

# U.S. DEPARTMENT OF HOMELAND SECURITY HEADQUARTERS

DHS INSTRUCTION MANUAL 259-01-001-01  
REVISION 00

## REASONABLE ACCOMMODATION AND PERSONAL ASSISTANCE SERVICE PROCEDURES FOR EMPLOYEES AND APPLICANTS WITH DISABILITIES



HEADQUARTERS EQUAL EMPLOYMENT OPPORTUNITY OFFICE  
OFFICE FOR CIVIL RIGHTS AND CIVIL LIBERTIES

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Tonja Ancrum  
Signature of Headquarters EEO Director

1 April 2024  
Date

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## I. Purpose

A. These procedures implement the U.S. Department of Homeland Security (DHS or Department) Directive 259-01, "Providing Reasonable Accommodations for Employees and Applicants with Disabilities," and associated Instruction 259-01-001 Revision 01, "Providing Reasonable Accommodations for Employees and Applicants with Disabilities and Personal Assistance Services for Employees with Targeted Disabilities," by establishing requirements for DHS Support Components (Headquarters (HQ) or agency) for processing requests for reasonable accommodations for employees and applicants with disabilities, and personal assistance services to employees with targeted disabilities. Personal assistance services (PAS) are also provided for employees with targeted disabilities to allow employees to participate in the workplace, except when such accommodation would cause undue hardship or would cause a direct threat to the employee or to others. (Appendix H).

B. These procedures are not intended to create any right or benefit enforceable against DHS beyond those specifically provided for in applicable statutes or regulations; nor does the use of particular procedures create any right or benefit under the regulations that provide those procedures.

## II. Scope

These procedures apply to all program offices within DHS HQ, with the exception of the Federal Law Enforcement Training Centers (FLETC) and the Office of Inspector General (OIG), both of which are responsible for issuing separate procedures applicable to their own employees and applicants.

## III. Authorities

A. The Rehabilitation Act of 1973, Public Law 93-112, 29 U.S.C. 701, *et seq.*

B. The Americans with Disabilities Act, incorporating the Americans with Disabilities Amendments Act of 2008 (effective January 1, 2009), 42 U.S.C. ch. 126.

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

D. U.S. Equal Employment Opportunity Commission (EEOC), "EEOC Policy Guidance on Executive Order 13164: Establishing Procedures To Facilitate The Provision of Reasonable Accommodation" No. 915.003, (October 20, 2000)

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- E. Equal Employment Opportunity Commission Management Directive 715, “Federal responsibilities under Section 717 of Title VII and Section 501 of the Rehabilitation Act” (October 1, 2003).
- F. DHS Delegation No. 19003, “Delegation to the Officer for Civil Rights and Civil Liberties for Matters Involving Civil Rights and Civil Liberties, Including Equal Employment Opportunity and Workplace Diversity” (Oct. 26, 2012)
- G. DHS Directive 259-01, “Providing Reasonable Accommodations for Employees and Applicants with Disabilities” (Mar. 8, 2013)
- H. DHS Instruction 259-01-001, Rev. 1 “Providing Reasonable Accommodations for Employees and Applicants with Disabilities and Personal Assistance Services for Employees with Targeted Disabilities” (Mar. 23, 2021)
- I. DHS Instruction 259-01-002, “Procedures for Conducting a Department-Wide Search for a Reassignment as a Reasonable Accommodation of Last Resort” (Sept. 30, 2016)
- J. Equal Employment Opportunity Commission Final Rule, “Affirmative Action for Individuals With Disabilities in Federal Employment,” 82 Fed. Reg. 654 (Jan. 3, 2017) (revising 29 C.F.R. § 1614.203).

## IV. Definitions

- A. **Accommodation Tracking Database (ATD)**: A secure, electronic computer database designed to record and track accessibility and accommodation requests from employees or applicants for employment.
- B. **Decision-Maker**: A management official, designated by the program office, with the authority to determine, based on the facts presented, whether an accommodation will be provided, pursuant to a request for reasonable accommodation. The preference is for an individual’s immediate supervisor to be the Decision-Maker to facilitate timely processing of requests and to eliminate unnecessary levels of review.
- C. **Essential Functions**: Job duties so fundamental to a position that the position requirements cannot be fulfilled without successful performance of these duties. A function is determined to be “essential” if, among other things: the position exists specifically to perform that function; there are a limited number of other employees who could perform the function; or the function is specialized, and the individual is hired based on his/her ability to perform it.
- D. **Disability**: With respect to an individual, means a physical or mental impairment that substantially limits one or more major life activities, a record of such an impairment, or being regarded as having such an impairment that is not

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both transitory and minor.

E. **Disability Program Staff (DPS)**: Individuals within the HQ Components assigned to coordinate with and assist the RAPM in facilitating the accommodation request process in accordance with EEOC regulations and DHS Guidance and facilitating the interactive process between employees and managers.

F. **Interactive Process**: The process by which the individual requesting an accommodation and the Decision-Maker engage with each other, along with assistance, as needed, from the Reasonable Accommodation Program Manager (RAPM) or the Disability Program Staff (DPS) about the request for an accommodation, the ways in which an employee is substantially limited in one or more major life activities, the process for determining whether an accommodation can be provided, and identifying an effective accommodation.

G. **Major Life Activities**: Basic activities that the average person in the general population can perform with little or no difficulty, such as (but not limited to) caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, and major bodily functions, such as the functioning of the immune system.

H. **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 reasonable accommodation, including, for example, assistance with putting on or removing clothing, eating, and using the restroom.

I. **Personal Assistance Service Provider**: An employee or independent contractor whose primary job functions include providing personal assistance services.

J. **Qualified Individual**: An individual who satisfies the requisite skill, experience, education, and other job-related requirements of the employment position the individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position.

K. **Reasonable Accommodation**: Any change or modification 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. There are three categories of reasonable accommodations:

1. Modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for the position such qualified applicant desires;
2. Modifications or adjustments to the work environment, or to the

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manner or circumstances under which the position held or desired is customarily performed, that enable a qualified individual with a disability to perform the essential functions of that position; and

3. Modifications or adjustments 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.

L. **Reasonable Accommodation Program Manager (RAPM)**: Individual who determines that an individual meets the definition of an individual with a disability and facilitates the accommodation request process in accordance with EEOC regulations and DHS Guidance, and facilitates the interactive process between employees and Decision-Makers.

M. **Reassignment**: A form of reasonable accommodation that, absent undue hardship, may be provided as a last resort to employees (not to applicants) who, because of a disability, can no longer perform the essential functions of their job, with or without reasonable accommodation. Reassignments are made only to vacant, funded positions within DHS and only to employees who are qualified for the new position. When reassignment is the only accommodation available, and there is a vacant, funded position for which the employee is qualified at the employee's current or a lower grade, the employee should be reassigned to the position without having to compete for it. Reassignments are made consistent with DHS Instruction 259-01-002, *Procedures for Conducting a Department-Wide Search for a Reassignment as a Reasonable Accommodation of Last Resort*.

N. **Request for Reasonable Accommodation**: A verbal or written statement (no particular language/wording is required and it does not need to be submitted to any particular management official) to the effect that an individual needs an adjustment or change in working conditions or requirements, in the application process, or in relation to a benefit or privilege of employment, for a reason related to a disability.

O. **Requester**: An employee, applicant, or individual acting on behalf of an employee or applicant, who requests reasonable accommodation.

P. **Senior Management Official**: The Senior Management Official, designated by the head of a program office, who is assigned the responsibility for making a determination on an employee's request for higher-level review of a denial of a reasonable accommodation issued by the Decision-Maker.

Q. **Targeted Disability**: A subset of conditions that are considered disabilities under the Rehabilitation Act and for which qualified individuals with certain disabilities (i.e., such as blindness, deafness, paralysis, convulsive disorders, and mental illnesses, among others) have faced significant barriers to employment that are above and beyond the barriers faced by people with the

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broader range of disabilities. See the Office of Personnel Management's Standard Form 256 for a complete list of targeted disabilities.

R. ***Undue Hardship***: Significant difficulty or expense, considering the resources and circumstances of the Department, in relationship to the cost or difficulty of providing a specific accommodation. Undue hardship refers not only to accommodations that impose financial difficulty, but to accommodations that are unduly extensive, substantial or disruptive, or those that would fundamentally alter the nature of the position or operation of the business. Whether a particular accommodation would cause undue hardship is assessed on a case-by-case basis. No reasonable accommodation is required if all possible accommodations (including reassignment) would cause "undue hardship" to the Department. This definition of an undue hardship also applies to personal assistance services.

## V. Responsibilities

A. The ***HQ EEO Office Director***:

1. Develops and issues procedures for processing reasonable accommodation requests, and assists program offices in implementing procedures and mechanisms to provide reasonable accommodations that are consistent with governing laws, regulations, Executive Orders, EEOC Directives, and DHS policy;
2. Posts the procedures on the DHS public website, on the DHS intranet, and in a physical location accessible to employees who do not have access to the intranet.
3. Makes procedures and forms available to all employees and job applicants in written and accessible formats;
4. Ensures that training is available to all employees involved in the reasonable accommodation process, including supervisors and managers, and human resources and EEO officials, to assist them in understanding their roles and responsibilities with respect to the provision of reasonable accommodation and PAS. This includes privacy awareness training and maintaining the confidentiality of medical information obtained in connection with the accommodation process; and
5. Develops systems to track, record, and report on the processing of requests for reasonable accommodations and PAS.
6. The HQ EEO Director is not involved in the day-to-day functions of the reasonable accommodation program.

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B. The **Office for Civil Rights and Civil Liberties (CRCL), Diversity Management Section (DMS) Director** provides oversight to the overall and day-to-day management and functions of the reasonable accommodation and PAS process and procedures, as outlined in this document, including the RAPM's official determination in an individual case as to whether a particular employee is an individual with a disability. The DMS Director is also responsible for contacting the DHS Privacy Office to report suspected or confirmed privacy incidents (e.g., unauthorized use or disclosure of personally identifiable information (PII)).

C. The **Senior Management Official** makes a determination on an employee's request for a higher-level review on a denial of a reasonable accommodation issued by the Decision-Maker.

D. The **Office of the General Counsel (OGC)** provides legal advice and guidance on issues related to requests for reasonable accommodations and PAS.

E. The **Office of Chief Information Officer (OCIO), Customer Experience Directorate (CXD)** provides guidance to Decision-Makers, the RAPM, and employees with respect to assistive technology equipment and software associated with reasonable accommodations and ensures that employees with disabilities have access to electronic and information technologies that are comparable to the access available to individuals without disabilities, unless undue hardship would be imposed on the agency.

F. The **Office of the Chief Human Capital Officer (OCHCO), Human Resources Management and Services (HRMS)**:

1. Ensures that all HQ vacancy announcements and hiring and promotion procedures describe how applicants may request reasonable accommodation procedures and forms in written and accessible formats;
2. Oversees the administration of the HQ-wide procedures for conducting a search for a reassignment as a reasonable accommodation of last resort;
3. Provides guidance to HQ Decision-Makers and the RAPM or DPS regarding the HQ Human Capital Policies and Procedures;
4. Responds to requests for reasonable accommodation from applicants for employment at HQ;
5. To the extent necessary, assists HQ managers and supervisors in implementing approved accommodations that may require HRMS actions;
6. Provides accommodations, as necessary, for employees attending



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HQ training sessions HRMS manages or administers; and

7. Safeguards reasonable accommodation status, reasonable accommodation information, and other PII.

G. **Employee Relations (ER)** provides guidance and advises Decision-Makers and the RAPM and DPS on employment relations and labor management issues.

H. The **Office of Health Security (OHS), Medical Reviewer (MR)** reviews medical documentation from medical providers and provides medical guidance to RAPM, DPS, ER, and Decision-Makers. The agency has the right to have medical information reviewed by a medical expert chosen by the agency at the agency's expense.

I. The **Office of the Chief Readiness Support Officer (CRSO)** assesses the need for the removal of architectural barriers or the provision of structural assistive devices, such as electronic doors, at agency office locations.

J. **Office heads, managers, and supervisors:**

1. Receive requests for accommodation from employees and applicants when they are made;

2. Ensure equal access to locally sponsored trainings, meetings, or other activities for employees who may need accommodations;

3. Comply with all requirements of this Instruction Manual, including provisions regarding confidentiality and for safeguarding reasonable accommodation information and/or PAS information;

4. Cooperate with Decision-Makers and the RAPM and DPS, to the extent necessary, to execute the requirements of this Instruction Manual.

K. The **RAPM or DPS:**

1. Receives, acknowledges, and advises on the process for accommodation requests from employees and applicants;

2. Enters into the ATD information about requests for accommodation received directly from employees or applicants, or from management officials to whom requests were made;

3. Determines whether an individual seeking an accommodation (or an individual on whose behalf accommodation is sought) is an individual with a disability;

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4. If the individual is found to be an individual with a disability, issues a memorandum to the Decision-Maker, or to the program office if a Decision-Maker has not been identified, that indicates that the individual meets the definition of an individual with a disability under the Rehabilitation Act and outlines the next steps for the Decision-Maker;
5. Reviews, responds to, and processes follow-up requests from the Decision-Makers for medical records related to the processing of reasonable accommodation requests;
6. Provides assistance and guidance to employees and applicants who request reasonable accommodation, as well as to OCHCO, HR, and Decision-Makers, in order to facilitate the reasonable accommodation process;
7. Monitors all accommodation requests from the intake stage through completion, to assist Decision-Makers in reaching targeted timeframes and in complying with authorities as outlined in the procedures; and
8. Safeguards documents generated or received by the RAPM or DPS during the reasonable accommodation process, including medical records, consistent with the terms of this Instruction Manual.

### L. **Employees:**

1. Initiate requests for reasonable accommodation as soon as practicable after the need for such assistance becomes known to them;
2. Respond to requests for information from RAPM, DPS, or the Decision-Maker, including medical information, in a timely manner, as may be necessary, to document their disability, functional limitations, and possible accommodations;
3. Engage in the interactive process and assist the Decision-Maker in identifying all prospective reasonable accommodations that will enable the employee to perform the essential functions of his/her position;
4. Cooperate with the Job Accommodation Network and the Computer/Electronic Accommodations Program, to the extent that those entities are involved in assessing an individual's accommodation needs, or in providing an accommodation;
5. Inform the Decision-Maker or his/her immediate supervisor if she/he finds that a granted accommodation is ineffective; and
6. Safeguard reasonable accommodation status, reasonable accommodation information, and other PII.

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### M. **Decision-Makers:**

1. Engage in an interactive process with the employee who has requested an accommodation, as well as with the RAPM or DPS, as needed;
2. Make determinations about whether to provide an accommodation and, if so, what accommodation;
3. Make determinations whether to provide an accommodation on an interim basis; and
4. Comply with procedures, and endeavor to complete responsibilities consistent with the timelines identified in the procedures.

## VI. Procedures And Requirements

### A. General Processing Time-Frames

1. All HQ officials involved in the accommodation process are expected to act as quickly as reasonably possible when processing requests and providing accommodations, as failure to respond promptly to a request may result in a violation of the Rehabilitation Act; however, the time necessary to process a request will depend on the nature and complexity of the accommodation requested and whether it is necessary to obtain supporting information.
2. Generally, the agency must provide a written decision to approve or deny a request within fifteen (15) business days of receipt of all requested information, but said decision shall issue no later than thirty (30) business days from the time the request for accommodation is made, absent extenuating circumstances. In the case of an approved accommodation request, the agency shall likewise provide the accommodation no later than thirty (30) business days from the time the request is made, absent extenuating circumstances.
3. When extenuating circumstances—unusual or atypical circumstances that may require action that differs from the ordinary course of action—are present, the time period for processing an accommodation request and providing an approved accommodation may take longer and may be extended as reasonably necessary to deal with the extenuating circumstance. If there is a delay in processing a request for an accommodation or providing an accommodation, the RAPM or the decision-maker must notify the employee of the reason for the delay, including any extenuating circumstances that justify the delay. The

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following situations are examples of extenuating circumstances and are not intended to be exhaustive:

- a. A delay in the purchase of equipment due to regulatory or policy requirements;
- b. A delay because the employee requesting an accommodation requires an assessment or fitting, and equipment must be ordered;
- c. A delay because an accommodation involves the removal of an architectural barrier;
- d. A delay in an employee gathering additional information, including medical documentation.
- e. A delay necessary for the Agency to explore the feasibility of a particular accommodation.
- f. A delay associated with evaluating an unusually complex request that warrants exceeding the 30-day timeframe (e.g., a request from an employee whose position entails physical requirements or medical standards that create additional complexities).

### B. Requesting an Accommodation:

Generally, HQ will not provide an accommodation until an individual makes such a request. However, a manager should begin the accommodation process without being asked if the manager knows that (i) the employee has a disability; (ii) the employee is having workplace problems because of the disability; and (iii) the disability prevents the employee from requesting a reasonable accommodation. If in response, the individual with a disability states that s/he does not need a reasonable accommodation, management will have fulfilled its obligation. Additionally, in some circumstances where an individual has a recurring, predictable need for an accommodation, management may be obligated to provide the accommodation, as needed. For requests needed on a recurring basis, the employee may obtain the accommodation by notifying the appropriate office. Once an initial accommodation has been approved, management may not require the employee to submit a written request each time the accommodation is needed.

1. The reasonable accommodation process begins when a written or oral request for an accommodation is made. An employee or applicant should direct their request for a reasonable accommodation to:

- a. The ATD at [Accessibility Compliance Management System](#);

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- b. The RAPM or DPS at [accommodations@hq.dhs.gov](mailto:accommodations@hq.dhs.gov);
- c. Any supervisor or a manager in the employee's immediate chain of command; or
- d. An OCHCO employee with whom an applicant has had contact in connection with the application process.

2. Regardless of who initially receives the request, an employee or applicant seeking a reasonable accommodation should be instructed by the RAPM or DPS, or supervisor or manager, to follow up on his/her initial request by confirming such request in writing by completing the DHS HQ Reasonable Accommodation Request Form ([Appendix A](#)). However, a request though ATD or in writing is not mandatory, and the absence of a written request alone is not a reason to delay processing the request.

3. A family member, health professional, or other representative may request an accommodation on behalf of an employee or applicant. Such a request must be made in the same manner in which the employee or applicant is required to make the request. However, the RAPM, DPS or Decision-Maker will, as quickly as possible, confirm with the employee or applicant that she/he indeed intends to request an accommodation.

4. A request need not be formal or consist of any specific words or terminology, such as "reasonable accommodation," "disability," "ADA" or "Rehabilitation Act." An employee or applicant with a disability can request a reasonable accommodation whenever she/he chooses, even if she/he has not disclosed the existence of a disability or requested accommodation in the past. A person does not have to specify a particular accommodation at the outset, although it is helpful if she/he can suggest one.

5. The RAPM or DPS retains administrative responsibility for tracking, recording, and facilitating the processing of the request and notifies an appropriate Decision-Maker via memorandum. The RAPM will provide the requester with contact information for the designated management official and/or program office from whom employees and applicants for employment will receive a final written decision. Employees and applicants may check the status of their request by contacting the RAPM at [accommodations@hq.dhs.gov](mailto:accommodations@hq.dhs.gov). Employees may also check the status of their request in the ATD.

### C. Medical Information Requests:

In response to an employee or applicant request for a reasonable accommodation, the RAPM may request medical documentation to ascertain

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whether the employee or applicant has a disability and whether the employee or applicant requires an accommodation. When a request for reasonable accommodation is made, and the nature of the disability or need for accommodation is not obvious, and/or the type of accommodation needed is unknown or is disputed, the request for supporting information will be made in the following manner:

1. The RAPM or DPS should email the employee or applicant the DHS HQ Medical Statement Form ([Appendix B](#)) as soon as possible, but no more than five (5) business days after receipt of a request for a reasonable accommodation.<sup>1</sup> The employee or applicant will provide all necessary medical documentation ([Appendix B](#)) by email, by mail, or in person to the RAPM or DPS, within ten (10) business days, or the employee or applicant must notify the RAPM or DPS via email or phone if she/he needs additional time. The timeframes for processing will be suspended until the employee provides all necessary medical documentation, and will resume when all necessary documents are received. The RAPM or DPS may notify the Decision-Maker of the request so that the Decision-Maker may consider granting an interim accommodation, where appropriate.
2. If the RAPM or DPS determines that supplemental medical information is necessary to support the request, the RAPM or DPS may work with the OHS MR toward that end.<sup>2</sup> The MR may directly contact the employee's or applicant's physician, but only after obtaining a signed Limited Medical Release Form ([Appendix C](#)) from the employee or applicant. The agency also has the right to have medical information reviewed by a medical expert chosen by the agency at the agency's expense.
3. The request for medical documentation must be specific and not overly broad; it should address only the conditions indicated on the reasonable accommodation form as requiring accommodation. Medical documentation can be requested to document:
  - a. The nature and severity of the impairment(s) at issue;
  - b. The known or expected duration of the impairment(s);
  - c. The major life activity or work-related activities limited by the impairments;

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<sup>1</sup> In certain circumstances, referring and processing of a request will need to be expedited. For example, an applicant may immediately need an accommodation, such as assistance with completing an application form, because of an application deadline.

<sup>2</sup> OHS MR Guidance located in Human Resources Management and Services Procedures for Medical Officer Review document.

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- d. The extent to which an impairment functionally limits the individual's ability to perform work-related tasks, e.g., carpal tunnel syndrome may cause limitations in gripping that could make it difficult to performing writing or typing tasks;
- e. Recommended accommodations that may enable the employee or applicant to perform his/her essential job functions;
- f. How the requested accommodation will assist the employee or applicant in the application process or performing the essential functions of the position or otherwise enjoying a job benefit afforded to others who are not limited by an impairment.

4. If, after multiple requests for medical information, there is still not sufficient information to demonstrate that the individual has a disability and needs an accommodation, the RAPM or DPS may request the employee or applicant to complete and submit a signed Limited Medical Release Form ([Appendix C](#)) to allow the MR to receive additional required information.

5. An employee's or applicant's failure to provide appropriate medical documentation to qualify her/him as an individual with a disability may result in denial or delay of an accommodation request.

6. All medical information, including information about functional limitations and reasonable accommodation needs, obtained in connection with a request for reasonable accommodation, will be kept confidential to the extent possible. Documentation is uploaded to the employee or applicant's ATD electronically secured file, and the RAPM or DPS does not keep it in hard copy. In no circumstance will medical information be comingled with any official or unofficial employee personnel file.

### D. Initial Determination as to Whether the Requester is an Individual with a Disability

1. Upon receipt of sufficient medical documentation, the RAPM will draft an initial determination as to whether the requester (or the employee on whose behalf an accommodation is sought) has shown that she/he is an individual with a disability under the Rehabilitation Act. ([See Appendix E](#)).

2. An OGC, Labor & Employment Law Attorney-Advisor will review and advise on the RAPM's draft determination, identifying, at a minimum, any concerns regarding the legal sufficiency of the initial determination.

3. After considering the Attorney-Advisor's advice and revising the

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draft to address any concerns identified, the RAPM will issue the initial determination, via a memorandum ([Appendix E](#)), to the Decision-Maker.

- a. If the RAPM determines that the requester has shown that she/he is an individual with a disability, the Decision-Maker must engage in the interactive process as described below, and as set forth in the RAPM's memorandum ([Appendix E](#)).
- b. If the RAPM determines that the requester has not shown that she/he is an individual with a disability, the Decision-Maker does not have any further obligation under this policy with respect to the reasonable accommodation request at hand.

### E. Decision-Maker Engaging in the Interactive Process:

Communication between the Decision-Maker and the individual requesting an accommodation is a priority throughout the accommodation process.

1. Upon receipt of the request, via direct request or through the RAPM's memorandum ([Appendix E](#)), the Decision-Maker should initiate an interactive process (i.e., engage in a discussion) with the requester as soon as possible, and, generally, no more than five (5) business days after the Decision-Maker learns of the request. This timeframe may be extended when extenuating circumstances are present, when the Decision-Maker is awaiting necessary medical information from the requester, or when the Decision-Maker and/or the requester is in a leave status.
2. The individuals involved (i.e. Decision-Maker, requester, RAPM, DPS, and/or HR) in the provision of reasonable accommodations must take a proactive approach in identifying possible accommodations, which should include consultation with appropriate resources (i.e., OGC, ER, and CXD) for assistance.
3. The Decision-Maker and the requester should communicate directly with each other to make sure that there is a full exchange of relevant information, being careful not to request information that may have already been provided to the RAPM. Before engaging in additional communications with the requester, the Decision-Maker should familiarize himself or herself with the information already collected, such as:
  - a. How accommodations requested or suggested would eliminate the barriers experienced; and
  - b. Which accommodation(s) (if more than one is available) the requester believes would be effective.



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4. The RAPM or DPS shall provide the Decision-Maker with a dated chronology of all communications with the employee relating to requests for medical information for purposes of tracking the timelines set forth in this Manual and facilitating the interactive process.
5. If, during the interactive process, the Decision-Maker determines that additional information regarding the employee's limitations or ability to perform the job is needed, the Decision-Maker must communicate the need to the RAPM or DPS via email or phone. On behalf of the Decision-Maker, the RAPM or DPS will email the employee requesting appropriate information be provided to the RAPM or DPS within ten (10) business days. The RAPM or DPS will notify the Decision-Maker of the fact that additional information has been requested, and once the information is received, will email the information, as needed and appropriate, to the Decision-Maker.
6. [Appendix G](#) lists resources that may assist the Decision-Maker and the requester in identifying possible accommodations. The RAPM or DPS is available to assist the Decision-Maker in identifying the potential accommodation. Other subject-matter experts such as HR, CXD, OGC, and/or ER may also provide assistance to the Decision-Maker.
7. When the Decision-Maker is considering providing assistive technology software or equipment as an accommodation, she/he should contact the RAPM or DPS prior to making such a decision, regardless of the funding source for the items to ensure that the chosen items are pre-approved for use on the program office network. The RAPM or DPS may consult with CXD to determine a product's approval status or to request for assistance in navigating through the OCIO's approval process for new hardware or software being introduced to the DHS network.

### F. Examples of Accommodations:

The following is a non-exhaustive list of the examples of reasonable accommodation that may be provided, depending on the particular situation:

1. Modified or part-time work schedule: This may include adjustment of arrival and departure times, providing for specific breaks, and a modified or part-time schedule or a (full or part-time) work-at-home schedule.
2. Assistive Technology (AT) software: Providing AT and software such as voice recognition software (e.g., Dragon Naturally Speaking), screen reading software (e.g., JAWS), and a host of other technologies developed to aid persons with disabilities in performing their essential job

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functions.<sup>3</sup>

3. Workstation modifications: Procurement of items such as sit-stand desks, ergonomic chairs, or lighting adjustment.
4. Job restructuring: Reallocation or redistribution of marginal job functions that a requester is unable to perform because of disability or altering when and/or how a function, essential or marginal, is performed. However, the agency is never required to lower production standards, whether qualitative or quantitative. Nor is the agency required to reallocate or eliminate essential functions of a position.
5. Personal Assistance Service Provider: An employee or independent contractor whose primary job functions include provision of personal assistance services (e.g., filling out paperwork, note taking, typing, retrieving work materials, reading services or sign language interpreting).
6. Personal Assistance Services: Services, not otherwise required as reasonable accommodations, that allow employees with targeted disabilities to fully participate in the workplace by providing assistance with activities of daily living.
7. Reassignment: Reassignment may be granted non-competitively as a last resort after all efforts to accommodate the individual in his/her current position have been exhausted. A reassignment may be made to a vacant, funded position within DHS for which the individual is deemed qualified.<sup>4</sup>

### G. Expediting Requests:

In certain circumstances, a request for reasonable accommodation requires expedited review and processing. To the extent possible, requests for expedited accommodations will be processed as soon as practicable. The following are common examples of circumstances where an expedited accommodation may be needed:

1. To enable an applicant to apply for a job. Depending on the

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<sup>3</sup> The DHS CXD Accessibility Help Desk is available to provide consultation on information technology (IT) related assistive technologies, including accessibility equipment pursuant to Section 508 of the Rehabilitation Act of 1973. CXD has no need to know any information about the medical condition of the person seeking the accommodation and will consult the information about the employee's functional limitations insofar as these limitations affect technology needs in the system of record.

<sup>4</sup> Reassignment as a form of reasonable accommodation is discussed in greater detail below. See Management Directive 259-01-002; *Procedures for Conducting a Department-Wide Search for a Reassignment as a Reasonable Accommodation as Last Resort*.

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timetable for receiving applications, conducting interviews, taking tests, and making hiring decisions, there may be a need to expedite a request for reasonable accommodation in order to ensure that an applicant with a disability has an equal opportunity to apply for a job;

2. To enable an employee to attend a meeting that is scheduled on short notice. For example, an employee may need a sign language interpreter for a meeting scheduled to take place the next day.

### H. Providing a Written Decision:

Decision-makers should generally issue a written decision in an accessible format, when requested, either denying or approving and providing a necessary accommodation within fifteen (15) business days of receipt of all requested information, but no later than thirty (30) business days from the time the request was made, absent extenuating circumstances. The decision should be issued by email or in-person with a completed Management Response to Request for Reasonable Accommodation decision form ([Appendix D](#)), indicating whether one or more accommodations will be provided and, if so, what accommodation(s) will be provided.

1. Granting a Request for a Specific Accommodation or Provision of an Accommodation Where no Specific Accommodation was Requested: As soon as the Decision-Maker determines that a reasonable accommodation will be provided, the Decision-Maker will communicate the decision to the employee in writing and provide a copy to the RAPM or DPS.

a. The Decision-Maker must take steps to secure any equipment or services that constitute the approved accommodation as expeditiously as feasible.

b. If the accommodation cannot be provided quickly, the Decision-Maker must inform the employee of the projected timeframe for providing the accommodation and the reasons for the delay.

c. When all the facts and circumstances known to the Decision-Maker make it reasonably likely that an employee will be entitled to a reasonable accommodation, but the accommodation cannot be provided immediately, the Decision-Maker shall provide an interim accommodation that allows the employee to perform some or all of the essential functions of his or her job, if it is possible to do so without imposing undue hardship to the agency.

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2. Approving an Alternative Accommodation: The Decision-Maker may decide to provide an alternative accommodation from the specific accommodation the employee requested.
  - a. The Decision-Maker may contact the RAPM for advice and guidance on the scope of potential alternative accommodations.
  - b. When the Decision-Maker finalizes a decision on an alternative accommodation, the Decision-Maker will communicate the decision to the employee in writing and provide a copy to the RAPM or DPS. This written decision will explain why the Decision-Maker believes the alternative accommodation will be effective.
  - c. The written decision on an alternate accommodation must inform the employee that she/he has the right to initiate an EEO complaint or to initiate a complaint under negotiated grievance procedures.
3. Denial of an Accommodation: If the Decision-Maker determines that no accommodation will be provided, the following procedures will apply:
  - a. If the Decision-Maker is considering denying an accommodation request, she/he should contact the RAPM, who will provide advice and guidance to the Decision-Maker on the reasons for a denial.
  - b. After receiving the RAPM's guidance, the Decision-Maker must provide the employee, with a copy to the RAPM and the DMS Director, with a written decision by email or in-person along with a completed Management Response to Request for Reasonable Accommodation decision form ([Appendix D](#)) within generally fifteen (15) business days of receipt of all the requested information to make a decision, explaining in plain language the specific reasons for the denial.
  - c. It is advised that a written denial, or correspondence (Appendix D), be reviewed by the RAPM and by OGC before transmittal to the employee.
  - d. The cost alone, of providing a specific accommodation, will almost never be an appropriate reason to deny a requested accommodation, according to the EEOC, because the cost would need to be shown to impose an "undue hardship" considering the entire operating budget of DHS.

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- e. Reasons for the denial of a particular reasonable accommodation request may include the following:
- (1) The requested accommodation is ineffective.
  - (2) The requested accommodation would cause undue hardship on the operations of DHS.
  - (3) The requested accommodation would require removal of an essential function of the job.
  - (4) The requested accommodation would require lowering of performance or production standards.
  - (5) An effective alternative is available.
  - (6) Medical documentation is inadequate to establish that the employee or applicant needs such an accommodation.

f. The written notice of denial (in an accessible format, when requested) must inform the employee that she/he has the right to request a higher-level review by a Senior Management Official, to initiate an EEO complaint, or to initiate a complaint under negotiated grievance procedures. Written notice of the denial must also contain instructions on how to file an EEO complaint and must advise the requestor that they must initiate contact with an EEO Counselor in the EEO Office via email to [HQEEO@hq.dhs.gov](mailto:HQEEO@hq.dhs.gov) within 45 days of the denial, regardless of whether the employee or applicant participates in an informal dispute resolution process, or the complaint may be deemed untimely.

### I. Voluntary Informal Dispute Resolution Process:

Where an accommodation request has been denied, an employee may request a higher-level review of that decision from a Senior Management Official in the following manner:

1. Within five (5) business days of receipt of the decision denying a request, an employee may contact the RAPM or DPS to request a higher-level review from the designated Senior Management Official within the program office. The employee may submit to the RAPM additional information in support of her/his request.
2. The RAPM will convey in writing the employee's request to the Senior Management Official, who will make a written determination on the request within ten (10) business days, and provide it to the individual, the Decision-Maker, and the RAPM. The Senior Management Official may

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engage the RAPM if the Senior Management Official believes additional information is needed to make an informed decision or to re-engage in the interactive process. This may necessitate an extension to the deadline for issuance of the written determination.

3. If the Decision-Maker's decision is reversed, and an accommodation granted, the procedures outlined in Section VI.H of this document will be followed.
4. If the Decision-Maker's decision is affirmed, the Senior Management Official's determination must inform the employee that she/he has the right to initiate an EEO complaint, or to initiate a complaint under negotiated grievance procedures. A request for a higher-level review under Section VI.I does not constitute the filing of an administrative complaint or union grievance.
5. The Senior Management Official, when appropriate, may consult with the RAPM or DSP, OHS, OGC, or ER before issuing a decision on a request for a higher review.

### J. Confidentiality:

All medical information, including information about diagnosis, functional limitations, and reasonable accommodation needs obtained in connection with a request for reasonable accommodation must be kept confidential and stored in accordance with the Freedom of Information Act, Privacy Act, and Rehabilitation Act requirements. The following procedures will apply:

1. All medical information must be kept in files separate from employee's Official Personnel File or any unofficial personnel file. If kept in hard copy, it must be kept in a locked file cabinet;
2. All employees who obtain or receive medical information as part of the reasonable accommodation process are strictly bound by the confidentiality requirements outlined in this document;
3. Medical information obtained during the reasonable accommodation process concerning restrictions and functional limitations, may be disclosed only to the following individuals on a need-to-know basis:
  - a. The Decision-Maker and, if different, an employee's first-line supervisor; however, the Decision-Maker or supervisor will be provided only as much medical information as they need to know to engage in the interactive process and to make an informed decision, as determined by the Decision-Maker and consistent with applicable law;

## DHS HEADQUARTERS REASONABLE ACCOMMODATION PROCEDURES

- b. RAPM, DPS, or other subject matter experts who may be involved in advising the Decision-Maker whether an accommodation should be granted;
  - c. First aid and safety personnel where required;
  - d. Government officials when the information is necessary to investigate DHS or HQ's compliance with the Rehabilitation Act;
  - e. Other officials with a need to know, including new supervisors of employees who have received accommodations, in order to safeguard against a break in the continuity of providing a previously-granted accommodation;
  - f. In certain circumstances, workers' compensation offices or insurance carriers; and
  - g. As permitted or required by law, including in EEO complaint investigation or in legal proceedings.
4. Whenever medical information is disclosed, the individual disclosing the information must inform recipients of the confidentiality requirements.

## VII. Reassignment As Accommodation Of Last Resort

- A. When the Decision-Maker determines that the individual cannot perform the essential functions of his or her position with or without a reasonable accommodation and/or cannot be accommodated in his/her current position, a search for reassignment as an accommodation of last resort is needed. In such cases, the RAPM shall issue a memorandum to the employee indicating that the reassignment search process will begin, and will request additional needed and relevant information from the employee.
- B. The memorandum informs the employee that reassignment will be made only to vacant, funded positions with DHS HQ program offices. A vacant, funded position refers to all HQ's currently vacant positions and those positions that are expected to become vacant within 30 business days, whether the positions are unannounced, announced, or open until a certification has been issued. The employee must provide a reassignment package to include an updated resume and a completed employee questionnaire, identifying among other things, the scope of positions for which she/he would qualify, within five (5) business days to the RAPM.
- C. The reassignment package is submitted to OCHCO who reviews the

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package, classifies the employee's qualifications, and makes a determination on appropriate vacancies at HQ to be considered. A search for vacant HQ positions will be sought out for a maximum of thirty (30) business days. Vacancies that are anticipated to become vacant within the thirty (30) business days will be included in the search process.

D. The initial job search begins within HQ program offices. The focus will be on HQ positions that are equivalent to the employee's current job in terms of grade, pay, career level, promotion potential, status, benefits, geographical location, type of appointment, and other relevant factors. As with other transfers not required by management, HQ is not required to pay for the employee's relocation costs unless HQ policy provides for such payments for employees without disability. The employee must be able to meet the same security requirements of the new position as other eligible candidates for the position. Reassignments do not include giving an employee a promotion. Thus, an employee must compete for any vacant position that would constitute a promotion.

E. If an equivalent position is found within a HQ program office for which the employee is qualified, the employee must be offered that position. She/he cannot be required to compete for that position. All offers of reassignment as the reasonable accommodation of last resort should be documented in writing and a copy should be placed in the Accommodation Tracking Database.

F. When an employee accepts a tentative job offer, OCHCO is no longer obligated to conduct further job searches for the employee. If the employee declines the offer, HQ has fulfilled its reasonable accommodation obligation and the file will be closed by the RAPM.

G. If there is no vacant, funded, equivalent position (or anticipated to become vacant within the thirty (30) business days) within HQ program offices, HQ's HR must document in writing the unavailability of positions within HQ. The RAPM notifies the employee and her/his supervisor. If such a determination is made, a Department-wide search for a vacant position will begin. OHS, with guidance from the CRCL, oversees the DHS-wide search for a reassignment and follow the procedures outlined in the Instruction 259-01-002, "Procedures for Conducting a Department-Wide Search for a Reassignment as a Reasonable Accommodation of Last Resort."



Appendix A: DHS HQ Reasonable Accommodation Request Form

This form should be completed when an employee or job applicant requests a reasonable accommodation. For additional information or assistance in completing this form, please contact the DHS Headquarters Reasonable Accommodation Program Manager (RAPM) at [accommodations@hq.dhs.gov](mailto:accommodations@hq.dhs.gov) or at (202) 357-1204.

Upon completion, access the [Accessibility Compliance Management System \(https://accessibility.dhs.gov/\)](https://accessibility.dhs.gov/) online and upload this form, along with any supporting documentation, using the “Request Assistance” button.

Individual Requesting or Needing Reasonable Accommodation (Type or Print)

<b>Name of Employee or Applicant:</b>	Click here to enter text.
<b>Job Title:</b>	Click here to enter text.
<b>Job Series &amp; Grade:</b>	Click here to enter text.
<b>Program Office:</b>	Click here to enter text.
<b>Phone/Mobile Phone:</b>	Click here to enter text.
<b>E-mail Address:</b>	Click here to enter text.
<b>Work Address:</b>	Click here to enter text.
<b>Supervisor’s Name:</b>	Click here to enter text.
<b>Job Title:</b>	Click here to enter text.
<b>Phone/Mobile Phone:</b>	Click here to enter text.
<b>Email Address:</b>	Click here to enter text.
<b>Work Address:</b>	Click here to enter text.
<b>Do you work in a SCIF?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No

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<b>Is Yes, how often?</b>	<input type="checkbox"/> 30% or less <input type="checkbox"/> 50% <input type="checkbox"/> More than 50%
<b>Which LAN(s):</b>	<input type="checkbox"/> LAN A <input type="checkbox"/> LAN B <input type="checkbox"/> LAN C

**1. TYPE OF ACCOMMODATION REQUESTED, IF KNOWN:** *(Be as specific as possible, e.g., assistive technology, reader, interpreter, schedule modification)*

Click here to enter text.

**2. PRIOR OR EXISTING ACCOMMODATION** *(Please identify any current or previously approved accommodations)*

Click here to enter text.

**3. REASON FOR REQUEST**

a. **Describe the Nature of the Impairment/Condition:**

Click here to enter text.

b. **Major Life Activity(ies) Affected:**

Click here to enter text.

c. **Essential Job Functions Requiring Accommodation(s):**

Click here to enter text.

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- d. **How will the accommodation(s) enable you to perform your essential job functions and/or allow you to participate in the benefits and privileges of employment:**

Click here to enter text.

#### 4. **SUPPORTING DOCUMENTATION** (*failure to provide the below information may cause delay and/or denial*):

- **DHS HQ Medical Statement Form** ([Appendix B](#)) to authorize your healthcare provider/professional to release medical records and/or information pertaining to your medical condition that is needed to address questions related to your requested reasonable accommodation.
- **Limited Medical Release Form** ([Appendix C](#)) of your impairment/condition if the limitation it is not obvious. Additional information may be requested to evaluate your request for the requested accommodation.
- **Position Description and Performance Plan**, whichever most-accurately captures your essential duties.

### PRIVACY ACT STATEMENT

**Authority:** The Rehabilitation Act of 1973, 29 U.S.C. § 791, and Executive Order 13164 authorize collection of this information.

**Purpose:** The primary purpose and use of this information is to consider, decide, and implement requests for reasonable accommodation.

**Routine Uses:** Additional disclosures of the information may be made pursuant to routine uses set out in [DHS/ALL-033 Reasonable Accommodations Records System of Records](#), April 1, 2022, 87 FR 19111, and as amended, to include medical personnel to meet a bona fide medical emergency; to another Federal agency, court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency when the Government is a party to the judicial or administrative proceeding; to a congressional office in response to an inquiry from the congressional office made at the request of the individual; and to an authorized appeal grievance examiner, formal complaints examiner, administrative judge, equal employment opportunity investigator, arbitrator or other duly authorized official engaged in investigation or settlement of a grievance, complaint or appeal filed by an employee.

## DHS HEADQUARTERS REASONABLE ACCOMMODATION PROCEDURES

**Disclosure:** Providing this information is voluntary. There are no effects of not providing this information. However, without providing this information, DHS will not be able to consider your request for reasonable accommodation.

Appendix B: DHS HQ Medical Statement Form

Employee/Applicant Name: \_\_\_\_\_

Date: \_\_\_\_\_

Program Office: \_\_\_\_\_

What is the diagnosed impairment/condition?

Click here to enter text.

What is the duration of the impairment?

Days: How many? \_\_\_\_\_

Months: How many? \_\_\_\_\_

Weeks: How many?

Indefinite

What major life functions/bodily functions does the impairment limit?

Click here to enter text.

How does this impairment affect the employee's ability to perform daily essential job functions; (Job duties so fundamental to the position that the position requirements cannot be fulfilled without successful performance of these duties)?

Click here to enter text.

List with specificity the workplace modifications (accommodations) that could enable the employee to perform his or her job functions (examples include, but are not limited to, assistive technology, workstation modifications, modified work schedule, time off, ergonomic chair, periodic work breaks, working all or some days from home, assistive listening devices). Please indicate the duration, if known, that the modification is required.

Click here to enter text.

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How will the recommended accommodations enable the employee to perform the essential job functions?

[Click here to enter text.](#)

Are there alternative accommodations available that would be effective?

[Click here to enter text.](#)

Medical Provider's Signature: \_\_\_\_\_

Printed Name/Title: \_\_\_\_\_

Date: \_\_\_\_\_ Email: \_\_\_\_\_

Phone/Fax: \_\_\_\_\_ Address: \_\_\_\_\_

## PRIVACY ACT AND GINA STATEMENTS

**Authority:** All medical confidential information will be handled in accordance with 5 C.F.R. Part 293 (Personnel Records), 5 C.F.R. Part 297 (Privacy Provisions for Personnel Records). Medical records furnished pursuant to this request comply with the restrictions imposed by the Genetic Information Nondiscrimination Act of 2008 (GINA). GINA prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, DHS is asking that no genetic information be provided when responding to this request for medical information. “Genetic information” as defined by GINA, includes an individual’s family medical history, the results of an individual’s or family member’s genetic tests, the fact that an individual or an individual’s family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual’s family member or an embryo lawfully held by an individual or family.

**Purpose:** The primary purpose and use of this information is to consider, decide, and implement requests for reasonable accommodation.

**Routine Uses:** Additional uses and disclosures of the information may be made pursuant to routine uses set out in OPM/GOVT-10 (Employee Medical File System Records), 80 FR 74815 (Nov. 11, 2015), 87 FR 5874 (Feb. 02, 2022), and as amended, [DHS/ALL-033 Reasonable Accommodations Records System of Records](#), April 1, 2022, 87 FR 19111, and as amended.

**Disclosure:** Providing this information is voluntary. There are no effects of not providing this information. However, without providing this information, DHS will not be able to consider your request for reasonable accommodation.





Appendix C: Limited Medical Release Form

I, \_\_\_\_\_ (print or type full name), authorize the healthcare provider(s)/professional(s) listed below to release those portions of my medical records and/or other appropriate information pertaining to my medical condition(s) that are needed to support and address questions related to my request for reasonable accommodation to the Medical Reviewer (MR) of the Department of Homeland Security Headquarters, Office of Health Affairs.

I understand my full responsibility to inform my healthcare provider(s)/professional(s) of the need to provide the information requested by the agency. I acknowledge that this release constitutes my permission for my healthcare provider(s)/professional(s) to discuss these matters with the Agency’s Reasonable Accommodation Program Manager (RAPM) as necessary in addition to providing a written record. I understand that my healthcare provider(s)/professional(s) may need additional information regarding my essential job functions from me in order to provide adequate information. I understand the RAPM will review the information and provide recommendations to my supervisor who will make the final determination whether the requested accommodation can be granted or denied.

I understand that the information the agency is requesting is to be used only to clarify the nature of the impairment, the need for reasonable accommodation, how the requested accommodation will enable me to perform the essential functions of the job and/or participate in an application process or benefit, and, if necessary, determine whether an alternative accommodation would be appropriate.

I understand that this is a confidential limited medical release and disclosure of this information will be restricted to agency supervisors and managers on a need-to-know basis; first aid and safety personnel, when appropriate, if the disability might require emergency treatment; government officials to investigate the agency’s compliance with the Rehabilitation Act; and, agency EEO officials to maintain records and evaluate and report on the agency’s performance in processing reasonable accommodation requests. In addition, I understand that under the Rehabilitation Act and Privacy Act, medical information obtained in connection with the reasonable accommodation process must be kept confidential and separate from other personnel files at all times.

This Medical Release is valid for one (1) year from the date signed or upon termination of my affiliation with the Federal Government, whichever is sooner. This release is subject to revocation by me at any time except to the extent that DHS and the provider have already taken action in reliance on it. If this authorization has not been revoked in writing, it will expire with the terms of the duration statement provided above.

<b>Print Name:</b>	Click here to enter text.
<b>Employee/Applicant Signature:</b>	Click here to enter text.
<b>Date:</b>	Click here to enter text.

<b>Health Care Provider/Professional</b>	Click here to enter text.
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Appendix C: Limited Medical Release Form

<b>Name:</b>	
<b>Organization:</b>	Click here to enter text.
<b>Address:</b>	Click here to enter text.
<b>Phone:</b>	Click here to enter text.

Appendix D: Management Response to Request for Reasonable Accommodation

1. Request for Reasonable Accommodation (check one): <input type="checkbox"/> Granted <input type="checkbox"/> Interim Granted (Provide comments in Field 8) <input type="checkbox"/> Alternate Granted (Provide comments in Field 8) <input type="checkbox"/> Denied (if denied, answer applicable questions in Fields 5-7)	
2. Requester Name:	3. Requester Organization/Location/Phone number:
4. Accommodation Requested:	
5. Accommodation request denied for the following reason(s). (Check all that apply): <input type="checkbox"/> Accommodation is ineffective <input type="checkbox"/> Accommodation would cause undue hardship <input type="checkbox"/> Accommodation would require removal of an essential function of the job <input type="checkbox"/> Accommodation would require lowering of performance or production standard <input type="checkbox"/> Medical documentation is inadequate <input type="checkbox"/> Alternate type of effective accommodation was offered but rejected by employee <input type="checkbox"/> Other (explain) _____	
6. Detailed reason(s) for the denial of reasonable accommodation. (Be specific, e.g., why accommodation caused undue hardship or why it is ineffective.)	
7. If alternative accommodation was offered, explain why the alternative accommodation is believed to be effective.	
8. Comments:	

Appendix D: Management Response to Request for Reasonable Accommodation

9. If the employee or applicant is dissatisfied with the Decision-Maker's decision to deny a reasonable accommodation, and wishes to request a higher-level review from a Senior Management Official, she/he may take the following steps:

- Contact the HQ Reasonable Accommodation Program Manager (RAPM) within five (5) business days of receipt of the denial. The employee/applicant may present to the RAPM additional information in support of her/his request.
- The RAPM will convey the request for a higher-level review to the designated Senior Management Official for a decision within ten (10) business days.

**Name of Senior Management Official (Please Print):**

\_\_\_\_\_

The employee/applicant may also seek to file an EEO complaint or follow union grievance procedures. If so, the following provisions apply:

- To commence an EEO complaint under 29 C.F.R. § 1614, the employee or applicant must initiate contact with an EEO Counselor in the HQ EEO Office by email at [HQEEO@hq.dhs.gov](mailto:HQEEO@hq.dhs.gov) within 45 calendar days from the date of the notice of the denial of a reasonable accommodation, regardless of whether the applicant or employee participates in an informal dispute resolution process; or
- For bargaining unit employees, the requester may file a grievance under the Collective Bargaining Agreement, within the specified time frame.

Decision-Maker's Name & Title:	Organization:	Email/Phone:
Signature:		Date:

**One (1) copy of this form must be provided to the employee/applicant.  
One (1) copy of this form must be provided to the Reasonable Accommodation Program Manager**

Appendix E: Sample Memorandum to Decision-Maker or Employee's Supervisor from Reasonable Accommodation Program Manager

Date

**VIA EMAIL**

MEMORANDUM FOR: (Decision-Maker's Name)  
Title  
Program  
U.S. Department of Homeland Security

FROM: RAPM or Disability Staff Name  
Reasonable Accommodation Program Manager  
Office for Civil Rights & Civil Liberties

SUBJECT: Reasonable Accommodation Request  
Employee Name, Title

This memorandum constitutes our acknowledgment of the request for a reasonable accommodation, for Employee Name, Title.

A request for reasonable accommodation is the first step in an informal, interactive process between the individual and the supervisor. Effective communication between the supervisor and employee with support from the Reasonable Accommodation Program Manager (RAPM), is vital to identifying and implementing effective accommodations. DHS is required to make reasonable accommodations to a known physical or mental limitation of a "qualified individual with a disability." This requirement may be waived when DHS can show that there is no effective accommodation that would not pose an undue hardship on the agency. 29 C.F.R. §§ 1630.2(o) and (p).

In support of the reasonable accommodation request, this office received supporting documentation from Mr./Ms. Employee's medical provider dated (add date). Mr./Ms. Employee's impairment substantially limits his/her major life activities (list activities limited and include qualitative information about limits). Specifically stated in his/her medical documentation, "(Quotation of limitations from medical documentation leaving out specific diagnosis)." The medical document(s) indicates that the impairment affects Mr./Ms. Employee's ability to perform her/his daily essential job functions; "(Quotation from medical documentation)."

Mr./Ms. Employee's physician indicated that the (1) following alternative accommodations would enable Mr. Ms. Employee to perform the essential functions of his or her job. Or (2) no other accommodations would enable Mr. or Ms. Employee to perform the essential functions of his or her job "(Quotation of accommodations that are recommended on medical documentation and how will the accommodations help the employee perform the essential functions)."

Appendix E: Sample Memorandum to Decision-Maker or Employee's Supervisor from Reasonable Accommodation Program Manager

Mr./Ms. Employee is requesting (list item(s) requested).

Based on my review of the submitted documentation, the employee has shown that they are an "individual with a disability" who has conditions that affect his/her major life activities or bodily functions and may be entitled to a reasonable accommodation under the Rehabilitation Act of 1973, as amended.

At this time, you as a receiving official must take the following steps to comply with the Rehabilitation Act of 1973, as amended:

- Upon receipt of this memo, begin engaging in an interactive process with your employee regarding her/his request, as well as with the Reasonable Accommodation Program Manager (RAPM), as needed.
  - Consider the requested accommodation, as well as whether there may be other accommodations that would be equally effective for her/him.
  - I recommend that you go over the accommodations identified in this memo with the employee to ensure that you understand the requests and have a complete and accurate list of what the employee is seeking. If the employee needs any additional accommodations, or if the wording of any of the items on this list needs to be modified or clarified, those changes should be confirmed in the written decision, with a copy to the RAPM.
  - The interactive process is ongoing, and therefore updates may need to be made to the list over time. Keeping the list complete and accurate helps to avoid miscommunication.
  - If you have additional questions related to the medical information provided above regarding the employee's limitations, job functions they are unable to perform, or recommended accommodations, please reach out to the RAPM to assist with acquiring the responses from the employee's medical provider.
  - **While employees are entitled to effective accommodations, they are not necessarily entitled to the accommodation of their choice.**
  - **It is particularly important for the employee to inform you and the RAPM if an approved accommodation proves to be ineffective or is not provided in a timely manner.** Failure to do so may result in the Agency incorrectly concluding that the employee has been fully accommodated.
  - In addition, an accommodation of reassignment is considered an accommodation of last resort after all other possible accommodations have been deemed ineffective or pose an undue hardship.
- Decide whether to grant the requested reasonable accommodation, propose an alternative accommodation, or deny the request. If you decide to grant a reasonable accommodation or provide an alternative accommodation, you should provide your response, in writing via [Appendix D: Management Response to Request for Reasonable Accommodation](#) (attached) to the

Appendix E: Sample Memorandum to Decision-Maker or Employee's Supervisor from Reasonable Accommodation Program Manager

employee within fifteen (15) business days of receipt of request. Please provide the RAPM with a copy.

- If you decide to deny an accommodation request, you should provide your response in writing via [Appendix D](#): Management Response to Request for Reasonable Accommodation (attached) to the employee within fifteen (15) business days of receipt of request and provide the RAPM and the DMS Director with a copy. The explanation for the denial of the requested accommodation should be written in plain language, clearly stating the specific reasons for the denial; for example, why there is no accommodation that would be effective or why a specific accommodation would result in undue hardship.
- Consult with the RAPM and the Office of the General Counsel, Labor and Employment Law (OGC-LEL) group for legal advice regarding reasonable accommodations and undue hardship prior to transmitting your denial response to the employee. For more information about what constitutes "undue hardship," please consult the Equal Employment Opportunity Commission's Enforcement Guidance on "Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act," located at <http://eeoc.gov/policy/docs/accommodation.html>.

If you have questions, please contact me (RAPM/DPM Phone Number), or via email at (Email address).

cc: Employee Name, Title

## Tracking and Recordkeeping

A. The RAPM will track and keep records of all reasonable accommodations requested by applicants and employees. The RAPM will maintain these records within the ATD for five (5) years or for the employee's tenure, whichever is longer, and will make such records available to EEOC upon EEOC's request. Reports, including but not limited to the annual MD-715 report, will be maintained for at least three (3) years. Executive Order 13164, *Establishing Procedures to Facilitate the Provisions of Reasonable Accommodations*, and EEOC's policy guidance on implementing the Executive Order, state that an agency must be able to track the following information:

1. The number of reasonable accommodations, by type, that have been requested in the employment application process and whether those requests have been granted or denied;
2. The jobs (occupational series, grade level, and component) for which reasonable accommodations have been requested;
3. The types of reasonable accommodations that have been requested for each of those jobs;
4. The number of reasonable accommodations, by type, for each job that have been approved; the number of accommodations, by type, that relate to the benefits or privileges or employment; and the number of accommodations, by type, that have been denied;
5. The decision-maker and the reasons for denial of requests for reasonable accommodation;
6. The amount of time taken to process each request for reasonable accommodation;
7. The sources of technical assistance that have been consulted in trying to identify possible reasonable accommodations, and;
8. Employees and applicants may track the processing of their reasonable accommodation request by contacting the RAPM at [accommodations@hq.dhs.gov](mailto:accommodations@hq.dhs.gov). Employees may also check the status of their request in the ATD

B. Because of this recordkeeping requirement, supervisors and employees must notify the RAPM when a reasonable accommodation is requested or has been provided.

C. The MD-715 report will provide a quantitative assessment of DHS HQ's reasonable accommodation program, including any recommendations for



## Appendix F: Tracking and Recording

improvement of the Department's reasonable accommodation policies and procedures.

## **Reasonable Accommodation Resources**

### **DHS Accessibility Help Desk**

The DHS Accessibility Help Desk is managed by the CXD. Services are provided in an advisory role and may include information for disability-related services, assistive technology and ergonomic assessments, and reasonable accommodation solutions. All requests for IT system-related issues will go through OAST.

Hours: Monday-Friday, 8:00 a.m. to 5:00 p.m. EST

202-447-0440 (Voice)

[accessibility@hq.dhs.gov](mailto:accessibility@hq.dhs.gov)

### **ADA Disability and Business Technical Assistance Centers (DBTACs)**

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

### **DoD's Computer /Electronic Accommodations Program (CAP)**

(703) 614-8416 (Voice)

(571) 384-5629 (Videophone)

(703) 697-5851 (Fax)

[cap@mail.mil](mailto:cap@mail.mil)

[www.cap.mil](http://www.cap.mil)

### **U.S. Equal Employment Opportunity Commission (EEOC)**

In particular, see the Guidance issued by EEOC on related topics:

- Enforcement Guidance: Pre-employment Disability-Related Questions and Medical Examinations (1995);
- Enforcement Guidance: Workers' Compensation and the ADA (1996);
- Enforcement Guidance: The Americans with Disabilities Act and Psychiatric Disabilities (1997);
- 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
- Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act (2000).
- Enforcement Guidance: Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act (revised October 17, 2002).

1-800-669-3362 (Voice)

1-800-800-3302 (TT)

[www.eeoc.gov](http://www.eeoc.gov)

## Appendix G: Reasonable Accommodation Resources

### **Job Accommodation Network (JAN)**

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

[www.askjan.org](http://www.askjan.org)

### **RESNA Technical Assistance Project**

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

[www.resna.org](http://www.resna.org)

## **Personal Assistance Services**

Headquarters (HQ) will provide Personal Assistance Services (PAS) to employees who need them because of a targeted disability during work hours and job-related travel as an affirmative action obligation; if the employee requires such assistance in order to fully participate in the workplace, including an alternate workspace (e.g., while teleworking), or to participate in work-related travel.

PAS are services that help individuals who, because of a targeted disability, require assistance to perform basic activities of daily living such as eating and using the restroom. PAS differ from services that help an individual to perform job-related tasks, such as sign language interpreters who enable individuals who are deaf to communicate with coworkers, and readers who enable individuals who are blind or have learning disabilities to read printed text. PAS do not include medical services, such as administering shots or monitoring blood pressure, and do not have to be provided by someone with medical training or qualifications.

HQ processes PAS requests under the same procedures as a request for reasonable accommodation. Accordingly, the process for requesting PAS, the process for determining whether such services are required, and HQ's right to deny such requests when the provision of the services would pose an undue hardship, are the same as for reasonable accommodations. PAS will be provided to an individual if:

- The individual is a HQ employee;
- The individual has a targeted disability;
- The individual requires the services because of his/her targeted disability;
- The individual will be able to perform the essential functions of the job, without posing a direct threat to the safety of themselves or others, once PAS and any required reasonable accommodations, have been provided; and
- Providing PAS will not impose undue hardship on HQ.

Not everyone with a targeted disability will be entitled to PAS; only those individuals with a targeted disability who request, and require, assistance with activities of daily living may receive PAS. Examples of medical conditions that are more likely to result in the need for PAS are missing limbs or paralysis due to spinal cord injury. HQ is only required to provide PAS, while the employee is working or on work-related travel, if the requesting employee is entitled to them under the regulations. Therefore, HQ may deny a request for PAS if:

- The requestor is not a HQ employee;
- The requestor does not have a targeted disability;
- The targeted disability does not create a need for PAS;
- The requestor is not able to perform the essential functions of the job, even with PAS and any reasonable accommodations;
- The requestor would create a direct threat to safety on the job, even with PAS and any reasonable accommodations; or

## Appendix H: Personal Assistance Services

- Providing PAS would impose undue hardship on the agency.

### **PAS Resources**

Questions and Answers: Federal Agencies' Obligation to Provide Personal Assistance Services (PAS) under Section 501 of the Rehabilitation Act, <https://www.eeoc.gov/federal/directives/personal-assistance-services.cfm>

Questions and Answers: The EEOC's Final Rule on Affirmative Action for People with Disabilities in Federal Employment, <https://www.eeoc.gov/laws/regulations/qanda-ada-disabilities-final-rule.cfm>

Accommodation and Compliance: Personal Assistance Services (PAS) in the Workplace, <https://askjan.org/topics/persassist.cfm>

U.S. Department of Labor Office of Disability Employment Policy's Personal Assistance Services in the Workplace, <https://www.dol.gov/odep/topics/PersonalAssistanceServices.htm>

Federal Exchange on Employment and Disability (FEED) PAS Roundtable Meeting Recap, <http://www.askearn.org/topics/federal-state-government-employment/federal-government-employment/section-501/federal-exchange-employment-disability-feed/federal-exchange-on-employment-disability-feed-meeting-pas-round-table-july-20th-2017/>

Independent Living Research Utilization Resources on Personal Assistance Services, <http://www.ilru.org/resources-personal-assistance-services>

Federal Travel Regulation Part 301-13 – Travel of an Employee with Special Needs; Authority: 5 U.S.C. 5707, <https://www.gsa.gov/policy-regulations/regulations/federal-travel-regulation-ftr?asset=107374>

5 C.F.R. 315.711 - Readers, interpreters, and personal assistants serving under Schedule A appointments, <https://www.gpo.gov/fdsys/pkg/CFR-2011-title5-vol1/pdf/CFR-2011-title5-vol1-sec315-711.pdf>

5 U.S.C. 3102 Employment of Personal Assistants for Employees with Disabilities, including Blind and Deaf Employees, <https://www.gpo.gov/fdsys/pkg/USCODE-2011-title5/pdf/USCODE-2011-title5-partIII-subpartB-chap31-subchapI-sec3102.pdf>