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DEPARTMENT OF DEFENSE
Headquarters, Defense Security Service
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PROCEDURES FOR PROVIDING REASONABLE ACCOMMODATION FOR EMPLOYEES OR APPLICANTS WITH DISABILITIES

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1. REFERENCES

1.1. Executive Order 13164, "Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation" (July 26, 2000)

1.2. Title 29, U.S.C., Section 791 et seq., as amended (Rehabilitation Act of 1973)

1.3. Memorandum from Assistant Secretary of Defense (Charles S. Abell), "Component Procedures for Reasonable Accommodation" (August 7, 2001)

1.4. EEOC Directives Transmittal Number 915.003, "Policy Guidance on Executive Order 13164: Establishing Procedures To Facilitate The Provision of Reasonable Accommodation" (October 20, 2000)

1.5. Title 42, U.S.C., Section 12101, et seq., as amended (Title 1, Americans with Disabilities Act of 1990); Title 42, U.S.C., Sections 12201-12204 and 12210, as amended (Sections 501 through 504 of the Americans with Disabilities Act of 1990)

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1.6. Title 29, C.F.R., Part 1630 (Regulations to implement the equal employment provisions of the Americans with Disabilities Act)

1.7. Title 5, C.F.R., Part 610 (Hours of Duty)

1.8. Title 5, C.F.R., Part 213.3102 (Excepted Service; Excepted Schedules; Entire Executive Civil Service)

1.9. Title 5, C.F.R., Part 335 (Promotion and Internal Placement)

1.10. Title 5, C.F.R., Part 831.1201 (Retirement; Disability Retirement)

1.11. Title 5, U.S.C., Section 6120 (Flexible and Compressed Work Schedules)

1.12. Title 41, C.F.R., Part 301-70.400 (Temporary Duty (TDY) Travel Allowances; Policies and Procedures Relating to Travel of an Employee with a Disability or Special Need)

1.13. Title 41, C.F.R., Parts 301-10.123 through 301-10.124 (Temporary Duty (TDY) Travel Allowances; Airline Accommodation)

1.14. Title 10, U.S.C., Section 1582 (Assistive Technology Accommodations Program)

1.15. Standard Form 256, Self-Identification of Reportable Handicap, revised August 1987

1.16. Title 5, C.F.R., Part 339 (Medical Qualification Determinations)

1.17. EEOC Notice Number 915.002, "Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act (ADA)" (July 27, 2000)

1.18. Title 5, U.S.C., Section 552a (Privacy Act of 1974)

1.19. Title 29, C.F.R., Part 1611 (Privacy Act Regulations)

1.20. Title 5, C.F.R., Part 1201.3 (Practices and Procedures; Appellate Jurisdiction)

2. PURPOSE

This regulation establishes effective written procedures for processing requests for reasonable accommodation for employees and applicants who are qualified individuals with disabilities, pursuant to references 1.1. and 1.2.. In addition, these procedures were designed with specific guidance provided by references 1.3. and 1.4.. The Flow Diagram, Enclosure 7, is a quick reference guide of the entire DSS reasonable accommodation process.

3. POLICY SUMMARY

3.1. The Defense Security Service (DSS) shall make reasonable accommodations for the known physical or mental limitations of an employee or applicant who is a qualified individual with a disability.

3.2. It is the intent of this Agency to be a model employer of qualified individuals with disabilities. Reasonable accommodation is part of this Agency's continued effort to take action to prevent discrimination against employees and applicants with disabilities, because of architectural, technological, procedural, communication or transportation barriers, in accordance with reference 1.5.. By implementing the procedures outlined in this regulation, the Agency intends to help remove barriers that prevent persons with disabilities from performing, or applying for jobs for which they are qualified. In addition, implementation of these procedures will expand the pool of qualified workers, thus allowing for the agency to benefit from the talents of people who might otherwise be arbitrarily barred from employment. These procedures will allow the Agency to handle such requests in a prompt, fair, and efficient manner. They will assure that individuals with disabilities understand how to approach the system and know what to expect when requesting an accommodation. These procedures are to be considered in conjunction with the requirements of references 1.1. - 1.5. and particularly, reference 1.6..

3.3. In providing reasonable accommodation the Agency reaffirms its intent to epitomize fair employment practices for qualified individuals with disabilities, thereby strengthening its established commitment and ability to give full consideration to the recruiting, hiring, placement, advancement and all other aspects of the employment process to qualified individuals with disabilities. Reasonable accommodation promotes the Agency's goal of actively seeking to foster positive attitudes toward individuals with disabilities, their potential to be employed in a broad range of grade levels and occupational series, their ability to function effectively and be recognized as having the inherent value to be viable contributors to the overall mission of this Agency.

4. APPLICABILITY

The requirements imposed by this regulation are applicable to all DSS employees and all DSS organizations. Any employee of DSS (hereinafter referred to as "employee") and any applicant seeking a position within DSS (hereinafter referred to as "applicant") who are determined to be a qualified individual with a disability may seek assistance with a request for reasonable accommodation in accordance with the provisions of this regulation.

5. ASSESSING REASONABLE ACCOMMODATION

5.1. The Agency is required to provide reasonable accommodation to a qualified individual with a disability in order to perform the essential functions of the position, unless it can demonstrate that the accommodation would impose an undue hardship on the operation of the

Agency's program or pose a direct threat to the safety of the employee or others in the workplace.

5.1.1. Qualified Individual with a Disability. A qualified individual with a disability is a person who, with or without reasonable accommodation, can perform the essential functions of the position (e.g., one who meets the skill, experience, education, and other job-related requirements for the position).

5.1.2. Reasonable Accommodation. An accommodation is a change involving the workplace or the hiring process that enables a person with a disability to enjoy employment opportunities available to others. A reasonable accommodation is one which does not impose an undue hardship or pose a direct threat to the operations of any agency program and which would allow an employee to perform the essential functions of the position or would provide an applicant the opportunity to fully participate in the hiring process. Reasonable accommodations generally fall under one of the following categories:

5.1.2.1. Accommodations that enable an employee or applicant with a disability to perform the essential functions of the position held or desired.

5.1.2.2. Accommodations that enable employees with disabilities to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities.

5.1.2.3. Accommodations that are required to ensure equal opportunity in the hiring process.

5.1.3. Essential Functions. The essential functions of a job are those duties that are so fundamental to the position that the individual cannot do the job without being able to perform them. A function can be essential if, among other things, the position exists specifically to perform that function, there are a limited number of employees who could perform the function if it were assigned to them, or the function is specialized and the incumbent is hired based on her/his ability to perform it.

5.1.4. Undue Hardship. A reasonable accommodation does not have to be provided if it would impose an undue hardship on the operation of the Agency. An undue hardship means that a specific accommodation would require significant difficulty or expense. When evaluating budgetary or administrative concerns to determine if undue hardship exist, the Agency must follow standards enunciated in reference 1.5.. The Agency is required to expend funds on reasonable accommodation, thus, cost alone should normally not be the sole basis for denying an accommodation. Decisions to expend funds in support of reasonable accommodations should be made in accordance with established agency regulations and policy regarding such expenditures. In determining whether an accommodation would impose an undue hardship on the Agency, the Deciding Official shall consider the following factors:

5.1.4.1. The nature and cost of the accommodation needed;

5.1.4.2. The overall financial resources of the facility involved in the provision of the reasonable accommodation; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility;

5.1.4.3. The overall financial resources of the Agency; the overall size of the Agency with respect to the numbers of employees; the number, type, and location of its facilities; and

5.1.4.4. The type of operation of the Agency, including its composition, structure, and functions of the workforce, the geographic separateness, administrative or fiscal relationship to the facilities in question.

5.1.5. Direct Threat. A direct threat means a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation. The employer should identify the specific risk posed by the employee or applicant. For individuals with mental or emotional disabilities, the employer must identify the specific behavior on the part of the individual that would pose the direct threat. For individuals with physical disabilities, the employer must identify the aspect of the disability that would pose the direct threat. Such consideration must rely on objective, factual evidence and not be based on subjective perceptions, irrational fears, patronizing attitudes, or stereotypes regarding the nature or affect of a particular disability. The Agency should consider the following factors:

5.1.5.1. The duration of the risk

5.1.5.2. The nature and severity of the potential harm

5.1.5.3. The likelihood that the potential harm will occur

5.1.5.4. The imminence of the potential harm and

5.1.5.5. Whether an accommodation would lessen the risk

5.2. Determining the Appropriate Reasonable Accommodation. When a qualified individual with a disability has requested a reasonable accommodation to assist in the performance of a job or hiring process, the supervisor should:

5.2.1. Analyze the particular job involved and determine its purpose and essential functions or analyze the hiring process involved and determine its purpose.

5.2.2. Consult with the individual with a disability to ascertain the precise job-related limitations imposed by the individual's disability and how those limitations could be overcome with a reasonable accommodation.

5.2.3. In consultation with the individual to be accommodated, identify potential accommodations and assess the effectiveness each would have in enabling the individual to perform the essential functions of the position or meet the requirements of the hiring process.

5.2.4. Consider the preference of the individual to be accommodated, select and implement the accommodation that is most appropriate for the employee or applicant and the Agency.

5.2.5. Consider, with the employee or applicant requesting a reasonable accommodation, alternate accommodations that would accomplish the same purpose, particularly if there are alternate accommodations that are more effective.

5.3. The need for reasonable accommodation is determined on an individual basis depending on the unique circumstances involved and taking into consideration: the employee's or applicant's specific disability and the existing limitations to the performance of a particular job function or the inability to participate fully in the hiring process; the essential duties of a particular job; the work environment and whether the proposed accommodation would create an undue hardship on the Agency.

5.4. In all cases, it is recommended that the employee or applicant be consulted before an accommodation is made. Accommodations are highly individualized, therefore, what may have been successful for one person with a disability may not be appropriate for another. In many cases the person may have made adjustments to her/his disability so that no accommodation is needed or desired. The employee or applicant requesting the accommodation should participate to the fullest extent possible in helping to identify an effective accommodation.

5.5. 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.

5.6. Reasonable accommodation should be considered also in recruitment, training, promotion, reassignment, and developmental assignments. To give persons with disabilities opportunities to attend formal training programs, the Agency is required to use funds to provide reasonable accommodation for special services, such as interpreters, readers, Braille and taping of course materials.

5.7. An accommodation must be work-related and not for personal use (e.g., items such as hearing aids or eyeglasses will not be provided).

5.8. Lowering of a performance or production standard is not required to provide an accommodation. Employees are expected to be able to perform the essential functions of the position.

5.9. For applicants, the responsibility to provide reasonable accommodation does not end when the applicant with a disability is placed in a position. The obligation to provide reasonable accommodations for qualified individuals with disabilities is ongoing.

5.10. The Office of Diversity Management (EEO) is available to provide assistance.

6. TYPES OF REASONABLE ACCOMMODATION

Necessary reasonable accommodation may include, but shall not be limited to:

6.1. Making Facilities Readily Accessible. Modifications may include, but shall not be limited to, raised graphic markings in and around elevators, installation of a telecommunication device in each facility, and accessibility of all facilities to individuals in wheelchairs.

6.2. Job restructuring. As a reasonable accommodation, this may involve reallocating or redistributing the marginal functions of a job. However, it is not required that the essential functions of the job be reallocated as a reasonable accommodation. Job restructuring frequently is accomplished by exchanging marginal functions of a job that cannot be performed by a person with a disability for marginal job functions performed by one or more other employees. It may be a reasonable accommodation to modify the essential functions of a job by changing when or how they are done.

6.3. Part-time or Alternative Work Schedules. Part-time work and alternative work schedules, including flexible work schedules and compressed work schedules may be considered as a reasonable accommodation, where it will not be an undue hardship. Reference 1.7. should be consulted if considering part-time or alternate work schedules.

6.4. Acquisition or Modification of Equipment or Assistive Devices. Such equipment or devices can ensure successful job performance, enabling people with disabilities to perform tasks they would not otherwise be able to do or to increase the quantity, quality, or efficiency of their work.

6.5. Appropriate Adjustment or Modification of Examinations. The objective is to eliminate any artificial barriers which would prevent persons with disabilities from demonstrating their capabilities in the examination process without affecting the desired goals of the testing.

6.6. Alternate Format. As needed, material that can be provided in alternative formats such as Braille, disk, or tape.

6.7. Auxiliary Aid and Services. Readers, interpreters, and personal assistants can be hired non-competitively through the Schedule A appointing authority pursuant to reference 1.8.. Such persons can be hired on a full-time, part-time or intermittent basis. In the event that the personnel ceiling is reached or exceeded while attempting to provide reasonable accommodation

such as readers, interpreters or personal assistants, a request may be made for ceiling relief from the Office of Management and Budget. Each request will be decided on a case-by-case basis.

6.7.1. Readers. Employees who are blind may be entitled to the services of a reader to perform their job effectively. A variety of options are available and should be determined on a case-by-case basis with the employee, since the reader and the employee must be compatible with each other. Readers can be a part- or full-time employee hired to provide this service, a qualified co-worker who provides informal assistance or an employee given collateral duty responsibilities. The specific needs of the employee who is blind should be analyzed to identify what the qualifications of the reader should be and the amount of time that the reader will be required.

6.7.2. Interpreters. Qualified interpreters can be hired on a full-time, part-time or intermittent basis. They can also be hired under contract with a local interpreting service on an "as needed" basis. An employee who knows sign language or who is taking a sign language class is **not** an acceptable substitute for a qualified interpreter.

6.7.3. Personal Assistance. Some people with severe disabilities may require personal assistance with specific tasks such as getting from one building to another, traveling on official business, obtaining research or writing materials, or using rest room facilities.

6.8. Reassignment:

6.8.1. Pursuant to reference 1.1., reassignment will be considered as a reasonable accommodation if the Agency determines that no other reasonable accommodation will permit the employee with a disability to perform the essential job functions of his or her current position. Reassignment applies only to employees, not applicants. Such a reassignment should be to a vacant position at the same grade and salary level, and one for which the employee is qualified with or without reasonable accommodation. There is no requirement that the Agency construct a new position for an employee who is disabled. The Agency's reassignment responsibility includes only existing positions. These reassignments will be made with the involvement of the Chief, Human Resources Operations, in consonance with this regulation and in accordance with reference 1.9..

6.8.2. Under the disability retirement procedures promulgated by the Office of Personnel Management (OPM), pursuant to reference 1.10., reassignment must be considered whenever an employee seeks disability retirement. The Agency must demonstrate that efforts were made to reassign the employee to a vacant position within the Agency at the same grade or pay, within the commuting area.

6.8.3. While disability retirement limits reassignment to the commuting area, such specific limitations pertain to reassignment for reasonable accommodation. It is appropriate to consider vacancies which may exist in other offices, particularly for persons in high-graded positions, if they are willing to voluntarily relocate. The cost of Permanent Change of Station

move will usually be borne by the employee under a hardship transfer, unless it is advantageous to the government to have the employee reassigned.

6.9. Telecommuting. Telecommuting and flexiplace programs allow employees to work part or all of the work day at home or at another off-site location. Both telecommuting and flexiplace programs are an effective accommodation for people with disabilities and a valuable tool for recruitment and retention of a quality workforce. Reference 1.11., provides additional guidance for flexiplace.

6.10. Travel. In accordance with reference 1.12., the Agency may fund reasonable additional travel expenses incurred by an employee with a disability while on official travel. In order to accommodate an employee with a disability travelling on Temporary Duty Orders, the following travel expenses are some examples of expenses that can be reimbursed by the Agency:

6.10.1. Transportation and subsistence expenses incurred by an attendant accompanying the employee, whether the attendant is or is not a member of the employee's immediate family, when the employee requires the assistance of an attendant.

6.10.2. Cost of specialized transportation for the employee to, from, and/or at the temporary duty location.

6.10.3. Cost of specialized services provided by a commercial carrier necessary to accommodate the employee's disability.

6.10.4. Costs incurred as a direct result of the employee's disability for baggage handling in connection with public transportation or at lodging facilities.

6.10.5. Cost of renting and/or transporting a wheelchair.

6.10.6. Cost of premium-class or first class accommodations when necessary to accommodate the employee's disability pursuant to reference 1.13.. The necessity for such accommodations must be substantiated in writing by a competent medical authority.

7. COMPUTER/ELECTRONIC ACCOMMODATIONS PROGRAM (CAP)

7.1. An important resource available to both the employer and the individual requesting the accommodation is the Department of Defense (DoD) Computer/Electronic Accommodation Program (CAP). CAP was established by the DoD to enable and assist DoD activities in complying with reference 1.14., which requires (INSERT "S") computer and telecommunication systems to be accessible. CAP pays for a wide variety of assistive technology for people with hearing, visual dexterity, cognitive and communication disabilities. Examples of CAP services available to the Agency at no cost include:

7.1.1. Buying equipment to make computer and telecommunications systems accessible to employees with disabilities. CAP will purchase equipment for employees participating in a Flexiplace program to use in their homes or at other off-site locations. Items include computer hardware and software, telephone equipment, fax machines, and assistive equipment. The Agency retains ownership of all such equipment.

7.1.2. Funding sign language interpreters, readers, and personal assistants for employees attending long-term training (for two days or more).

7.1.3. Providing expertise in solving accessibility problems through the use of software, hardware, and other assistive technology.

7.1.4. Providing training and educational support.

7.2. The supervisor or manager in the employee's or applicant's immediate chain of command or the EEO office may approve a request for CAP services and/or equipment by completing the Computer/Electronic Accommodation Program Request Form, Enclosure 1. The completed request may be mailed or sent by fax to the address indicated on the form. This form may be obtained from the EEO office or may be downloaded from the following CAP web site: <http://www.tricare.osd.mil/cap>. A courtesy copy should be provided to the Office of Diversity Management.

8. REQUESTS FOR REASONABLE ACCOMMODATION

8.1. Overview. A request for reasonable accommodation is a verbal or written statement from an employee or applicant requesting an adjustment or change involving the workplace or in the hiring process of employment for a reason related to a medical condition. 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 he or she chooses, even if he or she has not previously disclosed the existence of a disability. Any employee or applicant may consult with the EEO office for further information or assistance in connection with requesting or processing a request for reasonable accommodation. (See Enclosure 2 for examples of situations which may require a reasonable accommodation). Every effort must be made to respond to the applicant's or employee's request for an accommodation in a reasonably timely manner.

8.2. Disclosure of Disability. The Agency is required to make a reasonable accommodation to the known physical or mental disability of an employee or applicant. However, where the disability is not apparent, it is the responsibility of the employee or applicant requesting the accommodation to notify the Agency of his or her disability and any necessary accommodations. Although an employee may self-identify their disability through reference 1.15., "Self Identification of Reportable Handicap," this form is used for affirmative action purposes only, is not provided to the supervisor, and is not used for the purpose of requesting a

reasonable accommodation. For documentation purposes only, the Deciding Official is encouraged to utilize Enclosure 3 of this regulation, "Request for Reasonable Accommodation," after a request has been approved; however, completing this form is not required.

8.3. Methods of Disclosure. The following persons may request a reasonable accommodation:

8.3.1. An employee may request a reasonable accommodation orally or in writing from any supervisor in the employee's supervisory chain, or an EEO office employee.

8.3.2. An applicant may request a reasonable accommodation orally or in writing from any DSS employee with whom the applicant has contact in connection with the hiring process.

8.3.3. A family member, health professional, or other representative may request an accommodation on behalf of an employee or applicant. The request should go to one of the same persons to whom the employee or applicant should make the request. When a request for accommodation is made by a third party, the applicant or employee with a disability must be contacted to confirm whether or not he or she, in fact, desires a reasonable accommodation.

8.4. Receipt of Request for Reasonable Accommodation. Any DSS employee or DSS organization that receives a request for a reasonable accommodation from any employee or applicant shall forward such request to the person responsible for processing the particular request for reasonable accommodation no later than five calendar days after receiving the request. If a determination cannot be made as to whom the request should be forwarded, the employee or organization should immediately consult with the EEO office.

9. PROCESSING REQUESTS FOR REASONABLE ACCOMMODATION

9.1. Deciding Official. First-line supervisors shall be the Deciding Official for requests for reasonable accommodation from employees. The Chief, Human Resources Operations, shall be the Deciding Official for requests for reasonable accommodation from applicants. The Deciding Official will have the primary responsibility for processing requests for reasonable accommodation to include: determining if the person requesting the accommodation is a qualified individual with a disability as defined by law and this regulation, identifying the specific accommodation being requested, considering whether the specific accommodation is appropriate under the circumstances, deciding whether or not medical documentation is necessary to process the request, taking a proactive approach in searching out and considering alternative accommodations, consulting with appropriate resources, **see Enclosure 6**, for assistance, making a clear and thoughtful decision regarding whether or not to grant the request for accommodation, and properly documenting any decisions or actions taken with regard to a request for reasonable accommodation.

9.2. Procedures. Upon receipt of either a verbal or written communication that an employee or applicant is requesting an accommodation, the Deciding Official will make a decision whether or not the request can be approved.

9.2.1. Granting Request. As soon as the Deciding Official determines that a reasonable accommodation will be provided, that decision should be communicated immediately to the individual making the request. If the accommodation cannot be provided immediately, the Deciding Official must inform the individual of the projected time frame for providing the accommodation.

9.2.1.1. Once a request for a reasonable accommodation has been granted, the employee or applicant does not have to file another request for the same or similar accommodation if he or she needs the accommodation on a repetitive basis. If a request for accommodation is based upon a new or different disability or requires an accommodation that is significantly different than what has been previously granted, a new request should be submitted in accordance with this regulation.

9.2.1.2. Completion of Enclosure 3 is encouraged but not required for approval of and/or granting of a request for reasonable accommodation. Within 10 calendar days of granting a request for reasonable accommodation, Enclosure 3 or any other preferred documentation (letter, memorandum, or electronic mail) should be sent to the EEO office to provide a record of the accommodation granted.

9.2.2. Denial of Request. As soon as the Deciding Official determines that a request for reasonable accommodation will be denied he or she must complete Enclosure 4, "Notice of Denial of Reasonable Accommodation Request." The explanation for the denial should be written in plain language, clearly stating the specific reasons for denial (e.g., why the accommodation would not be effective or why it would result in undue hardship). Where the Deciding Official has denied a specific requested accommodation, but offered to make a different one in its place, which was not agreed to by the disabled individual, the denial notice should explain both the reasons for the denial of the requested accommodation and the reasons that the Deciding Official believes that the chosen accommodation will be effective. Reasons for the denial of a request for reasonable accommodation might include the following:

9.2.2.1. The employee or applicant is not a qualified individual with a disability.

9.2.2.2. The requested accommodation would not be effective.

9.2.2.3. Providing the requested accommodation would result in undue hardship. Before reaching this determination, the Deciding Official must have explored whether other effective accommodations exist which would not impose undue hardship and therefore can be provided.

9.2.2.4. Medical documentation is inadequate to establish that the person making the request is a qualified individual with a disability and/or needs a reasonable accommodation.

9.2.2.5. The requested accommodation would require the removal of an essential function of the position.

9.2.2.6. The requested accommodation would require the lowering of a performance or production standard.

9.2.3. The written notice of denial also informs the individual making a request for reasonable accommodation that he or she has certain rights. First, the employee or applicant has the right to request reconsideration of the denial. Second, the employee or applicant has the right to file an EEO complaint, an MSPB appeal, or participate in the Agency's Alternative Dispute Resolution (ADR). A Deciding Official must advise the employee or applicant of these rights.

9.2.4. Within 10 calendar days of denying a request for reasonable accommodation, Enclosure 4 should be forwarded to the EEO office and a copy should also be provided to the individual requesting the accommodation. If the person making the request is different than the employee or applicant with a disability, the employee or applicant should also receive a copy of Enclosure 4.

9.3. Requests for Medical Documentation and Confidentiality.

9.3.1. Requests for Medical Documentation. The Deciding Official may request that the employee or applicant submit appropriate medical documentation in support of the request only where (a) both the disability and the need for reasonable accommodation are not obvious; or (b) the individual has not already provided the agency with sufficient information to document the existence of the disability and his/her functional limitations. The requested medical documentation needs to establish that the individual has a disability and needs the accommodation. Reference 1.17., is extremely helpful guidance in making disability-related inquiries and medical examinations of employees pursuant to reference 1.5..

9.3.1.1. If medical documentation is requested, it is the responsibility of the employee or applicant requesting the accommodation to provide appropriate medical information related to the functional impairment and the requested accommodation where the disability and/or need for accommodation is not obvious. The Deciding Official may request reasonable medical documentation to support the following:

9.3.1.1.1. The nature, severity, and duration of the individual's impairment;

9.3.1.1.2. The activity/activities that the impairment limits;

9.3.1.1.3. The extent to which the impairment limits the individual's ability to perform the activity/activities; and/or

9.3.1.1.4. Why the individual requires reasonable accommodation or the particular reasonable accommodation requested, as well as how the reasonable accommodation will assist the individual to apply for a job, perform the essential functions of the job, or enjoy a benefit of the workplace.

9.3.1.2. The Deciding Official may require that medical documentation concerning the disability or functional limitations come from an appropriate professional, such as a doctor, social worker, or rehabilitation counselor (hereinafter referred to as "health professional"). However, only information that is relevant to making a decision about the reasonable accommodation may be sought.

9.3.1.3. In order for a health professional to provide useful information regarding the employee's or applicant's ability to perform a job, the Deciding Official should provide information to the health professional concerning the nature of the position, essential functions the individual will be expected to perform, and any other information that is relevant to evaluating the request.

9.3.1.4. The Deciding Official may also request that the Agency's own health professional review an employee or applicant's medical information, at the expense of the Agency, to assist with making a determination regarding a request for a reasonable accommodation.

9.3.1.5. The Deciding Official may request that an employee or applicant submit to a medical exam only:

9.3.1.5.1. If the individual making a request for reasonable accommodation has provided insufficient documentation from her/his own health professional to substantiate the existence of a disability and the need for reasonable accommodation.

9.3.1.5.2. If an employee or applicant fails to provide sufficient documentation of her/his disability and the need for reasonable accommodation, the Deciding Official must inform the employee or applicant that the previously submitted documentation is insufficient, identify the specific type of information that is being sought, and allow the individual the opportunity to provide the information before requesting a medical exam.

9.3.1.5.3. A Deciding Official can request that the employee or applicant to sign a limited medical release and then either submit to the employee's or applicant's health professional a list of specific questions to be answered or have the Agency's own health professional contact the employee or applicant's health professional to make the appropriate inquiry.

9.3.2. Confidentiality. Medical documentation may contain sensitive information concerning an employee or applicant and such information must be kept confidential, pursuant to references 1.2., 1.18., and 1.19.. Only the Deciding Official and those required to assist the Deciding Official in making a decision regarding the request for reasonable accommodation should review and discuss an employee's or applicant's medical documentation for purposes of evaluating such a request.

9.3.2.1. Without specific permission from the Office of General Counsel (OGC), the only other circumstances where medical documentation or information of a personal nature regarding a disability should be disclosed are:

9.3.2.1.1. supervisors and managers who need to know may be told about necessary restrictions on the work or duties of the employee and about the necessary accommodation(s);

9.3.2.1.2. first aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment;

9.3.2.1.3. government officials may be given information necessary to investigate the Agency's compliance with the Rehabilitation Act;

9.3.2.1.4. personnel processing workers' compensation claims, in certain circumstances; and

9.3.2.1.5. Agency EEO officials may be given the information to maintain records, evaluate, and report on the Agency's performance in processing a reasonable accommodation.

9.3.2.2. If other persons inquire as to the reasons why an employee or applicant is being provided an accommodation, a Deciding Official and other agency officials must not reveal the fact or circumstances surrounding the disability. Simply confirming that in order to comply with federal law the agency has made a modification for the particular employee is a sufficient response. Providing the reasons why the accommodation has been provided would be improper.

9.3.2.3. 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.

9.3.2.4. If the employee or applicant does not wish to share medical documentation with the Deciding Official, he or she may provide such information directly to the EEO office or Employee Relations (ER). Either the EEO office or ER, or a health professional

providing expertise to those offices may review the requested medical information and make a determination as to the existence of a disability and inform the Deciding Official. Because an actual or reasonably potential, conflict of interest may exist in certain cases, it may be necessary in those cases to disqualify the EEO office employee involved in the accommodation request process from working on the processing of any complaint regarding the denial of the accommodation request.

9.4. Time Requirements. The reasonable accommodation process begins as soon as the request for accommodation is made. Although completion of Enclosure 3 is encouraged, a verbal or other written request for accommodation will officially initiate the timing for processing a request for a reasonable accommodation. A Deciding Official must approve or deny a request for accommodation within 30 calendar days from receipt of the initial verbal or written request for reasonable accommodation, or sooner, if possible. Since a Deciding Official may need the full time period to engage in the interactive process and collect all relevant information about possible accommodations, he or she should not delay beginning this process. The agency will process and provide any accommodation in as short a time as reasonably possible, given the attendant circumstances.

9.4.1. Expedited Processing Required. In certain circumstances, a request for reasonable accommodation requires an expedited review and decision sooner than 30 calendar days. For example, an expedited review and decision would be required when a reasonable accommodation is needed:

9.4.1.1. To enable an applicant to apply for a job. Depending on the timetable for receiving applications, conducting interviews, 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.

9.4.1.2. To enable an employee to attend a meeting scheduled to occur shortly. An employee may need a sign language interpreter for a meeting scheduled to take place in five days.

9.4.2. Delays in Processing. Factors that could not reasonably have been anticipated or avoided in advance of the request for accommodation are considered to be extenuating circumstances. When extenuating circumstances are present, the time for processing a request for reasonable accommodation and providing the accommodation may be extended as reasonably necessary. Extensions based on extenuating circumstances should be limited to circumstances where they are absolutely necessary. All DSS employees are expected to act as quickly as reasonably possible in processing requests and providing for reasonable accommodation.

9.4.2.1. "Extenuating circumstances" covers limited situations in which unforeseen or unavoidable events prevent prompt processing and delivery of an accommodation. For example, you may not delay processing or providing an accommodation because a particular staff member is unavailable. The following are examples of extenuating circumstances:

9.4.2.1.1. There is an outstanding initial or follow-up request for medical information.

9.4.2.1.2. The purchase of specialized equipment may take longer than 30 calendar days because of requirements under the Federal Acquisition Regulation and DoD Acquisition Policies and Procedures.

9.4.2.1.3. Equipment is back ordered, or the needed goods or services are not immediately available.

9.4.2.1.4. The employee with a disability needs to try working with equipment on a trial basis to ensure that it is effective before a commitment is made to purchase the equipment.

9.4.2.1.5. An accommodation involves the removal of architectural barriers.

9.4.2.2. Failure to meet the time frame solely because a Deciding Official delayed processing the request is not an extenuating circumstance.

9.4.2.3. Notice of Delay. Where extenuating circumstances are present, the Deciding Official must notify the individual requesting the reasonable accommodation 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 making the request. If the accommodation request process exceeds sixty calendar days due to extenuating circumstances, the Deciding Official must inform the EEO office of the delay and provide the reasons for the delay. If provision of an agreed upon reasonable accommodation exceeds the time estimated, the Deciding Official must inform the EEO office of the delay and the reasons for the delay.

9.4.2.4. Temporary Measures. If there is a delay in providing a reasonable accommodation, the Deciding Official must investigate whether temporary measures can be taken to assist the employee during the interim. This could include providing the requested accommodation on a temporary basis or providing measures that are not reasonable accommodations within the meaning of the law (e.g., temporary removal of an essential function) if: (1) temporary measures do not interfere with the operations of the Agency; and (2) the employee is clearly informed that temporary measures are being provided with the accommodation 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. When a Deciding Official determines that interim accommodations are not possible, he/she will provide a written explanation to the employee.

9.4.2.5. Medical Documentation. If a delay is attributable to the need to obtain or evaluate medical documentation or there has not been a determination that the individual is entitled to an accommodation, the accommodation may be provided on a temporary basis. In such case, the Deciding Official will notify the individual in writing that the accommodation is being provided on a temporary basis pending a decision regarding the accommodation request. A Deciding Official who approves a temporary measures is responsible for assuring that it does not take the place of a permanent accommodation and that all necessary steps to secure the permanent accommodation are being taken as soon as possible.

9.4.3. If the Deciding Official 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 Deciding Official will make such request to ER as soon as possible after his or her receipt of the request for reasonable accommodation, but before the expiration of the 30-day period. DSS recognizes that the need for documentation may not become apparent until after the interactive process has begun. All efforts shall be made to obtain and review necessary medical information within the 30-day time period.

9.5. Coordination with Agency Officials. A Deciding Official must properly coordinate with Agency Officials when processing requests for reasonable accommodation.

9.5.1. If approving a request for reasonable accommodation, the Deciding Official must consult and coordinate with both the EEO office and ER.

9.5.2. If a determination regarding a request for reasonable accommodation requires medical documentation, the Deciding Official must consult and coordinate requesting such additional information with ER.

9.5.3. If denying a request for reasonable accommodation, the Deciding Official must consult and coordinate with the EEO, ER, and OGC offices.

10. APPEAL PROCESS/INFORMAL DISPUTE RESOLUTION

10.1. Employees and applicants with disabilities can request prompt reconsideration of a denial of reasonable accommodation. Any denials of a request for reasonable accommodation must be appealed within 30 calendar days of receipt of Enclosure 4 (the written denial of the request for reasonable accommodation). If 30 calendar days have passed since Enclosure 4 has been received, an employee or applicant with a disability desiring an accommodation must initiate a new request for reasonable accommodation and start the request process from the beginning.

10.1.1. A request for reconsideration may be oral or in writing, however, documentation and any evidence that might support a request for reconsideration is extremely helpful in making an informed decision regarding the request for reconsideration. An employee

or applicant may use Enclosure 5 to submit a request for reconsideration; however, it is not required.

10.1.2. If an employee or applicant with a disability desires reconsideration, he or she should first ask the Deciding Official to reconsider the decision. The individual may present additional information in support of her/his request along with her/his request for reconsideration. The Deciding Official will notify the EEO office within 3 calendar days if he or she receives a request for reconsideration. The Deciding Official will respond to the request for reconsideration within 15 calendar days or sooner if possible, of receipt of the request for reconsideration. The Deciding Official will use Enclosure 5 to document her/his decision regarding the request for reconsideration. If the employee or applicant does not use Enclosure 5, the Deciding Official should complete sections 1 through 5 of that form, except for the signature block. The Deciding Official will forward her/his decision regarding a request for reconsideration to the EEO office within 10 calendar days of her/his final decision.

10.1.3. If the Deciding Official does not reverse the decision, the employee or applicant can ask the Agency Director or his/her designee for reconsideration within 30 calendar days of receiving notice that the Deciding Official is not granting the request for reconsideration. If 30 calendar days have passed since being informed that the Deciding Official will not grant the request for reconsideration, the employee or applicant with a disability desiring an accommodation must initiate a new request for reasonable accommodation and start the request process from the beginning. The Agency Director or his/her designee will respond to a request for reconsideration denied by a Deciding Official within 15 calendar days or sooner if possible, of receipt of the request for reconsideration. The Agency Director or his/her designee will use Enclosure 5 to document her/his decision regarding the request for reconsideration.

10.1.4. Coordination with Agency Officials: all requests for reconsideration shall be coordinated with EEO, ER, and OGC offices.

10.1.5. Any deadlines that employees or applicants fail to meet may be challenged if good cause exists for failing to meet such deadlines.

10.2. Pursuing any of the informal dispute resolution procedures identified above, including seeking reconsideration from the Deciding Official or the Agency Director or his/her designee does not affect the time limits for initiating any other statutory 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 the Equal Employment Opportunity Commission (EEOC) or the Merit Systems Protection Board (MSPB) regulations. Requirements governing the initiation of statutory claims, including the time frame for filing such claims, remain unchanged by this regulation.

10.3. An individual who chooses to pursue statutory or other alternative dispute resolution (ADR) remedies for denial of requests for reasonable accommodation must:

10.3.1. For an EEO Complaint pursuant to 29 C.F.R., Part 1614: contact an EEO counselor in the EEO office within 45 days from the date of receipt of the written notice of denial of the request for reasonable accommodation.

10.3.2. For a MSPB Appeal pursuant to 5 C.F.R., Part 1201: initiate an appeal to the MSPB within 30 days of the effective date of an appealable adverse action as defined in reference 1.20.; or

10.3.3. For utilizing ADR: contact the EEO office to initiate a request for participation in the Agency's ADR process.

11. RECORD RETENTION AND REPORTING REQUIREMENTS

11.1. Record Retention. Any information collected pursuant to this regulation must be kept pursuant to reference 1.14.. All records obtained or created during the processing of a request for reasonable accommodation become part of the Privacy Act System of OPM-GOVT-10. These records will be maintained separately by the EEO office. A Deciding Official shall not keep official records of reasonable accommodation requests, and such requests and supporting documentation, specifically medical information, shall not become part of an official personnel file.

11.1.1. The EEO office shall retain records of reasonable accommodation requests for a period of three years from the date of the request for reasonable accommodation.

11.1.2. The documents associated with this regulation shall be retained as follows:

The Deciding Official will forward all original documents to the EEO office, including, but not limited to Enclosures 1, 3, and 4 of this regulation and any additional medical documentation provided in connection to the request for reasonable accommodation.

11.2. Reporting Requirements. Pursuant to reference 1.1., the Agency is required to track the processing of requests for reasonable accommodation. The EEO office will prepare an annual report that will be made available to all employees and submitted to the EEOC. The report will contain the following information:

11.2.1. The number and types of reasonable accommodations that have been requested in the hiring process and whether those requests have been granted or denied;

11.2.2. The jobs (occupational series, grade level, and agency component) for which reasonable accommodations have been requested;

11.2.3. The types of reasonable accommodations that have been requested for each of those jobs;

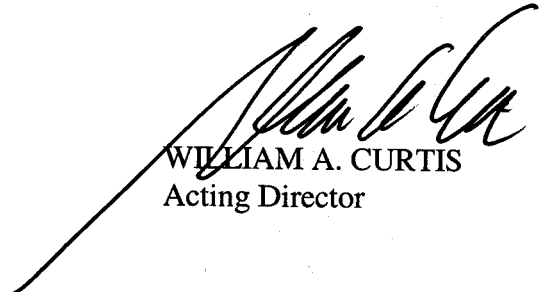
11.2.4. The number and types of reasonable accommodations for each job, by agency component, that have been approved, and the number and types of accommodations that have been denied;

11.2.5. The number and types of requests for reasonable accommodations that relate to the benefits or privileges of employment, and whether those requests have been granted or denied;

11.2.6. The reasons for denial of requests for reasonable accommodation;

11.2.7. The amount of time taken to process each request for reasonable accommodation; and

11.2.8. The sources of technical assistance that have been consulted in trying to identify possible reasonable accommodation.



WILLIAM A. CURTIS
Acting Director

- 7 Enclosures:
1. CAP Accommodation Request Form
 2. Questions, Answers, & Examples
 3. Request for Reasonable Accommodation
 4. Notice of Denial of Reasonable Accommodation Request
 5. Request for Reconsideration
 6. Selected Reasonable Accommodation Resources
 7. Flow Diagram
(DSS Regulation 08-12)

ENCLOSURE 1



HEALTH AFFAIRS



CAP Office Use Only

Received: _____ [] EFMP [] Tele
 Completed: _____ [] DDESS [] WC
 Approved: _____ [] DoDDS [] CTRS
 Ordered: _____ [] MHS [] DoD
 Declined: _____ [] Non-DoD [] State
 Canceled: _____ Request #: _____
 Vendor: _____ Order #: _____
 Item Description: _____

CAP Accommodation Request Form

Complete this form to request assistive technology and services. All information will be kept confidential. Please ensure completion of all contact information. Approval is required from requester's supervisor. Signature certifies that the accommodation is necessary for a person with a disabling condition to accomplish an essential job requirement. Signature also verifies that the item requested becomes the property of the receiving federal agency. Furthermore, equipment maintenance beyond initial warranty period and additional supplies after receipt of equipment is the responsibility of the federal agency. If you have any questions, please call CAP at 703-681-8813 (V) 703-681-0881 (TTY), or email CAP@tma.osd.mil. **Complete the form online at <http://www.tricare.osd.mil/cap/requests> or fax completed form to 703-681-9075 or send by US Mail to:**

DoD Computer/Electronic Accommodations Program Office
 TRICARE Management Activity
 5111 Leesburg Pike, Five Skyline Place, Suite 810
 Falls Church, VA 22041-3206

1. NAME OF PERSON OR OFFICE TO BE ACCOMMODATED (Please Print):

Grade Level: _____ Occupational Series: _____ Are you a new federal employee? _____
 Have you used CAP services before? [] Yes [] No
 Please include your CUSTOMER ID # (if known) _____

2. ADDRESS/CONTACT INFORMATION: (No P.O. Boxes - No acronyms)

If your agency is within DoD (specify): _____
 Organization: [] Army [] Navy [] Air Force

If your agency or department is not a DoD Agency (specify): _____

DELIVERY ADDRESS (Work Address):

Address1: _____
 Address2: _____
 City, State, Zip: _____
 Telephone/TTY#: (please indicate which) _____
 Fax #: _____ Email: _____

3. DISABILITY INFORMATION: Identify your disability (Deaf/Hard of Hearing, Blind/Low Vision, Cognitive, Dexterity*: Additional information/medical documentation may be required to support the need of an accommodation per the Rehabilitation Act)

Other (explain): _____
 *Dexterity Disability (explain): _____

If you are a Workers' Compensation claimant, include your Workers' Compensation Claim # and copy of Department of Labor Claim Acceptance Letter: _____

If you Telework, include your agency agreement form.

Please fax supporting documents to 703-681-9075.

4. SUPERVISOR/POINT OF CONTACT INFORMATION (Complete all fields):

Name: _____ Signature: _____
 Telephone/TTY #: _____ Fax #: _____
 Email: _____

* * *

EQUIPMENT

* * *

5. ITEM REQUESTED: Include brand name/model and attach any vendor information/brochures you may have. If requesting Speech Recognition Software, complete and fax the Speech Recognition Information Form, located under "News/Documents" on the CAP Website. Please fill out a separate request for each item being requested.

6. JUSTIFICATION: Please explain how this item will assist you in performing your essential job functions:

7. COMPUTER SYSTEM: In order to establish compatibility, identify:

Operating System: Win00____ Win98____ Win ME____ WinNT____ Win95____ Mac____ Other____
 Does your computer have a USB Port? Yes__No__ How much RAM does your computer have?_____

8. EMPLOYEE SIGNATURE: _____

* * *

FUNDED SERVICE

* * *

Note: Complete this section only if you are a DoD employee attending a training session lasting two or more days. Mark your requested funded service: ☐ Interpreter* ☐ CART* ☐ Personal Assistant ☐ Reader

*Interpreter and CART Services are for DoD employees to attend information technology and computer-related training sessions.

Submit a fully completed request (sections A and B) at least 15 days prior to the start of the training or travel.

A. TRAINING SESSION:

Name of the DoD Agency training sponsor? _____

Training/Course Title: _____

Course Location: _____

Course Dates: _____ Course Time: _____

Have you been officially registered for training? _____

B. INFORMATION ON SERVICE PROVIDER (INTERPRETERS, READERS, ETC.):

For interpreting service information refer to the CAP Interpreter Database, located under "Deaf Accommodation Services" on the Website, and for information on obtaining a personal assistant please refer to the CAP Personal Assistant Information Form, located under "News/Documents" on the website.

Agency/Service Provider Name, Point of Contact and Address:

Telephone/TTY #: _____ Fax #: _____

Cost/Quote (please attach): _____ Does service accept Credit Card Payment? _____

E-Mail: _____ Website: _____

Submitting this form signifies you agree to CAP terms and conditions.

ENCLOSURE 2

QUESTIONS, ANSWERS & EXAMPLES for REASONABLE ACCOMMODATION

1. IDENTIFYING A REQUEST

May an agency require that individuals with disabilities use particular words to request a reasonable accommodation?

No. A request for accommodation is a statement that an individual needs an adjustment or a change at work or in the application process for a reason related to a medical condition. Agencies may not require, for example, that individuals mention the Rehabilitation Act or use the phrase "reasonable accommodation."

EXAMPLE A - Michelle tells her supervisor, "I'm having trouble getting to work at my scheduled starting time because of the medication I take." This is a request for reasonable accommodation. Whether or not Michelle is ultimately entitled to an accommodation, the agency must start to consider the request.

EXAMPLE B - An applicant who is vision-impaired asks for assistance with the agency's application materials. This is a request for reasonable accommodation and triggers the agency's obligation to engage in its reasonable accommodation process.

2. WHEN A REQUEST BEGINS

May an agency wait to begin processing a request for reasonable accommodation until after an individual has submitted a written request?

No. Although an agency can, for record-keeping purposes, ask an applicant or employee to fill out a form, an individual's oral request will start the reasonable accommodation process. Accordingly, the time limits set by the agency's procedures must run from the date of the oral request. Of course, a request can be initiated in writing if the individual prefers.

EXAMPLE - Elizabeth, whose left leg is amputated, orally requests that her office be moved closer to the ladies' restroom because of the fatigue and pain caused by using crutches. The agency's reasonable accommodation procedures provide that all individuals requesting accommodation should complete a written form for agency records. Elizabeth submits the form to the head of her office one week following her oral request. Elizabeth's supervisor must begin processing her request for reasonable accommodation on the date of her oral request.

3. **ONGOING REQUESTS**

When someone requires a reasonable accommodation on a repeated basis, may an agency require the individual to submit a written request for record-keeping purposes each time the accommodation is needed?

No. Where an employee has requested a type of reasonable accommodation that s/he is likely to need on a repeated basis - for example, the assistance of sign language interpreters or readers - an agency may not require that the individual submit a written request for record-keeping purposes each time the accommodation is needed.

4. **TIMING OF REQUESTS**

May an agency require that a request for reasonable accommodation be made at a certain time?

No. Under the Rehabilitation Act, the duty to provide reasonable accommodation is an ongoing one. Thus, an individual with a disability must be permitted to request a reasonable accommodation whenever s/he chooses. That request will then trigger the agency's obligation to start the process laid out in its procedures.

EXAMPLE A – The agency's reasonable accommodation procedures require that all requests for reasonable accommodation be made within ten days of the date that an applicant or employee realizes s/he needs an accommodation. This is impermissible.

EXAMPLE B - Randy, who has multiple sclerosis, requests that his desk be raised to accommodate his wheelchair. The agency promptly processes and approves his request. Six months later, Randy requests an additional accommodation to further assist him in the workplace in light of complications that have arisen from his disability. The agency must promptly process Randy's second request, and should anticipate that other requests may be made if his condition worsens. Even if Randy's condition had not changed but he simply identified another reasonable accommodation that would assist in the performance of his job, the agency is obligated to consider any additional request for reasonable accommodation.

5. **FORWARDING A REQUEST**

May an agency require that a request for reasonable accommodation be made to a certain agency official?

No. For an employee, the agency's obligation to consider a request for reasonable accommodation begins when the individual makes that request to any of the following: his/her supervisor, another supervisor or manager, any agency employee, or the EEO office. For an applicant, the request can be made to any agency employee that the applicant has contact with in connection with the hiring process.

6. WHO CAN MAKE A REQUEST

Must an agency consider requests made by others on behalf of an individual with a disability?

Yes. A family member, health professional, or other representative may request a reasonable accommodation on behalf of an individual with a disability. Where possible, the agency should then confirm with the person with a disability that s/he in fact wants a reasonable accommodation.

EXAMPLE - An employee has been out of work for six months with a serious injury. The employee's doctor sends the agency a letter, stating that the employee is released to return to work, but with certain work restrictions. The letter is a request for reasonable accommodation for the employee. The agency should first confirm with the employee that the doctor's note was sent with the employee's consent and whether or not the employee agrees with the request for reasonable accommodation.

7. WHO CAN APPROVE REQUEST

May first-line supervisors be authorized to approve requests for reasonable accommodations?

Yes. To eliminate unnecessary levels of review, first-line supervisors are authorized to approve requests for reasonable accommodation.

EXAMPLE - David has a disability that causes extreme fatigue at the end of each day. David is an accountant, and is expected to attend budget planning meetings with his supervisor and another colleague every Wednesday afternoon. David asks his supervisor whether the meetings can be changed to the morning so that he can attend them when he does not feel tired. The agency's procedures authorize David's supervisor to evaluate and approve this type of request, absent undue hardship to the operation of the office.

8. ALTERNATE FORMS OF REASONABLE ACCOMMODATION

Can a supervisor suggest an alternate form of reasonable accommodation?

Yes. If a supervisor can identify another way in which the employee's disability can be accommodated and make the impact on the agency operations less severe or make the employee more efficient, the supervisor should propose the alternate reasonable accommodation to the employee to see if s/he will consent. Upon further discussion, the supervisor and the employee may come up with yet a even better form of reasonable accommodation than initially requested or proposed.

EXAMPLE - Roger has a disability that prevents him from working in the early mornings. He asks for a reasonable accommodation that would permit him to work part-time and to come in every day at 11:00 a.m. Roger's supervisor discusses the request with him and proposes that Roger simply shift his schedule to work two hours longer in the evenings. Roger agrees to this alternative reasonable accommodation.

9. TIMELINESS

Does a deciding official have to wait the full amount of time allotted by agency regulations for making a decision regarding a request for reasonable accommodation?

No. A deciding official should make a decision regarding a request for reasonable accommodation in the shortest amount of time possible under the circumstances and communicate the decision to the employee or applicant immediately.

EXAMPLE A – An agency prohibits employees from eating or drinking at their workstations. Ruth has insulin-dependent diabetes and asks her supervisor to permit her to eat a candy bar or drink fruit juice at her desk if necessary to avoid going into insulin shock. The agency's reasonable accommodation procedures state that decisions about whether to grant or deny requests for reasonable accommodation should be made within 30 calendar days of the date of the request. In this case, however, the agency should be able to provide the reasonable accommodation in no more than a day or two, and hopefully sooner. The agency should not wait the full 30 calendar days before responding to Ruth's request.

EXAMPLE B - Marcus has a psychiatric disability that causes him to be easily distracted, and requests that he be given a private office on a quiet corridor. Because the agency must investigate the availability of office space and is entitled to consider other effective accommodations, the agency may need to take the full 30 calendar days allotted by its procedures to make a decision regarding his request.

EXAMPLE C - James, who uses a wheelchair, is chosen to attend a computer training class that will be held in the agency's computer lab starting the following day. James requests that the computer desk be raised in time for him to participate in the class. The agency's procedures should provide for expedited processing of James' request in circumstances like these.

EXAMPLE D - To perform the essential functions of her job, Maria, who has a vision-related disability needs a sophisticated piece of equipment that is not readily available from the agency's suppliers. The agency has asked its suppliers to check further, and is also independently pursuing other avenues to obtain the necessary equipment. Because of this delay, the agency is not able to meet the time limit set in its procedures for a response to Maria's request. The agency should notify Maria about the delay and tell her when it expects to be able to respond to her request. Whether or not it ultimately grants Maria's request, the agency should also investigate alternative accommodations, such as a qualified reader, that it could provide on an interim basis to remove at least some of the barriers that limit Maria's use of her computer.

10. PROVIDING EXPLANATIONS WHEN DENYING REQUESTS

Can a denial of a request for reasonable accommodation simply state that the request is “an undue hardship for the agency”?

No. A full and complete explanation of why the particular request is an undue burden for the agency must be provided. Suggestions for acceptable alternative reasonable accommodation should be made, if possible.

EXAMPLE - Steven, who has cancer, requests that he be allowed to work at home three days a week due to the serious side effects he experiences from his treatment. The agency denies the request with a one-line statement noting that the "reasonable accommodation requested would pose an undue hardship for the agency." This is an inadequate explanation. The agency must identify the basis for its finding of undue hardship - that is, it must explain how allowing Steven to work at home three days a week would create significant difficulty or expense for the agency and offer suggestions for alternative reasonable accommodation, if possible. The explanation should also identify the deciding official.

ENCLOSURE 3

DEFENSE SECURITY SERVICE
REQUEST FOR REASONABLE ACCOMMODATION

PRIVACY ACT STATEMENT

AUTHORITY: Executive Order 13164; 29 U.S.C., Section 791, et. seq.; 42 U.S.C., Section 12101, et. seq.; 12201-12204, and 12210; 29 C.F.R., Part 1630.

PRINCIPAL PURPOSE(S): To collect personal information from an employee/applicant to assist with a request for reasonable accommodation and collection of required statistical data regarding requests for reasonable accommodation.

ROUTINE USE(S): To the Department of Defense and EEOC in instances where an employee/applicant requests a reasonable accommodation.

DISCLOSURE AND EFFECT ON THE INDIVIDUAL OF NOT PROVIDING INFORMATION: Voluntary; however, failure to provide the requested information may hinder the ability to provide a complete or adequate reasonable accommodation.

Applicant or Employee complete sections 1-3

1. Employee _____ Applicant _____ (check one)

Name: _____ Signature: _____ Date: _____

If you are completing for employee/applicant, provide your name, address & telephone and relationship to employee/applicant:

Employee/Applicant Work Telephone Number

Employee/Applicant Office & Address

Employee/Applicant Home Telephone Number

Employee/Applicant Home Address

Employee/Applicant Series/Grade Level

Initial Date of Request for Accommodation

2. **TYPE(S) OF REASONABLE ACCOMMODATION REQUESTED.** (Be as specific as possible, e.g. adaptive equipment, reader, interpreter, removal of architectural barrier, modified work schedule).

(Attach Additional information if Necessary)

3. REASON FOR REQUEST.

a. Do you have a disability? Yes _____ No _____

b. Are you providing medical documentation to support your request? Yes _____ No _____

c. Identify the reason for request a reasonable accommodation (check all applicable)

_____ Application Process

_____ Performing Job Functions or Accessing the Work Environment

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

d. State the reason for the specific accommodation (e.g. include how the accommodation would have a positive effect upon the ability to perform your job, enjoy job-related benefit or privilege available to all, or enable you to participate in the hiring process):

(Attach Additional Information if Necessary)

Deciding Official complete section 4-7**4. Deciding Official**

Name:

Signature:

Date:

Office & Address

Telephone Number

Date of Initial Request for Accommodation

Date Received

5. Deciding Official:

- a. Is the employee/applicant a qualified individual with a disability?
- b. Is the requested accommodation a reasonable accommodation?
- c. Will the accommodation have a positive effect on the ability for the employee to perform her/his job or enjoy a benefit or privilege available to all; or, will the accommodation allow the applicant to fully participate in the hiring process?
- d. Can this accommodation be provided by the Computer/Electronic Accommodation Program (CAP)?
- e. Did you obtain assistance from any other organization in trying to identify other accommodations?

Yes

No

☐☐☐☐☐☐☐☐☐☐

If so, please list resource(s) used:

- f. Was a request for medical documentation made?

☐☐

(i) If so, when was the request provided to the employee/applicant? _____

(ii) When was the medical documentation provided to you? _____

- g. When did you notify the employee/applicant regarding a decision of this request? _____

- h. If this request was referred to you by anyone else in the agency, did s/he forward the Request within five calendar days?

☐☐

If not, when did you receive the request? _____

If not, who was that individual? _____ (name/phone)

Please explain any time delays (e.g., accommodation request was time sensitive or it took longer than 30 calendar days to make a decision):

6. _____
- Approved (provide original of this form and any additional documentation collected to EEO office & copy of this form to Employee/Applicant)**

_____ **Denied (Attach original of this form and Notice of Denial (DSS 237) and provide original forms and any additional documentation collected to the EEO office and provide copies of both forms to employee/applicant and/or requestor)**

7. Date Reasonable Accommodation provided to Employee/Applicant: _____

(If this is unknown, provided estimated date and ensure the EEO office receives actual completion date – do not delay in processing this request while waiting for the accommodation to be provided. If the delay exceeds your estimate, you must inform the EEO office of such delay).

If providing a reasonable accommodation was delayed, did you:

_____ provide temporary measures?

_____ provide an accommodation on a temporary basis?

Please explain any delays in providing the agreed upon accommodation:

ENCLOSURE 4

DEFENSE SECURITY SERVICE
NOTICE OF DENIAL OF REASONABLE ACCOMMODATION REQUEST

PRIVACY ACT STATEMENT

AUTHORITY: Executive Order 13164; 29 U.S.C., Section 791, et. seq.; 42 U.S.C., Sections 12101, et. seq., 12201-12204, and 12210; 29 C.F.R., Part 1630.

PRINCIPAL PURPOSE(S): To use personal information obtained from an employee/applicant making request for reasonable accommodation to provide notice of denial of that request and collection of required statistical data regarding requests for reasonable accommodation that are denied.

ROUTINE USE(S): To the Department of Defense and EEOC in instances where an employee/applicant has a request for a reasonable accommodation denied.

DISCLOSURE AND EFFECT ON THE INDIVIDUAL OF NOT PROVIDING INFORMATION: Voluntary; however, failure to provide the requested information may impede the process of providing required notice of denial of a reasonable accommodation request, as required by law.

Deciding Official complete sections 1 – 4 and review section 5 with employee/applicant**1. Deciding Official**

Name: _____

Signature: _____

Office & Address

Telephone Number

Name of Individual Requesting Accommodation

Name of Employee/Applicant (if different)

Date Reasonable Accommodation was Requested

Date Employee/Applicant Notified of Denial

Date you received copy of Employee/Applicant Request Form (DSS 236)

Date you gave Employee/Applicant copies of this Notice of Denial:

2. Accommodation Requested (attach DSS Form 236) and provided additional information, if needed):**3. Reason for Denying Request for Reasonable Accommodation: (check all that apply)**

_____ Employee/Applicant is not a qualified individual with a disability

_____ Accommodation ineffective

_____ Accommodation would cause undue hardship

_____ Medical documentation inadequate

_____ Accommodation would require removal of an essential function

_____ Accommodation would require lowering of performance or production standard

_____ Other (please identify): _____

4. REASON FOR DENIAL OF REQUEST FOR REASONABLE ACCOMMODATION.

Provide the detailed reason(s) for denying the request for reasonable accommodation (must be specific, e.g., why the person is not a qualified individual with a disability, why the accommodation is ineffective, or why the accommodation causes an undue hardship).

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

(Attach Additional Information if Necessary)

5. APPELLATE RIGHTS (Deciding Officials must inform employee/applicant of these rights);

You have the right to ask the Deciding Official to reconsider her/his denial of your request for reasonable accommodation within 30 calendar days of receiving this form (DSS 237, Notice of Denial of Reasonable Accommodation Request). Additional information may be presented to support this request. If the Deciding Official does not reverse her/his decision, the employee or applicant can request further reconsideration from the Director, Office of Diversity Management (EEO) within 30 calendar days of receiving notice of denial of her/his request for reconsideration from the Deciding Official.

Other Rights: If an individual desires to file an EEO complaint, or other statutory processes as appropriate, s/he must take the following steps:

For an EEO complaint pursuant to 29 C.F.R., Part 1614: contact an EEO counselor in the EEO office within 45 days from the date of receipt of the written notice of denial of request for reasonable accommodation;

For an appeal to the MSPB pursuant to 5 C.F.R., Part 1201: initiate an appeal within 30 day of the effective date of an appealable adverse action as defined in 5 C.F.R., Part 1201.3.

For utilizing ADR: initiate a request through the EEO office for use of the Alternative Dispute Resolution (ADR) process.

ENCLOSURE 5

**DEFENSE SECURITY SERVICE
REQUEST FOR RECONSIDERATION**

PRIVACY ACT STATEMENT

AUTHORITY: Executive Order 13164.29; U.S.C. Section 791, et. seq.; 42 U.S.C., Sections 12101, et. seq.; 12201-12204, and 12210; 29 C.F.R., Part 1630.

PRINCIPAL PURPOSE (S): To collect personal information from an employee/applicant to assist with a request for reconsideration of a denial of a request for reasonable accommodation and collection of required statistical data regarding requests for reasonable accommodation and reconsideration of those requests.

ROUTINE USE (S): The information obtained will be furnished to the Department of Defense and EEOC, and it will be maintained by the Department of Defense.

DISCLOSURE AND EFFECT ON THE INDIVIDUAL OF NOT PROVIDING INFORMATION: Voluntary; however, failure to provide the requested information may hinder the ability to provide a complete or adequate accommodation and fully contemplate the request for reconsideration.

Applicant or Employee Requesting Reconsideration - Complete Sections 1 - 5

1. Employee _____ Applicant _____ (check one)

Name: _____ Signature: _____ Date: _____

If you are completing for employee/applicant, provide your name, address & telephone and relationship to employee/applicant:

Employee/Applicant Work Telephone Number	Employee/Applicant Office & Address
Employee/Applicant Home Telephone Number	Employee/Applicant Home Address
Employee/Applicant Series/Grade Level	Initial Date of Request for Accommodation
Date Request Form (DSS 236) Provided to Deciding Official	Date of Denial of Request for Accommodation

2. REASON (S) FOR RECONSIDERATION. (Be as specific as possible, e.g., why you think the denial of your request for reasonable accommodation should be granted). You may provide additional information to support your request.

(Attach Additional Information if Necessary)

3. PLEASE ATTACH A COPY OF REQUEST FOR REASONABLE ACCOMMODATION (DSS 236- optional) AND NOTICE OF DENIAL (DSS 237) TO THIS FORM.

4. You should first request reconsideration from the original Deciding Official. If the request is denied, you may request further reconsideration by the Agency Director or his/her designee.

5. This request is being forwarded to: _____ Original Deciding Official
 _____ Agency Director or his/her designee (Only after denial by original Deciding Official)

DECIDING OFFICIAL/EEO office complete sections 6 – 7 and review section 8 with employee/applicant

6. Deciding Official/Agency Director or his/her designee	
Name: _____	Signature _____ Date: _____
Office & Address	Telephone Number
Date Received Request for Reconsideration	

7. DECISION REGARDING RECONSIDERATION:

_____ **Approved**

_____ **Denied**

If denying, provide the specific detailed reasons for denying this request for reconsideration:

(Attach Additional Information if Necessary)

8. APPELLATE RIGHTS (Deciding Officials must inform employee/applicant of these rights):

If the Deciding Official does not reverse her/his decision, employee/applicant can request further reconsideration from the Agency Director or his/her designee. If this is a denial of a request for reconsideration from the Agency Director's office, then the agency decision is final.

Other Rights: If an individual desires to file an EEO complaint, or other statutory processes as appropriate, s/he must take the following steps:

For an EEO complaint pursuant to 29 C.F.R., Part 1614: contact an EEO counselor in the EEO Office within 45 days from the date of receipt of the written notice of denial of request for reasonable accommodation;

For an appeal to the MSPB pursuant to 5 C.F.R., Part 1201: initiate an appeal within 30 days of the effective date of an appealable adverse action as defined in 5 C.F.R., Part 1201.3.

For utilizing ADR: initiate a request through the EEO Office for use of Alternative Dispute Resolution (ADR) process.

ENCLOSURE 6

Selected Reasonable Accommodation Resources

Defense Security Service Office of Diversity Management (EEO)

(410) 865-2477 (Voice)
(410) 865-2616 (TTY)

<http://infolink.dss.mil/low/homepages/eoo/index.htm>

The Office of Diversity Management's mission is to develop and implement all diversity management and Equal Employment Opportunity (EEO) programs within the Defense Security Service. Provides advice, guidance, technical assistance, and training to supervisors, managers and employees to ensure that DSS maintains a working environment that is free from illegal discrimination and promotes equal opportunity for all people. Develops the diversity goals and objectives that are contained in the agency's Affirmative Employment Plans for women, minorities, and people with disabilities and monitors the attainment of such goals. Manages the agency's Special Emphasis Programs for women, minorities and people with disabilities. Identifies and eliminates employment barriers and discriminatory practices and policies. Processes all complaints of discrimination in accordance with federal regulations.

Computer/Electronic Accommodations Program (CAP)

(703) 681-8813 (Voice)
(703) 681-0881 (TTY)

<http://www.tricare.osd.mil/cap/>

The Department of Defense (DoD) established the Computer/Electronic Accommodations Program (CAP) in 1990 to improve accessibility for people with disabilities throughout the DoD and remove the cost of accommodations. The TRICARE Management Activity, a field activity in the Office of the Assistant Secretary of Defense (Health Affairs), serves as the executive agent for CAP. CAP's services assist in creating work environments that are more accessible to employees with hearing, visual, dexterity, cognitive and communication impairments. By aligning itself with DoD Components and Federal agencies, promoting awareness, team building, and reengineering, CAP ensures quality and timely support to achieve its mission and increase the representation and retention of people with disabilities in the Federal sector.

Making the Federal government the model employer for people with disabilities has been a call to action from the previous and present administrations. Increasing the employment of people with disabilities can best be achieved via a centrally funded program to address the cost of assistive technology and accommodation services. CAP assists in meeting this goal by providing a wide range of services that will be beneficial to people with disabilities. This includes the ability to do an online needs assessment to determine the appropriate accommodation solution(s).

Providing the appropriate accommodation for people with disabilities will ensure productivity and inclusion. The first step is to become familiar with the disability in order to determine what accommodations people need to increase efficiency in the workplace.

Job Accommodation Network (JAN)

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

<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.

U.S. Equal Employment Opportunity Commission

1-800-669-3362 (Voice)

1-800-800-3302 (TT)

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

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., and the regulations, 29 C.F.R. § 1630. In addition, the EEOC has published a great deal of basic information about reasonable accommodation and undue hardship. The three 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; (2) Enforcement Guidance on reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act, 8 FEP Manual 405:7601 (1999); and (3) A Technical Assistance Manual on the Employment Provisions (Title I) of the Americans with Disabilities Act, 8 FEP Manual (BNA) 405:6981, 6998-7018 (1992) (*Technical Assistance Manual*). The Technical Assistance 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 guidances and documents: (1) Enforcement Guidance: Pre-employment 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 *Technical Assistance Manual* and the poster, are also available through the Internet at www.eeoc.gov. All of these documents provide guidance that applies to federal agencies through the Rehabilitation Act of 1973, 29 U.S.C. § 791.

ADA Disability and Business Technical Assistance Centers (DBTACs)

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

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

(703) 838-0030 (Voice)

(703) 838-0459 (TTY)

(703) 838-0454 (Fax)

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

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

RESNA Technical Assistance Project

(703) 524-6686 (Voice)

(703) 524-6639 (TTY)

<http://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.

ENCLOSURE 7

Reasonable Accommodation Process (DSS Regulation 08-12)

