



U.S. Citizenship
and Immigration
Services

Management Directive USCIS-OEOI-3090-1

Effective August 27, 2007

Procedures to Facilitate the Provision of Reasonable Accommodations

I. Purpose

This Management Directive (MD) establishes policy and procedural requirements that govern the Reasonable Accommodation Program in the Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS). USCIS supports Executive Order 13164 by establishing requirements for processing requests for reasonable accommodation and, where appropriate, for providing reasonable accommodation to employees and applicants with disabilities

II. Scope

This MD applies to all USCIS employees and applicants for employment with USCIS.

III. Authorities

- A. The Rehabilitation Act of 1973 (29 U.S.C 701), as amended, requires an employer to provide reasonable accommodation to qualified individuals with disabilities who are employees or applicants for employment, except when such accommodation would cause undue hardship.
- B. Executive Order 13164, Requiring Federal USCIS to Establish Procedures to Facilitate the Provision of Reasonable Accommodation (July 26, 2000), requires that Federal USCIS establish effective written procedures for processing requests for reasonable accommodation.

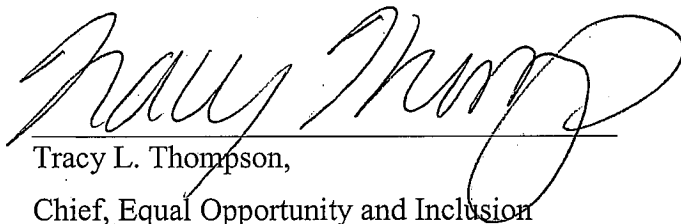
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- C. Equal Employment Opportunity Commission Policy Guidance on Executive Order 13164, Establishing Procedures to Facilitate the Provision of Reasonable Accommodation, No. 915-003 (October 20, 2000), explains EO 13164 in detail.
- D. Equal Employment Opportunity Enforcement Revised Guidance on Reasonable Accommodation and Undue Hardship under the American's with Disabilities Act (October 17, 2002) clarifies and updates the rights and responsibilities of employers and individuals with disabilities regarding reasonable accommodation and undue hardship.

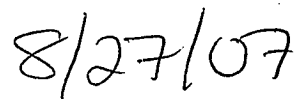
IV. Questions

Questions concerning this Management Directive should be addressed to the USCIS, Office of Equal Opportunity and Inclusion, Chief, at (202) 272-0970.

Approved by:



Tracy L. Thompson,
Chief, Equal Opportunity and Inclusion



Date

Purpose

This Management Directive implements Executive Order 13164 by establishing requirements for processing requests for reasonable accommodation and, where appropriate, for providing reasonable accommodation to employees and applicants disabilities.

Authority

- The Rehabilitation Act of 1973 (29 U.S.C 701), as amended, requires an employer to provide reasonable accommodation to qualified individuals with disabilities who are employees or applicants for employment, except when such accommodation would cause undue hardship.
- Executive Order 13164, Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation (July 26, 2000), requires that Federal Agencies establish effective written procedures for processing requests for reasonable accommodation.
- Equal Employment Opportunity Commission Policy Guidance on Executive Order 13164, Establishing Procedures to Facilitate the Provision of Reasonable Accommodation, No. 915-003 (October 20, 2000), explains EO 13164 in detail.
- Equal Employment Opportunity Enforcement Revised Guidance on Reasonable Accommodation and Undue Hardship under the American's with Disabilities Act (October 17, 2002) clarifies and updates the rights and responsibilities of employers and individuals with disabilities regarding reasonable accommodation and undue hardship.

Scope

The policies and procedures contained herein apply to all USCIS employees and applicants for employment.

Background

The Rehabilitation Act of 1973 (29 U.S.C 701), as amended, was the first national Law to address employment protection for individuals with disabilities. In part, the Act required an employer to provide reasonable accommodation to qualified individuals with disabilities who are employees or applicants for employment, except when such accommodation would cause undue hardship.

The EEOC issued enforcement guidance on March 1, 1999, which clarifies the rights and responsibilities of employers and individuals with disabilities regarding reasonable accommodation and undue hardship. EEOC issued revised enforcement guidance on October 17, 2002.

On July 26, 2000, Executive Order (EO) 13164 was signed. The EO required that Federal Agencies establish effective written procedures for processing requests for reasonable accommodation. The EO did not create any new enforceable rights for Executive branch employees or applicants for employment.

On October 20, 2000, EEOC issued policy guidance that further explains the effects of the EO13164.

Definitions

Decision-maker: An individual who has authority to determine whether a requested accommodation will be provided, and who is responsible for engaging in the interactive process with the job applicant or employee.

Disability: Any physical or mental impairment that substantially limits one or more of the major life activities.

Dispute Resolution Process: Any voluntary mechanism through which an individual can request reconsideration of denial of reasonable accommodation, regardless of whether the person has initiated any complaint.

Essential Function: Those job duties that is so fundamental to the position that the individual holds or desires that he/she cannot do the job without performing them. A function can be "essential" if, among other things: the position exists specifically to perform that function; there are a limited number of other employees who could perform the function; or the function is specialized and the individual is hired based on his/her ability to perform them. Determination of the essential functions of a position must be done on a case-by-case basis so that it reflects the job as actually performed, and not simply the components of a generic position description.

Extenuating Circumstances: Factors that could not reasonably have been anticipated or avoided in advance of the request for accommodation. Limited situations in which unforeseen or unavoidable events prevent prompt processing and delivery of an accommodation. For example, processing a request for reasonable accommodation or providing an accommodation may not be delayed because a particular staff member is unavailable.

Individual with a Disability: A person who has a physical or mental impairment that substantially limits one or more of that person's major life activities, has a record of impairment, or is regarded as having such impairment.

Interactive Process: The process by which the individual requesting an accommodation and the Decision-maker talk to each other about the request for accommodation, the process for determining whether an accommodation will be provided, and potential accommodations.

Major Life Activity: Basic activities that the average person in the general population can perform with little or no difficulty, such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

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

Reasonable Accommodation: An adjustment or alteration that enables a qualified person with a disability to apply for a job, perform the essential functions of a job or any job duties, or enjoy benefits and privileges of employment. There are three categories of reasonable accommodations:

- Modifications or adjustments to a job application process to permit an individual with a disability to be considered for a job (such as providing application forms in alternative formats like large print or Braille);
- Modifications or adjustments to enable a qualified individual with a disability to perform the essential functions of the job (such as providing sign language interpreters); and
- Modifications or adjustments that enable employees with disabilities to enjoy equal benefits and privileges of employment (such as removing physical barriers in an organization's criteria).

Reassignment: A form of reasonable accommodation that, absent undue hardship, is provided to employees (not 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 positions and to employees who are qualified for the new position? If the employee is qualified for the position, he/she will be reassigned to the job and will not have to compete.

Receiving Officials: The officials designated to officially receive a request for reasonable accommodation from an employee or applicant (or an individual acting on his/her behalf). Typically this is the employee's immediate supervisor, another supervisor or manager in the employee's immediate chain of command, the Office of Equal Opportunity and Inclusion, and if the request for accommodation is from a job applicant, the Human Resources.

Request for Reasonable Accommodation: A statement that an individual needs an adjustment or change at work, in the application process, or in a benefit or privilege of employment for a reason related to a medical condition.

Requester: A qualified employee or applicant with a disability, or an individual acting on his/her behalf, who requests reasonable accommodation.

Undue Hardship: An action requiring significant difficulty or expense when considered in light of factors such as the (USCIS) size, financial resources, and the nature and structure of the position. Determination of undue hardship is always made on a case-by-case basis, considering factors that include the nature and cost of the reasonable accommodation needed and the impact of the reasonable accommodation on the operations of the (USCIS).

I Requesting Reasonable Accommodation

A. The Request

1. The reasonable accommodation process begins as soon as the request for accommodation is made either orally or in writing. (A sample request form is provided in Appendix A.) The request does not have to use any special words, such as "reasonable accommodation," "disability," or "Rehabilitation Act." An individual with a disability may request a reasonable accommodation whenever he/she chooses, even if he/she has not previously disclosed the existence of a disability. The request does not necessarily mean that the employer is required to provide the change.
2. The individual's request must be considered if made to an employee's immediate supervisor, another supervisor or manager in the employee's immediate chain of command, the Office of Equal Opportunity and Inclusion, and if the request for accommodation is from a job applicant, the Human Resources Office.
3. A family member, friend, health professional, or other representative may request a reasonable accommodation on behalf of an employee or applicant with a disability. The request shall be made to one of the same persons to whom the employee or applicant would make the request.

B. Written Confirmations

1. To ensure accurate records regarding requests for accommodation, Receiving Officials should follow up an oral request for accommodation with a summary of their understanding of the request, for the employee, if a the request was not initially made in writing. Processing of the request will begin as soon as it is made, whether or not the written confirmation has been completed. A sample written confirmation is provided as Appendix B.
2. A written confirmation is not necessary when an individual needs a reasonable accommodation on a recurring basis (e.g., the assistance of sign language interpreters or readers). The written form is required only for the first request although appropriate notice must be given each time the Accommodation is needed.

C. The Interactive Process

1. Communication is a priority throughout the entire process. Officials involved in the provision of reasonable accommodation should take a proactive approach in searching out and considering possible accommodations, including consulting appropriate resources for assistance. The employee requesting the accommodation should also participate, to the extent possible, in helping to identify an effective accommodation. Resources, which are available to help both the Decision-maker and the individual requesting the accommodation to identify possible accommodations, are listed in Appendix C. The Office of Equal Opportunity and Inclusion, and the Human Resources Office, are also available to provide assistance.
2. On-going communication is particularly important where the specific limitation, problem, or barrier is unclear; where an effective accommodation is not obvious; or where the parties are considering different possible reasonable accommodations. In those cases where the disability, the need for accommodation, and the type of accommodation that should be provided are clear, extensive discussions may not be necessary. Even so, the Decision-maker and requesting individual should talk to each other to make sure that there is a full exchange of relevant information.

D. Who Will Handle the Request?

1. **Receiving Officials.** The Receiving Official will forward the request to the Decision maker, and monitor the request through closure. In connection with the application process, the receiving official can also be any (USCIS) employee with whom the applicant has contact in connection with the application process.
2. **Decision-makers.** The Decision-maker has principal responsibility for identifying possible accommodations and for determining whether an accommodation will be provided. The Decision-maker is the employee's immediate supervisor, and in the case of a job applicant, the Decision-maker is the selecting official.
3. **Back-Up.** Each office must arrange for backup to continue receiving, processing, and providing reasonable accommodations when the Receiving Official, Decision-makers or Office of Equal Opportunity and Inclusion are unavailable. The time frames discussed in paragraph VII of this section will not be suspended or extended because of their unavailability.
4. **Disability Program Manager.** The Disability Program Manager shall be available, as needed, to provide assistance to employees, Human Resources Officials and Decision-makers in processing requests for reasonable accommodation.

E. Reassignment as an Accommodation

1. Reassignment will only be considered as a reasonable accommodation if a determination is made that no other reasonable accommodations are available to enable the individual to perform his or her current job, or if the only effective accommodation would cause undue hardship.
2. In considering whether there are positions available for reassignment, the Decision-maker should work with the Disability Program Manager and Human Resources Office staff, as well as with the individual requesting the accommodation to identify:
 - a. all vacant positions within the Department of Homeland Security for which the employee may be qualified, with or without reasonable accommodation; and
 - b. all positions which the USCIS Human Resources Office have reason to believe will become vacant within USCIS over the next 60 business days and for which the employee may be qualified, with or without reasonable accommodation.

USCIS will first focus on positions which are within USCIS and are equivalent to the employee's current job in terms of pay, status, and other relevant factors. If there is no vacant position within USCIS, USCIS will consider vacant positions for which the individual is qualified at other DHS components within the commuting area. If there are no equivalent positions within DHS within the commuting area, USCIS will then consider vacant lower-level positions within USCIS in the commuting area. If there are no vacant lower-level positions within USCIS, USCIS will consider vacant lower-level positions within other DHS components within the commuting area. Reassignment may be made to a vacant position outside of the employee's commuting area if the employee is willing to relocate. As with other transfers not required by management, USCIS shall not pay for the employee's relocation costs.

3. Reassignment as a form of reasonable accommodation can only be offered to employees and is not available as an accommodation for job applicants.

F. Requests for Medical Information

1. The (USCIS) is entitled to know that an employee or applicant has a covered disability that requires a reasonable accommodation. In some cases the disability and need for accommodation will be obvious or otherwise already known to the Decision-maker. In these cases, further medical information will not be sought. However, when a disability and/or need for reasonable accommodation is not obvious or otherwise already known to the Decision-maker, the Department or (USCIS) may require that the individual provide reasonable documentation about the disability and his or her functional limitations.
 - a. If the Decision-maker believes that medical information is necessary in order to evaluate a request for reasonable accommodation, he/she will make a request to the Disability Program Manager or Chief of the Office of Equal Opportunity and Inclusion to assist obtaining such information.
 - b. The Office of Equal Opportunity and Inclusion will make a determination as to whether medical documentation is necessary. If it is, the Office will assist the Decision-maker in requesting the necessary medical information. If it is not necessary, the request for accommodation will be returned promptly to the Decision-maker to complete the processing. When the Office of Equal Opportunity and Inclusion makes a determination regarding the sufficiency of medical information, the Office shall rescue itself from processing complaints in which conflicts or perceived conflicts may exist.
 - c. If a determination is made to seek medical information, information will be requested sufficient to substantiate that the individual has a Rehabilitation act disability and needs the reasonable accommodation requested. Documentation unrelated to the disability claimed will not be requested. Requests for medical information will follow the requirements set forth in Exec's *Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act* (available on EEOC's internet site at www.eeoc.gov).
 - d. The (USCIS) will seek information or documentation about the disability and/or functional limitations from the individual, and/or ask the individual to obtain such information from an appropriate professional, such as a doctor, social worker, or rehabilitation counselor. In order to get the most helpful possible information, all requests for information should describe the nature of the job, the essential functions the individual is expected to perform, and any other relevant information.

- e. Once the medical documentation is received, the Decision-maker will evaluate the documentation, in consultation with the Disability Program Manager or Chief of the Office of Equal Opportunity and Inclusion. If the information provided by the health professional (or the information volunteered by the individual requesting the accommodation) is insufficient to enable the Decision Maker to determine whether an accommodation is appropriate, the Decision Maker may ask for further information. First, however, the Decision-maker should explain to the individual seeking the accommodation, in specific terms, why the information provided is insufficient, what additional information is needed, and why it is necessary for a determination of the reasonable accommodation request. The individual seeking the accommodation may then ask the health care or other appropriate professional to provide the missing information.
- f. Alternatively, the Decision-maker and the individual requesting the accommodation may agree that the individual will sign a limited release, and that the Decision Maker in consultation with the Disability Program Manager or Chief of the Office of Equal Employment and Inclusion may thereafter submit a list of specific questions to the individual's health care professional or may otherwise contact the individual's doctor. Whether documentation is insufficient will be determined using the criteria outlined in the EEOC's Enforcement Guidance on Disability Related Inquiries and Medical Exams. Prior to sending the employee to the agency physician, the Deciding Official should explain why the documentation is insufficient using the Criteria outlines in the EEOC Guidance, and allow the employee an opportunity to provide the missing information in a timely manner. USCIS must consider consulting with the employee's doctor (with the employee's consent) before requiring the employee to go to a health care professional of its choice.
- g. The Disability Program Manager or Chief of the Office of Equal Opportunity and Inclusion will let the Decision-maker know whether the documentation demonstrates that a reasonable accommodation is appropriate and provide, if necessary, any additional relevant information about the individual's functional limitations.
- h. In some cases, the individual requesting the accommodation will supply medical information directly to the Decision-maker without being asked. In these cases, the Decision-maker will consider such documentation and if additional information is needed, the Decision-maker will work with the Disability Program Manager or Chief of the Office of Equal Opportunity and Inclusion to assess the need.

- i. If the (USCIS) determines that medical information submitted must be reviewed by a medical expert, the (USCIS) will choose the medical expert. The cost of the expert review will be at the (USCIS) expense.
- j. Failure by the individual to provide appropriate documentation or to cooperate in the (USCIS) efforts to obtain such documentation can result in a denial of the reasonable accommodation.

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

The time necessary to process a request will depend on the nature of the accommodation requested and whether it is necessary to obtain supporting information. At a minimum, however, requests shall be processed as follows:

1. Requests Not Involving Extenuating Circumstances

- a. If the request does not require that supporting medical information be obtained, the request shall be processed and the accommodation, if granted, provided as soon as possible but not more than 15 business days from the date the request was initially made, and sooner, if possible. Since the Decision-maker may need the full 15 days to engage in the interactive process and collect all relevant information about possible accommodations, he/she should not delay beginning this process. Failure to meet this time frame solely because a Decision-maker delayed processing the request is not an extenuating circumstance.
- 2. If the request requires that supporting medical information be obtained to determine whether the requesting individual has a disability and/or to identify the functional limitations, the following will apply:
 - a. The Decision-maker will make such request for medical information as soon as possible after his or her receipt of the request for accommodation, but before the expiration of the 15-day period. The 15-day period will then be stayed. The Department recognizes that the need for documentation may not become apparent until after the interactive process has begun.
 - b. If the (USCIS) determines that medical documentation is needed, the decision shall be made and the accommodation, if granted, shall be provided within 15 business days from the date the Decision-maker receives the relevant information.

3. Examples of accommodations that can easily be provided within the 15-day time frame includes:

- a. An employee with diabetes who sits in an open area asks for four breaks a day to test his/her blood sugar levels so that he/she may do these tests in private.
- b. An employee, who takes anti-depressants that make it hard for him/her to get up in time to get to the office at 9:00 a.m., requests that he/she be allowed to start work at 10:00 a.m. and still put in an 8-hour day.
- c. A supervisor distributes detailed agendas at the beginning of each staff meeting. An employee with a learning disability asks that the agenda be distributed ahead of time because the disability makes it difficult to read and he/she needs more time to prepare.

4. Request Involving Extenuating Circumstances

- a. When extenuating circumstances are present, the time for processing a request for reasonable accommodation and providing the accommodation will be extended as reasonably necessary. It is the (USCIS) policy that extensions based on extenuating circumstances should be limited to circumstances where they are strictly necessary. All (USCIS) officials are expected to act as quickly as reasonably possible in processing requests and providing accommodations. The following are examples of extenuating circumstances:
- b. The purchase of equipment may take longer than 15 business days because of requirements under the Federal Acquisition Regulation and EEOC Order 360.001, Acquisition Policies and Procedures.
- c. Equipment must be back-ordered, the vendor typically used by the USCIS for goods or services has unexpectedly gone out of business, or the vendor cannot promptly supply the needed goods or services and another vendor is not immediately available.
- d. The employee with a disability needs to try working with equipment on a trial basis to ensure that it is effective before the USCIS buys the equipment.
- e. New staff needs to be hired or contracted for, or an accommodation involves the removal of architectural barriers.

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- f. There is an outstanding initial or follow-up request for medical information, or the designated USCIS official is evaluating medical information that has been provided.

Where extenuating circumstances are present, the Decision-maker must notify the individual, in writing, of the reason for the delay, and the approximate date on which a decision, or provision of the reasonable accommodation, is expected. Any further developments or changes should also be communicated promptly to the individual.

If there is a delay in providing an accommodation that has been approved, the Decision-maker must decide whether temporary measures can be taken to assist the employee. This could include providing the requested accommodation on a temporary basis or providing a less effective form of accommodation. In addition, the Decision-maker may provide measures that are not reasonable accommodations within the meaning of the law (e.g., temporary removal of an essential function) if:

1. they do not unreasonably interfere with the operations of the USCIS
2. the employee is clearly informed that they are being provided only on a temporary, interim basis.

For example, there may be a delay in receiving adaptive equipment for an employee with vision impairment. During the delay, the supervisor might arrange for other employees to act as readers. This temporary measure may not be as effective as the adaptive equipment, but it will allow the employee to perform as much of the job as possible until the equipment arrives.

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

Decision-makers who approve such temporary measures are responsible for assuring that they do not take the place of a permanent accommodation and that all necessary steps to secure the permanent accommodation are being taken.

H. Expedited Processing.

In certain circumstances, a request for reasonable accommodation requires an expedited review and decision in a time frame that is shorter than the 15 business days discussed above. This includes where a reasonable accommodation is needed:

1. **To enable an applicant to apply for a job.** Depending on the 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. Therefore, the USCIS needs to move as quickly as possible to make a decision and, if appropriate, provide a reasonable accommodation if needed.
2. **To enable an employee to attend a meeting scheduled to occur shortly.** For example, an employee may need a sign language interpreter for a meeting scheduled to take place in 5 days.

II. **Granting or Denying a Reasonable Accommodation Request**

A. **Granting a Reasonable Accommodation Request.** As soon as the Decision-maker determines that a reasonable accommodation will be provided, that decision should be immediately communicated to the individual by the Decision-maker. If the accommodation cannot be provided immediately, the Decision-maker must inform the individual of the projected time frame for providing the accommodation. This notice does not need to be in writing.

B. **Denial of Reasonable Accommodation Request**

1. If a deciding official is considering a denial of a request for accommodation, they must first consult with the Disability Program Manager or Chief of the Office of Equal Employment and Inclusion.
2. As soon as the Decision-maker determines that a request for reasonable accommodation will be denied, he/she must issue a written decision to the individual who requested the accommodation, with a copy to the Disabilities Program Manager or Chief of the Office of Equal Employment and Inclusion. The explanation for the denial should be written in plain language, clearly stating the specific reasons for the denial.

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- a. Where the Decision-maker has denied a specific requested accommodation, but offered to make a different one in its place which was not agreed to during the interactive process, the denial notice should explain both the reasons for the denial of the requested accommodation and the reasons that the Decision-maker believes the chosen accommodation will be effective.
3. Reasons for the denial of a request for reasonable accommodation must include specific reasons for the denial, for example, why the accommodation would not be effective or why it would result in undue hardship, and may include the following:
 - a. A statement why the requested accommodation would not be effective.
 - b. A statement explaining how the requested accommodation would result in undue hardship. Before reaching this determination, the Decision-maker must have explored whether other effective accommodations exist which would not impose undue hardship and therefore can be provided.
 - c. A determination of undue hardship means that the USCIS finds that a specific accommodation would result in significant difficulty or expense, or would fundamentally alter the nature of the USCIS operations. When evaluating budgetary or administrative concerns to determine if undue hardship exists, the USCIS will follow the standards outlined in the regulations and in the *"Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act."*
 - d. Medical documentation is inadequate to establish that the individual has a disability and/or needs a reasonable accommodation.
 - e. The requested accommodation would require the removal of an essential function.
 - f. The requested accommodation would require the lowering of a performance or production standard.

- g. The written notice of denial must also inform the individual that he/she has the right to file an EEO complaint and may have rights to pursue Merit Systems Protection Board or grievance procedures. It must also explain that the individual may only elect one forum in which to file the claim. The notice must also explain procedures available for dispute resolution.
- h. The written notice must notify the individual that future requests for accommodations will be considered, despite the denial of the instant request.

III. Dispute Resolution Process

- A. If an individual wishes reconsideration, he/she should first ask the Decision-maker to reconsider the decision. The individual may present additional information in support of his/her request. The Decision-maker will respond to the request for reconsideration within five business days.
- B. If the Decision-maker does not reverse the decision, the individual may appeal the decision. The appeal shall be decided by the Decision-maker's supervisor. A response to the appeal will be issued to the individual within ten business days.
- C. Pursuing dispute resolution procedures, including seeking reconsideration from the Decision-maker and filing an appeal does not affect the time limits for initiating statutory and collective bargaining claims. An individual's participation in any dispute resolution process does not satisfy the requirements for bringing a claim under EEO, MSPB, or union grievance procedures.

IV. Confidentiality and Disclosure

- A. All medical information, including information about functional limitations and reasonable accommodation needs, obtained in connection with a request for reasonable accommodation must be kept confidential and must be stored in accordance with Privacy Act guidelines. The information shall be kept in files separate from the individual's personnel file. In addition, employees who obtain or receive such information are strictly bound by these confidentiality requirements. The information may be disclosed only to the following individuals:

1. Supervisors and managers who need to know (including the Decision-maker who requested that the medical information be obtained) may be told about necessary restrictions on the work or duties of the employee and about the necessary accommodation(s), but medical information should only be disclosed if absolutely necessary.
 2. First aid and safety personnel, when appropriate, if the disability might require emergency treatment.
 3. Government officials when the information is necessary to investigate Department or USCIS compliance with the Rehabilitation Act.
 4. In certain circumstances, to workers' compensation offices or insurance carriers.
- B. Whenever medical information is disclosed, the individual disclosing the information must inform the recipients of the information about the confidentiality requirements that attach to it.

V. Information Tracking and Reporting

- A. The Decision-maker will complete the reporting form provided in Appendix D and submit it to the Office of Equal Opportunity and Inclusion within 10 business days of the decision. The Decision-maker should attach copies of all information received, including medical information, as part of processing the request. The USCIS will maintain these records for the employee's tenure with the USCIS or five years, whichever is longer.
- B. The Office of Equal Opportunity and Inclusion will prepare and submit to the Office for Civil Rights and Civil Liberties annually, by October 15th, a report containing the information summarized in Appendix D. In addition, the report shall provide a qualitative assessment of the USCIS reasonable accommodation program, including any recommendations for improvement of the reasonable accommodation policies and procedures.
- C. Office for Civil Rights and Civil Liberties will prepare an annual report containing the information indicated above, presented in the aggregate. Reports shall be maintained for at least three years.

VI Relation of Procedures to Statutory and Collective Bargaining Claims

- A. Executive Order 13164 does not create new rights for applicants or employees; nor does it limit an individual's rights under the Rehabilitation Act. The policies and requirements described in these procedures are in addition to statutory and collective bargaining protections for persons with disabilities and the remedies they provide for the denial of requests for reasonable accommodation. Requirements governing the initiation of statutory and collective bargaining claims, including time frames for filing such claims, remain unchanged.
1. An individual who chooses to pursue statutory or collective bargaining remedies for denial of reasonable accommodation must comply with the following:
 - a. EEO Complaint. Contact an EEO counselor and initiate the complaints counseling process within 45 days from the date of receipt of the written notice of denial. 29 CFR 1614
 - b. Collective Bargaining Claim. File a grievance in accordance with the provisions of the controlling Collective Bargaining Agreement; or
 - c. MSPB Appeal. Initiate an appeal within 30 days of an appealable adverse action as defined in 5 C.F.R. 1201.3.

VII Responsibilities

- A. The USCIS Office of Equal Opportunity and Inclusion shall:
1. Develop and issue procedures for processing requests for and providing reasonable accommodation, consistent with governing laws, regulations, executive orders, EEOC directives, and Department policy;
 2. Ensure that supervisors and managers, and Human Resource and Office of Equal Opportunity and Inclusion employees understand their obligation with respect to the provision of reasonable accommodation;
 3. Ensure the confidentiality of medical information, including information about functional limitations and reasonable accommodation needs obtained in connection with a request for reasonable accommodation; and

4. Develop systems to track and report on the provision of reasonable Accommodation.

B Supervisors shall:

1. Ensure that accommodations for applicants and employees are implemented in accordance with this Policy.
2. Adhere to all timeframes.
3. Seek consultation as required in this Policy, with the Office of Equal Opportunity and Inclusion, and the Office of Human Capital Management (to include Labor and Employee Relations).

C. The Office of Human Capital Management shall:

1. Assist the Office of Equal Opportunity and Inclusion and supervisors with effectuating reassignments under Part 1E.
2. Assist supervisors with effectuating any other appropriate personnel actions that arise during the processing of a reasonable accommodation request.

Appendices

APPENDIX A: SAMPLE REASONABLE ACCOMMODATION REQUEST FORM

Request For Reasonable Accommodation	
Applicant/Employee Name	Office Location and Address
Occupational Series and Grade (e.g., GS-301-11)	Office Telephone Number
Briefly describe the medical condition requiring accommodation.	
Briefly describe the specific accommodation being requested. (If additional space is needed, attach a separate sheet.)	
Explain how the requested accommodation would assist you in: (1) performing the essential duties of your position, (2) using the job application process, or (3) taking advantage of a benefit or privilege offered by the office/bureau.	

Requester: _____

Date: _____

Appendix B: Sample Confirmation Form

CONFIRMATION OF REQUEST FOR REASONABLE ACCOMMODATION	
Employee/Applicant Data Name: Telephone: Organization:	Date of Request <hr/> Date of Receipt <hr/>
ACCOMMODATION REQUESTED <i>(Be as specific as possible, e.g., adaptive equipment, reader, interpreter.)</i>	
REASON FOR REQUEST	
Supervisor : Keep Copy	
Supervisor Name: TELEPHONE:	

Appendix C: Reasonable Accommodation Resources

U.S. Equal Employment Opportunity Commission

1-800-669-3362 (Voice) 1-800-800-3302 (TTY)

The EEOC Publication Center has many free documents on the Title I employment provisions of the ADA, including both the statute, 42 U.S.C. 12101 et seq. (1994), and the regulations, 29 C.F.R. 1630 (2003). In addition, the EEOC has published a great deal of basic information about reasonable accommodation and undue hardship. The three main sources of interpretive information are:

- (1) Revised Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act, EEOC October 17, 2002.
- (2) The Interpretive Guidance accompanying the Title I regulations (also known as the "Appendix" to the regulations), 29 C.F.R. pt. 1630 app. 1630.2(o), (p), 1630.9 (2003), and
- (3) A Technical Assistance Manual on the Employment Provisions (Title I) of the Americans with Disabilities Act III, 8 FEP Manual (BNA) 405:6981, 6998-7018 (1992). The Manual includes a 200-page Resource Directory, including federal and state agencies, and disability organizations that can provide assistance in identifying and locating reasonable accommodations.

EEOC also has discussed issues involving reasonable accommodation in the following guidance and documents:

- (1) Enforcement Guidance: Pre-employment Disability-Related Questions and Medical Examinations at 5, 6-8, 20, 21-22, 8 FEP Manual (BNA) 405:7191, 7192-94, 7201 (1995);
- (2) Enforcement Guidance: Workers' Compensation and the ADA at 15-20, 8 FEP Manual (BNA) 405:7391, 7398-7401 (1996);
- (3) Enforcement Guidance: The Americans with Disabilities Act and Psychiatric Disabilities at 19-28, 8 FEP Manual (BNA) 405:7461, 7470-76 (1997);
- (4) Fact Sheet on the Family and Medical Leave Act, the Americans with Disabilities Act, and Title VII of the Civil Rights Act of 1964 at 6-9, 8 FEP Manual (BNA) 405:7371, 7374-76 (1996); and
- (5) Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees under the Americans with Disabilities Act at 20, 22, 23, 24-5, 8 FEP Manual (BNA) 405:7701, 7711, 7712-14, 7715-16 (2000).

Management Directive USCIS-OEOI-3090-1
Procedures to Facilitate the Provision of Reasonable Accommodations
August 27, 2007

All of the above-listed documents, with the exception of the ADA Technical Assistance Manual and Resource Directory, are also available through the Internet at <http://www.eeoc.gov>.

Job Accommodation Network (JAN)

1-800-232-9675 (Voice/TTY) <http://janweb.icdi.wvu.edu/>.

A service of the U.S. Department of Labor Office of Disability Employment Policy, JAN can provide information, free-of-charge, about many types of reasonable accommodations.

Washington Center for Internships and Academic Seminars

(202) 336-7569 <http://www.twc.edu>

The Center is a nonprofit educational organization that provides full time academic internships and short term academic seminars in Washington, D.C. for students from colleges and universities nationwide.

The Microsoft-AAPD Federal Information Technology (I.T.) Internship Program

1-(800) 840-8844 <http://www.aapd-dc.org>

This paid internship program provides students with disabilities interested in pursuing I.T. careers, with the exclusive opportunity to participate in an eleven (11) week internship at a federal USCIS in Washington, D.C. The goal of the program is to provide these students who have a demonstrated interest in I.T. careers with the opportunity to participate and benefit from highly sought-after federal internships.

Project Advance

(240)-283-1564

Project Advance is a Department of Labor (DOL) contracted program within DOL's One Stop Recruitment in Montgomery County, Maryland. Project Advance provides placement services to place highly skilled candidates with disabilities who have been displaced, laid-off, or went out of business during these challenging times. Clients are career professionals with backgrounds in finance, accounting, IT, computer science, etc., all of whom are Schedule A eligible and ready to start work immediately. The program's coordinator discusses USCIS hiring needs and arranges interviews for her clients. Project Advance services are available at no cost to the USCIS.

Vocational Rehabilitation & Employment (VR&E)

(202) 530-9372 www.vba.va.gov/vr&e.htm

VR&E is a program administered by the Department of Veteran's Affairs offering government agencies an opportunity to place a qualified disabled veteran in the workplace. VR&E's Non-Paid Work Experience Program (NPWE) provides the veteran with a monthly stipend. The agency has the opportunity to evaluate the veteran prior to consideration for hiring the veteran in a temporary or permanent position. There is no cost or obligation to hire the veteran participant.

GSA's Center for IT Accommodation (CITA) www.gsa.gov

CITA is the Government's principal advocate and coordinator for making information technology accessible for people with disabilities. Information on

GSA's Assistive Technology Showcase

(202) 208-7453 Fax: (202) 501-6269

Sponsored by GSA's Center for IT Accommodation (CITA), the AT Showcase displays state-of-the-art assistive technologies and ergonomic solutions. The Showcase supports government managers, supervisors, employees, and the public with a wide range of assistive technology equipment.

ADA Disability and Business Technical Assistance Centers (DBTACs)

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

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

The U.S. Access Board

<http://www.access-board.gov/news/evacplanning.htm>

The Board provides its own emergency evacuation plan and a summary document on the procedures. Also included is a resources link to other related sites.

Registry of Interpreters for the Deaf

(301) 608-0050 (Voice/TTY)

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

RESNA Technical Assistance Project

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

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

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

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

Department of Defense's Computer /Electronic Accommodations Program (CAP)

This program provides assessment, electronic assistive devices training and other support services to employees with disabilities quickly, effectively, and at no cost to partnering agencies. CAP assistive technology explores solutions for employees with vision, hearing, dexterity and cognitive/communicative disabilities

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

[<https://dhsonline.dhs.gov/portal/jhtml/dc/sfi.jhtml?doid=5525>](https://dhsonline.dhs.gov/portal/jhtml/dc/sfi.jhtml?doid=5525)

For additional information, or to schedule a tour of the Technology Center at the Pentagon, contact CAP at:

- (703) 681-8813 (VOICE)
- (703) 681-0882 (TTY)
- (703) 681-9075 (FAX), or
- Email CAP@tma.osd.mil.
- website: <http://www.tricare.osd.mil/cap/>

Part 3: Resources of technical assistance consulted in identifying possible accommodations

List all resources (including USCIS resources) consulted in an effort to identify reasonable accommodations for employees and applicants.

Part 4: Assessment of USCIS reasonable accommodation program

Provide a brief qualitative assessment on the USCIS reasonable accommodation program, including any improvements and/or policy and procedural changes needed.

Instructions for Completing Part 1: Reasonable accommodations requested in the application process

Part 1A - Occupational Series and Grade Level. Each occupational series and grade (e.g., GS-301-11) must be identified. If there are two or more positions with the same occupational series and grade level, but different types of accommodations were requested, each occupational series and grade must be identified separately.

Do NOT submit names of employees who have requested accommodations anywhere on this tracking sheet. Moreover, the POC collecting this information each office should likewise NOT receive names of employees who have requested accommodations.

Part 1B - Type of Accommodation. Identify the type of accommodation requested for each occupational series and grade level identified in Part 1A. The accommodation must relate to job performance. Examples are as follows:

- Job Restructuring
- Leave
- Modified or Part-Time Work Schedule
- Modified Workplace Policies
- Reassignment

Part 1C - Total Requests Approved. For each separate occupational series, grade level and type listed in Parts 1A and 1B, enter the total number of requests approved.

Part 1D - Total Requests Denied. For each separate occupational series, grade level and type listed in Parts 1A and 1B, enter the total number of requests denied.

Part 1E - Total Requests. This field should equal the sum of Parts 1C and 1D.

Part 1G - Processing Time. Enter the amount of time required to process each requests identified in Parts 1A and 1B. If more than one request is entered in a field, enter the average processing time.

Instructions for Completing Part 2: Reasonable accommodations requested must relate to the benefits or privileges of employment. Benefits and privileges of employment include, but are not limited to, employer-sponsored: (1) training, (2) services (e.g., employee assistance programs, credit unions, cafeterias, lounges, gymnasiums, auditoriums, transportation), and (3) parties or other social functions (e.g., parties to celebrate retirements and birthdays, and office outings).

Part 2A - Type of Accommodation. Identify each different type of accommodation requested. The accommodation must relate to a benefit or privilege of employment.

Examples are as follows:

- Sign language interpreters
- Written materials in alternative formats (e.g., Braille, large print or audio-cassette)
- Adaptive equipment
- Modified leave procedures

Part 2B - Total Requests Approved. For each type of accommodation listed in Part 2A, enter the total number of requests approved.

Part 2C - Total Requests Denied. For each type of accommodation listed in Part 2A, enter the total number of requests denied.

Part 2D - Total Requests. This field should equal the sum of Part 2B and 2C.

Part 3: Resources of technical assistance consulted in identifying possible accommodations. Self-explanatory

Part 4: Assessment of USCIS's reasonable accommodation program.
Self-explanatory