

Procedures for Providing Reasonable Accommodation for Individuals with Disabilities

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Summary of EEOC Reasonable Accommodation Procedures

1. Individual makes **request** for reasonable accommodation (See pages 3-4):
 - An **employee** can request reasonable accommodation from his/her supervisor; another supervisor or manager in the immediate chain of command; the Office Director; or the Disability Program Manager.
 - An **applicant** can request reasonable accommodation from any EEOC employee with whom s/he has contact in connection with the application process.
 - For record keeping purposes, individuals must follow up an oral request either by completing a "Confirmation of Request" form or by confirming their request in writing (including by e-mail) to the Disability Program Manager.

2. The staff member receiving the request must determine who will be responsible for handling it and forward it, if necessary, to that person **as soon as possible but in no more than five business days**. The **individuals designated to process requests for reasonable accommodation** are: a Personnel Management Specialist (for applicants); an employee's supervisor; the Office Director; or the Disability Program Manager. (See pages 4-6).
3. **Time frames for processing requests and providing reasonable accommodation** (See pages 10-13):
 - If a request can be processed by the employee's supervisor or Office Director, no supporting medical information is required, and no extenuating circumstances apply, the request shall be processed and the accommodation, if approved, provided in no more than **15 business days** from the date the supervisor or Office Director receives the request, and sooner, if possible.
 - If the Disability Program Manager is the decision maker, s/he will make a decision on the request and provide the accommodation within **20 business days** from the date the request was initially made.
 - If medical documentation is required, time frames may be longer. (See pages 11 and 12).
 - Certain "extenuating circumstances" may delay providing reasonable accommodations within the time frames listed above. (See pages 12-13).
4. **Denial of reasonable accommodation** must be recorded on the attached "Denial of Request" form. The form explains about the individual's right to ask for reconsideration, first from the decision maker and then from another designated individual. (See page 14).
5. The decision maker must complete the attached "**Information Reporting**" form within **ten business days** of the decision and give it to the Disability Program Manager. (See pages 15-16).

I. EEOC Policy on Reasonable Accommodation

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

access to equal employment opportunity at EEOC. EEOC provides reasonable accommodations:

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

EEOC will process requests for reasonable accommodation and, where appropriate, provide reasonable accommodations in a prompt, fair and efficient manner.

In order to effectuate this policy, EEOC has dedicated centralized funding resources to pay for reasonable accommodations. In addition, EEOC has designated a Disability Program Manager who has direct administrative responsibility for the program, agency-wide.

Employees may refer to the Commission's *"Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act"* (available on EEOC's internet and intranet sites) for additional information on the rights and responsibilities of applicants and employees requesting reasonable accommodation, and the responsibilities of EEOC personnel involved in responding to those requests.

As a model employer, EEOC may take steps, as appropriate, beyond those required by the reasonable accommodation process.

DEFINITION OF KEY TERMS

- **Reasonable Accommodation:** Any change in the work environment or in the way things are customarily done that would enable a qualified individual with a disability to enjoy equal employment opportunities.
- **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 individual holds or desires that s/he cannot do the job without performing them. A function can be "essential" if, among other things: the position exists specifically to perform that

function; there are a limited number of other employees who could perform the function; or the function is specialized and the individual is hired based on his/her ability to perform it. Determination of the essential functions of a position must be done on a case-by-case basis so that it reflects the job as actually performed, and not simply the components of a generic position description.

- **Reassignment:** Reassignment is a form of reasonable accommodation that, absent undue hardship, is provided to employees (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 positions and to employees who are qualified for the new position. If the employee is qualified for the position, s/he will be reassigned to the job and will not have to compete for it.
- **Undue Hardship:** If a specific type of reasonable accommodation causes *significant difficulty or expense*, then EEOC does not have to provide that particular accommodation. Determination of undue hardship is always made on a case-by-case basis, considering factors that include the nature and cost of the reasonable accommodation needed and the impact of the reasonable accommodation on the operations of the agency.

II. Requests for Reasonable Accommodation

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

A request does not have to use any special words, such as "reasonable accommodation," "disability," or "Rehabilitation Act." An individual with a disability may request a reasonable accommodation whenever s/he chooses, even if s/he has not previously disclosed the existence of a disability. **Any EEOC employee or applicant may consult the Disability Program Manager⁽¹⁾ for further information or assistance** in connection with requesting or processing a request for reasonable accommodation.

- An **employee** may request a reasonable accommodation **orally or in writing** from his/her supervisor; another supervisor or manager in his/her immediate chain of command; the Office Director; or the Disability Program Manager.
- An **applicant** may request a reasonable accommodation orally or in writing from any EEOC employee with whom the applicant has contact in connection with the application process. The Office of Human Resources is responsible for training staff that is involved in the application process to recognize requests for reasonable accommodation and to handle

them appropriately. Field office directors also should ensure that **all staff** having contact with applicants know how to recognize and handle requests for reasonable accommodation.

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

III. Written Requests for Record Keeping Purposes

To enable EEOC to keep accurate records regarding requests for accommodation, employees seeking a reasonable accommodation **must follow up an oral request either by completing the attached "Confirmation of Request" form or otherwise confirming their request in writing (including by e-mail) to the Disability Program Manager.** For applicants seeking a reasonable accommodation, the Personnel Management Specialist handling the request must give them the "Confirmation of Request" form to fill out.⁽²⁾ If an individual with a disability requires assistance with this requirement, the staff member receiving the request will provide that assistance.

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

A written confirmation is not required when an individual needs a reasonable accommodation on a repeated basis (e.g., the assistance of sign language interpreters or readers). The written form is required only for the first request although, of course, appropriate notice must be given each time the accommodation is needed. (See Appendix A for information on requesting sign language interpreters.)

IV. Determining Which EEOC Official Will Handle the Request

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

The request should be forwarded to the appropriate person **as soon as possible but in no more than five business days.**⁽³⁾ All referrals must be copied to the Office Director of the employee requesting the accommodation. If the person receiving the request, including the Disability Program Manager, is also the decision maker, s/he should promptly notify the employee's Office Director that the request has been made.

- **Requests for accommodation from applicants will be handled by the Personnel Management Specialist responsible for the recruitment and/or selection process.**
- **Requests for accommodation from employees will be handled by the requesting employee's immediate supervisor** unless the request is one which should be handled by the Office Director or the Disability Program Manager, as explained below.
 - **Certain requests for accommodation will be handled by the Office Director or his or her designee.** These include requests involving personnel actions (other than reassignment) and requests by field staff for accessible parking. (Accessible parking for headquarters staff is discussed below.)
 - **Certain requests for accommodation will be handled by the Disability Program Manager.** The Disability Program Manager will handle the following:
 - Requests for **adaptive equipment, including information technology and communications equipment, or specially designed furniture.** The Disability Program Manager will coordinate adaptive equipment requests with the Office of Information Resources Management and furniture requests with the Office of the Chief Financial Officer.
 - Requests for **a reader or sign language interpreter, or other staff assistant to enable employees to perform their job functions, where the accommodation cannot be provided by current staff.** The Disability Program Manager will coordinate such requests with the Office of Human Resources. (See Appendix A for information on requesting sign language interpreters and Appendix B for information on hiring staff assistants.)
 - Requests for the **removal of an architectural barrier(s), including reconfigured work spaces.** The Disability Program Manager will coordinate these requests with the Office of the Chief Financial Officer who will, as necessary, coordinate with the General Services Administration or the owner of the building.
 - Requests **by headquarters staff for accessible parking.**

- Requests for **materials in alternative formats (e.g., braille, large print) which cannot be handled by the supervisor or Office Director.**
 - Requests for **reassignment to another job.** The Disability Program Manager will coordinate these requests with the Office of Human Resources.
- In addition, the Disability Program Manager will be available, as needed, to provide assistance to employees and decision makers in processing requests.
 - All decision makers must have designated back-ups to continue receiving, processing, and providing reasonable accommodations when the decision maker is unavailable. Decision makers should ensure that individuals know who has been designated as back-up. The time frames discussed in Section VIII, below, will not be suspended or extended because of the unavailability of a decision maker.
 - The back-up for a supervisor is his/her Office Director.
 - The Personnel Management Specialist, Office Director and the Disability Program Manager must each designate a back-up.

V. The Interactive Process

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

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

- As the first step, the EEOC decision maker will: (1) explain to the applicant or employee that s/he will be making the decision on the request; and (2) describe what will happen in

the processing of the request. **This initial discussion should happen as soon as possible.**

- When a request for accommodation is made by a third party, the decision maker should, if possible, confirm with the applicant or employee with a disability that s/he, in fact, wants a reasonable accommodation before proceeding. It may not be possible to confirm the request if the employee has, for example, been hospitalized in an acute condition. In this situation, EEOC will process the third party's request and will consult directly with the individual needing the accommodation as soon as it is practicable.
- On-going communication is particularly important where the specific limitation, problem, or barrier is unclear; where an effective accommodation is not obvious; or where the parties are considering different possible reasonable accommodations. In those cases where the disability, the need for accommodation, and the type of accommodation which should be provided are clear, extensive discussions are not necessary. Even so, the decision maker and requesting individual should talk to each other to make sure that there is a full exchange of relevant information.
- The decision maker or any other EEOC official who receives information in connection with a request for reasonable accommodation may share information connected with that request with other agency officials **only when the agency official(s) need to know the information in order to make determinations on a reasonable accommodation request.** See Section VII for specific rules governing the confidentiality of medical information.
 - For example, the Office of Information Resources Management (OIRM) will typically be consulted in connection with requests for adaptive equipment for computers. However, OIRM has no need to know any information about the medical condition of the person seeking the accommodation. It only needs to know his or her functional limitations insofar as these limitations affect technology needs.
- There are specific considerations in the interactive process when responding to a **request for reassignment.**
 - Reassignment will only be considered if no accommodations are available to enable the individual to perform his or her current job, or if the only effective accommodation would cause undue hardship.
 - In considering whether there are positions available for reassignment, the Disability Program Manager will work with both the Office of Human Resources (OHR) and the individual requesting the accommodation to identify: (1) all vacant positions

within the agency for which the employee may be qualified, with or without reasonable accommodation; and (2) all positions which OHR has reason to believe will become vacant over the next **60 business days** and for which the employee may be qualified. The agency will first focus on positions which are equivalent to the employee's current job in terms of pay, status, and other relevant factors. If there is no vacant equivalent position, EEOC will consider vacant lower level positions for which the individual is qualified.

- Reassignment may be made to a vacant position outside of the employee's commuting area if the employee is willing to relocate. As with other transfers not required by management, EEOC will not pay for the employee's relocation costs.

VI. Does the Individual Requesting the Accommodation Have a Disability? Requests for Medical Information

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

- If a supervisor or other decision maker believes that medical information is necessary in order to evaluate a request for reasonable accommodation, s/he will make a request to the Disability Program Manager to obtain such information.
- The Disability Program Manager will make a determination as to whether medical documentation is necessary. If it is, s/he will request the necessary medical information. If it is not necessary, the request for accommodation will be returned promptly to the decision maker to complete the processing.
- If a determination is made to seek medical information, EEOC will request information sufficient to substantiate that the individual has a Rehabilitation Act disability and needs the reasonable accommodation requested, but will not ask for unrelated documentation. EEOC requests for medical information will follow the requirements set forth in the Commission's *Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act* (available on EEOC's internet and intranet sites).

- The Disability Program Manager will seek information or documentation about the disability and/or functional limitations from the individual, and/or ask the individual to obtain such information from an appropriate professional, such as a doctor, social worker, or rehabilitation counselor. In order to get the most helpful possible information, all requests for information should describe the nature of the job, the essential functions the individual is expected to perform, and any other relevant information. The Disability Program Manager may work with the supervisor and/or Office Director in seeking appropriate information.
- Once the medical documentation is received, the Disability Program Manager will evaluate it, in consultation with a physician chosen by EEOC, if necessary.
- If the information provided by the health professional (or the information volunteered by the individual requesting the accommodation) is insufficient to enable EEOC to determine whether an accommodation is appropriate, the Disability Program Manager may ask for further information.
 - First, however, s/he will explain to the individual seeking the accommodation, in specific terms, why the information 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 individual may then ask the health care or other appropriate professional to provide the missing information.
 - Alternatively, the Disability Program Manager and the individual requesting the accommodation may agree that the individual will sign a limited release, and that EEOC may thereafter submit a list of specific questions to the individual's health care professional or may otherwise contact the individual's doctor.
- If, after a reasonable period of time, there is still not sufficient information to demonstrate that the individual has a disability and needs a reasonable accommodation, the Disability Program Manager may request that the individual be examined by a physician chosen by EEOC.
- The Disability Program Manager will let the decision maker know whether the documentation demonstrates that a reasonable accommodation is appropriate and provide, if necessary, any additional relevant information about the individual's functional limitations.

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

The failure to provide appropriate documentation or to cooperate in EEOC's efforts to obtain such documentation can result in a denial of the reasonable 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 must be kept confidential. This means that all medical information, including information about functional limitations and reasonable accommodation needs, that EEOC obtains in connection with a request for reasonable accommodation must be kept in files separate from the individual's personnel file. It also means that any EEOC employee who obtains or receives such information is strictly bound by these confidentiality requirements.

- The Disability Program Manager will maintain custody of all records obtained or created during the processing of a request for reasonable accommodation, including medical records, and will respond to all requests for disclosure of the records. All records will be maintained in accordance with the Privacy Act and the requirements of 29 C.F.R. 1611 and EEOC Order 150.003.
- This information may be disclosed **only** as follows:
 - supervisors and managers who need to know (including the decision maker who requested that the Disability Program Manager obtain medical information) may be told about necessary restrictions on the work or duties of the employee and about the necessary accommodation(s), but medical information should only be disclosed if strictly necessary.
 - first aid and safety personnel may be informed, when appropriate, *if* the disability might require emergency treatment;
 - government officials may be given information necessary to investigate the agency's compliance with the Rehabilitation Act; and

- the information may in certain circumstances be disclosed to workers' compensation offices or insurance carriers.
- Whenever medical information is disclosed, the individual disclosing the information must inform the recipients of the information about the confidentiality requirements that attach to it.

VIII. Time Frames for Processing Requests and Providing Reasonable Accommodations

EEOC will process requests for reasonable accommodation and provide accommodations, where they are appropriate, in as short a time frame as reasonably possible. EEOC 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. **Expedited processing:** In certain circumstances, a request for reasonable accommodation requires an expedited review and decision in a time frame that is shorter than the 15 or 20 business days discussed below. This includes where a reasonable accommodation is needed:
- **to enable an applicant to apply for a job.** Depending on the timetable for receiving applications, conducting interviews, taking tests, and making hiring decisions, there may be a need to expedite a request for reasonable accommodation in order to ensure that an applicant with a disability has an equal opportunity to apply for a job. Therefore, the Office of Human Resources and field office directors need to move as quickly as possible to make a decision and, if appropriate, provide a reasonable accommodation.
 - **to enable an employee to attend a meeting scheduled to occur shortly.** For example, an employee may need a sign language interpreter for a meeting scheduled to take place in 5 days.
- B. If a request for an accommodation can be processed by the requesting **employee's supervisor or Office Director**, no supporting medical information is required, and no extenuating circumstances apply, the request shall be processed and the accommodation, if granted, provided in no more than **15 business days** from the date the supervisor or Office Director receives the request, and sooner, if possible. Since decision makers may need the full 15 days to engage in the interactive process and collect all relevant information about possible accommodations, they should not delay beginning this process. Failure to meet this time frame solely because a decision maker delayed processing the request is not an

extenuating circumstance. (See next page for information on "extenuating circumstances.")

- If the decision maker believes that it is necessary to obtain medical information to determine whether the requesting individual has a disability and/or to identify the functional limitations, the decision maker will make such request to the Disability Program Manager as soon as possible after his or her receipt of the request for accommodation, but before the expiration of the 15-day period. EEOC recognizes that the need for documentation may not become apparent until after the interactive process has begun.
- If the decision maker requests that the Disability Program Manager obtain medical information, the 15-day period is frozen. If the Disability Program Manager determines that medical information is not needed, the 15-day time period resumes as soon as the Disability Program Manager notifies the decision maker that s/he can continue processing the request.
- If the Disability Program Manager determines that medical documentation is needed, the decision shall be made and the accommodation, if granted, will be provided within **15 business days** from the date the decision maker receives the relevant information from the Disability Program Manager.

Examples of accommodations which can easily be provided within this 15-day time frame include:

- An employee with diabetes who sits in an open area asks for four breaks a day to test her blood sugar levels so that she may do these tests in private.
- An employee who takes anti-depressants which make it hard for her to get up in time to get to the office at 9:00, requests that s/he be allowed to start work at 10:00 and still put in an 8 hour day.
- A supervisor distributes detailed agendas at the beginning of each staff meeting. An employee with a learning disability asks that the agenda be distributed ahead of time because the disability makes it difficult to read and he needs more time to prepare.

C. Where the **Disability Program Manager** is the decision maker, s/he will make a decision on the request and the accommodation, if granted, will be provided **within 20 business days** from the date the request was initially made, absent extenuating circumstances. If medical documentation is necessary, the decision will be made **within 20 business days** from the receipt of the documentation, absent additional extenuating circumstances.

D. Extenuating Circumstances: These are **factors that could not reasonably have been anticipated or avoided in advance of the request for accommodation.** When extenuating circumstances are present, the time for processing a request for reasonable accommodation and providing the accommodation will be extended as reasonably necessary. It is EEOC's policy that extensions based on extenuating circumstances should be limited to circumstances where they are strictly necessary. All EEOC staff are expected to act as quickly as reasonably possible in processing requests and providing accommodations. The following are examples of extenuating circumstances:

- There is an outstanding initial or follow-up request for medical information, or the Disability Program Manager is evaluating medical information which has been provided.
- The purchase of equipment may take longer than 15 or 20 business days because of requirements under the Federal Acquisition Regulation and EEOC Order 360.001, Acquisition Policies and Procedures.
- Equipment must be back-ordered, the vendor typically used by EEOC for goods or services has unexpectedly gone out of business, or the vendor cannot promptly supply the needed goods or services and another vendor is not immediately available.
- The employee with a disability needs to try working with equipment on a trial basis to ensure that it is effective before EEOC buys it.
- New staff needs to be hired or contracted for, or an accommodation involves the removal of architectural barriers.

"Extenuating circumstances" covers limited situations in which unforeseen or unavoidable events prevent prompt processing and delivery of an accommodation. For example, EEOC may not delay processing or providing an accommodation because a particular staff member is unavailable. (See Section IV on designating back-ups to handle requests when the decision maker is unavailable.)

Where extenuating circumstances are present, **the decision maker must notify the individual of the reason for the delay, and the approximate date on which a decision, or provision of the reasonable accommodation, is expected.** Any further developments or changes should also be communicated promptly to the individual.

- If there is a delay in providing an accommodation which has been approved, the decision maker must investigate whether **temporary measures** can be taken to

assist the employee. This could include providing the requested accommodation on a temporary basis or providing a less effective form of accommodation. In addition, the decision maker may 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 the operations of the Agency; and (2) the employee is clearly informed that they are being provided only on a temporary, interim basis.

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

IX. Granting a Reasonable Accommodation Request

As soon as the decision maker determines that a reasonable accommodation will be provided, that decision should be immediately communicated to the individual. If the accommodation cannot be provided immediately, the decision maker must inform the individual of the projected time frame for providing the accommodation. This notice does not need to be in writing.

X. Denial of Reasonable Accommodation Request

As soon as the decision maker determines that a request for reasonable accommodation will be denied, s/he must fill out the attached "Denial of Request" form and give it to the individual who requested the accommodation. The explanation for the denial should be written in plain language, clearly stating the specific reasons for the denial. Where the decision maker has denied a specific

requested accommodation, but offered to make a different one in its place which was not agreed to during the interactive process, the denial notice should explain both the reasons for the denial of the requested accommodation and the reasons that the decision maker believes that the chosen accommodation will be effective. Reasons for the denial of a request for reasonable accommodation may include the following (keeping in mind that the actual notice to the individual **must include specific reasons for the denial, for example, *why* the accommodation would not be effective or *why* it would result in undue hardship**):

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

The written notice of denial also informs the individual that s/he has the right to file an EEO complaint and may have rights to pursue MSPB and union grievance procedures. The notice also explains EEOC's procedures available for informal dispute resolution.

XI. Informal Dispute Resolution

Individuals with disabilities can request prompt reconsideration of a denial of reasonable accommodation.

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

five business days.

- If the decision maker was the supervisor, and s/he does not reverse the decision, the individual can ask the Office Director to do so. The Office Director will respond to this request within **ten business days**.
- If the decision maker was the Office Director, and s/he does not reverse the decision, the individual can ask the Disability Program Manager to do so. The Disability Program Manager will respond to this request within **ten business days**.
- If the decision maker was the Disability Program Manager, and s/he does not reverse the decision, the individual can ask the official designated by the Director of the Office of Equal Opportunity to do so. This official will respond to this request within **ten business days**.

Pursuing any of the informal dispute resolution procedures identified above, including seeking reconsideration from the decision maker and appealing to the next person in the decision maker's chain of command, **does not affect the time limits for initiating statutory and collective bargaining claims**. An individual's **participation in any or all of these informal dispute resolution processes does not satisfy the requirements for bringing a claim under EEO, MSPB, or union grievance procedures**.

XII. Information Tracking and Reporting

The decision maker will complete the attached "Information Reporting" form and submit it to the Disability Program Manager within **10 business days** of the decision. The decision maker should attach to the form copies of all information, including medical information, s/he received as part of processing the request.

- The Disability Program Manager will maintain these records for the longer of the employee's tenure with EEOC or five years.
- The Disability Program Manager will prepare annually a report, to be made available to all employees. The report will contain the following information, presented in the aggregate:
 - the number of reasonable accommodations, by type, that have been requested in the application process and whether those requests have been granted or denied;
 - the jobs (occupational series, grade level, and agency component) for which reasonable accommodations have been requested;

- the types of reasonable accommodations that have been requested for each of those jobs;
 - the number of reasonable accommodations, by type, for each job that have been approved, and the number of accommodations, by type, that have been denied;
 - the number of requests for reasonable accommodations, by type, that relate to the benefits or privileges of employment, and whether those requests have been granted or denied;
 - the reasons for denial of requests for reasonable accommodation;
 - the amount of time taken to process each request for reasonable accommodation; and
 - the sources of technical assistance that have been consulted in trying to identify possible reasonable accommodations.
- In addition, the report will provide a qualitative assessment of EEOC's reasonable accommodation program, including any recommendations for improvement of EEOC's reasonable accommodation policies and procedures.

XIII. Relation of Procedures to Statutory and Collective Bargaining Claims

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

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

- For an EEO complaint: contact an EEO counselor in the Office of Equal Opportunity (OEO) within 45 days from the date of receipt of the written notice of denial.
- For a collective bargaining claim, file a written grievance in accordance with the provisions of the Collective Bargaining Agreement; or

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

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

INQUIRIES

Any person wanting further information concerning these Procedures may contact the Disability Program Manager at 202-663-7147, or via e-mail at "Disability Program Manager."

DISTRIBUTION

These Procedures shall be distributed to all employees upon issuance, and annually thereafter. They also will be posted on EEOC's intranet and internet site and included in the employee handbook. Copies also will be available in EEOC's library, OEO office, and personnel office. They shall also be distributed to all new employees as part of their orientation on their first day of work. These Procedures will be provided in alternative formats, including simplified format, when requested from the Disability Program Manager by, or on behalf of, any EEOC employee.

/signed/

Ida L. Castro
Chairwoman

APPENDIX A

Utilizing Sign Language Interpreters at Headquarters⁽⁴⁾

1. **SCHEDULING INTERPRETER SERVICES.** The individual or office scheduling a meeting or event which will require interpreting services (staff meeting, training, office function, etc.) is responsible for directing the request, via e-mail, to "Interpreting Services." **Please check to see if an interpreter is available before scheduling the date, time, and place of the event.**

Requests for staff interpreters are accepted and scheduled on a first come, first serve basis -- with exceptions considered on a case-by-case basis. Interpreting for official EEOC business always takes priority over interpreting for non-official matters.

Advance scheduling - preferably one to two weeks - is strongly encouraged, to the extent possible. Although it is not possible to foresee every occasion for which interpreting services may be required, failure to schedule interpreting services well in advance may result in the necessity to reschedule meetings until interpreter services are available.

If a meeting or event will last longer than one half hour, arrangements must be made for more than one interpreter to be present, or the meeting or event must be scheduled to include sufficient rest periods, including a "sign-free" lunch break, if necessary. Generally, one interpreter can work 45-60 minutes and then needs a 15-minute break. A break during a meeting or event does not constitute a rest period for the interpreter if s/he is expected to continue working (e.g., deaf and hearing parties wish to communicate during the break and look to the interpreter to facilitate the exchange).

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

2. **WORK EVENTS OUTSIDE THE WORKPLACE.** EEOC will provide an interpreter for an employee who is deaf or hard of hearing who, as part of his/her job, attends a meeting or event outside of the workplace. If s/he attends a conference or training program sponsored by an outside organization, the sponsoring organization is principally responsible for providing interpreters. EEOC staff interpreters will provide interpreting services, however, if the sponsoring agency fails to do so.

When an employee goes to a meeting, conference, or training program outside the workplace, EEOC will assess whether it would be effective to send staff interpreter(s) or contract interpreter(s). If EEOC decides it would be more effective to send staff interpreter(s), and EEOC provides transportation for or reimburses the travel costs of the employee, then the office of the employee with disability must also provide for/reimburse travel costs for the staff interpreter(s). Similarly, if EEOC pays for meals for the employee who is deaf or hard of hearing while attending these types of events, then the office of the employee with the disability must also pay for the meals for the staff interpreter(s).

- 3. OFFICE SOCIAL FUNCTIONS AND SPECIAL EVENTS TO WHICH THE INTERPRETERS ARE INVITED.** Interpreting services are routinely requested for office or Agency social functions or special events -- e.g., Winter Holiday Party, Unity Month Picnic-- scheduled during official government time and which might be attended by employees who are deaf or hard of hearing. If EEOC staff interpreters express the desire to attend these "all-employee" functions in an off-duty capacity, arrangements will be made by the Interpreting Services staff for contract interpreting services.
- 4. INTERPRETING PHONE CALLS.** Employees who are deaf or hard of hearing should schedule an interpreter when services are needed to interpret business-related phone calls. The telecommunication relay service is available to all EEOC employees to serve telephone needs when a sign language interpreter is not available.

APPENDIX B

Staff Assistant Slots

- 1. STAFF ASSISTANT SLOTS.** The EEOC will make staff assistants available, if appropriate. Staff assistants are sign language interpreters, readers, and assistants who perform physical tasks that an employee cannot perform because of a disability. For example, an investigator with limited or no upper extremity mobility may need assistance in physically organizing a charge file. The investigator will perform the essential functions of the position -- e.g., conduct the investigation and draft documents -- and the assistant would only perform the physical task.
- 2. REQUEST FOR STAFF ASSISTANT SLOTS.** Requests for hiring a staff assistant must be referred to the Disability Program Manager from the EEOC staff member who received the request. The Disability Program Manager will first determine whether staff assistants already hired by the EEOC can fulfill an employee's needs. The Disability Program Manager also will determine if an employee's needs could be met by contracting for services (e.g., a contract interpreter), and if so, will make the necessary arrangements. If the Disability Program Manager approves the request to hire a staff assistant, the employee's Office Director, in consultation with the Personnel Operations Services Team (POST) of OHR, if necessary, should prepare a Request for Personnel Action (SF-52) and a position description. The employee with a disability must play an integral part in the interview and selection process of an interpreter, reader, or assistant.
- 3. USE OF STAFF ASSISTANTS.** The staff assistant slots are to be used **only** to hire interpreters, readers, and assistants as a reasonable accommodation for employees with disabilities. Staff hired shall be shared to provide assistance to more than one employee

with a disability, where appropriate. These staff assistants **may not** be assigned any other duties unless the person they were hired to assist has no work for them to perform at that time. Before assigning other duties to the assistant, the employee with the disability shall be consulted to determine when assistant services are not needed. If the supervisor is not the employee with a disability, s/he must consult with the employee with a disability regarding the staff assistant's performance evaluation.

In no case should a staff assistant be called upon -- by management or by the employee(s) to whom he or she is assigned -- to perform the essential functions of the job held by the employee with the disability.

4. **HIRING AUTHORITY.** Readers, interpreters, or assistants hired to fill approved positions may be appointed under the non-competitive Schedule A authority, 5 CFR 213.3102 (ll) ["ll" is double "L"]. Persons with disabilities hired as readers, interpreters, or assistants may also be hired under the 213.3102 (u) authority.
5. **RELEASE OF POSITIONS.** When the need for a staff assistant is reduced or eliminated, the Administrative Officer or Personnel Management Specialist shall notify the Disability Program Manager, who will take appropriate steps.

APPENDIX C

Selected Reasonable Accommodation Resources

U.S. Equal Employment Opportunity Commission

1-800-669-3362 (Voice) 1-800-800-3302 (TT)

The EEOC's Publication Center has many free documents on the Title I employment provisions of the ADA, including both the statute, 42 U.S.C. 12101 et seq. (1994), and the regulations, 29 C.F.R. 1630 (1997). In addition, the EEOC has published a great deal of basic information about reasonable accommodation and undue hardship. The two main sources of interpretive information are: (1) the Interpretive Guidance 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, 21-22, 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 requirement.

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>.

Job Accommodation Network (JAN)

1-800-232-9675 (Voice/TT)

<http://janweb.icdi.wvu.edu/>.

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

ADA Disability and Business Technical Assistance Centers (DBTACs)

1-800-949-4232 (Voice/TT)

The DBTACs consist of 10 federally funded regional 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

(301) 608-0050 (Voice/TT)

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

RESNA Technical Assistance Project

(703) 524-6686 (Voice) (703) 524-6639 (TT)

<http://www.resna.org/>

RESNA, the Rehabilitation Engineering and Assistive Technology Society of North America, can refer individuals to projects in all 50 states and the six territories offering technical assistance on technology-related services for individuals with disabilities. Services may include:

- information and referral centers to help determine what devices may assist a person with a disability (including access to large data bases containing information on thousands of commercially available assistive technology products),
 - centers where individuals can try out devices and equipment,
 - assistance in obtaining funding for and repairing devices, and
 - equipment exchange and recycling programs.
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Forms

1. [Confirmation Of Request For Reasonable Accommodation](#)
 2. [Denial of Reasonable Accommodation Request](#)
 3. [Reasonable Accommodation Information Reporting Form](#)
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1. The Disability Program Manager, as explained below, has specific responsibilities as part of the reasonable accommodation process, including processing certain requests, making determinations on the need for medical information, and preparing annual reports on EEOC's reasonable accommodation process. See "Inquiries," page 17, for the phone number and e-mail address for the Disability Program Manager.

2. See Section IV, Determining Which EEOC Official Will Handle the Request, for information on the responsibilities of the Personnel Management Specialist.

3. In certain circumstances, referring and processing a request will have to be made very quickly. For example, an applicant may need an accommodation, such as help filling out an application

form immediately. See Section VIII, Time Frames for Processing Requests and Providing Reasonable Accommodations, for more information, including when a request must be expedited.

4. Currently, field offices generally meet interpreter needs for employees by contracting for such services.

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