

US EPA ARCHIVE DOCUMENT



The U.S. Environmental Protection Agency

Procedures for Providing Reasonable Accommodation for
EPA Employees and Applicants with Disabilities

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**The U.S. Environmental Protection Agency
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Summary of EPA Reasonable Accommodation Procedures

1. Making a request for reasonable accommodation:

An **applicant** may request a reasonable accommodation, either orally or in writing, from any EPA employee authorized to interact with the applicant in the application process or the Reasonable Accommodation Coordinator (RAC).

An **employee** may request a reasonable accommodation, either orally or in writing, from his/her supervisor, another supervisor in his/her immediate chain of command, or the RAC.

2. The procedure for processing requests for reasonable accommodation:

For a request made by an applicant, the person receiving the request should quickly accommodate the applicant, if s/he can do so. If necessary, the RAC is also available to assist in processing the request and coordinating the provision of the accommodation. Vacancy notices should also indicate that the applicant can directly contact the RAC for the reasonable accommodation.

For a request made by an employee for an accommodation previously approved and anticipated to be needed on a continuing basis, the request should be provided in an expedited manner, without the need for completing an additional "Confirmation of Request for Reasonable Accommodation" form.

For a request involving facility access, the Agency official receiving the request should immediately notify the RAC and the appropriate Agency facilities official(s) of the request and provide any relevant information, including a "Confirmation of Request for Reasonable Accommodation" form. The appropriate Agency facilities official, in coordination with management and the RAC, will evaluate the issue and make a determination on the accommodation.

For a request involving the essential functions of an employee's job, the person receiving the request, together with the employee, should complete and sign the "confirmation of Request for Reasonable Accommodation" form to ensure that the information contained in the written request is accurate. The "Confirmation of Request for Reasonable Accommodation" form should promptly be forwarded to the RAC so that all requests can be docketed and monitored for compliance by the RAC.

For a request involving the essential functions of an employee's job, the immediate supervisor or another supervisor in the employee's immediate chain of command is the Agency decision-maker. To ensure necessary consistency throughout the Agency, supervisors are expected to consult the RAC prior to making a decision on a request for reasonable accommodation.

3. Time Frames for responding to a request:

All requests by Applicants or those needed on a continuing basis are to be handled in an expedited manner.

The timing for resolution of requests involving facility access or modifications to the building can be difficult to determine because of necessary coordination with other federal agencies. All facility access requests will be handled as promptly as possible, and the RAC should update the person making the request every 10 work days until a determination is made.

When requests involving the essential job functions do not require supporting medical information, and no extenuating circumstances apply, the supervisor should determine whether the Agency will provide a reasonable accommodation and notify the employee within 10 working days from receiving the initial request.

When medical documentation or an evaluation is required, time frames will be extended, depending on when sufficient medical information is received for making a determination.

4. Approving or Denying a Request for Reasonable Accommodation

Once a decision is made on a request for a reasonable accommodation, the decision maker must complete the attached "Information Reporting" form and forward it to the RAC. Upon approval of a reasonable accommodation request, the Agency will provide the accommodation in as short a time frame as reasonably possible.

Denial of reasonable accommodation must be recorded on the attached "Denial of Request" form and provided to the employee. The form explains the individual's rights.

I. Definitions and Policy on Reasonable Accommodation

A. Definition of Key Terms

Individual with a Disability: A person who has a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a person who has a record of such an impairment, or; a person being regarded as having such an impairment.

Major Life Activities: Include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. Major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

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*.

Essential Functions: Those job duties that are so fundamental to the position that the job cannot be accomplished 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. A determination of the essential functions of a position is made on a case-by-case basis and reflects the job as actually performed and not simply the components of a generic position description.

Reasonable Accommodation: A change in the work environment or work procedures which enables a *qualified individual with a disability* to successfully perform the *essential functions* of his or her job and to enjoy equal employment opportunities.

Reasonable Accommodation Coordinator (RAC): The RAC is a subject matter expert for Agency employees and supervisors to use in requesting and providing reasonable accommodation. The RAC functions as a resource for the reasonable accommodation process and for ensuring consistency throughout the Agency. The RAC would, among other responsibilities, docket and monitor all requests for reasonable accommodation to ensure timely resolution; facilitate the processing of a request with the supervisor and the employee; coordinate the provision of reasonable accommodation for applicants; coordinate the collection and evaluation of medical records or the evaluation of the employee by an appropriate health professional; maintain medical records and files on all requests; provide options to supervisors on appropriate reasonable accommodation; provide supplier information and technical resources for the procurement of equipment for reasonable accommodation; and provide training on the process for requesting and providing reasonable accommodation to management and staff.

Local Reasonable Accommodation Coordinators: (Local RAC): On a case-by-case basis for each Region, Laboratory or Geographical Area (such as RTP, Cincinnati or Las Vegas), many of the responsibilities of the RAC may be delegated to the Region, Laboratory or Geographical Area upon a showing that it has designated a staff member, either on a full-time or collateral-duty basis, with the appropriate knowledge, skills and abilities to perform the delegated responsibilities of the position of a Local RAC. The Local RACs will meet with the RAC on a regular basis to ensure consistency throughout the Agency in its processing of requests for reasonable accommodation. The Local RACs will also provide the RAC a monthly report on the status of all requests for reasonable accommodation in their Region, Laboratory or Geographical Area.

Reassignment: Reassignment may be considered as an option when determining the appropriate reasonable accommodation. Reassignment may be provided to employees, but not applicants, who, because of a disability, can no longer perform the essential functions of their

job, with or without reasonable accommodation. Reassignments are made only to vacant funded positions and are available only to employees who are qualified for the new position.

Supervisor: The term "supervisor," when used in this document, means an employee's immediate supervisor, or another supervisor in his/her supervisory chain.

Undue Hardship: Undue hardship occurs when a requested reasonable accommodation causes significant operational difficulties or substantial financial expenditures. When a requested reasonable accommodation is determined to cause undue hardship, EPA does not have to provide that particular accommodation. A determination of undue hardship is on a case-by-case basis, and considers factors that include the nature and cost of the reasonable accommodation and its impact on the operations of the Agency.

B. Policy on Reasonable Accommodation

Section 501 of the Rehabilitation Act of 1973, its amendments and the regulations of the Equal Employment Opportunity Commission (EEOC) require federal agencies to provide reasonable accommodation to qualified employees or applicants with disabilities, unless to do so would cause undue hardship. 29 U.S.C. §791; 29 C.F.R § 1614.203. These regulations were recently amended to incorporate the standards of Title I of the Americans with Disabilities Act (ADA) into Section 501 of the Rehabilitation Act. EPA is committed to providing reasonable accommodation in order to assure that individuals with disabilities enjoy full access to equal employment opportunities at EPA. EPA provides reasonable accommodation:

- When an applicant with a disability requires an accommodation in order to apply or be considered for a job;
- When an employee is a qualified individual with a disability and requires an accommodation to enable him or her to perform the essential functions of the job; and/or
- When an employee is a qualified individual with a disability and requires an accommodation to enjoy equal benefits and privileges of employment.

EPA will process requests for reasonable accommodation in a prompt, fair and efficient manner and without unreasonable delay. In order to effectuate this policy, EPA has partnered with the Computer/Electronic Accommodations Program (CAP), sponsored by the Department of Defense. CAP provides assistive technology, devices and support services to EPA free of charge for use by EPA employees with disabilities. In addition, EPA has designated a Reasonable Accommodation Coordinator (RAC) to direct the Agency-wide program and, if appropriate, some of the RAC's responsibilities may be delegated to the Local Reasonable Accommodation Coordinators (Local RACs) to assist in coordinating the processing and provision of reasonable accommodation in the Regions, Laboratories or Geographical Areas.

According to current case law, regulations and EEOC guidance materials, it is unlikely that a reasonable accommodation will become an undue hardship solely as a result of its financial cost to an individual office. EPA recognizes that it is the Agency's responsibility, through its AAships and Regions, to fund reasonable accommodations. To assist AAships and

Regions that may experience a disproportionate amount of expenses in providing reasonable accommodations, EPA has created a "Clearinghouse" to field questions on funding these expenses and to provide policy or guidance on reasonable accommodation issues with Agency-wide implications. The Clearinghouse will consist of senior-level management representatives from the Office of the Chief Financial Officer, Office of the Administrator, Office of Administration and Resources Management, Office of General Counsel, Office of the Inspector General, a lead Regional Office, and on a rotational basis, a representative of the Headquarters Program Offices. The RAC will function as an Executive Secretary to the Clearinghouse.

The purpose of this document is to provide the general framework for the Agency's procedures for requesting and providing reasonable accommodation. Managers, employees and applicants may refer to the EEOC's "Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act," available at EEOC's Internet site, for more information on their rights and responsibilities in requesting and providing reasonable accommodation.

II. Requests for Reasonable Accommodation

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

A request does not have to contain any special words, such as "reasonable accommodation," "disability," or "Rehabilitation Act." An applicant or employee with a disability may request a reasonable accommodation whenever s/he believes accommodation is warranted. Such request does not require that the applicant or employee have previously disclosed the existence of a disability. The RAC is available to provide the individual with further information or assistance in connection with requesting or processing a request for reasonable accommodation.

- An employee may request a reasonable accommodation, either orally or in writing, from his/her immediate supervisor, another supervisor in his/her immediate chain of command or the RAC. If the decision-maker is not this official, the employee will be so notified.
- An applicant may request a reasonable accommodation, either orally or in writing, from any EPA employee authorized to interact with the applicant in the application process or from the RAC.
- A family member, health professional or authorized representative may request an accommodation on behalf of an EPA employee or applicant. The request should go to one of the same persons to whom the employee or applicant would make the request. When a request for accommodation is made by a third party on behalf of an applicant or employee, the Agency official processing the request should confirm the individual's authority to represent the applicant or employee with a disability.

III. The Interactive Process

Full and open communication is a critical component of the accommodation process, and helps to ensure that there is a full exchange of relevant information. Ongoing, even extensive, communication between the decision-maker and/or the RAC and the applicant or employee is especially important when the specific limitation, problem, or obstacle is unclear.

The reasonable accommodation process begins when the applicant or employee makes a request for a reasonable accommodation, either orally or in writing. The applicant or employee requesting the accommodation should actively participate in identifying an effective accommodation. Both the applicant or employee and the Agency, however, should contribute to the identification process. Resources available to help identify possible accommodations are listed in Appendix A. The RAC also is available to assist in identifying an accommodation.

The decision-maker, or any other Agency official(s) who receives information in connection with a request for reasonable accommodation, may share information connected with that request with other Agency official(s) only when these official(s) need to know the particular information in order to make a determination on a reasonable accommodation request or the decision-maker seeks advice from other EPA offices regarding a decision on the request for accommodation or in order to provide an approved accommodation. See Section VII for specific rules governing the confidentiality of medical information.

IV. Processing the Request

A. Request by Job Applicants

When the Agency official receiving the request (e.g., an interviewer) can quickly accommodate the applicant, they should do so. When an accommodation is provided in this manner, the person providing the accommodation should notify the RAC of the accommodation provided by completing the "Reasonable Accommodation Information Reporting Form" (Appendix D). When the Agency official has questions regarding a requested accommodation, or an accommodation cannot be made quickly, the Agency official should contact the RAC as soon as possible for assistance in processing the request. Vacancy notices should also indicate that applicants can contact the RAC directly to request an accommodation. The RAC will assist in locating resources, make a determination regarding the appropriate accommodation, and if necessary, help coordinate the provision of the accommodation for the applicant.

B. Request for Accommodations of a Continuing Nature for Employees

When the request is for an accommodation previously approved and anticipated to be needed on a continuing basis (such as interpretive services, readers, transportation or conference lines), for a employee's regular job functions, training, or special events, the Agency official receiving the request should provide the accommodation in a timely manner. Because the request for reasonable accommodation had previously been approved and the employee's records are already on file, the RAC can promptly confirm the approval of the accommodation, if

necessary, and the provision of the reasonable accommodation should occur without requiring an addition “Confirmation of Request for Reasonable Accommodation” form.

C. Request for Accommodations Regarding Facility Access

When the request is for a modification to the building (including removal of architectural and other physical barriers), the Agency official receiving the request should immediately notify the RAC and the appropriate EPA facilities official(s) of the request and provide them any relevant information, including a “Confirmation of Request for Reasonable Accommodation Form.” (Appendix B). For completing this form, the individual requesting the accommodation and the Agency official receiving the request should discuss the reasonable accommodation requested and the reasons for it. The Agency official should also discuss the process for determining whether the accommodation will be provided. Agency facilities official(s), in consultation with management, and the RAC, will evaluate the issue and make a determination on the accommodation.

D. Requests for Accommodations Affecting Employees’ Essential Functions, and Enjoyment of Equal Benefits and Privileges of Employment

The Agency official who receives the request must complete the “Confirmation of Request for Reasonable Accommodation Form” (Appendix B) in consultation with the employee making the request. For completing this form, the individual requesting the accommodation and the Agency official receiving the request should discuss the reasonable accommodation requested, the reasons for it and whether the accommodation is anticipated to be needed on a continuing basis. The Agency official should also identify the person who will be the decision-maker and discuss the process for determining whether an accommodation will be provided. When possible, the decision-maker should take part in this discussion and the preparation of the form.

Upon completion of the form, the employee and the Agency official receiving the request, or the decision-maker, should sign the form to indicate that the information on the form accurately states the request and the reasons for it. The completed form should be promptly forwarded to the RAC for docketing of the request. The RAC will docket the request and follow-up to ensure the matter is handled in a timely manner. (See Section VIII for appropriate time periods for responding to requests). If the RAC initially receives the request, s/he will forward a copy of the “Confirmation of Request for Reasonable Accommodation Form” to the supervisor who will be the decision-maker. To ensure necessary consistency throughout the Agency, supervisors are expected to consult the RAC prior to making a decision on a request for a reasonable accommodation.

When, after consultation with the RAC, the supervisor determines it appropriate to provide an accommodation and the accommodation does not require products or services from CAP, s/he should provide the accommodation to the applicant or employee. The supervisor must promptly inform the RAC of the accommodation by completing a “Reasonable Accommodation Information Reporting Form.” (Appendix D)

When, after consultation with the RAC, the supervisor determines it is appropriate to provide an accommodation, but requests products or services provided by CAP, s/he should notify the RAC who then will coordinate the provision of the appropriate accommodation. CAP will review the request and recommend an appropriate and effective accommodation. If the supervisor wants to provide an accommodation other than that proposed by CAP, s/he can choose a different accommodation which will be funded by his or her AAship or Region. The supervisor should promptly inform the RAC of the accommodation provided by completing a "Reasonable Accommodation Information Reporting Form." (Appendix D.)

When medical documentation or an independent medical examination of the employee is needed, the RAC may arrange for obtaining the medical documentation or the evaluation. Additionally, the RAC, if appropriate, may use CAP to assess the employee for the appropriate assistive technology and/or devices. The RAC may also act as a facilitator and resource point to assist the employee and the supervisor in determining an appropriate accommodation, or if requested by the supervisor, to make a recommendation for an appropriate accommodation. See "Request for Medical Information" (Section VI) for more detail.

Prior to denying a request for accommodation, a supervisor will consult with the RAC. The RAC will work with the supervisor to determine if further information is required. If after consultation with the RAC, the supervisor decides to deny the request, s/he will provide the employee with a completed "Denial of Reasonable Accommodation Request Form" (see Section X and Appendix C) and promptly inform the RAC of the denial by completing a "Reasonable Accommodation Information Reporting Form." (Appendix D).

V. Reassignment

When the supervisor determines that an employee who has sought reasonable accommodation can no longer perform the essential functions of his or her job with or without a reasonable accommodation, reassignment must be considered as a reasonable accommodation option. Reassignment of a non-probationary employee will be considered if no other accommodations are available to enable the individual to perform the essential functions of his or her current job, or if the only other effective accommodation would cause undue hardship to the Agency.

In considering whether there are positions available for reassignment, the RAC will work with the employee's supervisors, the Program Management Officials, the Human Resource Officers, OHROS or Regional Human Resource Offices, OGC or ORC, Agency Administration, the Clearinghouse and the employee requesting the accommodation to identify: (1) all funded vacant positions within the Agency for which the employee may be qualified, with or without reasonable accommodation; and (2) all funded positions which the Agency has reason to believe will become vacant over the next 60 business days and for which the employee is qualified. The Agency will attempt to identify positions which are equivalent to the employee's current job in terms of pay, status, and relevant factors. When there is no vacant equivalent position, the Agency will consider vacant lower level positions for which the individual is qualified.

Reassignment to a vacant position outside of the employee's commuting area may be available on a case-by-case basis, if the employee is willing to relocate, and if it will not result in undue hardship to the Agency. As with other transfers not required by management, the Agency will not pay for the employee's relocation costs.

VI. Requests for Medical Information

When a request for reasonable accommodation is made, EPA is entitled to know that an employee or applicant has a disability that requires a reasonable accommodation. In some cases the disability and need for accommodation, as well as the most appropriate accommodation, will be obvious to the decision-maker or sufficient medical documentation of the disability will have been previously submitted. In these cases, EPA will not seek any further medical information. However, when a disability and/or need for reasonable accommodation is not previously documented or obvious to the decision-maker, EPA will require that individuals provide documentation of the need for accommodation.

When the decision-maker believes that medical information is necessary in order to evaluate a request for reasonable accommodation, s/he will, in consultation with the employee or applicant, obtain the information directly from the applicant or employee, or will notify the RAC of the need to obtain the information. If the applicant or employee is uncomfortable with the decision-maker obtaining or possessing medical information, s/he may ask that the RAC obtain any medical information needed. The RAC then will transmit to the decision-maker that information necessary to determine whether to grant an accommodation and, if requested by the decision-maker, a recommendation as to whether the accommodation should be approved. If the applicant or employee does not provide the information requested by the RAC, the request for accommodation will be returned promptly to the decision-maker to complete the processing.

The decision-maker or the RAC will request information sufficient to substantiate that the applicant or employee has a Rehabilitation Act disability that requires accommodation and that the accommodation requested will be effective. (See Appendix E for Checklist for Obtaining Medical Information). The request for medical information will follow the guidelines set forth in the EEOC's "Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act." The decision-maker or the RAC may ask for information or documentation about the disability an/or functional limitations from the applicant or employee, and/or s/he may ask the applicant or employee to obtain such information from an appropriate health care professional, such as a doctor, social worker, or rehabilitation counselor. Additionally, the decision-maker or the RAC may ask for a medical privacy release so that the Agency's physician can talk directly with the employee's physician or other health care professional. In order to get the most helpful possible information, all requests for medical information should describe the nature of the job, the essential functions the employee is expected to perform, and any other relevant information.

Once the medical documentation is received, the decision-maker, and/or the RAC, will evaluate it, in consultation with a physician chosen by EPA, if necessary. When the information provided by the health care professional (or the information volunteered by the applicant or employee requesting the accommodation) is insufficient to enable a determination as to whether

an accommodation is appropriate, the decision-maker, in consultation with the RAC, an EPA physician and other relevant program offices, may seek further information. The decision-maker or the RAC will explain fully to the applicant or employee why the information which has been provided is insufficient, what additional information is needed, and why it is necessary for a determination of the reasonable accommodation request. The applicant or employee has the option of providing the additional information or authorizing the decision-maker or the RAC to contact the applicant's or employee's health care professional directly for additional information. If, after a reasonable period of time, generally 60 days, the applicant or employee does not provide sufficient information to demonstrate that s/he has a disability and needs a reasonable accommodation, the decision-maker or the RAC may offer the applicant or employee the option of being examined by a physician or other health care professional chosen and paid for by EPA. Failure by the applicant or employee to timely provide appropriate documentation within a reasonable time, generally 60 days, or to cooperate with EPA's efforts to obtain such documentation can result in a denial of the requested accommodation.

VII. Confidentiality Requirements Regarding Medical Information Obtained in the Reasonable Accommodation Process

Under the Rehabilitation Act, medical information obtained in connection with the reasonable accommodation process is confidential. The RAC is responsible for maintaining all medical information obtained by EPA in connection with a request for reasonable accommodation. This information must be handled in compliance with the Privacy Act and the Federal Records Act. This means that the information should be transferred in sealed confidential envelopes, maintained in a file separate from the applicant's or employee's official personnel file, kept in locked cabinets or rooms, and that access to such records is strictly limited to Agency or contractor officials with a bona fide need for the records. EEOC also has the right to review such records upon its request, in order to evaluate the Agency's reasonable accommodation procedures. The RAC will coordinate the Agency's response to any request for disclosure of such records.

VIII. Time Frames for Processing Requests and Providing Reasonable Accommodation

EPA will process requests for reasonable accommodation and provide accommodations in as short a time frame as is reasonably possible. EPA 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.

A. Requests from Applicant

These requests should be processed and provided in an expedited manner.

B. Requests Regarding Accommodation of a Continuing Nature

These requests, since they were previously approved, should be provided in an expedited manner in order to ensure that appropriate accommodations are available for the specified event.

However, proper notice (typically at least five work days) should be provided to the Agency to ensure arrangements can be made for the requested accommodation.

C. Requests for Accommodation Regarding Facility Access

Requests that may require modification to an EPA facility typically involve coordination with other federal agencies or organizations. As such, it may not be possible to establish a definite time period for processing or providing such requests. Therefore, the RAC should inform the individual making the request of the status of the request within 10 days of the initial request. If necessary, the RAC should provide and update to the individual every 10 work days thereafter until a decision is made.

D. Requests from Employees Regarding the Essential Function of Their Jobs

These requests should promptly be reported to the RAC by the Agency official receiving the request, using the "Confirmation of Request for Reasonable Accommodation Form."

- When no medical information is required, notice regarding the approval or denial of the request should be provided to the employee within 10 work days of the initial request.
- Requests for medical documentation should be made within 10 work days of the initial request. Upon receiving the medical information, notice regarding the denial or approval of the request, or a request for additional medical information or an offer for an evaluation by a health care professional should be provided to the employee within 10 work days.
- After all medical information, including evaluations, is received, notice regarding the final denial or approval of the request, or information regarding the status of the request, should be provided within 10 work days. When a status report is given, the employee making the request should be provided with either an expected date for the decision or additional status reports every 10 work days until a final decision is made.
- When reassignment is necessary because an employee with a disability can no longer perform the essential functions of his or her current job or if the only other effective accommodation would cause undue hardship to the Agency, the RAC should provide the employee with weekly updates, for up to 60 work days, on the status of the search for appropriate vacancies.

E. Extenuating Circumstance

There may be situations in which meeting the time frames for processing requests for reasonable accommodation may not be possible because of extenuating circumstances. Extensions based on extenuating circumstances should be strictly limited. Extenuating circumstances are factors that could not reasonably have been anticipated or avoided in advance of the request for a reasonable accommodation. Extenuating circumstances cover limited

situations in which unforeseen or unavoidable events prevent prompt processing of a request and provision of an accommodation. When extenuating circumstances are present, the time for processing will be extended as reasonably necessary. When extenuating circumstances exist, the decision-maker must notify the applicant or employee of the reason for the delay, and the approximate date on which a decision, or provision of the accommodation, is expected.

The following is a non-exclusive list of examples of extenuating circumstances:

- The purchase of equipment may take longer than 15 work days because of procurement requirements.
- Equipment is on back order, the vendor that EPA usually uses for goods or services has gone out of business, or the vendor cannot promptly supply the needed goods or services and another vendor is not available.
- A requested accommodation involves removal of architectural barriers.
- The temporary illness or unforeseen unavailability of the decision maker.

F. Mitigating Delay

When there is a delay in providing an accommodation which has already been approved, the decision-maker should investigate whether temporary measures can be taken to assist the applicant or employee. This could include providing a less effective form of accommodation until the approved accommodation is provided.

For example, there may be a delay in receiving adaptive equipment for an employee with a vision disability. During the delay, the decision-maker could 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.

When there is a delay in making a decision concerning whether an accommodation should be provided, the decision-maker may investigate whether temporary measures can be taken to assist an applicant or 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 provide 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 day-to-day Agency operations; and (2) the applicant or employee is informed that the accommodation is being provided only on a temporary, interim basis. Temporary measures taken while waiting for a decision to be made should be re-evaluated every 30 days.

For example, when a delay is attributable to the need to obtain or evaluate medical documentation, the decision-maker may provide an accommodation on a temporary basis and will notify the applicant or employee in writing that the accommodation is being provided on a temporary basis pending a decision on the accommodation request.

IX. Granting a Reasonable Accommodation Request

As soon as the decision-maker determines that a reasonable accommodation will be provided, the decision-maker should promptly communicate this in writing to the applicant or employee and the RAC. For this purpose, the decision-maker should complete a "Reasonable Accommodation Information Reporting Form" (Appendix D). When the accommodation cannot be quickly provided, the decision-maker will inform the applicant or employee of the projected time frame for providing the accommodation. This notice should also be in writing.

X. Denial of Reasonable Accommodation Request

When the decision-maker determines that a request for reasonable accommodation will be denied, s/he must fill out the "Denial of Reasonable Accommodation Form" (Appendix C). S/he will give a copy of it to the applicant or employee who requested the accommodation. Additionally, the decision-maker should promptly inform the RAC by completing a "Reasonable Accommodation Information Reporting Form." The denial should state the specific reasons for the denial. When the decision-maker has denied a specific requested accommodation, but offers a substitute which was not agreed to during the interactive process, the denial notice should also explain the reasons that the decision-maker believes that the substitute accommodation would be effective. Reasons for the denial of a request for accommodation may include, but are not limited to, the following:

- The requested accommodation would not be effective;
- Providing the requested accommodation would result in undue hardship. Before reaching the determination, the decision-maker must have explored whether other effective accommodations exist which would not impose undue hardship and therefore could be provided;
- Medical documentation is inadequate to establish that the applicant or employee has a disability and/or needs a reasonable accommodation;
- The requested accommodation would require the removal of an essential function; or
- The requested accommodation would require the lowering of a performance standard.

The "Denial of Reasonable Accommodation Request Form" informs the applicant or employee that s/he has the right to file an Equal Employment Opportunity (EEO) complaint; that s/he may have the right to pursue an appeal to the Merit Systems Protection Board (MSPB), if denial of an accommodation becomes part of an appealable adverse action as defined at 5 C.F.R.

§1201.3; that s/he may have the right to file a complaint with the Office of Special Counsel (OSC), if denial of an accommodation is part of a prohibited personnel practice as defined at 5 U.S.C. §2302; and/or that s/he may have the right to file a grievance under union collective bargaining procedures. The form also explains EPA's procedures available for alternative dispute resolution.

XI. Alternative Dispute Resolution

After receiving a final Agency decision on his or her request for reasonable accommodation, Headquarters employees or applicants may request participation in the Headquarters Workplace Mediation Program or, if s/he is working in one of the Regional Offices or another Agency component, may request participation in the component's alternative dispute resolution program, if available. If the employee or applicant request alternative dispute resolution, the Agency, as a general rule, will participate. It is important that the applicant or employee understand that participating in alternative dispute resolution does not satisfy the requirements for, or extend or otherwise affect the time limits for, initiating statutory, administrative or collective bargaining claims.

XII. Information Tracking, Record Keeping and Reporting

The decision-maker will complete the "Reasonable Accommodation Information Reporting Form" (Appendix D) and submit it to the RAC at the time of the decision, with copies of all information received during processing. The RAC is responsible for ensuring that all records are maintained in accordance with the Privacy Act and the Federal Records Act.

The RAC will maintain these records for the period of the applicant's or employee's tenure with the Agency or five years, whichever is longer. The RAC will prepare quarterly reports to the Director of the Office of Civil Rights (OCR) on the accommodations provided that quarter.

OCR will prepare an annual report, to be made available to all Agency applicants and employees. The report will contain the aggregated information specified in Section G, Question 24, of the EEOC guidance on "Establishing Procedures for Providing Reasonable Accommodation for Individuals with Disabilities." The report also will contain a qualitative assessment of EPA's reasonable accommodation program for applicants and employees, including any recommendations for improvement of the Agency's reasonable accommodation procedures.

XIII. Relationship of Procedures to Statutory, Administrative, and Collective Bargaining Claim

These procedures are in addition to statutory, administrative and collective bargaining protections for persons with disabilities and remedies they provide for the denial of requests for reasonable accommodation. Requirements governing the initiation of statutory, administrative and collective bargaining claims, including time frames for filing such claims, remain unchanged.

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

- (1) For an EEO complaint, initiate informal counseling within 45 calendar days from the date of receipt of the written final Agency decision. To initiate counseling. Headquarters applicants and employees should contact OCR; Regional applicants and employees should contact their Regional EEO Officer; and Laboratory applicants and employees should contact their Area Director of Civil Rights;
- (2) For an appeal to the MSPB, file within 30 calendar days of an appealable adverse action as defined in 5 C.F.R. §1201.3;
- (3) For a complaint to OSC, file with OSC if a denial of accommodation is part of a prohibited personnel practice as defined in 5 U.S.C. §2302; or
- (4) For a collective bargaining claim, file a written grievance in accordance with the provisions of the appropriate Collective Bargaining Agreement.

If an OCR employee has had any involvement in the processing of a request for accommodation, that staff member must recuse him/herself from the processing of an EEO counseling contact or complaint in connection with that request.

XIV. Training

In order to encourage compliance with Executive Order 13164 and the Rehabilitation Act of 1973, EPA will develop a reasonable accommodation training course for supervisors and managers. The RAC will be responsible for the development of the course, as well as for resource materials and manuals to assist employees and supervisors in their responsibilities regarding reasonable accommodation under the Rehabilitation Act.

XV. Inquiries

Any person wanting further information concerning these procedures may contact the RAC in the Office of Civil Rights at (202) 564-7272.

XVI. Distribution

These procedures will be distributed to all applicants and employees and to new employees at orientation. They will be posted on EPA's Intranet and Internet site and included in the employee handbook. Copies also will be available in EPA's libraries, Civil Rights or EEO offices, and Human Resource Offices. In addition, the procedures will be provided in alternative formats when requested from the RAC by or on behalf of any EPA applicant or employee.

XVII. Disclaimer

The procedures described in this document supersede all previous procedures concerning reasonable accommodation issued by Headquarters or the Regions. The statements in this document are intended solely as general guidance on internal Agency procedures for processing requests for reasonable accommodation. This document is not intended, nor can be relied upon, to create any rights or obligations enforceable by any party, employee or applicant, in litigation. In extraordinary situations, EPA officials may act at variance with these procedures based on the specific facts and circumstances presented. These procedures may be revised from time to time to reflect changes in statutes, regulations, case law, EOC guidance, or the like; changes in EPA's approach to processing requests for reasonable accommodation; or EPA organizational changes.

SELECTED REASONABLE ACCOMMODATION RESOURCES**U.S. Equal Employment Opportunity Commission
1-202-663-4900 (Voice) 1-202-663-4494 (TTY)**

The EEOC's Publication Center has many free documents on the Title I employment provisions of the Rehabilitation Act's "sister statute," the Americans with Disabilities Act (ADA), including both the statute, 42 U.S.C. §12101 et seq. (1994), and 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 accompanying the Title I regulations (also known as the "Appendix" to the regulations), 29 C.F.R. pt. 1630 app. 1630.2(o), (p), 1630.9 (1997), 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:

- (1) Enforcement Guidance: Preemployment Disability-Related Questions and Medical Examinations at 5, 6-8, 20, 21-2, 8 FEP Manual (BNA) 405:7191, 7192-94, 7201 (1995);
- (2) Enforcement Guidance: Workers' Compensation and the ADA at 15-20, 8 FEP Manual (BNA) 405:7391, 7398-7401 (1996);
- (3) Enforcement Guidance: The Americans with Disabilities Act and Psychiatric Disabilities at 19-28, 8 FEP Manual (BNA) 405:7461, 7470-76 (1997);
- (4) 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 (1996); and
- (5) 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).

Finally, the EEOC has a poster that employers and labor unions may use to fulfill the ADA's posting requirements.

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

Computer/Electronic Accommodation Program (CAP)
(703) 681-3976 (Voice) (703) 681-0081 (TTY)
www.tricare.mil/cap

CAP pays for a wide variety of assistive technology, devices and services for people with disabilities. Frequently requested accommodations solutions include:

Blind/Low Vision: Magnification systems, speech and Braille output systems, scanner/reader systems Braille embossers, and Braille notetakers.

Deaf/Hard of Hearing: Teletypewriters (TTYs), PC-TTY modems, telephone amplifiers, assistive listening systems, and visual signaling devices.

Dexterity Disabilities: Alternative keyboards, word prediction software, speech recognition systems, pointing devices, hands-free computer interface systems and keyguards.

Cognitive/Learning Disabilities: Talking dictionaries and scanner/reader systems.

Communication Disabilities: Electronic communication aids and speech output systems to augment communication.

The CAP Technology Evaluation Center (CAPTEC) is a facility dedicated to the evaluation and demonstration of assistive technology. It was established to assist supervisors and employees in choosing appropriate assistive technology to create work environments that are accessible to persons with disabilities. CAPTEC consists of computer workstations configured with a wide variety of assistive technology. People in the process of evaluating assistive equipment who have questions about compatibility or functionality, or who need to compare several solutions, may visit CAPTEC to test and evaluate equipment. Further, the CAP staff conducts needs assessments to identify the best equipment to meet individual requirements. CAPTEC is located at the Pentagon, Room 2A259, 703-693-5160 (V) or 703-693-6189 (TTY).

Job Accommodation Network (JAN)
1-800-526-7234 (Voice); 1-877-781-9403 (TTY)
<http://janweb.icdi.wvu.edu/>

A service of the former President's Committee on Employment of People with Disabilities, now the U.S. Department of Labor Office of Disability Employment Policy. JAN can provide information, free-of-charge, about many types of reasonable accommodations.

ADA Disability and Business Technical Assistance Centers (DBTACs)
1-800-949-4232 (Voice/TTY)
<http://www.adata.org/>

The DBTACs consist of 10 federally funded centers that provide information, training, and technical assistance on the ADA. Each center works with local business, disability, governmental, rehabilitation, and other professional networks to provide current ADA information and assistance, and places special emphasis on meeting the needs of small businesses. The DBTACs can make referrals to local sources of expertise in reasonable accommodations.

Registry of Interpreters for the Deaf
(703) 838-0030 (Voice) (703) 838-0459 (TTY)

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

RESNA Technical Assistance Project
(703) 524-6686 (Voice) (703) 524-6639 (TTY)
<http://ww-v.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.
- Equipment exchange and recycling programs.

CONFIRMATION OF REQUEST FOR REASONABLE ACCOMODATION FORM

1. Today's Date _____ 2. Date of Request _____

3. _____ 4. _____
Applicant's or Employee's Name Applicant's or Employee's Telephone No.

5. _____
Employee's Office, Grade and Occupational Series

6. _____
Employee's Supervisor's Name and Telephone Number

7. _____
Name and Telephone Number of Agency Official to Which Request was Originally Made

8. TYPE OF ACCOMMODATION REQUESTED: (For example, work place modified for wheel chair usage; assistive technology for vision impairment. If specific equipment or other effective accommodation known, please specify)

9. REASON FOR REQUESTING REASONABLE ACCOMMODATION: (Identify functional limitations requiring a change in work place or application process)

10. IS THIS REQUEST LIKELY TO BE REPEATED?: (circle) YES NO

11. NAME OF DECISION-MAKER: _____

12. SIGNATURES

Employee or Applicant

Agency Official Receiving Request

Return Form to Reasonable Accommodation Coordinator
(Reasonable Accommodation Coordinator will assign number)

Log No.: _____

DENIAL OF REASONABLE ACCOMMODATION REQUEST FORM

(Must complete numbers 1-3; complete number 4, if applicable)

1. Name of Individual requesting reasonable accommodation:

2. Types(s) of reasonable accommodation requested:

3. Detail explanation for the denial of reasonable accommodation. The explanation should provide the reason for denying the request (e.g., person is not a qualified individual with a disability, the accommodation would cause undue hardship, the accommodation would be ineffective or requiring lowering of performance or production standards, etc.) as well as a detailed explanation for why the requestor does not meet the necessary elements for receiving reasonable accommodation (e.g., why the medical documentation provided is inadequate to establish a disability, or how an accommodation would cause undue hardship, etc.)

4. If the individual proposed one type of reasonable accommodation which is being denied, but rejected an offer of a different type of reasonable accommodation, explain both the reasons for denial of the requested accommodation and why you believe the chosen accommodation would be effective.

If the employee would like to pursue alternative dispute resolution, the employee should request it as soon as possible since participating in alternative dispute resolution does not affect the time limits for initiating statutory, administrative and collective bargaining claims. An employee's participation in alternative dispute resolution after a final Agency decision is made does not satisfy the requirements for bringing a claim under EEO, MSPB, OSC or union grievance procedures.

If an individual wishes to file an EEO complaint, an MSPB appeal, an OSC complaint or union grievance, s/he must take the following steps:

- For an EEO complaint, initiate informal counseling within 45 calendar days from the date of receipt of the written final Agency decision. To initiate counseling, Headquarters applicants and employees should contact OCR; Regional applicants and employees should contact their Region EEO Officer; and Laboratory applicants and employees should contact their Area Director of Civil Rights;
- For an MSPB appeal, file within 30 calendar days of an appealable adverse action as set forth at 5 C.F.R. §1201.3;
- For a complaint to OSC, file with OSC if a denial of accommodation is part of a prohibited personnel practice as defined in 5 U.S.C. §2302; or
- For a collective bargaining claim, file a written grievance in accordance with the provisions of the Collective Bargaining Agreement.

Name of Deciding Official

Signature of Deciding Official

Date reasonable accommodation denied _____

**REASONABLE ACCOMMODATION INFORMATION
REPORTING FORM**

Name of Individual Requesting Reasonable

Accommodation: _____

1. Reasonable accommodation: (check one)

____ Approved

____ Denied (If denied, attach copy of the completed Denial of Reasonable Accommodation Request Form, (See Appendix C).

____ Denied under Reasonable Accommodation but granted via other provision(s)

2. Date reasonable accommodation requested: _____

Who received request: _____

3. Name of decision-maker: _____

4. Date reasonable accommodation approved or denied: _____

5. Date reasonable accommodation expected to be provided (if different from date approved): _____

6. If time frames outlined in the Reasonable Accommodation Procedures were not met, please explain why.

7. Job held or desired by individual requesting reasonable accommodation (including occupational series, grade level, and office):

8. Reasonable accommodation needed for: (check one)

____ Application Process

____ Facility Access

___ Performing Essential Job Functions

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

9. Type(s) of reasonable accommodation requested (e.g., adaptive equipment, staff assistant, removal of architectural barrier):

10. Type(s) of reasonable accommodation provided:

11. Was medical information required to process this request? Please explain why.

12. Sources of technical assistance, if any, consulted in trying to identify possible reasonable accommodations (e.g., CAP, Job Accommodation Network, disability organization):

13. Comments:

From completed by: _____ Phone: _____

Attach copies of all documents obtained or developed in processing this request.

APPENDIX E**CHECKLIST FOR OBTAINING MEDICAL DOCUMENTATION**

This checklist is intended to provide supervisors, employees and their health care professionals a list of the type of information generally necessary to allow the Agency to make a determination as to whether an employee should be provided a reasonable accommodation when the disability and/or the need for the reasonable accommodation is not obvious or sufficient medical documentation has not already been provided to the decision-maker. When an employee is asked to provide medical documentation to support a request for a reasonable accommodation, employees are strongly encouraged to provide this checklist to their physician or health care professional as a reference and ask that any documentation provided be in typed form.

It is important to remember that the Agency needs sufficient information to determine whether: 1) the employee has a disability covered by the Rehabilitation Act of 1973 (i.e., a physical or mental impairment that substantially limits a major life activity); and 2) if a disability is found to exist, what kind of reasonable accommodation(s) would be necessary. Therefore, the following information from a physician or health care professional may be needed to support a request for a reasonable accommodation:

- the identification of the physical or mental impairment experienced by the employee;
- a description of the severity and duration of the impairment and the expected treatment;
- the identification or description of the activities that are affected or limited by the impairment;
- a description of the severity of the limitation the impairment has on these activities;
- a description of how this impairment affects the employee in the workplace, i.e., describes why there is a need for an accommodation;
- if possible, a description of how an accommodation (especially a specifically requested one) would assist the employee in the work place.

This document is to be used solely as a checklist to assist in obtaining the appropriate information to support a request for reasonable accommodation and is not an exclusive list of the information the Agency is entitled to obtain from an employee requesting a reasonable accommodation. For a more complete discussion on this topic, see EEOC Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees under the Americans with Disabilities Act (ADA); and EEOC Enforcement Guidance: Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act.