



United States
Department of
Agriculture

Food Safety
and Inspection
Service

FSIS Directive
4306.2

Reasonable Accommodation and Accessibility for People with Disabilities

**REASONABLE ACCOMMODATION AND ACCESSIBILITY FOR
PEOPLE WITH DISABILITIES**

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UNITED STATES DEPARTMENT OF AGRICULTURE
FOOD SAFETY AND INSPECTION SERVICE
WASHINGTON, DC

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**REASONABLE ACCOMMODATION AND ACCESSIBILITY FOR
PEOPLE WITH DISABILITIES**

PART ONE—BASIC PROVISIONS

I. PURPOSE

This directive provides Agency policy and responsibilities for providing reasonable accommodation and accessibility to people with disabilities.

II. (RESERVED)

III. REASON FOR ISSUANCE

This directive updates information previously found in FSIS Directive 4306.1.

IV. REFERENCES

FSIS Directive 1510.1, Equal Opportunity Notification on Material for the Public
FSIS Directive 4306.1, Employment of People with Disabilities (Including Disabled Veterans)
FSIS Directive 4530.3, Salary Rate Determinations for General Schedule Employees
FSIS Directive 4610.5, Alternative Work Schedules
FSIS Directive 4610.7, Flexiplace/Telecommuting Program
FSIS Directive 4630.2, Leave

DM 4300-2, Reasonable Accommodation Procedures
Sections 501 and 508, Rehabilitation Act of 1973, as Amended
5 CFR 353, Restoration to Duty from Uniformed Service or Compensable Injury
5 CFR 1201.3, Appellate Jurisdiction
29 CFR 1614.103, Complaints of Discrimination

DISTRIBUTION:

All Offices

OPI:

HRD – Employment and Benefits Policy
Branch

V. ABBREVIATIONS AND FORMS

The following will be referred to in their shortened form in this directive:

ADR	Alternative Dispute Resolution
ASCII	American Standard Code for Information Interchange
CAP	Computer/Electronic Accommodations Program
DEP	Disability Employment Program
DEPC	Disability Employment Program Coordinator
DEPM	Disability Employment Program Manager
EEO	Equal Employment Opportunity
EEOC	Equal Employment Opportunity Commission
FAX	Facsimile Machine
FRS	Federal Relay Service
HRD	Human Resources Division
HRFO	Human Resources Field Office
JAN	Job Accommodation Network
KSA	Knowledge, Skills and Abilities
OHRM	Office of Human Resources Management
OPM	Office of Personnel Management
SHRO	Servicing Human Resources Office
TARGET	Technology Accessible Resources Gives Employment Today
TDD/TTY	Telecommunications Device for the Deaf

VI. POLICY

It is FSIS policy to:

- A. Make reasonable accommodation for people with disabilities to enjoy equal employment opportunities unless it causes undue hardship to the Agency.
- B. Ensure that buildings, events and materials are accessible to people with disabilities.

VII. COVERAGE

- A. **Parts One and Two** of this directive cover FSIS employees and applicants whose medical condition or impairment meets the EEOC's definition of a disability. (See Subparagraph VIII. C.)
- B. **Part Three** covers people with disabilities who need access to Agency events and materials.
- C. **Part Four** covers agency officials and employees who need information on reasonable accommodation resources.

VIII. **DEFINITIONS**

A. **Commuting Area.** The defined geographic area in which people live and from which they reasonably can be expected to travel to and from on a daily basis for employment purposes.

B. **Decision Makers.** Individuals responsible for making decisions regarding various aspects of the reasonable accommodation process. Possible decision makers include: an interviewing official, an employee's supervisor or manager, a medical officer, the Disability Employment Program Coordinator or Manager, or a human resources specialist.

C. **Disability.**

1. The EEOC statutory definition of disability, for an individual is:
 - a. A physical or mental impairment that substantially limits one or more major life activities.
 - b. A record of such an impairment, or
 - c. Being regarded as having such an impairment.
2. Subparagraphs b. and c. focus on the reactions of other people to a person having a history of impairment or a perceived impairment. They reflect Congressional recognition that stereotyped assumptions about what constitutes a disability, or unfounded concerns about limitations of individuals with current or previous impairments, form major discriminatory barriers.
3. Disability does not include temporary physical or mental impairments, or medical conditions that may have a short-term impact on an employee's performance, **example:** a broken leg.

D. **Disability Employment Program (DEP).** The Agency's plans and procedures that implement applicable laws, regulations, and policies related to the employment of qualified people with disabilities and disabled veterans.

E. **Disability Employment Program Coordinator (DEPC).** An HRD specialist who provides advice and assistance to program officials and employees on day-to-day issues involving reasonable accommodation and disability, including whether an employee's condition meets the definition of disability.

F. **Disability Employment Program Manager (DEPM).** An HRD specialist, who coordinates the program, provides guidance and assistance to DEPCs, and develops Agency directives and notices on disability issues, as necessary.

G. Essential Job Function. A duty so fundamental to a position that an employee cannot do the job without being able to perform it. The manager or supervisor may consider a job function essential for any of several reasons, including, but not limited to:

1. The position exists primarily to perform that function.
2. The function is specialized and the employee was hired for the ability to perform it.
3. The function is required and cannot be assigned to another employee.

H. Impairment. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitor-urinary, hemic and lymphatic, skin, and endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

I. Interactive Process. An informal communication process between Agency officials and the employee or applicant in which they discuss a reasonable accommodation request, especially if the need for the accommodation is not obvious. The interactive process helps identify what type of accommodation might best help the person apply for a job or perform the essential functions of a job. Agency officials may offer alternative suggestions for reasonable accommodations during this process.

J. Major Life Activities. Functions that the average person in the general population can perform with little or no difficulty, including but not limited to: caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, sitting, standing, lifting, reaching, thinking, concentrating, and interacting with others.

K. Qualified Person with a Disability. A person with a disability who, with or without reasonable accommodation, meets the qualification requirements for the position, and can perform the essential functions of the position without endangering self or others. (**Example:** Must meet the education or experience and medical requirements of the position.)

L. Substantially Limiting. The degree to which an impairment prevents someone from performing a major life activity that the average person in the general population can perform, or significantly restricts the condition, manner, or duration under which someone can perform a particular major life activity as compared to the condition, manner or duration under which the average person in the general population can perform that same major life activity. To determine if an impairment is substantially limiting, consider the nature, severity, duration, and the permanent or long-term impact resulting from the impairment.

IX. RESPONSIBILITIES

A. Employees. Employees, or their representatives:

1. Advise appropriate Agency officials that they have a disability that requires an accommodation.
2. Provide requested supporting documentation.
3. Participate in the interactive process.

B. Management Officials. Managers and supervisors:

1. Actively pursue possibilities for reasonable accommodation.
(See Part Two.)
2. Participate in the interactive process.

C. DEP Manager and Coordinators.

1. Disability Employment Program Manager.

- a. Ensures Agency compliance with its obligations to provide reasonable accommodation.
- b. Provides direction and guidance to DEPCs on reasonable accommodation policies and requests.
- c. Maintains liaison with the USDA manager. Prepares reports and provides statistics to Agency and USDA officials.
- d. Develops policy and program initiatives for Agencywide implementation.
- e. Maintains up-to-date knowledge of auxiliary aids and devices available for reasonable accommodation.

2. Disability Employment Program Coordinators.

- a. Work with Agency employees to identify needs and plan for reasonable accommodation.
- b. Provide guidance to supervisors and managers on reasonable accommodation policies and requests.
- c. Record accommodation requests and decisions for tracking purposes. (See Attachment 2-4.)

d. Provide reasonable accommodation data to Agency and EEOC personnel for information and reporting purposes.

X. **ADDITIONAL INFORMATION**

Obtain additional information or clarification on this directive from the Employment and Benefits Policy Branch at 202-720-9866.

XI. **(RESERVED)**

PART TWO—REASONABLE ACCOMMODATION

Section One—General Provisions

I. APPROPRIATE USE

A. Reasonable accommodation includes:

1. Changing a job application process to permit someone with a disability to be considered for a job. (**Example:** Providing application forms in alternative formats like large print or Braille.)

2. Making necessary changes for a qualified person with a disability to perform the essential functions of the job, such as:

a. Providing sign language interpreters, readers, or personal assistants.

b. Approving leave as appropriate. (See FSIS Directive 4630.2).

c. Modifying nonessential duties.

d. Modifying the work schedule. **Example:** Alternative work schedules. (See FSIS Directive 4610.5.)

e. Acquiring or modifying equipment, or providing auxiliary aids and devices. (**Examples:** TTYs, telephone amplifiers, Braille devices, adapted hardware and software for computers.)

f. Making the work environment accessible and usable.

g. Permitting telework or telecommuting. (See FSIS Directive 4610.7.)

h. Reassigning an employee to a vacant position at the same or lower grade level with no further promotion potential than the employee's current or previous position.

3. Making changes for employees with disabilities to enjoy equal employment benefits and privileges. (**Example:** Removing physical barriers in a cafeteria).

B. The Agency is not required to change the essential functions of a position to provide accommodation for someone with a disability.

C. The Agency is not required to provide accommodation, if it will cause an undue hardship on program operations.

II. **APPLICABILITY**

Reasonable accommodation:

A. Applies to people who meet Subparagraph a. or b. of the definition of disability in Part One, Subparagraph VIII. C. 1.

B. Applies to a returning employee who incurred or aggravated a disability during uniformed service or after an on-the-job injury.

C. Does not apply to people who are only “regarded as” having an impairment.

D. Does not apply to people with a relationship or association with a person with a disability.

III. **GENERAL ACCOMMODATION CRITERIA**

A. **Guidelines.**

1. Determine reasonable accommodation using the facts of each case; not generalizations, perceptions or stereotypes about a disability. Each person’s limitations from a disability are unique, therefore evaluate each accommodation request on its own merits. What is “reasonable” in one situation may not be reasonable in another, or in the same situation at a different time.

2. Supervisors must use good judgment and a fair, common sense approach to make the decision.

3. Employees are usually the best source of information about the accommodation, and should discuss their needs with the supervisor so the request is clearly understood.

4. If several accommodations are proposed, the decision maker is not required to select the employee’s first choice, as long as the accommodation selected provides a means for the person to perform the essential job functions.

B. **Specific Factors to Consider.** The decision maker must consider the following to determine whether an accommodation can be made:

1. Employee’s disability and resulting limitations as they relate to the job requirements.

2. Essential job functions.

3. Work environment.
4. How the accommodation will impact program or business operations.

IV. **TIMEFRAMES FOR PROCESSING REQUESTS AND PROVIDING REASONABLE ACCOMMODATION**

A. **General Timeframes.** Many accommodation decisions can be made and the accommodation provided within a few days. Since special circumstances may influence timing of this process, follow these timelines.

1. The accommodation request consideration process should begin as soon as the appropriate official receives an oral or written request from a person or representative. However, the process begins no more than 5 business days from the date of the oral or written request.

2. When the person has an obvious or previously documented condition that qualifies as a disability and the accommodation requested is related to limitations caused by that condition, the first line supervisor determines if the accommodation is effective. If so, the supervisor provides the accommodation in no more than 30 business days from the date of the written or oral request.

3. When the person does not have an obvious or previously documented condition that qualifies as a disability, the recipient of the request forwards it to the DEPC within 3 business days of receipt.

4. With the employee's permission, the DEPC requests any additional documentation from the appropriate source within 5 business days.

5. Within 5 business days of receipt of the documentation, the DEPC consults with a physician, as necessary, and makes a decision on whether or not the employee has a disability.

6. When documentation is necessary, the 30-business-day period for the supervisor or manager to respond to the accommodation request begins on the date the DEPC issues the decision identified in Subparagraph IV.A.5.

B. **Extensions.** It may be necessary to extend the processing timeframes due to extenuating circumstances.

1. Some examples of extenuating circumstances are:

a. Equipment purchase may take longer than 30 days.

b. The employee with a disability needs to try out equipment before purchase can be made.

c. New staff must be hired or contracted, or an accommodation involves removing architectural barriers.

2. The supervisor notifies the employee of the reason for a delay, and the approximate date on which a decision or provision of the reasonable accommodation is expected.

3. The supervisor investigates whether temporary measures can be taken to assist the employee. The supervisor may also use a temporary measure while the Agency is obtaining or evaluating documentation to determine if the employee has a covered disability.

4. FSIS is not obligated to continue or offer further accommodations if the employee's condition is not a covered disability.

V. **UNDUE HARDSHIP CRITERIA**

A. An accommodation is not provided when the action will incur significant difficulty or expense.

B. Undue hardship is determined according to the facts of each case.

C. Factors to consider when determining undue hardship include, but are not limited to:

1. Impact of the accommodation on the program's ability to conduct business.

2. Composition, structure, and size of the workforce.

3. Location of the worksite and type of facility.

4. Nature and cost of the requested accommodation. (Cost is considered in relation to USDA's available resources.)

VI. **(RESERVED)**

**Section Two—Accessibility and Reasonable Accommodation
in the Hiring Process**

VII. **VACANCY ANNOUNCEMENT**

The vacancy announcement will:

A. Be accessible to all potential applicants. The SHRO publishes the toll-free TTY number for the FRS on each announcement.

B. Be reviewed by the SHRO to ensure the competencies or KSAs on announcements are required to perform the essential functions of the position.

C. Indicate that people with disabilities may be appointed under special appointing authorities, if applicable.

D. Contain the USDA nondiscrimination statement required by FSIS Directive 1510.1.

E. Contain a reasonable accommodation statement. **Example:** “This Agency provides reasonable accommodations to applicants with disabilities. If you need a reasonable accommodation for any part of the application and hiring process, please notify the Agency.”

VIII. **REASONABLE ACCOMMODATION IN THE APPLICATION PROCESS**

The SHRO makes reasonable accommodations at the applicant’s request. The SHRO may request only the supporting medical documentation necessary to determine the nature of the disability or how the accommodation will assist with the application process. Expedite requests for accommodation, since the application process is short.

IX. **(RESERVED)**

Section Three—Interviews, Inquiries and Medical Examinations in the Hiring Process

X. **INTERVIEWS**

A. **Reasonable Accommodation for the Interview.** The interviewing official responds to accommodation requests for the interview and provides the accommodation, unless it will cause undue hardship.

B. **Acceptable Interview Questions.** A job interview gives the interviewer and the applicant an opportunity to assess the applicant’s qualifications in relation to the job requirements. The interviewer focuses on the applicant’s abilities, rather than disabilities.

1. The interviewer asks job-related questions that:
 - a. Assess the applicant’s KSAs.
 - b. Relate to the applicant’s ability to perform specific job functions, tasks, and duties.

2. The interviewer provides information to help the applicant determine the need for accommodation, such as:
 - a. Provide information on the job requirements (tasks, duties, responsibilities and work schedule).
 - b. Discuss the regular work hours, leave policies, and attendance requirements.
3. The interviewer asks if the applicant can meet work schedule and attendance requirements.
4. The interviewer asks how the applicant will perform a job. Questions may relate to any job activity and are not limited to the essential job functions. **Examples:**

- a. After describing the job activities, the interviewer may ask, "Can you perform these tasks?"
- b. Only when the applicant indicates the need for an accommodation may the interviewer ask, "How will you perform the tasks, and what accommodation is needed?"

C. Unacceptable Interview Questions. The interviewer may not ask questions about the disability or illness even if disability is visible. **Example:** The person uses a wheelchair or guide dog, has a missing limb, or has volunteered information about a disability. (Questions about illness may reveal the existence of a disability.) The interviewer may not ask questions regarding the:

1. Nature or severity. **Examples:**
 - a. What is your disability? How did it occur?
 - b. How severe is your condition?
2. Causing circumstances or conditions. **Examples:**
 - a. Is your disability hereditary? Is it job-related?
 - b. Have you ever been hospitalized? If so, for what?
 - c. Have you had a major illness in the past year?
3. Prognosis or explanation. **Examples:**
 - a. Will the disability improve or worsen?
 - b. Is there any health-related reason why you may not be able to perform certain job functions?

c. Do you have any disability or impairment that may affect your performance in this position?

4. Need for medical treatment or leave usage. **Examples:**

a. How many days were you absent from work due to illness last year?

b. How much leave do you estimate using?

5. Other disability-related factors. **Examples:**

a. Have you ever been treated by a psychologist or psychiatrist? If so, for what condition?

b. Have you ever been treated for any mental condition?

c. Are you taking any prescribed drugs? If so, what?

d. Have you ever been treated for drug addiction or alcoholism?

e. Have you ever filed a worker's compensation claim?

XI. **PRE- AND POST OFFER INQUIRIES AND MEDICAL EXAMINATIONS**

A. Before an employment offer, Agency officials may not ask any disability-related questions or require any medical examinations, even if they are job-related. **EXCEPTION:** Agency officials may ask questions in order to provide an accommodation when they realistically believe an accommodation is needed.

B. After an applicant is given a conditional job offer, but before employment, Agency officials may make disability-related inquiries and require medical examinations, as long as it does so for **all** entering employees in the same job category. If an applicant is screened out because of a disability, the SHRO or the supervisor must document the exclusionary criterion is job-related and consistent with business necessity. The criterion must be, based on objective evidence, that the applicant will:

1. Be unable to perform the essential job functions because of a medical condition; or

2. Pose a direct threat because of a medical condition. The applicant would pose significant risk of substantial harm to self or others, and the risk cannot be reduced below the "direct threat" level through reasonable accommodation. The threat posed cannot be remote or vague.

XII. REFERENCE CHECKS

A. A rating official may NOT ask previous employers or other sources for information regarding the applicant's disability or illness.

B. A hiring official may ask an applicant's previous employer for information regarding:

1. Job functions and tasks.

2. Quality and quantity of work.

3. Job Performance.

4. Attendance record. A hiring official may not ask about an applicant's attendance as it relates to illness or disability. This applies even if the applicant volunteered the information or the hiring official knows that the applicant has a disability. (**Example:** The hiring official may ask a previous employer, "Could you comment on the applicant's attendance record while employed with you?")

5. Other job-related issues that do not relate to disability.

6. Accommodations made by that employer, if the applicant has a known disability and indicates the ability to do a job with reasonable accommodation.

XIII. (RESERVED)

Section Four—Accommodation Requests

XIV. ACCOMMODATION APPROVAL PROCESS

	<i>Employee/Representative</i>	<i>Supervisor/Manager</i>	<i>DEPC/DEPM</i>	<i>Medical Officer</i>
A. Handling the Request	<p>Requests, orally or in writing, accommodation from the supervisor, manager, DEPC, DEPM, or agency official proposing to take a performance or conduct action.</p> <p>Participates in the interactive process.</p>	<p>Receives and documents the reasonable accommodation request.</p> <p>Consults with and forwards the employee's request and documentation to the appropriate EPC if assistance is needed in determining if the employee has a disability.</p> <p>Participates in the interactive process.</p> <p>Maintains confidentiality.</p> <p>Decides whether an accommodation will be made.</p>	<p>Responds to questions from the supervisor, manager, employee or representative on the accommodation request.</p> <p>Consults with Employee Relations staff when an employee requests an accommodation because of an anticipated performance or conduct-based action.</p>	

<p>B. Documenting the Impairment and Making Disability Determination</p>	<p>Provides documentation of the impairment to the decision maker, as described in Subparagraph XIX. B.</p>	<p>Requests documentation of impairment, as necessary.</p>	<p>Reviews medical documentation or provides to medical officer.</p> <p>Makes determination of disability.</p>	<p>Reviews and interprets medical documentation to assist in determining if the person requesting accommodation has a disability.</p> <p>Provides results of review to DEPC/DEPM.</p>
<p>C. Providing the Accommodation</p>		<p>On approval of the need for accommodation, the supervisor or manager:</p> <p>a. Decides how to accommodate the employee, using the interactive process.</p> <p>b. Provides the accommodation according to the timeframes in Paragraph IV.</p> <p>c. Informs the DEPC of the accommodation.</p>	<p>Responds to questions from the supervisor, manager, employee or representative on the accommodation process.</p> <p>Recommends the use of CAP to provide assistive technology.</p> <p>Approves requests for funding from the Agency Central Fund. (See Part Four.)</p>	

XV. ACCOMMODATION DENIAL PROCESS

A. If an accommodation request is denied, the supervisor or manager provides the employee valid and well-documented written reasons for why the request was denied. The final decision must describe one or more of the following:

1. Why the requested accommodation was ineffective.
2. Why the requested accommodation would cause undue hardship.
3. Why the medical documentation was inadequate.
4. Why the accommodation would require removing an essential function.
5. How the accommodation would require lowering performance or production standards.
6. Any other reason used to deny the accommodation.

B. If the requestor proposed one type of accommodation, which was denied, and the requestor rejected an alternative accommodation offer, the decision maker must explain the reason the original request was denied and explain how the alternative accommodation would be effective.

XVI. DENIAL RECONSIDERATION PROCESS

A. To request reconsideration of a denial decision, the employee may take the following steps:

1. Provide additional supporting information, and ask the decision maker to reconsider the denial.
2. If the employee's supervisor does not reverse the denial, the employee may ask the manager to review the request.
3. If the decision maker is the employee's manager, the employee may ask the DEPC to review the request.
4. If the decision maker is the DEPC, the employee may ask the DEPM or USDA's DEPM to review the request.

B. To file an EEO complaint, pursue Merit Systems Protection Board grievance, or ADR procedures, the employee must take one of the following steps:

1. For an EEO Complaint pursuant to 29 CFR 1614.103, contact an EEO counselor within 45 days from the date of the notice denying reasonable accommodation.
2. For a grievance:
 - a. **Bargaining unit employees** file a written grievance according to the provisions of the Labor-Management Agreement.
 - b. **Non-bargaining unit employees** use the Administrative Grievance System.
3. Initiate an appeal to the Merit Systems Protection Board within 30 days of an appealable adverse action (see 5 CFR 1201.3)
4. Use the Agency's Alternative Dispute Resolution (ADR) Program, established to handle EEO disputes at all stages of the complaint process. Pursuing the ADR process does not relieve the person from adhering to the other timeframes previously indicated. For more information, contact:

USDA FSIS CRD EEO Counseling and Mediation Branch
MAILDROP 5261
5601 SUNNYSIDE AVENUE
BELTSVILLE MD 20705-5241
Telephone: 1-800-269-6912

XVII. **REASSIGNMENT EFFORTS**

A. **When Reassignment is Considered.** Consider reassigning an employee as a reasonable accommodation only after all efforts to accommodate the employee in the current position have failed. Also consider reassigning an employee when the employee is unable to perform the essential functions of the current position, even with reasonable accommodation.

1. Consider the employee for appropriate funded vacancies that have no further promotion potential than the current or a previous position held. This may involve placement across program lines or in another USDA agency.
2. The employee must meet the qualification requirements for the vacant position and be able to perform the essential job functions with or without reasonable accommodation.
3. Supervisors and managers should contact the appropriate DEPC for assistance.

B. Reassignment Within Commuting Area.

1. Same Grade Level.

a. The SHRO reviews all funded vacant positions at the same grade level and tenure as the employee and identifies positions for which the employee qualifies and can perform the essential functions with or without reasonable accommodation. The employee may be asked to provide updated qualifications information.

b. If no positions exist within the Agency, the DEPC works with USDA's DEPM in OHRM to identify same grade positions within USDA for which the employee qualifies. (The SHRO and OHRM search must include all positions that may become vacant within the next 60 business days.)

c. If the employee declines an offer at the same grade and tenure in the commuting area, the Agency does not have to locate another position. The employee loses eligibility for further placement and may lose eligibility for disability retirement.

2. Lower Grade Level. If no appropriate vacant position exists at the employee's same grade level in the commuting area, the SHRO reviews funded lower-grade positions for which the employee qualifies and can perform the essential job functions, with or without reasonable accommodation.

a. If no positions exist within the Agency, the DEPC works with USDA's DEPM in OHRM to identify all lower-grade positions within USDA for which the employee qualifies. (The search by the SHRO and OHRM must also include all positions that may become vacant within the next 60 business days.)

b. The employee receives an offer for the position at the highest available grade below the current grade. When an employee voluntarily accepts a lower-grade position, the salary is set according to FSIS Directive 4530.3.

C. Reassignment Outside Commuting Area. The SHRO will ask if and where the employee is willing to relocate as part of the interactive process. If reassignment is outside the commuting area, the employee:

1. Receives information from the SHRO on salary and benefits changes. (**Examples:** Differences in locality pay, life insurance costs, and eligibility for within grade increases.) When an employee voluntarily accepts a lower-grade position, the salary is set according to FSIS Directive 4350.3.

2. Pays relocation expenses. **Exception:** The Agency pays relocation expenses if the reassignment is in the best interest of the Agency.

XVIII. **DISABILITY RETIREMENT**

A. **Eligibility.** Employees are eligible to apply for disability retirement if they:

1. Are unable to perform the duties of their assigned position due to a medical condition or injury.
2. Decline a position offered outside of the commuting area.
3. Decline a lower-grade position.

B. **Careful Consideration.** Employees contemplating applying for disability retirement who have other options should weigh their options carefully. OPM does not automatically approve applications, and may disapprove one if an employee:

1. Has declined a position offered at the same grade and tenure inside the commuting area.
2. Is unsatisfied, after reassignment, with the new job, or cannot perform the new duties satisfactorily for reasons unrelated to the disability.

C. **Procedures for Applying for Disability Retirement.** To understand the consequences of disability retirement and to apply, employees should do the following:

1. Obtain a determination from HRFO that they meet the eligibility requirements to apply for disability retirement.
2. Obtain from HRFO an estimate of annuity benefits, a retirement application, and, if appropriate, the provisions governing discontinuance of disability annuity upon recovery or restoration to earning capacity.
3. Submit the completed application along with evidence supporting disability claim(s) to HRFO, who processes the retirement package and sends it to OPM.
4. Await a response from the Agency that OPM has reviewed the package and notified the Agency whether or not the disability retirement has been approved.

XVI. **DOCUMENTING A MEDICAL CONDITION FOR AN ACCOMMODATION REQUEST**

A. **Determining the Need for Medical Documentation.** If the:

1. Person has an obvious or previously documented medical condition that qualifies as a disability and the accommodation requested is related to the known disability, the accommodation request is considered immediately without further medical documentation.

2. Disability and the reason for accommodation are not obvious, the person may have to submit medical evidence to support an accommodation request.

B. **Requesting Medical Documentation.** To obtain appropriate and useful information, all Agency requests for medical documentation should describe the nature of the job, the essential functions, and any other relevant information. The medical information requested must be current, obtained at the person's expense, and describe:

1. The nature, severity and duration of the impairment.
2. The major life activities that the impairment limits.
3. How the accommodation will help.

C. **Requesting Additional Information.** The DEPC requests relevant supplemental information if the information submitted does not clearly explain the nature of the disability or need for reasonable accommodation, or does not otherwise clarify how the requested accommodation will assist the employee in performing the essential functions of the job or enjoy benefits and privileges of the workplace. The DEPC explains why the information provided is insufficient, what additional information is needed, and why it is necessary for a determination of the reasonable accommodation request.

1. If the information is still insufficient to make a determination, the person may agree to sign a limited release, and the DEPC may submit a list of specific questions to the person's health care professional.

2. If, after a reasonable time, (**example:** 5 – 7 weeks after a request for additional information) there is still not sufficient information to demonstrate that the person has a disability and needs an accommodation, the decision maker may request that a physician chosen by the Agency examine the person at the Agency's expense.

3. Failure to provide appropriate documentation or cooperate in the Agency's effort to obtain such documentation can result in a denial of the reasonable accommodation

XX. **MAINTAINING CONFIDENTIALITY OF MEDICAL INFORMATION**

Keep medical information obtained for the reasonable accommodation process confidential. Whenever medical information is disclosed, inform the recipient of the confidentiality requirements as well as the requirement to comply with applicable provisions of the Privacy Act. Any USDA employee who obtains or receives medical information is strictly bound by the confidentiality requirements.

A. Maintain all medical information, including information about functional limitations and reasonable accommodation needs regarding a request for reasonable accommodation, in files separate from the employee personnel file.

B. For bargaining unit employees, the Agency may disclose maintained information to the Union having exclusive recognition to represent functions related to the reasonable accommodation process.

C. The DEPC or DEPM maintains custody of all medical records obtained or created during the process of a reasonable accommodation request according to the Privacy Act. The DEPC or DEPM discloses information regarding the records, or any aspect of the process, only to:

1. **Supervisors and managers** who need to know that an employee has a disability that necessitates restrictions on the work or duties and about any recommended accommodations. However, medical information should only be disclosed if strictly necessary.

2. **First aid and safety personnel**, when appropriate, if the disability might require emergency treatment.

3. **Security personnel** who must assist people with disabilities during evacuation procedures.

4. **Government officials**, when necessary to investigate the Agency's compliance with the Rehabilitation Act.

5. **Worker's compensation offices or insurance carriers**, according to EEOC regulations in certain circumstances.

6. **Physicians**, when consulting on the interpretation of medical documents.

XXI. **(RESERVED)**

SAMPLE DECISION LETTER TO EMPLOYEE

Employee Address

Dear Mr./Ms. Employee:

We received your medical documentation and request for medical accommodation, dated _____, and reviewed the information. It is the Agency's policy to make reasonable accommodation for known physical or mental limitations to qualified people with disabilities unless it causes undue hardship. As you know, (identify employee's current position) has a variety of duties, which include _____.

The following are the essential functions and are the primary reasons for your position. They are required and cannot be assigned to another person:

The physical demands of the work include: _____

Based on the medical information you provided from your physician, we believe that your (physical or mental) impairments, (identify them), rise to the level of disability under the Rehabilitation Act. "Disability" is defined as a physical or mental impairment that substantially limits one or more major life activities. Major life activities include things such as: caring for oneself, performing manual tasks, walking, standing, seeing, hearing, breathing, speaking, learning, running, lifting and working. Your physician indicates that your condition is _____, which limits you from performing the essential duties of _____.

After reviewing your medical limitations and the essential functions of your position, we can/cannot accommodate you in your present position.

(Choose one of the following statements.)

1. You will be provided with the following accommodation: _____
_____.

2. Fortunately, we have a vacant position for you in the commuting area. This position is a (title, series and grade) in _____. (Explain how this position can accommodate the employee.)

3. Unfortunately, we do not have any vacant positions in the commuting area for which you qualify and can perform the essential functions with or without accommodation.

(This paragraph on reassignment outside the commuting area depends on available vacancies.)

However, we do have a vacant position in _____. The position is a (title, series and grade). (Explain why this position can accommodate the employee's disability). The Agency will not pay relocation costs involved in a household move.

(The decision on whether the Agency will pay for relocation costs is decided on a case-by-case basis and normally is paid only if the reassignment is to a hard to fill position).

Please complete and return the enclosure by (allow 2 weeks). Please keep in mind that if you decline the reassignment, do not elect to apply for disability retirement, or do not resign, action may be initiated to remove you from the service. Your failure to respond by the specified date will be interpreted as a declination of the reassignment offer.

To apply for disability retirement, contact _____, Human Resources Specialist, Benefits and Awards Section, HRFO, Minneapolis, MN, for computations and guidance, at 800-370-3747, ext. _____.

Please contact us at _____ with questions.

Sincerely,

Program Manager

cc:

Disability Employment Program Coordinator

HRFO/Benefits and Awards Specialist *(If applying for disability retirement.)*

EMPLOYEE REASSIGNMENT RESPONSE

_____ I accept the reassignment to the position of _____.

_____ I decline the reassignment. I understand that action may be initiated to remove me from the service.

_____ I elect to apply for disability retirement.

_____ I elect to resign effective _____.

Signature

Date

SAMPLE REASONABLE ACCOMMODATION CASE SUMMARY

Employee Name:

Program/Location:

Part I. Describe Impairment.

a) Describe the physical or mental impairment (i.e., medical condition, disease, injury).

b) Is the impairment substantially limiting? Yes No . Please explain.

c) Explain any impacted major life activities.

d) Is this a person with a disability (as defined by the Rehabilitation Act)?

Yes or No .

If yes, continue to Part 2 of this form. **If not, stop.**

Attach a copy of any medical information. NOTE: Medical information is confidential.

Part 2 – Essential Functions

a) Position Title/Series/Grade:

b) Describe the essential functions of the position. (Include a copy of the Position Description and any functional and environmental factors.)

Part 3 – Performance Barriers

a) Describe how the disability interferes with performing duties, attendance, or conduct (i.e., what aspects of the job is the employee unable to do).

b) What are the medical restrictions on activities?

Part 4 – Reasonable Accommodation

a) What reasonable accommodation(s) have been requested or considered?

b) Are there other possible reasonable accommodations? If so, please explain.

c) Has reassignment been considered? Yes or No .

If yes, Same Grade/Lower Grade/Both

Locations: Local Commuting Area Only

Other: _____

Part 5 – Reasonable Accommodation Decision

a) Explain any reasonable accommodations that were granted or denied? (Describe efforts to accommodate the employee in the current position or reassignment efforts – other available positions, other locations considered.) If denied, explain why.

b) Describe any communications between the Agency and the employee while making the final determination (i.e., interactive process).

c) Identify sources of technical assistance that were consulted (e.g. Job Accommodation Network, family member, rehabilitation counselor).

PART THREE—MAKING EVENTS AND MATERIALS ACCESSIBLE

I. REQUIREMENTS

FSIS managers and meeting planners ensure that Agency publications, events, ceremonies, meetings, training, parties, or special programs are accessible to people with disabilities. Managers and employees who organize events must provide people with disabilities a means to request reasonable accommodation.

II. RESPONSIBILITIES

Accessibility includes providing sign-language interpreting services for people who cannot hear, seating close to displays or speakers, materials in alternative formats for people who cannot see standard print, accommodation for guide dogs, and facilities that are physically accessible.

A. Events Coordinator or Meeting Planner.

1. Ensures that an accommodation statement is included on paper and electronic communications that announce meetings, special events, “kick-off” campaigns, training opportunities, and other activities. **Example:** *“People requiring accommodations, including sign language interpreters, should contact: (Name of Event Contact Person) at least one week before the date of the event.”* The contact person provides a voice telephone number and a TTY/TDD number (or the FRS telephone number, 1-800-877-8339,) an e-mail address, and fax number, if appropriate.

2. Arranges for the necessary accommodations at the event site (including accessible facilities.)

B. **People Requiring Accommodations.** People requiring accommodations make their needs known to management or the appropriate person.

III. ACCESSIBILITY AND ACCOMMODATION GUIDELINES

A. **Sign Language Interpretation.** A sign language interpreter facilitates communication between deaf and hearing employees. Scheduling interpreting services ensures that people who are deaf or hard of hearing receive the same message as people who can hear. Schedule a sign language interpreter as soon as it is known that the services are needed. At least two full business days before the date, the event planner reconfirms the need for interpreting services. (Cancel interpreting services at least two full business days before the event, or earlier.)

1. **Headquarters Offices.** To obtain sign language interpreting services in the Washington, DC metropolitan area, contact the Interpreting Services Office in the TARGET Center at 202-720-8155 (Voice), through TTY at 202-690-6021, by fax at 202-720-8098, or online at <http://www.usda.gov/oo/target/pops/onlineform.htm>.

2. **Field Offices.** The Interpreting Services Office also assists field offices in obtaining qualified interpreting services locally.

B. Facility Requirements, Building Access, or Parking.

1. If someone with a disability needs access to an alternate FSIS building entrance or parking facility, contact the Administrative Services Division, Personal Property Section at 301-504-4227 (Voice), or 301-504-4231 (Fax).

2. Review meeting, conference, and event locations to ensure that they are accessible to participants with disabilities. Consider the following:

a. People with mobility impairments may need adequate parking, ramp accessibility, 38-inch wide, easy-opening doors, conference room set up to ensure that wheelchair users can see, and accessible restrooms.

b. People who are blind or who have visual impairments may need signs marked in Braille or raised letters indicating facility locations.

c. People who are deaf or hard of hearing may need access to TTY/TDD machines and assistive listening devices.

C. Presentations. Presenters must format their materials to ensure effective communication with all audience members. The following tips are helpful for people with particular disabilities, as well as for the general audience.

1. Deaf or Hard of Hearing.

a. Provide sign language interpreters with advance copies of the agenda and handouts, especially if technical in nature, and copies of updated materials.

b. If videotapes/DVDs are used, ensure that the TARGET Center is consulted on captioning.

c. If necessary, use microphones.

d. Repeat audience questions with the response.

2. Blind or Visual Disability.

a. Provide handouts in formats accessible to the person with the disability.

b. Ensure use of easily visible overheads or slides.

c. Read all overheads out loud and describe pictures or graphs.

D. Printed Materials.

1. When preparing printed materials for people with disabilities, event planners work with the TARGET Center to publish information in alternative formats, such as large print, Braille, electronic media, or audiocassette. Since charts, pictures, or tables are not accessible for blind people, describe them in words in the document and retain an electronic plain text copy to convert to alternative formats.

2. Review resource material on making text legible. **Examples:** Text contrast and color, font size and type, spacing, margins, and paper finish.

3. All Agency publications must include the appropriate USDA nondiscrimination statement required by FSIS Directive 1510.1.

E. Electronic and Information Technology. Under Section 508 of the Rehabilitation Act, Federal agencies must ensure that electronic and information technology is accessible to employees and members of the public with disabilities, unless an undue burden is imposed on the department or agency. Section 508 addresses accessibility for people with visual, hearing, and motor disabilities. Electronic and information technology includes equipment or systems used to create, convert, duplicate, store, manage, move, exchange, transmit or receive data or information. These include, but are not limited to:

1. Computers.
2. Ancillary equipment.
3. Software.
4. Telecommunication productions.
5. Information kiosks.
6. Worldwide websites.
7. Multimedia.
8. Office equipment.

PART FOUR—REASONABLE ACCOMMODATION RESOURCES

I. USDA TARGET CENTER

The TARGET Center provides on-site workplace assessments and demonstrates assistive technology and ergonomic solutions to ensure USDA employees have safe and equal access to electronic and information technology. It makes specific recommendations regarding reasonable accommodations. Contact the USDA TARGET Centers on 202-720-2600 (Washington, DC), and 314-335-8800 (St. Louis, MO), or at www.usda.gov/oo/target

II. COMPUTER/ELECTONIC ACCOMMODATIONS PROGRAM

CAP provides assistive technology accommodations and services to people with disabilities at no cost. The TARGET Center is the point of contact for the USDA/CAP Partnership, and is available for follow-up support or technical consultations.

III. FSIS CENTRALIZED FUND

The Agency has a centralized fund to assist program areas pay for reasonable accommodations for people with disabilities. The fund meets the Agency's legal obligation to accommodate qualified people with disabilities and promotes the employment of people with disabilities. Agency officials may contact the DEPM in HRD's Employment and Benefits Policy Branch for funding requests at 202-720-9866.

IV. JOB ACCOMMODATION NETWORK

JAN is a service of the Department of Labor, Office of Disability Employment Policy. JAN provides free information about many types of accommodations. Contact JAN at 1-800-232-9875 (Voice/TTY), or at <http://janweb.icdi.wvu.edu>.

V. EEOC ENFORCEMENT GUIDANCE ON REASONABLE ACCOMMODATION AND UNDUE HARDSHIP

The EEOC has valuable information on its web site about disability-related issues. This document, at <http://www.eeoc.gov/docs/accommodation.html>, contains questions and answers concerning reasonable accommodation and undue hardship.

VI. **FEDERAL RELAY SERVICE**

FRS provides communication assistants who act as intermediaries between those who can hear and Federal employees who are deaf, hard-of-hearing, deaf-blind, or have speech disabilities. The FRS phone number is 1-800-877-8339 (Voice/TTY/ASCII/Spanish), and the website address is www.gsa.gov/frs.



Assistant Administrator
Office of Management