



U.S. OFFICE OF SPECIAL COUNSEL

Directive No. 52

PROCEDURES FOR PROVIDING REASONABLE ACCOMMODATION AND PERSONAL ASSISTANCE SERVICES TO INDIVIDUALS WITH DISABILITIES

I. Purpose.

The Office of Special Counsel (OSC) is committed to providing reasonable accommodations to qualified applicants or employees and personal assistance services (PAS) to qualified employees in order to ensure that individuals with disabilities enjoy full access to employment opportunities.

OSC will process requests for reasonable accommodations and PAS promptly, fairly, and efficiently.

- A. Employees should refer to the Equal Employment Opportunity Commission's (EEOC) guidance entitled, "Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act,"¹ for more information on reasonable accommodations.
- B. Employees should refer to the EEOC's regulation entitled, "Final Rule on Affirmative Action for Individuals with Disabilities in Federal Employment"² for more information on PAS.

II. Authorities.

Title 5 U.S.C. §§ 302(b); Exec. Order No. 13164, reprinted in 29 U.S.C. § 791; 29 C.F.R. §§ 1614.102(b)(1) and 1614.203(a)(5), (d)(3)(i), and (d)(5). The Rehabilitation Act of 1973, as amended by the Americans with Disabilities Act of 1990 and the Americans with Disabilities Act Amendments of 2009, 29 U.S.C. § 701 *et seq.*, 42 U.S.C. § 12101 *et seq.*

III. Definition of Key Terms.

¹ Currently available (as of the date this Directive is issued) at the EEOC website (www.eeoc.gov), under the general heading, "Laws, Regulations and Guidance," and the subheadings, "Guidance," and "EEOC Enforcement Guidance, Policy Guidance, and Policy Statements."

² Currently available (as of the date this Directive is issued) at the EEOC website (www.eeoc.gov), under the general heading, "Laws, Regulations and Guidance," and the subheading, "Regulations."

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“Individual with a disability:” (1) a person who has a physical or mental impairment that substantially limits one or more major life activities; (2) a person who has a record of such impairment; or (3) a person who is regarded as having such impairment.

“Reasonable accommodation:” Any change in the work environment or in the way things are customarily done that would enable a qualified individual with a disability to enjoy equal employment opportunities.

“Qualified individual with a disability:” An individual with a disability is qualified if the person: (a) satisfies the requisite skill, experience, education, and other job-related requirements of the position; and (b) can perform the essential functions of the position, with or without reasonable accommodation.

“Essential functions:” Those job duties that are so fundamental to the position that the employee 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 other employees who could perform if it were assigned to them, or the function is specialized, and the individual is hired based on the ability to perform it.

“Undue hardship:” A specific accommodation that would require significant difficulty or expense. Determination of undue hardship is made on a case-by-case basis and will consider the nature and cost of the accommodation needed and the impact on OSC operations.

“Decision Maker:” The individual who reviews and makes the determination on requests for reasonable accommodations or PAS.

“Medical Review Officer:” The individual with the authority to obtain medical information in support of requests for reasonable accommodation or PAS and determine whether the requestor is a qualified individual with a disability.

“Disability Program Manager:” The individual responsible for processing, coordinating, and tracking requests for reasonable accommodation or PAS. OSC’s Chief Human Capital Officer (CHCO) or the CHCO’s designee shall serve as the Disability Program Manager (DPM).

“The interactive process” is the back-and-forth communication between the requestor and the decision maker to determine what, if any, reasonable accommodation or PAS will be provided. The individual requesting reasonable accommodation or PAS and the decision maker must communicate with each other about the request, the precise nature of the problem that is generating the request, any specific limitation or barrier that is unclear, the way in which the disability causes a need for reasonable accommodation or PAS, and any alternative accommodations that may be effective in meeting an individual’s needs.

Key PAS Terms

“Personal assistance services:” Allow employees with targeted disabilities to fully participate in the workplace by providing assistance with activities of daily living, such as eating, drinking, using the restroom, and putting on and taking off clothing. [Separate definition from reasonable accommodation.]

“Individual with a targeted disability:” Targeted disabilities are a subset of conditions that would be considered disabilities under the Rehabilitation Act and for which qualified individuals with certain disabilities (e.g., blindness, deafness, paralysis, psychiatric disorders, and traumatic brain injuries) have faced significant barriers that sometimes exceed the barriers faced by people with the broader range of disabilities. See link in Appendix A to Office of Personnel Management’s Self-Identification of Disability Form (SF-256) for a complete list of targeted disabilities.

“Personal assistance service provider:” An employee or independent contractor whose primary job functions include provision of PAS.

Reasonable Accommodation Procedures

IV. Making the Request

- A. Any OSC employee may make an initial request for reasonable accommodation orally or in writing to their first-line supervisor, supervisor in their immediate chain of command; the EEO office, or the DPM. There are no particular words required to make reasonable accommodation requests. A statement that an individual needs an adjustment or change at work or in the application process for a medical related condition is enough. Oral requests will be followed up in writing (see part V). Requests for a reasonable accommodation may be submitted at any time, even if the individual has not previously disclosed the existence of a disability. The DPM may be contacted for further information or assistance in connection with requesting or processing a request for reasonable accommodation.
- B. An applicant may request a reasonable accommodation from the HCO in connection with the application process. Field office chiefs should consult with HCO to ensure the proper handling of requests for reasonable accommodation(s) during the interview process.
- C. A family member, health professional, or other representative may request an accommodation on behalf of an OSC employee or applicant. Where possible, someone will confirm with the employee/applicant that they in fact want a reasonable accommodation.

V. Written Requests for Record Keeping Purposes.

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- A. To enable OSC to keep accurate records about requests, employees seeking an accommodation must follow up an oral request *either* by completing OSC's "Confirmation of Request" form,³ or by otherwise confirming the request in writing (e.g., by letter, memorandum, or e-mail) to the DPM. For applicants seeking a reasonable accommodation, the Human Resources Specialist handling the request must give the applicant the "Confirmation of Request" form to complete or by confirming the request in writing via e-mail. If an individual with a disability requires assistance with this requirement, the staff member receiving the request should ensure that the necessary assistance is available.
- B. A request made to anyone other than the direct supervisor, should be forwarded to the decision maker as soon as possible (taking no more than five business days).
- C. The decision maker will begin processing the accommodation request promptly and will not wait for the written confirmation.
- D. If an individual needs a reasonable accommodation on a repeated basis, a written confirmation is required only for the first request; once approved the employee may renew the accommodation by notice to the decision maker each additional time the approved accommodation is needed.

VI. Determination of Appropriate Decision Maker.

- A. Requests for accommodation from an employee will be decided by the requestor's immediate supervisor except for requests involving the items listed in part VI. C. If the request requires a personnel action or some other action that will have an impact on other staff or functions of the division, the immediate supervisor will make the decision after gathering input from the affected unit chief and/or supervising SES and consulting with the CHCO.
 - 1. If medical information is needed, the supervisor will contact the Medical Review Officer (MRO). The MRO will request the necessary documentation to determine whether the employee has a qualifying disability. If there is a qualifying disability, the MRO will notify the supervisor and the supervisor will then determine what effective accommodation(s) may be provided.
 - 2. If the MRO determines that the employee does not have a qualifying disability, they will notify the employee's supervisor. The supervisor will then follow the procedures for denying a reasonable accommodation request found in part XI.
- B. The decision maker for requests for accommodation from an applicant will be the HCO personnel management specialist responsible for the recruitment process.

³ See Form OSC-60 "Confirmation of Request" in Appendix B. The form is also available on OSC's Intranet in the section devoted to OSC forms. The form can be made available in alternative formats for people with disabilities.

C. The DPM will be the decision maker on requests for:

1. adaptive equipment, including information technology and communications equipment (in consultation with the Chief Information Officer), or specially designed furniture (in consultation with Chief, Administrative Services Office (ASO)).
2. the removal of an architectural barrier(s), including reconfigured workspaces. The DPM will coordinate these requests with the ASO Chief and, as necessary, with the General Services Administration or the owner of the building.
3. materials in alternative formats (*e.g.*, Braille, large print) which cannot be handled by the supervisor, unit chief, or supervising SES.

D. The DPM will be available to assist employees and decision makers in processing requests.

VII. The Interactive Process.

- A. Communication is a priority throughout the reasonable accommodation process. The requestor and the OSC decision maker must communicate with each other early in the interactive process and periodically throughout the process about the request and the consideration of appropriate, effective accommodation.
- B. The OSC decision maker and the requestor should both work to identify an effective accommodation. Ongoing communication is particularly important when the specific limitation, problem, or barrier is unclear; an effective accommodation is not obvious; or the parties are considering different possible accommodations. They may seek assistance from the DPM and consult the resources listed in the Appendix to this Directive.
- C. The OSC decision maker will promptly: (a) inform the applicant or employee that they will be making the decision on the request and (b) describe the reasonable accommodation process.
- D. Reassignment is an accommodation of last resort and will only be considered if no other effective accommodations are available to enable the individual to perform the requestor's essential functions, or if the only other effective accommodation would cause undue hardship to OSC.
- E. Employees can search for vacancies at www.osc.gov and www.usajobs.gov when considering reassignment as a reasonable accommodation.

IX. Time Frames for Processing Requests and Providing Reasonable Accommodations.

OSC will process requests for reasonable accommodation and provide any necessary accommodations in as short a time frame as reasonably possible.

A. Standard Processing. The processing time—from date of initial request to notification of decision—should take approximately 20 business days. However, if the request requires additional supporting medical or other information, the process may take longer.

1. Examples of accommodation requests which can be provided in less than 20 business days may include:
 - a. Providing four breaks a day to an employee with diabetes who sits in an open area to test blood sugar level in private.
 - b. Allowing an employee to start the workday at 10:00 a.m. because he takes antidepressants that make it hard for him to wake up in time to reach the office at 9:00 a.m.
 - c. Providing an employee with a learning disability advance copies of the agenda instead of at the beginning of a meeting to allow the employee more time to prepare because the disability makes reading difficult.
2. When a reasonable accommodation is simple and straightforward, OSC will provide the accommodation in a prompt manner, absent undue hardship. Failure to immediately provide the accommodation requests may result in a violation of the Rehabilitation Act. Employees may initiate a complaint alleging a violation of the Rehabilitation Act by contacting an EEO counselor (see part XX).

B. Expedited Processing. In certain circumstances, a request for reasonable accommodation may require expedited review. This includes when a reasonable accommodation is needed:

1. to enable an applicant to apply for a job.
2. to enable an employee to attend a specific agency activity or meeting scheduled to occur shortly.

C. Extenuating Circumstances. These are circumstances that could not reasonably have been anticipated or avoided in advance of a request for accommodation. When extenuating circumstances are present, the decision maker must notify the requestor of the reason for the delay, and the approximate date on which a decision, or provision of

the reasonable accommodation, is expected. The following are examples of extenuating circumstances:

1. Awaiting receipt of individual medical records; or a health professional fails to provide needed documentation.
2. Equipment must be “back-ordered,” delivery is delayed, or the vendor has unexpectedly gone out of business.
3. An accommodation involves the removal of architectural barriers.

If there is a delay in providing an approved accommodation, the decision maker must investigate whether temporary measures can be taken to assist the employee. This could include providing a temporary accommodation or providing a less effective form of accommodation. The decision maker may also provide measures that are not reasonable accommodations within the meaning of the law (*e.g.*, temporary removal of an essential function) if: (1) the temporary measures do not interfere with the operations of the agency and (2) OSC clearly informs the employee that the measures are only temporary.

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 readers.

If a delay in responding to an accommodation request is attributable to the need to obtain or evaluate medical documentation, and OSC has not yet determined that the individual is entitled to an accommodation, OSC may also provide an accommodation on a temporary basis. In such a case, the decision maker will notify the individual in writing that the accommodation is being provided on a temporary basis pending a final decision on the accommodation request.

OSC decision makers who approve such temporary measures are responsible for ensuring that the temporary measures do not take the place of a permanent accommodation and for taking all necessary steps to secure the permanent accommodation.

VIII. Determination -- Whether the Individual Requesting the Accommodation Has a Disability.

- A. Whether the Individual Requesting the Accommodation Has a Disability. OSC is charged with determining whether the requestor has a covered disability that requires reasonable accommodation. When a disability and/or need for reasonable accommodation is not obvious or otherwise already known to the decision maker, OSC may require the requestor to provide documentation about the disability and functional limitations.
- B. Requests for Medical Information. If a decision maker believes that medical information is needed to evaluate a request for reasonable accommodation, they will ask the MRO to obtain such information.

1. The MRO will confirm whether medical documentation is necessary. If so, they will request the necessary medical information. If not, the request for accommodation will be returned promptly to the decision maker to complete the processing. The returned accommodation request will include a detailed reason as to why it was determined that additional medical information was not warranted.
2. If a determination is made to seek medical information, the MRO will request information sufficient to determine whether the employee has a qualifying disability—including information about the employee's functional limitations—and the need for reasonable accommodation. If the MRO determines that the employee is a qualified individual with a disability, they shall inform the supervisor of the determination and provide any additional relevant information about the requestor's functional limitations. Following the notification, the supervisor will determine what effective accommodation may be provided to the requestor.

If the MRO determines that the requestor is not a qualified individual with a disability, they shall inform the supervisor, who will follow the process for denial of requests set forth in part XI.

- a. The time between requesting the information from the employee and/or appropriate healthcare professional and receipt of the information is not counted as part of the time limit for making a decision concerning the request for accommodation (see part X).
 - b. The MRO will evaluate the medical documentation, and, if necessary, consult with a health care professional chosen by OSC.
 - c. If the medical documentation provided is insufficient to determine whether the requestor is a qualified individual with a disability :
 - i. The MRO may request supplemental documentation;
 - ii. The MRO may also ask the requestor to sign a limited medical release form (Form OSC-63) allowing the MRO to submit a list of questions directly to the requestor's healthcare professional or make direct contact with the appropriate healthcare professional.
 - d. OSC reserves the right to have medical information reviewed by a medical expert of the agency's choosing at the agency's expense.
3. In making the request for medical documentation, the MRO will be guided by principles set forth in the ADA Amendments Act of 2008 and EEOC's Final Rules Implementing the ADAAA of March 2011. In particular, the ADA Amendments Act requires that agencies broadly construe the definition of disability.

4. Other than the disability determination and relevant information about possible functional limitations, the MRO will not share details about the medical condition with the supervisor (or anyone other than those listed in part XVIII. B.) to:
 - a. ensure compliance with the Rehabilitation Act's strict medical confidentiality rules and
 - b. ensure that requestors do not feel uncomfortable providing detailed medical information to supervisors or managers.
5. The failure to provide appropriate supporting medical documentation or to cooperate in OSC's efforts to obtain such documentation can result in denial of a reasonable accommodation.

X. Granting a Reasonable Accommodation Request.

The decision maker shall, in writing, inform the requestor immediately after determining that a reasonable accommodation will be provided. If the accommodation cannot be provided in a timely manner, the decision maker must inform the individual in writing of the reason(s) for the delay in providing the accommodation.

XI. Denial of Reasonable Accommodation Request.

- A. As soon as the decision maker denies a request for reasonable accommodation, the decision maker must complete an OSC "Denial of Request" form⁴ and give it to the requestor. The explanation should be written in plain language, clearly stating the specific reason(s) for the denial. When the decision maker has denied a specific requested accommodation but offered to make a different one in its place that the requestor rejected during the interactive process, the denial notice should explain both the reasons for the denial of the requested accommodation and the reasons that the decision maker believes that the alternative accommodation would be effective.
- B. Factors supporting the denial of a request for accommodation include, but are not limited to:
 1. A determination that the requested accommodation would result in undue hardship. When evaluating reasonable accommodation requests to determine undue hardship exists, the decision maker should refer to EEOC's guidance entitled, "Enforcement Guidance on Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act;"

⁴ See Form OSC-61 "Denial of Reasonable Accommodation or Personal Assistance Services Request" in Appendix B. The form is also available on OSC's Intranet in the section devoted to OSC forms. The form can be made available in alternative formats for people with disabilities.

2. Medical documentation that is insufficient to establish that the requestor is a qualified individual with a disability who needs a reasonable accommodation;
 3. The requested accommodation would require the removal of an essential function of the job;
 4. The requested accommodation would require the lowering of a performance or production standard;
 5. The requested accommodation would not be effective or is not the most appropriate accommodation under the circumstances and/or there are no alternative reasonable accommodations; and
 6. The individual refuses to accept an effective alternative accommodation.
- C. OSC may not deny a reasonable accommodation for the following reasons:
1. A bias against the employee or the accommodation process;
 2. The requested accommodation requires a change or exception to an existing OSC policy or directive; or
 3. Non-disabled employees are not granted the same privilege. People who do not have a disability are not a protected class, and it is not appropriate to compare the two groups.
- D. The written notice of denial shall inform the requestor of the right to file a complaint pursuant to 29 C.F.R. § 1614.106 (EEO procedures) and, if applicable, the right to file an appeal with the Merit Systems Protection Board (MSPB); see part XX.

Personal Assistance Services

XII. Eligibility.

- A. An employee may be entitled to PAS during work hours and when on work-related travel, if the following conditions apply:
1. the individual is a new or existing employee and has a targeted disability;
 2. provision of such services would, together with any reasonable accommodations required under the standards set forth in 29 CFR § 1630, enable the employee to perform the essential functions of his or her position; and

3. the provision of PAS will not impose an undue hardship on OSC.
- B. Not all employees with a targeted disability are entitled to PAS. The decision maker should ask the employee what type of PAS is needed using the informal, interactive process described in part VII. In general, PAS are only necessary when an individual with a targeted disability exhibits an obvious need (*e.g.*, missing extremities or paralysis) and requires assistance with basic activities of daily living.
- C. OSC is required to provide PAS for employees who telework, if the employees meet the eligibility requirements and are entitled to telework under OSC's telework policy or as a reasonable accommodation. Employees' permission to telework must not be revoked because they are entitled to PAS.
- D. OSC is not required to provide PAS to help employees commute to and from work.

XIII. PAS During Work-Related Travel.

OSC is only required to provide PAS to employees while they are working or on work-related travel. When an assignment of work-related travel results in an employee's inability to rely on their usual source of PAS during both work and off-work hours, OSC is required to provide PAS for the duration of that work-related travel, independent of the new regulation, as a reasonable accommodation (absent undue hardship). Additionally, if an employee's usual PAS provider is available during work-related travel, OSC is required to pay any additional costs related to providing PAS while on travel, such as transportation costs for the PAS provider, as a reasonable accommodation.

XIV. PAS Providers.

- A. PAS must be performed by a personal assistance service provider. OSC has the discretion to decide whether to use Federal employees, independent contractors, or a combination of employees and contractors.
- B. If OSC is hiring a PAS provider who will be assigned to a single employee, and if that employee prefers a provider (*e.g.*, because the provider has worked with him or her in the past), OSC must give primary consideration to the employee's choice to the extent permitted by law. However, a different provider may be chosen if, for example, the employee's preferred provider is not qualified or less qualified than another applicant, if OSC decides to utilize a pool of shared providers instead of dedicated providers for reasons of cost or convenience, or if OSC decides to have appropriate existing employees provide PAS.
- C. PAS providers may also perform other work-related tasks, but only to the extent that doing so does not result in failure to provide required PAS in a timely manner. Sometimes these work-related tasks are those that are required as a reasonable accommodation, such as readers who enable employees who are blind or have learning

disabilities to read printed text. Other times, the work-related tasks are the type that any assistant would provide. However, if additional duties are assigned to OSC's PAS providers, the DPM should ensure that those duties do not interfere with provision of PAS and that all employees who are entitled to PAS continue to receive them in a timely manner.

- D. PAS providers must notify OSC's DPM of any absences as soon as possible so that they can make alternative arrangements. Such arrangements could include, for example, contracting with different providers on a short-term basis, adjusting the schedules of shared PAS providers if applicable, or allowing the employee to telework if the employee can work at home without the need for PAS provided by OSC.

XV. Summary of PAS Procedures.

Requests for PAS shall be processed promptly and will be handled on a case-by-case basis while employing the interactive process described above in part VII.

As with reasonable accommodations, an employee may request PAS orally or in writing to any of the officials identified in part IV above and has the initial duty to inform the decision maker of the targeted disability that may require PAS.

The employee does not need to mention Section 501 or the EEOC's regulations explicitly or use terms such as "personal assistance services" or "affirmative action" to trigger OSC's obligation to consider the request. The employee merely needs to inform the appropriate official that he or she needs assistance with daily life activities because of a medical condition. The appropriate decision maker is the immediate supervisor except for certain limited circumstances, as described above in part VIII.

XVI. Granting Requests for PAS.

Procedures for granting a request for PAS are the same as the procedures for requests for reasonable accommodation (see part X).

XVII. Denial of Requests for PAS.

- A. Procedures for denying a request for PAS are the same as the procedures for denying a request for reasonable accommodation (see part XI).
- B. A request for PAS may be denied if the requestor is not an employee of OSC, if the requestor does not have a targeted disability, if the targeted disability does not create a need for PAS, and/or if the provision of PAS would impose undue hardship on OSC.
- C. Under the new regulations, the term "undue hardship" has the same meaning that it has in the reasonable accommodation context.

- D. The number of employees with the types of disabilities that require assistance with activities of daily living and who will apply for federal employment is very low. However, in the unlikely event that the resources available to OSC are insufficient to grant an employee's request for PAS, OSC may deny the request on the grounds that it would impose an undue hardship.

Reasonable Accommodations and PAS

XVIII. Confidentiality Requirements.

Medical information and all documentation obtained in connection with the reasonable accommodation or PAS process, including the request, must be kept confidential and treated as confidential medical information. Such medical information may not be disclosed except to the entities listed in part B of this section.

- A. After a decision on the request, the DPM will become the custodian of all records obtained or created during the processing of a request for reasonable accommodation or PAS. If someone other than the DPM has obtained any information regarding the request, the official shall submit all documentation to the DPM within 10 business days after the conclusion of the process and shall not retain any copies. All records will be maintained in accordance with the Privacy Act and the requirements of 29 C.F.R. §§1611 and 1614.203(d)(8).
- B. The identity of the employee making the request for reasonable accommodation or PAS, and any information regarding the request, such as whether the requestor has a disability, may be disclosed only as follows:
1. to supervisors (or the DPM), who "need to know" about necessary restrictions on the work or duties of the employee and about necessary accommodation(s);
 2. to first aid and safety personnel, when appropriate, if the disability might require emergency treatment or special care during an office emergency;
 3. to government officials when necessary to investigate the agency's compliance with the Rehabilitation Act;
 4. in certain circumstances, to workers' compensation offices or insurance carriers; and
 5. to the EEO Office for purposes of any EEO reporting requirements.
- C. An individual disclosing any information about the reasonable accommodation or PAS request, including medical information, whether originating with the requestor or provided by a health care professional, must inform the recipients of the confidentiality requirements.

XIX. Informal Internal Reconsideration.

- A. Upon written denial of reasonable accommodation or PAS, the individual may, within five business days, ask the Chief Operating Officer (COO) for reconsideration of the decision. The COO shall respond to the request for reconsideration within 10 business days of receipt of the request.
- B. An individual's participation in the informal reconsideration process does not satisfy the requirements for initiating a claim under EEO or MSPB procedures or toll any statute of limitations.

XX. Relationship of Procedures to Statutory Claims.

- A. The policies in this Directive are in addition to statutory protections for persons with disabilities and statutory remedies for denial of requests for reasonable accommodation or PAS. Requirements governing the initiation of statutory claims, including time frames for filing such claims, remain unchanged.
- B. An individual who elects statutory remedies for denial of reasonable accommodation or PAS may:
 - 1. Pursue an EEO complaint by contacting an OSC EEO counselor within 45 (calendar) days from the date receipt of the written notice of denial.
 - 2. Initiate an appeal to the MSPB within 30 (calendar) days of an appealable adverse action as defined in 5 C.F.R. § 1201.3.

XXI. Information Tracking and Reporting.

- A. The decision maker will complete OSC's "Reasonable Accommodation and PAS Information Reporting" form⁵ and submit it to the DPM within 10 business days of the decision. The decision maker should attach to the form copies of all information, they received as part of processing the request.
- B. The DPM shall maintain these records for the duration of the individual's employment.
- C. The HCO will provide MD-715 information to the EEO Director at the close of each fiscal year as available, including information on the number of days it takes to respond to reasonable accommodation requests. HCO shall provide the following information to OSC's EEO Office:

⁵ See Form OSC-62 "Reasonable Accommodation and Personal Assistance Services Information Reporting" in Appendix B. The form is also available on the agency Intranet, in the section devoted to OSC forms. The form can be made available in alternative formats for people with disabilities.

1. the number of reasonable accommodations or PAS, by type, requested in the application process, and whether those requests were granted or denied;
2. the jobs (occupational series, grade level, and agency component) for which reasonable accommodations or PAS were requested;
3. the types of reasonable accommodations or PAS requested for each of those jobs;
4. the number of reasonable accommodations or PAS, by type, approved for each job, and the number of accommodations, by type, that were denied;
5. the number of requests for reasonable accommodation or PAS, by type, that related to the benefits or privileges of employment, and whether those requests were granted or denied;
6. the reasons for denial of requests for reasonable accommodation or PAS; and
7. the amount of time taken to process each request for reasonable accommodation or PAS.

XXII. Inquiries.

Any person wanting further information about these procedures should contact the DPM or the EEO Director.

XXIII. Distribution.

This Directive shall be distributed to all employees upon issuance and posted on the agency intranet and website. Copies will be provided to all new employees as part of the onboarding process. Copies shall be available on request from HCO and will be provided in alternative formats, including simplified format, when requested from the DPM by, or on behalf of, any OSC employee.

XXIV. Superseded Issuances.

This issuance supersedes Directive No. 52 (“Procedures for Accommodation of Persons with Disabilities”), issued on February 16, 2017. In addition, the forms identified below should be used in compliance with this policy and are located on OSC’s Intranet. These forms supersede the prior forms (OSC-60, OSC-61, and OSC-62) issued on December 4, 2001.

Form OSC-60 – Confirmation of Request for Reasonable Accommodation or Personal Assistance Services

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Form OSC-61 – Denial of Request for Reasonable Accommodation or Personal Assistance Services

Form OSC-62 – Reasonable Accommodation or Personal Assistance Services Information Reporting

Issued: June 27, 2019

By:



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Appendix A: Selected Reasonable Accommodation and PAS Resources

Appendix B: OSC Forms Related to the Reasonable Accommodation and PAS Processes

Appendix A

SELECTED RESOURCES RELATED TO REASONABLE ACCOMMODATION AND PERSONAL ASSISTANCE SERVICES

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 Americans with Disabilities Act (ADA), including both the statute, 42 U.S.C. 12101 et seq. (1994), and the regulations, 29 C.F.R. 1630 (1997). In addition, the EEOC has published a great deal of basic information about reasonable accommodation and undue hardship. The two main sources of interpretive information are: (1) the Interpretive Guidance accompanying the Title I regulations (also known as the "Appendix" to the regulations), 29 C.F.R. part 1630 App. 1630.2(o), (p), 1630.9 (1997), and (2) A Technical Assistance Manual on the Employment Provisions (Title I) of the Americans with Disabilities Act III, available here from the JAN network, <https://askjan.org/publications/ada-specific/Technical-Assistance-Manual-for-Title-I-of-the-ADA.cfm>, and at 8 FEP Manual (BNA) 405:6981, 6998-7018 (1992). The Manual includes a 200-page Resource Directory, including federal and state agencies, and disability organizations that can provide assistance in identifying and locating reasonable accommodations.

The EEOC also has discussed issues involving reasonable accommodation in the following guidance and documents, all of which may be found at links on this website:

https://www.eeoc.gov/laws/guidance/enforcement_guidance.cfm: (1) Enforcement Guidance: Preemployment Disability-Related Questions and Medical Examinations, (1995); (2) Enforcement Guidance: Workers' Compensation and the ADA, (1996); (3) Enforcement Guidance: The Americans with Disabilities Act and Psychiatric Disabilities, (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, (1996); and (5) Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act, (2000).

The EEOC's regulations on Personal Assistance Services can be found in 29 C.F.R. § 1614.203 (2017) under "Personal assistance services allowing employees to participate in the workplace." The EEOC has also issued guidance on federal agencies' obligation to provide employees with personal assistance services. This includes several common questions and answers that come up about personal assistance services. The guidelines title "Questions and Answers: Federal Agencies; Obligation to Provide Personal Assistance services (PAS) under Section 501 of the Rehabilitation Act" can be found at <https://www.eeoc.gov/federal/directives/personal-assistance-services.cfm> or by navigating to the EEOC home webpage, clicking on Federal Agencies, then Directives and Guidance.

Finally, OSC may use the EEOC's model poster to fulfill the ADA's posting requirement.

All of the above-listed documents, with the exception of the ADA Technical Assistance Manual and Resource Directory and the poster, are also available through the Internet at EEOC's web site here https://www.eeoc.gov/laws/guidance/enforcement_guidance.cfm; here: <https://www.eeoc.gov/laws/statutes/index.cfm>; here: <https://www.eeoc.gov/laws/regulations/index.cfm>; and here: <https://www.eeoc.gov/laws/guidance/index.cfm>

Job Accommodation Network (JAN)

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

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

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

ADA Disability and Business Technical Assistance Centers (DBTACs)

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

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

Registry of Interpreters for the Deaf

(301) 608-0050 (Voice/TT)

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

RESNA Technical Assistance Project

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

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

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

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

TARGET (Technology Accessible Resources Gives Employment Today at the Department of Agriculture)

<https://www.targetcenter.dm.usda.gov/>

Office of Personnel Management's Self-Identification of Disability Form (SF-256)

https://www.opm.gov/forms/pdf_fill/sf256.pdf

Appendix B

OSC FORMS RELATED TO REASONABLE ACCOMMODATION AND PERSONAL ASSISTANCE SERVICES

The following forms should be used in compliance with this policy.

Form OSC-60 – Confirmation of Request for Reasonable Accommodation or Personal Assistance Services

Form OSC-61 – Denial of Request for Reasonable Accommodation or Personal Assistance Services

Form OSC-62 – Reasonable Accommodation Information Reporting

Form OSC-63 – Medical Consent Form



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Form OSC-60

**CONFIRMATION OF REQUEST FOR REASONABLE
ACCOMMODATION OR PERSONAL ASSISTANCE SERVICES**

(Ref: OSC Directive No. 52)

1. Name of applicant or employee making request:
2. Job held by employee, or applied for by applicant, making request *(including occupational series, grade level, and office)*:
3. Type of Request *(you may check both)*

- ☐ Reasonable Accommodation
☐ Personal Assistance Services

4. Date request was made:
5. Person request was made to:
6. Reasonable accommodation or personal assistance services *(e.g., helping an individual eat during lunch)* needed for *(check one)*:
☐ Application process *(applies to requests for reasonable accommodation only)*
☐ Performing job functions or accessing the work environment
☐ Accessing a benefit or privilege of employment *(e.g., attending a training program or social event)*
7. Brief description of your request *(including what you requested, when you need the request fulfilled, and the length of time you expect to need the accommodation or service)*:

Name: _____ Title: _____

Date: _____



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Form OSC-61

**DENIAL OF REQUEST FOR REASONABLE ACCOMMODATION
OR PERSONAL ASSISTANCE SERVICES**

(Ref: OSC Directive No. 52)

(Numbers 1-6 must be completed. Number 7 must be completed if applicable)

1. Name of applicant or employee making request:
2. Type of Request:
 - ☐ Reasonable Accommodation
 - ☐ Personal Assistance Services
3. Brief description of request:
4. Date request was denied:
5. Reason request was denied *(check one or more of the boxes, as applicable)*:
 - ☐ Fulfilment would be ineffective
 - ☐ Fulfilment would cause undue hardship
 - ☐ Medical documentation inadequate
 - ☐ Fulfilment would require removal of an essential function
 - ☐ Fulfilment would require lowering of performance or production standard
 - ☐ Other *(please explain)*
6. Detailed reason(s) for the denial *(must be specific – e.g., why accommodation is ineffective or causes undue hardship)*:
7. If the individual proposed one type of reasonable accommodation or personal assistance service that was denied but rejected an offer of a different type of reasonable accommodation or personal assistance service, explain why the accommodation or personal assistance service offered would be effective.

**DENIAL OF REQUEST FOR REASONABLE ACCOMMODATION
OR PERSONAL ASSISTANCE SERVICES**

(cont'd)

NOTICE TO REQUESTOR:

If you want to request reconsideration of this decision, you may take the following steps:

1. First, ask the decision maker to reconsider the denial. Additional information may be presented to support this request.
2. If the decision maker does not reverse the denial –
 - a. and the decision maker was the individual's supervisor, the individual may ask the division head to do so.
 - b. and the decision maker was the division head, you may ask the Disability Program Manager to do so.
 - c. and the decision maker was the Disability Program Manager, you may ask the Principle Deputy Special Counsel to do so.

If you wish to file an EEO complaint, or pursue an MSPB appeal, you must take the following steps:

1. to initiate an EEO complaint pursuant to 29 C.F.R. § 1614, contact an Office of Special Counsel EEO counselor *within 45 days from the date of this notice of denial of reasonable accommodation*; or
2. to pursue an appeal to the Merit Systems Protection Board, file an appeal *within 30 days of an appealable adverse action* defined at 5 C.F.R. § 1201.3.

Date: _____

Deciding Official *(name)*

Title



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Form OSC-62

**REASONABLE ACCOMMODATION OR PERSONAL ASSISTANCE
SERVICES INFORMATION REPORTING FORM**

(Ref: OSC Directive No. 52)

1. Name of applicant or employee making request:
2. Job held by employee, or applied for by applicant, making request *(including occupational series, grade level, and office)*:
3. Type of Request
 - ☐ Reasonable Accommodation
 - ☐ Personal Assistance Services
4. Request for Reasonable Accommodation or Personal Assistance Services *(check one)*:
 - ☐ Approved
 - ☐ Denied *(If denied, attach copy of Form OSC-62 – see OSC Directive No. 52)*
5. Date of request:
6. Person who received request:
7. Date request was referred to the decision maker *(e.g., immediate supervisor or Disability Program Manager)*:
8. Name of decision maker:
9. Date request was approved or denied:
10. Date reasonable accommodation or personal assistance services were first provided *(if different from date approved)*:
11. If time frames outlined in reasonable accommodation procedures were not met, explain why:



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Form OSC-63

MEDICAL CONSENT FORM

Please check the appropriate block and sign below. Return the original signed copy to this office and keep a copy for your records.

I hereby authorize the U.S. Office of Special Counsel (OSC) Medical Review Officer to request and receive materials and information about me pertinent to my request for accommodation based on an asserted disability. I authorize OSC to contact the medical professionals I have listed in my requests and supporting materials to gather further information about my medical condition as it may pertain to my request. I understand that it may be necessary to reveal to others my identity and medical information regarding my request to OSC officials.

I also understand that any information gathered to process my request will be considered by OSC when making the decision to grant or deny my request and will become a part of my record of request for an accommodation or, if a job applicant, it will be part of my application package for employment.

Please check one of the following blocks and sign below:

 Consent. I have read and understand the above notice and authorize OSC to request and receive medical material and information about me pertinent to my request for accommodation.

 Consent Denied. I have read and understand the above notice. *I do not want* OSC to request and receive medical material and information about me. I understand that OSC's lack of access to this information is likely to impede the review of my request and could result in OSC being unable to grant my request.

Signature: _____ Date: _____

Name: _____ Phone: _____

Address: _____
