



U.S. DEPARTMENT OF ENERGY

DOE Reasonable Accommodation Desk Reference

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Reasonable Accommodation Desk Reference

1. **INTRODUCTION.**

This Desk Reference discusses the actions to stand up a reasonable accommodation process compliant with the Rehabilitation Act of 1973 and the Americans with Disabilities Act Amendments Act (ADAAA) of 2008 for the Department of Energy (DOE). It is the policy of the DOE to provide equal employment opportunity to all employees and applicants for employment, including qualified individuals with disabilities. In carrying out its goal to be a model employer of persons with disabilities, the Department promotes full access, consideration, integration, promotion, and retention of persons with disabilities across the broad range of its workforce. The Department is committed to providing reasonable accommodation to qualified employees and applicants with disabilities, consistent with all applicable laws, Executive Orders, regulations, and Equal Employment Opportunity Commission (EEOC) guidelines. Supervisor and Manager participation is essential to achieve the goals of this program. This document sets forth the requirements and other information that guides the DOE in responding to the reasonable accommodation requirements of its workforce.

2. **PURPOSE.**

The purpose of this document is to establish Departmental procedures and guidance for processing requests for reasonable accommodations by employees and applicants with disabilities.

3. **AUTHORITIES.**

- a. Section 501 of the Rehabilitation Act of 1973, as amended.
- b. Executive Order 13164, dated July 26, 2000.
- c. Title I of the Americans with Disabilities Act of 1990, 42 USC 12101-12117.
- d. Rehabilitation Act of 1973, 29 USC 701.
- e. EEOC Policy Guidance.
- f. 29 Code of Federal Regulations 1614, November 9, 1999.
- g. EEOC Management Directive for 29 CFR 1614 (EEO-MD-110), as revised, August 5, 2015, Appendix L-5.

4. **SCOPE.**

To enable a process that adheres to The Americans with Disabilities Act of 1990 (ADA) amended Section 501 of the Rehabilitation Act (Title I), by applying non-discriminatory practices to Federal employees and applicants, in which the standards of the ADA (Title I):

- a. Prohibits discrimination on the basis of a disability.
- b. Requires Federal employers to ensure that their employment policies do not unnecessarily exclude or limit individuals with disabilities because of a job's structure or because of architectural, transportation, communication, procedural or attitudinal barriers.
- c. Requires employers to make "reasonable accommodation" to the known physical or mental limitations of qualified applicants and employees unless the agency can demonstrate that the accommodation would impose an undue hardship on the operation of its program; and
- d. Prohibits use of selection criteria and standards, which tend to screen out people with disabilities, unless such criteria have been determined through job analysis to be job-related and consistent with

business necessity and an appropriate individualized assessment indicates that the applicant cannot perform the essential functions of the job, with or without reasonable accommodation.

5. **POINT OF CONTACT.**

For assistance regarding the guidance in this Desk Reference, contact the Director, Human Capital Policy Division by calling (202) 586-1234.

6. **APPLICABILITY.**

This guidance is applicable to all applicants and employees within the DOE. It does not include provisions for contract workers. Contract workers should contact their employing company to initiate a reasonable accommodation request. This guidance is subject to revisions contingent on changes made to the laws, rules, and regulations applicable to this topic.

7. **EXPLANATION OF KEY TERMS.**

- a. **Designated Management Official (DMO).** The person or designee who has the authority to decide whether the organization will provide the requested reasonable accommodation, and if so, the nature of the accommodation. The DMO is normally the employee's first or second line supervisor (or manager); however, another DMO may serve in this capacity. For applicants who are applying to a vacancy announcement, the DMO is the vacancy's point of contact in the applicable Servicing Human Resource Office (SHRO) or Shared Service Center (SSC).
- b. **Direct Threat.** This is a significant risk (high probability) of substantial harm to the health or safety of the employee or to others. Mitigating or minimizing the risk through a reasonable accommodation action will not occur. The Local Reasonable Accommodation Coordinator (LRAC) must engage in an individual assessment that is based on the medical documentation and the best available objective evidence. Thus, the decision cannot be based on assumptions, unwarranted fears, generalizations, stereotypes, or myths about a particular disability. The assessment must be based on the medical documentation.
- c. **Effective Accommodation.** The needs of the individual reasonable accommodation are met, which address the barrier created by the functional limitations.
- d. **Essential Functions.** The essential functions of a job are the occupational duties that are fundamental to the position to the extent that the individual cannot do the job without being able to perform them.
- e. **Extenuating Circumstances.** Factors beyond the Department's control which make it impossible for a reasonable accommodation to be provided within the established time frame.
- f. **Individual with a Disability.** A person who meets the definition set forth in the ADAAA and has a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment. In DOE, the LRAC determines whether an individual has a disability covered by the ADAAA.

An impairment that is episodic or in remission may still be a disability if the impairment substantially limits a major life activity when active. As to duration of the disability or functional limitation, if a disability has effects that are not both transitory and minor, applicable law covers it. Note that as defined in 29 C.F.R. 1630.3, the terms "disability" and "qualified individual" do not include individuals currently engaged in the illegal use of drugs.

- g. Interactive Process. In most circumstances, it is the obligation of the employee to request the reasonable accommodation. However, there may be situations where the known disability of the employee impairs that employee's ability to communicate a need for an accommodation that is obvious to the supervisor (or manager). In either circumstance, the need for an accommodation should begin an interactive and flexible process between the employee and supervisor (or manager) in order to identify an effective accommodation. An effective accommodation is one that will allow the employee to perform the essential functions of the job. The interactive process may include (1) an analysis of the particular job to determine its purpose and essential functions, (2) a consultation with the employee to ascertain the precise job-related limitations imposed by the individual's disability and how those limitations could be overcome with a reasonable accommodation, (3) an identification of potential accommodations and, in conjunction with the employee, an assessment of the effectiveness of those accommodations in enabling the employee to perform the essential functions of the job, (4) consideration of the preference of the employee and selection and implementation of the accommodation that is appropriate for the employee and the employer and (5) the overall needs of the organization. The accommodation need not be the most expensive, nor must it be exactly what the employee requests, but it must be effective.
- h. Last Resort. Before considering reassignment as a reasonable accommodation, the Department should first consider those accommodations that would enable an employee to remain in his/her current position. Reasonable accommodations of last resort (reassignment) is required only after it has been determined that: (1) there are no effective accommodations that will enable the employee to perform the essential functions of his/her current position, and/or (2) all other reasonable accommodations would impose an undue hardship.
- i. Light Duty. Temporary or permanent work that is physically or mentally less demanding than normal job duties. When an employee has been injured on the job but wishes to return to work, light duty can be offered. There is no obligation to create a light duty position for an employee with a disability or injury that was not acquired on the job. Light duty is not an acceptable form of reasonable accommodation as it is temporary in nature.
- j. Local Reasonable Accommodation Coordinator (LRAC). Assist DMO's and other management officials with processing requests for reasonable accommodation; interpreting regulations and statutes; reviewing existing policies and procedures; having interactive discussions with the employee, and recommending appropriate decisions and coordinating required reviews in accordance to the requirements of this Guide.
- k. Major Life Activities. Under the ADAAA, the definition is very broad. Major life activities are walking, seeing, hearing, talking, lifting, and breathing. Major bodily functions are also major life activities, including, but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions. Consequently, under the ADAAA, cancer is a disability even if it is asymptomatic.
- l. Mitigating Measures. Medications and assistive devices that an individual uses to eliminate or reduce the effects of functional impairment caused by a disability.
- m. Physical or Mental Impairment. A "physical impairment" is any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic, and lymphatic, skin, and endocrine. A

“mental impairment” is any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

- n. Qualified Individual with a Disability. An individual with a disability who satisfies the minimum requisite skill, experience, education and other job-related requirements of the position held or desired and, with or without reasonable accommodation, can perform the essential functions of such position.
- o. Reasonable Accommodation. “Reasonable accommodation” means modification or adjustment to a job application process, work environment, manner, or circumstance under which a position held or customarily performed, policies, practices or procedures that enable a qualified individual with a disability an equal opportunity to enjoy the benefits and privileges of employment without creating undue hardship upon the agency.
- p. Reassignment. Employee moves to another position or is assigned to a new position description when his or her job is reclassified, modified, or restructured. Reassignment is considered as a reasonable accommodation only as a last resort; after all other possible accommodations have been explored and ruled out. Assignments will be made to vacant funded positions. A position is considered a “vacant funded” position when a request to initiate a personnel action is received in the SHRO/SSC, or when DOE knows that a position will become available within next sixty (60) calendar days. Also, see “Last Resort”.
- q. Record of Impairment. A history of or having been classified (or misclassified) as having a mental or physical impairment that substantially limits one or more major life activities.
- r. Regarded as Having an Impairment or Disability. Is defined as: “an individual who has been subjected to an action prohibited by the ADAAA (i.e. discrimination) because of an actual or perceived impairment/disability that is not both transitory and minor”. Under these conditions DOE is under no obligation to provide reasonable accommodation, as per the EEOC. However, these individuals may not be discriminated against because of a regarded disability.
- s. Substantially Limits. An impairment which “Substantially limits one or more major life activities” that prevents a person from being able to perform a major life activity that the average person in the general population can perform; or significantly restricts the condition, manner, or duration under which an individual can perform a particular major life activity as compared to the condition, manner, or duration under which the average person in the general population can perform that same major life activity.
- t. Transitory and Minor Impairment. An impairment that is both transitory (temporary) and minor which does not affect any major life activities. DOE is not required to provide an accommodation if the impairment is both transitory and minor. Analysis of a reasonable accommodation requests where the disability is only transitory or minor will be done on a case-by-case basis.
- u. Undue Hardship. A significant difficulty or expense incurred or anticipated should the organization provide a particular accommodation.
- v. Vacant Position. “Vacant” means that the position is available when the employee asks for reasonable accommodation, or a position that DOE knows will become available within 60-day (calendar) timeframe. A position is considered vacant even if DOE has not posted a notice or

announcement seeking applications for that position. DOE is not required to bump an employee from a job in order to create a vacancy; nor does it have to create a new position.

8. **GENERAL REQUIREMENTS.**

a. **Requesting Reasonable Accommodation.**

- 1) A request for reasonable accommodation is an oral or written request made by an applicant or employee or their representative (e.g., a family member, health care professional, or an agent acting on behalf of the employee or prospective employee) to the employee's supervisor, any manager in the employee's management chain, the LRAC, or the hiring SHRO/SSC. The LRAC and/or DMO must be notified of all reasonable accommodation request(s) (written and/or oral) no later than five (5) days after receipt of the request(s).
- 2) A requestor is not required to use words: "reasonable accommodation", "disability", or "Rehabilitation Act" in the request, however should describe the disability and requested accommodation to the best of their ability. Additionally, an employee may request a reasonable accommodation whenever s/he chooses, even if s/he has not previously disclosed the existence of a disability. The accommodation request should only occur once and not be repetitive. In such cases, the supervisor (or manager) and the requestor should work together to anticipate any situations that may require recurring accommodation (e.g., sign language interpreters, personal assistant, or large print documents).
- 3) In cases when a supervisor (or manager) directly observes information that may indicate an individual has a disability, and it is not clear whether the employee is requesting an accommodation, the supervisor (manager) should consult with the LRAC.
- 4) Job applicants or their representatives may submit a written or verbal request for an accommodation for any part of the application process, including the interview phase, to the SHRO/SSC point-of-contact in the job opportunity announcement.
- 5) A reasonable accommodation request shall not be the basis for a lower performance appraisal or adverse employment action.

b. **Interactive Process.**

- 1) The reasonable accommodation process is reserved for any employee or applicant who may fall within one of the three prongs of Disability as defined in 29 CFR Part 1630:
 - a. a physical or mental impairment that substantially limits one or more major life activity; or
 - b. a record of such impairment. An impairment that is episodic or in remission may still be a disability if the impairment substantially limits a major life activity when active; or
 - c. is regarded as having such an impairment. Special note: the agency is not required to accommodate those who may fall within the regarded status without appropriate medical evidence that demonstrates function limitations.

- 2) In order for the Reasonable Accommodation process to be successful, it requires open communication and ongoing dialogue between management, employee or applicant, local LRAC, and other appropriate parties as needed.
- 3) When the individual makes an oral or written request for reasonable accommodation, the DMO must engage in the interactive process with the individual. The interactive process is the communication between the DMO and the employee, in consultation with the LRAC, to determine how best to respond to the employee's request. The DMO or LRAC will first explain the reasonable accommodation process to the employee, then conduct an individualized assessment of the essential and marginal job functions, the employee's limitations, and possible accommodations.
- 4) Any of the following situations may trigger the interactive process:
 - a. The employee or applicant or their representative requests accommodation or otherwise indicates a need; or
 - b. The applicant fails a post-offer medical physical examination; or
 - c. The employee returns to work from medical leave of absence with restrictions or limitations.
 - d. Any of the following individuals may initiate the interactive process:
 - (a) The employee or their representative designated in writing; or
 - (b) The supervisor (or manager), after a request or indication of need from the employee or applicant; or
 - (c) The LRAC or a member of the Human Capital organization (e.g., the point of contact on the JOA) may initiate the process after receiving medical information indicating the employee or applicant may need an accommodation.
- 5) The LRAC normally coordinates the interactive process. The interactive process may be different for each situation, but may include:
 - a. Meeting with the employee;
 - b. Meeting with the supervisor (or manager) to identify the essential functions of the position;
 - c. Requesting and/or reviewing medical documentation and/or related information as given to the LRAC;
 - d. Discussing possible accommodations with the requesting employee and supervisor (or manager); and
 - e. The DMO will determine (with the advice and/or assistance of the LRAC) which accommodations are reasonable, if any.

- 6) Ongoing communication and cooperation are important, especially when a specific limitation, problem, or barrier is unclear or when the disability or an effective accommodation is not obvious. Documented interactive discussions will include the date, time, participants, and key points or commitments noted (see template B).
- c. Determining Whether a Requestor is Covered by the Rehabilitation Act of 1973.
- 1) The determination of disability has been simplified by the ADAAA. The individual must have a disability covered under the ADAAA which will entitle them to a reasonable accommodation.
 - 2) Under the ADAAA, this determination shall not demand extensive analysis and is dependent on a number of factors to include:
 - a. The nature and severity of the individual's impairment (minor and transitory illnesses or disabilities are not normally considered qualified disabilities for accommodation purposes);
 - b. The major life activity or activities that the impairment limits;
 - c. The extent to which the impairment limits the individual's ability to perform the major life activity or activities; and/or
 - d. The individual's record of impairment, if any.
 - 3) If the medical documentation clearly states that the individual has a medical condition, the LRAC should determine if the medical condition is a disability, within the meaning of the Rehabilitation Act.
 - 4) The LRAC should then let the DMO know whether the employee has a covered disability (without naming the disability) and explain to the DMO the functional limitations of the disability. The LRAC may contact the Office of Human Capital Policy and Accountability, Human Capital Policy Division for assistance.
 - 5) If the individual does not have a visible disability and refuses to provide medical documentation; with the assistance of the LRAC, the DMO will advise the employee in writing that absent timely receipt of medical documentation the employees accommodation may be denied.
 - 6) If the medical documentation does not support the functional limitations claimed by the employee or if there is a question about the medical documentation, the LRAC may consult with an onsite certified (professional) medical personnel and/or the Health and Human Service (HHS), Federal Occupational Health (FOH) after redacting the employee's name, the DMO's name and other identifying information.
 - 7) DMOs, even those who are medical professionals, shall accept the disability determination made by the LRAC, based on the information from the employee's health care provider.
 - 8) If after consultation and concurrence of the local legal office, it is determined that the individual is not covered by the Rehabilitation Act, the request for accommodation will

be denied and a written Denial of Requested Accommodation letter must be issued to the employee.

d. When Medical Information is needed for Disability Determination.

- 1) Medical documentation may not be necessary to support every accommodation request. Medical documentation goes only to the LRAC and is not shared with the DMO or anyone else without a need to know.
- 2) When a disability or need for reasonable accommodation is not obvious or otherwise not already known to the DMO, the LRAC may request that the employee submit administratively acceptable medical documentation regarding the disability and their functional limitations. The LRAC will provide the employee with the Initial Request for Medical Documentation (Template C) for completion by his or her medical provider. Alternatively, when the employee has difficulty in obtaining medical information, the LRAC may provide the employee with Authorization for Limited Release of Medical Information (Template D) for the employee to complete and return to the LRAC, which will authorize the LRAC to obtain the medical documentation.
- 3) Medical documentation requests that have not been received within forty-five (45) calendar days will be denied for failure to submit/obtain administratively acceptable medical documentation. The employee should be advised that s/he may reengage in the process by resubmitting the request with administratively acceptable medical documentation at any time in the future.
- 4) Requests for medical documentation must be limited to the questions relevant to the employee's limitations in question.
- 5) If the information provided by the requestor's health care professional is insufficient to enable an informed determination, additional information may be requested in consultation with the local legal office or other experts. In this instance, the LRAC should explain to the requestor why the submitted documentation is insufficient, identify the information that is needed and allow the requestor an opportunity to provide the information.
- 6) All remaining processing timeframes are held in abeyance pending receipt of medical documentation.
- 7) When the employee's health care provider has provided medical information but it is unclear regarding the functional limitations, the LRAC may consult with FOH.
- 8) In some cases, FOH will require the LRAC to obtain a release from the employee for them to contact the employee's medical provider.
- 9) When there is a need to directly contact the health care professional to clarify an employee's functional limitations, (i.e. unavailability of the employee), the LRAC will notify the employee or his or her representative of the need for an Authorization for Limited Release of Medical Information (template D).
- 10) If the requestor refuses to provide the necessary release of medical information and fails to respond to requests for information, the request may be denied upon receipt of local legal staff concurrence.

- 11) In rare cases, if the employee has been cooperative but the completed Initial Request for Medical Documentation form and responses to subsequent inquiries are insufficient to determine whether the employee has a disability within the meaning of applicable law, the LRAC may consult with the local legal staff to obtain concurrence to request that the employee be examined by a health care professional of DOE's choice, at no cost to the employee.
- 12) Refusal of an evaluation by the employee or the applicant may be cause for the reasonable accommodation to be refused. The denial must have concurrence by the local legal staff.
- 13) If a fitness-for-duty exam reveals a functional limitation that will adversely impact the employee's ability to perform the essential duties of the job, the employee should not be asked to obtain additional medical documentation. The exam results should be shared with the employee. The employee should be advised of the reasonable accommodation process. If the employee requests accommodation, the process should begin at that point.

e. Identifying and Granting Accommodations for Applicants.

- 1) The Human Capital (HC) representative in conjunction with the LRAC will engage in the interactive process with the applicant and will review the barriers claimed by the applicant requesting accommodation. Accommodations that will enable the individual to complete the applicant process, including the interview, will be considered. The Office of Human Capital Policy and Accountability, Human Capital Policy Division may be consulted when needed.
- 2) Some specific examples of reasonable accommodation for applicants are:
 - a. Allowing a hard copy application instead of requiring the on-line process;
 - b. Moving the interview location to a facility that is physically accessible;
 - c. Providing an oral or sign language interpreter for a deaf applicant at the interview;
 - d. Providing application materials and responses in an accessible format, such as digital, large print, or email and/or;
 - e. Escorting a blind applicant to and from the interview room; etc.
- 3) Time is of the essence for any accommodation, but is especially important when it is for an applicant. Absent extenuating circumstances, timelines must be adhered to.

f. Identifying and Granting Accommodation for Employees.

- 1) The DMO and the LRAC will review the functional limitations and in discussions with the DMO and employee, identify possible reasonable accommodations that will enable the employee to perform the essential functions of the position and/or access the benefits and privileges of employment.

- 2) The essential functions of a job are the occupational duties that are fundamental to the position to the extent that the individual cannot do the job without being able to perform them.
- 3) If a function is listed in the position description as being an essential function, it will not be considered “essential” for purposes of accommodation.
- 4) The following factors may be helpful in determining whether a job function is essential:
 - a. Whether the reason the position exists is to perform that function;
 - b. The number of other employees available to perform the function or among whom the performance of the function can be distributed;
 - c. The degree of expertise or skill required to perform the function;
 - d. Written job descriptions prepared before advertising or interviewing applicants for the job;
 - e. The amount of time actually spent on the job performing the function;
 - f. The consequences of not requiring the incumbent to perform the function;
 - g. The work experience of past incumbents in the job; and/or
 - h. The current work experience of incumbents in similar jobs.
- 5) The requesting employee may propose an accommodation for consideration. Some specific examples of reasonable accommodation are (but are not limited to) the following:
 - a. Modifying a cubicle to allow room for a wheelchair or scooter;
 - b. Restructuring marginal (non-essential) job functions that cannot be performed because of functional limitations;
 - c. Where essential functions permit, allowing a modified work schedule or telecommuting for an individual who has a disability that makes commuting difficult;
 - d. Obtaining screen-reader software for an individual who is blind;
 - e. Printing examinations and training materials in large font;
 - f. Providing interpreters or captioning services for an employee who is deaf;
 - g. Ensuring that training is offered only at fully accessible facilities;
 - h. Providing an assigned accessible parking space close to the building entrance and the employee’s office for an individual with a mobility impairment;
 - i. Allowing an employee to use a service animal in the workplace; and/or

- j. Reassignment to another position.
- 6) When the disability is known or documented, DMOs should grant accommodation requests for qualified disabilities in accordance with law and regulation;
- 7) Decisions should be made at the lowest level to ensure timeliness and efficiency;
- 8) The DMO must select an effective accommodation that meets the needs of the individual by addressing the barrier created by the functional limitations.
- 9) When there are two or more accommodations that would be equally effective, the DMO may choose the one that is easier or less expensive to provide.
- 10) If more than one accommodation is effective, the preference of the employee should be given consideration. However, the DMO has the ultimate discretion to choose between effective accommodations.
- 11) When necessary the DMO and LRAC will coordinate with facilities maintenance and/or ergonomic office to ensure the employee is accommodated without disclosing the disability.
- 12) Once an accommodation request is approved for a disability related functional limitation, the employee retains the accommodation and any required equipment while at DOE even when the DMO changes or the employee transfers or is reassigned to a different part of DOE.
- 13) Should a supervisor (or manager) believe the accommodation in place is no longer effective or required, the supervisor (or manager) must consult with the LRAC. The local legal staff will be contacted before making any changes that are not requested by the employee.
- 14) If an employee's job duties change, the DMO should consult with the LRAC to determine if the current accommodation is still needed and effective.

9. **TELEWORK REQUIREMENTS.**

- a. Telework can be an appropriate reasonable accommodation for an employee with a disability, even if other staff members are not permitted to telework under local policy.
- b. When telework is provided as an accommodation, there is more flexibility in the number of days and the frequency of telework than normally would be granted to employees who are not receiving an accommodation.
 - 1) For example, an employee with a disability who has difficulty coming into the office and whose absence from the workplace does not hinder productivity, may be allowed to telework every day; or
 - 2) Alternatively, an employee with a disability that is aggravated by extreme temperatures or poor air quality on certain days might only be allowed to telework only on days when those situations occur.
- c. If an employee is approved for telework and needs special equipment/assistive technology, the Department should provide that equipment/technology. Examples include special software or keyboards, etc. DOE cannot provide furniture (desks, chairs, etc.) in a non-Federal workspace.

- d. If the employee has the necessary equipment in the office, but will be teleworking full time, the equipment should be moved to the employee's home by DOE.
- e. When the need for telework ends or the employee leaves DOE, the equipment must be returned to the facility at no cost to the employee.
- f. All documentation related to telework as a reasonable accommodation must reside with the LRAC.
- g. Employees teleworking as an accommodation will be required to complete routine telework agreements and annotate telework time in the time and attendance system.
- h. Employee's teleworking as part of a reasonable accommodation will be identified as being on a routine telework agreement and will NOT be identified as being on "medical telework" to protect the employee's privacy.

10. **DOE-DOD PARTNERSHIP REGARDING THE COMPUTER/ELECTRONIC ACCOMMODATIONS PROGRAM.**

- a. DOE facilities and offices should fully utilize The Department of Defense's Computer Accommodations Program (CAP), which provides assistive technology free of charge to individuals with disabilities who are federal employees or participating in the Workforce Recruitment Program. CAP provides assistive technology for individuals who are blind, have low vision, are deaf, hard of hearing, or have dexterity, communication, cognitive, or learning disabilities, post-traumatic stress disorder (PTSD) and other disabilities. Accommodation requests for assistive technology may be made to the employee's supervisor, management official in the employee's chain of command and/or LRAC and must be entered into CAP online by the LRAC or after an employee's request for accommodation is approved. Only the LRAC is authorized to submit requests to CAP.
- b. When necessary, CAP can conduct a needs assessment to identify the most appropriate solutions for an individual requesting a reasonable accommodation when it is unclear what would be most effective.
- c. When feasible, CAP will provide the accommodation.
 - 1) CAP normally covers the cost of installation, integration, and in some cases training on assistive technology (i.e. wounded service members).
 - a. Where CAP does not provide training on assistive technology, requests for those types of training tools should be made through the normal procurement process and does not constitute a reasonable accommodation.
 - b. Before requesting a needs assessment from CAP, the employee's functional limitations and duties should be determined.
 - c. The Job Accommodation Network (JAN) may be consulted for suggestions on a suitable accommodation (www.askjan.org).
 - d. In some cases, CAP staff will have questions and may even request medical documentation. The LRAC should respond as soon as possible because a lack of a timely response, can lead to a denial by CAP.

- e. CAP does not provide office furniture, lighting, sign language interpreters, captioning, readers or other non-IT related accommodations.
- f. The DOE DMO has the responsibility to accommodate the DOE's employees and applicants with the assistance of the LRAC.
- g. DOE must timely provide approved accommodation requests that fall beyond CAP's purview or are unfulfilled due to lack of CAP funds.

11. **PARKING.**

- a. When there are a limited number of employee parking spaces, employees with mobility impairments or a disability that precludes them from using public transportation have priority over all other groups, per 41 CFR § 102-74.305.
 - 1) Additional handicapped spaces will have to be created if a facility does not have sufficient number of handicapped parking spaces for the number of employees with mobility impairments who requests parking as a reasonable accommodation; and
 - 2) Facilities may NOT require employees to arrive early in order to get a space.
 - a. Assigning each handicap space to a specific employee is highly recommended.
- b. When a request for reasonable accommodation is approved for a space near the building, the employee should be provided an assigned space with the shortest route to their workspace.
 - 1) The Americans with Disabilities Act Accessibility Guidelines specify the size of the space and the access area.
- c. Every facility that provides parking spaces to employees must have a standardized method for ensuring that employees with mobility impairments receive the parking spaces that are closest to the building if requested, or transportation from the parked vehicle to the vehicle entrance.
 - 1) Spaces must be large enough for ingress and egress; and
 - 2) This applies to all DOE facilities, including leased facilities.

12. **REASSIGNMENT AS A REASONABLE ACCOMMODATION OF LAST RESORT (RALR).**

- a. Under the Rehabilitation Act, a non-competitive reassignment to a vacant position is considered an appropriate form of reasonable accommodation.
- b. Reassignment (as a form of accommodation) is the last resort and must be considered only when there is no other accommodation available that will enable the employee to perform the essential functions of his/her current position of record.
- c. Reassignment can only be considered if the employee has a long-term or permanent disability. Short-term or temporary disabilities are not eligible for reassignment through the last resort process.

- d. If the employee has a short-term/temporary disability, the LRAC, in consultation with the supervisor (or manager), may consider other appropriate workplace adjustments (e.g., details to another position, etc.) as a form of accommodation.
- e. If the organization is unable to accommodate the employee (or provide another alternative), the supervisor (or manager) will submit a written statement to the LRAC (reviewed and concurred by the DMO) stating that all possible accommodations (that could assist the employee in accomplishing essential job functions) have been considered and exhausted.
- f. If it appears that no other accommodations (or other alternatives) are available, the consideration for reassignment will be initiated by the DMO in consultation with the LRAC and employee. Note, if the employee's medical documentation indicates that the employee is unemployable, then, the Department is not required to search for a vacant position, unless, the employee agrees (as an unemployable status will disqualify the employee from further consideration of other possible assignments/positions). Unemployable status must be supported in the medical documentation from the employee's private physician and confirmed by the DOE's medical advisor (or FOH). Assumptions/speculations of unemployable status are not allowed. The determination must be significantly justified. If the medical documentation clearly shows that the employee is not employable in any position, there is no need for a sixty (60) calendar day search for another position. If the LRAC is unsure in interpreting the medical documentation it must be sent to the FOH or the on-site medical professional (if applicable) for final determination.
- g. The LRAC shall be responsible for promptly meeting with the employee to discuss the employee's last resort possibilities, i.e., a reassignment into another position. For the purposes of reassignment, all components of DOE (to include NNSA) are considered one agency; the employee may request reassignment to any component/facility. Please note, the interactive process is extremely critical at this time.
- h. Through the interactive process, the LRAC will work with the employee to ascertain the employee's preferences regarding his/her willingness to accept a position outside his or her duty location and/or beneath his or her current pay grade. The LRAC will obtain information regarding the employee's limitations for reassignment, along with an updated resume and a functional limitations document (with sufficient information in order to conduct a meaningful search for vacant positions). If the employee fails to provide the limitations document and/or updated resume within five (5) calendar days from the day of LRAC's request, the search for vacant positions will be based on the current position description and/or the last resume/application on file.
- i. The LRAC should advise the employee that although s/he has provided their preferences, reassignment into a vacant position is contingent upon availability; and therefore the employee may be offered another position outside of his/her stated preferences.
- j. The LRAC must forward the supervisor's (or manager's) written statement in accordance with 12-e (of this section), the completed Limitations on Reassignments document, updated resume, DD-214 (or other veteran documentation, if applicable to determine if the employee is eligible for Uniformed Services Employment and Reemployment Rights Act (USERRA) entitlements, functional limitations document, a synopsis detailing all attempts to accommodate the employee and a copy of the most recent position description to the Human Capital Policy Division.
- k. The Human Capital Policy Division will review the documents and initiate a Department-Wide search for a vacant position.

1. Once it is confirmed that the SHRO/SSC followed the appropriate protocol in their attempts to accommodate the employee to no avail, then, the Human Capital Policy Division will initiate the Department-Wide search for vacant positions (and reassignments) in the following manner:
 - 1) Reassignments will be made to a vacant position only. While all employees (regardless of tenure) are eligible for reassignment as a reasonable accommodation, careful attention must be given to the nature of the employee's current appointment (i.e., term appointment, temporary appointment, career-career conditional, excepted service appointment, etc.)
 - 2) Both full and part-time positions should be considered for reassignment.
 - 3) Employees may only be reassigned to positions for which they are minimally qualified. Minimum qualifications will be determined based on OPM qualification standards. Employees are not required to be best qualified to be assigned into a vacant position.
 - a. If the employee has some physical limitations that would disqualify him or her from an occupational series s/he might have otherwise qualified for, such limitation(s) should be noted (on the functional limitation documentation) when forwarding the request to the Human Capital Policy Division (and/or determining) the employee's qualifications.
 - b. Note: an employee's requested work schedule (e.g. full-time telework) does not impact his/her ability to perform in the position. Therefore, the requirement to telework (and or have an alternate work schedule), cannot be used to determine minimum qualifications.
 - c. The employee must be able to perform the essential functions of the new position, with or without reasonable accommodations.
 - d. The Department is not obligated to assist the individual to become qualified for the position unless the employee is entitled to consideration under USERRA and/or other similar entitlements/considerations. In which case, SHROs/SSCs must consult with Human Capital Policy Division for further guidance and instruction when the employee is entitled to reassignment via of Reasonable Accommodation and USERRA.
 - e. The Department must provide an employee with a disability who is being reassigned, with any training that is normally provided to anyone hired for or transferred into a similar position.
 - f. Educational achievements and training requirements must be in accordance with the OPM qualification standards. Hiring officials cannot require an employee to have certain educational achievements and/or training unless it's a minimum requirement of the position.
- m. Reassignments will be to a position of equivalent tenure, pay, and grade when available.
- n. Assignments to lower graded and/or lower paying positions must be considered only if no other (equivalent) position is available or will be available within the next sixty (60) calendar days. Accordingly, for pay setting purposes, OPM has determined that reassignments under the reasonable accommodation process (due to medical inability to perform in current position of record) is not

considered an “action” at the employee’s request, and therefore, pay retention may be required in some cases.

- o. Reassignments will not be made when it places an undue hardship on DOE's operations. For this purpose, cases of undue hardship must be sent to the Director of Human Capital Policy and Accountability for review (who may confer with the Office of General Counsel when needed).
- p. Reassignments as the last resort must be considered Department-Wide with the following order of precedence:
 - 1) Organizational component – local commuting area (same organization and same commuting area);
 - 2) Organizational component – nation-wide (same organization various commuting areas);
 - 3) Department-Wide – local commuting area (Department wide search within the local commuting area); and
 - 4) Department-Wide – nation-wide.
- q. The reassignment process will be initiated by the DMO. The DMO will work with the LRAC (who will consult with the SHRO/SSC to determine if any vacant (suitable) positions are available at the organizational level (see the order of precedence as identified in paragraph "p" above).
 - 1) The preliminary (internal) search must include vacant positions and positions that may become vacant within the next sixty (60) calendar days.
 - 2) The preliminary search should be based on the employee’s updated resume (or last resume on file).
 - 3) The internal search must be conducted before requesting a Department-Wide search for vacant positions.
 - 4) If it is determined that a reassignment of last resort requires a Department-Wide search, the Human Capital Policy office will confer with the LRAC to ensure an internal search was conducted.
- r. If the organization is unable to identify a position for the employee within the current organization, then the search for vacant position must be expanded Department-Wide. During the process of the reasonable accommodation of last resort the employee will be placed on administrative leave.
 - 1) The request for reassignment of last resort (Department-Wide search) must be sent to the Human Capital Policy Division within ten (10) calendar days of determining that no positions are available at the organizational level; and a Department-Wide search is needed.
 - 2) Upon notification that a reassignment of last resort requires a Department-Wide search, the Human Capital Policy Division will:
 - a. Review and compare the employee’s resume with functional limitations document
 - b. Compare the PD with the supervisor’s (or manager’s) assessment stating accommodations are not feasible;

- c. Review the employee's limitations on reassignment form; and
 - d. Determine and advise which occupational series and grades the employee should be considered for in accordance with the OPM qualification standards.
- s. The Reasonable Accommodation Reassignment List (RARL) will be updated with the occupational title, series, and highest grade of the position that must be considered Department-Wide. The RARL will NOT include the employee's name or personal identifiable information. The RALR will be accessible on the HCNet.
 - 1) The RARL will be updated and maintained by the Human Capital Policy Division.
 - 2) SHROs/SSCs are required to clear the RARL prior to posting any vacant position simultaneous to clearing the Department's RPL).
 - 3) Human Capital Policy Division will notify SHROs/SSCs of any updates and changes to the RARL on a monthly basis.
 - 4) SHROs/SSCs will document in case file when the RARL is cleared.
- t. Human Capital Policy Division will request information on any known vacancies or anticipated vacancies (within the next sixty (60)calendar days) to include pending retirements for the occupational series and grade level for which the employee is minimally qualified.
 - 1) Human Capital Policy Division will create a case file for the requestor and conduct a review of DOE vacancies via the Department's automated personnel action tracking system, the Department's automated hiring system as well as USAJOBS.
 - 2) SHROs/SSCs are required to update the Human Capital Policy Division and the LRAC with search details on a bi-weekly (but no more than monthly) basis to ensure no other positons for which the employee is minimally qualified have become available. Note: Use of the Department's RARL will also assist with this process.
 - 3) In the case of Department-Wide searches, Human Capital Policy Division will advise SHROs/SSCs which occupational series and grades should be considered.
 - 4) If the SHRO/SSC disagree with the determination, remediation with the Director of HC Policy and Accountability will occur within five (5) business days.
 - 5) In conducting the Department-Wide search, Human Capital Policy Division will focus on positions that are equivalent to the employee's current position in terms of pay, grade level and other relevant factors.
 - 6) If no equivalent position is identified within the employee's local commuting area, the search for positions will expand Department-Wide.
- u. Permanent Change of Station (PCS) must be considered IAW the Federal Travel Regulations section 302-1.1b.

- 1) If an employee accepts a position in a different commuting area, s/he will pay for his/her own relocating expenses unless, PCS expenses are routinely paid when granting voluntary reassignments to other employees, and/or PCS was advertised in the vacancy announcement.
 - a. If a position for which the employee is minimally qualified is identified, Human Capital Policy Division will promptly notify the LRAC, SHRO/SSC.
 - b. The SHRO/SSC HR representative will notify the hiring official of the requirement to consider the RALR candidate at this point. The hiring official should not be aware that the position is being reviewed for an accommodation of last resort prior to this point.
 - c. The SHRO/SSC (in concurrence with the Human Capital Policy Division) will notify the employee in writing on any offer of reassignment of last resort which will serve as the tentative offer.
 - d. The employee will be required to respond to the offer within ten (10) calendar days of the offer. Upon receiving the response from the employee, the SHRO/SSC in consultation with the Human Capital Policy Division will issue an official reassignment letter to the employee.
 - e. The reassignment letter will explain the conditions to which the reassignment was appropriate (i.e., reassignment as a reasonable accommodation), and any viable information the employee should be made aware of (such as meeting attendance, training requirements, performance expectations, and other accommodations such as equipment/furniture, etc.).
 - f. If the employee fails to respond to the offer, the employee will be advised in writing that the timeframe to accept the position has expired and that the Department has fulfilled its obligation under the Rehabilitation Act.
 - g. If the employee accepts the position, the SHRO/SSC must explain to the hiring official that his/her vacancy was identified as a possible placement for an employee who is eligible for reassignment as an accommodation of the last resort. As a result, DOE is obligated (through regulation) to retain the position until otherwise notified. In addition the hiring official must be advised of the following:
 - (a) S/he may meet the employee before the reassignment is effective; however, the meeting must be an introduction meeting only, not an interview.
 - (b) The circumstances of the individuals' disability (eligibility) is private information and may not be shared with anyone not having a bona fide business related need to know.
 - (c) Absent extenuating circumstances, searches should be closed after sixty (60) calendar days and placement of employees for which a position was found and accepted should occur within two (2) pay periods.
- v. The Human Capital Policy Division must be notified of any objections to placing the employee into the identified position immediately. SHROs/SSCs can submit a formal objection

memorandum stating why placement is inappropriate and identify which limitations would adversely affect/impact performance of the essential functions of the position:

- 1) The memorandum must be submitted to the Director, Human Capital Policy and Accountability within five (5) calendar days of being advised of possible placement, otherwise, placement is final
 - 2) Pay will be set in accordance with the Department's pay setting policy and in accordance with 5 CFR 575. SHROs/SSCs must be mindful that each pay setting case may be different contingent upon the employee's circumstances. Careful consideration must be given in each case to ensure proper regulations are followed. The nature of action code will be contingent upon the employee's current position of record (e.g., Reassignment or Change to Lower Grade, etc.).
- w. Upon expiration of the search period, the LRAC should notify the employee in writing that no position was found and that Department has fulfilled its search obligation under the law.

17. **REEMPLOYMENT OF EMPLOYEES INJURED ON THE JOB THROUGH THE REASONABLE ACCOMMODATION PROCESS.**

- a. When an employee has incurred a serious workplace injury or illness, but is ready to return to work, the employee should be made aware of the reasonable accommodation process.
- b. If an accommodation is requested, the LRAC will assist the DMO with the reasonable accommodation process.
- c. It is DOE's goal to identify injured employees, as defined under the Federal Employees' Compensation Act (FECA), who would benefit from accommodation and reassignment to increase return-to-work outcomes.
- d. When feasible, accommodation in the form of an interim workplace adjustment is normally provided to employees with temporary injuries or disabilities regardless of whether an Office of Worker's Compensation Programs claim is approved.
- e. If an on-the-job injury results in a temporary condition or limitation, or light or limited duty, then a detail, or a voluntary leave of absence may be offered.
- f. If the limitation is permanent, the duties may be restructured, non-essential duties may be eliminated, or a reasonable accommodation and/or accommodation of last resort may be provided.

18. **DENIAL OF REASONABLE ACCOMMODATION REQUESTS.**

- a. The LRAC in coordination with the DMO may deny a reasonable accommodation request in writing once it has been determined the request for accommodation is unreasonable.
- b. Accommodation decisions should be based primarily on whether they will help address the barriers created by the functional limitations of the applicant or employee's disability.
- c. Sufficient reasons to deny an accommodation request may be based on:

- 1) Undue hardship to the organization and the Department. In such case, the LRAC must make the initial determination (based on input from the DMO) that the request for accommodation is unreasonable based on undue hardship. Denials based on undue hardship must be reviewed by the Director, Human Capital Policy and Accountability.
 - a) In determining whether an accommodation poses an undue hardship, the financial resources of the organization or the Department as a whole must be considered, not just the resources of the individual facility or staff office. The following criteria are used to determine undue hardship:
 - (a) Nature and cost of the accommodation;
 - (b) Overall size of the organizational unit with respect to the number of employees, facilities and size of the budget;
 - (c) Type of operation, including composition and structure of the workforce; and
 - (d) The impact of the accommodation on the operation of the organization, including the impact on the ability of other employees to perform their duties and the impact on the organization's ability to conduct business.
- 2) If the Department finds that a specific accommodation would be significantly difficult to provide, or would fundamentally alter the nature of the operations of the affected DOE organization, as defined earlier.
- 3) Insufficient medical documentation, when applicable. The employee or applicant, when requested, did not provide sufficient medical documentation to establish a covered disability or a need for reasonable accommodation.
 - a) Medical documentation should not be requested when the disability is obvious or the employee has already submitted documentation to DOE in the past for the same functional limitation and approved accommodation.
- 4) Removes Essential Function(s). The requested accommodation would require the removal of an essential function from the position occupied by the employee or from the position for which the applicant applied.
- 5) Lowers Standards. The requested accommodation would require lowering a performance or production standard that is required of all employees in similar positions (job series/grade level), which existed prior to the time of the request.
- 6) Direct Threat. The individual poses a “direct threat” to the health and safety of self or others:
 - a) To meet this factor, there must be a high probability of substantial harm that cannot be eliminated or reduced by providing an accommodation. In those instances, the DMO must consider the limitations of the individual, specifically, the risk posed by the impairment or functional limitation, the duration of the risk, the nature and severity of the potential harm, the likelihood that the harm will actually occur, and imminence of the potential harm;

- b) Direct threat determinations made on a case-by-case basis and may not be based on generalizations or assumptions. Local legal staff and a health care professional or facility safety officer may be consulted for assistance.
- d. The DMO may not deny the request for accommodation for the following reasons:
- 1) Bias against the employee or the accommodation process;
 - 2) The cost of accommodation to the facility as a whole cannot be justified;
 - 3) The requested accommodation requires a change or exception to an office or facility policy;
 - a) There will be situations when an accommodation will mean a departure from routine practices or procedures. For example, if work duties can be performed off site, but the office has a practice of not allowing telework, an employee who finds the commute to be too challenging but is a disabled employee under the Rehabilitation Act, should be allowed to telework. In the same vein, a parking space near the building should be granted when requested by an employee who has a mobility impairment.
 - b) The Rehabilitation Act of 1973 supersedes a facility's parking, telework and other policies if the policy, in its application, denies an individual with a disability reasonable access to the workplace.
 - 4) Based upon the fact that non-disabled employees are not granted the same privilege; or
 - 5) People who do not have a disability are not a protected class, and cannot be compared to a group that is a protected class.
- e. If the DMO cannot grant a requested accommodation, s/he must in consultation with the LRAC, obtain local legal office concurrence and complete and issue a *Denial of Requested Accommodation letter to the employee* explaining in detail why the request was denied and providing a reconsideration point of contact.

19. **AVENUES FOR REDRESS OF DENIALS.**

- a. If an employee or applicant believes that s/he has been inappropriately denied a reasonable accommodation, s/he has the following options:
 - 1) Reconsideration. Upon receipt of the decision from the DMO, the employee or applicant has seven (7) calendar days to provide a written request for reconsideration to the LRAC. After receiving a request for reconsideration, the LRAC will forward to the Director of the Human Capital Policy and Accountability Division. The Director has fourteen (14) calendar days to render a decision. A final interactive process with the LRAC and the employee is recommended, to ensure that any concerns are heard before a final decision is made.
 - 2) Reconsideration decisions must receive local legal concurrence before issuing to the employee.

- b. EEO Complaint. To file an EEO complaint for disability discrimination, applicants for employment or employees must contact an EEO counselor within forty-five (45) calendar days of receiving the decision, pursuant to 29 C.F.R. Part 1614.
- c. Union Grievance. Bargaining unit employees may file a grievance in accordance with their applicable Collective Bargaining Agreement.
- d. Administrative Grievance. May be filed by non-bargaining unit employees who challenge the accommodation denial decision within fifteen (15) calendar days of receiving the decision in accordance with DOE Order 342.1, Grievance Policy and Procedures.
- e. Alternative Dispute Resolution (ADR). Employees and applicants are encouraged to participate in informal resolution processes available to address the reasonable accommodation outcome. If participation is independent of the above avenues of redress, it does not meet the requirements of filing claims under the above mentioned process.

20. **INFORMAL DISPUTE RESOLUTION.**

- a. An applicant or employee who is denied a reasonable accommodation or is offered an alternative accommodation may seek review of the decision by submitting a request to his or her agency EEO Manager. The agency EEO Manager will forward within three (3) business days the request to the next-level official in the decision-maker's chain of command who was not involved in the processing of the original request. The applicant or employee must seek such review within five (5) business days of receipt of the written decision.
- b. When an applicant or employee invokes this dispute resolution process, the reviewing official shall review the available materials and either affirm or reverse the initial decision. Absent extenuating circumstances, the reviewing official should render a decision within five (5) business days of receipt of the request.
- c. If the reviewing official reverses the decision, s/he shall grant the accommodation in accordance with Guidance.
- d. If the reviewing official affirms the decision, s/he shall promptly inform the applicant or employee and the agency EEO Manager. A written response shall be provided in accordance with this Guidance.
- e. This informal process does not affect the time frame for instituting proceedings under the EEO procedures set forth at 29 C.F.R. Part 1614 or any other dispute resolution process. The forty-five (45) day period during which an employee may begin proceedings under the EEO process begins on the date of the last denial letter issued.

21. **TIME FRAMES.**

- a. Absent any extenuating circumstance, all requests for accommodation shall be processed expeditiously. Requests from applicants should be processed within ten (10) calendar days. Requests from employees should be processed within thirty (30) calendar days.
- b. The timeframes for processing a request for reasonable accommodation will be counted from the time the written request for medical documentation is issued to the employee up to the point when the requested medical documentation is received by the LRAC or forty-five (45) calendar days from the request, whichever occurs first.

- c. DOE offices and facilities should provide the accommodation in a shorter time frame, when possible. A few examples of accommodations that normally can be provided quickly are:
- 1) Providing a small mirror for an employee with post-traumatic stress disorder to mount on the wall so that s/he can see people approaching the work area;
 - 2) Providing sign language interpreters or captioning for an employee who is deaf;
 - 3) Allowing telework for an office employee who has multiple sclerosis and is fatigued by the commute, and has adequate and appropriate work s/he can do from home;
 - 4) Providing a fan or heater for an employee who has a disability that causes him or her temperature sensitivity;
 - 5) Allowing an administrative employee with cognitive issues to use his or her own tape recorder as a memory device;
 - 6) Changing the time of a mandatory meeting to allow an employee to attend physical therapy sessions; and
 - 7) Providing an accessible parking space for an employee with mobility impairment.
- d. The time frame begins as soon as the applicant or employee requests an accommodation.
- 1) This request may be made to the employee's supervisor, or to a management official in the employee's chain of command, or the LRAC or SHRO/SSC (in the case of applicants). A verbal request serves as notification or Template (A), Employee Request for Accommodation, should be provided to the requestor for voluntary completion.
 - 2) Absence of the DMO or other responsible official, or the time taken by the LRAC or medical support staff to review medical documentation, should not delay the finding for accommodation.
 - 3) If the requested medical documentation is not provided within forty five (45) calendar days for employees, or ten (10) calendar days for an applicant, the employee/applicant should be notified in writing that the request for accommodation is denied based on failure to provide administratively acceptable medical documentation.
 - 4) The employee/applicant may resubmit the request with administratively acceptable medical documentation at any point in the future, however a position will not remain open (e.g., be held) for the sole purpose of allowing an applicant to resubmit medical documentation.
 - 5) The employee should also be advised that in the interim, administrative action might be taken for failure to perform the essential functions of his or her position.
- e. If the accommodation cannot be provided immediately, an interim workplace adjustment may be considered and must be documented.
- f. An interim workplace adjustment is not guaranteed. Interim workplace adjustments are dependent upon job duties, functional limitations, and whether the interim workplace adjustment enables the employee to perform the essential functions of his or her position without posing a direct threat to anyone's health and safety or causing adverse impacts on the operation of the unit.

- 1) The DMO in conjunction with the LRAC must inform the employee that an interim workplace adjustment is not a reasonable accommodation, but is just an interim courtesy to assist the employee in performing the essential functions of the position, pending the final outcome of the request for reasonable accommodation.
- 2) Upon receipt of a written denial of the decision from the DMO, the employee or applicant has seven (7) calendar days to request reconsideration.
- 3) After receiving a request for reconsideration, the Director of the Office of Human Capital Policy and Accountability has fourteen (14) calendar days to render a decision and notify the requestor, in writing.

22. **DOCUMENTING THE REQUEST FOR REASONABLE ACCOMMODATION.**

- a. The DMO, or HC representative who receives the request for reasonable accommodation should acknowledge receipt in writing and provide a copy to both the LRAC and the employee within five (5) calendar days of receipt of the oral or written request, and solicit the employee to voluntarily complete.
- b. All other documentation to include requests for medical documentation, interactive discussions, limitations of search, position offers and declinations should be documented using the appropriate written and/or oral communication outlined in this Desk Reference.
- c. LRACs shall maintain medical and other records pertaining to requests for reasonable accommodations in the Department's secure automated system for LMER cases, in accordance with the Privacy Act of 1974, 29 CFR 1611, EEOC Order 150.003 and DOE information security and privacy policies. Other records such as personnel, timekeeping, etc. shall not be kept in this file.
- d. The LRAC should raise any information security or privacy concerns, including lost, missing or stolen personally identifiable information, with the operating unit's Information Security Officer or Privacy Officer.
- e. Supervisors (or managers) and others without a business need will not have access to medical documentation.

23. **CONFIDENTIALITY REQUIREMENTS.**

- a. Under the Rehabilitation Act, the request, the disability, and any medical information obtained in the accommodation process or via other channels, must be kept confidential. Confidentiality rules regarding disability status applies to all employees and applicants, whether or not they are individuals with disabilities.
- b. Individuals who have access to information necessary to make a decision about whether to grant a requested accommodation may disclose the information in accordance to the below not all-inclusive list:
 - 1) Supervisors (or managers) aside from the DMO) who need to know may be told the necessary restrictions on the work or duties of the employee and the necessary accommodation(s) but whenever possible should not be told what the disability is;

- 2) In the event of medical emergency, first aid and safety personnel may be informed if an employee's disability might require emergency treatment;
 - 3) DOE and other government officials may be given information necessary to investigate DOE's compliance with the Rehabilitation Act;
 - 4) If the employee was injured on the job, the medical documentation/information may, in certain circumstances, be disclosed to workers' compensation offices or insurance carriers; and
 - 5) Department Office of Economic Impact and Diversity, Office of the Chief Human Capital Officer or other appropriate officials may be given the information to maintain records, evaluate, and report on DOE's performance in processing reasonable accommodation requests. The medical information or accommodation may not be shared with the employee's co-workers or other employees.
- c. Supervisors (managers) should respond to inquiries from other employee's by explaining that many workplace issues confronted by employees are personal, and that in these circumstances, it is the DOE's legal responsibility to respect employee's privacy.
 - d. The employee will be informed of confidentiality requirements. Employees will be advised of the potential for those with a legitimate need to know in conjunction with the processing and/or evaluation of the requested accommodation, having access to this information.

24. **INFORMATION TRACKING AND REPORTING.**

- a. LRACs shall be responsible for retaining records related to each individual who has requested a reasonable accommodation for the duration of that individual's employment in the Department.
- b. These records include any documentation of the individual's disability or need for reasonable accommodation, as well as information about the disposition of that individual's accommodation request.
- c. Medical documentation and other information regarding the individual accommodation request should be destroyed, upon the employee leaving the Department or as established by the General Records Schedule, or in accordance to legal hold timelines if there is a pending third party case.
- d. LRACs are responsible for tracking all reasonable accommodation requests and utilizing applicable templates, methods, or systems as provided by the Human Capital Policy Division and Office of Economic Diversity and Inclusion (ODI).

25. **TRAINING.**

- a. The following is not required training but may serve both managers and employee's with a better understanding of Reasonable Accommodation and how to respond appropriately. Both suggested courses are offered through the DOE Online Learning and are subject to change at the discretion of DOE.

1) COMPLAINT IMPACT: Reasonable Accommodation – The Ask.

2) Reasonable Accommodation for the Federal Workplace.

26. **PERSONAL ASSISTANCE SERVICES.**

- a. The Department is required to obtain and allocate the necessary resources to provide for Personal Assistance Services (PAS). PAS enables an individual with a disability to enjoy the opportunity and independence of a normal workplace by providing assistance with basic human functions when he/she may not be able to otherwise work in if the services are not provided.
- b. PAS are services that enable a DOE employee perform basic activities like eating and using the restroom, taking off and putting on a coat, getting on the elevator, evacuating the building, and cognitive tasks such as facilitating communication access with a reader etc. The requirement to provide these services are separate from the normal reasonable accommodation services that help the individual perform job-related tasks, such as sign language interpreters for individuals who are deaf or readers for individuals who are blind or have learning disabilities.
- c. PAS are separate and distinct from the functions of a personal assistant or someone who provides medical services.
- d. PAS only include assistance with basic human functions and should not be used to assist the employee in providing essential job performance. However, PAS may be offered to assist individuals with tasks that are otherwise considered as inaccessible aspects of the position such as filing, retrieving work materials that are out of reach, or providing travel assistance for an employee with a mobility impairment, reading handwritten mail to an employee with a visual impairment, or assisting an employee with a cognitive disability with an organizational system.
- e. PAS begins when the employee reaches the job site and concludes when the work day ends. LRACs are responsible for ensuring that individuals qualified for PAS at the DOE receive the necessary assistance, based on the disability. Each person with a disability has different needs and may require a unique combination of PAS.
- f. Heads of Departmental Elements in coordination with (or the assistance of) the Office of Economic, Inclusion and Diversity and Human Capital Management must devise a plan on how each element will provide PAS to individuals with disabilities sufficient to require such services. PAS may be provided by external contractors, or current employees of the organization. However, before considering using a current employee, LRACs must notify the Office of Human Capital Management for consultation with the Office of General Counsel (as such services could be subject to undue liability).
 - 1) The individual who provides PAS is referred to as a Personal Attendant (PA). Anyone can serve as a PA as long as he or she has been determined by the employee's manager to be capable of meeting the pre-determined needs of the employee without posing a potential liability to the Department.
 - 2) SHROs/SSCs must ensure individuals selected to serve a PAS receive the necessary paperwork for paid compensation or tort claims for volunteers who may be injured while performing such services.
 - 3) LRACs in coordination with the SHRO/SSC must ensure PAS receive the proper building access and meet all security requirements.

27. **INQUIRIES FOR DISTRIBUTION**

- a. Any employee wanting further information concerning this Desk Reference may contact the Director, Human Policy Division, (202) 586-1234.
- b. This Desk Reference shall be distributed to all employees upon issuance, and annually thereafter. The Guide will post on DOE's Intranet and Internet sites, and will be available in EEO's library, in the Office of Equal Opportunity, and the Office of Human Resources Management. New employees will receive a copy as part of their orientation on their first day of work. Alternative formats will be available when requested from the LRAC by, or on behalf of, any employee.

TEMPLATE A – EMPLOYEE WRITTEN REQUEST FOR ACCOMMODATION



Note: An oral request for accommodation from an employee/applicant or person acting on their behalf is sufficient to begin the accommodation process. Recommend the LRAC complete this form if a verbal request is made. Completion of this document is voluntary; however, completion of this form assists in ensuring DOE has sufficient information to expedite processing the request.

Date: _____

Full Name:

Last

First

Middle Initial

Mailing Address:

Street Address

City

State

Zip Code

Email Address:

Phone:

Job Title:

Pay Plan/Series/Grade:

Supervisor's Name:

Shared Service Center or Human Resources Office (SSC/HRO) location:

Please answer the following completely. Additional pages may be attached.

Describe the nature of your medical condition and its impact on your ability to perform your job:

Describe how your disability affects your major life activity/activities:

Describe specific accommodation(s) or modification(s) that you are requesting to assist you in performing your duties:

If request is due to a work related injury, provide Worker's Compensation Claim Number:

*NOTE: If your need for an accommodation is not obvious or documented, you must provide documentation from an appropriate medical professional, such as a doctor, rehabilitation counselor, or vocational counselor,

PRIVACY ACT STATEMENT

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TEMPLATE C - INITIAL REQUEST FOR MEDICAL DOCUMENTATION

Employee:	Date:	
<p>Dear Health Care Provider:</p> <p>Your patient is an employee with the Department of Energy (DOE) and has requested a reasonable accommodation under the Rehabilitation Act of 1973 due to functional limitations caused by a disability. Please complete this template (excluding any genetic information prohibited by the Genetic Information Nondiscrimination Act), and provide it to your patient so he or she may return it to the DOE, or if the patient has consented, you may return it directly to DOE, using the information below.</p> <p>(If known), the accommodation requested is:</p> <p>As described by your patient, the key duties/privileges of employment/benefits impacted by the alleged disability are:</p> <p>(LRAC may attach a position description with highlighted affected duties/provide a statement of duties/ etc.)</p>		
<p>The Local Reasonable Accommodation Coordinator (LRAC) is the individual assigned with determining whether the employee is an individual with a disability, defined by Federal law and will assist the Designated Management Official (DMO) in making a decision on the request for accommodation. Failure to provide administratively acceptable medical documentation may result in denial of the employee's request for accommodation. If you have any questions please feel free to contact the LRAC.</p>		
Assigned LRAC:	LRAC Telephone:	LRAC Email:
<p>Please do NOT provide a copy of the patient's complete medical history.</p> <p>The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, we are asking that you <u>not</u> provide any genetic information when responding to this request for medical information. 'Genetic information' as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.</p> <p>GINA defines genetic information as including "the manifestation of a disease or disorder in family members of such individual," as defined by the Commission, this means manifestations with respect to a disease, disorder, or pathological condition, that an individual has been or could reasonably be diagnosed with the disease, disorder, or pathological condition based principally on genetic information.</p>		
<p>Given the GINA considerations described above, please provide the below information:</p> <p>(a) Describe the nature, severity, and likely duration of the impairment:</p>		

(b) Describe activities the impairment limits (i.e. walking, reaching, breathing, etc.):

(c) Describe the extent or degree to which the impairment limits the activity(ies):

(d) Describe the functional reason the individual requires accommodation(s) and the accommodation requested:

(e) Describe how the accommodation will assist the individual in applying for a job, performing the essential functions of his or her position, or enjoying the benefits of employment (as appropriate):

Name of Health Care Provider:	Date:
Health Care Provider Signature:	Date:
Health Care Provider Facility Address:	Telephone and/or email address:

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TEMPLATE D - REQUEST FOR SUPPLEMENTAL MEDICAL DOCUMENTATION

DATE:

REPLY TO: Local Reasonable Accommodation Coordinator

SUBJECT: Request for Supplemental Medical Documentation

TO: __ (employee) _____ on ____ (date) ____, you requested reasonable accommodation due to a medical condition. However, the medical information you provided on ____ (date) ____, did not adequately explain the nature, severity, and duration of your medical condition and the need for reasonable accommodation. The purpose of this letter is to notify you that supplemental medical documentation is needed to determine how your impairment affects your ability to perform the essential functions of your current position and/or to determine if you are a “qualified individual” under the Rehabilitation Act. I, as Deciding Management Official (DMO) cannot make an informed assessment of your request for an accommodation absent this additional information.

I have previously requested administratively acceptable medical information. Failure to comply with this second request for required medical documentation may result in denial of your request for accommodation.

In accordance with the Equal Employment Opportunity Commission’s (EEOC) Compliance Manual, I have attached a supplemental medical questionnaire that you should submit to your physician or other licensed medical practitioner. Please return the completed questionnaire and supporting medical documentation to me at: _____ (address) _____ via mail, or by other means.

DOE does not assume liability (i.e., will not pay for) any costs incurred by you in obtaining this information.

I have attached a copy of your position description and/or statement of essential functions and physical requirements associated with each essential function. You are to provide this information along with the supplemental medical questionnaire to your physician or licensed medical practitioner. The responses and supporting medical documentation will allow me to make my determination about your request for reasonable accommodation. All questions and inquiries are disability and job related, consistent with business necessity and directly relate to your request for reasonable accommodation. Please be assured that all medical information provided by you and/or your physician is covered by the Privacy Act. The information provided will only be used in processing your request for accommodation(s). While disclosure is voluntary, failure to provide the necessary medical documentation will not allow me to make an informed assessment of your request for accommodation(s).

I may seek the guidance and assistance of other advisors if necessary, in order to make an informed decision on your request. I may have a competent medical authority review the documentation you provide in order to have an informed medical assessment on your claim. All medical information provided will be handled in accordance with the Rehabilitation Act and Privacy Act.

Upon timely receipt of the above documentation, I will make a determination as to whether you are a “qualified individual.” Upon such a determination, I will consider your request for reasonable accommodation.

If you believe you have a personal situation or issue that you need assistance with, you are encouraged to contact your local EAP provider at _____.

If you or your health care provider have any questions regarding this request, please feel free to contact me at (LRACs phone number and email).

Attachments:

1. Supplemental Medical Questionnaire
2. Position Description
3. Statement of Essential Functions and Physical Requirements

EMPLOYEE ACKNOWLEDGEMENT OF RECEIPT:
(MAY ALSO BE SENT VIA CERTIFIED MAIL IF EMPLOYEE IS UNAVAILABLE)

Employee’s Signature

Date

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SUPPLEMENTAL MEDICAL QUESTIONNAIRE

(TO BE COMPLETED BY ATTENDING PHYSICIAN OR LICENSED MEDICAL PRACTITIONER)

(Employee's Name) is currently employed by (Organization) as a Position Title . The above-named employee provided a request for accommodation for his or her current position with this office and provided inadequate medical documentation. The medical information initially provided is not sufficient to make a determination on the request for reasonable accommodation. In order for this office to make that determination, we need current supplemental medical information. Please assist the employee in expeditiously providing the requested information so a determination on his or her accommodation may be made.

The essential duties of the above-named employee's current position including physical requirements and a copy of the employee's position description are attached to this questionnaire.

Please answer the questions outlined in this questionnaire and return the requested information to the LRAC at: . If additional space is needed, please feel free to attach pages.

Please do NOT provide a copy of the patient's complete medical history.

The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, we are asking that you not provide any genetic information when responding to this request for medical information. 'Genetic information' as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

GINA defines genetic information as including "the manifestation of a disease or disorder in family members of such individual," as defined by the Commission, this means manifestations with respect to a disease, disorder, or pathological condition, that an individual has been or could reasonably be diagnosed with the disease, disorder, or pathological condition based principally on genetic information.

SUPPLEMENTAL MEDICAL DOCUMENTATION:

1. Is the above-named individual currently medically incapacitated from performing the essential functions of his or her current position, as described in the attached position description and/or statement of duties and physical requirements?

[] YES [] NO

2. If the above-named employee is medically incapacitated, what is the medical diagnosis and the basis for the employee's incapacitation?

3. Is the employee substantially limited in a major life activity?

Yes No

If "Yes," describe which major life activity (for example: walking, standing, sitting, speaking, seeing, hearing, breathing, cognitive thinking, learning, interacting with others, etc.) is substantially limited.

4. Is the above-named employee on any medications that will limit the employee's ability to perform the essential functions of his/her position?

Yes No

If yes, please explain the limitations.

5. After reviewing the attached documents, please specifically identify those duties the employee is unable to perform due to his/her medical condition. (For each essential function, please address the nature, severity, and duration of the impairment, the activity that the impairment limits, and the extent to which the impairment limits the employee's ability to perform such activities.)

6. Based on the employee's current prescribed course of treatment and his/her progress to date, what is your prognosis as to when the employee will be able to perform the essential duties of his/her position on a full time basis with or without accommodation?

7. Please provide the date the employee was examined in order to provide the information used to respond to this questionnaire.

8. What do you believe might be an appropriate accommodation that would allow the employee to fulfill the essential functions of his or her position?

9. If you were able to specify an accommodation, what is your assessment of how effective and reasonable it will be?

Thank you for your assistance in this matter. If you have any questions, please contact this employee's Local Reasonable Accommodation Coordinator _____ (LRACs name) _____ at (phone number).

This certifies that the information provided is accurate.

Attending Licensed Medical Provider

Date

Name of Medical Facility and Address

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