exception: Applicants must make such

requests before starting any assessment). The reasonable accommodation request is a statement that an individual needs an adjustment or change at work, in the application process, or to enjoy equal benefits or privileges of employment for a reason related to a medical condition. Such a request does not require the use of any special words. The term “reasonable accommodation request” does not imply, however, that all such requests are reasonable when submitted. The determination of whether the request for accommodation is reasonable will be made during the interactive process. OPM may provide an accommodation that is different from the specific accommodation requested, as long as the alternative accommodation is effective. The reasonable accommodation process begins when the request for accommodation is made, even where the specific reasonable accommodation has not been identified.

NOTE: While the employee or applicant does not need to have a particular accommodation in mind at the time of the request, the lack of specificity in a reasonable accommodation request may result in a delay in the interactive process.

- b. An employee may request a reasonable accommodation orally or in writing from their supervisor, another supervisor or manager in their immediate chain of command, or the Reasonable Accommodation Manager (RAM) in OPM OCHCO. The RAM can be reached via email at OPMHumanResources@opm.gov. The final decision maker is the individual identified in Subchapter 1-3.e (Definitions of Key Terms).
- c. An employee may request personal assistance services (PAS) in the same manner in which employees seek other types of accommodations.
- d. An applicant may request a reasonable accommodation orally or in writing from any OPM employee involved in the application process with whom the applicant has contact. The contact information for reasonable accommodation requests is generally contained within the job opportunity announcement. Where the request is received by someone other than the OPM OCHCO Human Resources Specialist or the head of the office making the selection (office head), the individual who received the request will forward it to the appropriate OPM OCHCO Human Resources Specialist or office head right away. OPM OCHCO is responsible for training staff who are involved in the application process to recognize requests for reasonable accommodation and to handle them appropriately.
- e. An authorized family member, health professional, or other representative may request an accommodation on behalf of an OPM employee or applicant. The request should be directed to one of the same individuals to whom the employee or applicant would make the request. The interactive process will proceed thereafter directly with the employee or applicant needing the accommodation. If an OPM employee or applicant wishes to have a representative included in the interactive process, the employee or applicant is responsible for communicating with their representative and providing any additional information to the

representative, as desired. OPM OCHCO will not share meeting invites or information directly with representatives. If it is not immediately possible to obtain confirmation of the request from the individual needing the accommodation, OPM will begin to process the representative's request and will consult directly with the individual needing the accommodation as soon as it is practicable and before a final decision is made.

2-2. Written Requests for Record Keeping Purposes

- a. To enable OPM to keep accurate records regarding requests for accommodation, and to ensure the process is followed, employees who make an oral request for reasonable accommodation must also either complete and submit the "Confirmation of Request for Reasonable Accommodation" form (*see* Appendix A) or otherwise confirm their request in writing (including by email) to either their immediate supervisor, another supervisor or manager in their immediate chain of command, or the RAM.
- b. Applicants needing a reasonable accommodation must also complete and submit the "Confirmation of Request for Reasonable Accommodation" form or other written confirmation as a follow-up to any oral request. The OPM OCHCO Human Resources Specialist or office head handling the request must provide the applicant with the form. If an applicant with a disability requires assistance to complete the form, the individual handling the request will provide that assistance or designate someone to provide that assistance.
- c. While the written confirmation should be made as soon as possible following the oral request for reasonable accommodation, it is not required to commence processing of the request. OPM will begin processing an oral request as soon as it is received.
- d. A written confirmation is not required each time an employee needs a reasonable accommodation on a repeated basis for the same condition (e.g., the assistance of sign language interpreters). The written confirmation is required only for the first request, although adequate advance notice must be given each time such an accommodation is needed. In addition, if there is a change in the condition that will require a different accommodation, written confirmation will be required to address the new request.
- e. For employees transferring to another OPM organization, it is the responsibility of the employee with the reasonable accommodation to provide new management with documentation of the previously granted accommodation as soon as possible during or after the transfer process. The employee may also seek assistance from the RAM to provide such documentation. The RAM can work with the employee and management if there is a need to restart or modify

the accommodation in light of the duties in the receiving organization or due to insufficient supporting documentation.

SUBCHAPTER 3. PROCESSING REQUESTS FOR REASONABLE ACCOMMODATION

3-1. OPM Official Responsible for Processing the Request

- a. As the first step in processing a request for reasonable accommodation for an OPM employee, the individual who receives the request will forward it to the deciding official as soon as possible, but not later than five calendar days after receipt. Generally, the deciding official is the immediate supervisor of the employee needing the accommodation (except for a request for PAS). If the employee needing the accommodation requests to have another manager in the employee's supervisory chain of command process the request, the next level manager becomes the deciding official. The deciding official (immediate supervisor or higher level) will contact the RAM for assistance in making a decision on the request after being notified. The employee's immediate supervisor will be notified of the request for accommodation even where the deciding official is another manager in the employee's supervisory chain.
- b. Requests for accommodation from applicants will be coordinated, in conjunction with the RAM, by the OPM OCHCO Human Resources Specialist responsible for the recruitment and/or selection process for that vacancy, and the office head making the selection.
- c. Any individual involved in this process on behalf of OPM is strongly encouraged to designate a back-up to continue receiving, processing, and providing the reasonable accommodation in the individual's absence. The time frames discussed in Subchapter 4 of this chapter will not be suspended or extended because of the unavailability of an individual involved in the process on behalf of OPM.

3-2. The Role of the Reasonable Accommodation Manager (RAM)

- a. All requests for reasonable accommodation will be processed in coordination with the RAM. The RAM will be available to provide assistance to an employee seeking an accommodation, as appropriate, but providing the relevant documentation remains the responsibility of the employee. The RAM will work in consultation with OPM's contract physicians when assessing medical information.

- b. Requests for PAS, even those requests made to a supervisor or manager, will be handled by the RAM or designee(s). The RAM will work in collaboration with the program office leadership, the OPM contract physicians, and other parts of HR as needed to identify and implement the appropriate PAS.
- c. Requests for adaptive equipment, including information technology and communications equipment or specially designed furniture that cannot be handled by the deciding official, will be coordinated with the RAM. In appropriate cases, the RAM will facilitate an IT-related adaptive equipment request in coordination with the appropriate individuals in the Office of the Chief Information Officer (OCIO) or its successor office.
- d. A request for the removal of an architectural barrier or barriers, including a request for reconfigured workspace, will be coordinated through the RAM. In appropriate cases, the RAM will facilitate the request in coordination with Facilities, Security & Emergency Management (FSEM), or its successor office, which will, as necessary, coordinate with the General Services Administration or the owner of the building to provide substantially equivalent access to individuals with disabilities, as applicable.
- e. Requests for accessible parking will be coordinated through the RAM, with the participation of FSEM or its successor office, as appropriate.
- f. A request for materials in an alternative format (e.g., braille, large print) that cannot be handled by the employee's supervisor will be coordinated through the RAM.
- g. Requests for reassignment to another job for which the employee is qualified, as the accommodation of last resort, will be considered by the deciding official in coordination with the RAM and appropriate Agency officials.

3-3. The Interactive Process

- a. After reasonable accommodation is requested from an employee or applicant with a disability, the relevant parties will begin the interactive process to determine what, if any, accommodation should be provided. This means that the individual needing the accommodation and the deciding official and/or RAM, or for applicants, the relevant OPM OCHCO Human Resources Specialist, must communicate about the request, the process for determining whether an accommodation will be provided, and potential accommodations. The deciding official may consult with the RAM for advice or as a resource.
- b. Communication is a priority throughout the process. It is the responsibility of the employee and/or applicant to identify the accommodation they are seeking, consistent with their medical limitations, to the extent possible. For an accommodation request from an employee, the deciding official is responsible for determining the availability and/or appropriateness of the requested

accommodation, or an alternative (if any), in consultation with the RAM and/or employee, as needed. For an accommodation request from an applicant, the OPM OCHCO Human Resources Specialist is responsible for determining the availability and/or appropriateness of the requested accommodation, or an alternative (if any), in consultation with the RAM and/or applicant, as needed. NOTE: Applicant requests for accommodations that impact test security or the reliability and/or validity of the application or assessment processes are not reasonable and will not be granted.

- c. An individual who is granted a reasonable accommodation is not necessarily entitled to the specific accommodation requested. Consistent with the Rehabilitation Act, the deciding official has the discretion to identify reasonable and effective alternatives.
- d. As the first step for employees, the RAM or the deciding official will: (1) inform the employee as to who will be making the decision on the request; and (2) describe how the request will be processed. This initial discussion should happen as soon as possible after the RAM or deciding official receives the request.
- e. As the first step for applicants, the job opportunity announcement will explain the reasonable accommodation process and describe and identify the appropriate contact to commence the process.
- f. When a request for accommodation is made by a representative of an applicant or employee, the deciding official should, as soon as possible, confirm with the applicant or employee that they, in fact, want a reasonable accommodation. The interactive process will proceed thereafter directly with the applicant or employee needing the accommodation. If it is not immediately possible to obtain the confirmation, OPM will begin to process the representative's request and will consult directly with the individual needing the accommodation as soon as it is practicable and before a final decision is made.
- g. Ongoing communication is a particularly important aspect of the interactive process 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 cases where the disability, the need for accommodation, and the type of accommodation that should be provided are not in dispute, extensive discussions are unnecessary. Even so, for employees, the deciding official and the employee should communicate directly to ensure there is an exchange of relevant information. For applicants, the assigned OPM OCHCO Human Resources Specialist and the applicant should communicate, as appropriate, throughout the application process to ensure there is an exchange of relevant information.
- h. The deciding official or any other OPM official who receives information in connection with a request for reasonable accommodation may share relevant

information connected with that request with other Agency officials who need to know the information to make determinations on the reasonable accommodation request. *See* Subchapter 3-6 for specific rules governing the confidentiality of medical information.

For example, the OCIO or its successor office will typically be consulted in connection with requests for IT-related adaptive equipment. OCIO or its successor office, however, only needs enough information to know the functional limitations of the individual needing the accommodation insofar as these limitations affect technology needs.

3-4. Reassignment as a Form of Reasonable Accommodation

- a. There are specific considerations in the interactive process when responding to a request for reassignment from an employee with a disability. A reassignment will be considered only if no effective accommodations are available to enable the employee to perform the current job or if the only other effective accommodation would cause undue hardship.
- b. In considering whether there are positions available for reassignment, the deciding official will work with the RAM and the employee needing the accommodation to identify: (1) vacant positions within the Agency for which the employee may be qualified, with or without reasonable accommodation; and (2) positions that OPM OCHCO has reason to believe will become vacant over the next 30 calendar days for which the employee may be qualified, with or without reasonable accommodation.

OPM will first consider positions that are equivalent to the employee's current job in terms of grade, pay, status, and other relevant factors. If there is no vacant equivalent position, the deciding official will, at the employee's request, consider vacant lower-graded positions for which the employee is qualified, which may include a downward adjustment in pay, and that do not conflict with the employee's medical condition(s). It will be the employee's choice as to whether to accept a lower-graded position that does not conflict with their medical condition(s). If the employee accepts placement in a lower-graded position, OPM will continue efforts to find an appropriate position equivalent to their previous position that does not conflict with their medical condition(s) during the six months following the change to lower grade. If those efforts do not identify an equivalent position at the employee's previous grade level, OPM will cease efforts to further reassign the employee.

- c. Reassignment under the interactive process will not require the requesting employee to compete for the position under consideration. The requesting

employee would not, however, be precluded from competing for any other position for which they may be interested.

- d. A reassignment may be made to a vacant position outside the employee's commuting area if the employee is willing to relocate. As with other transfers that are not directed by management, OPM will not pay the employee's relocation costs.
- e. If there are no available positions for reassignment at the requesting employee's current grade level or at lower grade levels, OPM will consider any other available options, including removal.

3-5. Requesting Medical Documentation

- a. Once a request for reasonable accommodation is made, OPM is entitled to know that an employee or applicant has a covered disability that requires accommodation. Accordingly, OPM will request that the employee or applicant provide relevant medical documentation. In some circumstances, however, the disability and need for accommodation for an employee will be obvious or otherwise already known to the deciding official. In those cases, OPM may not request medical documentation unless the employee requests an additional accommodation. In these cases, OPM may require the employee to provide additional medical documentation about the condition and/or functional limitations for which they seek the additional accommodation.
- b. If medical documentation is necessary to periodically evaluate the continued need for a reasonable accommodation, the employee will be asked to provide such documentation.
- c. If a determination is made to request medical documentation from an employee or applicant, the agency will request only documentation sufficient to establish the existence of the disability, as defined in the Rehabilitation Act, and the need for an accommodation (i.e., documentation pertaining to: (1) the nature, severity, and duration of the individual's impairment; (2) the activity or activities that the impairment limits; (3) the extent to which the impairment limits the individual's ability to perform the activity or activities; and/or (4) why the individual requires reasonable accommodation or the particular reasonable accommodation requested, as well as how the reasonable accommodation will assist the individual to be considered for a job within OPM, perform the essential functions of the job or have access within the workplace, or enjoy a benefit or privilege of employment).
- d. Relevant documentation may contain sensitive information about an individual's medical condition, and this may make some employees

uncomfortable about sharing it with their supervisors. To avoid this problem, the RAM may receive and review the documentation. The RAM will convey to the deciding official appropriate but limited information about the employee's medical condition. **NOTE:** Failure to provide appropriate documentation or to cooperate in OPM's efforts to obtain such documentation may result in administrative closure of the case until the appropriate documentation is obtained or a denial of the reasonable accommodation request.

- e. If a determination is made to seek medical documentation from an applicant or employee, the assigned OPM OCHCO Human Resources Specialist or RAM will request only documentation sufficient to establish the existence of the disability, as defined in the Rehabilitation Act, and the need for an accommodation, as discussed in detail in Subchapter 3-5.c.
- f. The RAM, acting on behalf of the deciding official, may request information or documentation about the disability and/or functional limitations directly from the employee and/or ask the employee to obtain such information from an appropriate professional(s), such as a doctor, social worker, or rehabilitation counselor. In the alternative, the employee may submit a signed medical release that will permit the Agency to obtain the needed medical information. To obtain the required information, all requests for information provided to the employee or the employee's care providers should describe the nature of the employee's job, the essential functions the employee is expected to perform, requirements of the job application process, and any other relevant information.
- g. The assigned OPM OCHCO Human Resources Specialist may request information or documentation about the disability and/or functional limitations directly from the applicant and/or ask the applicant to obtain such information from an appropriate professional(s), such as a doctor, social worker, or rehabilitation counselor. To obtain the required information, all requests for information provided to the applicant or the applicant's care providers should describe the nature of the job, the essential functions the applicant is expected to perform, requirements of the job application process, and any other relevant information.
- h. Once the medical documentation is received, the deciding official will consult, as necessary, with the RAM and a physician chosen by OPM at OPM's expense.
- i. If the information provided by the health professional(s), employee, or applicant is insufficient to enable the deciding official to determine whether an accommodation is needed, additional information may be requested.
 - o The RAM (for employees) or the OPM OCHCO Human Resources Specialist (for applicants) will explain to the individual requesting the

accommodation why the information that has been provided is insufficient, why additional information is needed, and why it is necessary for a decision on the reasonable accommodation request.

- The individual must then provide the additional information, or if they have submitted a signed medical release, the Agency may obtain the additional information from the appropriate professional(s).
 - If the employee or applicant declines to provide additional medical information after being informed the previous submission was insufficient, the deciding official will make a decision on the accommodation request based on the available medical information.
- j. The RAM will provide support to the deciding official, as necessary, to determine whether the employee’s documentation demonstrates a reasonable accommodation is appropriate and provide, if necessary, any additional relevant information about the employee’s functional limitations. This support may include conferring with the OPM contract physician.
- k. The RAM will provide support to the OPM OCHCO Human Resources Specialist, as necessary, to determine whether the applicant’s documentation demonstrates that a reasonable accommodation is appropriate and provide, if necessary, any additional relevant information about the applicant’s functional limitations.
- l. In some cases, the employee or applicant needing the accommodation will supply medical documentation directly to the deciding official without being asked. In these cases, the deciding official will forward the medical documentation to the RAM, to be maintained in accordance with Subchapter 3-6 (Confidentiality of Medical Information).

3-6. Confidentiality of Medical Information

- a. 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 the type of accommodation needed, that OPM obtains in connection with a request for reasonable accommodation must be kept in files separate from the individual's electronic Official Personnel Folder. It also means that any OPM employee who has access to such information is bound by these confidentiality requirements.
- b. OPM OCHCO 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, OPM

Chapter 714 – Reasonable Accommodation for Qualified Individuals with Disabilities

SORN Internal-25: Reasonable Accommodation Records, 29 CFR 1611, and EEOC Order 150.003. Records will be held in OPM OCHCO or its successor office.

- c. Information pertaining to functional limitations and the type of accommodation needed may be disclosed to the following individuals, as appropriate:
- Supervisors, managers, and other OPM management officials who need to know and/or may need to be told about necessary restrictions on the work or duties of the employee and the relevant accommodation(s);
 - First aid and safety personnel, if the individual's medical condition might require emergency treatment;
 - Government officials, if investigating the Agency's compliance with the Rehabilitation Act; and
 - Workers' compensation offices or insurance carriers. In these circumstances, the employee will be notified.

NOTE: Whenever medical information is disclosed, the individual disclosing the information must inform the recipients of the information about the confidentiality requirements.

SUBCHAPTER 4. TIME FRAMES FOR PROCESSING AND PROVIDING REASONABLE ACCOMMODATION

4-1. General

- a. OPM will process requests for reasonable accommodation and provide accommodations, where appropriate, in as short a time frame as reasonably possible. Except in extenuating circumstances, a reasonable accommodation request will be processed within 45 days (or fewer) from the date an OPM official first receives the request. The time necessary to process a request will depend on the nature of the accommodation requested and whether it is necessary to obtain supporting information, including medical documentation. The agency will not be expected to adhere to its usual timelines if an individual or an individual's healthcare provider does not provide medical documentation in a timely manner.
- b. OPM officials making decisions on reasonable accommodation requests should engage in the interactive process and start to collect all relevant information about possible accommodations as soon as reasonably possible (generally within 20 days of receiving the request). They should not delay beginning this process.
- c. Where a particular reasonable accommodation can be provided in less than the maximum amount of time noted above, failure to provide the accommodation in a prompt manner could be determined to be a violation of the Rehabilitation Act.

- d. If the deciding official believes it is necessary to obtain medical information to determine whether the employee needing the accommodation has a disability and/or to identify the functional limitations, they will consult with the RAM as soon as possible after the interactive process has begun.

4-2. Expedited Processing

- a. In certain circumstances, a request for reasonable accommodation requires an expedited review and decision in a time frame that is shorter than the 45 days discussed above. This includes where a reasonable accommodation is needed:
 - 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 to ensure that an applicant claiming a disability has an equal opportunity to be considered for a job. Therefore, the agency needs to move as quickly as possible to make a decision and, if appropriate, provide a reasonable accommodation before the hiring process is complete.
 - 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 5 days. In that situation, the agency needs to move as quickly as possible to make a decision and, if appropriate, provide the needed accommodation prior to the meeting.

4-3. Extenuating Circumstances

- a. Extenuating circumstances are limited situations in which unforeseen or unavoidable events prevent prompt processing and provision of an accommodation. The unavailability of a particular OPM staff member who is involved in the processing or provision of an accommodation is *not* an extenuating circumstance. Instead, extenuating circumstances are factors that could not reasonably have been anticipated or avoided in advance of the request for accommodation. When extenuating circumstances are present, the time frame for processing a request for reasonable accommodation and providing the accommodation will be extended as reasonably necessary.
- b. Extensions based on extenuating circumstances should be limited to circumstances where they are strictly necessary. All OPM staff are expected to act as quickly as reasonably possible in processing requests and providing accommodations, as appropriate. The following are some examples of extenuating circumstances:
 - There is an outstanding initial or follow-up request for medical information, or the RAM or OPM's contract physician is evaluating

medical information that was not provided in a timely manner.

- The purchase of equipment may take longer because of requirements of the Federal Acquisition Regulations.
 - Equipment must be backordered; the vendor typically used by OPM 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.
 - The employee with a disability needs to work with equipment on a trial basis to ensure it is effective before OPM purchases it.
 - New staff needs to be hired or contracted for or an accommodation involves the removal of architectural barriers.
- c. Where extenuating circumstances are present, the deciding official must notify the employee or applicant of the reason for the delay, and the approximate date on which a decision, or provision of the reasonable accommodation, is expected. Any further developments or changes should also be communicated promptly to the employee or applicant. The following are examples of temporary actions that may be taken when extenuating circumstances are present:
- If there is a delay in providing an accommodation that has been approved, the deciding official must provide the employee with an interim accommodation that allows the individual to perform some or all of the essential functions of their position, absent undue hardship. This could include providing an interim form of the requested accommodation or providing a less effective form of accommodation on an interim basis until the permanent form of accommodation becomes available. In addition, measures that are not reasonable accommodations within the meaning of the law (e.g., temporary removal of an essential function) may be provided if: (1) they do not interfere with OPM's operations; and (2) the employee is informed they are being provided only on a temporary, interim basis.

For example, there may be a delay in receiving adaptive equipment for an employee with a visual 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 is received.

- If a delay is attributable to the need to obtain or evaluate medical documentation and OPM has not yet determined that the employee is entitled to an accommodation, OPM may provide an accommodation on a provisional basis. In such a case, the deciding official will notify the employee in writing that the accommodation is being provided on a provisional basis pending a decision on the accommodation request.

NOTE: OPM officials who approve provisional measures are responsible for assuring that they do not take the place of a permanent accommodation and that all necessary steps to decide on and secure the permanent accommodation are being taken.

SUBCHAPTER 5. GRANTING OR DENYING REASONABLE ACCOMMODATION REQUESTS

5-1. Granting a Reasonable Accommodation Request

- a. As soon as it is decided that a request for reasonable accommodation will be granted, that decision must be communicated to the employee or applicant. If the accommodation cannot be provided immediately, the individual must be informed of the projected time frame for providing the accommodation. Any oral communication will be followed by written notice.
- b. Where a different form of accommodation from the one requested is provided, the written notice approving the accommodation request will explain the reasons for the change.
- c. The Agency reserves the right to request additional or updated medical documentation to confirm or clarify the accommodation request, as needed on a periodic basis.

5-2. Denying a Reasonable Accommodation Request

- a. As soon as it is decided that a request for reasonable accommodation will be denied, the deciding official must provide the employee or applicant with written notice of the denial and in an accessible format when requested.
- b. The explanation for the denial should be written in plain language, clearly stating the specific reasons for the denial, including, where appropriate, the fact

that no accommodation is reasonable. Reasons for the denial of a request for reasonable accommodation may include, but are not limited to, the following:

- Medical documentation is inadequate to establish that the individual has a disability and/or needs a reasonable accommodation.
 - The requested accommodation would not be effective or is not reasonable.
 - The requested accommodation would require the permanent removal of one or more essential functions of the employee's job.
 - The requested accommodation would require the lowering of a performance or production standard.
 - The requested accommodation would undermine the security, reliability, and/or validity of an assessment.
 - Providing the requested accommodation would result in undue hardship to OPM. Before reaching this determination, the deciding official must explore whether other effective accommodations exist that would *not* impose undue hardship and therefore can be provided.
- c. Denial of an accommodation based on cost must consider all resources available within the Agency, including any centralized fund the Agency may have for that purpose, but excluding those designated by statute for a specific purpose that does not include reasonable accommodation. *See* definition of Undue Hardship in Subchapter 1-3.e.
- d. The written notice of denial will inform the individual of their right to file a complaint through a negotiated grievance procedure (if applicable), administrative grievance procedure, or equal employment opportunity (EEO) process (within 45 days after the date of the denial notice, regardless of whether the individual participates in an informal dispute resolution process).

5-3. Dispute Resolution and Grievances

- a. Statutory and collective bargaining protections may be pursued in response to denials of requests for reasonable accommodations or where the effectiveness of the granted reasonable accommodation is in dispute. Requirements governing the initiation of statutory and collective bargaining claims, including time frames for filing such claims, remain unchanged. These protections may include:

1. Administrative Grievance Procedures under HR Handbook Chapter 771;

Chapter 714 – Reasonable Accommodation for Qualified Individuals with Disabilities

2. Negotiated Grievance Procedures in accordance with the applicable collective bargaining agreement;
 3. EEO Complaint Process;
 4. Alternative Dispute Resolution (ADR) within the EEO Complaint Process;
or
 5. Claim under the OPM Anti Harassment Policy and Procedures
- b. E.O. 13164 and OPM’s reasonable accommodation policy neither creates, nor removes any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, its employees, or any person.

SUBCHAPTER 6. INFORMATION TRACKING AND REPORTING

6-1. Reporting Reasonable Accommodation Requests to OPM OCHCO

- a. The decision on an individual’s request for an accommodation will be provided in writing. Documentation regarding an employee’s or applicant’s reasonable accommodation request, including all medical documentation, will be maintained in accordance with Subchapter 3-6 (Confidentiality of Medical Information). The RAM will update employees on the status of their request for accommodation upon request. Applicants seeking the status of their reasonable accommodation request should use the Agency contact listed in the job opportunity announcement.
- b. OPM will keep records that it may use to determine whether it is complying with the nondiscrimination and affirmative action requirements imposed under Section 501 of the Rehabilitation Act, and to make such records available to the EEOC upon the EEOC’s request.
- c. OPM OCHCO will maintain these records in accordance with records retention policy for applicants and employees; or for the duration of the employee's tenure with OPM, whichever is longer. If, however, a charge is filed by the employee against OPM, the records must be maintained until all rights of appeal are exhausted.
- d. OPM OCHCO will retain the following information:
 - the number of reasonable accommodations, by type, that have been requested and whether those requests have been granted or denied;
 - the identity of the deciding official for each request granted or denied
 - whether a requestor’s disability is a targeted disability or other disability;
 - the jobs (occupational series, grade level, and OPM organization) for which reasonable accommodations have been requested; the types of reasonable

accommodations that have been requested for each of those jobs;

- 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;
- the number of reasonable accommodations, by type, for each job that have been granted, and the number of accommodations, by type, that have been denied;
- 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;
- the reasons for denial of requests for reasonable accommodation;
- the amount of time taken to process each request for reasonable accommodation; and
- the sources of technical assistance that have been consulted to identify possible reasonable accommodations for each request for reasonable accommodation.

APPENDIX A: CONFIRMATION OF REQUEST FOR REASONABLE ACCOMMODATION

1. Employee or Applicant Name (Last, First, MI)
2. Date of Request (Month, Day, Year)
3. Position Title, Series, Grade, Step (Applicants: Use information from job you are applying for)
4. Immediate Supervisor Name/Title/Organization/Phone Number (Not applicable if you are an applicant)
5. Description of the medical condition(s) for which you are requesting a reasonable accommodation:

6. Description of the accommodation(s) you are requesting (Be as specific as possible):

7. Have you previously requested an accommodation for this medical condition(s)? If so, describe the accommodation(s) requested.

8. I, the undersigned, state that the information on this form is true and correct to the best of my knowledge.

Signature and date: _____

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APPENDIX B: GUIDANCE ON THE USE OF SIGN LANGUAGE INTERPRETERS AT OPM

- **Scheduling Interpreter Services:** The individual or office scheduling a meeting or event that will require interpreting services (e.g., staff meeting, training, office function, etc.) is responsible for securing interpreting services.
- Advance scheduling (preferably at least one week) is strongly encouraged, to the extent possible. Although it is not possible to foresee every occasion for which interpreting services may be required, failure to schedule interpreting services well in advance may result in the necessity to reschedule meetings or events until interpreter services are available.
- If a meeting or event will last longer than one half hour, arrangements must be made for more than one interpreter to be present, or the meeting or event must be scheduled to include sufficient rest periods, including a "sign-free" lunch

break, if necessary. Generally, one interpreter can work 45-60 minutes before requiring a 15-minute break. A break during a meeting or event does not constitute a rest period for the interpreter if they are expected to continue working (e.g., deaf and hearing parties wish to communicate during the break and need the interpreter to facilitate the exchange).

- An employee who knows sign language or who is taking a sign language class is *not* an acceptable substitute for a contract interpreter.

WORK EVENTS OUTSIDE THE WORKPLACE: OPM must provide an interpreter for an employee who is deaf or hard of hearing who, as part of their job, is required to attend an in-person or virtual (i.e., phone call or video) meeting or event outside of the workplace. If they are required to attend a meeting or event (e.g., conference or training program) sponsored by an outside organization, the sponsoring organization is generally responsible for providing interpreters. OPM will provide interpreting services, however, if the sponsoring organization fails to do so.

OPM MEETINGS/EVENTS: OPM is responsible for ensuring interpreting services are provided for in-person and virtual (i.e., phone call or video) business-related staff meetings, certain office-sponsored functions, training, and other business meetings and events.

NON-OPM BUSINESS MEETINGS/EVENTS NOT SPONSORED BY OPM: OPM will generally not provide interpreters for non-OPM business meetings or events that are not sponsored by OPM. The sponsoring organization must provide its own interpreter(s).

INTERPRETING PHONE CALLS: OPM will, upon request, schedule interpreting services for Agency business-related phone calls.

NOTE: Supervisors needing interpreting services for an employee should contact the RAM for further guidance.

APPENDIX C: REASONABLE ACCOMMODATION RESOURCES

U.S. Equal Employment Opportunity Commission (EEOC)

<https://www.eeoc.gov/>

General information: 1-800-669-4000

1-800-669-6820 (TTY for Deaf/Hard of Hearing callers only)

Chapter 714 – Reasonable Accommodation for Qualified Individuals with Disabilities

1-844-234-5122 (ASL Video Phone for Deaf/Hard of Hearing callers only)

info@eeoc.gov

Resource Materials:

[Enforcement Guidance on Disability-Related Inquiries and Medical Examinations of Employees under the ADA](#) (2000)

[Enforcement Guidance on Reasonable Accommodation and Undue Hardship under the ADA](#) (revised 2002)

Job Accommodation Network (JAN)

<https://askjan.org/>

Email: JAN@AskJAN.org

JAN provides practical guidance and technical assistance on job accommodation solutions and Title I of the Americans with Disabilities Act (ADA) and related legislation.

ADA National Network

<https://adata.org/>

(800) 949-4232 (Voice/TTY)

The ADA National Network consists of the ADA Knowledge Translation Center and 10 regional ADA Centers that provide information, training, and technical assistance on the ADA. Target audiences for ADA National Network services and outreach include individuals with disabilities, businesses, employers, state and local government entities, and educational institutions.