

# APPLICANT REASONABLE ACCOMMODATION REQUEST

## STANDARD OPERATING PROCEDURES

### I. Purpose

This document sets forth guidance and prescribes the process for requesting reasonable accommodations at the National Security Agency (NSA/Agency). This standard operating procedure applies to applicants for Agency employment.

### II. General Information

The Office of Reasonable Accommodation and Accessibility (ORAA), D64, is responsible for managing the reasonable accommodation process at the NSA. The ORAA will coordinate with Agency affiliates to include applicants and Agency organizations to implement workplace accommodations for applicants. The Agency is required to provide a workplace accommodation for qualified applicants with a disability.

### III. PROCESS FOR REQUESTING A REASONABLE ACCOMMODATION

#### A. How to request an accommodation:

1. Applicants should contact Christine Hall, Disability Recruitment Program Manager at [cahall2@nsa.gov](mailto:cahall2@nsa.gov) or 410-854-7384 if they are in need of reasonable accommodations and/or personal assistance services. Requests can also be provided to the ORAA at [reasonable\\_accommodations@nsa.gov](mailto:reasonable_accommodations@nsa.gov) or (301) 688-7779.
2. The Office of Recruitment will contact ORAA regarding an accommodation request.
3. The Office of Recruitment will contact the Workplace Care Program Manager (WCPM) regarding a personal assistance services request.
4. The ORAA Reasonable Accommodations Manager will follow up with the Office of Recruitment within 3 business days to discuss the needs of the applicant.
5. Requests for accommodation can be provided orally or in writing at any time.

#### B. Documentation:

1. In determining whether documentation is necessary to support a request for reasonable accommodation and whether an applicant has a disability within the meaning of the Rehabilitation Act, the Reasonable Accommodations Manager will be guided by principles set forth in the ADA Amendments Act of 2008. The Reasonable Accommodations Manager may need to obtain information to determine if an individual's impairment is a "disability" pursuant to the Rehabilitation Act or to determine what would be an effective accommodation.
2. Where documentation is needed the applicant will need to complete the following forms and return to the ORAA.
  - a. Request for Accommodation, Form ORAA004 (to be completed by the applicant).
  - b. Information Release Request, Form P4016 (to be completed by the applicant)
  - c. Office of Reasonable Accommodations and Accessibility Request for Medical Documentation, Form ORAA001 (to be completed by the applicant).
3. Once the forms and medication documentation from the applicant are received by ORAA, ORAA will review the medical documentation provided to determine if the applicant is a person with a disability and eligible for workplace accommodations.
4. If clarification or additional information is needed, the ORAA may ask the Agency's Occupational Health, Environmental & Safety Services (OHES), medical staff or another medical professional (at the Agency's expense) to review the applicant's medical documentation, if consent to do so was given by the applicant. The Reasonable Accommodations Manager or Agency medical staff may also give the applicant a list of questions to give to the health care provider to answer or contact the medical provider directly, if consent was given to do so.
5. The time period to clarify the medical documentation when contacting an outside medical provider is dependent on the availability of the applicant's medical provider and may extend the time frame for providing an accommodation if the information is not submitted timely.

6. Absent extenuating circumstances, the time frame for processing a request (including providing accommodation, if approved) is as soon as possible, and no later than twenty-one (21) business days from the date the request is made. This twenty-one (21) day business period includes the three (3) day time frame in which the Reasonable Accommodations Manager must contact the recruiter after a request for reasonable accommodation is made.
7. If the Reasonable Accommodations Manager must request medical information or documentation from a requestor's doctor, the processing time frame will stop on the day that the Reasonable Accommodations Manager makes a request to the individual to obtain medical information or sends out a request for information/documentation, and will resume on the day that the information/documentation is received by the Reasonable Accommodations Manager.
8. If an accommodation cannot be implemented within this 21 business day time period, an interim accommodation will be implemented when possible. The interactive process between the applicant and the Agency (Recruitment and ORAA Reasonable Accommodations Manager) will occur to determine what interim measures are needed.

C. Extenuating circumstances:

1. There may be circumstances that could not reasonably have been anticipated or avoided in advance of a request for accommodations, or that are beyond the Agency's ability to control. When extenuating circumstances are present, the time for processing a request for reasonable accommodations and providing the accommodations will be extended as reasonably necessary. Extensions will be limited to circumstances where they are absolutely necessary and only for as long as required to deal with the extenuating circumstance.
2. Individuals can track the processing of their cases by emailing or calling their recruiter.
3. Absent undue hardship, the accommodation will be implemented immediately. If there is a delay in processing or providing a reasonable accommodation, the individual will be notified of the reason for the delay, including any extenuating circumstances.

4. The ORAA maintains an operational budget for funding supplies, equipment, and services necessary to provide reasonable accommodations to applicants and employees.

D. Decisions:

1. All decisions regarding a request for reasonable accommodation will be communicated to an applicant by his/her recruiter.
2. A decision to provide an accommodation other than the one specifically requested will be considered a decision to grant an accommodation. The decision to provide an alternative accommodation will be discussed with the applicant before implementation to ensure the applicant understands the alternative accommodation and agrees with it.

E. Job Reassignment:

1. Once an individual is hired, job reassignment may be an accommodation for which he/she may be eligible. Information regarding job reassignment is provided pursuant to federal regulation.
2. Job reassignment is considered the accommodation of last resort and should only be used when an employee cannot be accommodated in his/her current position.
3. Prior to considering job reassignment as an accommodation, the Agency will implement reasonable accommodations in the employee's current position, if possible. Qualified individuals with disabilities who can no longer perform the essential functions of their job with or without reasonable accommodations due to a new or worsening condition will be considered for job reassignment to a valid, vacant position as a reasonable accommodation.
4. When a qualified individual with a disability makes a request for job reassignment as a reasonable accommodation, ORAA will:
  - a. Check employee's eligibility for job reassignment. If eligible, the Reasonable Accommodations Manager will request a current electronic version of the employee's resume and vacancy profile in order to ascertain his/her qualifications. It is the employee's responsibility to provide the resume and vacancy profile.

- b. Will contact and advise the employee's management to look within the Mission Resource Authority (MRA) to attempt to locate a valid, vacant position or one that will become vacant within thirty (30) days from the date the search was initiated for which the employee is qualified to perform; looking first in the employee's immediate organization then to other organizations within the Directorate. The job search is not limited to the facility or commuting area or type of work the individual is currently assigned at the time of the need for reassignment.
- c. Concurrently, conduct an Agency-wide job search for a valid vacant position and will team with the Office of Recruitment, Hiring and Staffing Competitive Selection (ComSel) staff to find a position for which the individual is qualified. The employee, if able, should also search the Agency's vacancies for a position that meets the employee's qualifications. The job search is not limited to the facility or commuting area or type of work the individual is currently assigned at the time of the need for reassignment. The scope of the job search is limited only by undue hardship. The job search and reassignment process will not exceed thirty (30) calendar days from the date the search is initiated, per notification to the employee by ORAA.

F. Denial of Accommodation:

1. Applicants can be denied an accommodation when he/she is not a qualified individual with a disability, the accommodation creates an undue hardship and/or because of national security considerations.
2. If an accommodation cannot be supported due to an undue hardship to mission or productivity requirements, alternative accommodations options are explored. The Agency will provide a written justification for any inability to implement an accommodation.
3. Security and Counterintelligence (S&CI) has the authority to override accommodation requests/implementation if such requests pose a threat to national security.
4. If the Agency denies a request for accommodation, the Reasonable Accommodations Manager will provide the decision to Recruitment for sharing with the applicant. Specific reasons for denial will be provided. If

an accommodation other than the one requested is offered, but the alternative accommodation is not accepted, the applicant's rejection of the alternative accommodation will be documented.

5. If an applicant disagrees with the approved accommodation(s) or believes his/her request should not have been denied, the applicant may request an appeal or a reconsideration of the approved/denied accommodation(s) within 10 business days of the receipt of the decision by completing the Request for Reconsideration of a Reasonable Accommodation Decision Form. The reconsideration request can be faxed to (301) 688-5405 or emailed to [reasonable\\_accommodations@nsa.gov](mailto:reasonable_accommodations@nsa.gov).

G. Reconsideration of Decision:

1. The Reasonable Accommodations Denial Board (RADB) will convene within 10 business days of receipt of a request for reconsideration in ORAA. Individuals will be notified of the date their request for reconsideration was received in ORAA. The RADB will consist of voting members from Human Resources and Occupational Health, Environmental & Safety Services (OHES). Non-voting members will consist of an OHES Physician and/or Psychologist and the OHES Administrative Personnel/Occupational Health Program Manager will serve as the Administrator/Chair of the Board.
2. A final decision will be rendered within 15 business days from the date of receipt of the reconsideration request in the ORAA. The final decision from the Board will be provided to the applicant in writing by the Chief of ORAA.
3. When an accommodation is denied or alternative accommodations are granted, individuals will be informed of their legal right to file an EEO complaint with the Office of Discrimination Complaints within the Office of Diversity, Equality & Inclusion. See Statutory Claims section for additional information.
4. These procedures do not limit or supplant statutory protections for persons with disabilities and the remedies they provide for the denial of requests for reasonable accommodation. Requirements governing the initiation of statutory claims remained unchanged, including the time frames for filing such claims.

#### H. Confidentiality:

1. Under the Rehabilitation Act, medical information obtained in connection with the reasonable accommodation process must be kept confidential. This means that all medical information that the Agency obtains in connection with a request for reasonable accommodation must be kept in files separate from the individual's personnel file. This includes the fact that an accommodation has been requested or approved and information about an employee's functional limitations. It also means that any Agency employee who obtains or receives such information is strictly bound by these confidentiality requirements. Medical information is shared only with those with a need-to-know.
2. The Reasonable Accommodations Manager may share certain information with an employee's supervisor or other Agency official(s) as necessary to make appropriate determinations on a reasonable accommodation request. Under these circumstances, the Reasonable Accommodations Manager will inform the recipients about confidentiality requirements. The information disclosed will be no more than is necessary to process the request.

#### I. Relation of Procedures to Statutory Claims:

1. An individual who chooses to pursue statutory remedies for denial of reasonable accommodation must:
  - a. For an EEO complaint: Contact an EEO Counselor in the Office of Discrimination Complaints within 45 days from the date of receipt of the written resolution notice or verbal response to the request (whichever comes first). EEO Counselors can be reached at (301) 688-1087. If a counselor is not contacted within 45 days the right to file a complaint will be lost. Individuals are encouraged to use informal dispute resolution processes to resolve complaints regarding reasonable accommodation.
  - b. Accessibility at Facilities, Rights under the Architectural Barriers Act of 1968 (ABA): The Agency's Installation & Facilities Operations Division, is responsible for ensuring the physical accessibility of the Agency's facilities. To report an ADA/ABA issue or concern please call 667-812-6450.

- c. If you feel there is an accessibility issue that should be covered under the Architectural Barriers Act of 1968 (ABA) you have the right to file a complaint with an EEO Counselor as noted above.
- d. To file a formal complaint visit [www.access-board.gov](http://www.access-board.gov), select file an ABA complaint.
- e. If there are concerns about the accessibility of Agency equipment, please call 667-812-6450.
- f. If the Agency's investigation of a complaint filed under Section 508 of the Rehabilitation Act of 1973 or the Architectural Barriers Act of 1968 shows that a different entity is responsible for the alleged violation, the Agency will attempt to assist the individual with locating the proper place to file the complaint against the other entity, if possible.
- g. These Procedures create no new enforceable rights under Section 501 of the Rehabilitation Act, or any other law. Executive Order 13164, which requires all Federal agencies to adopt reasonable accommodations procedures, explains in section 5(b) that the procedures are "intended only to improve the internal management of the executive branch and does not create any right or benefit.

J. Definitions<sup>1</sup>:

- 1. Adverse Action – suspension of 15 days or more, enforced leave of 15 days or more, removal actions, separation for disability, reduction in pay or grade or furloughs of 30 days or less.
- 2. Disability<sup>2</sup> – with respect to an individual, 1) physical or mental impairment that substantially limits one or more major life activities of

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<sup>1</sup> Most of the terms and definitions set forth in this section can be found in Title 29 of the Code of Federal Regulations (CFR) §1614.203(a) and §1630.2.

<sup>2</sup> The Rehabilitation Act, as amended by the ADAA, does not require an employer to provide reasonable accommodation to an individual who only meets the "regarded as" definition of disability. An employee must meet either the "actual" definition (i.e., person has an impairment that substantially limits a major life activity) or the "record of" definition (i.e., person has a record of an impairment that substantially limited a major life activity) to be eligible for reasonable accommodation.



such individual, 2) having a record of such impairment; or 3) being regarded as having such an impairment.

3. Essential Job Functions – the fundamental job duties of the employment position the individual with a disability holds or desires. It does not include the marginal functions of a position.
4. Individual with a Disability – An individual who 1) has a physical or mental impairment that substantially limits one or more major life activities; 2) has a record of such impairment; or 3) is regarded as having such an impairment.
5. Major Life Activities – Activities that include but are not limited to caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, working and the operation of a major bodily function.
6. Medical Information/Documentation – Information or documentation from an individual’s personal health care provider, issued not more than six (6) months prior to the date of the request for reasonable accommodation, used to support an accommodation request. Such information should address:
  - a. The nature, severity, and duration of the individual’s impairment;
  - b. The activity or activities that the impairment limits and the extent to which the impairment limits the individual’s ability to perform the activity or activities;
  - c. Why the individual requires a reasonable accommodation or the particular accommodation requested, as well as how the accommodation will assist the individual in applying for a job, performing the essential functions of the job, or enjoying a benefit of the workplace.
7. Personal Assistance Services (PAS) – assistance with performing activities of daily living that an individual would typically perform if he or she did not have a disability, and that is not otherwise required as a reasonable accommodation, including for example, assistance with removing and putting on clothing, eating and using the restroom.

8. Physical or Mental Impairment – any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin and endocrine. It also includes any mental or psychological disorder such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
9. Qualified – with respect to an individual with a disability means that the individual satisfied the requisite skills, experience, education and other job-related requirements of the employment position such individual holds or desires and with or without reasonable accommodation, can perform the essential functions of such position.
10. Reasonable Accommodation – A modification or adjustment to a job application process that enables a qualified applicant with a disability to be considered for the position such applicant desires; a modification or adjustment to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enables an individual with a disability who is qualified to perform the essential functions of the position; or that enable a covered entity's employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by its other similarly situated employees without disabilities. A reasonable accommodation may include: making existing facilities used by employees readily accessible to and useable by individuals with disabilities; job restructuring; modified work schedules; reassignment to a vacant position; acquisition or modification of equipment or devices; appropriate adjustments or modifications of examinations, training materials or policies and/or the provision of interpreters and other similar accommodations for individuals with disabilities.
11. Reasonable Accommodation Denial Review Board – NSA/CSS members who are the final decision authority members in the event a decision by the ORAA is reconsidered. This board consists of voting members from Human Resources and Occupational Health, Environmental & Safety Services (OHES). Non-voting members consist of an OHES Physician and/or Psychologist and the OHES Administrative Personnel/Occupational Health Program Manager will serve as the Administrator/Chair of the Board.

12. Reasonable Accommodation Interactive Process – An informal process initiated by the employer with the individual with a disability in need of an accommodation to determine the appropriate reasonable accommodation. This process should identify the precise limitations resulting from a disability and potential reasonable accommodations that could overcome those limitations.
13. Request for Accommodation – a statement (oral or written) that an individual makes to request a reasonable accommodation.
14. Targeted Disability – a condition that is designated as a targeted disability or health condition on the Office of Personnel Management’s Standard Form 256 or that falls under one of the first 12 categories of disability listed in Part A of question 5 of the Equal Employment Opportunity Commission’s Demographic Information on Applicant’s form.
15. Undue Hardship – with respect to the provision of an accommodation, significant difficulty or expense incurred by a covered entity, when considered in light of 1) the nature and net cost of the accommodation needed, taking into consideration tax credits and deductions, and/or outside funding, 2) the overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, the number of persons employed at such facility, and the effect on expenses and resources, 3) the overall financial resources of the covered entity, the overall size of the business of the covered entity with respect to the number of its employees, and the number, type and location of its facilities; 4) the type of operations of the covered entity, including the composition, structure and functions of the workforce of such entity, and the geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the covered entity; and 5) the impact of the accommodation upon the operation of the facility, including the impact of the ability of other employees to perform their duties and the impact on the facility’s ability to conduct business.
16. Workplace Accommodation – Any change or adjustment in the work environment or in the way things are usually done that results in equal employment opportunity for an individual with a disability.

K. Copy of Procedures:

1. Upon request, a copy of these Procedures can be provided in alternative formats.

L. Reasonable Accommodation Resources

1. U.S. Equal Employment Opportunity Commission, 1-800-669-3362 (Voice) 1-800-800-3302 (TT), <http://www.eeoc.gov>
2. Job Accommodation Network (JAN), 1-800-232-9675 (Voice/TT), <http://janweb.icdi.wvu.edu>
3. ADA Disability and Business Technical Assistance Centers (DBTACs), 1-800-949-4232 (Voice/TT)
4. RESNA Technical Assistance Project, (703) 524-6686 (Voice) (703) 524-6639 (TT), <http://www.resna.org>